



July 31, 2014

Working Group on Discrimination against Women in Law and Practice  
Civil Society Section  
Office of the United Nations High Commissioner for Human Rights  
Palais des Nations  
1211 Geneva 10, Switzerland

**Re: Response to Call for Submissions for the Working Group on Discrimination against Women in Law and Practice’s Report on Discrimination against Women in Family and Cultural Life**

The Center for Reproductive Rights (the Center), an independent non-governmental organization that uses law to advance reproductive freedom as a fundamental human right, respectfully presents the following information in support of the Working Group on Discrimination against Women in Law and Practice’s (the Working Group) preparation of a report on discrimination against women in family and cultural life to be presented to the Human Rights Council in June 2015. The Center has offices in Colombia, Kenya, Nepal, Switzerland, and the United States, and works globally to advocate for women’s reproductive rights.

This submission focuses on child marriage in South Asia as it relates to discrimination against women in family and cultural life. In 2013-2014, the Center published a briefing paper (Annex I) and two fact sheets (Annexes II and III) on child marriage in South Asia, which examine international standards violated by the practice of child marriage; the resulting continuum of grave and irreparable sexual and reproductive health harms suffered by women and girls; and the contradictions between religion-based personal laws, which often condone child marriage, and national laws that aim to prohibit and penalize child marriage. As these publications emphasize, the elimination of child marriage in South Asia will require governments to address institutionalized forms of inequality, harmful stereotypes, and discrimination against women and girls within family and cultural life that are persistent sources of inequality and discrimination within marriage. As requested by the Working Group, this letter will highlight specific legal reforms undertaken by certain governments in South Asia to eliminate child marriage and address inequality and discrimination against women, although it must be emphasized that much more needs to be done.

## **I. Introduction**

Under human rights law, states have an affirmative duty to eliminate discrimination against women and girls, and to ensure their equal enjoyment of rights.<sup>1</sup> This affirmative duty extends to family life and includes the immediate obligation to protect girls from child marriage,<sup>2</sup> and to provide legal remedies and accountability for when child marriage occurs.<sup>3</sup> The failure to do so leads to violations of women's rights, including the right to equality and nondiscrimination,<sup>4</sup> (see Annex I, pp. 26-37 for further discussion on how child marriage violates women's and girls' rights), and constitutes a barrier to the attainment of substantive equality for women.<sup>5</sup>

Child marriage is a form of violence against women and children<sup>6</sup> that occurs within the family and is perpetuated by discriminatory cultural norms that embody gender stereotypes and force girls into socialized roles that limit their opportunities for substantive equality. Child marriage does not constitute a single violation of rights for girls, but triggers a continuum of harm—including reproductive health harms and sexual violence—that continues through a married girl's life and into womanhood. In South Asia, and elsewhere, the persistence of child marriage is due in large part to the failure of governments to address laws and cultural practices that discriminate against women and girls, (see Annex I, pp. 17, 21 for further discussion on how laws and cultural practices enable child marriage to continue in the region) despite their obligation to both address discriminatory stereotypes that underlie child marriage, and to ensure that traditional and cultural practices, and religion, are not used to justify child marriage.<sup>7</sup>

This letter will focus on child marriage in South Asia because the practice is largely the result of stereotypes and prevailing discriminatory cultural norms and attitudes that have been both implicitly and explicitly condoned by governments in the region through official legislation or tolerance for personal laws, which undermine the legal protections against child marriage that otherwise exist domestically and under human rights law.

## **II. Response to information requested in the call for submissions**

### **A. Positive Legal Reforms to Promote Nondiscrimination and Gender Equality in Marriage in South Asia**

A few governments in South Asia have taken positive steps to promote nondiscrimination and gender equality in marriage by prohibiting child marriage through national legislation or legal amendments. Some have introduced legislation establishing a minimum age of marriage. This section will highlight some of these positive initiatives, as well as discuss gaps impeding progress.

### **Nondiscriminatory Legislation Promoting Equality in Family Life**

In South Asia, as in other regions where child marriage is prevalent, religious customs and traditional beliefs often underpin laws pertaining to marriage. Many of these religious customs and traditional beliefs are patriarchal in character and based on stereotypes about women and girls. For example, the view that women and girls mature faster than boys and are therefore ready for marriage at an earlier age, and the belief that giving a daughter away in marriage is a parental duty that should be performed while the girl is still young to protect family honor, perpetuate discriminatory practices such as child marriage and harm women. These commonly held discriminatory attitudes and practices contribute significantly to violations of states' immediate obligation to ensure women's equal enjoyment of their rights. Further, religion-based personal laws—which may be codified or uncodified—often set forth the requirements for marriage in certain communities including the age at which marriages may be performed. Personal laws are a significant barrier to women's rights in relation to marriage, and specifically undermine the legal protections against child marriage by establishing conflicting legal standards concerning the minimum age of marriage, the legal status of marriages performed under such an age, and married girls' rights to dissolve such marriages. (See Annex III, pp. 3-4 for detailed discussion on personal laws and their relationship to marriage in the region). In fact, many personal allow for a lower age of marriage than general secular law,<sup>8</sup> and some inherently discriminate against women by recognizing a higher age of marriage for boys than girls,<sup>9</sup> based on the stereotype that girls mature at a younger age than boys.

Notwithstanding the prevalence of contradictory and problematic legal provisions on child marriage across the region, examples of law reform from Nepal and Pakistan demonstrate that religion-based laws can be reformed to better uphold women's rights.

In 2002, the Eleventh Amendment to the *Muluki Ain* (Nepal's national civil and criminal code) brought about amendments to a wide range of discriminatory provisions relating to women's rights (see Annex III, p. 7 for further discussion on the history of the Eleventh Amendment), and set the minimum legal age for marriage at 18 with guardian consent, and 20 without guardian consent, for both sexes.<sup>10</sup> This is extraordinarily significant because Nepal is one of only two countries in South Asia (the other is Sri Lanka) that have set a consistent minimum age of marriage regardless of sex.<sup>11</sup>

In Pakistan, legislation prohibiting child marriage still permits girls at 16 years of age to marry.<sup>12</sup> Further, girls as young as 14 years of age can be married with parental consent under the Special Marriage Act, which governs non-religious marriages,<sup>13</sup> while under personal laws, girls as young as nine years old can be married if they have entered puberty.<sup>14</sup> Earlier this year, despite religious opposition to nationally establishing a minimum age of legal marriage, the provincial legislature in Sindh, Pakistan enacted the Sindh Child Marriage Restraint Act. This groundbreaking law declared the minimum legal age of marriage in the province to be 18 years

of age for both girls and boys.<sup>15</sup> This legislation marks a major step forward in Pakistan, where child marriage has persisted with impunity, and where religious opposition to raising the age of marriage has been strong,<sup>16</sup> despite clear directives from many human rights committees and experts that religion or religious beliefs cannot be used to justify discrimination, including discrimination against women.<sup>17</sup>

### **Protecting the Rights of Married Girls and Women**

Just as laws equalizing the minimum age of marriage regardless of sex and explicitly prohibiting child marriage are vital to protecting women and girls from harmful practices, laws ensuring that married girls are not exposed to sexual violence are critical to protecting women's health and their right to substantive equality.

States have a positive obligation to criminalize all forms of violence against women, including marital rape.<sup>18</sup> The Special Rapporteur on torture, cruel, inhuman or degrading treatment has further stated that “[s]tates should be held accountable for complicity in violence against women whenever they create and implement discriminatory laws that may trap women in abusive circumstances.”<sup>19</sup> Despite this obligation, few countries in the region have criminalized all forms of violence against women. Nepal and India, however, have started to take important steps to legally recognize and punish sexual violence against women within marriage. In India, progress in this direction has been followed by a setback.

Nepal is the only country in the region that has criminalized all instances of marital rape,<sup>20</sup> regardless of the wife's age when the rape occurred, and has made marital rape grounds for divorce.<sup>21</sup> In 2006, in *Meera Dhungana v. Nepal*, the Supreme Court held that it would be discriminatory to condemn an act of rape when committed against an unmarried woman, but to find that no crime occurred if that woman was one's own wife.<sup>22</sup> The Supreme Court further affirmed that “to forcibly compel [a woman] to use a part of her body against her will is a serious violation of her right to live with dignity [and] right to self-determination and it is a grave attack on her human rights.”<sup>23</sup>

India, in 2012, passed the Protection of Children from Sexual Offenses Act (PCSO) to criminalize sexual violence against children.<sup>24</sup> PCSO defines sex with a minor below 18 years of age as a crime, and makes no exception for sex with a minor that occurs during marriage.<sup>25</sup> This is a positive step towards protecting girls against sexual violence within marriage, particularly because the Indian Penal Code has historically set 16 years as the age below which sex with a girl is criminalized, but established a lower age—15 years—where the girl is one's wife.<sup>26</sup> Unfortunately, the protections established in PCSO were rolled back by the Criminal Law (Amendment) Act, passed in March 2013, which retroactively reaffirmed the Indian Penal Code standard and does not recognize rape within marriage once a girl is above 16 years of age.<sup>27</sup> This

amendment discriminates against women and girls and effectively legitimizes sexual violence within marriage, violating India's human rights obligations under international law.<sup>28</sup>

To ensure substantive equality, states must not only criminalize violence against women and implement these laws, but they must also take positive measures to prevent violence against women and actively transform the context in which violence occurs. This largely calls for states to address harmful stereotypes about women and girls, such as those that view women as property, or as subservient to their husbands, and formally denounce them as anachronistic and, ultimately, dangerous.

### **B. Legal Recognition for Women in Cases of Violations of Rights Related to Equality and Nondiscrimination in Family Life and Culture, and Violence against Women**

Courts in Nepal and India have taken promising steps toward recognizing the links between child marriage and violations of women's and girls' constitutionally protected fundamental rights and human rights.

In the 2006 case, *Sapana Pradhan Malla for the Forum for Women, Law and Development (FWLD) and Others v. Nepal Government, the Office of the Prime Minister and the Council of Ministers and Others*, in which petitioners challenged discriminatory standards established in Nepal's Marriage Registration Act and poor implementation of legislation prohibiting child marriage, the Supreme Court of Nepal affirmed the obligation to eradicate child marriage through effective implementation of the law and directed the government to make necessary amendments to the Marriage Registration Act and Muluki Ain to ensure consistency and uniformity.<sup>29</sup> The Court further recognized the real threats posed to girls' lives and health as a result of child marriage,<sup>30</sup> and affirmed the government's obligation to eradicate child marriage through effective implementation of the law. In a follow-up 2009 case, *Rama Panta Kharel & Others v. Government of Nepal*, the Supreme Court of Nepal upheld its findings from the 2006 case and called for amending inconsistencies in legal provisions relating to child marriage, and eliminating child marriage through effective enforcement of the laws.<sup>31</sup>

India's state-level high courts have also made notable strides in recognizing the human rights violations resulting from child marriage and condemning the practice. In the 2010 *Association for Social Justice and Research v. Union of India and Others* case, heard by the Delhi High Court, in which a non-governmental organization filed a *habeas corpus* petition to trace an underage girl who was reported to have been married to a 40-year-old man,<sup>32</sup> the Court discussed at length the human rights violations experienced by girls who are victims of child marriage.<sup>33</sup> The Court further emphasized that child marriage disproportionately affects girls, citing that "child marriage perpetuates an unrelenting cycle of gender inequality, sickness, and poverty."<sup>34</sup> This case was affirmed by the Delhi High Court in the 2012 case, *Court on its own*

motion (*Lajja Devi*) v. State (GNCT of Delhi) and Others, which concerned a 14-year-old Hindu girl who left home and got married without her parent's consent.<sup>35</sup> The Court not only reemphasized that child marriage was a violation of human rights, but criticized the gaps in India's Prohibition of Child Marriage Act (PCMA) that permit the practice to continue, such as by making child marriages voidable, which requires the married girl to take affirmative steps to void her marriage, instead of declaring them legally void, and failing to clarify if the PCMA supersedes personal laws.<sup>36</sup>

Lastly, while the Supreme Court of India has yet to issue a decision on the primacy of the PCMA over India's various personal laws, state high courts have begun to address the issue. In 2011, the Madras High Court heard the case *T. Sivakumar v. the Inspector of Police*, in which the father of a 17-year-old girl, who was allegedly kidnapped and married off, filed a *habeas corpus* petition.<sup>37</sup> The girl, however, filed an affidavit stating she left her home and married of her own accord.<sup>38</sup> The Madras High Court noted the long-standing legal condemnation of child marriage in India, despite its national persistence.<sup>39</sup> The Madras High Court noted that under both the PCMA and the Hindu Marriage Act, a personal law in India, the marriage of a girl under the age of 18 was considered voidable, and was "not a valid marriage."<sup>40</sup> This landmark decision was critical because it clarified the relationship both a national law and a personal law had to marriage, and found they both upheld the same standard regarding minimum age of marriage.

In a 2013 Karnataka High Court ruling, the Court found that the PCMA was applicable to all girls,<sup>41</sup> even those who are Muslim and whose marriages would presumably be governed by Muslim personal laws, which allow marriage at 15 years of age.<sup>42</sup> The Court stated that "the prime reason [of the PCMA] is the prohibition of... child marriage,"<sup>43</sup> and continued to state that "when the prescribed marriageable age of the girl is 18 years, this Court cannot be called upon to issue the sought declaration that the provisions of the [PCMA] are not applicable for the petitioner, as she belongs to the Muslim community."<sup>44</sup> While these two cases are promising, reports indicate that in the absence of clear recognition that the PCMA supersedes personal laws, local governments in other states, such as Kerala, have passed circulars permitting the registration of the marriage of Muslim girls under the age of 18 as permitted under Muslim personal laws.<sup>45</sup>

In addition to court action, national human rights institutions have played an important role in investigating the occurrence of child marriage and advocating for change. For example, the Afghanistan Independent Human Rights Commission, working in cooperation with local law enforcement, was able to stop the marriage of two young girls in Afghanistan.<sup>46</sup> In India, the National Human Rights Commission directed a district of Uttar Pradesh to investigate the incidence of child marriage in response to evidence showing a high prevalence of child marriage in the district.<sup>47</sup> (See Annex I, pp. 52-53 for further discussion on the role of national human rights institutions in South Asia).

### III. Remaining Barriers

As illustrated by the discussion above, notable steps have been taken by courts in the region to recognize child marriage as involving violations of constitutionally protected fundamental rights and human rights. However, across the region, one of largest barriers to eliminating child marriage is the **lack of enforcement of current laws** that prohibit child marriage, and the **conflict between personal laws and national laws** regarding marriage. The failure of governments to take positive measures to transform the social context that enables discrimination against women and child marriage, such as addressing **existing stereotypes about women and girls**, and ensuring economic and social opportunities outside of the home for women, is also a persistent barrier to change.

In addition, many women in South Asia **lack access to legal institutions and legal remedies** prescribed in the law, and many legal remedies are themselves cumbersome and confusing. For example, despite U.N. treaty monitoring bodies repeatedly affirming that child marriages should not be afforded legal effect,<sup>48</sup> in India, Nepal, and Pakistan, child marriages – once they are performed - are considered valid, unless either party, who was a child at the time of the marriage, takes affirmative steps to void the marriage. (See Annex I, pp. 13-14 for further discussion on the legal status of marriages involving children). When marriages are voidable, but not automatically void, the legal requirements often are cumbersome to the point of becoming unattainable, and require girls to have a level economic and personal autonomy that they practically lack (See Annex I, pp. 18-19, 20-21 for further discussion on legal barriers to challenging child marriage). In Nepal, for example, child marriage is only voidable if the couple has not yet had children at the time of dissolution.<sup>49</sup> In India, a girl must take steps to obtain a decree of nullity to dissolve a child marriage under the PCMA,<sup>50</sup> which presupposes a certain degree of economic independence and decision-making authority. The Committee on the Rights of the Child has emphasized that states' parties must regard married girls as being in a potentially vulnerable situation because of the likelihood that they will be exposed to gender-based violence,<sup>51</sup> and should provide adequate resources to help married girls who have fled their marriage.<sup>52</sup> (See Annex I, p. 24 for further discussion on the specific vulnerabilities of children).

In addition, child marriage has a devastating impact on married girls' reproductive health due to the risk of early and repeated pregnancies. Across South Asia, early pregnancy and its related complications pose the greatest threat to the survival of adolescent girls.<sup>53</sup> (See Annex I, p. 16-17 for further discussion on how early pregnancy impacts adolescent girls' health.). The failure of governments in the region to adequately recognize and address the reproductive health harms associated with child marriage has compounded the negative impact of these harms, since exposure to the risks of early pregnancy and the inability of child brides to control their fertility through access to contraceptive information and services, in addition to other important reproductive health services, has limited their ability to pursue opportunities for advancement in

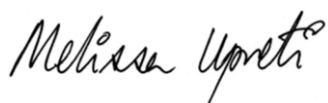
other areas. (See Annex I, p. 17 for further discussion on how child marriage curtails women and girls' autonomy).

Ultimately, confronting child marriage will require governments in South Asia to take meaningful steps to dismantle discriminatory patriarchal norms and stereotypes that are prevalent in society, including those that are embodied in the law and based on religious norms and doctrine. Without addressing these norms and stereotypes, child marriage will continue with impunity. (See Annex III, p. 11 for further discussion on states' obligations to end child marriage).

#### IV. Conclusion

As the above discussion demonstrates, while governments in South Asia have taken positive steps to eliminate discrimination against women in law and practice and reduce child marriage, it is critical that they initiate and enforce legal reform, make every effort to address legal gaps which allow for discrimination against women and girls, and transform cultural norms that enable the practice to persist. It is equally important for international human rights bodies and non-government organizations to promote accountability for child marriage and encourage governments in South Asia to amend laws and practices that are discriminatory against women and girls. As such, we strongly welcome the Working Group's focus this year on discrimination against women in family and cultural life and sincerely hope that the information furnished in this submission is of assistance to the Working Group. Should the Working Group require any additional information, please do not hesitate to contact Melissa Upreti, Regional Director for Asia, at [mupreti@reprights.org](mailto:mupreti@reprights.org) or at 917-637-3608.

Sincerely,



Meliessa Upreti  
Regional Director for Asia  
Global Legal Program  
Center for Reproductive Rights

---

<sup>1</sup> See International Covenant on Civil and Political Rights, adopted Dec 16th, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, art. 3, 26, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPR]; International Covenant on Economic, Social, and Cultural Rights, adopted Dec. 16th, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, art. 3, U.N. Doc. A/6316 (1966) (entered into force



---

Jan. 3, 1976) [hereinafter ICESCR]; Convention on the Elimination of All Forms of Discrimination against Women, adopted Dec. 18, 1979, G.A. Res. 34/180, U.N. GOAR, 34th Sess., Supp. No. 46, at 47, art. 1, U.N. Doc. A/34/46, U.N.T.S. 13 (entered into force Sept. 3rd, 1981) [hereinafter CEDAW]; See also Committee on Economic, Social and Cultural Rights (ESCR Committee), *General Comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, U.N. Doc. E/C.12/GC/20 (2009).

<sup>2</sup> See ICCPR, *supra* note 1, art. 3, 26; ICESCR, *supra* note 1, art. 3; CEDAW, *supra* note 1, art. 1; Convention on the Rights of the Child, adopted Nov. 20, 1989, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, art. 1, U.N. Doc. A/44/49 (1989) (entered into force Sept. 2, 1990); Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or punishment, adopted Dec. 10 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No. 51, art. 2(1), U.N. Doc. A/39/51 (1984) (entered into force June 26, 1987).

<sup>3</sup> See ACCOUNTABILITY FOR CHILD MARRIAGE: KEY U.N. RECOMMENDATIONS TO GOVERNMENTS IN SOUTH ASIA ON REPRODUCTIVE RIGHTS AND SEXUAL VIOLENCE, accompanying this briefing paper as Annex II.

<sup>4</sup> See ESCR Committee, *General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social, and cultural rights* (Art. 3), (34th Sess., 2005) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 199, para. 27, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008); Committee on the Elimination of Discrimination against Women (CEDAW Committee), *Concluding Observations: Italy*, paras. 52, 53, U.N. Doc. CEDAW/C/ITA/CO/6 (2011); Committee on the Rights of the Child (CRC Committee), *Concluding Observations: Bangladesh*, para. 32, U.N. Doc. CRC/C/BGD/CO/4.26, (2009); *Pakistan*, para. 29, U.N. Doc. CRC/C/15/Add.217 27 (2003); Human Rights Committee, *Concluding Observations: Yemen*, para. 10, U.N. Doc. CCPR/CO/75/YEM (2002).

<sup>5</sup> Catherine Albertyn, Sandra Fredman & Judy Frank, Introduction: Substantive Equality, Social Rights, and Women: A Comparative Perspective, 23 S. Afr. J. on Hum. Rts. 209, 209 (2007).

<sup>6</sup> CRC Committee, *General Comment No. 13: The right of the child from freedom of all forms of violence*, 56th Sess., para. 29(e), U.N. Doc. CRC/C/GC/13 (2011) [hereinafter CRC Committee, *Gen. Comment No. 13*]; See also ESCR Committee, *Concluding Observations: Afghanistan*, paras. 18, 28, U.N. Doc E/C.12/AFG/CO/2-4 (2010); *Philippines*, para. 18, U.N. Doc E/C.12/PHL/CO/4 (2008); See also Committee against Torture (CAT Committee), *Concluding Observations: Yemen*, para. 31, U.N. Doc. CAT/C/YEM/CO/2, (2010).

<sup>7</sup> General Assembly, Declaration on the Elimination of Violence against Women, art. 4, U.N. Doc. A/RES/48/104 (1993).

<sup>8</sup> See, e.g., Shiite Personal Status Law (amended), art. 99 (2009) (Afg.) (18 for boys and 16 for girls without parental consent; a guardian can consent for a minor) [hereinafter Shiite Personal Status Law (Afg.)]; The Christian Marriage Act, No. 15 of 1872, art. 60(1) (Bangl.); JAYA SAGADE, CHILD MARRIAGE IN INDIA: SOCIO-LEGAL AND HUMAN RIGHTS DIMENSIONS 79 (2005) [hereinafter JAYA SAGADE, CHILD MARRIAGE IN INDIA] (describing the Muslim Personal Law in India. While not codified, under the Muslim Personal Law, puberty is the age of marriage for both boys and girls and is presumed to occur at 15 years of age. Pre-puberty marriage can be contracted by guardians with the option for the girl to avoid marriage within three years of completing her fifteenth year if the marriage is not consummated); Kandyan Marriage and Divorce Act (amended in 1995), arts. 4(2), 66(a)-(b) (Sri Lanka) (18 years of age unless the parties cohabit for one year after attaining legal age or if a child is born within marriage before either attains legal age); Muslim Marriage and Divorce Act (1954) (Sri Lanka) (does not specify a minimum age of marriage).

<sup>9</sup> See, e.g., Shiite Personal Status Law (Afg.), *supra* note 8, art. 99; The Hindu Marriage Act, No. 25 of 1955, art. 5(iii)(India); The Indian Christian Marriage Act, No. 15 of 1872, art. 60(1) (India); The Parsi Marriage and Divorce Act, No. 3 of 1936, art. 3(1)(c) (India); Muslim Family Laws Ordinance No. 8 of 1961, art. 12 (Pak.); JAYA SAGADE, CHILD MARRIAGE IN INDIA, *supra* note 8, at 87 (stating that Jewish personal marriage laws in India prescribe a lower age of marriage for women than men).

<sup>10</sup> The Muluki Ain [Country Code], part 4, ch. 17, no. 2 (1963) (Nepal) [hereinafter Muluki Ain (Nepal)].

<sup>11</sup> Muluki Ain (Nepal), *supra* note 10, part 4, ch. 17, no. 2; Marriage Registration Ordinance, No. 131 of 1908, art. 15 (Sri Lanka).

<sup>12</sup> The Child Marriage Restraint Act, No. 19 of 1929, art. 2(a) (Pak.).

<sup>13</sup> The Special Marriage Act, No. 3 of 1872, arts. 2(2)-(3) (Pak.) (minimum age of marriage is 14 for a girl with parental consent, and 21 without parental consent).

<sup>14</sup> See, e.g., Kalbe Ali, CII endorses underage marriage, <http://www.dawn.com/news/1107849/cii-endorses-underage-marriage> (last accessed May 29, 2014).

- 
- <sup>15</sup> See THE EXPRESS TRIBUNE, Sindh Assembly passes bill declaring marriage below 18 punishable by law, [http://tribune.com.pk/story/701321/sindh-assembly-passes-bill-declaring-marriage-below-18-punishable-by-law/?utm\\_source=CM+in+News+Update&utm\\_campaign=539b88532d-Child\\_marriage\\_in\\_the\\_News\\_6\\_May\\_20145\\_6\\_2014&utm\\_medium=email&utm\\_term=0\\_1b4b6c6dbd-539b88532d-381591761](http://tribune.com.pk/story/701321/sindh-assembly-passes-bill-declaring-marriage-below-18-punishable-by-law/?utm_source=CM+in+News+Update&utm_campaign=539b88532d-Child_marriage_in_the_News_6_May_20145_6_2014&utm_medium=email&utm_term=0_1b4b6c6dbd-539b88532d-381591761) (last accessed May 29, 2014).
- <sup>16</sup> See, e.g., Kalbe Ali, CII endorses underage marriage, <http://www.dawn.com/news/1107849/cii-endorses-underage-marriage> (last accessed May 29, 2014).
- <sup>17</sup> Human Rights Committee, *General Comment No. 28: Article 3 (The equality of rights between men and women)* (68th Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 233, para.146, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008).
- <sup>18</sup> CAT Committee, *Concluding Observations: Ethiopia*, para. 32, U.N. Doc. CAT/C/ETH/CO/1 (2011); *Cameroon*, paras. 30, 31, U.N. Doc. CAT/C/CMR/CO/4 (2010); *China*, paras. 4(a), 27, U.N. Doc. CAT/C/CHN/CO/4 (2008); *Ghana*, para. 22, U.N. Doc. CAT/C/SVN/CO/1 (2011); *Mongolia*, para. 20, U.N. Doc. CAT/MNG/CO/1 (2011).
- <sup>19</sup> See Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment (SR TCIDT), *Rep. of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development*, para. 46, U.N. Doc. A/HRC/7/3 (Jan. 6th, 2008) (Manfred Nowak).
- <sup>20</sup> Muluki Ain (Nepal), *supra* note 10, part 4, ch. 14, nos. 1, 3, 6; Meera Dhungana for FWLD v. Government of Nepal, Writ No. 55/2058 B.S., S.C. Nepal (2002), Some important decisions of Supreme Court on Constitutional Law (2015-2062), Vol. 10(II) at 164 (2006) [hereinafter Meera Dhungana for FWLD v. Government of Nepal].
- <sup>21</sup> Muluki Ain (Nepal), *supra* note 10, part 3, ch. 12, no. 1(2).
- <sup>22</sup> Meera Dhungana for FWLD v. Government of Nepal, *supra* note 20, at 164, para. 27.
- <sup>23</sup> *Id.* para. 18.
- <sup>24</sup> The Protection of Children from Sexual Offenses Act, art. 2(d), No. 32 of 2012, INDIA Code (2012).
- <sup>25</sup> *Id.*
- <sup>26</sup> INDIAN PENAL CODE, sec. 375 (1860).
- <sup>27</sup> The Criminal Law (Amendment) Act, art. 8, No. 13 of 2013, INDIA CODE (2013).
- <sup>28</sup> General Assembly, Declaration on the Elimination of Violence against Women, art. 4, U.N. Doc. A/RES/48/104 (1993).
- <sup>29</sup> Sapana Pradhan & Others v. Prime Minister & Council of Ministers & Others, decision no. 7659, N.K.P. 2063, Vol. 3 at 289, para. 24 (2006) (unofficial translation done by the Center for Reproductive Rights).
- <sup>30</sup> *Id.* para. 19.
- <sup>31</sup> Rama Panta Kharel & Others v. Government of Nepal, Writ no. WS-128/2063 B.S., at 75 (2007) in CENTER FOR REPRODUCTIVE RIGHTS, FORUM FOR WOMEN, LAW AND DEVELOPMENT, AND NATIONAL WOMEN'S COMMISSION OF NEPAL, A COMPILATION OF SUPREME COURT DECISIONS ON REPRODUCTIVE RIGHTS (2013).
- <sup>32</sup> Association for Social Justice & Research [ASJR] v. Union of India & Others, W.P. (Crl.) No. 535/2010, Delhi H.C. (2010).
- <sup>33</sup> *Id.* para. 9.
- <sup>34</sup> *Id.*
- <sup>35</sup> Court On Its Own Motion (Lajja Devi) v. State, W.P. (Crl.) No. 338/2008, para. 9, Delhi H.C. (India) (2012).
- <sup>36</sup> *Id.* para 23.
- <sup>37</sup> T. Sivakumar v. The Inspector Of Police, H.C.P. No. 907 of 2011, para. 1, Madras H.C. (2011) (India).
- <sup>38</sup> *Id.* para. 2.
- <sup>39</sup> *Id.* para. 9.
- <sup>40</sup> *Id.* para. 57.
- <sup>41</sup> Mis. Seema Begaum D/O Khasimsab v. State Of Karnataka, W.P. No.75889/2013, Karnataka H.C. (2013)(India) [hereinafter Mis. Seema Beguam D/O Khasimsab v. State Of Karnataka (India)].
- <sup>42</sup> JAYA SAGADE, CHILD MARRIAGE IN INDIA, *supra* note 8, at 79; Sir Dinshah Fardunji Mulla, PRINCIPLES OF MAHOMEDAN LAW 114, at 115 (1907) (puberty is presume to be over the age of 15).
- <sup>43</sup> Mis. Seema Begaum D/O Khasimsab v. State Of Karnataka (India), *supra* note 40, para. 23.
- <sup>44</sup> *Id.*
- <sup>45</sup> THE TELEGRAPH, *Child Marriage Row in Kerala*, [http://www.telegraphindia.com/1130624/jsp/nation/story\\_17041236.jsp#.U2qRM4Xo4hU](http://www.telegraphindia.com/1130624/jsp/nation/story_17041236.jsp#.U2qRM4Xo4hU) (last accessed May 28, 2014).
- <sup>46</sup> AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION, Annual Report 2008 24 (2008).

---

<sup>47</sup> NHRC notice to UP govt on child marriage, low female literacy, zee news, June 03, 2013, [http://zeenews.india.com/news/uttar-pradesh/nhrc-notice-to-up-govt-on-child-marriage-low-female-literacy\\_852602.html](http://zeenews.india.com/news/uttar-pradesh/nhrc-notice-to-up-govt-on-child-marriage-low-female-literacy_852602.html) (last accessed July 29, 2014).

<sup>48</sup> See CEDAW, *supra* note 1, at 47, art. 16(2); CAT Committee, *Concluding Observations: Madagascar*, para. 13, U.N. Doc. CAT/C/MDG/CO/1 (2011); *Yemen*, para. 31, U.N. Doc. CAT/C/YEM/CO/2 (2009).

<sup>49</sup> The Muluki Ain (Nepal), *supra* note 10, part 4, ch. 17, no. 2(9).

<sup>50</sup> The Prohibition of Child Marriage Act, 2006, No. 6 of 2007, para. 3 (2007) (India).

<sup>51</sup> CRC Committee, *Gen. Comment No. 13*, *supra* note 6, para. 72(g); CRC Committee, *Concluding Observations: Bangladesh*, para. 67, U.N. Doc. CRC/C/BGD/CO/4.26 (2009); *India*, para 60, U.N. Doc. CRC/C/15/Add.228.26 (2004).

<sup>52</sup> CRC Committee, *Concluding Observations: Burkina Faso*, para. 59(e), U.N. Doc. CRC/C/BFA/CO/3-4 (2010); *Cameroon*, para. 60(d), U.N. Doc. CRC/C/CMR/CO/2 (2010).

<sup>53</sup> UNFPA, *Marrying Too Young: End Child Marriage*, Infographics 2, at 9 (2012), *available at* <http://unfpa.org/files/live/sites/unfpa/files/youngtowed/map%20and%20graphics-oct2-1.pdf> (last accessed July 29, 2014).