

## PROTECTION OF GIRLS AND THEIR RIGHTS<sup>1</sup>

(Shantha Sinha)

*"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 your self melt away." Mahatma Gandhi. 1948.*

It is indeed a great privilege to deliver the address in Punjab University on 'Girl Child- The Right to Dignity'.

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. We have made strides in economy that has attained a growth level of 8-9% 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 marginalised 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.

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<sup>1</sup> This keynote address was given at the Symposium on "Girl Child - The Right to Dignity" organized by Punjab University, Chandigarh as part of their Diamond Jubilee celebrations, on 25 January 2008.

## **What is the predicament of girls in India?**

### UNWANTED FEMALE FOETUS AND INFANTICIDE

The 2001 Indian census found that overall there are 927 girls for every 1,000 boys. The figures are shocking if it is further disaggregated at the sub-district level. Many districts report as few as 800 girls for every 1,000 boys. According to 2001 Census, in Punjab, the sex ratio (zero-six age group) declined from 875 to 793 (a decrease of 82 points), in Haryana from 879 to 820 (-59 points) in Himachal Pradesh from 951 to 897 (-54 points), in Gujarat from 928 to 878 (-50 points), in Chandigarh from 899 to 845 (-54 points) and in Delhi from 915 to 865 (-50 points). There is no doubt that with the scanning machines proliferating in other districts, the trend in adverse sex ratio would show an increase soon.

Thus the problem of the girl and her being unwanted begins even before she is born with growth in sex selective abortions i.e. female foeticide. She is not even allowed to be born to start enjoying all her other rights! In an effort to combat sex-selective abortions, the Government of India passed a legislation in 1996 banning prenatal sex determination through ultrasound. However, this law has done little to change the disturbing trend of missing girls. The hope is in the efforts of some as in the case of Nawanshahar district in Punjab where the District Collector Krishan Kumar built an atmosphere where "The birth of a girl is celebrated by the community. All new born baby girls and their parents come together and are feted. Whatever the name given by the families, girls born on a particular day are given the same name - Hasiparan and Navjyot to name two - by the District Collector. However, the death of a foetus through a surreptitious abortion is mourned by the community, outside a home or clinic. There is no slogan shouting just a peaceful, dignified shokh sabha that embarrasses those who have eliminated the female foetus illegally and sends out strong messages to the rest of the community.... (Usha Rai)".<sup>1</sup>

### GIRL'S HEALTH AND MALNOURISHMENT

There is much to speak of the troubles of infants once they are born. The infant mortality rate stands at 57 of every 1000 children before they reach the age of one year. 46% of children under-three are underweight according to the recent Report of NFHS and it remains at the same level even after several years without any improvement. Almost 80% (79.2% - NFHS 3) children in the age 6-35 months are anaemic. There is no guarantee that she will be born and will survive, and if she does survive, she would be given adequate nutrition and health care, environment and stimulus to grow and enjoy all her entitlements. About 300,000 girls go "missing" in India each year.

Simultaneously one is witness to the cases of infanticide in the country. Reports from Dharmapuri, Salem and, Madurai have shocked the nation on this account. Last week we read the news of a doctor who has admitted to illegally aborting 260 female foetuses, after the police finding dozens of tiny bones in the basement of his maternity clinic in Gurgaon.

Thus we find that programs and policies for infants and young children are woefully weak, lacking in seriousness about protecting their rights. The tragedies of infants being abandoned

by poor parents is an indication of a collapse of all the institutions that are designed to take care of children especially girls

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 favor 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.

In this regard one must look at the significant work done by agencies such as the Indian Red Cross in Punjab. Further it is necessary to have strong voices in the civil society from the religious groups. The SGPC's statement that the Sikh code of conduct does not approve of girls being seen as unequal and their dignity has to be protected as a moral and spiritual act must make a difference. It is time that all other religious groups join hands in this campaign and the political parties too came up with a code of conduct for all its members.

## 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 head aches 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 labor 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 labor 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.

Many NGOs such as the MVF in Hyderabad have shown how against all odds such girls have come out the labour force and join schools in large numbers. These girls were from the tribal pockets, coastal areas, quarrying and mining and thousands of villages in Andhra Pradesh, Madhya Pradesh, Bihar, Maharashtra, and Tamil Nadu and so on. Many of them have completed class 10 and are pursuing higher education.

Significantly, all these girls could join schools due to their own heroic battles for their freedom and dignity. It needed only a ray of hope and an honest appeal, for thousands of girls to assert their rights. Once a campaign in their favour began, and a serious message was sent that their education would be encouraged and supported, children started to rebel. They had their own ingenious devices of protest. Many a girl, stopped talking, threw tantrums and cries, sulked and did all that they could to get out of work and into schools. They were even instrumental in standing by other girls, giving them support to rebel and join schools. Thus they paved the way for future generations of children and their right to education in the country.

## 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.<sup>ii</sup>

It is not uncommon to find children being forced to abandon their homes to join workforce in far away distant lands under conditions of exploitation in Andhra Pradesh. From the very start of the transaction between the parents and the prospecting middlemen, children refuse to accept the idea and just do not want to leave their homes, even if poor. They do not like to hear the accounts of middlemen when they are at home to convince their parents on how their children would be better off with more clothes, more food perhaps better than their own homes, that they would learn a skill and be capable of earning some money become self-reliant. They want their own family's environs and the cosmos in which they learnt to talk, walk run, and make friends. Children resist and those who pick up the courage to protest are reprimanded and beaten up. Parents are unwilling to renege on the commitment made to the middle men as they do not want to lose creditability and fear their power. Thus starts the journey of resistance of children into a labour force which kills their soul ultimately and perhaps with concerted action would allow them to be rescued to enjoy freedom.

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.

They have no access to their families and the latter are seldom given the correct address. Many a child has made attempts to escape from these extreme forms of exploitation and suffering, fought many an individual battle at every step-while being transported in crowded trains, on trucks and jeeps; while staying in dark accommodation in transit; and after reaching the work place, so alien and unfriendly. Since they have no idea of the new place, its address and how to get back home, they are stuck. They often fail in their endeavors due to lack of any institutional help in crucial times and spaces. Children thus are erased from the village, go missing for years together, and are lost for good.

The absence of a norm that respects children and tracks their well-being, lack of school facilities and sensitivity of the school system to embrace all children in the village giving them their right to education, lack of a process in the village involving the local bodies, community and police that is alerted to action each time a child is missing from the village, lack of fear among the employers and middlemen enabling them to recruit children and lack of action by law enforcing officers subject them to inhuman conditions are some of the factors that foster child trafficking.

Due to inadequate institutional arrangements for a child who is rescued from trafficking, the state has further violated the rights of trafficked persons. Often times such children are not seen as victims but as perpetrators of the crime, and treated in a most inhuman manner. Since there are no clear protocols for post rescue operations by the authorities concerned, rescued children are not given shelter, their statements do not get recorded in a friendly fashion, and when they are presented before the Child Welfare Committee (set up under the JJ Act) or to depose before the magistrate under the Bonded Labour Act, or taken charge of by the labour department under the Child Labour (Prohibition and Regulation Act) they are not taken into confidence and are subject to another round of uncertainty and fear. The entire procedure of rescue is in itself a violation of human rights that children have inevitably been deported back into the hands of traffickers. Failure to provide adequate care or protection to child victims, or failure to provide access to redress and compensation through the justice system many governments, in fact, "re-victimize" the victim, by treating them as criminals, failing to protect their dignity during court procedures, or by not providing essential services and protection in the aftermath of trafficking.

## CHILD MARRIAGE

The consequences of child marriages on the health, education and well-being of the couple, especially the girl child are well researched. It is seen that the infant mortality rate, neo-natal mortality rate, incidence of low birth weight babies, maternal morbidity and mortality etc are all much higher when the mother is an adolescent compared if the mother was older than 21 years of age. The World Health Day was celebrated on the 7<sup>th</sup> of April, with the theme "Make Every Mother and Child Count". The World Health Report 2005 puts India among the list of "slow progressing" nations as far as infant and child mortality and maternal mortality is concerned. Further, Andhra Pradesh is lagging behind the other southern states in this regard.

It is found that many girls are married at a tender age, even before they discovered themselves as young adults and experienced growing up as adolescents. They become victims

of abuse, both physical and emotional as young mothers. Not every pregnancy is safe for these young girls nor is the delivery and survival of infants without risks. In a study conducted by the activists of MVFoundation in Nalgonda district on the consequences of early child marriage, it was found that out of 70 children there were three girls who committed suicide, seven miscarriages, and three children returned home due to ill-treatment and are suffering from mental depression, four have separated and only two have rejoined schools. In this atmosphere, it is rewarding to note that several girls could resist marriages, withdraw from work and continue their education in Ranga Reddy district and in Nalgonda. The Child Rights Protection Forums gave them ample support and this too helped in the girls being determined to study.

It is therefore important to have a sustained campaign that works towards improving the status of girls and women. It requires building of sturdy processes at all levels of the government especially through the departments of women and child welfare, panchayat raj, police and education, to constantly review the issue of child marriages and send a serious message that early child marriage is against the law and unacceptable. There must also be an active involvement of the panchayat raj institutions as well as the local NGOs and youth groups who would bring to the notice of the government specific instances of child marriages and making sure that action is taken to rescue the girl from marriage. On the whole there must be an institutional framework to facilitate such processes and monitoring child marriages and assessment of the same.

There must be an emphasis that 12-14 year olds were not 'old children' and they too could get back to school. The names of girls who were married and below 14 years are often ignored and not even mentioned as eligible candidates to go to schools. It must be insisted upon that even if they were daughters-in law they have a right to education and must continue to go to school.

#### WHAT MUST BE DONE?

We must first of all accept that the country has not done enough for its children, especially for the girls. The reason for such gross violation of the rights of the girls is in the absence of a social norm in favour of her survival, dignity and education. The country has to feel a sense of shock and outrage that there is the practice of female foeticide and infanticide. No modern, cultured nation can be called civilised if it continues to tolerate such a perpetration of violence on its 'un-borns' and 'new borns'. The government too must ensure that children are protected and make available all the institutions function to give security to these children.

There has also to be a campaign against child labour and an argument for its total abolition. In emphasising on abolition of child labour in 'hazardous' industry alone girls are left out. The middle classes must abide by the law and not employ girls as domestic servants. They should know that they are violating the Constitution and its provisions for right to education in giving employing girls. They have to give a lead as protagonists of child rights. Armed with such an atmosphere, there could be pressure built to rescue girls from child labour, child trafficking and early marriages.

The government too must be more committed about its policies on abolition of child labour. Girls' work which is hidden and invisible, that keeps them out of school and renders them illiterates, must be recognised as child labour. Every effort must be made to rescue them from

work and marriages. There has to be abundance of schools at all levels, colleges, hostels and all other educational facilities. Timely and substantial scholarships must be offered to those pursuing education. Short term, adhoc programmes offering sops and incentives in the nature of offering fixed deposits to encourage girl children will not suffice. Nor even some vocational courses, tailoring and doll making or livelihood schemes be enough.

There are several young children, who have taken courageous steps to defy the authority in the family and society to get away from marriages and join schools. Such children are to be encouraged and given full support. For in their success lies the future of girls in our country.

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<sup>i</sup> Usha Rai, 'Recovering the girl child -Nawanshahr tackles female foeticide' *The Tribune*, Monday, May 29, 2006, Chandigarh, India.

<sup>ii</sup> Quoted from *Integrated plan of action to prevent and combat human trafficking with special focus on children and women*