

Child Marriage: A Blow to Human Dignity and Women's Liberty

Madhushree Das[†]

Abstract

The current editorial discusses child marriage, a human rights violation and a chronic problem across India. Despite several laws and acts against the practice, and recent arrests made in Assam, India, the problem still persists and has been found to be dominant in the rural areas, among poor families with lower education levels. This study makes an attempt to deliberate upon various reasons leading to child marriage and the implications of child marriage which is negatively affecting the health and well-being of women and children, thereby triggering the maternal and infant mortality rate across the country. The study stresses that to achieve the target set by Sustainable Development Goal 5.3 on gender equality to eliminate child marriage by 2030, effective interventions from all quarters, along with stringent laws and proper policies are essential.

Keywords: Child Marriage; Human Rights Violation; Maternal and Infant mortality; Sustainable Development Goal, India

[†] Professor & Former Head, Department of Geography, Former Dean, Faculty of Sciences, Gauhati University, Guwahati, Assam, Email: madhushreedas@gauhati.ac.in

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Introduction

Any marriage where at least one of the partners is under 18 years of age is called child marriage. Although the age of marriage is 18 years in most countries, it varies from 18 to 21 across countries. Child marriage is a human rights violation and is still a massive problem in many developing countries which has been included in Sustainable Development Goal (SDG) 5.3. Although indicator 5.3.1 measures child marriage among girls, who are mostly the victims, the practice also occurs among boys. Globally, the prevalence of child marriage among girls is six times more than among boys (UNICEF, 2022). It reflects discrimination against women, adversely affecting the child's education, and physical and social life (UNICEF, 2014).

Despite several laws against it, the harmful practice remains widespread across the globe and is mostly concentrated in countries of Sub-Saharan Africa, South Asia, South East Asia, West Asia, Latin America and Oceania. According to a UNICEF Report (2019, p.6) titled-*Ending Child Marriage: A Profile of Progress in India*, there are more than 650 million child brides globally, of which 285 million were from South Asia and 223 million were from India alone. In terms of child marriage prevalence rate (27 per cent), the position of India is fourth among the eight South Asian countries, which is higher than its neighbouring countries— Pakistan (21 per cent), Bhutan (26 per cent), and Sri Lanka (10 per cent). In this regard, Bangladesh tops the list (59 per cent), followed by Nepal (40 Per cent) and Afghanistan (28 per cent) (UNICEF, 2019).

It has been estimated that India has one-third of the child marriages in the world, and half of the Indian child brides live in 5 states, Uttar Pradesh (36 million), Bihar, West Bengal (22 million each), Maharashtra (20 million) and Madhya Pradesh (16million) (UNICEF, 2019).

This editorial begins with briefly discussing the measures adopted to check child marriage. This follows a discussion of the reasons behind child

marriage. Then I go on to discuss about the implications of child marriage.

Measures Adopted to Check Child Marriage

With the Age of Consent Act of 1891, the marriageable age of girls increased to 12 years from 10 years (Anagol-McGinn, 1992). Further, the Sharda Act of 1929 increased the marriage age to 14 for girls and 18 for boys (Forbes, 1979). Again, the Hindu Marriage Act of 1955 laid down the age of marriage to be 18 and 21 for girls and boys, respectively (Mahmood, 1980). Prohibition of the Child Marriage Act (PCMA) of 2006 replaced the child marriage restraints Act of 1929 and provided punishment with imprisonment up to 2 years and a fine of up to INR one hundred thousand to whoever committed this crime. As per the 2006 Act, a person marrying before 18 is permitted to apply for annulling the marriage. This bill also raised the age of marriage of females to 21 years. Thus anybody who has married between 18 and 21 years may also apply for marriage annulment. The Prohibition of Child Marriage (PCM) Amendment Bill was introduced on 21 December 2021, intending to increase the legal age of female marriage from 18 to 21 years, to bring about parity with men. This is to be done by amending personal laws, including the Indian Christian Marriage Act of 1872, the *Muslim Personal (Shariat) Application Act of 1937*, the Special Marriage Act (SMA) of 1954, the Hindu Marriage Act of 1955, and the Foreign Marriage Act, 1969 (Agarwal, 2022). As per the Crime in India data retrieved from National Crime Report Bureau (NCRB), the number of cases registered under the PCM Act has increased almost seven times in the last decade (Pavitra, 2022, a; b). While the number of cases registered under the PCM act increased to 782 in 2020 from 113 cases in 2011 (Crime in India, 2020).

As per the National Family Health (NFHS-V 2019-21), 23.3 per cent of women in the country between the age group of 20-24 were married before attaining the age of 18. This has decreased significantly from 26.8 per cent in NFHS-IV (2015-16). According to the report of Child Marriage in India, "nine states/UTs have

figures that are higher than the national average. West Bengal tops the list, with 41.6 per cent of women aged 20-24 years marrying before the age of 18. Bihar came close with 40.8 per cent, followed by Tripura (40.1 per cent), Jharkhand (32.2 per cent), Assam (31.8 per cent), Andhra Pradesh (29.3 per cent), Dadra and Nagar Haveli and Daman and Diu (26.4 per cent), Rajasthan (25.4 per cent) and Telangana (23.5 per cent)" (CRY, 2021, p. 4).

It is interesting to note that the Assam's Chief Minister went a step ahead and the Assam Cabinet approved the crackdown on child marriages on January 23, 2023. The decision was based on the National Family Health Survey-5 conducted in 2019 and 2020, which showed that the percentage of women in Assam between 20-24 years of age and who were married before 18 years was 31.8 per cent against the national figure of 23.3 per cent. The NFHS survey conducted in 2019-20 also revealed that Assam had an underage pregnancy rate of 11.7 per cent, as against the national average of 6.8 per cent. On 2 February 2023, the CM of Assam initiated a drive against those violating the clause of the Prohibition of Child Marriage Act, 2006 and POSCO Act of 2012 (Valan, 2017) and arrested 2,441 people within the first four days of the operation. This move is historical because this is the first time a state government has arrested people involved in child marriage. While announcing the drive against child marriages, the CM of Assam had declared that men would be booked under the POCSO Act— if they have married girls below 14 years and under the Prohibition of Child Marriage Act if they have married girls between 14 and 18 years. However, on 14 February 2023, the Gauhati High Court granted anticipatory bail to many such cases and revealed that the State's arrest drive has only created confusion and panic in the private life of people. In this connection, a local resident stated that 'my pregnant daughter-in-law is above 18 now, but was 17 at the time of marriage, so I am afraid that I and my son might be arrested at any time as my neighbour has already been arrested on similar ground. There are so many such stories across the state. But how could retrospective detention mitigate and

avert child marriages and dwindle the long-term health issues? The state needs to address rather more critical problems like the prevalence of the high MMR(195/ one hundred thousand live births) and high IMR 36/thousand live births, which has been truly alarming as against the figure for the country, MMR (97/ per one hundred thousand live births) and IMR 27.70 deaths per thousand live births as stated in *India's Progress in Tackling IMR, MMR and Malnutrition, SRS of RGI, 2018-2020* (SRSSTAT). India takes the burden of second highest maternal death (24 000 or 8.3 per cent of all estimated maternal deaths in the globe, 2020) after Nigeria (82,000 approx or 28.5 per cent in 2020) as reported in Trends in maternal mortality 2000 to 2020 (WHO, n.d.).

Reasons Behind Child Marriage

There are many reasons behind child marriage, though culture is dominant (Birech, 2013). Child marriages in India are found, by and large, in rural areas compared to urban areas and are found to be higher among women from poorer families with lower education levels. The factors leading to child marriage are usually a combination of poverty, the lack of education, patriarchal norms that encourage and facilitate gender inequalities, bridewealth and cultural factors. Parents continue to link family dignity and honour to women's sexuality. Early marriage is a mechanism for controlling women's sexuality and thereby avoiding any instances of self-initiated alliances/marriages, which are strongly associated with family honour. From a cultural perspective, Indian parents feel that it is important to marry off their son or daughter at an early age to fulfil certain religious obligations and duties, chief among them to ensure progeny continue the family lineage and perform various religiously mandated rituals after the death of the parents and grandparents.

Implications of Child Marriage

Child marriage is negatively associated with women's and children's health and well-being (Paul, 2019; 2020). Studies have shown that there are serious health issues along with child marriage. Besides, early pregnancy and motherhood lead to high MMR and IMR (CRY,

2021; Roy, 2022; Srivastava, 2022). It might also lead to sexually transmitted diseases, HIV and cervical cancer. Child marriage leads to higher fertility length as the age at marriage of women has always been crucial as it determines her effective reproduction period. Girls who marry before 18 have lesser exposure to education and are more likely to experience domestic violence. Child marriage also robs girls of their childhood and education. Education is the essential ingredient for the all-round development of a nation. Indeed education not only delays marriage, pregnancy, and childbearing, but school-based sex education can be effective in changing the mindset and attitudes of women making them more aware of risky sexual behaviour in marriage. Child marriage thus negatively affects the psychological well-being and health of the mother and her offspring (Nour, 2009), thereby retarding the country's social and economic growth and leading to an intergenerational cycle of poverty.

Conclusion

There have been considerable campaigns and awareness programmes about the adverse effects of child marriage across the country. The priority set by Sustainable Development Goal 5.3 on gender equality is to eliminate child marriage by 2030; however, to achieve the SDG target, India must accelerate the progress. This arduous task puts pressure on government functionaries, law enforcement agencies, self-help groups, stakeholders, public and police alike to deliver effective interventions and policies and programs, to invest more to accelerate an end to child marriage.

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