Street Children
and
Child Labour

The challenge for RTE

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Content

Preface

The Right to Education (RTE) Act 2009 promises education opportunities for out-of-school children, particularly those belonging to socio-economically marginalized families. Street children and child labour constitute a high proportion of such children who have remained out of the ambit of formal education system of India.

In the first year of full-fledged implementation of the RTE Act, this monograph presents the global experience of similar act and identifies the issues and challenges that emerge in implementing this Act at school level.

The monograph suggests some action points with the aim to trigger discussions amongst development practitioners, civil society groups and government to ensure that out-of-school children are brought to schools or education reaches at their doorstep (rather, street-step).

My compliments to CMS social team members, particularly Mr Alok Srivastava and Ms Chandni Nair for their efforts in making this publication possible.

In solidarity,

P N Vasanti
Director, CMS

1.0 Introduction

In India, childhood comes with certain rights. The 86th Constitutional amendment making education a Fundamental Right was passed by the Parliament in 2002. The Right of Children to Free and Compulsory Education Act, an Act to enable the implementation of the Fundamental Right, was passed by the Parliament in 2009. The Constitutional amendment and the new law came into force from April 2010. The new statute makes it obligatory on the part of the state governments and local bodies to ensure that every child in the 6-14 years bracket gets education in a school in the neighbourhood. Its implementation will directly benefit close to one crore (10 million) children who do not go to schools at present. This paper looks at the situation of two groups of vulnerable children, the street child and the child labourer, in the context of this legislation.

The present monograph focuses on the marginalized and excluded children-street children and child labour. It looks in to the issues and challenges towards implementation of the recently introduced Right to Education Act and suggests some action points for effective implementation of RTE Act.

There is a vast population of children who fall in the category of disadvantaged children. They are the casualty of poverty and social exclusion. The street children and the child labourer are two such vulnerable sub-groups of children[1]. The two groups constitute the majority of the out-of-school children.

The concept of the 'street child' and the 'child labourer' cannot be understood without relating them to the socio-political agenda behind it. In terms of appellation, the definition of the street child has taken several turns. Panter-Brick in her critique on welfare and academic literature on street children in developing countries notes that there are two peculiarities about street children: one being the 'place' they occupy and second, the absence of proper contacts or links with adults in the family home or society. The UNICEF evolved a typology for street children wherein they are broadly categorized into two:

1. Children 'on' the street are child workers on the street from the families who are engaged in some kind of economic activity ranging from begging to vending. Most go home at the end of the day and contribute to their family's earnings. They may be attending school and retain a sense of belonging to a family. Because of the economic fragility of the family, these children may eventually opt for a permanent life on the streets.

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[1] In this paper, the street child and the child labourer are not looked at as a homogeneous group. The differences between them are accorded. They are brought together only to highlight certain similarities in their state in terms of the law.

2. Children 'of' the street actually live on the street (or outside of a normal family environment). Family ties may exist but are tenuous and are maintained only casually or occasionally.

Preceded by debates about the political connotation of the definitions and informed by programmatic efforts, the term ' street children' has changed from 'children at risk' to 'urban children at risk' to 'children in need' to 'children in especially difficult circumstances (UNICEF) to 'children in need of special protection' (UNICEF)[2].

The definition of the term 'child labourer' too is not fixed. While the Child Labour Prohibition and Regulation Act 1986 defines a child as a person who has not completed his/her fourteenth year of age, the ILO Conventions on Child Labour defines a child as one who is below the age of 18 years. Child labour slated for abolition falls in the following categories:

i. Labour that is performed by a child who is under the minimum age specified for that kind of work (as defined by national legislation, in accordance with accepted international standards), and that is, thus, likely to impede the child's education and full development

ii. Labour that jeopardizes the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, known as hazardous work

iii. The unconditional worst forms of child labour, which are internationally defined as slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflict, prostitution and pornography, and illicit activities

Broadening the terms means bringing into the fold more groups, thus obscuring the various differences and experiences between the various sub-groups of children.

More importantly, it is crucial to question the difference in the age groups that define the child labour. The ILO, as mentioned before, considers every person below the age of 18 as a child labour while the Indian government keeps this at 14 only. Keeping the maximum age limit as only 14 years poses several questions. Why is the age group 15-18 years kept out of the fold of child labour? There may be several answers. Keeping in mind their economic contribution to this economy, it may be considered wiser to exclude them. Moreover, the number of child labour would increase manifold, increasing the requirements of funds to be allocated to their rehabilitation. There is a political agenda behind the extension of child labour beyond 14 years.

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[2] *Panter-Brick, Catherine, 2002, 'Street children, Human Rights and Public Discourse: A Critique and Future Directions', Annual Review Anthropology.*

2.0   Global Scenario

According to a report from a United Kingdom-based consortium of related NGO, the Consortium for Street Children, estimating numbers of 'street children' is fraught with difficulties. In 1989, UNICEF estimated 100 million children were growing up on urban streets around the world. 14 years later UNICEF reported: 'The latest estimates put the numbers of these children as high as 100 million' (UNICEF, 2002: 37). And even more recently: 'The exact number of street children is impossible to quantify, but the figure almost certainly runs into tens of millions across the world. It is likely that the numbers are increasing' (UNICEF, 2005: 40-41). The 100-million figure is still commonly cited, but has no basis in fact (see Ennew and Milne, 1989; Hecht, 1998; Green, 1998). Similarly, it is debatable whether numbers of street children are growing globally or whether it is the awareness of street children within societies which has grown.

In the Central Asian republics including Kazakhstan, Kyrgyz Republic, Tajikistan, Uzbekistan, and in Mongolia, the presence of street children is a post-liberalisation phenomenon. The absence of a welfare support systems for families and children is one of the main reasons where instead of developing or improving state services, the emphasis is on developing 'markets'. In the Republic of Tajikistan, social and economic reforms took place under complex conditions of political instability[3]. Mongolia has seen an increase in the numbers of urban "street and manhole" children over the past decade. Economic changes have resulted in the closure of many industries, high levels of unemployment, and families moving in a downward spiral toward homelessness. Mongolia's economic transition brought an end to the previous Soviet-style welfare system, but the development of a replacement system is still underway. As the country continues its "transitionary" path, a debate has begun over what the State and civil society can do to address the problem of an ever-increasing number of street children[4].

India is home to estimated 18 million of street children. The figure on street children often quoted varies from one organization to another, largely because the perception of as to who can be termed as 'street children' is different. Estimates vary but the often cited figure for the number of children living independently on the streets ranges between 100 million and 150 million worldwide.

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[3] *West, Andrew, 2003, 'At the margins: Street children in Asia and the Pacific', Poverty and Social Development Papers, No.8, Asian Development Bank, Regional and Sustainable Development Department*
[4] *Ibid.*

In India, UNICEF's estimate of 11 million street children in India is considered to be a conservative figure. It is estimated that there are 314,700 street children in metros such as Mumbai, Kolkata, Chennai, Kanpur, Bengaluru and Hyderabad and around 100,000 in Delhi alone. Butterflies, an organisation working with street children estimate their number to be around 3 to 4 lakh in Delhi alone. The figures on street children vary largely because the perception of as to who can be called "street children" is different.

3.0   Rehabilitation of street children in India

Rehabilitation of street children, whatever their number may be, is a broad issue and hence calls for varied approaches. Some are institutional, where the children are put up in homes, night shelters. Some focus providing education to the children in the area where they are located. While the approaches differ, the objective remains viz; on providing quality life to children and their families, making them self reliant and independent.

The government has enacted laws such as The Juvenile Justice (Care and Protection) Amendment Act 2006, The Juvenile Justice (Care and Protection) Act 2000, The Child Labour (Prohibition and Regulation) Act 1986, for protecting the rights of the children. These are framed with a special emphasis on to protect the child's rights, and to provide them with a legal support. The Juvenile Justice (Care and Protection) Act 2000 also has the provision for the adoption of children. India's child labour policy is two-fold: a ban on child labour in certain hazardous industries and regulation in others.

Though child labour is banned in large factories and hazardous industries, they are free to work in small workshops, cottage industries and in households and service sectors where conditions are not regulated, work hours are long and wages low[5].

However, the need of the hour is not only stringent implementation of laws, but also to address the issue of the vicious cycle of poverty which brings children and families to the streets. Convergence of various policies and programmes in such a manner that more employment opportunities are generated, along with raising consciousness among the parents about having a small family and the importance of education can contribute significantly. More institutions, homes and organizations can keep on increasing, but it's equally important to keep a check on the growing number of street children.

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[5] *Weiner, Myron, 1996, 'Child labour in India: Putting compulsory primary education on the political agenda', Economic & Political Weekly, November 9-16.*

4.0   Right to Education

The Right to Education legislation is a historic one in terms of making education a Fundamental Right of children. However, how inclusive will this legislation prove to be considering the fact that there are so many categories of children who require special protection? Most children who are out of school are working. Poverty and the out-of-school educational status are common to both the street child and the child labourer. Mobility and the compulsion to work instead of study are stumbling blocks in their realization of their right. What remains to be seen is whether or not street children and child labour will be benefited in any way. Will they be able to access education now that education is a Fundamental Right? There's no fixed answer as of now...

Ouma writes, in Kenya, a persistent shortcoming in the planning of education, as in other developing countries, is that plans don't invariably cater for everyone in society. Among those not covered by most of those plans are street children – a group that constitutes a major loss of human capital as they are potential criminals; people who as a matter of fact, will live a life of dependency. When they reach adulthood, they will constitute a major social destabilizing and a definite cause for political instability[6].

Weiner in his book 'The Child and the State in India: Child Labour and Education Policy in Comparative Perspective', notes that there are several forces that act against compulsory education legislations. On the economic side, those who are interested in child labour are small businessmen, upper caste groups who fear competition for jobs and the disappearance of a menial class and often parents themselves, whether in exigent need or believing in their right to their children's labour. In addition, as Srivastava (2009) writes, child labour helps employers by depressing general wage levels in their industries[7]. On the education side, Weiner notes, those who oppose compulsion are teachers who benefit from high enrolment and low attendances, and enthusiasts of Illich's concept of 'deschooling'[8]. "Educators and officials do not regard education as an equalizer, as an instrument for developing shared attitudes and social characteristics, but rather as a way of differentiating one class from another… Those who are educated have power over those who are not".

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[6] *Ouma Wangenge, G., 2004, 'Education for street children in India: the role of the Undugu society', International Institute for Educational Planning, Paris*

[7] *Alok Srivastava, 'Mounting exploitation of child labour', Transparency Review, June 2009*

[8] *Schooling of any kind that limited a person's capacity and desire to self-learn was detrimental to the living a full life by that person.*

In 2001, the Govt of Kenya, through the Children's Act, committed itself to providing free education to all children. However, many continue to remain out of school. In Bangladesh, where primary education has been declared free and compulsory, due to financial and social pressures, parents are unable to send their children to school. The country also faces the problem of dropouts as they sell labour in the informal sector to support their families. A paper examining inter-generational persistence in child labour in Brazil concluded that children are more likely to work when they come from households with parents who were child laborers, from households with parents who have lower educational attainment and that child labor has adverse effects on children's educational attainment and their adult earnings[9].

In the absence of access to formal schooling, what ultimately gets recommended and planned is non-formal education targeted towards special subgroups of population or an 'alternate' form of basic education. Moreover, the idea of non-formal education is itself a framework of education that does not interfere with the child's work. Therefore, what NFE has done is that in providing a solution to the problem of child's labour interfering with the child's education, it has provided a system of child education, which does not interfere with child labour[10].

Alternatively, in a study on child labour in Peru and Pakistan, the researcher found that there existed several differences between Peruvian and Pakistani children on their record of employment and schooling. The most significant of these is that, while Peruvian working children tend to combine employment with schooling, Pakistani children, especially older girls, drop out of schooling completely to participate in the labour market. The school enrolment rates of Peruvian children are considerably higher and show a more even gender balance than those in Pakistan[11].

Surprisingly, a study conducted in Kenya to evaluate the role of an NGO in providing education to street children found that most children joined the non-formal school run by the NGO on the decision of their mothers and that a majority of them came from big families of four to six siblings or more.

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[9] Emerson, Patrick M. and Andre Portela Souza, 2002, 'Is there a child labour trap? Intergenerational persistence of child labour in Brazil', Working Paper no.02-W14, Department of Economics, Vanderbilt University, Nashville

[10] Sinha, Shantha, 1996, 'Child labour and education policy in India', The Administrator, Vol.XLI, pp17-29, July-September (Available at http://www.ashanet.org/library/articles/mvf.199607.html)

[11] Ray, Ranjan, 1998, 'An analysis of child labour in Peru and Pakistan: A comparative study', University of Tasmania

The Right of Children to Free and Compulsory Education Act will be accorded the same legal status as the Right to Life, as provided by Article 21A of the Indian Constitution. Every child in the age group of 6-14 years will be provided 8 years of elementary education in an age appropriate classroom in the vicinity of his/her neighbourhood.

Any cost that prevents a child from accessing school will be borne by the State which shall have the responsibility of enrolling the child as well as ensuring attendance and completion of 8 years of schooling. No child shall be denied admission for want of documents; no child shall be turned away if the admission cycle in the school is over and no child shall be asked to take an admission test. Children with disabilities will also be educated in the mainstream schools.

All private schools shall be required to enroll children from weaker sections and disadvantaged communities in their incoming class to the extent of 25% of their enrolment, by simple random selection. No seats in this quota can be left vacant. These children will be treated on par with all the other children in the school and subsidized by the State at the rate of average per learner costs in the government schools (unless the per learner costs in the private school are lower).

All schools will have to adhere to the prescribed norms and standards laid out in the Act. No school that does not fulfill these standards within 3 years will be allowed to function. All private schools will have to apply for recognition, failing which they will be penalized to the tune of Rs 1 lakh and if they still continue to function will be liable to pay Rs 10,000 per day as fine. Norms and standards of teacher qualification and training are also being laid down by an Academic Authority. Teachers in all schools will have to subscribe to these norms within 5 years.

5.0   Some Posers on RTE Act

1. The Right to Education Act has made it mandatory for the private schools to reserve 25 percent of their seats for children belonging to families that are not very well off, and the expenses will be borne by the government. On a more thoughtful note, how many children actually want to go to private schools? Or, how many families are willing to send their children to private schools? The visible socio-cultural gap between the children of well-to- do households on one hand, and not-so better or households which are fighting to survive would make the children of these two strata compatible.

2. Utilization of resources is another important task ahead. There are chances of duplication of resources, since the street children/families are generally mobile. As introduction of mobile schools is being discussed, the possibility of the children getting enrolled in two different schools simultaneously, owing to their being in different localities or areas at different point of time in a year, resource allocation and monitoring will be a challenge for the government. Unless a strong system to check the duplication of resources isn't developed, the resources might not even get used to the optimum or might be misused.

3. Shortage of schools and adequately trained teachers are one of the major hindrances in the implementation of the Act. To update and upgrade themselves with the required infrastructural facilities, the school will get a 3-year time for providing the required infrastructure. Keeping up with the system is another challenge that the schools will have to cope with. The Act also specifies schools to be within the radius of 3 kilometers. Owing to this clause, many localities have to come up with schools, and the existing ones have to work on improving their infrastructure within a stipulated period of time. This is another challenge in the implementation of the Act.

4. Children through their participation, often at a very young age, in the family craft, learn skills which they practice in their adult life. Most of these activities in traditional crafts and services are not seasonal in nature but rather requires throughout the year involvement. In such circumstances, it is difficult to convince parents to forgo their children's contribution to the household income and their future employment opportunities as well.

5. Even if schools and educational bodies come up with systems and strategies that are child-friendly, and little more inclined towards the children, all children in schools maybe a possibility but at the same time to bring these street children out of streets, a long term outcome, a lot will depend upon the fulfillment of the economic needs of their families for whom they are either main bread earner or one of the major contributors to the families' income. In research conducted in Nairobi, Kenya, Cali and Colombia and Ethiopia, it was found that all street children regard their form of obtaining income as "work". Most defend their right to work[12].

To bring children from the streets to schools and from work to school, what is needed is not only the stringent and strict implementation of laws, but also an alternative to the family for income. As an eminent member of National Commission for Protection of Child Rights (NCPCR) stated that migration of children with or without their families from one place

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[12] *Aptekar, Lewis and Heinonen, Paola, 2003, 'Methodological implications of contextual diversity in research on street children', Children, Youth and Environments, Vol.13, No.1*

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to another is also one of the major reasons why there are so many children on the streets today. Efforts should be made to stop distress migration. In other words, the families should be provided with source of subsistence at the place where they are located. Mahatma Gandhi National Rural Employment Guarantee Scheme or *Swarna Jayanti Shahari Rojgaar Yojana* (SJSRY) are such initiatives which need to be linked with RTE. This will ensure that households' have regular income and are not compelled to put their child to work instead of sending to school.

At the same time the children will benefit from the Act only when the family members are aware of the importance of education, and there is a raised awareness about the same in the family. Owing to the circumstances these street children and their families are in to, they might not be aware of education being a right, or for that matter, what a right is, and their having any rights in the first place.

Government agencies, civil society organizations, and corporate houses along with schools and common public have to come together to raise awareness about the Act.

Though government has schools to cater to a large section of the target population (read children) but with the increase in number of children to be enrolled in schools, the private schools too have an important and significant role to play.

6.0   Pointers for Action

Initial observation is that there is a long way to go before the street children and child labourers are seen in schools, and are mainstreamed into the society. To make the Right to Education a reality in their lives, some action points could be

- The vicious cycle of poverty in their lives has to be perforated. Till the family is not provided with a stable source of subsistence, children will be continuously turning to the streets for their daily bread. Convergence of policies and programmes is a step towards the same.

- Make the family aware about the importance of education in the life of a child. Children should not be viewed as a source of income by the family members. Role models and success stories to be highlighted for them to empathise and relate with the solution.

- Stringent compliance with the Act in terms of infrastructure, providing schools at convenient locations, either building or mobile and well trained teachers. Have a dedicated pool of schools and teachers catering to the needs of the street children.

- Sensitizing teachers to interact with the children who are first timers to schools and from a very poor background is crucial for their continuation in the school. Adopting a more child-friendly approach in schools so that the children are able to enjoy their time in school, and are not tempted to go back to the streets.

- Introducing a fool proof Monitoring System to avoid duplication of resource utilization and check over existence of ghost-students (ex-street children) while allocating resources.

With specific reference to child labour, the suggested action points are:

- Voluntary disclosure by employers that their units do not employ child labour in any form is desirable.

- Fast track courts should be held to punish guilty employers, as this would set an example and deter others from employing child labour.

- Ensuring that adult workers engaged in either organized or unorganized sector get minimum wage as fixed by the state government is an essential condition for curbing child labour in the country.

- Regular monitoring and vigilance by concerned authorities is needed towards the same. An active grievance redressal system will further ensure compliance by the employers.

- Convergence with various government departments to provide employment opportunities to the families of child labour under different developmental schemes like National Rural Employment Guarantee Scheme (NREGS), *Swarnjayanti Gram Swarozgar Yojana* (SGSY) among others, deserves more concerted efforts.

- A state level agency as a nodal body for regularly monitoring the functioning of NCLP society and the special schools should be constituted. Presently the district administration directly reports to the Ministry of Labour and Employment, Government of India and more often it is noticed that the state machinery considers it as a part of the national agenda and avoid taking responsibilities of the performance of the NCLP in their respective states.

- As part of corporate social responsibility (CSR), motivating industrial/business houses to provide employment to parents of child labour and provide funds/resources, which can aid the provision of facilities to children of special schools should be considered.

- Civil Society groups working towards eliminating child labour should ensure maximizing the 'active' participation of community members in drive towards eliminating child labour.

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