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CHILD MARRIAGE IN INDIA: AN OVERVIEW

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Abstract:

In a country rich in diversity, there are practices and beliefs that need to be understood and accepted as limitations of Indian culture and tradition. Child marriage is one such practice, which is one of the most serious social maladies affecting the lives and future of India's youth. Child marriages contribute to virtually every social problem that keeps India behind in women's rights. The problems include soaring birth rates, grinding poverty and malnutrition, high illiteracy and infant mortality, and low life expectancy, especially among rural women. Premature pregnancy and motherhood are an inevitable consequence of child marriage. An estimated 14 million adolescents between 15 and 19 give birth each year. Girls under 15 are five times more likely to die during pregnancy and childbirth than women in their twenties. Child marriage denies schooling for girls and their right to education, which is necessary for their personal development and effective contribution to the future well-being of society. The secondary data sources were used in this paper. The paper analysis Consequences of Child marriage, Determinants of child marriage, Legal Perspective and programmes and policies of Government.

KEYWORDS:

Child Marriage, Law, Policies and programmes.

INTRODUCTION

The early marriage of children, particularly of the girl child, is not an uncommon practice in over 40 countries, mainly in Sub-Sahara Africa and South and South East Asia, including India, Pakistan and Bangladesh. A significant number of these countries are signatories to various international conventions and have guaranteed various rights for children and women, including the prescription of the legal minimum age at marriage of 18 years. According to a recent UNICEF report (2005) the percentage of girls aged between 15 and 19 who are married in different countries is; Congo 74%, Niger 70%, Afghanistan 54%, Bangladesh 51%, Iraq 28%, While in Nepal, 40% of girls get married before they turn 15 years. In India the latest assessment is that 44% are married before the age of 18 Years.

The problem of child marriage in India is a complex one because it is related to traditional and religious practices and other social problems such as dowry and child widowhood. However the origin of the custom is not fully known. There are many studies available on child marriage. Most of them are demographic in nature looking at the mean age at marriage as a proxy of child marriage and going into its correlates such as economic and educational backwardness of certain communities of families and some of their social and cultural characteristics. These studies do not go beyond simple associations or correlations with a view to discover the basic causes of child marriage. As a result, we do not have adequate knowledge of the conditions under which child marriages came into vogue.

The continuance of child marriage presents multiple challenges to the nation. "According to decades of research, child marriages contribute to virtually every social problem that keeps India behind in women's rights. The problems include soaring birth rates, grinding poverty and malnutrition, high illiteracy and infant mortality, and low life expectancy, especially among rural women'(Burns, 1998). Child-welfare activists are pushing for tougher legislation and enforcement. But it is an arduous task in nation where much of population is rural or poor, and societal values are shaped by sparse resources, limited opportunities for women, and family tradition that are slower to change than those in India's more cosmopolitan urban centers. The reluctance of the government to intervene to check this practice stems from its reservation that it should not interfere in the personal laws of various communities, particularly minorities. 'It has been the consistent policy of the government not to interfere in the personal laws of communities unless the initiative comes from the communities themselves', the government said in a statement. 'The government is of the view that is only through social and economic upliftment of these sections of the community that the practice can be eradicated.(Times of India, August 2006).

According to Saraswat (2006), Child Marriages exist in feudal societies where the Nagnika concept was prevalent. Parents were made to believe that if they did not get daughters married before puberty, they would go to hell. India tradition places a high premium on virginity before marriage. This applies to women and to some extent men. In a culture where premarital chastity is valued, one of the easiest ways of achieving this is to get young girls married in their childhood.' Though, historically, this may have existed in all communities, with the advent of modernity the ruling classes gradually gave up this practice.

DETERMINANTS OF CHILD MARRIAGE

Social Customs: In Marseille Abeille's study of the historical perspective of child marriage. She examined the ancient texts to trace the development of this practice, which has greatly disadvantaged women. The religious rationale for child marriage practice probably explains the adherence to enduring such a practice. Abeille has noted the survival of the custom in certain part of South India (Nagi, 1993).

Dowry and Economic Determinants: A part from religious considerations, the other reason for child marriages among the higher castes is dowry. Traditionally, dowry was not prevalent among lower castes, most of women followed the opposite custom of bride price. Most Brahmins also did not practice dowry, but in recent years this custom has extended itself to both higher and lower castes. Even non – Hindu communities have not escaped its evil influence. 'It has been found that the quantum of dowry increases with the age and educational level of the prospective brides. Some upper caste parents prefer to keep their daughters uneducated and marry them off young to avoid heavy dowry demand' (Nagi, 1993).

Demographic Determinants: Most of the studies on child marriage are demographic in nature, looking at mean age at marriage and going into its correlates, such as economic and educational backwardness of certain communities or families and some of their social and cultural characteristics. Even in the presence of these factors, the phenomenon of child marriage is absent in certain families or communities. The cases of child marriage vary from place to place and men to women because of the demographic variety across India.

Institution of patriarchy: it is important to view the phenomenon of child marriage within the context of patriarchy. 'Patriarchy has a strong hold on Indian society. It operates at all levels on the basis of sex, age and caste contributes in lowering the status of women in every possible manner. Stratification differentiations on the bases of gender are the integral features of patriarchy in India' (Koenig and Foo, 1992).

Lack of Alternatives to Child Marriage: Child marriage is often regarded as the only option. As Yadav (2006) points out, 'If young girls are not to be married off, alternative opportunities need to be provided to them. The fact is that there are no such constructive opportunities for them'.

Lack of Awareness of the Law: One of the reasons for child marriages is that people to a large extent are not aware of the provisions of the law. The finding of NFHS, 1992-93, India, is that the CMRA is not widely known among women in India, particularly those belonging the disadvantaged sections of Indian society. There are no means of communication available to people to find out about the law. Illiteracy and legal ignorance are common features among rural people, more so among women. If people have no knowledge of the law, one can hardly expect them abide by it.

Lack of Political Commitment: There is a need for stronger political will to amend, enforce, or create awareness about Indian laws and acts on child marriage. Women's interests are accorded less weight in the political process, thus hindering any future improvement in their status. Over the last two decades, all political parties have stated their commitment to the improvement of women's status. However, no serious effort has been made either for better implementation of the legislation or for improvement of their status. The government, in response to the demands of the international community, introduces frequent policy

changes regarding the reproductive health of women. Nevertheless, budgetary provision for implementation of these policies restricts these efforts.

Miscellaneous Causes: Among other factors, responsible for child marriages, Yadav (2006) observed, 'tremendous pressure from older member of Indian society like grandparents and also the community prevails on parents off their young children. There is also the fear of not getting a suitable match if the marriage is delayed.'

CONSEQUENCES OF CHILD MARRIAGE

Impact on Health: The health impact of such a retrograde practice as child marriage has, over the years, been very well documented and the readings are alarming as it has far-reaching effects on the reproductive health of girls throughout their lives. Seen in this context, the lack of awareness is a matter of concern to all. **Maternal Mortality Rate:** Reports reveal that MMR in India is still high with more than 1,00,000 women in India dying every year from causes related to pregnancy and childbirth. A woman dies every seven minutes in the country due to complications related to pregnancy. The Maternal Mortality Ratio for India (2001-03) is 301 per 100000 live births.

Complications during childbirth: As young girls are physically immature to bear a child, childbirth causes a major threat to their health and life expectancy. Two million women worldwide suffer from obstetric fistula, a debilitating complication of childbirth especially common among physically immature girls.

Trafficking and Sale of Girls: Child marriage also results in the trafficking of children for various purposes, including prostitution, labour and exploitation. Young girls are lured/ forced into marriage for the purpose of selling them to other states.

Lack of Decision-Making Powers: Girls are not able to discuss issues related to pregnancy, childbirth and contraceptive use when they are married at a young age, thus denying their basic reproductive rights.

Illiteracy among Girls: Child marriage denies girls access to schooling and their right to education, which is necessary for their personal development and effective contribution to the future well being of society. Sometimes, girls who prefer to go to school before or after marriage may not be allowed to pursue higher studies. Usually they are removed from school, thus ending their education and individual development, and making them vulnerable. Many parents believe that investment in a girls education is a waste of money because ultimately she would have to get married and move to her husband's house where she will take care of the household. Withdrawal from school in order to get her married limits her opportunities to become an informed and self-reliant individual. In many cases, these girls are also not allowed to socialize and make friends outside their family.

STDs and HIV/AIDS: Early marriage makes the individual vulnerable to sexual teasing, coercion and STIs, including HIV. In the cases of girls, they are severely affected owing to their lack of decision-making powers in their own sexual, reproductive and productive lives.

Social Effects: Child marriage adversely affects the well being of children involved in diverse ways, but more so for the bride than the groom in the marriage. These girls act with lesser autonomy, and are more susceptible to violence and sexual exploitation.

CHILD MARRIAGE A LEGAL PERSPECTIVE:

It is worthwhile highlighting important legislative measures taken in the last century to reduce early marriages in India. It is not entirely correct to assume that early marriage and early pregnancy enjoyed complete social approval in the pre-independence era. The formation of various social legislations at this time shows the initiatives for policy change. The most laudable legislative measure, which is closer to people's aspirations, was the child marriage restraint act (CMRA), passed in 1929 that aimed at preventing child marriages.

LAWS RELATED TO CHILD MARRIAGE IN INDIA:

1. The Child Marriage Restraint Act, 1929

CHILD MARRIAGE IN INDIA: AN OVERVIEW



2. The Prevention of Child Marriage Act, 2004
3. The Prohibition of Child Marriage Act, 2006
4. Compulsory Registration of Marriages Act, 2006

Salient Features of the Prohibition of Child Marriage Act, 2006

1. Child marriages to be avoidable at the option of contracting party being a child
2. Provision for maintenance and residence to female contracting party to child marriage.
3. Custody and maintenance of children of child marriages
4. Legitimacy of children born of child marriages
5. Power of district court to modify orders issued under Section 4 or Section 5
6. Punishment for male adult marrying a child
7. Punishment for solemnizing a child marriage
8. Punishment for promoting or permitting solemnization of child marriages
9. Marriage of a minor child to be void in certain circumstances
10. Power of court to issue injunction prohibiting child marriages
11. Offences to be cognizable and non-bailable
12. Appointment of Child Marriage Prohibition Officers

GOVERNMENT POLICIES AND PROGRAMMES

The government depended on the CMRA, 1929, so far, to check this problem but child marriages have taken place with impunity throughout the country, particularly in the heartland of states like Bihar, Uttar Pradesh, Madhya Pradesh and Rajasthan. Faced with the need for a stronger law, the government introduced the 'Prevention of Child Marriage Bill' in the Rajya Sabha in 2004. It was later sent to a Parliamentary Standing Committee, which heard representations from various groups. Several argued in favour of Bill that would abolish and not just prevent child marriage.

POLICIES:

1. National Health Policy, 2002
2. National Education Policy, 1986
3. National Youth Policy, 2003
4. Population Policy, 1999
5. National Policy for Women's Empowerment
6. National Charter for Children, 2003
7. Kishori Shakti Yojana
8. Balika Samridhi Yojana
9. National Policy for the Empowerment of Women, 2001
10. Free education for girls
11. Child Line Service
12. Girl Child Protection Scheme, 2005

GOVERNMENT PROGRAMMES

1. Reproductive Child Health Programme
2. Integrated Population Development Programme
3. Women's Development Programme
4. Adolescent Girls Scheme
5. National Service Schemes, etc.

CONCLUSION:

In a society largely governed by beliefs, rituals and a desire to follow the cultural ethos as prescribed, education is perhaps the only potent weapon that could combat undesirable practices embedded in the system. Legislation, laws and enforcement can only assist in this Endeavour. One factor that was repeatedly mentioned as a causative factor for child marriage was poverty. Though a number of poverty alleviation programmes and employment generation programmes have been put in place, more than 220 million people are still below the poverty line. Women and children are traditionally most affected by

poverty. There is, therefore, an urgent need to seriously address the issue of poverty in India.

All stakeholders, including parents, relatives, panchayat members, the police, NGOs, social workers, district magistrates, etc. should be sensitized and convinced about the negative impact of child marriage on children, and about protecting the sexual and reproductive health and rights of girls and young women. The media can play a proactive role in creating awareness regarding child marriages at the district level. They can publicize child marriages taking place in the villages so that action can be taken by NGOs district magistrates and CMPOs. They can even report such cases to the local police authorities as a preventive action. NGOs should be given the authority to report and intervene with the help of district magistrates, police or other social workers in cases of child marriage. Trafficking is a serious issue linked to child marriage. Both are connected to each other as many girl children are forced into marriage after being kidnapped from bordering states/areas. To curb such happenings, the laws have to be made more stringent and proper enforcement of the Prohibition of Child Marriage Act in conjunction with the Immoral Traffic Prevention Act, Particularly in border states/areas needs to be implemented.

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