



# WHY IS CHILD MARRIAGE STILL PREVALENT IN INDIA

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## Introduction

According to Indian family law, minimum age for marriage is 18 years for girls and 21 years for boys. However, universally, legal age for marriage is 18 years for both males and females. In Indian society, it is widely acknowledged that play a pivotal role in the social, cultural, and economic growth. Klasen & Pieters argue that child marriage can impact female labour force participation in various ways. This includes a decrease in the expected benefits of paid employment due to lower levels of education, as well as an increase in the importance of unpaid household work due to higher fertility rates over a woman's lifetime. An analysis of child marriage interventions reveals that it is essential to make changes to the legal and regulatory environment.

UNICEF states that for many girls, school serves as more than just a means of receiving formal and informal education. It also provides them with an opportunity to cultivate social skills, establish networks, and create support systems. This enables them to actively participate in community affairs and engage in various activities. Young girls who get into marriage at an early age are often separated from their helpful social connections and confined to their new home after marriage.

## WHY IS CHILD MARRIAGE STILL PREVALENT IN INDIA?

While legal instruments unequivocally assert that child marriage is unacceptable, the reality on the ground often presents a stark contrast. Child marriage is a complex issue fraught with contradictions. For example, while consensual intercourse with underage girls is considered statutory rape, similar acts within the context of marriage often escape condemnation under the guise of marital union. This practice flagrantly violates the rights of the girl child, who, by law, is entitled to freedom from discrimination, degrading treatment, slavery, and exploitation. Despite the array of legal protections derived from international human rights law, constitutional guarantees of gender equality, and gender-sensitive legislation, the sad truth is that effective implementation remains lacking.

### 5.1 Legal and policy related causes

The legal and policy-making systems are failing for two primary reasons: the absence of feminist perspectives in both lawmaking and policy formulation, and the inadequate implementation of existing legal provisions and policies.

Child marriage continues to persist due to the significant lack of female representation in the lawmaking process. As a result, laws and their enforcement predominantly reflect male-centric viewpoints, with a noticeable absence of feminist methodologies. Incorporating feminist approaches into the legislative process is crucial for ensuring that laws are inclusive and sensitive to gender issues, which are essential for addressing the realities of women's lives. Without considering gender perspectives, laws often overlook the full impact they have on women and girls.

Moreover, despite the theoretical capacity of existing legal frameworks to address child marriage, their implementation remains severely lacking. The failure to translate laws into effective practice renders them ineffective and essentially non-functional. Nevertheless, there is potential for various legal streams to converge and create comprehensive measures for preventing and penalizing child marriage.

Despite these challenges, framing child marriage concerns within the framework of human rights principles offers pragmatic solutions. This approach legitimizes strong penalties for violations of laws and policies aimed at preventing child marriage. By addressing child marriage as a human rights violation, it becomes a matter of significant public concern rather than a private issue within families<sup>1</sup>. Viewing child marriage through a human rights lens highlights its disproportionate impact on girls and underscores the inherent inequality faced by women and girls before the law.

In rural communities, poverty often exacerbates the issue of child marriage. The lack of family planning is prevalent, driven by the belief that more children mean more available labor. When families are forced to choose between educating their sons or daughters, they frequently prioritize the education of boys, assuming that sons will remain with the family while daughters will leave after marriage. This perpetuates a cycle where girls are denied meaningful opportunities for education and future employment<sup>2</sup>.

In regions plagued by poverty, young girls are often perceived as economic burdens, leading to their marriages to much older, and sometimes elderly, men with the belief that it will bring financial benefits to both the girl and her family. Wealthy older men often seek out young, unmarried girls, considering them desirable partners. In such communities, child marriage is commonly viewed as a transactional practice, where girls are treated as commodities to be traded. For many families, a daughter may be the only or last available commodity for exchange. Girls are used as a means to alleviate the family's financial hardships, either by augmenting their resources or by settling debts through marriage transactions.

Child marriage often serves as a perceived source of stability for families, particularly during times of economic hardship or conflict, such as poor harvests or war. Parents may feel compelled to marry off their daughters to secure their family's economic well-being. In this context, young girls are regarded as assets through which their parents can attain greater financial security.<sup>3</sup>

However, despite the belief that child marriage can alleviate poverty, it actually perpetuates cycles of intergenerational poverty. By denying girls education, child marriage limits their opportunities and perpetuates illiteracy within families. As future mothers, educated girls have the potential to provide their children with a solid foundation and contribute significantly to their family's socio-economic stability. Educated women also play crucial roles in managing their families' economic needs at both micro and macro levels, thereby contributing to the overall social and economic development of society.

It's important to note that while poverty is a significant driver of child marriage, it is not exclusive to families living in poverty. Child marriage can also occur in higher socio-economic classes, where families seek to preserve their social status and wealth. Affluent families, including those with tribal affiliations, may arrange marriages for their daughters to protect their family's honor and financial security. This underscores the diverse socio-economic and cultural factors that influence the practice of child marriage across different communities.

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<sup>1</sup> <https://www.ohchr.org>

<sup>2</sup> <https://nhrc.nic.in>

<sup>3</sup> Forward UK <http://www.forwarduk.org.uk/key-issues/child-marriage>

## 5.2 Economic Challenges

In rural areas marked by poverty, there is often a lack of emphasis on family planning, driven by the belief that having more children means more hands to help with work. As these children grow up and receive education, typically provided through government programs, families eventually face a tough choice: whether to prioritize the education of their sons or daughters. Unfortunately, many families choose to prioritize their sons, assuming they will stay with the family, while expecting their daughters to leave upon marriage. Consequently, these families fail to recognize any economic benefits from educating their daughters. Consequently, these girls are frequently taken out of school, which makes it challenging for them to pursue meaningful employment opportunities in the future. This perpetuates a cycle of gender inequality and economic hardship within these communities<sup>4</sup>.

In areas of severe poverty, young girls are often viewed as financial burdens, leading to their marriages with significantly older, sometimes elderly, men in the belief that it will provide economic benefits to the child and her family<sup>5</sup>. Wealthy older men may desire young, unmarried virgin girls, and in such communities, child marriage is seen as a transactional arrangement. For many families, a daughter may be their only or final asset to be traded, with girls being used to improve the family's financial situation or settle debts.

Additionally, child marriage is sometimes perceived as a source of stability for families, especially during times of economic instability or conflict. Families may feel compelled to secure the economic safety of their daughter and family through marriage. Young girls are thus seen as resources through which their parents can attain greater wealth. However, despite the belief that child marriage can alleviate poverty, it actually exacerbates intergenerational poverty. By depriving a girl of education, future generations are also deprived of education, perpetuating a cycle of illiteracy. Educated girls have the potential to provide their children with a solid upbringing, influencing the social and economic decisions of the family.

At the micro level, educated women contribute to managing the economic needs of the entire family, while at the macro level, they contribute to the social and economic development of the nation. Therefore, the importance of educating girls cannot be overstated, as it unlocks their potential to become agents of positive change in their families and communities.

It's worth noting that while poverty is a significant factor driving child marriage, it's not exclusive to families with financial struggles. Child marriage can also be observed in affluent families, particularly those with tribal backgrounds. In these cases, families may marry off their daughters to preserve their honor, family name, and wealth. This ensures that their daughters marry into families of similar socio-economic status, preventing any perceived dishonor or loss of social standing.

Thus, child marriage can serve as a way to maintain familial prestige and assets, even among more privileged families.

## 5.3 Cultural and social challenges

Although child weddings are mostly influenced by laws and economic underdevelopment, there are cases when child marriages have taken place even when both legal measures and a relatively prosperous economic status of the family are present. The persistence of child marriages is often attributed to cultural practices, or what is seen as cultural practices, in the majority of cases. Nevertheless, it should be noted that cultural factors may still influence the prevalence of child marriages, especially in regions without legal restrictions or economic prosperity. In such instances, cultural attitudes and social behaviours are among the several variables that contribute to the flourishing of this activity.

Marriage is deeply rooted in custom and culture in several regions of Asia and Africa. Prevailing concepts of morality and honour have a significant role in promoting the practice of child marriage. Within several households, there exists a notable impact of "family honour" and a strong desire to safeguard it. The virginity of a girl is typically highly valued in many households, since it is considered that if she is not a virgin when she

<sup>4</sup> Forward UK <http://www.forwarduk.org.uk/key-issues/child-marriage>

<sup>5</sup> Forward UK <http://www.forwarduk.org.uk/key-issues/child-marriage>

gets married, it brings disgrace and dishonour to the family. Furthermore, it should be noted that young females are often urged to wed older men as a result of certain cultural customs that prioritise the lifespan of the elder spouse. This is often based on the belief that an older husband would serve as a protector against behaviours considered immoral and unsuitable. Unwed women are often seen as burdens to the integrity and dignity of their families. This compels families to take every conceivable measure to protect themselves from social disgrace, ensuring the utmost safety for both the family and the daughter by arranging her marriage as soon as she reaches puberty. It is a behaviour that perpetuates a woman's reliance on males throughout her lifetime. There are some segments of society influenced by a culturally oriented mentality that believe having more children is a symbol of affluence for the family. As a result, they compel their daughters to marry at a young age in order to avoid a restricted reproductive period.

#### 5.4 Best Practices in the Indian Milieu

Nationally, there have been endeavours to address child marriages via several policies and activities. National Population Policy 2000 and National Youth Policy 2003 included efforts to specifically target and tackle the susceptibility of girls in the context of underage marriages. These methods included offering informal education, vocational training, and promoting knowledge of sexual and reproductive health issues. Subsequent policies have repeatedly restated and elaborated on similar principles.

The Mamta Health Institute for Mother and Child in Rajasthan has introduced Action Approach for Reduction of Early Marriage and Early Pregnancy. This campaign sought to include young people in raising awareness about reproductive health by mobilising the community and engaging important stakeholders.

Human Rights Law Network engaged in advocacy initiatives to raise public awareness of the ban of child marriage, with a specific emphasis on promoting legal literacy. Implementation of these initiatives resulted in passing of Prevention of Child Marriages Act in 2006.

Additionally, the International Centre for Research on Women introduced the ApniBeti, ApniDhan<sup>6</sup> (Our Daughter, Our Wealth) program in 1994. This program, a pioneer in Conditional Cash Transfer initiatives, aimed to delay child marriages by studying their causes and consequences. Under this program, the mother receives Rs. 500 upon the birth of a girl child to cover post-delivery needs. Moreover, the government invests Rs. 2,500 in a long-term bond in the girl's name, redeemable for Rs. 25,000 upon reaching adulthood, provided she remains unmarried<sup>7</sup>. Initially implemented in Haryana by the Government of India, the program's success prompted plans for its expansion nationwide and beyond, based on evaluations of its effectiveness.

Building upon the previous initiative, the government launched the Balika Samridhi Yojna, which introduced a cash-transfer scheme rewarding families when a girl's marriage was postponed until she reached adulthood. Under this scheme, unmarried 18-year-old girls received a sum of money.

Furthermore, the International Centre for Research on Women (ICRW) initiated the Development Initiative for Supporting Healthy Adolescents (DISHA)<sup>8</sup> between 2004 and 2007. This program aimed to provide access to reproductive health information, life skills education, youth-friendly reproductive health services, and livelihood training for adolescents. It also mobilized communities to combat child marriage.

Additionally, the Institute of Health Management-Pachod (IHMP) and the ICRW implemented a Life Skills Programme in Maharashtra<sup>9</sup> from 1997 to 2005, focusing on economically empowering adolescent girls to delay marriage until adulthood.

<sup>6</sup> International Centre for Research on Women - Motivation to Prevent Child Marriage- <http://www.icrw.org/media/news/motivation-prevent-child-marriage>.

<sup>7</sup> International Centre for Research on Women - Motivation to Prevent Child Marriage- <http://www.icrw.org/media/news/motivation-prevent-child-marriage>

<sup>8</sup> 76AnjalaKanesathan, Laura J. Cardinal, Erin Pearson, Sreela Das Gupta, Sushmita Mukherjee, AnjuMalhotra, Catalyzing Change: Improving Youth Sexual and Reproductive Health through DISHA, an Integrated Program in India (2008) <http://www.icrw.org/publications/catalyzing-change>

<sup>9</sup> ICRW, Improving the Reproductive Health of Married and Unmarried Youth in India, <http://www.icrw.org/files/publications/Improving-the-Reproductive-Health-of-Married-and-Unmarried-Youth-in-India.pdf>



Moreover, the Tata Steel Rural Development Society (TSRDS) launched a Regional Initiative for Safe Sexual Health by Today's Adolescents in Jharkhand from 2004 to 2007. This initiative emphasized behavioral change communication, capacity building, and raising awareness about sexual and reproductive health, effectively delaying girls' marriages until adulthood.

## Conclusion

The progress of the legislative efforts to combat child marriages has been sluggish. Child Marriage Restraint Act, 1929, a legislation enacted under the British Colonial rule, marked the first progress made in the pre-independence period towards abolishing practice of child marriage. Despite its lack of effectiveness in both its wording and execution, it was undeniably a very important measure in acknowledging child marriage as a societal issue. The Act has intrinsically established prejudice, which has persisted despite significant changes in both the global functioning and the current century. In order to prevent discrimination and guarantee that children aren't deprived of their fundamental human rights, it is imperative that the laws pertaining to children remain unbiased towards gender. If law itself establishes inequality, achieving true equality will remain an unattainable aspiration.

PCMA has been a beneficial measure in transition to the new century. The 2006 Act included significant changes in the statutory perspective on these marriages. The measures included rendering child marriages voidable, increasing severity of punishment and penalty, among other provisions. These favourable reforms not only affected the legislation but also resulted in a drop in incidence rate of these weddings over the last decade. Nevertheless, there is a valid argument as to whether the drop in these weddings can be solely attributed to the legislation. Although technology has made a substantial contribution, other crucial variables such as education, improved living circumstances, awareness, and grassroots activities have also played pivotal roles. The preceding discourse has illuminated the unresolved issues. Efforts must be made to address the remaining hurdles in order to fully eradicate this behaviour via legislative means. Karnataka Amendment to PCMA is a commendable model that should be included into the main Act of the PCMA. Today, the vulnerable females, namely those who are under age of 18, are all individuals who were born in 21<sup>st</sup> century, meaning they were born in year 2000 or after. They are entitled to a society in India that is devoid of this societal malady.

Child marriage not only infringes upon fundamental rights such as freedom and the right to life, but it also has adverse consequences on reproductive health of young girls. Child marriage is associated with elevated rates of both mother and new-born mortality. The inherent issues surrounding sexual abuse of children are very damaging and hinder society's ability to safeguard its children. To eradicate this societal problem, it is necessary to address it via legal means by implementing more stringent penalties and ensuring accountability measures for the agencies formed under the PCMA legislation. Policymakers and law enforcement officials must urgently tackle these critical concerns to ensure the protection and safety of children.

## Ending Child Marriage Is a Good Economics

According to studies conducted by the World Bank Group, child marriage incurs significant economic costs. Eliminating child marriage and early childbearing in nations with high frequency might result in a 10% reduction in fertility rates and population growth. The estimate indicates that the worldwide increase in the well-being of the population might amount to \$500 billion per year by 2030.

Children born to young moms had a lower likelihood of experiencing child mortality before the age of five or suffering from impaired physical development. Ending child marriage would have a significant impact on women's predicted earnings in the labour market, leading to a rise in their financial prospects. Child marriage significantly affects schooling and leads to a nine percent decrease in earnings for women who marry at a young age, based on data from 15 nations. Eliminating child marriage now will result in a significant cost-saving for many governments by 2030, amounting to at least five percent of their education budget.

There is a growing global recognition of the adverse consequences associated with underage marriage. In the Dominican Republic, a nation with a high income level, over one-third of girls still get married before the age

of 18. New statistics from UNICEF and World Bank Group on the economic consequences of child marriage in this country will contribute to a campaign aimed at putting an end to this practice.

Girls are key catalysts for socioeconomic transformation, and World Bank Group is dedicated to ensuring them access to education and fostering their acquisition of knowledge. Female individuals who successfully finish their secondary school often have improved physical well-being, exhibit more involvement in the official workforce, achieve higher income levels, delay marriage, have a reduced number of offspring, and provide superior healthcare and education to future generations. These elements, when combined, have the potential to alleviate poverty in households, communities, and countries. In 2016, World Bank Group made a commitment to provide \$2.5 billion over a period of five years towards education initiatives that specifically target the advancement of teenage females.

The research started by addressing the topic of child marriage in order to accurately situate it within the legal and rights context. The conversation shifted towards the international legal framework and norms that aim to safeguard women and children, focusing specifically on the problem of child marriage. India has officially approved and agreed to abide by many significant human rights agreements, such as the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). India, being a member of the SAARC, is also obligated to address the issue of child marriage at a regional level. India presented its Voluntary National Report on the development of the Sustainable Development Goals (SDGs) at the High-Level Political Forum (HLPF) in 2017. In 2017, the third round of the UPR took place and India was given recommendations on child marriage by 10 nations. Based on the analysis of the aforementioned information, it has been determined that India must adopt more robust measures to meet its international commitments. There is a need to considerably enhance the measures taken at the national level in order to fulfil the international obligations that have been undertaken so far.

The successful conclusion of the empirical study brought to surface mixed realities. Some of the key findings include:

1. The degree of gravity associated with this infringement of rights is not significant. The law enforcement authorities exhibit a deficiency in motivation to address this issue. This is abundantly apparent from the annual count of instances that are officially recorded under the Act. One is confronted with the glaring disparity between the number of weddings and number of recorded instances, which is an undeniable truth.
2. The District Child Protection Officer and other officers' in-charge of protecting the interests of children are not well versed with the provisions under the Prohibition of Child Marriage Act, 2006.<sup>10</sup> Their knowledge is limited to the fact that the minimum age for marriage is 18 years. However, they are unaware of the penalties prescribed by the Act. In addition, they often lack knowledge of the legal right to annulment that minors possess when they marry as children, as stipulated by the Act. The district government, in situations of preventing child weddings, would get written undertakings from both the father of the girl and the girl herself. These undertakings would state that the father would not marry off his daughter and that the girl will not marry before reaching the age of 18. This is an alternate method for sending the girl to a rescue home. Nevertheless, no legal recourse is pursued in situations when they transport the girl to a distant hamlet or another jurisdiction and arrange for her marriage. The district's legal probation officer neglected to ascertain and disclose the quantity of outstanding court proceedings for prosecution under PCMA. In reality, the majority of these lawsuits are often resolved by out-of-court settlements and seldom get to trial. The reason for this is because official First Information Reports (FIRs) are not filed for these instances, resulting in the national numbers for reported cases being very low.
3. Approximately 90% of women were unaware of their entitlement to have their child marriage legally invalidated by judicial intervention. They had a clear and evident lack of information about the legal age at which marriage must occur.
4. The health implications of child marriage are significant for the young girl, since she is forced to experience early motherhood. A significant number of young women have reported experiencing decreased

<sup>10</sup>Sangareddy district, Telangana

levels of haemoglobin, a few instances of early hysterectomy (surgical removal of the uterus), reduced energy levels, weakened immune system, and persistent bodily aches and pains.

5. Several instances were seen when ladies saw themselves as divorced without any involvement from the court. Although their marriage was not legally annulled by the court or panchayat, they believed it had effectively terminated since their husbands had refused to cohabit with them. This is because weddings are not required to be registered. A woman is completely deprived of her entitlement to financial support and an official legal order of divorce. When it comes to getting divorce from the Panchayat, the degree to which the woman's interests are considered is once again a matter of doubt. She is compelled to acquiesce to the predetermined decisions. Further research is needed to examine the legitimacy of divorce given by Panchayats.

6. The reintegration of individuals who have experienced divorce, widowhood, or desertion is a very significant issue that is not well addressed by the law. They belong to a very susceptible group of women as well. Individuals living in remote regions have significant challenges in maintaining a dignified lifestyle. The females who fell into any of these groups were seeking possibilities, but there were none available to them. The crucial objective is to present possibilities for their development in close proximity to them.

## Suggestions

While India ranks the highest on child marriage based on the population, it is also one of the key global players and it is time that its actions set benchmarks for progress. Based on the findings that emerged from the study, the following recommendations are offered:

### International and Regional Commitments

1 The recent third optional protocol to the Convention on the Rights of the Child is yet to be ratified by India. It is called Optional Protocol to the Convention on the Rights of the Child on a communications procedure. This optional protocol creates an individual communication mechanism of any rights violation in any of the member states to the Committee on the Rights of the Child directly. The Committee seeks the support and cooperation of the member states in ensuring that the reports of violation are dealt with effectively within the local jurisdictions. India must ratify this optional protocol to reaffirm its international commitment towards protection of children.

2 The CEDAW Committee in its recent (2014) Concluding Observations, in response to the third and fourth combined periodic review report of India, observed that India has still maintained its Declarations with respect to Article 5(c) and 16(1) and (2) of the Convention. It has not withdrawn them despite a Constitutional framework which guarantees equality and non-discrimination. India has reached a stage where these declarations can be withdrawn and therefore India should withdraw them at the earliest occasion.

3 The SDGs offer a great opportunity for India to increase its development efforts and show great progress through the Voluntary National Reporting mechanism. Annual involvement at the High Level Political Forum of the United Nations serves as a great platform to expedite efforts towards meeting international commitments under the SDGs.

4 The Regional commitments and mechanisms established under SAARC must also be utilised in showing greater progress. A separate Convention on ending child marriage must be adopted at the SAARC level since South Asia is the hub of these marriages.

5 Greater efforts must be made by India towards meeting the commitments under the SAIEVAC RAP (2015-18) and KCA. The National Strategy Document on Prevention of Child Marriage, 2013 and the National Plan of Action to Prevent Child Marriage in India are still at draft stage. They must get finalised and implemented.

6 In the third cycle of UPR (2017) 10 countries have provided recommendations to India with respect to scaling efforts towards eliminating the practise. India must take these recommendations very seriously and work effectively in a way that by the fourth cycle India is able to achieve its national commitments on ending child marriage.



7 The issue of child marriage has not yet received the appropriate recognition as a violation of children's human rights. For instance, child marriage in government is addressed as part of women's welfare and concerns. This also applies to activities undertaken by civic society. Child marriage or early marriage is predominantly treated as a health problem, and interventions and programmes are mostly done to tackle it within the framework of reproductive and sexual health efforts. Child marriage should be seen as a breach of children's right to protection. It is important to acknowledge that this leads to the deprivation of childhood, education, and other rights, leaving children susceptible to abuse and exploitation, as well as potential long-term health consequences.

8 There is a pressing need for a modification in the legislation. The current laws convey conflicting meanings. As a result, courts have provided varying interpretations of the requirements outlined in Prohibition of Child Marriage Act, 2006 (PCMA). Child marriage will persist as long as these oddities remain. Therefore, these issues need attention:

Despite India having adopted the definition of child as person up to the age of 18 years in most laws and policies concerning children, the child in the PCMA has differential definitions for boys (up to 21 years and girls 18 years). There is a need to correct this anomaly and define both boys and girls as persons up to 18 years.

In order to tackle the issue of child marriage, it is imperative that the PCMA Act criminalises child marriage. It is necessary for it to supersede all individual laws, including those related to the age of consent and rape, in order to achieve consistency. There is a contradiction between the POCSO Act, the new sections on age in IPC, PCMA, and the Personal laws. This contradiction requires correction. Under the existing personal laws, child marriage is permitted, so legalising sexual relations with a minor and exempting it from being classified as a sexual offence. The rape legislation categorises any kind of penetrative sexual attack on a child as statutory rape. However, it only considers penetrative sexual assault between a husband and wife as statutory rape if the woman is under the age of 15 years. The 2012 POCSO Act criminalises any sexual conduct with a child under the age of 18. PCMA forbids the occurrence of a marriage, however it does not consider a marriage that has already been solemnised and involves an underage individual as unlawful or null. It is just capable of being voided. Put simply, the marriage remains legally binding until the individuals involved decide to request its annulment. Minors lack the legal capacity to initiate legal proceedings or engage a counsel to submit their case. Upon reaching adulthood, individuals are granted a two-year period during which they have the option to dissolve their marriage. However, it is improbable that they would choose to do so. Consequently, this implies that individuals who are below 18 years of age would be involved in sexual activities with their spouses.

#### **A Uniform Civil Code will go a long way in dealing with children equally.**

1. Frequently, individuals are hesitant to disclose instances of child marriage, not only due to their unwillingness to confront societal conventions, but also because of potential danger it poses to their own lives. It is essential to develop a safeguarding system for those who report cases of child marriages.
2. Multiple governmental and non-governmental activities are now being executed to combat child marriage. There must be a shared understanding and emphasis in order to effectively communicate the same message.
3. The retention of girls in school has emerged as one of the most significant ways of ensuring delay of marriage. However, the current law on right to education only covers children upto the age of 14 years. The Right to Free and Compulsory Education 2009 must be changed so that all children, especially girls can continue in school up to 18 years, and the education must be affordable and accessible.
4. It is now been demonstrated that the most significant deterrent to child marriage is the involvement of the communities in preventing it. And the most important strategy has been to address the argument that child marriage protects the girl from abuse. Once it is demonstrated to communities that in reality child marriage does not protect children, instead it makes children more “unprotected”, communities work to prevent child marriages.
5. It is crucial to really assure the economic empowerment of women, since they often have a part in making financial decisions and have control over their wages or savings. Researchers recommend the creation of programmes to educate parents about the importance of fostering a home environment that encourages adolescent



girls and young women to develop skills in financial management, decision-making, and savings account operation.

It's imperative to address the issue of child marriage by accumulating evidence through comprehensive studies at both macro and micro levels and maintaining updated databases. For example, while some communities like the Santhals in Bihar and Bhils in MP accept adolescent marriages, there are rare instances of street children in West Bengal partaking in early marriages due to specific social contexts<sup>11</sup>. Similarly, practices such as reserving unborn girls for marriage among the Konyak tribe in Nagaland often go unaddressed in policy or program interventions.

Birth certificates serve as the most reliable documents for establishing identity. Therefore, India must expedite efforts to ensure 100% birth registration, coupled with ensuring that birth registration invariably leads to the issuance of birth certificates. This measure alone can facilitate people's access to benefits from existing programs and schemes without hindrance, thereby safeguarding their fundamental rights effectively.

### National Commitments

- 1 The national laws and personal laws on the issue of child marriage must be harmonised in accordance with international human rights standards.
- 2 Steps must be taken to amend the national legislation i.e. PCMA, 2006 to make child marriages void ab initio as well as prescribe minimum punishments under the Act on the lines of the recent Karnataka amendment to the PCMA;
- 3 Capacity building programs must be organised for government officials at all levels who are responsible for the implementation of the law to educate them about the law against child marriage including various rights that a girl has under it.
- 4 Proper training manuals with modules must be designed for the implementers for tackling the issue in remote places in the local language. Where tribal areas exist, training modules must be made available in languages used in the tribal areas<sup>12</sup>.
- 5 The Supreme Court in *Seema v. Ashwini* has already mandated compulsory registration of marriages and asked all State governments to enact legislations or rules at State level for enforcing the same. Although a decade has passed since the judgement, the implementation of the same is not uniform across all States. This must be looked into by each State government to ensure every marriage is registered. A heavy penalty or a penalty of a nature that discourages non-registration must be imposed so that marriages are formally registered. One officer at Panchayat level can be assigned for registration of marriages.
- 6 Improvement in infrastructure such as roads, sanitation etc. are a must to ensure that girls drop out less from schools. A safe environment is also a necessity so that there is motivation to study. There must be a regular check on Absenteeism in schools to keep a constant check on the dropout rate.
- 7 The Right of Children to Free and Compulsory Education Act, 2009 must be strictly enforced. The age of compulsory education must be increased to 18 years so that girls are encouraged to pursue education.
- 8 The list of CMPO s must be provided on the internet at all times and must be updated regularly. The girls are seldom of the CMPO close to them who would either save them from getting married or helping them in having their marriage annulled. For this reason, schools and angan wadi centres must be used to share information such as these.

<sup>11</sup> Ibid

<sup>12</sup>An issue highlighted by NGO Officials from Bihar and Jharkhand at the NHRC Regional

9 The CMPOs who are appointed under the Act are in charge of other duties as well and are often overburdened with so many responsibilities that preventing child marriages does not surface on their priority list<sup>13</sup>.

10 v-The police and other implementation agencies must be sensitised on strengthening vigilance about child marriages happening within their jurisdiction and promote the formal registration of FIRs so that those guilty of promoting and holding a child marriage do not go scot free. Conference on child marriage at Bhubaneswar, Odisha held on 4-5 January, 2018

11 The VLCPCs<sup>86</sup> must be formed uniformly in each and every village and they must be strengthened with the support of theBLCPCs<sup>87</sup>.

12 The District Collector should be asked to submit a Regular report on implementation of the PCMA to the State authorities.

13 NHRC should direct the State Governments to prepare and submit an Annual Report on the status of child marriages within the State.

14 The different schemes of the government to facilitate in ending child marriage and delaying the age of marriage must reach the beneficiaries on the ground. Towards the same efforts must be scaled at the Gram Panchayat level and dissemination of information should happen through the Anganwadi workers.

15 The different schemes must not focus alone on enrolment but on retention of girls in schools. Efforts towards training teachers must be made so that learning outcomes are good<sup>14</sup>.

16 There are also few States where more than one Conditional Cash Transfer Schemes are in place and the beneficiaries are allowed to enrol in only one of them. This causes confusion. Therefore, the eligibility criterions must be simplified<sup>15</sup>.

17 There must also be a strict implementation and monitoring mechanism put into place to ensure that the money under the CCT is used by the girl only and not used for any other purpose.<sup>398</sup>

18 There must also be strict vigilance of the bicycle distribution schemes so that only girls use the bicycles<sup>16</sup>programmes, skill development and vocational training. It proper implementation at the ground level would help in providing meaningful opportunities for growth for women and children.

20 The National Policy for Children, 2013 is due for an official review in 2018 and that gives an opportunity for increased focus on the issue of child marriage.

21 In 2017, Rajasthan State adopted the 'State Strategy and Action Plan for Prevention of Child Marriage'<sup>90</sup> to create a Rajasthan that is child marriage free. A similar state strategy and action plan must be implemented in every other State.

22 The National Strategy Document on Prevention of Child Marriage, 2013 and the National Plan of Action to Prevent Child Marriage in India are still at draft stage. They must get finalised and implemented.

23 Specific allocation of funds at Central and State level must be allocated for prevention of child marriages.

24 Specific allocation of funds for conducting research activities on child marriage must also be allocated by the Central and State Governments.

The problem of child marriage warrants attention and concerted action. Occurrence of every single child marriage raises a question on the ideals of freedom and equality that are enshrined in the Constitution of India.

<sup>13</sup>Centre for Budget and Policy Studies and UNICEF, 'Reducing Child Marriage in India: A model to scale up results' (2016) p 57

<sup>14</sup>Village Level Child Protection Committee

<sup>15</sup>Block Level Child Protection Committee

<sup>16</sup>Centre for Budget and Policy Studies and UNICEF, 'Reducing Child Marriage in India: A model to scale up results' (2016) 398 ibid

It is important therefore to take all necessary steps and modify existing set-ups to see what can be practically implemented on the ground so that an India free of child marriages can be created.

Child marriage has significant repercussions on various aspects of development for girls, their children, families, and societies. Unfortunately, close to 100 million girls worldwide lack legal protection against child marriage. In countries where the minimum age for girls' marriage is not set at 18, laws should be enacted specifying 18 as the minimum age, eliminating exceptions for parental or judicial consent and resolving discrepancies with customary and religious laws.

While legal reforms are crucial, they alone cannot eradicate child marriage. About 7.5 million girls are married illegally each year, indicating that the majority of child marriages are unlawful even with consent.

Comprehensive approaches involving various policies and interventions are needed. Many governments are adopting strategies to end child marriage and investing in marginalized girls' education and well-being. Keeping girls in school is a highly effective preventive measure. However, efforts to address discrimination and social norms are crucial, along with ensuring safe, accessible, and affordable schooling.

Promising interventions aimed at keeping girls in school and challenging harmful social norms are being implemented globally. Investing in these interventions, documenting their impacts, and implementing gender-transformative policies are essential for ending child marriage.

As responsible citizens, it's vital to educate children about their rights, raise awareness about child marriage, and provide them with contacts for help if needed. Governments and NGOs are working to combat child marriage, but individual efforts are crucial, including reporting instances of child marriage.

A significant step was the Supreme Court's 2017 judgment criminalizing sexual acts with child brides, providing greater protection. Also, since 2014, marriage registration has been mandatory in India to prevent child marriages.