

"Realizing the Rights of Girl Child: A National Concern"

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ABSTRACT

Childhood is the best gift which the nature bestows on every individual, but often this gift of nature turns out to be a curse for many of us. A child cannot develop to be a responsible and productive member of the society unless he is exposed to an environment which is conducive to his social and physical health. Children especially girl child suffers more than her opposite counterpart because of her sexual vulnerability and so there are many offences done against her. The rights of the girl child are violated extensively and the gender bias is the root cause of such violations. There are various offences done against girl child such as prostitution, female foeticide, trafficking, rape and the social evil of child marriage. Therefore she needs special attention in both ways, socially and legally. She is discriminated, exploited and her rights are violated in every possible ways. The need of the hour is to protect and safeguard the girl child rights and provide a safe and healthy environment for her growth and development. For the purpose of protection of girl child rights, a number of law and legislation is already existing and many different agencies are working for the protection of girl child rights but still we are not able to ensure the protection of their rights.

This research paper focuses on the problem and perspective of girl child rights and legislative approaches for their protection. This paper also covers the judicial approaches for protection of girl child rights as well as the role of government and non-government agencies towards the same and thereby the paper will conclude with some suggestions.

Key Words- Child, Girl, Rights, Protection.

INTRODUCTION

Childhood is the best gift which the nature bestows on every individual, but often this gift of nature turns out to be a curse for many of us. According to the Convention on the Rights of Child, Article 1 defines "child as every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."¹ A committee set up by the

¹UNICEF, Convention on the Rights of the Child, 1989: *available at*, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (last visited on Jan. 13, 2016).

National Commission for Child Rights has adopted the United Nation Child Rights Convention definition.

The meaning of child-hood and the importance of keeping this child-hood alive in every child can be described in the words, children and childhood across the world have broadly been construed in terms of a 'golden age' synonymous with innocence, freedom, joy, play and the like. It is a time when one is spared of the rigours of adult life, responsibility and obligation. At the same time, it is also the time when children are most vulnerable, especially when they are young, because they need to be cared for and protected from the harshness of the world outside.²

Children being the vulnerable lot have the greatest chances of exploitation as against adults. Girl child suffers more than her opposite counterpart because of her sexual vulnerability. This exploitation against 'her' multiplies in countries which are socially and economically under-developed. Hence she needs special attention in both ways, socially and legally. She is discriminated, emotionally exploited as well as sexually exploited within and outside the family environment. The philosophy of the Indian society is to give un-equal treatment to that child who belongs to female sex. It is not that the society is biased towards a girl child because she is child, but it is because she belongs to female sex which is considered a weaker sex. That is why the status of the poor girl child does not improve even when she attains adult-hood or women-hood. On one hand she is revered as Goddess on other hand she is defiled. She is defiled when her soul and body, both are ravished, raped, molested and tortured. On one hand she is a source of inspiration of beautiful creations, and the same inspiration is despised in real life by the other half of the society. She is being discriminated by the same parents who have given her birth and this discrimination goes on throughout her childhood till her last breath. This poor girl child cannot even enjoy her childhood when she steps into her marital life to face the life of discriminations further. The child in her dies as soon as she arrives in this world.

PROBLEM AND PERSPECTIVE OF GIRL CHILD RIGHTS

The concept of human rights is universal concept, it does not belong to any society, culture, sex or nation exclusively. According to Section 2(d) of the Protection of Human Rights Act, 1993, "Human Rights means the rights relating to life, liberty, equality and dignity of the

²National Human Rights Commissions Committee on Missing Children, *available at*, www.nhrc.nic.in (last visited on Jan. 13, 2016).

individual guaranteed by the Constitution or embodied in the International Conventions, and are enforceable by the Courts in India.”³ It means, human rights are those rights which give us liberty and equality, and which are essential to live life with dignity. Even the Indian Constitution guarantees us with Right to life and personal liberty and so by virtue of it every individual has a freedom to live his life with human dignity. Moreover the Constitution also provides with Right to Equality so why the younger section i.e. the children should be kept devoid of these rights. Child is an important segment of human society but they have been abused and exploited in every period and every society. The problem of child abuse and child rights violation is prevalent in India and various reason for the child rights violation include lack of education, unemployment, poverty, divorced parents, prescribed stigma about the sex of the child and commercial motives. The problem of child abuse not an isolated problem the basic cause of this problem is poverty and economic backwardness of the country. The children of poor families are generally the victims of child abuse and also suffer from various other problems in childhood, they always have a negative approach towards life.

Child abuse is a kind of physical or emotional maltreatment meted out to a child. Since India is a country with multi-cultural and diverse social communities, it is difficult to draw a universal definition of child abuse in the Indian context. According to World Health Organisation, “Child abuse or maltreatment constitutes all for of physical and /or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.”⁴

In India, there has been very little understanding of the extent, magnitude and trends of the problem of child abuse, especially of the girl child. There has been major socio-economic transition in India during the last two decades. This transition has made the life more complex. Due to this, the children, especially the girl children have become more vulnerable to various forms of abuse.

³The Protection of Human Rights Act, 1993, § 2(d).

⁴ World Health Organisation, *available at*, <http://www.who.int/mediacentre/factsheets/fs150/en/> (last visited on Jan. 13, 2016).

Physical Abuse - It is the inflicting of physical injury upon a child.⁵ It includes punching, hitting, burning or any other act harming a child. If the person who has caused the injury did not even intend to hurt the child then also it would be termed as child abuse.

Sexual Abuse - It is inappropriate sexual behaviour with a child.⁶ Any kind of sexual exploitation of the child that he or she does not fully comprehend to or the child is unable to give informed consent to that activity, or a sexual act which violates the laws or social taboos of society will lead to a form of child abuse.

Emotional Abuse - It is also known as verbal abuse, menial abuse, and psychological maltreatment. It includes acts or the failures to act by parents or caretakers that have caused or could cause, serious behavioural, cognitive, emotional or mental trauma.⁷ Emotional abuse is even conducted when the parents or the caretakers use derogatory words for the child or even if the child is blamed for everything.

Neglect - It is the failure of the parent or caretaker to provide for the child's basic needs.⁸ Neglect can be of any nature it could be physical, educational or emotional. It can be caused when the parent or the caretaker fail in providing food, clothing, proper medical attention to the child or even when the child is left all alone. To a large extent, neglect and discrimination against them is socially sanctioned by the normative structure of our society which denies a girl child personal autonomy, entitlements to proper and balanced food, education, healthcare and other opportunities of growth. Unfortunately, perpetration of discrimination and tolerance for it becomes part of our personality through the process of socialisation which requires us to internalise the norms and values of our society and we rarely question and contest such discriminatory practices. As household is the ground where inequality breeds in, it is difficult to challenge these and demand equality. However, various policies of the Government of India as well as that of the State Governments are encouraging equal and fair treatment to the girl children. Hence, future might see a more equal and humane society.

Girl Child Neglect - Sometimes it is observed that in a household especially girl child is neglected, this is termed as girl child neglect. Here the girl child is kept devoid of education, shelter, health. It causes a deep harm to the all-round development of the girl child. However,

⁵Study on Child Abuse: A Report by Ministry of Women & Child Development, 3available at, www.wcd.nic.in (last visited on Jan. 14, 2016).

⁶*Id.*

⁷*Supra* note 5.

⁸*Supra* note 5.

discriminatory feeding practices further nutritionally impoverishes the girl vis-à-vis boy. For the girls, the nutritional intake is relatively inferior both in terms of the quality and the quantity. Boys are given relatively more nutritious food, especially if the family is poor and is not in a position to provide nutritious food to all the children. The scarcely available food is provided first to the boys and the remnant is served to the girls.

Educational Neglect- It includes the failure to provide proper schooling or educational needs of the child. Indian society strongly upholds the family value and culture and has given much importance to the position of parents in the family. But unfortunately the Indian society like most other societies across the world is patriarchal in structure, where the chain of command is definite and inviolable. In such power structure, parents consider their children as their property and assume a freedom to treat them as they like. In patriarchal Indian society, the parents adopt harsh methods of disciplining the children and there is little or no opposition to this harshness. This harsh method adopted by the parents often become too harsh and rough for the child to handle it and this leads to the emotional breakdown of the children. It is also true that parents are the ones who are the maker of the child and takes the duty of the development of the child but often this duty is misunderstood by the parent and so the method adopted by them is too brutal to be handled and therefore it takes the shape of child abuse.

Abuse and violence against girls in the society may contribute to the development of dysfunctional behaviour, depression, anxiety, eating disorders, somatization disorders, etc. Discrimination and neglect can result in lowered self-expectations, negative attitude toward self, lack of initiatives, and so on. Many a times on probing further, the symptoms can be conceptualized as exaggerations or stereotyping of female gender roles and sex-typed behaviours. It is also documented that girls tend to somatise and dissociate more owing to their status in authoritarian patriarchal society.

Child Neglect: Critical Concerns⁹

- (a) Every fifth child in the world lives in India.
- (b) Every third malnourished child in the world lives in India.
- (c) Every second child in India is underweight.
- (d) Three out of four children in India are anaemic.

⁹*Supra* note 5.

- (e) Decline in female/male ratio is maximum in 0-6 years: 927 females per 1000 males.
- (f) Birth registration is just 62%.
- (g) Retention rate at primary level is 71.01%.
- (h) Girl enrolment in schools at primary level is 47.79%.
- (i) Infant mortality rate is as high as 58 per 1000 live births.

DISCRIMINATORY PRACTICES AGAINST GIRL CHILD

The rights of the girl child are violated extensively and the gender bias is the root cause of such violations. The reason for this discrimination include among other things, harmful attitude and practices, such as female genital mutilation, son preference, female infanticide and pre-natal sex determination, early marriage, sexual exploitation, discrimination against girls in food allocation and other similar practices related to health and well-being of the girl child.¹⁰

Preference for a Son

The preference for a son is a phenomenon which is historically rooted in the patriarchal system of the Indian society. The strong preference for having a son emerged with the transition of the Indian society from primitive stage which used to be primarily a matrilineal to feudal stage where agriculture emerged as the primary established occupation of the people to be controlled by the male. The concept of private property emerged and the land began to be divided among the families. The families having control over the larger part of land were seen with pride. Thus, in such a patriarchal landowning society the sons were seen as the major contributor to the family workforce as compared to girl.

The desires for a son often have an adverse effect on the health of the mother also. All these issues gradually led to the neglect of the female child who are often related to the background even in the present day Indian society.

Societal Violence against Girl

The communities and societies in India in most of the places are bound up with patriarchal normative universe from which girl could hardly get true justice. The religious communities, village communities or the artificial communities like professional bodies are hardly epitome

¹⁰Flavia Agnes, *Law and Gender Inequality* 71 (Oxford India Press, New Delhi, 2nd ed. 1999).

of equality between boy and girl. Quite often the religious communities have made the life of the girl worse by forcing them to adopt conservative practices that are harmful and violating basic human rights of the girl child from the start of her life till her death.

Foeticide and Infanticide

The child is exposed to gender differences since birth and in recent times even before birth, in the form of sex-determination tests leading to foeticide and female infanticide. If a girl child opens her eyes in any way, she is killed after her birth by different cruel methods in some parts of the country. In India, boys are always assumed to be superior to girl child and are given more preference.¹¹ The determination of sex of foetus, and the resulting foeticide are due to illegal tests being conducted at various labs which thrive more in urban areas wherein in the less privileged rural area, where foetal sex determination is still not popular, brutal acts of infanticide take place.¹²

Child Marriage

Child marriage has been traditionally prevalent in India and continues to this date. Discrimination against the girl begins even before their birth and continues as they grow. According to the law, a girl cannot be married until she has reached the age of 18 but the girl in India is taken as a burden on the family. Sometimes the marriages are settled even before the birth of the child. Parents believe that they marry girls at an early age so as to avoid the risk of their unmarried daughters getting pregnant. This shows that the reasons for child marriages in India are so baseless. Basically, this phenomenon of child marriage is linked to poverty, illiteracy, dowry, landlessness and other social evils.

Child Trafficking

Child trafficking is about taking children out of their protective environment and preying on their vulnerability for the purpose of exploitation.¹³ Trafficking violates child's right and exposes them to dangers in their life. In India large numbers of children are trafficked not only for sexual exploitation but for various form of exploitation such as labour, marriage, adoption and illegal activities like organ trade, begging and drug peddling.

¹¹ Agnes, *supra* note 10, at 85.

¹² S.R. Chundakath & V.B. Athreya, Female Infanticide in Tamil Nadu: Some Evidence, Economic and Political Weekly, 1997.

¹³ International Labour Organization, Trafficking in Children, *available at*, <http://www.ilo.org/ipecc/areas/Traffickingofchildren/lang--en/index.htm> (last visited on Jan. 14, 2016).

Child Prostitution

Child prostitution and involvement of a large number of girl child for flesh trade is the most serious manifestation of child abuse. Young innocent girls are kidnapped and sold either to men who are not able to get spouses in life, or to the owner of a brothel who purchases these girls and brings them up till they are grown up, where upon they are treated as objects in the market of women flesh. The sale is not limited to one course. It is a process and girl child are sold from one person to other in the hope of getting higher rates.¹⁴

LEGISLATIVE APPROACHES FOR PROTECTION OF CHILD RIGHTS

Today there is a growing concern about the rights of children and recognition of the need to protect them from neglect and abuse as child abuse has become one of the major problems all over the world. The Indian legal system has some relevant provisions for Child Right's Protection. Our Constitution incorporates many commitments for protection of human rights for children even without any specific references to child rights.¹⁵ It is the fundamental right of the children to have a happy and healthy childhood free from abuse and exploitation.

Article 14 of the Constitution of India guarantees equality before the law and equal protection of the law to all persons. Article 15 specifically states that no person shall be discriminated against on the grounds of sex and further provides for affirmative action by the state, which can make special provisions and laws for women and children. Laws in violation of these fundamental rights can be challenged and are liable to be struck down by the courts. The state's obligation to enact laws conforming to fundamental rights is specifically stated in Article 13 of the Constitution. Article 21 assures every person right to life and personal liberty. The right to life enshrined in this Article 21 means something more than survival and mere animal existence.¹⁶ The word life occurring in this Article 21 also includes education and thus every child should be guaranteed free and compulsory education between the ages of six to fourteen years. Trafficking in women and children is prohibited by Article 23 and is a fundamental right against exploitation. Additionally, the Directive Principles of State Policy under the Indian Constitution are meant to guide government policy. These directives include Article 39 (e) and (f), which state that children shall not be abused, and that they shall have

¹⁴ International Labour Organization, Commercial Sexual Exploitation of Children, *available at*, <http://www.ilo.org/ipec/areas/CSEC/lang--en/index.htm> (last visited on Jan. 14, 2016).

¹⁵ Dr. J.N Pandey, Constitutional Law of India 350 (Central Law Agency, Allahabad, 52nd ed. 2015).

¹⁶ M.P. Jain, Indian Constitutional Law 1228 (LexisNexis Butterworths Wadhwa Nagpur, Gurgaon, 6th ed. 2011).

freedom, dignity, and protection against exploitation.¹⁷ Additionally, Article 45 provides that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Provisions under Indian Penal Code with Specific Reference to Offences against Girl Child

Indian Penal Code is divided into a number of chapters dealing with different kind of offences. There is no separate chapter on offences against child. Chapter XVI of the Indian Penal Code deals with offences affecting the human body which includes a few sections dealing with offences against the children.

(a) Act done with intent to prevent child being born alive or to cause it to die after birth **(Section 315).**

Foeticide and Infanticide are the two heinous crimes which violate the right to life of a child. This Section 315 of the Indian Penal Code deals with these offences. The definition of this section gives stress on the factor of intention of the person who has committed the act in question. This provision is meant to prevent infanticide/foeticide declaring it to be an offence punishable with imprisonment for maximum term of ten years.¹⁸

(b) Exposure and Abandonment of child under twelve years, by parent or person having care of it **(Section 317).**

If a child is exposed to difficult circumstances or abandoned to survive on himself/herself, it is violation of his/her right to survive. Section 317 of the Indian Penal Code deals with these kinds of acts. This section is meant to prevent the abandonment or desertion of the child by the parent. This section can be useful under the circumstances when it is applied on agencies running children's home.¹⁹

(c) Concealment of birth by secret disposal of dead body **(Section 318).**

This section deals with the situation of burying or disposing off of dead body of a child in a secret way. The death of the child might had occurred either before or after or during the

¹⁷ *Id.*

¹⁸ The Indian Penal Code, 1860, § 315.

¹⁹ The Indian Penal Code, 1860, § 317.

birth. This act of concealing the death is in continuation of violation of right to life and right to survive of a girl child.²⁰

(d) Causing miscarriage (**Section 312**).

Miscarriage is the premature expulsion of the child or foetus from the mother's womb before the period of gestation and an inherent exception in this section which keeps an 'an act of miscarriage caused in good faith to save life of the woman' out of its purview which makes difficult to distinguish between good faith and the ill-intention of the person causing it.²¹

Selling of minors for purposes of prostitution, etc. (Section 372) and Buying of minors for purposes of prostitution, etc. (Section 373).²² Forcing a woman into prostitution is violation of her right to live with dignity. In both the cases of buying or selling for the purpose of prostitution, etc. declaring it to be an offence with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

The Pre-Natal Diagnostic Techniques [Regulation and Prevention of Misuses] Act, 1994

The Statement of Objects and Reasons of the Act proposes to prohibit pre-natal diagnostic techniques for determination of sex of foetus leading to female foeticide. According to Section 6(a) of the said Act the determination of sex at any 'genetic counselling centre', 'genetic laboratory' or 'genetic clinic' has been prohibited.²³ The communication of the sex of foetus is also made an offence under the provisions of this Act.²⁴ The publication or distributions of any advertisement in any manner regarding facilities of pre-natal determination of sex available at any place is also prohibited.²⁵ It is an offence wherein the punishment may be awarded with imprisonment up to three years and with fine which may extend to ten thousand rupees²⁶, and on any subsequent conviction the imprisonment may extend to five years with fine which may extend to fifty thousand rupees.²⁷

The Prohibition of Child Marriage Act, 2006

²⁰ The Indian Penal Code, 1860, § 318.

²¹ The Indian Penal Code, 1860, § 312.

²² The Indian Penal Code, 1860, §§ 372-373.

²³ The Pre-Natal Diagnostic Techniques [Regulation and Prevention of Misuses] Act, 1994, § 6(a).

²⁴ The Pre-Natal Diagnostic Techniques [Regulation and Prevention of Misuses] Act, 1994, § 5(2).

²⁵ The Pre-Natal Diagnostic Techniques [Regulation and Prevention of Misuses] Act, 1994, § 22.

²⁶ The Pre-Natal Diagnostic Techniques [Regulation and Prevention of Misuses] Act, 1994, § 22(3).

²⁷ The Pre-Natal Diagnostic Techniques [Regulation and Prevention of Misuses] Act, 1994, § 23.

The above titled Act is reincarnation of Child Marriage Restraint Act, 1929. The Statements of Objects and Reasons of the Act of 2006 states that there has been growing demands for making the provisions under the old Act more effective and the punishment there under more stringent so as to eradicate or effectively prevent the evil practice of solemnization of child marriages in the country. The most debating question on the topic is, what should be the status of child marriage?

The old Act has not declared it to be null or void. But, under provisions²⁸ of the said Act, it could be declared or deemed to be null and void under certain circumstances. A child marriage that had been solemnized under any of the given circumstances in the Act shall be considered as null and void. A child marriage that is not void ab-initio is declared to be voidable at the option of the 'contracting party'²⁹ to the marriage.³⁰

If a child marriage is declared to be null and void, it may be compared to a marriage that has culminated into divorce. It would be difficult for the parents to get their girl child married again later on and she will be considered as a bigger burden by the parents. This society would prove to be cruel for the girl child under these circumstances. Such fallouts too should be considered first before a Court goes for declaring child marriages null.

The Protection of Women from Domestic Violence Act, 2005

There are few measures in the Act which are meant especially for children only. Section 18(c) of the Act states that the Magistrate can pass the protection order restraining the respondent, i.e. against whom the complaint is made, from entering the school of the child or the place which is visited frequently by the child. The Magistrate can pass the monetary relief order as well for maintenance of children of the victim.³¹ It means that the Act recognises that the child too can be victim of domestic violence.

The Juvenile Justice (Care and Protection of Children) Act, 2000

The above titled Act suggests that besides giving care and protection, it aims at giving justice to the juveniles.³² The enactment of this Act is recognition of the fact that the society is ignorant of the rights of the child, especially of those who are neglected or who are in conflict

²⁸ The Prohibition of Child Marriage Act, 2006, § 12.

²⁹ The Prohibition of Child Marriage Act, 2006, § 2(c).

³⁰ The Prohibition of Child Marriage Act, 2006, § 3.

³¹ The Protection of Women from Domestic Violence Act, 2005, § 20(1).

³² The Juvenile Justice (Care and Protection of Children) Act, 2000, § 2(k).

with law. The Statement of Objects and Reasons of the Act states that more attention is required to be given to children in conflict with law or those who are in need of care and protection. It also recognises the urgent need for creating adequate infrastructure so this Act could be implemented effectively.

The Act provides for the establishment of observation homes³³ and special homes³⁴ for juvenile who is in conflict with law. The Act does not provide that there should be separate homes for the girl juveniles. There is every chance that the girl juveniles are physically exploited by the fellow boy juveniles, hence there is need of separate observation homes and separate homes for the girl juveniles.

JUDICIAL APPROACHES TO THE RIGHTS OF GIRL CHILD IN INDIA

As we have already read above the various legal provisions regarding the rights of girl child in India. So any non-compliance of those legal provisions or harming the girl child can lead to an infringement of girl child rights. There is no issue concerning children that is not potentially in some way related to child protection. Often, protection concerns lie hidden beneath the surface of issues that seem unrelated. For example, the concern of lack of sanitation in schools is intertwined with safety of girl students who may be vulnerable to sexual abuse. Further, it acts as a barrier in coming to school adversely affecting their right to education. Thus child protection links closely to all aspects of children's well-being and is very much a concern for courts today. Child protection means protection from abuse and violence. There are various judicial decisions where the judiciary has laid a strong emphasis on the enforcement of girl child rights.

In **People's Union for Democratic Rights v. Union of India and Others**³⁵, the scope and nature of Article 32 and 22, 26 of the Constitution of India in ensuring basic human rights to poor and weaker sections of community was explored and explained by the Supreme Court. The relevant question raised in this Public Interest Litigation was whether the construction industry being hazardous employment come within the meaning of Article 24 of the Constitution of India in context to Employment of Children Act, Section 26 of 1938. The Court averred that the State or the public authority too should be interested in ensuring basic human rights, constitutionally as well as legal, to those who are in a socially and

³³ The Juvenile Justice (Care and Protection of Children) Act, 2000, § 8(1).

³⁴ The Juvenile Justice (Care and Protection of Children) Act, 2000, § 9(1).

³⁵ People's Union for Democratic Rights v. Union of India and Others, A.I.R. 1982 S.C. 1473.

economically disadvantaged position. This way the Court tried to make public authorities responsible in case there is violation of any constitutional provision. This judgement could be used for enforcement of any provisions regarding labour law, in case any girl child is employed under hazardous condition.

The flesh-trade has been a blot on the society which destroys all social and moral values causing the serious consequence out of which none can gain. In a Public Interest Litigation filed by an Advocate seeking issuance of directions to the Central Bureau of Investigation for the satisfactory solution to eradicate the flesh trade. The Court deciding the fate of the PIL called the trade of prostitution as malign and the victim as helpless and hapless. The Court called for a comprehensive strategy to weed out this type of abuse against children. The strategy includes devising a legal regime by carving out provisions from Constitution, Immoral Traffic (Prevention) Act, 1956 and other allied laws which can jointly cap the cancerous growth of sexual exploitation of children. Thus the Court called for obligations from, both the governments, Central and State governments, to safeguard the interest and welfare of the children especially the girls of this country, and to evaluate various measures and implement them in the right direction.³⁶

The rape of a woman especially that of a girl child, is a crime that shakes the nerve of every human being if he is human. The Courts have reacted to this sensitive issue in very harsh manner and has not hesitated in granting capital punishment. As in **Dhananjay Chatterjee v. State of West Bengal**³⁷, the accused/appellant was convicted and sentenced for rape and murder of a young girl of eighteen years of age. The Supreme Court upheld the conviction while terming that the offence was not only inhuman and barbaric but a totally ruthless crime of rape followed by a cold blooded murder and an affront to the human dignity of the society. While justifying the conviction, the Court opined that the measure of punishment in a given case must depend upon the atrocity of crime, the conduct of the criminal and the defenceless and unprotected state of the victim. The savage nature of the crime has shocked the judicial conscience, hence the death sentence was confirmed by the Supreme Court.

ROLE OF GOVERNMENT AND NON-GOVERNMENT AGENCIES IN PROTECTING RIGHTS OF GIRL CHILD IN INDIA

³⁶ Vishal Jeet v. Union of India, A.I.R. 1990 S.C. 1412.

³⁷ Dhananjay Chatterjee v. State of West Bengal, (1994) 2 S.C.C. 220.

A girl child is the most in need of getting help out of her family environment, she should get help from other outside agencies too. The agencies which can help the girl child are governmental or non-governmental. Hence, the significance in promoting welfare of the girl child. The issue of violence against the girl child has until now been a low priority for the Indian government. For there to be any real and lasting change for the girl child, not only do policies and laws need to be changed, but economic and social realities must also be altered and poverty reduced so that the violation and neglect of their health and rights are no longer realities for the girl child.

NGO's are mostly constituted by social-workers. These social-workers organised themselves to run an agency. These organisations are established by such people who have either experience or seen the ground situation of those whom they want to help them. On the other hand the government also looks for the benefit of the under-privileged persons and so establishes government agencies for the welfare of the society. These government agencies are a part of the government policy to help out the needy and under-privileged peoples.

The goals of social welfare agencies is to help out the needy persons. Their objective is to make them self-sufficient so that they themselves could do something for earning their livelihood. The strategy of these agencies is always to make a core group of dedicated people who would work at grass root level while involving the target group as well as other stakeholder, in all dimensions, social, economic, cultural, etc. Money always plays an important role in the working of an organisation. The government agencies are financed by the government but the NGO's are either self-financed or financed by the government or International agencies.

According to NGO's and government agencies people, it is always difficult to work with society people as they resist their favourable approaches to them. These activists always find lack of trust among society people towards themselves. They find adversarial reactions of the society to any change, especially relating to their social-cultural environment, supported or advised by the social activists.

GIRL CHILD RIGHTS: TASK FOR THE STAKE-HOLDERS

The existing social culture, including politico-religio-cultural-economics structure, of our society is not so conducive that majority of the girl children population could enjoy their rights. The existing legal framework, including implementing mechanism, is neither

sufficient nor penetrative enough to protect the rights of girl child from being violated. The remedial mechanism, including welfare mechanism, too has deficiencies hence it fails to bring desirable results.³⁸

The rights of a girl child are violated in each and every section of the society, be it poor, middle-class, or rich class section. Somewhere she is exploited physically, somewhere she is exploited mentally, and somewhere she is exploited in both ways. She has to face bias and prejudices within the familiar structure in one form or the other form. The family violates the rights the most. The maximum number of incidences of violation of rights of girl child takes place within the family environment. The poor girl child has to face a number of discriminatory incidences within the family household.

State fails in its primary duty of providing health and education facilities to children. The infrastructural facilities in schools are poor. The poor hygienic facilities in schools violate their right to clean environment. School teachers who are part of state establishment too violate the rights of girl children.³⁹ They violate their right against sexual exploitation. There is poor implementation of the existing legal provisions. The programmes being run by both, the government organisations and the NGO's are insufficient to improve the status of girl child. There is found lack of coordination between government agencies and the non-government agencies.

TASK FOR THE FUTURE: A CONCLUSION

The need of the hour is to protect and safeguard the girl child rights and provide a safe and healthy environment for her growth and development. For the purpose of protection of girl child rights, a number of law and legislation is already existing and many different agencies are working for the protection of girl child rights but still we are not able to ensure the protection of their rights.

The primary responsibility of taking care of the girl child and protecting her rights lies with the families which includes the lawful guardians. The communities and the civil society too have responsibility towards the girl child. The overarching responsibility is that of the state to

³⁸ *Supra* note 5.

³⁹ C.N. Shankar Rao, *Sociology: Principles of Sociology with an Introduction to Social Thoughts* 820 (S. Chand & Company, New Delhi, 7th ed. 2015).

create a protective environment and provide a safety net for children who fall into vulnerable and exploitative situations.⁴⁰

Child protection is a shared responsibility of the parents, State and the society. There is always need of synergy among efforts of all these stakeholders. Better coordination at national, state, district and block levels for any rescue operation and rehabilitative measures should be made. Since the existing awareness spreading mechanism has failed to bear fruitful results, new and more innovative methods should be adopted to keep the momentum of awareness campaigns at optimum.

The school education system should help a child build his/her personal character. The character building includes inculcating the morals, values and ethics and it would lead to respect all forms of life, especially the girl child.⁴¹ The feeling of being a responsible citizen should be inculcated in one and all and should know his responsibility towards the deprived people which includes the rights of girl child.

Since, majority of abuses take place within family, there is more need of giving counselling, medical treatment and legal support from experts to the victims. The service delivery mechanism should be strengthened. The social welfare departments of the local government should take care of this responsibility.⁴² An effort should be made to bridge the gap between the legal provisions and their interpretation as made by a common man. The socio-legal provisions should be made in the simplest term so a lay man too could understand the meaning of that term. These efforts should be made by the local society/community leaders as well as by the activists themselves. The existing law implementation mechanism should be made stronger, so it may earn trust, confidence and faith of a common man. Legal provisions too earn respect in the eyes of a common man with backing of strong law implementation authorities.⁴³

The issue of violence against the girl child has until now been a low priority for the Indian government. For there to be any real and lasting change for the girl child, not only do policies and laws need to be changed, but economic and social realities must also be altered and poverty reduced so that the violation and neglect of their health and rights are no longer realities for the girl child. Therefore, for any kind of inclusive growth, child population of the

⁴⁰Jain, *supra* note 16, at 1224.

⁴¹Rao, *supra* note 39, at 828.

⁴²Agnes, *supra* note 10, at 112.

⁴³Pandey, *supra* note 15, at 226.

country needs adequate assimilation. Besides, these efforts must pay due attention to the gross disparities and the ground realities of the country. Disparity between girls and boys, between girls and boys belonging to various castes and classes, disparity between girls and boys belonging to different regions of the country must be taken into account for giving girl children their due position in India.

We may dream of bringing the true meaning of childhood, i.e. an age of innocence, freedom, joy, play and the like, alive in every girl child. In this world of childhood, she is spared of any kind of responsibility, obligations, or fear but this is possible only when, we all give her care and comfort and protect her from the harshness of this cruel world which is alien for her world of childhood.⁴⁴

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.

⁴⁴ Agnes, *supra* note 10, at 140.