



PROBLEMS AND LEGAL PROVISIONS FOR VICTIMS OF CHILD MARRIAGES

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Abstract

On International Day of the Girl, Save the Children revealed fresh research that shows that over 22,000 girls annually die from pregnancy and childbirth brought on by underage marriage. For the preventions problems from the child marriages and provide for the legal protection for the children.

Key Words: Prevention Of Child Marriage Causes Of Child Marriage In India, Impact Of Child Marriage, Steps Taken To Prevent Child Marriage.

INTRODUCTION

One of the harshest and deadliest types of gender-based and sexual violence against girls is child marriage. Gender inequality is both a cause and a symptom of child marriage. It can refer to both official and informal partnerships when children under the age of 18 live with a partner as though they are married. It is described as the marriage of a girl or boy before the age of 18. A component of SDG 5, which addresses gender equality and the empowerment of all women and girls, is the prevention of child marriage.

STATISTICS:

United Nations Children's Fund (UNICEF) estimates suggest that: Each year, at least **1.5 million girls under 18 get married in India**, which makes it home to the **largest number of child brides in the world** - accounting for a third of the global total. As per a report by **Save The Children:** More than an estimated **22,000 girls a year are dying from pregnancy and childbirth**

Resulting from child marriage.

Child marriage kills more than 60 girls a day, globally and 6 girls a day in South Asia. Though, **there has been a decline in the incidence of child marriage in India** (from **54% in 1992-93** to **27% in 2016**) and in nearly all states, the pace of change remains slow, especially for girls in the age group 15-18 years. In India, **Child marriage is more prevalent in rural areas** than in urban areas. In general, **rates of child marriage are highest in the central and western parts of India** and lower in the eastern and southern parts of the country. **West and Central Africa** has the **highest rate of child marriage** in the world and accounts for nearly half of all child marriage-related deaths globally

CAUSES OF CHILD MARRIAGE IN INDIA:

○ **Patriarchal notions:**

The ardent **desire to preserve the purity of a girl for upholding the honour of the family** is the key factor contributed to early marriage. Virginity and chastity are the precious possession of a girl. **The undue importance given to chastity** paved the way for society's finding out various ways and measures such as seclusion of girls from interaction with others and early marriage to protect girls from possible sexual abuses.

○ **Regressive customary and religious laws:**

Governments frequently find themselves unable to uphold existing legislation or reconcile differences between deeply ingrained customary and religious practices and national laws regarding marriage age. This is a result of the official acceptance of cultural, societal, and customary norms that influence and direct the structure of the family and marriage institution. Due to the social stigma that the community places on marriages beyond puberty, girls are married off before they reach puberty in many Indian communities where

○ **Rising cost of marriage:**

The rising **costs of marriage ceremonies and related dowry costs** force many families to marry their daughters early in order to reduce such costs

○ **Poverty:**

Poor families find it difficult to feed everyone in the family that they **prefer to "send off" the daughter as early as possible** to some other family. As for the boy's family, it **gets an "unpaid servant"** to do the household chores, often along with dowry.

According to UNICEF >> **poor families may regard a young girl as an economic burden** and her marriage as a necessary survival strategy for her family.

- **Insecurity:**

UNICEF is of the opinion that one reason why parents get their daughters married off early is >> **they may think that early marriage offers protection from the dangers of sexual assault** or more generally, offers the care of a male guardian. Early marriage may **also be seen as a strategy to avoid girls becoming pregnant outside marriage.**

- **Caste inequalities:**

The oppressed classes and castes, with the encouragement of the landed castes, emulate this feudal social practice **as it ensures for them a source of cheap family labour.** Hence **it is in the interest of the dominant classes to keep this system going.**

- **Lack of education:**

Poor educational opportunities for girls, especially in rural areas increase the vulnerability of a girl child to be married off early. Lack of education also reduces girls' power to resist marriage and opt for alternative aspirations.

- **Loophole in the Prohibition of Child Marriage Act:**

It does not declare child marriages illegal, but leaves an option that the girl can keep it alive and the marriage can be 'revived' after the girl turns 18. Since there is a window of the girl's consent, in many cases police don't take action against those responsible for marrying off children

- **Fake age certificates:**

Often people obtain fake birth certificates through manipulation. Panchayats also sometimes play a dubious role of issuing panchnamas with fake date of birth, based on which marriages of minors take place.

- **Covid-19 pandemic aggravated the menace:**

COVID-19 pandemic has worsened inequalities that drive child marriage. Recent study by **The Lancet** shows that up to 2.5 million more girls (below the age of 18) around the world are at risk of marriage in the next 5 years **because of the Covid-19 pandemic.**

According to a report published in December 2020 by ChildLine India, **the pandemic and the subsequent lockdown have proved to be new drivers of child marriages** in rural Madhya Pradesh.

IMPACT OF CHILD MARRIAGE:

○ **Health consequences:**

Studies demonstrate the **clear linkages between the incidence of child marriage and poor health indicators**, often due to early child bearing that **contributes to high levels of maternal mortality and morbidity**.

Mortality rates of children born to very young mothers are high. The children that survive are likely to develop health problems

Child marriage also **exposes the young girls to risk of contracting HIV and other sexually transmitted diseases**. Violence and abuse at marital home can lead to post-traumatic stress and depression >> hence **affects mental health**.

○ **Limit economic opportunities of women:**

Child marriage is also **directly associated with lower educational attainment for girls, limiting their employment opportunities, economic security** and productive capacity to society.

Child of young uneducated mothers is also less likely to attain high levels of education, **perpetuating cycles of low literacy and limited employment opportunities**.

○ **Higher risk of domestic violence:**

Girls who are married young often lack status and power within their marriages and households, and so are **more likely to experience domestic violence, sexual abuse, and isolation** from family and community.

○ **Increased population growth:**

Lower age at marriage directly affects fertility rates. Lower the rate of age at marriage higher is the fertility rate.

○ **Violation of Rights of Children:**

Child marriage violates the rights of children such as the right to education, the right to be protected from physical and mental violence, the right to rest and leisure, the right to not be separated from parents against the child's will etc.

POSITIVE SIGNS:

According to a UNICEF Report, 2018, **the proportion of women who were married as children decreased by 15% globally** in the last decade, with south Asia witnessing the largest decline (from nearly 50% to 30%) owing largely to progress in India. **Nearly 80 million child marriages globally have been prevented** in the last 25 years.

STEPS TAKEN TO PREVENT CHILD MARRIAGE:

Steps taken during colonial period The **Indian Penal Code** enacted in 1860 criminalised sexual intercourse with a girl below the age of 10. The provision of rape was amended in 1927 through the **Age of Consent Bill, 1927**, which declared that marriage with a girl under 12 would be invalid. **In 1929, the Child Marriage Restraint Act set 16 and 18 years as the minimum age of marriage** for girls and boys respectively. This law, popularly known as the **Sarda Act** after its sponsor Harbilas Sarda, a judge and a member of Arya Samaj.

○ **Child Marriage Restrain (Amendment) Act of 1978**

Sharda Act was amended in 1978 to prescribe 18 and 21 years as the age of marriage for a woman and a man respectively. However, the marriage performed in violation of this condition still remained valid.

○ **The Prohibition of Child Marriage Act, 2006**

Under this Act, “child” means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age.

Boys and girls forced into child marriages as minors have the option of voiding their marriage up to two years after reaching adulthood, and in certain circumstances, marriages of minors can be null and void before they reach adulthood.

Children born of child marriages are consider to be legitimate. Responsibility laid on the District Courts to decide upon the parental custody of the child, keeping in mind children’s best interests.

○ **Compulsory Registration of Marriages Act, 2006:**

From the year 2006, **all marriages need to be registered in India** under the **Compulsory Registration of Marriages Act, 2006**.

It states that every Indian citizen needs to register his or her marriage within ten days of their marriage, irrespective of religion. Such compulsory registration would be of critical importance to prevent child marriages in the country.

- **A committee to reconsider the minimum age of marriage for women:**

In 2020, the Union Ministry for Women and Child Development **set up a committee to examine matters pertaining to age of motherhood**, imperatives of lowering Maternal Mortality Ratio and the improvement of nutritional levels among women. **The Committee is headed by Jaya Jaitely**. The Committee was **proposed in the Union Budget 2020-21**.

- **Right to Education Act, 2009:**

The RTE Act aims to provide primary education to all children aged 6 to 14 years. It enforces Education as a Fundamental Right (Article 21).

The Act aims for creation of favorable atmosphere of education for all children >> hence prevent issues like child marriage.

- **International Collaborations:**

Regional Campaign to end child marriage:

India is a member of the **South Asian Initiative to End Violence Against Children (SAIEVAC)**, which adopted a regional action plan (2015-2018) to end child marriage. India is one of 12 countries selected to be part of **UNFPA and UNICEF's Global Programme to Accelerate Action to End Child Marriage**.

- **Protection of Children from Sexual Offences (POCSO) Act:**

Under this Act sexual intercourse with a minor is rape, and the 'consent' of a minor is regarded as invalid since he/she is deemed incapable of giving consent at that age.

WAY FORWARD:

Improve law enforcement mechanism in India:

Monitoring of the implementation of existing child marriage laws needs to be strengthened and a protective mechanism should be established for individuals reporting child marriages. The effective enforcement of **Prohibition of Child Marriage Act, 2006** must be ensured with strong political and administrative will power.

- **Launch a nationwide campaign for prevention of child marriage:**

There is a need for **awareness and sensitization programmes including media campaigns** for creating an environment of delaying marriage and empowering adolescent girls

- **Compulsory registration of marriage**

The compulsory registration of marriage is imperative as there is no law requiring registration of marriages throughout India. Thus, enforcement of such legal provision is likely to pressurize parents for delaying marriage.

- **Increasing girl's access to education and employment:**

Increasing girl's access to and motivation for schooling and attaining higher education is a **key intervention strategy for delaying age at marriage**. However, government schools must be improved both in terms of educational infrastructure and quality education

Scholarships and other financial incentives may be provided to the poor families for attaining secondary and higher education to their daughters.

Promotion of girl's schooling **should include attention to special vocational and livelihood training** directed at increasing girl's income earning opportunities.

- **Create awareness and sensitization of government enforcement agencies:**

Orientation and training programmers need to be organized for **sensitizing the officials of government enforcement agencies**. The **elected representatives and community-based workers** including development activists also need orientation and training regarding the legal provisions and policy related information for promoting delayed marriage.

- **Collective action through women SHGs**

The women SHGs and associations need to be encouraged to take collective action for delaying marriage and also preventing child marriage. The SHGs and women associations may play an important role in motivating the girls and their families concerning the continuation of schooling.

- **Special focus on district with high prevalence of child marriage:**

In those districts where the high rate of child marriage is prevailing, **setting up special Cells is required**. These special Cells may **conduct the study regarding the prevalence of child marriage, loop holes in implementation of legislation and laws, administrative challenges for effective implementation** of Prohibition of Child Marriage Act, and implement intervention strategies in collaboration with civil societies and government agencies.

○ **Special focus on addressing mass child marriages during certain festivals:**

There should be **special watch on the pious occasions such as Akha Teej, Ganesh Chaturthi, etc.** during which large number of child marriages are being performed. This may be possible through scanning of cultural and social practices in the region by the civil society organizations

○ **Ensuring safety and security of girls:**

The vulnerable and poor families are the potential victims of trafficking and therefore, effective implementation of Immoral Traffic Prevention Act along with effective **implementation of UJJAWALA scheme** is called for prevention from immoral trafficking and rehabilitation of trafficked victims.

Conclusion

While the scope of such programmes is to be expanded, effective and efficient administration of Conditional Cash Transfer Schemes and other programmes aimed at empowering teenage girls should be ensured. It is important to pay attention to teenage females who are living in challenging situations. It is necessary to effectively enforce the Juvenile Justice Act and rehabilitate these girls. Adolescent sexuality must be addressed, and they must be made aware of the human rights of women and children. Protection for the child marriages from the children's government can taken the initiative action for the legal actions.

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