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## HISTORICITY OF CHILD MARRIAGE IN INDIA AND ITS IMPACT ON GIRL-CHILD: ROLE AND CHALLENGES OF GOVERNMENT AND CIVIL SOCIETY

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### ABSTRACT:

**T**his study highlights the historical evolution of child marriage and its continuity in Post-Colonial India. With this horrific tradition historicity it also underlines the impact of child marriage on children specifically on girl-child. It seeks into the detailed study of the role of government and civil society on child marriage as well as it explores the various challenges faced in eradication of this custom. With brief discussion on Indian context it concludes with the analysis and future roadmap for eradication of child marriage.

**KEYWORDS:** *Historicity of Child Marriage , Girl-Child , Challenges of Government and Civil Society.*

### INTRODUCTION:

Child marriage has been defined by the international community to be any marriage that occurs before the age of 18. Child marriage is considered to be a violation of human rights (UNICEF, 2011). Despite the existence, since 1929, of legislation banning it, child marriage continues to be a social reality in India today. The proposed research seeks to analyze the reasons of such marriages, which effectively deprive children of their childhood, in particular the girl child. Moreover, women have always been subordinated in most societies of the world from time immemorial. Women were idealized in literature and in art, but in practice they had a distinctly subordinate position.

Child marriage has a devastating effect on the health and overall development of the girl child. It provides a powerful critique of the state of Indian law-the lacunae, confusions, contradictions, and lack of gender sensitivity inherent in the provisions of various statutes which deal with the age of marriage, of consent, and the validity of marriage. With the critical analysis of Indian government laws on child marriage, the research will mainly focus the areas of Bihar and Rajasthan where the rate of child marriage is high and very few works have been done on the issues concerning child marriage in these states in the past. It will explore the reasons behind the high rate of child marriage still taking place in these two states and will try to show that how the custom violates every human right to which a child is entitled, including the right to health, education, equality, liberty, and security of person, and of course, the right to make a free and informed choice of a spouse. The role of civil society in these states challenging the status quo will also be analyzed.

### HISTORICAL PRESENCES AND PROHIBITION ATTEMPT

#### Age of Consent Bill 1891

This bill basically proposed to set a minimum age limit for sexual intercourse of girls and it set this limit 12 years for all girls with regard to cohabitation, thus affording child-brides a protected childhood. Although this bill

raised the age of consent 12 for both married and unmarried but in the case of married girls the offence by the husband was made non-cognizable and below the age of 12, sexual intercourse consider as rape which was punishable by 10 years of imprisonment or by transportation for life. And this law was to apply to all religious communities (Age Consent Report, 1929).

According to the Report of the Age of Consent Committee 1928-1929, they visited various villages in every part of India and get oral and written reply on the issue of marriage and consummation. The committee has the also had the benefit of the views of various Social Reform and Religious Associations in the Country (Calcutta, 1929).

Muslim evidence- those who hold that early marriage is no evil practices and according to them any legislation fixing a minimum age of marriage would be an interference with Islam. Although this is the views of Muslim community but all Muslim community were not agree with this views. They do not agree with the Moulavis and Ulemas who think that legislation or raising the age of Consent would be an interference with the principles and teachings of Islam (Calcutta, 1929).

### Child Marriage Restraint Act (CMRA) 1929 marriage act

Child Marriage Restraint Act (1929) also known as Sarda bill raised the age of marriage for girls from 12 to 14 age and 18 for boys. The law as it came into force in 1930, provided for a fine of Rs 1,000 in addition to imprisonment up to one month for adults solemnizing the marriage of a girl under 14. In case the groom was above 21 years of age, he too could be imprisoned. This act was a result of social reform movement in India and was taken up by the organized women in India. The legislation was passed by the British Indian Government.

### The Prohibition of Child Marriage Act, (PCMA) 2006

This act was passed by the Government of India in 2006 and came into effect from November 1, 2007 to address and fix the shortcomings of Child Marriage Restraint Act 1929. The Act kept the ages of adult males and females the same (i.e. 18 years for Girls and 21 for Boys) but made some significant changes to further protect the children. Boys and girls who were forced into child marriages as minors now have the option of voiding their marriage up to two years after reaching adulthood, and in some circumstances, marriages of minors can be null and void before they reach adulthood. All valuables, money, and gifts must be returned if the marriage is nullified, and the girl must be provided with a place of residency until she marries or becomes an adult. Children born from child marriages are considered legitimate, and the courts are expected to give parental custody with the children's best interests in mind.

### Gandhi's View on Child Marriage

Woman has been suppressed under custom and law for which man was responsible and in shaping of which she had no hand. According to Gandhi, the custom and practice of child marriage is a moral as well as physical evil. For it undermines our morals and induces physical degeneration. Gandhi said that 'a man who has no thought of the tender age of a girl has none of God'. Legislation through the Age of Consent Act 1891 tried to protect the girls from this evil practices but it could be more effective through the public opinion and support (Joshi, 1988).

According to the Census of 1921, more than 3 lacs girls under the age of 15 forces to widowhood life and this figure show the misery caused by child marriage. We cry out of cow protection in the name of religion but we refuse to protect a human cow in the shape of child widow (Joshi, 1988).

Dealing with the question of Child marriage, Gandhi's opinion was definite. He was averse to such an evil custom of Child marriage and wanted to stop it. On the issue of child marriage custom in Namashudra community, Gandhi said that this was an evil practice and Namashudra have adopted such custom and tradition from so-called higher caste. Custom had familiarized women in so called higher castes with enforced widowhood. When child marriages were abolished; naturally there would be absence of child widow (Joshi, 1988:348).

### Child Marriage and Girl-Child: A Current Scenario

Traditionally, children were believed to be the private property of the parents and were hardly treated as someone possessing rights. Children were not seen as separate individuals hence they did not have separate rights. There is no official and international definition or description of "girl-child", and even no international binding convention specifies the status of girl-child (Feliciati 2006). With this identity crisis, girl-child faces various difficulties and challenges.

The subject of girl-child is more difficult in Indian context because they are subjected to various kinds of exploitation on the basis of gender, caste and community. Child marriage is one of the big challenges for girl child which gives the huge negative impact on girl-child whole life. Although in present days the practice of child marriage is widely present in Indian society but its origin cannot be traced more older than later Vedic period. According to Sharma, in Rig Veda, the practice of widow remarriage and Niyoga are evident but, there is no mention of child marriage examples. Generally the marriage of girls took place at the age of 16-17 but, still the status of girl-child was not better (1999).

In Modern India, during the British colonial period to 1947, there was no major improvement in girl-child condition. The literacy percentage of women was very low in 1947. According to Chandra, only 2 percent girls were literate or attending school in 1921 as well as only 490 girls attended high school in Bengal Presidency 1919 (Chandra, 1976). The reason behind this low literacy rate in girls was ignorance of girls' education in initial education policies. However, it started very late when the British colonial India started giving attention on girls' education. However their attention was not sufficient because girls' condition was very bad and they faced discrimination due to sex, poverty, and caste

In current society, the status of girl-child has not changed much and they are still seen as inferior to boy child and their position is lower than the boy. With these peculiar problems of girl children, the child marriage is also a vital problem of girl-child in India. According to Mikhail, child marriage is a form of child prostitution, both traditions have many similarities, such as economic transition where client and supplier get money, sexual exploitation in both practices and so on (2002). However through child marriage both boys and girls suffer but the situation of girls is worse than the boy. They leave their family in the early age when they need the moral and emotional support of their family for overall development (Chakravarty 1998).

Fuller & Narsimhan, explain how child marriage tradition being existing in India specifically in Brahmanical society, "marriage is in India known as kanyadana, it is a 'gift of virgin' and ritually pure girl, those parents who fail to marry their daughter before the starting of menstruation, commit a serious sin (2008:737). In Rajasthan there are still child marriage is taking place in huge numbers and this practice is present in various castes and community. Such as Atta Satta, Mirtu Bhoj and group/community marriage, Akha Teej these are some practices of child marriage, which are still present in Rajasthan (UNICEF and ICRW, 2011:15).

### GOVERNMENT AND CIVIL SOCIETY

There were many reasons behind this harmful practice in India such as illiteracy, poverty, patriarchal mindset and so on. Poverty is seen as a main and common cause of child marriage in India. Parents are relieved from economic responsibility throughout the marry their girl-child and sometimes, parents marry their girls in early age for receiving economic benefits and sometimes it happens because parents married their daughters in early age to avoid the increasing dowry cost (Lee-Rife et al 2012). The poverty of parents makes their daughters life very difficult and critical. Government formulates various laws, rule and awareness program to stop child marriage and protect girl-child from this horrific tradition.

In India, there are many laws against the child marriage practices but in practice, it's hardly taking place. And the reason behind this is rigid thought of patriarchal society. While, in some of the case those women who oppose child marriage they were faced many challenges and raped and killed by local people. As the example, in Rajasthan where Banwari Devi was gang-raped by local men and those rapists are from her own village, they raped her because she participated in the campaign against the child marriage. Although the case was filed against those rapists but Banwari Devi faced rape repeatedly and it ignored by the local authority to give her proper protection (Kulkarni 1994).

The issue of child marriage is taken as a crucial issue in India from its colonial period. Child Marriage Restraint Act 1929 also known as Sarda act was given by Rai Sahib Harbilas Sarda in 1927 in the Constituent Assembly (Hatekar et al, 2007:145). However this act raised the age of girls for marriage to 14, but according to that period this age for marriage is against the age for girl below 12 years. After a big fight against the child marriage, today the legal age of girls for marriage is 18 years. After a long period, still this harmful practice is present in India.

The Larger part of the India crucially affected by this organized crime which known as child marriage. However there are some states of India is more affected from the huge practices of child marriage such as Bihar and Rajasthan. Nawada and Madhepura districts in Bihar and Bikaner and Tonk districts in Rajasthan place where UNICEF explore the high rate of child marriage are present (UNICEF & ICRW, 2011:1).

Rajasthan, in 2006 UNICEF started a campaign 'Child Marriage Abolition Campaign' and stood against this harmful tradition (UNICEF & ICRW, 2011:32-33). UNICEF along with Rajasthan State Commission for Women and local NGOs works in Rajasthan for elimination of early marriage tradition of some districts of Rajasthan, Jhunjhun is one district in Rajasthan where the rate of child marriage is very high.

Jan Sunwai' or public hearing which provides a platform for girls and women to their voice against these social practices is supported by UNICEF as well as Rajasthan State Commission for Women (UNICEF & ICRW, 2011:31).

Child-widow is also one of the result of child marriage. UNICEF Innocenti Research Centre published document on early marriage and highlighted how in child marriage girl-child spouses suffer more than boys, in the context of Rajasthan and Madhya Pradesh, they research and highlighted that, child-widow girls face absence of socialization, discontinuation of education, isolation, poverty, which push them in a situation where these child-widows faced physical as well as emotional violation (UNICEF 2001). With the minimum education qualification child widow did not have the option to earn money and they engage or sell in child prostitution. Child widows' condition is very bad as they are exploited by many blind beliefs as well as isolated by their family due to this tradition. In a conference in Bangalore in 1994 participants drew attention on the condition of the child-widow in Indian society (Innocenti Digest 2001:9).

## ANALYSIS

The main focus of this study is to understand and analysis the issues and complexities of child marriage problems especially Girl-Child and examine how government and civil society's role played the positive and negative aspects in this issue. How Indian government have attempted to address this organized crime through collaboration with other actors in India such as NGOs and INGOs.

This study is significant as to explore the root causes of the practices of child marriage in India with the special focuses in Nawada and Madhepura districts in Bihar and Bikaner and Tonk districts in Rajasthan. The research might play a vital role in the protection of children specifically girl-child from child marriage complications and promoting the way of empowering girls to a more capable woman. Empowered and capable women could make substantial contribution to the society. These analysis of continuous present of child marriage raised questions that,

- Historicity of child marriage in Bihar and Rajasthan and how this evil practice survived in these two states during colonial and post-colonial period?
- Analyzing the different legal efforts and strategies that have been initiated by the Indian Government for the prevention of child marriage and especially its effect on the states of Bihar and Rajasthan?
- Examining the role of civil society in child marriage prevention?
- Why the high rates of child marriages are still prevalent in various part of India?
- What are the challenges of governments and future roadmap for child marriage prevention?

Various socio-economic and cultural factors played an important role in the practice of child marriages in India, in particular the states of Bihar and Rajasthan. Apart from these, lacunae in the constitutional and legal measures against child marriage and their implementation are also the reasons behind the practice of child marriages in India.

The proposed study would be engaged in the deductive reasoning of inquiry and adopts qualitative

method focusing on the historical and analytical approach. It intends to rely on both primary pieces of literature such as Indian government, NGOs documents as well as secondary literature such as books, journal articles as well as information's from the internet sources. Field trips within India to interview various stakeholders (state actors and non-state actors) who are working on the child marriage issue will also be included. Moreover, apart from primary and secondary sources, the research will seek the help of oral sources such as carrying out interviews of local people such as victims of child marriage and family members as well as other civil society actors.

## CONCLUSION

Child marriages which present from various past era it have a very much negative impact on girl-child education. Early age marriage is a big reason behind the school dropout of girl children. They are sent to in-laws house and force to engage in domestic work and dropout from the school. Many other causes play a vital role in girls' poor literacy. Girl-child's involvement in helping parents, siblings care, and early marriage all of these play a vital role in girls' dropout and these affects the overall development of girl-child.

On the issue that why raised the voice specifically for girl-child as child marriage affects both girl-child as well as male-child too. Child marriage which affects the both girl and boy child life but in the circumstance of society this early marriage practice affects more to girl children. In some part of the world especially in South Asia, child marriage is a very big problem which not only affected the health, education and adolescent pregnancy, even its affected the overall development of girl-child. However through child marriage both boys and girls suffer but the situation of girls is worse than the boy. They leave their family in the early age when they need the moral and emotional support of their family for overall development. These kinds of peculiar environments affect the mental health of girl-child and became a big obstacle on their overall development.

Girl-child also faced various kinds of physical difficulties due to this organized crime of child marriage such as they suffer from the health problems because of pre-mature body. Early consummation and force sexual relation creates many health problems for girls and gives to maternal morbidity and mortality, malnutrition and also infant and parental death. Girl-child is not physically developed to establish the sexual relation and they faced many challenges. Such as teenage pregnancy, sexual health infections so on.

While with these crucial negative impact of child marriage on girl-child why this horrific crime is still present in India. As from the era of colonial India to current period government formulate many rule and legal prohibition for this crime. But in practice the tradition of child-marriage is still widely practicing in India. This is not only the responsibility of government to take action against this organized crime there are the role of civil society, non-stat actors and all are also should be take a part to eradication of this crime. Girl-child is future of a women and it require a urgent attention on this and cure the girl-child from this horrific tradition. With the proper empowerment of girl-child through good education, health, childhood we empower the women as both are two side of one coin.

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