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Protection of Girls and Their Rights

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Abstract

We are a modern nation and are proud to be citizens of the largest political democracy in the world today. We have freedom of expression and association, universal adult franchise, a track record of holding elections with reasonable regularity and public institutions such as the legislature, executive and judiciary that are quite stable, especially so for a post-colonial State. Our Constitution captures the essence of human spirit and celebrates the finest principles of equality, social justice and human dignity and guarantees rights to its citizens. So this spirit is also enshrined to protect the rights of the girl child.

Keywords: Girl Child Labour, Child Trafficking, Female Infanticide

Introduction

"I will give you a talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man [woman] whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him [her]. Will he [she] gain anything by it? Will it restore him [her] to a control over his [her] own life and destiny? In other words, will it lead to swaraj [freedom] for the hungry and spiritually starving millions? Then you will find your doubts and yourself melt away."

Historical position of girl child

It would be worthwhile to pause and look at the overall status of children in India, especially with regard to the overall treatment meted out to them by their parents and the society at large. Historically, we all know that the major caretaker of a child was the mother, the immediate family or, at best, the joint family and secondarily jati (caste) relationships. Sudhir Kakar, who has made a detailed analysis of Indian childhood and society in his book *The Inner World- a Psycho-Analytic Study of Childhood and Society in India*, has dwelled at length on mother-child relationship and how this profoundly influences the 'quality' and 'dynamics' of social relations throughout one's life. Consistent with the belief that life begins with conception rather than at birth, five stages of childhood were identified in the Indian tradition. These were: (i) Garbha, or the foetal period; (ii) Ksheerda (0-6 months), when the infant lives entirely on milk; (iii) Ksheerannada (6 months-2 years), the period of early childhood in which weaning takes place; (iv) Bala (2-5 years); and (v) Kumara (5-16 years). Each of these divisions of childhood were associated with major rites and rituals, which marked its transition from one period to another. Many of these childhood samskaras like namakarana mundan (tonsure ceremony) and upanayana (initiation into religion and wider community) are being performed even today with fanfare by the people of India. These samskaras, in a way, emphasized the critical period both in biological as well as social development thus paving the way for the gradual integration of the child into society. Ironically, girls and children belonging to the lower castes were largely excluded from these samskaras. For instance, the sohras, joyous songs of celebration sung at the birth of a child in the Hindi speaking belt, are almost never sung for newborn daughters. In fact, many sohras express the relief of mother's over the fact that she has been blessed with a son and not a daughter. The preference for a son when a child is born, thus, seems to be as old as the Indian society itself our two great epics, the Ramayana and the Mahabharata also eulogies the Indian view of childhood whereby there is an intense parental longing for children, and their upbringing is characterized by affectionate indulgence. This child centeredness, however,

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was found to be limited to boys only. The Indian tradition all along has been indifferent, if not overtly hostile, to the developmental fate of girls. Secondly, the Indian tradition subscribed to an ideology that downgraded the role of the environment and nurture in the development of a child, and instead emphasized upon a deterministic conception of mystical heredity. This mystical heredity in the Mahabharata was reduced to the karmas of the previous life and the attributes of the father (especially his caste) transmitted through his seed. These epics also displayed as to how young children, especially boys, were placed under the tutorship and guidance of respected gurus wherein moral precepts enjoined in the shastras were taught on a one-to-one basis. But, this too, was confined to the boys of the ruling upper-castes. Likewise, in ancient Indian law, especially in the Laws of Manu, the child though located very near the bottom of a social pyramid was bestowed society's protection. And, this protective indulgence was best reflected in matters which concerned the children most namely, their chastisement. Children were only to be beaten with a rope or bamboo stick split at the end. The split bamboo, as we may remember from circus clowns' mock fights, makes a loud noise but does not inflict much pain. Moreover, even this punishment was to be carried out only on the back and never on the head or the chest. All those who hold progressive views on child discipline, the beating of children may hardly seem like protective indulgence. Nonetheless, the extent of this indulgence becomes strikingly clear when we compare Manu's Laws with legal texts of other ancient societies where brutal forms of child abuse and maltreatment existed. As already mentioned in the beginning, there is evidence in the law codes and digests of ancient Rome to suggest that brutal forms of child abuse were common mistreatment, which the more enlightened emperors attempted to mitigate. And, that it was only as late as 374 A.D. that infanticide was declared a capital offence in the Roman world. In short, though Manu's Laws by modern standards have been severely condemned as a repository of inequity, their attitude towards children, one of protective nurturance is unexceptionable, at least within the premises of the patriarchal society which gave the Laws their birth. Surprisingly, Manu also expressed that kindness be shown to the daughter as she is physically more tender and her emotions are more delicate. With the coming of the Arabs, Turks, Afghans and the Mughals, the medieval period stretching across from the eleventh to seventeenth centuries almost, saw an all-round impoverishment and degeneration in India. The foreign invasions not only plundered but completely destroyed the wealth and sociocultural ethos of India. Due to the overall economic deterioration experienced by the people, the children too faced adverse vicissitudes. Girls were seldom given education and their status in comparison to boys remained inferior. The rulers or the people took no remedial steps either. We have made strides in economy that has attained a growth level of 8-9 per cent GDP that is self-reliant and independent, with a large middle class base that provides professional services competing with global standards. Our films too have captured a space for itself. We have many things to be proud of. Yet, simultaneously we are witness to the growth in inequalities with a huge gap between those who have and the multitudes of those who are left out of the gains of independent India. They live in fear and anxiety, unsure of

their next source of work and wages, feeling vulnerable, insecure but with an innate faith in the system and a hope that things would change during their life time. They do not want to receive doles and thus battle every day of their lives for their entitlements. They too are citizens of modern India yearning for freedom and dignity. It is only when they too are included in sharing the resources, economic and political, of our country that we can boast of being a true democracy. For, as all of us know a successful democracy is the ability of the State to reach out to the weakest, include them in all planning, and ensure their well-being. The weakest among those who are marginalized and bearing the brunt of the onslaught on the poor are children, and especially girls. This is not to say that boys are not exploited and forced to work. The agony of the girl is further compounded by the fact that she is born a girl when she is allowed to be born at all. An enlightened democracy is that which learns to respect its children, both boys and girls, enables their blossoming to their fullest potential. The need of the hour is for the government to make wholehearted investments on children and guarantee their rights. At the same time it is essential to build a social norm in favour of their rights and empower local institutions and processes to bring pressure on the government to deliver services efficiently, just so that children live a life enjoying their special privilege, which is their childhood.

Girl child labour

Girls' labour is mixed in the rice, wheat and cereals we consume today. The ordinariness of their suffering makes their work invisible. It is thus not realized that the food we eat is made from the sweat and toil of these children under scorching heat even as they inhale the fumes of Endosulpha, Methonyl and other deadly pesticides that shrinks their lungs, gives them dizziness and nausea causing mental depression. Their feet and hands that dig in wet mud for hours together, peeling their skin, causes sores until there is no more new skin that could appear. They have headaches carrying loads of bananas, vegetables and food. They harvest soya bean, sugar cane, food crops, oilseeds and all that is consumed by us as migrant labour living in crowded makeshift camps or in cowsheds commuting from villages near and afar, in overcrowded trucks, tractors and trains. Many a young boy and girl burnt themselves tossing rice in the hot oven making crispy puffed rice that we so much relish. They are in quarries and mines, brick kilns, construction sites. They are in our own homes as domestic labour being the first to wake up and the last to sleep, scolded, insulted, abused, suspected for theft, friendless and lonely. Children as young as 7-8 years of age start working for long hours during the day when they should have actually been in school enjoying their right to education. Their bodies are wrapped in violence, their spirit embedded in wasted childhood. It is unfortunate that none of the above occupations are covered under the Child Labour Prohibition and Regulation Act, 1986. Girls work mostly in agriculture and there is no law to ban children working in agriculture. Thus the work of girl children is hidden and rendered invisible.

Child Trafficking

There is also a growth in the numbers of girls being trafficked for sex work. This trade is growing large and

girls get caught in a vicious network of the underworld. It seems the tragedies, suffering, humiliation is unnoticed by the authorities who have unfortunately given up on rescuing such children. The complacency gives license to the trade to continue without any resistance. There are now stories of how girls have become victims to ill health, HIV and AIDS. In recognition of the complex forms of trafficking it is now understood as forced labour and other slavery like practices in addition to sexual exploitation. This means that people who migrate for work in agriculture, construction or domestic work, but are deceived or coerced into working in conditions they do not agree to, be also defined as trafficked people. The Government of India signed the Trafficking Protocol on 12 December 2002. This is a huge step forward in advancing the human rights of trafficked people as it not only prevents and protects the victims of trafficking but also punishes the traffickers. It encompasses the 1949 Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of Others, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), all of which have been ratified by the Government of India. Children are traded off as sex workers, domestic servants, construction workers, labourers in sweat shops, on farms etc. During the trafficking process, traffickers violate an extensive array of human rights in their treatment of their victims. They are subjected to physical, psychological and sexual violence, their movement is restricted. There is just no safe and healthy working environment, their wages are confiscated and they are generally subjected to inhuman and degrading treatment, forced labour, slavery-like practices or slavery. They are increasingly affected by ill health, insults and humiliation and a life of uncertainty and risks.

Girl Child Marriage

Women are considered to be the main victims of this evil practice. In India, child marriage among urban girls is around 29 per cent, it is 56 per cent for their rural counterparts. 30 per cent of girls aged 15-19 are currently married or in union compared to only 5 per cent of the boys of the same age.

An appraisal of harmful traditional practices and their effects on women and the girl child

A. Female genital mutilation

Female genital mutilation (FGM), or female circumcision as it is sometimes erroneously referred to, involves surgical removal of parts or all of the most sensitive female genital organs. It is an age-old practice which is perpetuated in many communities around the world simply because it is customary. FGM forms an important part of the rites of passage ceremony for some communities, marking the coming of age of the female child. It is believed that, by mutilating the female's genital organs, her sexuality will be controlled; but above all it is to ensure a woman's virginity before marriage and chastity thereafter. In fact, FGM imposes on women and the girl child a catalogue of health complications and untold psychological problems. The practice of FGM violates, among other international human rights laws, the right of the child to the enjoyment of the highest attainable standard of health, as laid down in article 24 (paras. 1 and 3) of the Convention on the Rights of the Child.

B. Son preference and its implications for the status of the girl child

One of the principal forms of discrimination and one which has far-reaching implications for women is the preference accorded to the boy child over the girl child. This practice denies the girl child good health, education, recreation, economic opportunity and the right to choose her partner, violating her rights under articles 2, 6, 12, 19, 24, 27 and 28 of the Convention on the Rights of the Child. Son preference refers to a whole range of values and attitudes which are manifested in many different practices, the common feature of which is a preference for the male child, often with concomitant daughter neglect. It may mean that a female child is disadvantaged from birth, it may determine the quality and quantity of parental care and the extent of investment in her development, and it may lead to acute discrimination, particularly in settings where resources are scarce. Although neglect is the rule, in extreme cases son preference may lead to selective abortion or female infanticide.

C. Female infanticide

Sex bias or son preference places the female child in a disadvantageous position from birth. In some communities, however, particularly in Asia, the practice of infanticide ensures that some female children have no life at all, violating the basic right to life laid down in article 6 of the Convention on the Rights of the Child. Selective abortion, foeticide and infanticide all occur because the female child is not valued by her culture, or because certain economic and legislative acts have ruled her life worthless. In India, for example, infanticide was formally legislated against during British rule, after centuries of practice in some communities. However, recent reports have shown that there is a revival. Modern techniques such as amniocentesis and ultrasound tests have given women greater power to detect the sex of their babies in time to abort. Illegal abortion, particularly of female foetuses, either self-inflicted or performed by unskilled birth attendants, under poor sanitary conditions has led to increased maternal mortality, particularly in South and South-East Asia. Female foeticide is an emerging problem in some parts of India, and the Government has introduced a bill in Parliament to ban the use of amniocentesis for sex-determination purposes. Such misuse of amniocentesis is also prohibited in the States of Maharashtra, Punjab, Rajasthan and Haryana, where the problem is more prevalent.

D. Early marriage and dowry

Early marriage is another serious problem which some girls, as opposed to boys, must face. The practice of giving away girls for marriage at the age of 11, 12 or 13, after which they must start producing children, is prevalent among certain ethnic groups in Asia and Africa. The principal reasons for this practice are the girl's virginity and the bride-price. Young girls are less likely to have had sexual contact and thus are believed to be virgins upon marriage, this condition raises the family status as well as the dowry to be paid by the husband. In some cases, virginity is verified by female relatives before the marriage. Child marriage robs a girl of her childhood time necessary to develop physically, emotionally and psychologically. In fact, early marriage inflicts great emotional stress as the

young woman is removed from her parent's home to that of her husband and in-laws. Her husband, who will invariably be many years her senior, will have little in common with a young teenager. It is with this strange man that she has to develop an intimate emotional and physical relationship. She is obliged to have intercourse, although physically she might not be fully developed. Another economic reason which perpetuates the practice of female genital mutilation is related to dowries.

The dowry price of a woman is her exchange value in cash, kind or any other agreed form, such as a period of employment. This value is determined by the family of the bride to be and her future in-laws. Both families must gain from the exchange. The woman's in-laws want an extra pair of hands and children, her family desire payment which will provide greater security for other relatives. The dowry price will be higher if the woman's virginity has been preserved, notably through genital mutilation.

E. Early pregnancy, nutritional taboos and practices related to child delivery

Early pregnancy can have harmful consequences for both young mothers and their babies. According to tunic, no girl should become pregnant before the age of 18 because she is not yet physically ready to bear children. Babies of mothers younger than 18 tend to be born premature and have low body weight such babies are more likely to die in the first year of life. The risk to the young mother's own health is also greater. Poor health is common among indigent pregnant and lactating women.

Conclusion

Protection involves maximizing safety from deliberate and situational harm by appropriate and timely safeguards, which are part of the day to day environment of children at home, in the community and through the basic service structures. The concept of protection works around the premise that all children have the right to grow up and develop in an environment, which is protective-in, which violence, exploitation and abuse are prevented as well as mitigated and redressed. Some of the principal safeguards are based on the need for institutionalized national systems and attitudes and practices of society at large, which are protective. Elements include laws, child welfare services, social protection measures to support families at risk, and supportive, complementary community actions; generating more open discussion around protection issues, and building support for protection practices in the home, the community and public services, as well as abandoning customs which harm or fail to protect. Protection rights are an intrinsic part of human rights of the child and must acknowledge the child as a person, and that children are important actors in their own protection and their capabilities have to be strengthened.

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