

# A Proposal of Law Reform for the Prevention of Children Being Used for Begging by Adults in Streets of Sri Lanka

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**Abstract** *The rate of children being used for unlawful activities by adults has increased rapidly in many fields. Using children for begging on streets by an adult or a guardian to earn money has now become a common practice. On the other hand there is no law specifically to prevent the children from being used for begging in the streets by adults. Hence the research is to demonstrate the current impact of such activities on children in the urban areas of Colombo and to identify the protection plans taken by government towards the safety of these children. The primary objective will be to determine the reasons behind introducing a new legal reform. The research will follow a qualitative method; a semi structured interview with the victims from selected areas of Colombo city and a cross sectional study of a structured interview with the state departments and relevant authorities in relation to protection of street children. The research will put forward recommendations to protect these children and stop them from being used for begging. The reform will be affected with the idea of preventing children from facing violence, abuse, and stopping their valuable lives from being wasted on the streets. Sri Lanka as a developing nation is in need of closing such loopholes through the implementation of reforms. A proper plan of implementation and operative methods of data analysis can generate favourable responses to justify the introduction of the proposed law reforms to Sri Lanka which can ultimately lead to the protection of the rights of children. Therefore the research recommends introducing law reforms in order to take action against women and men who use children involuntarily for the purpose of begging in the streets. Instead they could be directed for institutional care or to remain in the safe hands of a guardian where they will have equal access to rights.*

**Keywords**— Law Reform, Children for Begging, Child Rights

## I. INTRODUCTION

The address towards the surviving of children sustaining on streets have become out of the control of the authorities as it is widely spreading all across the nation.

This situation is uprising because they try to remain unnoticed and organized. Ultimately this has created children to beg forcefully where the remote is on the hands of racketeers who organize forced child begging.

Identifying a proper definition on the age of a child is challenging due to the different definitions adopted by different statutes for various objectives. Therefore, the proposed research will follow to articulate the definition of the child as per the UNCCR (United Nations Convention on Child Rights) Article 1 “every human being below the age of 18 years”. Together complies with National child protection authority Act No 50 of 1998, which defines child to be under 18 years of age.

Even though the existing legal framework of the government is upon the control of the authorities to enforce law through the Children and Young Persons Ordinance, it has forgotten to make a clear cut prohibition on the use of children for begging by adults and to implement severe punishments to those who force child begging, Therefore identifying the current protection plan towards preventing the violence is important with an introduction to a new reform to the existing law which would ultimately give a deterrent effect on the society.

## II. RESEARCH PROBLEM

The existing legal framework is confined to the provisions of Children and Young Persons Ordinance No 12 of 1945 while the practical difficulties are faced by the police and the child Protection authority in implementing the law. Therefore it is indeed necessary for a powerful prevention from a law reform that understands the impact on such children and the need for an effective mechanism to punish the wrongdoers with the coordination of all these forces.

## III. LITERATURE REVIEW

The required background for the protection of street children is found already in published material. The clear observation through law enforcement should be drafted in accordance with composite and learned variety of factors that lead to success in reforming the current statutory regulations for the rights and welfare of

members of vulnerable groups which includes the category of children. (Krishna Iyer, 1992)

This raised some important venues to open up to seek for similar legislations from countries with similar legal systems to Sri Lanka. There were number of laws including prohibitions in India but they were silent about the process in which children begging taken as a child labour should be banned. Therefore to mitigate this situation the parliament enacted the child labour (prohibition and Regulation) Act, 1986 in order to bring uniformity in matters of child employment. These show the needed efficiency in the law enforcement mechanism.

"State together with citizens should protect children from exploitation and from adults using children for financial gain by begging at street corners". (Richardson, 2010)

Findings of these prevailing views around the world reveal that availability of a specific law is a necessary condition. Street children are easy targets because they are young, often small, poor, ignorant of their rights, and frequently do not have responsible adults to look out for them. Police also have financial incentives to resort to violence against children.

This is similar in South Asian region where often children has no choice with regard to the work she/he is engaged in. they are exposed to physical or psychological abuse, and put to work by parents and employers where children are seen as a cheap and accessible source of silent within and outside the family. This perception of the link between development and protection and participation is especially important as a basis for legislative and administrative reform, because countries in the region have not used these processes sufficiently to cope with the phenomenon of exploitative use of young children (Gunasekara, 1998)

All of the analysed literature follows a premise that children are a vulnerable group anyhow children on streets accompanied by adults for begging is more vulnerable, furthermore despite of degrading this unfortunate system, a lack of a specific law to address this loophole has increased the situation, because the attempt to cover the situation through non specified laws cannot solve the issues. The rising need is there for the law to speak on behalf of the child.

#### IV. OBJECTIVES

##### *A. Current situation of street children*

The initial target on this research is to identify the violence over street children accompanied by an adult.

Secondly to describe the current legal framework adopted to protect the children finally the need of a new law reform to make the prohibition to be effective in the future.

These children have been forced on to the streets mainly due to their parents' inability to address their needs which the root cause is poverty. The absence of proper guidance from parents leads to these conditions. Most groups of children under five years of age or infants are kept silent by drugging them while the adult who's carrying the child may find it easier to carry out his/ her job without the constant cries of the child.

Children on streets, (accompanied by an adult) face different uncomfortable situations specifically the violations or imminent violations of child rights such as right of being free from violence and right to education. Violence occurs due to the force on children to beg where they may undergo sexual harassments further the protection is undermined in the hands of a stranger if the adult accompanied is not the parent. Even with the parents it becomes unrespectable.

##### *B. Address of Current laws pertaining to the protection of children at risk*

The laws prevailing to stop children used for begging is identified by Children and Young Persons Ordinance No 12 of 1945 under Part v, section 77 (1) which prevents vagrants who habitually wanders from place to place takes with him a child who has attained the age of five and shall be guilty unless proved that the child is completely exempted from school or such taking did not interrupt the child's elementary education. Further addressing the issue by section 77 (2) it allows any police officer to apprehend such vagrants without a warrant and to take the child to a place of safety in accordance with the ordinance.

With regard to international bindings, Sri Lanka ratified the UNCRC in 1991 since then it was successful to become an active member. Yet the dualistic nature of the international law adoptions in the island has set the bar to be concerned on indirect application of its provisions. One of the main concerns of UNCRC is to protect children from abuse and exploitation.

Article 19 adopts the protection from all forms of violence, neglect, abuse and maltreatment and not to be exploited by their parents or other guardians. Therefore the prohibition is set, but the enforcement is on the

hands of government. The results were shown from concluding observations of the Committee on the Rights of the Child, Sri Lanka, 2010 where the committee appreciated the positive developments related to the implementation of the Convention specially the adoption of The Penal Code (Amendment) Act No. 16 of 2006 which, inter alia, makes it a penal offence to engage and recruit a child for use in armed conflict and in child labor, child trafficking and child pornography.

Further The Committee welcomes the ratification by the State Party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children. These have been the positive outcomes of legal implementations yet the committee urged Sri Lanka in its concluding observations that the principle of the best interests of the child as defined in art.3 of the Convention and recalled in other provisions of the Convention has not been consistently applied in legislative, administrative and judicial proceedings, as well as in policies and programs relating to children. This situation is to be addressed by the government. These set up of laws lacks the practical effectiveness where it is questioned further by continuously increasing complains on children being used for begging on streets.

However a complete prohibition over using the children for begging has been unsuccessful with the current laws. Therefore recognition of a law reform is a growing need.

#### *C. Rationale behind proposing a law reform.*

The final and the primary goal of this research is to build the reasons and its introduction to the new law reform. The establishment carried out by the prevailing law seems to be with loop holes. The prohibition is adopted under several Acts yet not with a strong prohibition. Therefore the new law reform should specifically prohibit and should add a more practical plan to capture the organized racketeers with the effective cooperation of the police and the public. The Department of probation and child care which addresses specifically on street children as a whole cannot carry out the mission alone.

#### IV. METHODOLOGY

This study has followed a qualitative method of data collecting; an informal interview was carried out in selected places of Colombo, face to face interview with the victims, between the ages of 5 to 14,

Secondly the structured interview which was constructed with Child Protection Authority and commissioner of Provincial Commissioners of probation and Child Care Services (Western Province) revealed information on how the authorities addresses the prevailing situation.

#### V. FACT FINDINGS AND DISCUSSIONS

As followed by the methodology, the general question posed to the vulnerable group of children was to find out what make them sustain on streets? Surprisingly none of the children were able to answer the question instead all the answers were given by the adult whom they were accompanied by. The common answer for the question is that they are being either there father or mother or the guardian taking the child with them to the streets because they are unable to have any alternative if not. This was observed mainly because either of the spouses are unable to work and earn money. The truth behind whether they are the child's real parents was never revealed. This shows the amount of risk increased to stop further expansion of this business.

The executive authorities the police handle the practical situation as of arresting over such child exploitation for this begging business while the administrative work is handled through legal intervention with a special unit in police, yet this service is mostly available for children who are already abused. Nevertheless a practical barrier to this situation arises as the time to reach the child at risk will be time enough for the vagrant to move to another place without getting caught. Such loopholes may put the child into a more vulnerable stage. This is mainly due to the secret organization of these racketeers.

Child development and women's affairs ministry declared that the authorities had been advised to enforce the law with stringent punishment for those who lure or force children into begging. The ministry emphasized that back there were around 20,000 child beggars in the country, and that they have also got in hold of the information notice that certain organized racketeers were behind forced child begging who take advantage of localized festivities such as the Kandy Perahera and the Poson season in Anuradhapura and transport child beggars. Due to the careful organization of these illegal acts still the offenders have been successful to carry this out as a shadow business. Consequently it is a need to create a fluent legal reform if prevailing authoritative implementations are not in action.

At face of this Situation it is questionable whether the section has only been restricted to simply a provision, because section 77 (1) as aforesaid punish the vagrant from preventing the child receiving education and lacks to address otherwise therefore this cannot be called a complete prohibition.

Thus the prevention mechanism must not completely confine to the ordinance instead a combination of the assistance of all government authorities, police and most

importantly with the attention of the public to work efficiently to bring down the core founders of this begging business.

The reform may maintain strict rules on enforcement which will be the main responsibility of a special unit of police to look into the practical measures in recognizing the groups of racketeers to investigate unnoticed in the areas of Colombo especially where people gather.

Poverty or lack of proper employment for the parent cannot be the result of choosing the streets as for the shelter of the child. Best alternative cannot be the streets in cases over children who said to have no protection in their houses.

Therefore at such time proposed reform may come alive by recommending institutional care. This should be handled with the assistance of department of probation and Child Care, National Child Protection Authority, and the ministry of child development and Women's Affairs together with local authorities such as municipal council. It is provided that the needed assistance over child is achievable by attending them for institutional care. For example the non-governmental organizations such as Child Action Lanka which is situated in Kelaniya, Nuwara Eliya and Kandy rendering proper care for street children and under privileged children to learn, grow and educate. Further Article 3 (3) of UNCRC must be used to strengthen the standards of these institutions which provides facilities for these children.

#### VI. CONCLUSION

The enforcement mechanism should be more effective over capturing and identifying these organized groups, who use children, and on the other hand against parents that uses the children for begging should also not be justified under any circumstance and severe punishment must be afforded. A child may not know how to define abuse, unawareness of their rights hence inability to talk for their rights have created the need for opening up a specific legal reform which could out stand among the prevailing laws.

In the face of a remarkable Law reform Sri Lanka will easily eradicate violence over street children who've been used by adults. Even though this would become the long term goal, the short term goals will be to protect children from violence from their parents and the organized groups who pushes them to the streets. Furthermore enhance these children with right to education. Therefore the proposed reform is to be enforced as a complete prohibition from using children for begging at any costs.

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