



CHILD MARRIAGE LAWS AND THEIR IMPACT ON ADOLESCENT PREGNANCY RATES IN INDIA

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Abstract: Child marriage is a common thing found in numerous regions around the world and it poses significant legal and public health challenges, particularly concerning adolescent pregnancy rates. This paper delves into the intricate relationship between child marriage laws and their consequences for adolescent pregnancies. By examining the legal frameworks, enforcement mechanisms, and cultural influences associated with child marriage, this paper aims to elucidate how these laws impact adolescent pregnancy rates.

Through a comparative analysis of child marriage laws in various jurisdictions, this research highlights the disparities in legal definitions, age of consent, and enforcement effectiveness. It also investigates the underlying cultural norms and socio-economic factors that perpetuate child marriage, influencing the prevalence of early and often high-risk pregnancies among adolescents.

Beyond the legal dimension, this paper addresses broader public health concerns, linking child marriage to maternal and infant health outcomes. An understanding of the interplay between child marriage laws and adolescent pregnancy is critical for crafting evidence-based policies that safeguard the rights and health of young individuals.

The outcomes of this paper inform advocacy initiatives and contribute to the global discourse on child marriage and its legal ramifications. By shedding light on the significance of child marriage laws on adolescent pregnancy trends, the study seeks to promote legislative measures that protect the reproductive and maternal health of young people and ultimately empower them to make appropriate choices about their future.

Keywords: Child Marriage, Adolescent Pregnancy, Legal Impact.

1. INTRODUCTION

Child marriage refers to the union of individuals under the age of 18, often without their free and full consent. Laws regarding child marriage vary globally, with some countries permitting it under certain circumstances, while others strictly prohibit it. The impact of child marriage on adolescent pregnancy rates is profound and multifaceted.

In regions where child marriage is prevalent, adolescent girls are at a greater risk of early pregnancy due to societal expectations and pressures to start a family. Child brides often lack access to education and healthcare, contributing to increased vulnerability during pregnancy. Early pregnancies are associated with higher maternal and infant mortality rates, as young mothers face greater health risks.

Legal frameworks play a crucial role in addressing this issue. Countries with stringent laws against child marriage tend to witness lower adolescent pregnancy rates. Legislation can act as a deterrent, discouraging families and communities from engaging in this harmful practice. Moreover, it provides a basis for protective measures and support for those at risk.

Efforts to combat child marriage and its consequences involve not only legal measures but also education and community awareness. Empowering young girls with education and advocating for gender equality contribute to breaking the cycle of child marriage and its detrimental effects on adolescent pregnancy rates. Ultimately, the interplay of legal measures, education, and societal awareness is vital in tackling the complex problem of child marriage and its impact on adolescent pregnancies.

2. HISTORICAL EVOLUTION OF CHILD MARRIAGE LAWS IN INDIA

Child marriage, a longstanding social application entrenched in Indian traditions, persists today, particularly in rural and economically disadvantaged segments of the country. Rooted in factors such as poverty, a patriarchal social structure, cultural traditions, and, in some cases, religious beliefs, this phenomenon is, nevertheless, widely contributes to exploitation of children. The repercussions of marrying children off before they attain physical and mental maturity are profound, leading to both physical and psychological harm.

The consequences of child marriage extend to instances of domestic violence and premature sexual encounters, resulting in early childbearing. This, in turn, heightens the risks of malnutrition, infant mortality, and maternal death. Notably, a UNICEF report highlights that adolescent brides, aged 15-19, face a twofold increase in the likelihood of succumbing to complications related to pregnancy compared to those who marry in their early 20s¹. The urgent need to address and mitigate the multifaceted impacts of child marriage is evident in both the immediate and long-term well-being of the individuals involved. Child marriage persists in Indian society, despite government efforts through legislative measures. While urban regions show some positive impact from these laws, further initiatives are imperative for rural improvement. The widespread occurrence of child marriage in villages is often linked to factors like poverty and low literacy rates. The National Family Health Survey-5 reveals that 27% of females aged 20-24 in rural areas were married before they turned 18. This leads to a significant breach of human rights that necessitates urgent attention. The government, recognizing this issue, has taken steps to combat child marriage, exemplified by the impactful Prohibition of Child Marriage Act, 2006. Implementation of this legislation resulted in a notable reduction in child marriages.

In India, legislators have endeavored to eliminate child marriage from society through the formulation of various laws and policies. Over recent decades, these legal frameworks have undergone significant developments. These legislative efforts have left a notable impact on curbing child marriage, evidenced by a substantial decrease in the number of women marrying before 18. Over the past decade, this figure has declined from 47% to 27%². Despite this marked reduction, the battle against child marriage in India is far from over. The country remains home to 223 million child brides, constituting 1/3rd of the universal total and solidifying India's position as the nation with the highest number of child brides worldwide³. The challenge to further mitigate this practice remains a pressing concern.

¹ CHILD MARRIAGE IN SOUTHERN ASIA, <https://www.icrw.org/wp-content/uploads/2016/10/CHILDM>, (Last visited on: Nov 26, 2023)

² Ending Child Marriage: A profile of progress in India (February 2019), <https://data.unicef.org/resources/ending-child-marriage-a-profile-of-progress-in-india/> (last visited Nov 26, 2023).

³ Ibid

2.1 The Child Marriage Restraint Act, 1929

The inaugural effort to curtail child marriages in India unfolded with the introduction of Child Marriage Restraint Act in 1929. This legislative milestone emerged as a response to the social reform movement orchestrated by ladies' associations, including the All India Women's Conference and the National Council of Women in India. Familiarly recognized as the Sharda Act of 1929, it takes its name from Rao Sahib Haribilas Sharda, the proponent behind the child marriage restraint bill in the Assembly⁴.

Formally sanctioned in the Imperial Legislative Council of India under the viceroyalty of Lord Irwin on September 28, 1929, the act became effective on April 1, 1930. Its jurisdiction encompassed the entire Indian subcontinent, with exceptions for princely states like Hyderabad and Jammu and Kashmir⁵. However, nationalist leaders, notably Bal Gangadhar Tilak and Madan Mohan Malaviya, opposed the act, contending that it posed a threat to Hindu culture and traditions.

In its initial iteration, the Act prohibited marriages for boys under 18 and girls under 14, prescribing penalties. These included fines or imprisonment for male adults involved in marrying a child below 21 years and similar punishment for those above 21, parents or guardians complicit in child marriages, and individuals solemnizing child marriages unless they could substantiate a reasonable belief that the union was not a child marriage.

Following the amendment with the Child Marriage Restraint (Amendment) Act, 1949, the lowest marriageable age for women was elevated to 15 years⁶. Subsequently, the penalties for violations were heightened to 'simple imprisonment, which may prolong to fifteen days or with a fine, which may go up to one thousand rupees, or both' for males under 21 marrying a child, and for those above 21, parents, guardians, or individuals solemnizing child marriages faced increased punishment, including simple imprisonment of up to three months and a fine⁷.

In 1978, the Child Marriage Restraint (Amendment) Act further increased the minimum marriageable age up to 21 years for boys and 18 years for girls. This amendment also entailed consequential modifications in the Hindu Marriage Act, 1955, and the Indian Christian Marriage Act, 1872.

During British rule, the Sarda Act saw minimal enforcement, with authorities hesitating due to potential opposition from Muslim communalist groups resisting British interference in religious customs⁸. Post-independence, although there was some enhancement in implementing the Act, the impact on reducing child marriages remained limited. Notably, a significant loophole in the Act was identified—the legislation aimed to deter child marriages through penalties but did not render the marriages themselves void.

2.2 Prohibition of Child Marriage Act, 2006

To address the inefficacy of the Child Marriage Restraint Act, 1929, the Prohibition of Child Marriage Act, 2006, was instituted. The alteration in the Act's nomenclature, transitioning from 'restraint' to 'prohibition,' signifies the state's heightened dedication to eradicating the practice of child marriage. The minimum marriageable ages for girls and boys, mirroring the previous law, remained at 18 years and 21 years, respectively. Noteworthy deviations from the prior Act include intensified penalties, with rigorous jail term up to two years and/or a fine extending up to one lakh rupees. The amended Act elevates the gravity of offenses by rendering them cognizable and non-bailable.

A crucial feature of the Act is its provision allowing the person who was a child at the time of marriage to annul the marriage, rendering child marriages voidable. However, any petition to declare the marriage null

⁴ Sarda Har Bilas, Speeches and Writings Har Bilas Sarda 33-68, Chand Mal Chandak, <https://archive.org/details/speechesandwriti030754mbp/page/n17/mode/2up>.

⁵ Anushka, Sharda Act: Abolition Of Child Marriage, GETLEGAL INDIA (Oct. 11, 2021), https://getlegalindia.com/sharda-act/#HISTORY_OF_SHARDA_ACT.

⁶ Sec. 2, The Child Marriage Restraint (Amendment) Act, 1949

⁷ Sec. 3, The Child Marriage Restraint (Amendment) Act, 1949.

⁸ Geraldine H. Forbes, *Women in Modern India* 89, (Cambridge University Press 1996).

and invalid must be submitted within two years of the child attaining majority⁹. Furthermore, the Act deems a marriage void if consent is sought through fraud or deceit, if the child is enticed away from lawful guardians, or if the main purpose is to exploit the child for trafficking or immoral activities¹⁰.

The Act also grants legitimacy to children born from child marriages, including those in void or voidable unions¹¹. It ensures maintenance and abode for the girl child until her re-marriage, with the husband being liable to pay. If the husband is a minor, the responsibility falls on his parents to provide maintenance¹².

2.3 The Prohibition of Child Marriage (Amendment) Bill, 2021

Following the enactment of the Prohibition of Child Marriage Act in 2006, India has experienced significant strides in combating child marriage. However, despite these advancements, this detrimental practice still persists in society. The efficacy of the 2006 Act was brought into question with the introduction of the Prohibition of Child Marriage (Amendment) Bill in 2021, presented in the Lok Sabha on December 21, 2021. The rationale behind the Bill's introduction argued that existing laws contradict the fundamental right to the restraint of discrimination based on sex.

Critics contend that the current laws, setting the lowest marriageable age for women at 18 and boys at 21, discriminate against women. This setup places girls at a disadvantage concerning their educational pursuits and careers, often leading to their premature withdrawal from schools and colleges. The Bill aims not only to rectify this gender imbalance but also to reduce maternal and infant mortality rates while advocating for responsible parenthood for both mothers and fathers.

Specifically, the Bill proposes elevating the minimum marriageable age for girls to 21 from 18¹³, establishing a uniform age of marriage for both genders. Additionally, it calls for consequential amendments in various marriage-related acts, including the Indian Christian Marriage Act, Parsi Marriage and Divorce Act, Muslim Personal Law (Shariat) Application Act, Special Marriage Act, Hindu Marriage Act, and Foreign Marriage Act. Notably, the Bill aims to supersede all existing laws, including any customs, usage, or practices governing parties in relation to child marriage.

3. INTERSECTIONALITY OF CHILD MARRIAGE AND PUBLIC HAZARDS

Child marriages persist in India due to economic incentives, where girls are perceived as quick income earners through dowries. In many communities, girls are considered liabilities, seen as additional mouths to feed without contributing labor. Families in poverty often opt for early marriages to reduce financial burdens, allocating resources for the well-being and education of their sons¹⁴. From an economic standpoint, girls are viewed as chattels, destined for early marriage to alleviate family costs¹⁵.

If the bride is adolescent, the higher is her perceived "value," as the preservation of a young bride's chastity is emphasized¹⁶. This prioritization of marriage over education leads to the stark truth that girls without education in India are six times more probable to be married off early compared to those with ten years of education or

⁹ Sec. 3, The Prohibition of Child Marriage Act, 2006.

¹⁰ Rajnandini Mahajan, Laws On Child Marriage In India, Blog iPleaders (Jan. 21, 2016), <https://blog.ipleaders.in/laws-child-marriage-india/>.

¹¹ Sec. 6, The Prohibition of Child Marriage Act, 2006.

¹² Sec. 4, The Prohibition of Child Marriage Act, 2006.

¹³ Sec. 3, The Prohibition of Child Marriage (Amendment) Bill, 2021

¹⁴ UNICEF, Child Marriage in India – An analysis of available data (2012), <http://www.unicef.in/documents/childmarriage.pdf>;

¹⁵ Arushi Sing, Ending child marriage in India, The Guardian (March 3, 2011),

<http://www.theguardian.com/global-development/poverty-matters/2011/mar/03/ending-child-marriage-india-health>.

¹⁶ International Center for Research on Women, Asia Child Marriage Initiative: Summary of Research in Bangladesh, India and Nepal (2013),

<http://www.icrw.org/files/publications/PLAN%20ASIA%20Child%20Marriage-3%20Country%20Study.pdf>.

more¹⁷. The threat of honor killings further impedes girls from resisting forced marriages, as defiance may lead to family repercussions aimed at preserving their "honor."

Another significant contributor to child marriages is the declining sex ratio. Despite attempts to enforce bans on sex-selection and prenatal sex determination, inadequate enforcement allows for unsafe abortions of female fetuses and the abandonment of girl children after birth. In villages of north India, particularly in the state of Rajasthan, the declining sex ratio has given rise to practices like *Atta Satta*¹⁸, where daughters are exchanged for daughters-in-law, regardless of age.

Child marriage remains pervasive in India, as evidenced by the alarming statistic that 42.9% of surveyed married women of age between 20-24 in 2007-2008 were married before they turn eighteen. This accounts for a staggering 23 million women in that age group who were married before they turn eighteen, contributing to 40% of the world's child brides¹⁹.

3.1 Major causes for child marriage in India

Lower educational opportunities, substandard level of education, insufficient construction, and a lack of transportation contribute significantly to the impediment of girls attending school. Safety concerns during travel further discourage their enrollment, perpetuating a preference for child marriage.

Despite widespread knowledge of the Prohibition of Child Marriage Act 2006 (PCMA) and the illegal nature of child marriage, individuals often perceive traditional norms as more influential than the law. Consequently, cases are rarely reported. Additionally, officials face limited capacity and are hesitant to challenge community decisions, as they are integral parts of the communities themselves.

3.2 Inability in decision making

When a girl possesses voice and agency, she has the ability to make choices regarding her life and implement them without the fear of retribution or violence. This lack of voice, often stemming from gender disparity, contributes to the alienation from decision-making processes related to personal, familial, or community matters. Married women, typically not attending school, commonly lack influence in determining whether they should pursue education, thereby restricting their development in literacy and economic skills.

3.3 Impact on Education and Economy

Early marriage deprives girls of the attention needed for their education, contradicting the saying, "educate a woman and you educate a family, educate a family and you educate a nation." With a focus on marriage instead of education, withdrawing future generations from schools perpetuates the rotation of poverty, hindering the overall monetary growth of the nation. Notably, girls with higher educational levels are less likely to get married off soon.

3.4 Effects on Sexuality and Violence

Girls with limited education face a higher risk of intimate partner violence. Forced into conjugal relations while still grappling with understanding their anatomy, these young girls often exhibit signs of post-traumatic stress due to sexual and mental abuse by partners. Their unprepared bodies and innocent minds suffer irreversible physical damage from forced sexual encounters, leading to profound and incomprehensible psychological harm.

3.5 Unwanted Pregnancies

Early marriage often compels young girls to engage in sexual intercourse with their typically much older husbands, leading to significant adverse health effects due to the girls' lack of psychological, physical, and sexual maturity. The association between early marriage and premature childbearing is pronounced, with young brides facing immense strain to demonstrate their fertility within the early year of marriage. Marrying

¹⁷ UNICEF, Child Marriage in India – An analysis of available data (2012), <http://www.unicef.in/documents/childmarriage.pdf>.

¹⁸ International Center for Research on Women, Asia Child Marriage Initiative: Summary of Research in Bangladesh, India and Nepal (2013), <http://www.icrw.org/files/publications/PLAN%20ASIA%20Child%20Marriage-3%20Country%20Study.pdf>.

¹⁹ UNICEF, Child Marriage in India – An analysis of available data (2012), <http://www.unicef.in/documents/childmarriage.pdf>.

at an early age often results in early and multiple pregnancies, driven by inadequate knowledge of contraception and a limited ability to negotiate its use.

3.6 Domestic violence

The significant age difference between young brides and their older husbands often exacerbates the vulnerability of the girls, making them more susceptible to abuse and less inclined to assert themselves. Young married girls face a higher likelihood of threats, and in some cases, husbands may feel justified in resorting to violence. Child brides frequently endure domestic violence, as evidenced by data from Egypt, where 29% of married adolescents experienced physical abuse from their spouses and families. Notably, 41% of these instances occurred during pregnancy.²⁰

3.7 Impact of child marriage on education

Child marriage significantly impacts girls' education by depriving them of the essential role schools play in socializing and preparing young individuals for adult responsibilities. Longer periods of schooling are linked to positive outcomes, such as delayed marriage, lower natality rates, healthier and well-educated children, and overall economic progress. Unfortunately, early marriage robs girls of their right to education, hindering personal development, readiness for adulthood, and their ability to contribute effectively to their family and society's future well-being.

Educated women are more likely to influence decisions about family size and child spacing. They also tend to possess greater knowledge about contraception and the medical needs of their children. Additionally, young girls who marry beside their communities often lose close connections formed in their parental homes, leading to a more reserved demeanor. This separation means that even if girls have established social groups, they are unable to connect them from their marital community.

3.8 Developmental Challenge

The practice of early marriage runs counter to the aims established by the Millennium Development Goals (MDGs), posing a hindrance to the realization of the first six objectives. This undermines endeavors to eliminate extreme poverty, attain universal primary education, advance gender equality and women's empowerment, reduce child mortality, enhance maternal health, and combat HIV/AIDS, malaria, and other diseases.

High fertility associated with early marriage contributes to a demographic trap, wherein impoverished families opt for numerous children, creating a cycle of poverty. UNICEF contends that the consequences of early marriage extend beyond the affected girls, affecting society as an entity. The repercussions include population problem, increased healthcare expenses, and missed opportunities for human growth, collectively imposing growing burdens on society due to early marriage²¹.

4. INTERNATIONAL COMMITMENTS TO COMBAT CHILD MARRIAGE

Citizenship grants individuals the valuable right to have their freedoms safeguarded by the national constitution or laws. For women and girls, the expectation is that their governments will safeguard their rights, in compliance with human rights standards and levels. Specifically, vulnerable groups, like girls, should be shielded from early forced marriages, a concern addressed by various international and national human rights laws. Governments bear the responsibility to enact these laws at the regional level and establish effective mechanisms for their implementation. However, some countries, upon ratifying international human rights treaties, choose to exclude vital clauses related to women's rights in marriage, inadvertently endorsing gender discrimination and inequality.

4.1 Need for a human rights set-up

A human rights set-up is crucial in combating child marriage as it offers an empowering structure to safeguard vulnerable girls. Governments endorsing international human rights instruments are obligated by international standards, holding a legal duty to prevent rights violations. Such commitments extend to protecting citizens, especially children, recognizing their vulnerability and specific entitlements vital for overall progress. Despite child marriage being orchestrated by private individuals, the government can be held accountable for negligence in preventing such acts through its three branches of government. Increasingly, international human

²⁰ Too young to wed, child marriage in their own words, Washington, D.C. International Center for Research on Women (ICRW), (2008)

²¹ UNICEF. (2000). early marriage: whose right to choose? Mission Statement of the Forum on Marriage and the Rights of Women and Girls.UK.

rights laws are employed in national courts and treaty monitoring authorities to advance the cause of girls' and women's human rights.

Some of the significant international and regional human rights instruments relating to child marriage are

1. Universal Declaration of Human Rights (1948) - Article 16
2. Convention on the Elimination of All Forms of Discrimination against Women (1979) - Articles 2 and 16
3. The International Covenant on Economic, Social and Cultural Rights (1976) - Article 12
4. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery - Article 1(c)
5. The Convention on the Rights of the Child (1989)
6. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1964) - Articles 1 - 3
7. The African Charter on the Rights and Welfare of the Child - Article XXI
8. Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (also called as the Maputo Protocol) (2003) - Article 6, clauses (a), (b), (d)

While international human rights instruments may not comprehensively address child marriage, CEDAW, widely regarded as the women's bill of rights, explicitly covers crucial aspects. It addresses consent and establishes a minimum marriage age of majority, eliminating gender-based discriminatory age requirements. The Maputo Protocol, an extension of the African Charter on Human and People's Rights, goes further by advocating for marriage registration. Despite Articles 2 and 16 being significant provisions in CEDAW, some states, despite ratification, still reserve judgment on these key articles. Moreover, nations with established minimum marriage age laws often lack the political will or resources for effective enforcement. However, human rights monitoring bodies are increasingly recognizing child marriage, offering avenues to hold governments answerable. Ultimately, a co-ordination of international human rights conventions, national laws, and policies proves essential for creating meaningful and sustainable improvements regarding the issue of child marriage.

4.2 Concerns on physical and mental health

Child marriage infringes upon the rights of women to enjoy the highest attainable standard of physical and mental health, with sexual and reproductive health presenting significant risks for both child brides and their offspring. Over 70% of states globally have agreed to the International Covenant on Economic, Social and Cultural Rights, establishing health standards. Governments are thus obligated to monitor compliance and ensure accessible, non-discriminatory, culturally acceptable, and high-quality information and services, especially for vulnerable groups like child mothers.

Three pivotal international agreements—the 1994 International Conference on Population and Development, the 1995 Fourth World Conference on Women, and the 2001 and 2006 United Nations General Assembly Special Session on HIV/AIDS—provide additional standards for states in advancing sexual health and rights. These agreements underscore the importance of human rights, gender equality, and empowerment for the growth and well-being of women, girls and women.

In the context of the HIV epidemic, states pledged in 2001 to change by 2005, to “ensure development and accelerated implementation of national strategies for women’s empowerment, the promotion and protection of women’s full enjoyment of all human rights and reduction of their vulnerability to HIV/AIDS through the elimination of all forms of discrimination, as well as forms of violence against women and girls, including harmful traditional and customary practices...”²²The negative outcomes of many HIV programs to integrate reproductive health concerns in high-prevalence areas amounts to disparity against child brides, who often require frequent access to reproductive health services.

²² United Nations General Assembly Special Session on HIV/AIDS. (2001) Global Crisis – Global Action Declaration of Commitment on HIV/AIDS. Adopted 27 June 2001, New York, Paragraph 61

4.3 Right to education

Child marriage significantly hinders girls' access to education, denying them the opportunity to acquire essential skills and confidence for exercising various human rights. International human rights frameworks emphasize a three-fold criteria, ensuring women's equal right to education and promoting their equal rights through education. Prohibition of formal education not only deprives child brides of crucial skills but also limits access to in-house programs on HIV prevention and reproductive health. Discriminatory policies and unfavorable school environments often force pregnant child brides to leave school. The Convention on the Rights of the Child addresses additional rights related to education, advocating for educational and vocational information, the right to seek, receive, and propagate information, and the delivery of reproductive health programs in schools. Unfortunately, pregnant child brides face expulsion due to discriminatory policies and unsupportive school systems, perpetuating gender biases. The Regional Charter on the Rights and Welfare of the African Child urges states to ensure that child mothers complete basic education or continue their education, challenging discriminatory practices that hinder their return to school.

4.4 Right to choose marriage

A robust legal framework, backed by resources and enforcement mechanisms, establishes a protective environment to uphold the rights of individuals to choose when and whom to marry. CEDAW emphasizes that child betrothal and marriage should have no legal effect, advocating for legislation specifying a required age of 18 for both girls and boys. However, the enforcement of laws on minimum marriage age often falls short, lacking effective punitive measures, especially in rural communities where civil, religious, customary, and traditional laws coexist without a clear hierarchy. Discrimination persists in marriage ages for males and females, with some countries allowing girls to marry earlier than boys, reinforcing gender disparities.

CEDAW's²³ Article 1 defines 'discrimination against women' as any distinction based on sex that impairs women's recognition, enjoyment, or exercise of human rights and fundamental freedoms²⁴. Child marriage unequivocally discriminates against girls, imposing greater health, social, and development burdens on them.

The right to marry necessitates free and full consent from all parties, aligning with the recognized choice in selecting a spouse within human rights law. However, domestic laws on the minimum age of marriage often exhibit serious loopholes and inconsistencies, allowing rapists to marry underage victims and endorsing child marriage with elderly or judicial consent. Coexistence of statutory laws with religious and customary laws often fails to provide proper protection for girls, as these norms lack legal clarity or sufficient safeguards. Parental consent, when not regulated to uphold the best interests of the child, proves inadequate in ensuring protective measures²⁵.

4.5 Rights of the Child

While the Convention on the Rights of the Child (CRC) doesn't explicitly address child marriage, it establishes norms and protective measures for children, forming a comprehensive framework to address this issue. The CRC defines a child as under 18 years but allows for legislative flexibility to reduce this age. Nevertheless, the Convention's articles unequivocally state that child marriage undermines number of rights guaranteed by the CRC, including

1. The right to life (Article 6),
2. The right to health (Article 24),
3. Protection from harmful practices (Article 24),
4. Protection against abuse and exploitation (Articles 19, 34, 39),
5. The right to education (Articles 24, 28, 29),
6. The right to participation (Articles 12 - 15).

²³ Article 1, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)

²⁴ Ibid

²⁵ Article 3, United Nations Convention on the Rights of the Child.

5. LEGAL FRAMEWORKS AROUND THE GLOBE AGAINST CHILD MARRIAGE

Establishing, standardizing, and enforcing national laws is crucial for governments to uphold their commitment to translating and incorporating international human rights agreements, guiding policymakers and community activists. It is imperative to introduce laws, especially in cases where no minimum age for marriage exists, aligning practices with human rights levels. The primary target of these national laws should be the protection of children and women's rights, aiming to eliminate gender discrimination. To effectively address child marriage, actions should include:

1. Amend or introduce legislation, with necessary enforcement mechanisms, to ensure 18 as the minimum age for marriage, considering consent and appropriate sanctions for both genders.
2. Enhance national family and marriage laws to eliminate discrimination against women and girls, emphasizing their rights to property and economic independence.
3. Enforce the registration of all births and marriages to support the effective implementation of laws regarding the minimum marriage age.
4. Work towards removing reservations to key conventions, such as CEDAW, to promote gender equality.
5. Ensure that international human rights treaty bodies' reports, specifically CRC and CEDAW, highlight efforts to prevent child marriage and advancements in reducing it.

5.1 Ending child marriage in China

According to UNICEF's estimates derived from the China Population Census Yearbook 2020, approximately 3% of girls in China are married before reaching the age of 18. Child marriage in China stems from disparities in gender, rooted in the notion that women and girls are subordinate to men and boys. In alignment with target 5.3 of the Sustainable Development Goals, China has pledged to eradicate child, early, and forced marriages by 2030. The country ratified the Convention on the Rights of the Child in 1992, stipulating a minimum marriage age of 18. Additionally, China committed to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1980, emphasizing the necessity for states to ensure free and full consent to marriage.

Leading up to China's Universal Periodic Review in 2013, the UN Human Rights Committee expressed concerns about China serving as a destination for young girls vulnerable to trafficking. Similar apprehensions related to child trafficking were highlighted during China's Universal Periodic Review in 2018.

The significant provision from the Marriage Law, 2001 of China, has been listed below that helps in combating child marriage in China:

Article 6²⁶ says that no marriage may be contracted before the man has reached 22 years of age and the woman 20 years of age. Delayed marriage and delayed childbirth shall be encouraged²⁷.

5.2 Position in Niger

Niger hosts 5 million child marriages, among whom 1.9 million child brides were married before reaching the age of 15. Regrettably, The Niger holds the unfortunate distinction of having the highest occurrence of child marriage globally, with 76 percent of young women marrying before their majority²⁸. Alarming is the lack of steps and progress in eradicating this practice, making it challenging to end child marriages in the near future .

In Niger, a staggering 28% of girls are wedded before reaching the age of 15. In contrast, 6% of boys in Niger experience marriage before turning 18. The prevalence of child marriage is notably high in Maradi (89% of women aged 20-24 married by age 18), Zinder (87%), Diffa (82%), and Tahoua (76%). Disturbingly, in

²⁶ MARRIAGE LAW OF THE PEOPLE'S REPUBLIC OF CHINA, Adopted at the Third Session of the Fifth National People's Congress on September 10, 1980 and promulgated by Order No.9 of the Chairman of the Standing Committee of the National People's Congress on September 10, 1980; and amended in accordance with the Decision on Amending the Marriage Law of the People's Republic of China, adopted at the 21st Meeting of the Standing Committee of the Ninth National People's Congress on April

28, 2001)

²⁷ Ibid

²⁸ Niger Demographic and Health Survey 2012.

some regions, girls as young as 10 years old are married, and after the age of 25, only a few young women remain unmarried²⁹.

The Hausa people experience a higher prevalence of child marriage. According to a 2017 World Bank/ICRW study, putting an end to early marriage in Niger could yield over USD 188 million in additional gains and productivity.

Child marriage in Niger is influenced by various factors, including gender discrimination and the perception of women and girls as submissive. In regions like Diffa, impacted by the Lake Chad Basin crisis, child marriage trends soar to 89%, driven by the belief that marriage provides protection in insecure environments with prevalent violence against women and girls. Refugee camps often see girls married to older men, who may abandon them, leaving these child brides vulnerable. Poverty, exacerbated by food shortages and frequent famines, drives families to marry off their daughters for economic survival. Religious interpretations, primarily Islamic, sometimes justify child marriage, resisting legislative changes.

Having ratified the Convention on the Rights of the Child in 1990, which establishes 18 as the minimum age for marriage, and acceding to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1999, obliging Nations to ensure free and full consent to marriage, Niger is committed to safeguarding rights³⁰. As a member of the Economic Community of West African States (ECOWAS), Niger prioritizes child protection within the adopted Strategic Framework. The ECOWAS Heads of State endorsed the ECOWAS Child Policy and Strategic Action Plan, along with the 2019-2030 Roadmap to prevent and respond to child marriage in June 2019. In collaboration with the Spotlight Initiative, a mutual dialogue between the European Union and the United Nations, Niger receives support to combat sexual and gender-based violence and unethical practices against women and girls. The European Union has poured in \$17 million USD between 2019 and 2020 to advance these efforts.

5.3 Child Marriages in USA

Although American foreign stance labels child marriage as a "human rights abuse" and urges other nations to eradicate it, a significant number of Americans are unaware of its prevalence within their own country. This is because, in the U.S., there is no centralized repository that gathers marriage-age data from all its states. The most viable option is to retrieve marriage-certificate data from each state individually and compile the data. However, not all states consistently track or provide access to this data.

Child marriage poses significant harm in the U.S., mirroring its detrimental effects globally. Even highly mature 17-year-olds, constrained by little legal rights, can be coerced into marriage or compelled to remain in uninterested unions. The profound consequences of child marriage in the U.S. categorize it as a "human rights abuse" akin to other regions. Teenage girls who marry in the U.S. face higher probabilities of high school dropout, lack of college graduation, and increased vulnerability to poverty. Additionally, they are at a heightened risk of developing psychiatric disorders³¹.

In contrast to countries like India, where child marriage continues despite preventive laws, the challenge in the U.S. lies within the legislations. Marriage before the age of 18 remains legally permissible in 44 out of the 50 U.S. states. Moreover, the six states and three territories that have prohibited early marriage did so only within the past three years³².

²⁹ Ibid

³⁰ United Nations Children's Fund, Child Marriage in the Sahel, UNICEF, New York, December 2020, <<https://data.unicef.org/resources/child-marriage-in-the-sahel-brochure/>>, accessed 26 November 2023.

³¹ Le Strat Y, Dubertret C, Le Foll B., Child marriage in the United States and its association with mental health in women. *Pediatrics*. 2011; 128: 524-530

³² New York. S3086. Available at: <https://www.nysenate.gov/legislation/bills/2021/s3086>. Accessed July 22, 2021.

6. ANALYSIS OF ADOLESCENT PREGNANCY TRENDS IN INDIA

Adolescent pregnancy remains a significant social issue, with growing interest and concern in recent years. Many worry that it's spreading uncontrollably among teenagers, yet it's not an epidemic. Despite being a nationwide concern, there's a lack of national educational policies addressing the control on adolescent pregnancy and the challenges of parenthood. States have not actively proposed educational measures to assist communities dealing with this issue

6.1 Definition of Teenage Pregnancy

Adolescent pregnancy is characterized by a young girl, typically aged 13 to 19, becoming pregnant. Formally, teenage pregnancy refers to a pregnancy in a woman under 20, concluding before her 20th age, irrespective of marital or legal adult status. In casual conversation, it often pertains to unintentional pregnancies among unmarried minors.

Teen pregnancy is commonly perceived to involve a teenager who hasn't finished her basic education, possesses limited or no technical skills, relies fiscally on her parents, and may still reside at home, often exhibiting mental immaturity.

6.2 Adolescent pregnancy trends

In low-income countries, 90% of adolescent births occur within marriages or unions³³. Annually, around 21 million girls aged 15 to 19 conceive with a child in these regions, with approximately 12 million giving birth³⁴. Low-income countries witness at least 777,000 births each year to girls under 15³⁵. Sub-Saharan Africa and Latin America and the Caribbean experience the highest prevalence of adolescent pregnancy.

6.3 Child Marriages and Adolescent Pregnancies

Upon entering marriage, girls often encounter social pressure to prove fertility, making it challenging for them to make decisions about pregnancy or negotiate safe sexual practices and contraception use. Accessing contraception and safe abortion poses challenges for girls, including judgment from healthcare providers and physical obstacles such as distance and limited mobility to reach clinics.

In regions with high unintended pregnancy rates and strict abortion laws, pregnant adolescents may resort to unsafe, unqualified abortion providers, increasing the risk to their health. An estimated 8-11% of maternal deaths result from negligent abortions, with adolescent girls more likely to seek unsafe providers, especially in regions with restrictive abortion laws like Central America³⁶.

Child brides are prone to early pregnancies, leading to more children and elevated risks of pregnancy- and childbirth-related complexities, impacting their long-term health and, in severe cases, causing death. The younger the girl when pregnant, the higher the bodily and mental risks. The health of children born to child brides is also compromised. They face increased risks of low birth weight, preterm delivery, severe neonatal conditions, malnutrition, and stunting throughout childhood.

6.4 Medical complications in adolescent Pregnancies

Research suggests that pregnant teenagers often delay seeking prenatal care until the third trimester, leading to inadequate care. Consequently, teenage mothers globally experience higher rates of premature births and low birth weight. Girls aged 14 and younger face increased medical risks due to underdeveloped pelvises, potentially resulting in child delivery complications. Young girls under 20 have a heightened risk of obstructed labor, leading to obstetric fistulas in the absence of Caesarean sections, affecting at least 2 million of the world's poor women. Complications during pregnancy and childbirth are the primary causes of death for girls aged 15 to 19 in middle income countries, with a twofold higher childbirth mortality rate than women in their 20s. Teenage girls contribute to 14 percent of the approximately 20 million unsafe abortions annually, resulting in around 68,000 deaths.³⁷

³³ UNFPA, 2015, *Girlhood, not motherhood: Preventing adolescent pregnancy*, New York: UNFPA

³⁴ Darroch J, Woog V, Bankole A, Ashford L.S, 2016, *Adding it up: Costs and benefits of meeting the contraceptive needs of adolescents*, New York: Guttmacher Institute

³⁵ UNFPA, 2021, *State of the world's population*

³⁶ Chandra-Mouli, V., et. al., 2014, *Contraception for adolescents in low and middle income countries: needs, barriers, and access*, *Reproductive Health* 2014 11:1

³⁷ Susheela Singh (1998): *Adolescent Childbearing in Developing Countries: A Global Review*, *Studies in Family Planning* Vol. 29, No. 2, *Adolescent Reproductive Behaviour in the Developing World*, pp. 117-136

6.5 Prioritizing girls rights and maternal health

To enhance maternal health, addressing child marriage and supporting married girls is imperative. Some of the key recommendations include:

1. Direct focus on the societal factors impacting early pregnancy for both married and unmarried girls within maternal health initiatives.
2. Widen the availability of contraception for adolescent girls, whether married or unmarried, enabling them to postpone and space pregnancies.
3. Implement age-appropriate, comprehensive sexuality education that includes discussions on gender equality.
4. Establish secure environments for girls to learn about sexual and reproductive health and rights, reducing social isolation.
5. Tailor maternal health programs to address the specific needs of adolescent girls, including those married or experiencing pregnancy outside of wedlock.
6. Ensure the accessibility of safe abortion services and post-abortion care where feasible.
7. Utilize medical services as a gateway to other essential services, such as nutrition, child protection, education, and income-generating opportunities.
8. Implement integrated, cross-sectoral measures to prevent child marriage.

7. JUDICIAL RESPONSE ON CHILD MARRIAGE AND ADOLESCENT PREGNANCY

The judiciary of India has also contributed a remarkable role in abolishing child marriage and promoting women's rights in India via various judicial responses and judgements

In **Lajja v State**, the Delhi High Court asserted that the Protection of Children from Sexual Offences Act (PCMA) takes precedence over personal laws³⁸.

In the case of **Independent Thought v. Union of India**³⁹, in a groundbreaking ruling on October 11, 2017, the Apex Court of India determined that engaging in sexual acts with a minor wife qualifies as rape under Section 375 of the Indian Penal Code. The court modified Exception 2 to Section 375, stating that sexual involvement with a minor constitutes rape, and the exception does not apply if the wife is between 15-18 years old.

In **P.Venkataraman v. State**⁴⁰, the case highlights that the sole consequence of child marriage is the legal liability of individuals who conducted the marriage under Section 18 of the Hindu Marriage Act, 1955. Parties to the marriage only have the option of obtaining a divorce if they desire.

In the case of **Krishna Pillai v. T.A Rajendran**⁴¹, the court addressed Section 9 of the Child Marriage Restraint Act, 1929, stating that no court could take cognizance of an offence under this act after one year from the alleged offence. The three-Judge Bench ruled that since magisterial action in the case exceeded one year from the date of the offence, the Magistrate was not competent to take cognizance, as per the prohibition under Section 9 of the Child Marriage Restraint Act, 1929.

8. CONCLUSION AND RECOMMENDATIONS

In summary, the interplay between child marriage laws and adolescent pregnancy rates in India reveals a complex tapestry of societal norms, economic factors, and legal frameworks. While legislation exists to combat child marriages, its impact is nuanced and requires a holistic approach. The persistently high rates of adolescent pregnancies underscore the urgency of addressing not only legal gaps but also the root causes that perpetuate early marriages. It is evident that a singular focus on legal sanctions is insufficient; rather, a multi-dimensional strategy that includes education, economic empowerment, and community engagement is imperative to break the cycle of child marriages.

Furthermore, the impact of child marriage laws extends far beyond statistical measures, influencing the lives and futures of countless young individuals. Efforts to eradicate child marriages should not only be viewed through the lens of legal compliance but also as a means to empower and protect vulnerable populations. By

³⁸ Lajja Devi v State and Ors, 2013 Cri LJ 3458

³⁹ (2017) 10 SCC 800

⁴⁰ AIR 1977 AP 43

⁴¹ 1990 (Supp) SCC 121

investing in education and dismantling socio-economic barriers, India can create an environment where young girls are equipped to make choices about their lives, leading to a reduction in the prevalence of adolescent pregnancies. This underscores the importance of comprehensive, rights-based approaches that address the broader societal context in which child marriages persist.

To curb child marriage in India and enhance the effectiveness of existing laws, here are some recommendations:

1. Strengthen legal enforcement and bolster efforts to enforce existing laws, ensuring strict penalties for those involved in child marriages.
2. Community Awareness Programs and targeted campaigns to raise voice about the negative consequences of child marriage within communities.
3. Availability and quality of education, especially for girls, to empower them and delay marriage.
4. Create opportunities for skill development and employment, particularly for young women, reducing economic dependency that often drives early marriages.
5. Integrate comprehensive sexual and reproductive health education into school education to inform adolescents about their bodies and family planning.
6. Engage religious leaders to advocate against child marriages, leveraging their influence within communities.
7. Establish counseling services for at-risk individuals and families to address underlying issues leading to child marriages.
8. Focus on rural development initiatives to alleviate poverty, a key factor driving child marriages.
9. Through early warning systems develop mechanisms to identify and intervene in potential child marriages, involving local authorities and community members.
10. Utilize mass media platforms to disseminate messages against child marriage, reaching a broader audience.
11. Collaborate with international organizations and neighboring countries to share best practices and resources in combating child marriage.

In moving forward, India must prioritize a collaborative and dynamic approach, involving stakeholders at various levels of society. From grassroots community initiatives to policy-level changes, a unified effort is necessary to create lasting change. It is crucial to recognize that eradicating child marriages is not just a legal mandate but a societal imperative that requires empathy, understanding, and a commitment to the well-being and agency of every young individual. Only through such collective endeavors can India hope to create a future where child marriages are relegated to the annals of history, and every child is afforded the opportunity to grow, learn, and determine their own destiny.