

Realizing the Rights of Girl Child

(An Indian Perspective)

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We, the people of India, feel proud to be the citizens of this largest democracy of the world. We feel complacent about the fact that we have freedoms like freedom of expression, freedom of association, freedom of universal adult franchise and so on. These are the unique provisions of our Constitution. We have also an illustrious Republic with institutions like Legislature, Executive and Judiciary which are independent in their respective spheres of functioning. These institutions are quite stable in nature. Our constitution gives us the essence of human spirit which is based on the finest principles of equality, social justice and human dignity. In addition, our constitution also gives us many other rights pertaining to human values which are the illustrious constitutional achievements of our democracy adding to the national pride.

Unfortunately however, we bear witness to the growth of several inequalities among different sections of our people in the social sphere of our living. We have many people in the society who are far from the fruits of our freedom. Even after a lapse of more than 60 years, there are still a good number of people who live in fear and social insecurity. They are still quite uncertain about their source of work and daily wages to eke out their daily livelihood. They are still vulnerable to the oppression of the vandals who

don't allow them their legitimate social justice for a peaceful living. All of us know that a successful democracy means and refers to an ideal setup of statecraft where the state has to undertake all-out congenial efforts to reach out to the weakest of the society. The state should ensure their wellbeing with safe living conditions.

The worst sufferers in the society today are the poor children especially girls. Of course it is not to say that the male-children are not exploited in the society. They are also vulnerable to torture and many other in-human conditions. But the pity is that the girl-children are subjected to more of ill-treatment than the boys. An enlightened democracy is one which learns to respect both the boys and the girls of the society alike.

Furthermore, we have another social feature which is astoundingly peculiar and unwholesome in nature. The strongest in the society have always an upper-hand in everything in their day-to-day social behaviour. They are prone to wreck inhuman onslaughts on the poor and the destitute that include the children of the impoverished families. In this analogy, both male and female children are the targets of their inhuman ill-treatment. This is a common practice in every village and every town of our country.

Predicament of Girls:

The problems of girls are different from the problems of the boys. The girl-child actually suffers at the basic stage of conception before she is born from the womb of her mother. At this stage, she suffers the onslaught on account of sex-selective abortion. In this process of selection, once a child is identified as female, she is subjected to inhuman treatment leading to destruction in the womb of the mother. This is known as the process of female foeticide. It is no doubt a fact that we have a strong legislation on this score known as the famous legislation of 1996 banning the process of sex-determination. Sex-determination is a heinous offence. The physicians restoring to this practice if proved, are liable for severe punishment. But the legislation of 1996 in actual practice has done little to avert this disturbing trend. The programs and policies for infants are thus woefully weak, lacking in seriousness about protecting their rights.

The female child is considered as a liability on the parents who are influenced by traditions, values, social norms and social institutions like family, kinship and marriage. Because of girl-child labour, girls are not only deprived of education and recreation but also exposed to risks like sexual harassment. Their moral and psychological development is also at stake. The forms of employment for girls also reflect the gender-bias. Family duties are relegated to the girl-child from her early childhood. These are the issues of violation of human rights.

Child Rights and its development at international level:

The Geneva Declaration on the Rights of the Child in 1924 was the first convention of the League of Nations to discuss on rights of the child.

The Universal Declaration of Human Rights as adopted by the United Nations in 1948 incorporated the basic rights of the children for growth and education. An independent 'Declaration of the Rights of the Child' was made by United Nations in 1959. This emphasized the special protection and care of the child to develop in a normal and healthy manner, an atmosphere of freedom and dignity. The United Nations Declaration emphasized child-welfare having application to every social condition by conferring specific rights on children through social security legislation prohibiting all sorts of discrimination. The year 1979 was declared as international year of child by United Nations which gave importance to the cooperation of the nations in the common task of meeting the basic needs of children i.e. nutrition, health, education, maternal protection, family care, equal social status and protection from racial and other forms of discrimination. This was a challenge to the conscience of mankind and to the community of nations. On November 20, 1989, the General Assembly of United Nations adopted a convention on Rights of the child which was ratified by 107 member- countries and India was a signatory to it. The convention contains 54 articles, each dealing with different types of rights. These can be divided into four broad categories of rights, such as – survival rights, developing rights, protection rights and participation rights.

Survival rights cover a child's right to life and the basic need for existence which include an adequate living standard, shelter, nutrition and access to medical services.

Developing rights include the aspects that hold children to reach their fullest potential such as information, freedom of thought, conscience and religion.

Protection rights require that the children be safeguarded against all forms of abuse, neglect and exploitation which include child labour, drug abuse, sexual exploitation, abuses in criminal justice system, etc.

Participation rights allow children to take an active role in their communities and nations; these encompass freedom of expression, freedom to join associations and assemble peacefully which are necessary for preparation of complete and responsible adulthood.

In 1919, The International Labour Organization, in its first session, adopted a convention on the minimum age of the child for admission into any industrial employment. It laid down that no child under 14 should be employed in any public or private undertaking. This law was however not applicable to family business. An Industrial undertaking here includes mines, quarries, manufacturing units, construction, maintenance and repairs and transportation of passengers and goods by roads, rail or water way. The minimum age was revised from 14 to 15 in the convention No.59 of 1937. Subsequently ILO prohibited employment of children in agricultural undertakings, shops, hotels, restaurants, offices, places of public employments etc. India, being one of the member- countries, has ratified all the conventions. Convention No 138 of 1973 of ILO emphasized that each member for whom the convention was in force undertook to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission of children to employment or work. The minimum age, as specified by the convention, was not be less than the age of completion of compulsory schooling and in any case shall not be less than 15 years. The convention also recommended special attention for working condition of young persons

below 18 years, in terms of fair remuneration, limited working hours, prohibited night work, weekly and annual holiday with leave, coverage by all social security schemes, maintenance of satisfactory standards of health, safety etc.

ILO has adopted 5 conventions for medical examination of young persons, a condition precedent for employment. This is to ensure fitness for young persons for the employment where he/she is to be employed. Also three conventions were made in support of prohibition of night work of young persons both in industrial and non- industrial establishments. However ILO, through various conventions and recommendations made rules and guided the member- countries for abolition of child labour through various measures.

Constitutional Safeguards in India

The Constitution of India carries an important expression of attitude of the state towards children. Article-15(3) of the Constitution authorizes the state for making special provisions for women and children. Article- 24 provides that no child below the age of 14 shall be employed to work in any factory or mine or engage in any other hazardous employment. Article 39(e) proclaims that the state shall direct its policy towards securing that the health and the strength of the tender children are not forced by economic necessity to enter avocations unsuited to their age. Article 39 (F) enjoins that childhood and youth are to be protected against exploitation etc. In Article – 45, the Constitution also endeavours to provide free and compulsory education for all children until they complete the age of 14 years.

The general provisions under Article, 38, 42, 43, 46 and 47 of Directive Principles of State Policy, although do not deal directly with child

welfare, provide strategy for indirectly promoting welfare of children.

Article 38 (i) provides that the state shall strive to promote the welfare of the people including children by securing and protecting as effectively as it may secure, social order in which justice, social, economic and political shall be ensured.

Articles 42 and 43 provide for securing just and human conditions of work and hold out a promise that the state shall endeavour to secure, by suitable legislation, a living wage with specified conditions of work ensuring a descent standard of life and full enjoyment of leisure and social and cultural opportunities.

Article-46 makes provisions for promotion, with special care of the educational and economic interests of SCs and STs and other weaker sections of the society.

Article-47 lays emphasis on raising the standard of living of people by the state. These also include children in this regard.

While assessing the progress and implementation of these provisions, it is disappointing to note that the child- labour exploitation in actual practice is rampant in all spheres and this is increasing day by day. The parents, in this context are supposed to be morally very strict in their parental dispensation. They should not send their children to any public field for work despite the gnaws of financial loss. Instead, they should send their children to schools for education during the prescribed age limit. This is as per the most famous national legislation pertaining to the right to free and compulsory education. This may initially entail financial loss on the part of the parents. The sustenance of the children may appear burdensome in the beginning. It is doubtless a complex problem. Yet it has got

to be solved with the motivation by the state. Motivation is the only way out to avert this evil practice.

End Discrimination :

Abolish laws that support discrimination against girls (inheritance, dowry, marriage)

Reform education by creating rights- based, gender-sensitive curricula, infrastructure and pedagogy designed to promote equity.

Equip girls with economic tools to achieve economic empowerment.

Launch public campaigns that seek to eliminate discrimination based on the notion of girls' inferiority and that support girls' full partnership in the household and public spheres.

Collect, analyze and disseminate data on children mentioning by sex, age, socio-economic status, race and ethnicity in order to create an inclusive gender perspective for planning, implementation and monitoring of government programs and for bench marking.

Protect Girls

Sign, ratify and implement the convention on the Rights of the child and its optional protocols.

Develop gender- responsive budgeting that explicitly allocates monies for programs to end violence against girls, for education and training at all levels and for promoting health etc.

Develop legislation that incorporates the protocol to prevent, suppress and punish Trafficking in women and children.

Invite UNICEF working in collaboration with UNODC to identify and replicate best practices across the globe that discriminate girls victimized by prostitution and prosecute perpetrators.

Provide gender-sensitive, community based reintegration program for children who have been trafficked, commercially exploited or involved in armed conflict.

Empower Girls

Remove all barriers to education for girls including school fees, discriminatory attitudes and curriculum and ensure their safety in and out of school.

Increase girls' competence through education training that includes social, political and economic empowerment to prepare them for their critical roles in their families and communities.

Promote the participation and empowerment of girls by creating safe spaces for them to speak and to obtain assistance and by strengthening the role of civil society, especially girls' organizations, in tackling gender stereotypes.

Partner with families and communities to address the needs of girls heading households and children without parental care, including in the context of HIV/AIDS, and ensure measures to increase men's and boy's responsibility for care giving.

Monitor and evaluate macro-economic policies and social spending to ensure that girls' needs are met.

To realize the letter and spirit of the Constitution, the state has formulated a number of legislations such as Guardians and Wards Act, 1890, Immoral Traffic Prevention Act, 1986, The Child Labour (Prohibition and Regulation) Act, 1986, Infant milk substitutes, Feeding bottles and Infant Food Act, 1992, Pre-natal Diagnostic Techniques Act, 1994, Persons with Disabilities Act, 1995, The Juvenile Justice (Care and Protection of Children) Act, 2000, Prohibition of

Child Marriage Act, 2006, The Rights of children to Free and compulsory Education Act, 2009.

In addition, a number of policies and plans such as National policy for children 1974, National policy on Education, National Policy on Child Labour, National Charter for Children 2004 and National Plan of Action for Children 2005, have been formulated. The Government is also implementing a large number of programs and schemes for the benefit of children.

India is a signatory to a number of international instruments such as UN convention on the Rights of the child, with its two optional Protocols, and Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) thereby affirming its commitment to the growth and development of women and children. It has also accepted without reservation the international commitments of the world for children adopted by the UN General Assembly special session on children in 2002, and the Beijing platform for Action for the advancement of women and girls adopted by the World conference on women in 1995.

Eleventh Plan- The path to go ahead (2007-2012)

The objective for the 11th plan is to holistically empower the girl child in all aspects so that she can become an equal partner with boys on the road to development and progress. This requires addressing the various constraints and the persisting problems facing the girl child towards this end, strategy and action laid out in the National Plan of Action for children, 2005. Special importance is accorded to ensuring all girl children the right to life and liberty and to upholding their dignity and security in family and society with utmost attention to their right to equality and social justice.

The future of Indian girl child -bright or bleak ?

India is a country where social disadvantage outweighs natural biological advantage of being a girl. A whole range of discriminatory practices including female foeticide, female infanticide, female genital mutilation, son idolization, early marriage and dowry have buried the future of the nation. In India, discriminatory practices have greatly influenced the health and well-being of a girl child, resulting in a higher mortality rate. It is believed that every year 12 million girls are born in the country but unfortunately only 1/3 of them survive. Some are killed in the wombs, some at the time of birth, some die due to ill health and some due to poor malnutrition status. Only a few numbers of girls are able to survive till their 15th birth day. Poverty, gender discrimination and son preference have also influenced the status of a girl child. There are 75 million malnourished children existing in the country. It is estimated that 75% of the total malnourished children are girls who show signs of chronic and acute malnutrition.

Girls who manage to cross this hard phase of life get trapped by the evil society during adolescence and teenage. These are stages where more nutrition is required for normal growth and development. Unfortunately, nutritional needs are neglected for girls and they are kept locked within the four walls.

Girl child is the future of every nation and India is no exception on this score. As a little amount of care, a handful of warmth and a heart-full of love for a girl child can make a big difference in future.

Concluding Remarks

The nation can not afford to ignore the needs of the girl child any further; the nation cannot discriminate at every stage of life in matters like basic nutrition, education and living standard or just relegate her to the stereotyped role of a wife, mother or a sister. She needs to be recognized as the "Woman of the future". Education and training helps the woman to hone her talents. She can earn money. She has the ability to put the money earned in future education of her children. She can also spend the money of better healthcare of her children. An educated woman is sure to defend herself better than an illiterate one against men, crimes and abuse. Once she knows her rights she can also approach the courts. Many daring women have taken such recourse to bring men to task. A woman is a goddess to be revered. She is mother earth that sustains the very breath of humanity. How can man even think of killing her in the womb? As things seem to be, the nation is on a war-path to protect the rights and interests of the girl-children. There are still miles to go in this regard.

We all are proud citizens of India. The need of the hour is to realize our responsibilities and give a halt to this evil crime. We should take all possible steps to curb the brutal and undesirable practice of mass killing of girls. A determined drive can initiate a spark to the lamp and show the world that we all are parts of mother India.

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