



CHILD MARRIAGE PRACTICES IN INDIA: A VIOLATION OF CHILD RIGHTS

Anam Aftab

Research Scholar, Department of Social Work, AMU, Aligarh.

Introduction

Children are the weakest and most unprotected segment of the society. They are dependent upon parents and others for growing up. They need the support of the family, community and the state as a whole. In India, a large number of children are deprived of their basic human rights due to unacceptable health, nutrition and education as well as social conditions. In addition, child marriage represents a major threat to children because child marriage is the marriage of a person before attaining 'majority'. The completion of 'majority' is identified as the attainment of the minimum age of marriage, prescribed by the Convention on the Elimination of Discrimination Against Women (CEDAW) Committee as being 18 (United Nations, 1999). Child marriage is a type of forced marriage as minors are incapable of giving their informed consent. According to the United Nations, forced marriage is 'a marriage that takes place without the free or valid consent of one or both of the partners and involves either physical or emotional Duress' (Thomas, 2009 p.). Children in developing countries are still forced to marry at a very early age, most often without a chance of exercising their right to choose their partner. Child Marriage is one of the burning problems of Indian society. In India, despite amended laws advocating 18 as the legal minimum age at marriage for females, a substantial proportion i.e. every third adolescent girl in the age group of 15-19 year is married and every second married adolescent girl has given birth to a child. Child marriage in India has been practiced for centuries, with children married off before their physical and mental maturity. The problem of child marriage in India remains rooted in a complex matrix of religious traditions, social practices, economic factors and deeply rooted prejudices. Regardless of its roots, child marriage constitutes a gross violation of human rights, leaving physical, psychological and emotional scars for life. Sexual activity starts soon after marriage, and pregnancy and childbirth at an early age can lead to maternal as well as infant mortality. Moreover, women who marry younger are more likely to experience domestic violence within the home. Parents encourage marriage of their daughters while they are still children in hope that this marriage will benefit them both financially and socially. Young girls are often regarded as an economic burden to their families; marrying them off at a very early age is seen as reducing the financial burden of the family. Parents encourage early marriage with a fear that their dowry price will increase as their daughter's age. Apart from these, poverty is one of the most frequently cited factors behind child marriage in rural India. This paper focuses on how the child marriage practices affect the whole life of the children and also violates their basic human rights.

Current Statistics of child marriage in India

1. According to Census 2011 and sample surveys, it was found that 103 million persons living as on 1st March 2011 were married before reaching 18 years. Out of this, 85 million were marriages of girls who constituted 83 percent of the total child marriages.
2. National Family Health Survey (NFHS I) and the recent India Human Development Survey II (IHDS II) shows that the percentage of women in India in the 20–24 years age group married before the age of 18 was declining from 56.8 percent in 1992–93 (NFHS I) to 36.2 percent in 2011–12 (IHDS II). However, the number of child marriages and their prevalence among girls remain very high even in recent times.
3. According to Census 2011 even as close as 2007–11, 7.4 million persons were married before 18 years. Of these 88 percent were girls.
4. Rural areas accounted for 75 percent of total child marriages in the country in 2011.
5. Seven states (Uttar Pradesh, Andhra Pradesh, West Bengal, Rajasthan, Bihar, Maharashtra and Madhya Pradesh) together contributed to 70 per cent of child marriages in the country.



6. In five districts more than 50 percent of marriages in rural areas were child marriages, out of which four belong to Rajasthan viz., Bhilwara, Chittaurgarh, Tonk and Ajmer and one was from Uttar Pradesh i.e. Lalitpur. Along with these districts, the report identifies all together twenty districts from the states of Madhya Pradesh, Bihar, Odisha and Jharkhand as “hotspots” for the occurrence of child marriages in India.
7. According to 2011 nationwide census of India, the average age of marriage for women in India is 21.2 years. In the age group 15-19, 69.6% of all women surveyed in India had never been married.

The legal age for marriage in India is 18 years for a female and 21 for a male as per Section 6 of the Hindu Marriages Act, 1956. Any marriage of a person younger than this is banned and punishable in India under the Prohibition of Child Marriage Act, 2006. The crux of the problem- child marriages are a reflection that, like sati, women and girls are seen as property that belongs to someone: her family, her husband and her in-laws. If her marriage is left too late, she is considered a burden to her own family. In some communities where child marriage takes place, instead of dowry there is a system of bride price where, when the girl gets married, the husband's family has to pay a sum of money in exchange for the bride. Instead of making things better, this system also means that families are eager to get their daughters married off so they can bring in money. In any case, child marriages are worse for girls than for boys, since the girls are usually younger than the boys. Marriage also puts an end to any education girls may have been receiving. And if they get pregnant while still young, their health gets much worse since their bodies are often not ready to bear children. According to the United Nations, Maternal Mortality (which indicates the number of women dying in childbirth) is still very high. 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 their daughters married off before puberty, they would go to hell. Indian tradition places a high premium on virginity before marriage. This applies to women and to some extent men too. In a culture where premarital chastity is valued, one of the easiest ways of achieving this is to get the young girls married in their childhood. In India, the age of marriage of girls has shown a marginal increase over the years. Nevertheless it continues to be much lower than the legal age and still a large number of girls continue to be married at very young ages (Karkal & Rajan, 1989).

How Child Marriage violates the child rights

Child marriage is a violation of child rights because it closes the door of overall development of children and restrict them to avail basic child rights which United Nations Convention on the Rights of the Child defines Child Rights as the minimum entitlements and freedoms that should be afforded to every citizen below the age of 18 regardless of race, national origin, colour, gender, language, religion, opinions, origin, wealth, birth status, disability, or other characteristic. These rights encompass freedom of children and their civil rights, family environment, necessary healthcare and welfare, education, leisure and cultural activities and special protection measures. The UNCRC outlines the fundamental human rights that should be afforded to children in four broad classifications that suitably cover all civil, political, social, economic and cultural rights of every child. But child marriage has a negative impact on physical growth, health, mental and emotional development, and education opportunities. Child marriage is considered a gross violation of child and human rights; it leaves deep scars on the child: physically, psychologically and emotionally. This practice also violates United Nations agreements on the minimum age at marriage and protection of children from sexual exploitation, which have been enacted since 1948. These include the Convention on Elimination of All Forms of Discrimination against Women (CEDAW, 1979) and the Convention on the Rights of the Child (CRC, 1989). The CRC confers many rights including freedom of expression (seeking and receiving information and ideas Article 13), the right not be separated from their parents against their will (Article 9), the right to education (Articles 28 and 29), the right to rest and leisure and to engage in play and recreational activities (Article 31) and the right to protection from sexual exploitation and abuse (Article 34). India is one of the signatories to this important convention. Child Marriage violates various United Nations standards related to children. It violates important provisions of CEDAW & CRC. It also affects society as a whole since child marriage reinforces a cycle of poverty and perpetuates gender discrimination, illiteracy and malnutrition as well as high infant and maternal mortality rates.



Child marriage arises out of lack of free and informed consent and leads to the violation of basic human rights, bonded lives, sexual slavery and economic and social vulnerability. It also affects the survival and development of the child, by denying the right to continue education, thus stunting her growth as a person; and at the same time exposes her to the risks of early pregnancy and delivery leading to even death. Through Child marriage both girls and boys are affected, but girls are affected in much larger numbers and with greater intensity. Child marriage can be seen across the country but it is far higher in rural than in urban areas. Girls from poorer families, scheduled castes and tribes, and with lower education levels are more likely to marry at a younger age. Although child marriage is declining, the rate of decline is slow. Broad, multifaceted strategies are needed to target different aspects of the problem, including deep rooted social norms and behaviors, the perceived low value of girls, limited access to education, exposure to violence, restricted freedom of movement and economic vulnerability. Women stand at the cross roads between production and reproduction, between economic activity and care of human beings and therefore between economic development and human development. They are workers in both spheres. But discriminations against women are pervasive. It begins from womb and ends with tomb. The discrimination reflects in education, employment, work place, family and socio-political sphere. The child marriage system is also a reflection of discrimination against women. Child marriage is a strong social custom, particularly for girls, the practice affects both girls and boys, the most fundamental rights of a child bride to survive and to develop are undermined. In most rural families, girls are never consulted on their marriage. The parents and the senior family choose the groom, fix the date and manage the wedding ceremony. Thousands of marriages go unregistered in our country. As a result, a large number of girls are deprived of their rights. One major consequence of early marriage is health problems associated with early pregnancy. However, early marriage for boys and girls has serious physical, intellectual, psychological and emotional impacts. It also cuts off educational opportunity and hampers personal growth (Afroza, 1999).

According to Miller and Lester, (2003), Marriage dramatically increases the likelihood and pressures of childbearing. The first-time mothers below the age 16, in addition to the normal risks and responsibilities of child bearing, face an increased risk of maternal and infant mortality. Married girls typically have low levels of educational attainment, limited or even absent peer networks, restricted mobility and less access to mass media such as T.V, Radio and Newspapers as compared to boys or unmarried girls (Haber land & Bracken, (2004). 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 marriage covers a myriad of social situations. There are betrothals of tiny boys and girls, some of them asleep, unaware of what is happening. Then two families may promise to arrange the marriage of their yet unborn children in case they happen to be of different sexes. Then, there are marriages of teenagers who consummate their relations a couple of years later, in comparison to those marriages which are consummated almost a decade and a half later Srivastava, (1983). Despite laws to the contrary it is seen early marriage continues to be the norm and once married there is a tremendous pressure on young wives to bear a child. Early sexual activity also exposes adolescents to a greater risk of contracting Sexually Transmitted Diseases (STDs), including HIV/AIDS. Early marriage and pregnancy is one of the major causes of maternal mortality in India. Yadav, (2006). As a result of child marriage, the girl child's reproductive and sexual health is affected the most. These girls suffer from high rates of obstetric complications, intrauterine growth retardation, pregnancy induced hypertension, premature deliver, higher mortality rates, high incidence of RTIs and STI and fetal wastage (miscarriages or still births). The neonatal and infant mortality rates are also high along with incidences of premature delivery and low birth weight of the newborn child Bhat, (2005).

The risks of early marriage are not just limited to the girl child alone, but also to the child that is born to her as a result of an early pregnancy. One in 15 children in India dies before their first birthday as compared to 1 in 200 children across the industrialized world (Agrawal & Mehra, 2004). According to a recent report by UNICEF (2005), almost 50% of women aged 20-24 are married by 18 years in India. Child marriages have been a practice since centuries and people practice it strictly. In India, pre-adolescent and adolescent girls who constitute a sizable segment of its population constitute a vulnerable group on account of practice of early



marriages, potential exposure to a greater risk of morbidity and mortality (Verma, 2004). On the contrary, young brides are pressurized to prove their fertility as soon as possible after the marriage and to produce children especially sons. “A young girl with minimal or no education, raised to be submissive and subservient, married to an older man, has little ability to negotiate sexual activity (Khan, 1996). High fertility rate is attributed to an early marriage i.e. child marriage. The earlier a time a woman marries the more likely she is to give birth to a larger number of children, consequently placing a high demand on her health Bhat, (2005). Studies have shown that early marriages tend to place the woman under male control with no choice over birth control, education, and health leading to a life of domestic and economic subservience. It is observed that children are put to work at an early age in most caste groups to an extent, that economic value of child labour was a contributing factor to child marriages.

Legal provisions against Child Marriage

The Committee on the Rights of the Child, the monitoring body for the CRC has encouraged countries to review the age of majority if it is set below 18 and to increase the level of protection for all children under 18. In 1945, the United Nations Charter under the Universal Declaration of Human Rights reaffirmed faith in fundamental human rights and upheld fundamental freedoms without distinction between sexes (United Nations, 1948). The CEDAW endorses the Prohibition of Child Marriages in its Article. Although, birth, marriage and death are three key events in human lives, only marriage is a matter of choice (UNICEF, 2001, p. 2). The right to exercise that choice was recognized as a principle of law even during historical times and has been long established under international human rights. It is derived from Article 1 of the Convention on the Rights of the Child (CRC), which states that a ‘child’ is a person below the age of 18, unless the law of a particular country set the legal age for adulthood younger (United Nations, 1989). United Nations and other international agencies have declared that child marriage violates human rights and children’s rights. The Universal Declaration of Human Rights states that individuals must enter marriage freely with full consent and must be at full age. In 1979, the Convention on the Elimination of All Forms of Discrimination against Women stated that child marriage is illegal. In 1989, the Convention on the Rights of the Child defined children as persons under the age of 18 years. Many countries passed laws changing the legal age of marriage to 18 years, but enforcement of these laws, and of laws requiring marriages to be registered, is weak. A human rights violation, child marriage directly impacts girl’s education, health, psychologic wellbeing, and the health of their offspring. India has endorsed and adopted various human rights treaties, such as the Universal Declaration of Human Rights (UDHR), Convention on the Elimination of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC). These international instruments have outlawed the practice of child marriage. The Government of India has also put in place several national legislations, policies and programmes to prevent the practice of child marriages. The Eleventh Five Year Plan focused on legislative change and awareness about the issue of child marriage. Consequently, the initial legislation, the Child Marriage Restraint Act (1929) was repealed and replaced by the relatively more progressive Prohibition of Child Marriage Act (2006). Other legislations and policies that prohibit child marriage and put the focus on the health, education, protection and empowerment of children with a special focus on girls include the Dowry Prohibition Act (1961), National Population Policy (2000), National Youth Policy (2003), Domestic Violence Act (2005), Protection of Children from Sexual Offences Act (2012) and Juvenile Justice (Care and Protection of Children) Act (2015). Other efforts initiated at the national level include the National Strategy on Prevention of Child Marriage that details the specific strategies to eradicate the practice of child marriage at the state/district levels. To draft the strategy document, the Ministry of Women and Child Development held a National Consultation on Child Marriage on May 25, 2012. Child marriages contribute to virtually every social problem that keeps India behind in women’s rights.



Suggestions

The Following Suggestions for Action to Eradicate Child Marriage

1. Women's empowerment is an active tool to challenge and change the norms that perpetuate child marriage. Young girls and women must be enlightened about the importance of education as a way to secure economic independence. Children, particularly girls, must have access to information on negative consequences of child marriages.
2. Children who are already married must not be overlooked. Special programmes to improve reproductive health, family planning, maternal and child healthcare, literacy and awareness must be planned to mitigate the negative effects of child marriage on married children.
3. Roles and responsibilities must be properly assigned to different stakeholders at the national, state and community levels for effective policy and legal enforcement so as to underscore the criminal nature of child marriage in accordance with international human rights standards. The police and legal machinery must be on the alert for cases of oppression, such as marital rape, domestic violence, child slavery, child trafficking, dowry, intimate partner violence, etc., which may be linked to child marriage. Any individual who authorizes or facilitates child marriage, whether parent, guardian, influential community leader or government official, must be held accountable and punished.
4. Families and communities must be sensitized about the harmful impact of child marriage on children, especially girls. Awareness must be increased on relevant legislations and policies on girls' education, health, human rights, child rights, and gender equality. This should be done through developing and widely disseminating print, audiovisual, and other forms of awareness raising content.
5. State and voluntary organizations must take efforts to change the perception of child marriage from a traditional practice to an intense form of violence. Customary and religious laws that violate the minimum age of marriage must be challenged through strong advocacy by religious leaders, who should themselves be adequately sensitized on this issue. It is necessary to challenge traditional social norms to end child marriage. Community-level initiatives and actions to curb the practice of child marriage can bring about greater awareness and build social pressure against child marriage. This calls for capacity building of community, religious and cultural institutions to provide a platform for open discussion and public denouncement of the practice of child marriage.
6. Factors contributing to the demand and supply of child brides—such as poverty, poor educational opportunities, women's subordinate status and unemployment—must be adequately addressed through state-level interventions, as well as the interventions of civil society
7. Strategies must be planned to promote the active engagement of boys and men in bringing about structural change to end the culturally driven violence that is child marriage. Families must be sensitized to change the expectations, attitudes and practices towards the girl child.
8. Gender rights awareness must be a necessary part of secondary school education. School teachers can play a crucial role in sensitizing the parents, children and communities about the negative consequences and legal implications of child marriage.

Conclusion

Child marriage is a threat to social development and it hampers the prosperity and stability of any country where it is prevalent. It is harmful to the child as well as to families, communities, society and the nation as a whole. It is a grave public concern rather than a private matter between families. Child marriage has several micro- and macro-level repercussions, with implications for gender equity, socio-economic, development and the rights of the girl child. The causes and implications of child marriage are complex and interconnected; thus there is no simple solution for eradicating child marriage. But this will require a social awareness along with supportive legislation in society, which is better for the country in all respects. Unless measures are taken to address early marriage, it will continue to be a major stumbling block to the achievement of child rights. A number of social, health and economic disadvantages are associated with early marriage. While existing data do not draw conclusions regarding whether early marriage alone causes these adverse outcomes, it is likely that the links between early marriage, poverty, low educational attainment and other variables in diverse settings have



found that married girls are likely to have frequent unprotected sexual relationships. Child marriages violate the rights of the child in many ways. The major consequences of child marriage are the denial of childhood, the restriction of personal freedom and the lack of educational opportunity to develop a full sense of human being. Child marriage is harmful to the families and society as a whole. There are both physical and social consequences of child marriages. Marriage is regarded as a private, even sensitive subject. It is time to raise consciousness about the comprehensiveness of child marriage and its negative impacts. Government should make new laws to control child marriage and establish nonviolent places for girls to gather and socialize to upsurge access to economic skills and resources. It is needed to create awareness among people, particularly the marginal groups.

References

1. Ackerson, L. K., I. Kawachi, E. M. Barbeau and S.V. Subramanian (2008). 'Effects of Individual and Proximate Educational Context on Intimate Partner Violence: A Population-based Study of Women in India.' *American Journal of Public Health*, 98(3), pp. 507–14.
2. Adhikari, R. (2003). 'Early Marriage and Childbearing: Risks and Consequences.' In S. Bott, S. Jejeebhoy, I. Shah and C. Puri (eds.), *Towards Adulthood: Exploring the Sexual and Reproductive Health of Adolescents in South Asia* (pp. 62–66). Geneva: World Health Organization.
3. Afroza S (1999). *Obstetric Related Residual Morbidities among the Women in Bangladesh*. JOPSOM. Pp.22-29.
4. Arushi Sing, Ending child marriage in India, *The Guardian* (March 3, 2011), <http://www.theguardian.com/global-development/poverty-matters/2011/mar/03/ending-child-marriage-indiahealth>.
5. Arushi Singh, Ending child marriage in India, *The Guardian* (March 3, 2011) <http://www.theguardian.com/global-development/povertymatters/2011/mar/03/ending-child-marriage-india-health>
6. Bhatt, A. Sen and U. Pradhan (2005) "Child Marriage & the Law in India", Human Rights Law Network, New Delhi. p.259
7. Birech, J. (2013). Child marriage: A cultural health phenomenon. *International Journal of Humanities and Phenomenon*. *International Journal of Humanities and Social Sciences*, 3(17), 97-103.
8. Boyle, M. H., K. Georgiades, J. Cullen and Y. Racine (2009). 'Community Influences on Intimate Partner Violence in India: Women's Education, Attitudes towards Mistreatment and Standards of Living.' *Social Science and Medicine*, 69(5), pp. 691–97
9. Census of India (2011). 'Report on Marital Status and Age at Marriage: An analysis of 2011 Census Data.' Office of the Registrar General and Census Commissioner, India.
10. Ediga, S. (2015). 'Child Marriages A More Visible Form of Child Abuse.' <https://factly.in/child-marriages-inindia-reasons-state-wise-analysis-child-abuse>.
11. Erulkar, A. (2013). 'Early Marriage, Marital Relations, and Intimate Partner Violence in Ethiopia.' *International Perspectives on Sexual and Reproductive Health*, 39(1), pp. 6–13.
12. Goli, S., A., Rammohan and D. Singh (2015). 'The Effect of Early Marriages and Early Childbearing on Women's Nutritional Status in India.' *Maternal and Child Health Journal*, 19(8), pp. 1864–80.
13. ICRW (2006). 'Too Young to Wed: Education and Action towards Ending Child Marriage.' Washington, DC: ICRW.
14. ICRW (2007). 'How to End Child Marriage: Action Strategies for Prevention and Protection.' International Centre for Research on Women. <http://www.icrw.org/files/publications/How-to-End-Child-Marriage-Action-Strategies-for-Prevention-and-Protection-Brief.pdf>.
15. International Centre For Research On Women - Motivation To Prevent Child Marriage- <http://www.icrw.org/media/news/motivation-prevent-child-marriage>



16. Lal B. Suresh, (2012); Current Health Scenario of Subaltern Communities: A Review in Rural India, in Dimensions of Female Sex- Ratio Inter State Variations in India Issues and Challenges, Serial Publications, New Delhi
17. M.E. Khan (1996) „Sexual Violence within Marriage“.
18. Miller S. & F. Lester (2003) „Improving the health and well being of married young first time mothers“, W.H.O
19. Nour, N. W. (2009). ‘Child Marriage: A Silent Health and Human Rights Issue.’ Reviews in Obstetrics & Gynecology, 21(1), pp. 51–56.
20. Saraswat, Ritu. (2006). „Child Marriage: A Social Evil“, Social Welfare, April, 2006.
21. Savitri Goonesekere, (1998): Children, Law and Justice: A South Asian Perspective, SAGE, page 141.
22. Srivastava, K. (1983), „Socio-economic Determinants of Child Marriage in Uttar Pradesh“, Demography India, New Delhi.
23. The Birth and Death Registration Act, 2004.
24. The Child Marriage Restraint Act, 1929.
25. The Children Act, 1974.
26. The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1964.
27. The Universal Declaration of Human Rights, 1948.
28. UNICEF (2005). Early Marriage: A Harmful Traditional Practice: A Statistical Exploration. New York.
29. UNICEF (2012). Child Marriage in India: An Analysis of Available Data. <http://www.unicef.in/Itstartswithme/childmarriage.pdf>.
30. UNICEF (2014a). Ending Child Marriage: Progress and Prospects. United Nations Children’s Fund, New York. http://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf.
31. United Nations. (1999). ‘Convention to Eliminate All Forms of Discrimination against Women.’ <http://www.un.org/womenwatch/daw/cedaw/protocol>.
32. USAID (2015). ‘Ending Child Marriage and Meeting the Needs of Married Children: The USAID Vision for Action.’ http://pdf.usaid.gov/pdf_docs/pdacu300.pdf.
33. Yadav, K.P. (2006). „Child Marriage in India“, Adhyayan Publishers & Distributors, New Delhi. p.303