

A NOTE ON CHILD MARRIAGE AND LEGISLATIVE MEASURES IN INDIA

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Child Marriage was unheard of in the Ancient period. In the Vedic Period women were given equal status with men, to participate in rituals and in sacrificial rites, joined festivals, took part in debates and discussions like Gargi and Maitreyi or, even remained unmarried if they wished.

In the later Vedic period a girl had a choice to select their husbands. In the epic stories there are references of svayambara or, choice of husbands by the brides, for instance in “Mahabharata”, a king asked his daughter to choose a husband and said that he would give the man of her choice.

It was Manu, who had first advocated child marriage. He brought down the marriageable age of girls, and said a thirty year old man should be able to marry a twelve year old girl who charms his heart, and a man of twenty – four should be able to marry an eight year old girls. But at the same time he warned fathers not to give away their daughters to men devoid of good qualities. He also said girls should be married away before they reach their puberty, if they get married after their menstruation, they become impure and parents are likely to go to hell. In fear of going to hell parents started getting their daughters married before ten, sometime at five, four and even went to the extreme of getting them married in the cradle.

Child marriage became the societal rule rather than the exception. When the British came to India this evil practice was prevalent in all over India. The British Government’s attitude was of non-interference with the Hindu religious sentiments. It was only in the 19th century some enlightened educated elite did the pioneering work for the changes in the social customs like Raja Rammohun Roy, Vidyasagar, Malabari and others.

Raja Rammohun Roy was mere a child, when his father got him married three times. The first wife died at a very early age and after her death, his father married him twice within

an interval of less than a twelve month with two different girls, when he was only nine years old. Rammoham Roy was from the Kulin Brahmin family, they were allowed to marry as many wives as they wished. When Rammoham was bit matured, he revolted against this evil practice and, he left home for some years. He succeeded in passing the Legislative Act XVII of 1829 against Sati with the help of Willaim Bentinck. Unfortunately he died in 1833 at Bristol if he would have lived few more years he would have tried to eradicate the other social evil practices in the Hindu Society.

Ishwarchandra Vidyasagar was married when he was very young and his wife was a mere child, but in the nineteenth century it was not an exception. In 1850 Vidyasagar voiced against the system of child marriage and emerged as a rationalist reformer whose religion was humanism. Vidyasagar succeeded in passing Widow Marriage Legislation Act in 1856, but Sepoy Mutiny broke out in 1857, the whole issues of Child marriage, Polygamy were set aside for a moment, the British Government was not interested after the Mutiny to do anything which would create problems from the orthodox Hindus.

Vidyasagar's suggestion was that the sex was permissible only when the wife reached the age of puberty, sometime the girls start their menstruation cycle between 12 to 15 years. Sarbasubhakari Patrika (Periodical) published Vidyasagar's article "Balyabibaher dos' or 'Demerits of early marriage' in 1850, in the first issue of the Patrika. Vidaysagar was the man of principle and he practiced what the preached, he did not give away his own daughters in childhood. The Indian Penal Code of 1860 had fixed ten as the age of a girl below which sexual intercourse with her was regarded as rape.

Kesab Chandra Sen was against the child marriage, he requested the Government to raise the marriageable age to 14 years in 1872, it was accepted by the Government, but in reality nothing was done. One accounts of the prevalence of early marriage, there always existed in the society a large number of child widows. Conservative Hindus were not willing to accept these social reforms, they continued with the old practices.

Widows were ignored and lived miserable lives. Anandibai had become a widow at the age of eight. According to custom, she tonsured and had to live an austere life. Her second marriage was to Dr. D.K. Karve, educationalist and social reformer, when she was 28 years old. After their marriage they were socially exclude and excommunicated.

Beheramji Merwanji Malbari (a Parsi gentleman from Bombay) campaigned to increase the marriageable age of girls in 1880 onwards. He published 'Notes' on 'Infant Marriage' and 'Enforced widowhood'. He circulated 4,000 copies to get opinions of intellectuals in India and in England on this issue. He traveled aboard several times to get the sympathetic hearings from the public. He was also a journalist, and in his newspaper, 'The Indian Spectator' he vehemently opposed child marriage. He wrote that infant marriage is the cause of many social miseries, including enforced widowhood. A girl is married in infancy, in case of early death of her husband she becomes a widow, even though she is till a child and, had to live a life of an ascetic, her life is a social failure. In most cases she lived at the mercy of others. F. Max Mullter was against the child marriage. He wrote to Malbari that the custom of infant betrothal or marriage is unjust and criminal offences.

Child marriage in the 19th century was like a chronic disease, the practice of infant marriages was deep rooted in the society, was difficult for the private individuals to uproot it. Malbari was supported by the leading members of the Parsi Community and by eminent Hindu social reformers including Mahadev Govind Ranade, Gopal Ganesh Agarkar, Gopal Krishna Gokhale, R.G. Bhandarkar, Kashinath Trimbak Telang, T.M. Iyer and Ishwarchandra Vidyasagar.

Age of Consent Bill was introduced in the Imperial Legislative Council on 9 January, 1881. The Bill, which was an amendment to I.P.C. , Section 375, proposed to introduce the age from ten to twelve years. Twelve was to be considered as the Age of Consent, introduced by the Law Member, Andrew Scoble. Surendranath Banerjee supported the Age of Consent Bill on the ground that "early consummation of marriage was unknown in ancient India. It crept in after the Muslim conquest and when Hindu national life had become extinct".

The orthodox Hindus were not willing to accept this social reform because it was introduced by an alien government. There was country wide agitation in Maharashtra and Bengal. The opposition to the Bill was from Bal Gangadhar Tilak, W.C. Benerjee, Sir Romesh Chandra Mitra, Chimanlal Setalwad and others, they fiercely protested it. In spite of the legal sanction the evil practice of child marriage continued. In 1901 the Maharaja of Baroda, Gaikwar passed the Infant Marriage Prevention Act, which fixed the marriageable age in the State, for girls at twelve and for boys at sixteen.

The Sarda Act was sponsored by Rai Shahib Harbilas Sarda. The Age of Consent Committee was appointed by the Government in India to find out the question of child marriage, the Committee met at Simla in 1928, the result was the Child Marriage Restraint Act which was popularly known as the Sarda Act was passed by the Indian Legislature in 1929 and the marriageable age of girls was raised to 14 years. This act was also amended by the Act-VIII and XIX 1939, 1978 and in 1992. Sarda the architect of the act put an end to the child widowhood. It was not very effective, the conservative sections were against it, they continued with the old practice. After India got independence in 1947, again the question of child marriage was raised in the Parliament, Legislative Act was passed in 1955 the marriageable age of girls were raised to 18 years and boys at 21 Years.

CONCLUSION

Girls are now given proper education and they are married in their youth, but some villages in India are still very much backward, the illiterate villagers secretly getting their daughters married in their childhood. It is impossible to catch the culprits, they normally fiddle with their daughters' age, and these are not reported in the newspapers, society and the Government also not able to act upon these cases, they are rare but still happening, Nowadays the practice of child marriages are getting lesser and lesser in the villages, hopefully, the question of child marriage will become a thing of the past in the near future.

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