



Ending child marriage and adolescent empowerment – A Study

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Abstract

In India, marriage is viewed as a significant social institution that allows society to sustain itself, serving as a way to create family ties. This societal institution manifests through various types of rituals and ceremonies. In India, approximately 45 percent of girls are married before reaching 18 years old. Many of the girls encounter issues such as domestic abuse, pregnancy complications, and instances of death. Girls under 15 are more likely to die during childbirth compared to women in their 20s. The fertility rate among individuals under 18 years is high. Child brides frequently exhibit indicators of sexual abuse and post-traumatic stress, including feelings of despair, powerlessness, and intense depression.

Keywords: Child marriage, scheduled castes and tribes, socioeconomic and religion, Apni Beti Apna Dhan.

I. Introduction

In India, child marriage has been a tradition for centuries, involving the marrying off of young children and adolescents well before they reach physical and mental maturity. Numerous factors lead certain parents to agree to child marriage, including economic need, the desire for male guardianship for their daughters, procreation, or restrictive cultural values and beliefs. UNICEF defines child marriage as the union of a girl or boy under 18 years old, encompassing both official marriages and informal relationships where individuals under 18 cohabit as if they are married.

In India, according to The Prohibition of Child Marriage Act, 2006, a child is defined as “a person who, if male, has not yet reached the age of twenty-one, and if female, has not yet completed eighteen years of age.” This law also states that any marriage performed between minors under the legal age is invalid and without effect. The legislation also imposes penalties for different offences related to permitting or facilitating child marriages involving minors or for the marriage of minors to adults. Regardless, child marriage remains prevalent throughout the country. States such as Rajasthan, Uttar Pradesh, Madhya Pradesh, Jharkhand, Chhattisgarh, Bihar, and Andhra Pradesh continue to have the average age of marriage for females below the legally mandated eighteen years. Regions with the highest rates of child marriage are also the ones with large populations. Child marriage in India poses serious challenges for population control, as young brides tend to experience high fertility rates and face multiple unwanted pregnancies.

Statistics and data regarding Child Marriages in India

In India, more than 24 million girls are believed to be married as children. The National Family Health Survey reports that 40% of the 60 million child marriages globally occur in India. The International Center for Research on Women reports that India ranks 14th globally in child marriage rates.

The Indian system of marriage differs based on region, caste, and tribe. Child marriage prevalence is reduced in South-East India while it is more common in the North-West area of the nation. Bihar, Rajasthan, Jharkhand, Uttar Pradesh, West Bengal, Madhya Pradesh, Andhra Pradesh, and Karnataka have the highest prevalence of child marriage. According to the recently conducted District-Level Household and Facility Survey (DLHS) for the Health Ministry, Bihar was identified as the worst state for child marriages, with nearly 70% of women married by their early twenties, having been wed by age 18; Himachal Pradesh is seen as the best state with a marriage rate of 9%. In the last 15 years, child marriage has decreased by only 11% – averaging under one percent annually. The Annual Healthy Survey conducted in 2021 reveals a quicker decrease in nine states that were surveyed.

Reasons responsible for Child Marriages

The discrimination against women begins from womb and ends with tomb. The discrimination reflects in their education, family, socio political spheres, employment and work place. The child marriage system is also a reflection of these discriminations against women. There are many factors which are responsible for child marriages:

(i). Poverty of Family

Even today in rural areas many females and female children are denied their equality to common resources when a family is poor. Female members, mainly female children are victimized by poverty of the family. A poor family usually jeopardizes female children. Every chance is opted so that the burden of a female child is avoided. So poverty is one of the reasons why families naturally resort to child marriages to avoid all sorts of burden of a female child.

(ii). Social Insecurity

Social security is one of the major social factors why child marriages happen. Many people have this perception that a married woman is much safer from societal offences than an unmarried woman. Unmarried women are viewed with malafide intentions that lead to crimes against them. So to be secure from these offences, assaults, teasing against unmarried girls, their parents are in a hurry to marry their daughters soon after she attains puberty or even before that.

(iii). Avoiding share in Ancestral Property

Generally in rural areas parents use to think that all their ancestral property belongs to their sons and if they marry their daughters at an early age then they will be out of the share. If marriage of the girl child is done at an early age then they would not demand her share. Therefore the right of females to share ancestral property is also one of the reasons responsible for child marriages.

(iv). Avoiding expenditure on Female Education

Usually families discriminate between boys and girls. In investment on education, male children of the house are considered as the future assets and economic base of the house that will work and earn money whereas female children are considered as a burden as they do not need to work and have to look after the household chores before and after marriage. Due to these reasons female children are given less or no priority.

Effects of Child Marriage

a. Early Pregnancy-Health complications

Child marriages usually lead to an early pregnancy which results in many health complications. Without having the proper knowledge about the sexual activities and bodily changes which occur during puberty she cannot cope with changes in her during pregnancy. Today even elderly women too are not in the position to guide her properly. In the olden days elderly women used to monitor the situation perfectly during pregnancy, during delivery and during post-delivery. But nowadays elderly women neither have knowledge as did women in olden days nor have the positive attitude to approach proper medical people.

b. Fall in High Fertility Age Group

When a girl is married at an early age, she normally tends to have more children and unwanted pregnancy. Lack of access to modern medical facilities to avoid or postpone pregnancy, women are forced to have pregnancy and carry the child.

c. Inabilities to Plan or Manage Families

Young girls exercise less influence and control over their children and have less ability to make decisions about their nutrition, health care and household management.

d. Effect on sexual health of young girls

Young girls use to face considerable physical pain associated with sexual intercourse as a result of the physiological immaturity of their sexual organs. Complications due to pregnancy at a young age frequently include perforation of the bladder or bowel, due to prolonged labor and HIV AIDS etc.

e. Desire for Male Child

Due to desire for a male child, young girls and women are forced to conceive as many times as she can till she gives birth to a male child.

f. High difference in age between bride and bridegroom

Generally there is a lot of age difference between the bride and the bride groom. In most of the child marriages it is the bride who is a child and not the bride groom. When the bride is child she naturally does not have any freedom to express her opinions on any of family life and she has to blindly obey the orders of her husband.

Laws against the Child Marriage in India

(i). The Child Marriage Restraint Act of 1929

The Child Marriage Restraint Act, which is also known as Sarda Act, was a law enacted to restrain the practices of Child Marriage. Its main goal was to eliminate the evils placed on young girls who could not handle the stress of married life and to avoid early deaths. This act defined a male child as 21 years or younger and a female child as 18 years or younger which was 18 years and 14 years earlier respectively, and a minor as a child of either sex

as 18 years or younger which was 14 years originally. The punishments prescribed for a male to member between the age gaps of 18 to 21 was imprisonment of 15 days or fine of Rs.1, 000 or both. The punishment prescribed for a parent or guardian of a child taking place in the child marriage was imprisonment of up to three months or a possible fine.

(ii). The Prohibition of Child Marriage Act of 2006

Under this act, the marriageable age for a male is prescribed as 21 years and that of a female is 18 years. A decree of nullity can be obtained by a girl who has entered into a child marriage within 2 years of attaining the age of 18 years.

Child Marriage is prohibited in India as per the Prohibition of Child Marriage Act, 2006.

What does this law do?

This law:

- Provides for maintenance for the girl in a child marriage;
- Allows anyone who was a child at the time of getting married to legally undo it;
- Treats children born out of child marriages to be legitimate, and makes provisions for their custody and maintenance, and;
- Consider certain kinds of child marriages where there was a force or trafficking as marriages which never happened legally.

What is a crime under this law?

It is a crime:

- To attend or take part in a child marriage (as a parent or guardian);
- To allow, encourage or fail to stop a child marriage (as a parent or guardian);
- To perform or help with a child marriage in any way;
- For an adult male to marry a child wife.

Where can we go to stop or undo child marriage?

- We can directly go to a District Court and make an application- the judge can pass an order directing the people involved to not to take part in the child marriage.
- We can go to a Child Marriage Prohibition Officer for help with annulling a child marriage.

(iii). Hindu Marriage Act, 1956

Under Hindu Marriage Act, there are no certain provisions for punishing the parents or people who solemnized the marriage. A girl can get the marriage annulled only if she wants to get married before attaining the age of fifteen years and she challenges the marriage before turning eighteen.

(iv). Muslim Personal Law

Muslim law's provisions are based on the interpretation of Quran by scholars. Under the Muslim Laws, there is no bar to child marriage. The couple after marriage has an "option of puberty" known as *Khayar-ul-bulugh* in which they can repudiate the marriage after attaining the age of puberty. However they can only do this if they are under eighteen years of age and the marriage has not been consummated. The age of marriage under Muslim law is the age of puberty which is 15 years.

(v). Applicability

Muslim organizations of India have long argued that Indian laws, passed by its parliament, such as the 2006 child marriage law do not apply to Muslims, because marriage is a personal law subject. The Delhi High Court, as well as other state high courts of India, have disagreed.

(vi). Legal Action on Legal Confusion

There is a standing legal confusion as to Marital Rape within prohibited Child Marriages in India. Marital rape per se is not a crime in India; but the position with regard to children is confusing. While the exception under the criminal law (section 375, Indian Penal Code, 1860) applicable to adults puts an exception and allows marital rape of a girl child between the age of 15–18 years by her husband; another new and progressive legislation Protection of Children from Sexual Offences Act, 2012 disallows any such sexual relationships and puts such crimes with marriages as an aggravated offense.

(vii). Indian Christian Marriage Act (ICMA)

ICMA provides that a preliminary notice is to be issued 14 days prior to the commencement of the marriage, if the marriage is to be contracted between the minors. After the expiration of the said period, the parties can go on with the marriage without the consent of their guardians.

(viii). Legal Action on Marital Rape

In India, there is a standing legal confusion as to Marital Rape within prohibited Child Marriages in India. In Indian Laws, Marital Rape per se is not considered as crime, but the position for the same with regard to children is still in confusion. While the exception under the Indian Penal Code Section 375 and 376, is applicable to adults only, puts an exception and allows marital rape of a girl child between the ages of 15-18 years by her husband. However this provision of exception has been read down by the Supreme Court of India many times. It comes to a point that sexual intercourse with all wives below 18 years of age shall be considered

as rape; one other new and progressive legislation which is Protection of Children from Sexual Offences Act, 2012 disallows any such sexual relationships and puts such crimes with marriages as an aggravated offences.

(x). CEDAW

The Convention on The Elimination of All Forms of Discrimination against Women (CEDAW) is an International bill attempting to end discrimination against women. This convention states that child marriages should not have a legal effect and all legal actions must be taken to enforce a minimum age, and that all marriages must be put into an official registry. India signed this convention on July 30, 1980 but stated a declaration that because of the nation's size and increasing population, it is impractical to register all marriages of the country.

Directions in which the Government and NGOs have initiated efforts:

- ❖ Framing laws against child marriages.
- ❖ Increasing access to girl's education.
- ❖ Changing harmful cultural norms.
- ❖ Maximizing foreign assistance.
- ❖ Addressing the unique needs of child brides.
- ❖ Supporting community programs.
- ❖ Providing young women with economic opportunities.
- ❖ Evaluating programs to determine what works.

Causes

According to UNFPA, factors that promote and reinforce child marriage include poverty and economic survival strategies; gender inequality; sealing land or property deals or settling disputes; control over sexuality and protecting family honour; tradition and culture; and insecurity, particularly during war, famine or epidemics. Other factors include family ties in which marriage is a means of consolidating powerful relations between families.

(a). Dowry and brideprice

Providing a girl with a dowry at her marriage is an ancient practice which continues in some parts of the world. This requires parents to bestow property on the marriage of a daughter, which is often an economic challenge for many families. The difficulty to save and preserve wealth for dowry was common, particularly in times of economic hardship, or persecution, or unpredictable seizure of property and savings. These difficulties pressed families to betroth their girls, irrespective of her age, as soon as they had the resources to pay the dowry. Thus, Goitein notes that European Jews would marry their girls early, once they had collected the expected amount of dowry.

A bride price is the amount paid by the groom to the parents of a bride for them to consent to him marrying their daughter. In some countries, the younger the bride, the higher the price she may fetch. This practice creates an economic incentive where girls are sought and married early by her family to the highest bidder. Child marriages of girls is a way out of desperate economic conditions, or simply a source of income to the parents. Bride price is another cause of child marriage and child trafficking.

(b). Bride kidnapping

Bride kidnapping, also known as bridenapping, marriage by abduction or marriage by capture, is a practice in which a male abducts the female he wishes to marry. Bride kidnapping has been practiced around the world and throughout history. It continues to occur in countries in Central Asia, the Caucasus region, and parts of Africa, and among peoples as diverse as the Hmong in Southeast Asia, the Tzeltal in Mexico, and the Romani in Europe.

In most nations, bride kidnapping is considered a crime rather than a valid form of marriage. Some types of it may also be seen as falling along the continuum between forced marriage and arranged marriage. However, even when the practice is against the law, judicial enforcement remains lax in some areas. Bride kidnapping occurs in various parts of the world, but it is most common in the Caucasus and Central Asia. Bride kidnapping is often (but not always) a form of child marriage. It may be connected to the practice of bride price, and the inability or unwillingness to pay it.

(c). Persecution, forced migration, and slavery

Social upheavals such as wars, major military campaigns, forced religious conversion, taking natives as prisoners of war and converting them into slaves, arrest and forced migrations of people often made a suitable groom a rare commodity. Bride's families would seek out any available bachelors and marry them to their daughters, before events beyond their control moved the boy away. Persecution and displacement of Roma and Jewish people in Europe, colonial campaigns to get slaves from various ethnic groups in West Africa across the Atlantic for plantations, Islamic campaigns to get Hindu slaves from India across Afghanistan's Hindu Kush as property and for work, were some of the historical events that increased the practice of child marriage before the 19th century.

Among Sephardi Jewish communities, child marriages became frequent from the 10th to 13th centuries, especially in Muslim Spain. This practice intensified after the Jewish community was expelled from Spain, and resettled in the Ottoman Empire. Child marriages among the Eastern Sephardic Jews continued through the 18th century in Islamic majority regions.

Consequences of child marriage

a. Early maternal deaths

Girls who marry earlier in life are less likely to be informed about reproductive issues and because of this, pregnancy-related deaths are known to be the leading cause of mortality among married girls between 15 and 19 years of age. These girls are twice more likely to die in childbirth than girls between 20 and 24 years of age. Girls younger than 15 years of age are 5 times more likely to die in childbirth.

b. Infant health

Infants born to mothers under the age of 18 are 60% more likely to die in their first year than to mothers over the age of 19. If the children survive, they are more likely to suffer from low birth weight, malnutrition, and late physical and cognitive development.

c. Fertility outcomes

A study conducted in India by the International Institute for Population Sciences and Macro International in 2005 and 2006 showed high fertility, low fertility control, and poor fertility outcomes data within child marriages. 90.8% of young married women reported no use of a contraceptive prior to having their first child. 23.9% reported having a child within the first year of marriage. 17.3% reported having three or more children over the course of the marriage. 23% reported a rapid repeat childbirth, and 15.2% reported an unwanted pregnancy. 15.3% reported a pregnancy termination (stillbirths, miscarriages or abortions). Fertility rates are higher in slums than in urban areas.

d. Violence

Young girls in a child marriage are more likely to experience domestic violence in their marriages as opposed to older women. A study conducted in India by the International Centre for Research on Women showed that girls married before 18 years of age are twice as likely to be beaten, slapped, or threatened by their husbands and three times more likely to experience sexual violence. Young brides often show symptoms of sexual abuse and post-traumatic stress.

Government strategy and action

The national Ministry of Women and Child Development, as the nodal agency for women and children, has developed a convergent national strategy and is currently drafting a plan of action on child marriage to guide all states in the implementation of strategies to prevent the problem. Key components of the strategy and draft action plan include law enforcement, quality education and other opportunities, changing mindsets and social norms, empowering adolescents, producing and sharing knowledge and data, and monitoring. The Government of India is also implementing national programmes aimed at protecting and promoting the development of children, while states are supporting these initiatives through state-level schemes. However, many of the programmes focus on addressing financial vulnerability through cash transfer schemes to keep girls in school. At the same time, there is a legal framework to prevent child marriage and protect children:

- The Prohibition of Child Marriage Act, 2006 makes it illegal for girls to marry under 18 years and for boys under 21 years. Child marriage can be made voidable by the child but within two years of becoming an adult.
- Child marriage is a punishable offence with a fine up to INR 100,000, or up to two years of imprisonment, or both. It is a non-cognizable and non-bailable offence.
- Dowry was prohibited in 1961 by the Dowry Prohibition Act, with a fine up to INR 15,000, or the dowry amount, whichever is higher, and imprisonment for between six months and five years.
- Other laws that may provide protection to a child bride include the Juvenile Justice (Care and Protection of Children) Act, 2000, the Domestic Violence Act, 2005, and the Protection of Children from Sexual Offences Act, 2012.

Legislative measures taken in India

Hindu Marriage Act, 1955 prescribes age for marriage as 18 for girls and 21 for boys. However the act does not talk about validity of marriages solemnized without adhering to these age restrictions.

Prohibition of Child Marriage Act (PCMA), 2006

It provides for Child Marriage Prohibition Officer (CMPO) to be appointed by State government and will work to prevent solemnizing child marriage, will create awareness about such evil practice, will collect evidence against persons involved in such offence for their effective prosecution. However, even this act did not declare already solemnized marriage null and void. Local governing bodies like Gram Panchayats and community have major role to play in the effective implementation of this act.

India is home to the half of the child brides in the world, and unlikely to achieve Mother and Child health related Millennium development goals by 2015. As mentioned earlier early marriages hinders sexual and reproductive health of a women and likely to harm child's health born to such mother, strict measures against child marriage is the need of time, and India must take quick action in this direction.

International Efforts

In Sep 2013, UNHRC (United Nations Human Rights Council) adopted a first-ever resolution on child, early and forced marriage. The resolution was co-sponsored by 107 countries and recognizes the child marriage as human right violation. As stated by UNHRC, child, early and forced marriage has the multi-faceted impact of on the “economic, legal, health and social status of women and girls” as well as “the development of the community as a whole. This move was taken to include child marriage issue in post 2015 international developmental agenda. However, India refused to co-sponsor this historic resolution saying the definition of child marriage given in resolution is too vague.

International Organisations working to stop child Marriage

In India, Breakthrough directly worked among the communities in Jharkhand and Bihar to end prevalent the child marriage practice there. Care is an international humanitarian organisation, which focuses on working alongside impoverished women. Saarthi Trust was set up in 2012 to address the child marriage crisis facing India. Kriti Bharati, one of the trustee, provides programmes, psychological support and education to women and children. She has been working in Rajasthan to rescue children undergoing child marriage.

II. Conclusion

Child marriage as a practice is not new to Indian society and culture. Child marriage can be defined as a marriage solemnised between two people where the female is below the age of 18 years, and the male is below the age of 21 years. Child marriages usually take place in rural areas where illiteracy and poverty are widespread. Many factors effectuate child marriages such as ignorance, social customs and traditions, low level of education and considering women as a financial burden. Child marriages have their own repercussions such as health problems to women due to early age pregnancies, further deterioration in the status of women and a vicious cycle of gender inequality ensue.

There are many factors which are considered to be the reasons for the prevalence of child marriages. Some of them are Gender inequality, social norms, perceived low status of girls, poverty, lack of education, safety concerns about girl children and control over sexuality. Several states of India have introduced incentives to delay marriages. For example, the state of Haryana introduced the program named as “Apni Beti, Apna Dhan” in the year 1994, which states “My Daughter, My Wealth”. It is a conditional cash transfer program which is dedicated to delay young marriages by providing a government paid bond in her name and the amount of Rs.25, 000 in her account only on the condition that she is not married on her 18th birthday. As per Indian laws, the marriageable age is 21 years for males and 18 years for females

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