

Human Rights of Children: Developed Versus Developing World

Md. Rafiqul Islam Hossaini*

Abstract

The real situation of children's rights in developing countries is not apposite comparing to developed countries. Human rights for the wealthy nations is generally discussed as the protection of civil and political rights, where in the poor nations it is usually discussed in respect of the protection of basic necessities like-food, clothing, shelter, education, health care facilities, and educational facilities etc. The protection of the rights of the children in the name of human rights is a luxury which only the wealthy nation can afford. The purpose of the study is to uncover the situation of human rights of children in the developing countries and the reason of their layback to uphold the children's rights.

Keywords: *Children's Rights, Developing Countries, Developed Countries and Human Rights.*

Introduction

"Human rights are not luxuries we enjoy in times of prosperity and abundance, but inalienable entitlements which should be exercised everywhere by all members of the human family."

-Firouzeh Mitchell

Theoretically, the umbrella of human rights is open to both the rich and the poor at large. In practical situation, human rights for the wealthy nations is generally discussed as the protection of civil and political rights, where in the poor countries it is usually discussed in respect of protections of basic necessities like-food, clothing, shelter, education, health care facilities, and educational facilities etc.

* M. Phil Researcher, University of Dhaka, Dhaka, Bangladesh.

However, in view of the modern day human rights of children, it can be said that the protection of the rights of the children in the name of human rights is a luxury which the wealthy nation can only afford. As a result, in respect of the developing countries this can be said as 'Rich Man's Luxury' as they cannot afford the cost of the protection of human rights. At the very beginning Karl Marx put this view into vast criticism as according to his philosophy, human rights are like the freedom of the bourgeois which are protected at the poor man's expense. Consequently, this debate is concentrated in the point of necessity versus luxury.

History of Children's Right

Children's Rights are these forms of human rights in which the rights and welfare of children are given special attention and consideration. Protection of Children's right is generally understood as the protection of the right to be associated with parents, ensuring human identity and basic needs of the children, ensuring state sponsored education and health care facilities, assurance of non-discrimination on the grounds of race, sex, origin, ethnicity, color, religion, nationality, disability or other factors. Moreover, equal protection of civil and political rights of the children and the assurance of children friendly judicial system are also covered by the children's rights. At large, children's rights means the fashion of the protection of children so that they cannot be emotionally, physically, mentally and socially abused. According to international law, two types of human rights are assured for children: Firstly, fundamental human rights like other adults; and secondly, special human rights for ensuring the rights of the minors.

"Small Adults" is the phrase by which children were known in the middle age. France in the mid-nineteen century introduced the idea to give special protection for children with a view of developing the minor's rights. Protection of children's rights in the field of medical care, social and judicial services started in the beginning of 20th century. The League of Nations also gave importance on the protection of children's rights. The first international treaty about

children's right namely the Declaration of the Rights of the Children was adopted by the League of Nations in 1924. However, the Second World War devastatingly affected the rights of the children though assured by the League of Nations. Consequently, after the Second World War the United Nation created an urgent fund for children in 1947 which later became a permanent international organization namely the UNNICEF in 1953. The Universal Declaration of Human Rights (UDHR) recognizes that the mothers and children should be given special care and assistance. The Declaration of the Rights of the Child was adopted by the UN General Assembly in 1959 particularly in respect of the rights of the children. This Declaration is accepted by almost all the countries and this declaration can be said as the Universal Declaration of Children's Rights. Apart from this, in respect to the rights and welfare of the children, the Organization of African Unity adopted a charter in 1990.

Extreme Form of Violence against Children

Some extreme forms of violence that children are facing in the recent years include child trafficking, sexual exploitation, worst form of child labor, child soldier and others are under the consideration of international authorities. The international community is committed to prevent such extreme forms of violence, though there is no visible rapid remedy. Apart from these extreme forms of violence many children are regularly facing psychological, physical and sexual violence at their homes, schools, work places, in the community and in the justice system. These forms of violence largely affect the existing health condition and well-being of the children remaining with a bad consequence in the future.

Finkelhor and Korbin in defining child abuse stated that all form of harms that are caused to the children is not child abuse. According to them, child abuse is the resultant of poverty and unemployment. Moreover, they categorized child abuse into four substantial parts: 1) Emotional abuse, 2) Physical abuse, 3) Sexual abuse and 4) Neglect.

Legal Perspective of Child Labour

Child labour is a worldwide concern which is devastatingly affecting

the developing countries to a great extent. Child labour is understood as engaging in full time work at an early age and spending too many hours in the workplace. Child labour hampers everyday schooling of the children and it is detrimental to their physical, psychological and social development.

Edmonds and Pavcnik in their article mentioned the ILO's Statistical Information and Monitoring Program on Child Labour, which showed that 211 million or 18% of children worldwide, aged five to fourteen, are engaged in child labour where 60% of them live in Asia and 23 % of them are found in sub-Saharan Africa. Some factors that work as moderator include- poverty, poor education and low income. The reason for the existence of child labour is that the education system is not compatible with the labour market. As such many poor families of the developing countries send their child to work for some extra income rather than sending them to school. It will be time consuming to reduce child labour through improving living standard of the society. As such, it is the easier and rapid way to solve the problem of child labour by improving educational system through fruitful policy goal, and by providing financial aid to the poor family so that they can send their children to school.

From legal perspective, children do not have the authority to be engaged in any sort of work by their own decision as they have not attained the age of majority to give consent in respect of their choice to work. Depending on the facts and circumstances this authority is vested on the guardian, parents and others on behalf of the children. According to the national law of most of the countries, children do not have the authority over their own life and choice.

However, in respect of child labor, this argument is masked by the policies taken by most developing countries. Nevertheless, reducing child labour without considering the social and economic conditions of the children and their families might be devastating. Without at least assuring the basic necessities for the children in the developing countries, removal of child labor will be harmful as this might cause them to be involved in criminal activities or prostitution.

Nonetheless, the ILO Convention 182 (ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Form of Child Labour) has given significant importance for prohibition, prevention and elimination of the worst form of child labour including engaging children in hazardous works, child prostitution, child pornography, and forced labor, drug trafficking, and other illegal activities.

Child Education

It is a common human right for children to assure a quality education for all, which will promote their dignity and development - though it is complex to achieve this goal. Education for all is a universally recognized right of children, confirmed by almost all wealthy and poor states. However, the report of UNESCO provided in 2004 held that, 77 million children are still out of reach of schooling. The attendance of children in the school is given significant importance by most of the developing countries but quality education is not ensured by most of the developing countries as they put less importance in lifting them out of poverty. Countries like Bangladesh, Pakistan, Ghana, Brazil, Zambia, Philippines etc. are the reflection of this real situation. Therefore, there is a marginal difference between the children who have attended the school and who have not completed school education. Child education in the developing countries should be regarded as right rather than as a need, so that it can be enforced judicially in the national courts and they can compel the government to fulfill their right. Fulfilling the goal of education for all has failed by implementing the need-based approach; so much so that the right-based approach is necessary for the enforcement of this right, particularly in the developing countries. Right-based approach is more fruitful as many of the developing countries ensured free and compulsory primary education for all children by enacting ordinances or amending the Constitution of the state. Violence against children in the school and at home should be abolished so that they feel secure everywhere.

In the UN observation on the rights of Australian Child (2012) the

committee appreciated some important progress done by the government and they showed concern about high level of violence against children and women, serious discrimination faced by some specified children, criminal litigation procedure, violence at school and domestic violence, inadequate asylum seeking procedure for children.

Child Soldier and Asylum Seeker

Around the world more than 3 million children in dozens of countries are engaged as child soldier in armed conflicts. The reasons behind employing child soldier are that they are obedient, under threat of death unless they get involved, and they join out of desperation. Moreover, they join in armed groups to survive where their family members have been killed. However, in 1998, the statute of International Criminal Court categorized it as a war crime to engage children soldier in armed conflicts. Apart from child soldier, the refugee children are also severely deprived of their rights and their human rights are frequently neglected by the asylum seeking state.

Arbitrary Detention of Street Children

Street children are severely deprived of their civil and political rights and they are regularly abused physically, mentally and socially by security forces and the government. They usually suffer harassments like arrest and detention because they are homeless or engaged in unlicensed works. In jail custody they are usually kept with adults where they are often sexually abused or raped. Moreover, the criminal justice system in most of the developing countries is not child-friendly, and in contrary to the international principles for the protection of children's rights. In addition to death, presence of death penalty in juvenile court is also found in some of the countries.

Orphans and Abandoned Children

Around hundreds of thousands of children around the world are kept in orphanages and non-penal custodial institutions, where it is reported that many of them are compelled to live shocking life and to accept despicable level of neglect and mistreatment. Many abandoned children are usually found in the orphanages as they are abandoned by their parents and family members because of their poverty,

joblessness, physical sickness, social and legal status. Children in the developing countries are usually abandoned because of their physical and mental disabilities. It is reported that the rights of the children are violated by the orphanages as they are often physically, mentally and sexually abused.

Child Rights and Poverty in Developing Countries

In the developing countries over 10 million children die each year from causes that can be prevented by taking necessary actions, and half of these death is caused by malnutrition. According to the statement of World Health Organization (WHO), seven out of ten deaths of children in developing countries are caused by one of the 5 main causes. Apart from malnutrition they are- malaria, diarrhea, pneumonia, and measles. Though medical intervention can reduce the death rate but cannot reduce the underlying principle of poor health due to several deprivations of children in the developing countries. According to the arguments of UNICEF, survival and development of children are largely affected by poverty. To reduce violation of children's right and to reduce child poverty, most of the national government reached a consensus in framing Convention on the Rights of the Child 1989. According to the information in 2002, at the UN General Assembly's Special Session on Children, in developing countries there are 150 million about malnourished children.

About 600 million children in the developing countries still live in poverty and more than 100 million of them do not go to school for education. In measuring "poverty" though the GDP (Gross Domestic Product) or GNP (Gross National Product) are commonly used, but these kind of measurements are not accepted (rather accepted as a proxy measure) by some scholars and researchers as these studies do not show the exact situation of child poverty. Absolute poverty among children can be measured by calculating the acute deprivations of basic needs of children on the basis of sufficient food, pure drinking water, proper sanitation, health care, access to education, access to information, and access to service. According to the study of 2003, 37% or 674 million children in the developing

countries live in absolute poverty where 65% children live in Sub-Saharan Africa and 59% live in Asia. And the study shows that, rural children are more affected by poverty than the urban children. Moreover, 65% or over a billion of children are severely deprived of their rights. Severe deprivations are grossly found in children in South Asia and Sub-Saharan Africa regions.

In the Sub-Saharan Africa region children are severely deprived with the rights of education and health, whereas in South Asia, children are severely deprived with the rights of proper sanitation, food (53 million children in South Asia are severely deprived of food) and information. Gender discrimination is mainly seen in the education sector as female children are severely deprived of the right to education rather than in the health and food sector. Apart from this, over 614 million children in the developing countries are severely deprived of shelter and accommodation. In respect of shelter deprivation of children in the developing countries, rural children are vastly affected than the urban children. In addition to that, about 567 million of children in the developing countries are severely deprived of sanitation facilities, whereas 61% are found in South Asian region and 38% are found in Sub-Saharan African region. Moreover, severe water deprivation is faced by 21% of total children of the world or 376 million children in developing countries. In respect to severe food deprivation, 91 million children, most of who are less than 5 years old, in the developing countries are deprived of foods, where the most devastating situation is seen in Asia. In respect to health care facilities 256 million children in developing countries are severely deprived of health care facilities. Moreover, in respect to access to education, 134 million children, aged between eight and eighteen, in the developing countries are severely deprived of right to education.

Conclusion

When the basic necessities or fundamental human rights of a nation are assured, only then they are concerned about their social and political rights. As such, poor nations are not primarily concerned about their civil and political rights like the wealthy nations; rather

they are concerned about their basic necessities or fundamental human rights. Therefore, the rights available to the rich and to the poor are not same in this regard. The rich nations show their hunger for freedom of speech, freedom of association and assembly, cultural and religious freedom, freedom from non-discrimination etc., whereas the poor nations show their hunger for food, shelter, education, health care etc. As such, the demands for human rights in both types of nations are not the same. Apart from this, the implementation of human rights for children requires huge financial expenses which can be afforded only by developed countries and most of the developing countries cannot afford the expenses that are required for the implementation or assurance of the rights of the children. So, most of the developing countries keep them out of reach of legal enforceability and regard them as their aspirations. For the protection of rights, priorities should be given considering the necessities and demand of respective countries, not for all at large.

References

Bandman, B 1999. *Children's Right to Freedom, Care, and Enlightenment*. Routledge. p. 67.

Children's Rights in a Changing World 2014. *Megan Mitchell, Children's Commissioner*, Association of Children's Welfare Agencies Conference 2014.

<https://www.humanrights.gov.au/news/speeches/childrensrightschangingworld> .

Edmonds, EV and Pavcnik, N 2005. Child labor in the global economy. *Journal of Economic Perspectives*, Vol. 19(1), pp. 199-220.

Finkelhor, D and Korbin, J 1988. Child abuse as an international issue. *Child Abuse & Neglect*, Vol. 12(1), pp. 3-23.

Gordon, D., Nandy, S., Pantazis, C and Pemberton, S 2003. *Child poverty in the developing world*. Policy Press.

<http://www.gulawreview.org/entries/humanrights/humanrightsluxuryfortherich>

<http://www.humanium.org/en/childrensrighthistory/>

<http://www.uniteforsight.org/genderpower/module4> (visited 15.04.2017)

<https://www.hrw.org/legacy/wr2k/Crd.htm>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2039760/>

Mitchell, M 2014. An update from Megan Mitchell: Australia's National Children's commissioner. *Every Child*, Vol. 20(1), p.4.

Thorne, B 1987. Re-Visioning Women and Social Change: Where Are the Children?". *Gender & Society*, Vol.1 (1) pp.85-109. doi:10.1177/089124387001001005.

UNICEF & United Nations Centre for Human Rights 1991. *Convention on the Rights of the Child: Information Kit*. United Nations Centre for Human Rights.

UNICEF 1989. Convention on the Rights of the Child. *Child labor*, 8.

UNICEF 2007. A human rights-based approach to education for all: A framework for the realization of children's right to education and rights within education. *United Nations Publications*.