

Submission to the HRC on the Situation of Child, Early, and Forced Marriages in India

Submission made by

KHUSHI-INDIA

“An initiative of concerned individuals -researchers and activists- to improve health outcomes for all with a focus on marginalised and socially excluded persons”.

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The United Nations Human Rights Council, on September 27, 2013 adopted a resolution on strengthening efforts to prevent and eliminate child, early and forced marriage: challenges, achievements, best practices and implementation gaps.

This resolution was adopted at the Twenty-fourth session and the office of High commissioner was requested to prepare a report to guide a panel discussion at the twenty-sixth session, on the challenges, achievements, best practices, and implementation gaps for preventing and eliminating child marriage.

This first-ever resolution on child, early and forced marriage adopted at the Human Rights Council was co-sponsored by 107 countriesⁱ and India with the largest number of child brides, (24 million representing 40 % of the world 60 million child marriages) has not signed this resolution.ⁱⁱⁱⁱ

Though India has not signed this particular resolution but Government of India is a signatory to several international human rights conventions including the Universal Declaration of Human Rights (UDHR), Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the Conventions on the Rights of the Child and international conferences such as the International Conference on Population and Development (ICPD) which illustrates Government’s commitment to protect the rights of children and particularly address the issue of child marriage.

In the past in accordance with the international conventions several laws have been enacted by the Government of India such as Prohibition of Child Marriage Act, 2006 and Compulsory Registration of Marriage Act, 2006. In addition, the working group on the child rights for the 12th five year plan also recommended girl child specific district plan of action to be made with focus on the districts with high incidence of child marriage

Early, Child and Forced marriages are a widespread phenomenon in India. This has impact on the overall development health and well being of adolescents and young girls in the Country

In the subsequent sections, we monitor key indicators pertaining to early, child and forced marriages in India and propose recommendations.

1. Mean age at marriage for girls and percentage of girls married below age 18(legal age of marriage)
2. Currently married women age 20-24 who were married by age 18
3. Forced marriages In India
4. Consequences of child, early and forced marriages
5. Recommendations

The Convention on the Rights of the Child (CRC) defines a child as a “human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”^{iv} Child marriage according to the Indian Prohibition of Child Marriage Act, 2006, is defined as a marriage to which either of the contracting party is a child. Child or minor under this law is defined as 18 years in the case of girls and 21 years in the case of boys.^v

1. Mean age at marriage for girls, percentage of girls married below age 18 (legal age of marriage for girls) and currently married women age 20-24 who were married by age 18 (%)

Table 1: Mean age at marriage for girls, percentage of girls married below age 18 (legal age of marriage for girls) and currently married women age 20-24 who were married by age 18 (%)

State/Union territory	Mean age at marriage for girls	Girls married below age 18 (legal age of marriage) (%)	Currently married women age 20-24 who were married before age 18 (%)
Andaman and Nicobar Islands	21.6	6.0	24.5
Andhra Pradesh	19.0	28.6	51.9
Arunachal Pradesh	21.7	8.2	26.2
Assam	20.8	20.8	40.0
Bihar	17.6	45.9	68.2
Chandigarh	23.2	3.3	21.8
Chhattisgarh	18.9	21.3	45.2
Dadra and Nagar Haveli	19.5	28.7	46.9
Daman and Diu	20.8	5.4	22.1
Delhi	21.6	6.0	24.2
Goa	25.1	3.0	19.1
Gujarat	19.6	18.7	35.4

Haryana	19.7	15.9	28.0
Himachal Pradesh	21.9	1.6	9.1
Jammu and Kashmir	22.2	7.2	24.6
Jharkhand	18.3	35.9	55.7
Karnataka	19.8	22.4	50.2
Kerala	22.1	6.8	15.5
Lakshadweep	22.0	2.6	11.7
Madhya Pradesh	18.5	29.0	53.8
Maharashtra	19.3	17.6	40.4
Manipur	23.6	6.3	24.7
Meghalaya	21.1	15.0	34.3
Mizoram	21.7	9.9	23.7
Orissa	20.5	19.1	37.5
Puducherry	22.5	3.6	17.4
Punjab	21.3	5.8	15.5
Rajasthan	17.7	39.9	57.6
Sikkim	21.5	16.0	30.6
Tamil Nadu	21.3	9.1	24.0
Tripura	20.2	21.1	43.6
Uttar Pradesh	18.4	32.9	54.9
Uttarakhand	20.6	5.7	19.7
West Bengal	18.5	41.3	54.7
Rural	19.2	26.9	48.0
Urban	21.2	11.0	29.4
India	19.8	22.1	42.9

Source: Reproduced from India District Level Household and Facility Survey (DLHS-3)

The District Level Household and Facility Survey (DLHS-2007-2008),^{vi} reports a little more than one fifth of girls get married before attaining the legal age of marriage at 18 in India. This proportion is much higher in States such as Bihar, Rajasthan, Jharkhand, Uttar Pradesh, West Bengal, Madhya Pradesh and Andhra Pradesh.

Marriage in India is almost a universal phenomenon evidenced by the data on proportion never married which is a small 1% in the age groups of 45-59 and 60+ age groups.^{vii}

It is noted that the mean age at marriage^{viii} varies across different States in India for women.^{ix} Even within States the mean age at marriage differs among different social groups, women within different wealth quintiles and women with different levels of education. Overall aggregate percentage for India shows 27% of girls in rural areas are married before the age 18 in comparison to 11% in urban areas.^{x xi}

Of the 34 State and Union Territories in India, Bihar, Rajasthan, Jharkhand, Uttar Pradesh, West Bengal, Madhya Pradesh and Andhra Pradesh have shown a higher percentage of early and child marriages.

In Bihar, the mean age at marriage for girls is 17.6, and a significant 46% of girls get married before age 18. In Rajasthan, the mean age at marriage for girls is 17.7, and the percentage of girls married below age 18 is 39.9%. The mean age at marriage for girls is observed to be lower than the legal age at marriage in Bihar (17.6) and Rajasthan (17.7).

In Jharkhand, Uttar Pradesh, West Bengal, Madhya Pradesh and Andhra Pradesh, the mean age at marriage has faintly crossed 18 years.

In Jharkhand, the mean age at marriage for women just moved up the bar at 18.3, however a significant 35.9% of women get married below age 18. In Uttar Pradesh the mean age a marriage for women has reached 18.4, however a significant 32.9% of women get married below age 18.^{xii}

In the case of West Bengal, the mean age at marriage for women has reached 18.5, but a significant 41.3 % of women get married by age 18. In Madhya Pradesh, the mean age of marriage has just crossed the 18.5, and again 29% of girls get married before age 18 .In Andhra Pradesh, while the mean age at marriage has reached 19, 28.6 % of girls get married before age 18.^{xiii}

Dadra and Nagar Haveli (28.7%), Karnataka (22.4%) also report a higher percentage than the national aggregate figure of 22.1% of girls getting married below age 18.

2. Currently married women age 20-24 who were married before age 18 (%)

When the currently married women age 20-24 who were married before age 18 is examined, it is noted that 43 % of women across India in the age group of 20-24 have been married before the age of 18.^{xiv}

In certain States, the situation is worse with more than 50 per cent of women in the age group of 20-24 reported to be married by age 18. These states include Bihar (68.2%); Jharkhand (55.7%); Rajasthan (57.6%); Uttar Pradesh (54.9%); West Bengal (54.7%); Madhya Pradesh (53.8%); Andhra Pradesh (51.9%); and Karnataka (50.2%). The data presented in Table 1 shows the practice of child marriage is widely prevalent in most of the States in India with Bihar reporting the highest in the country.

The DLHS-3 data also points to the fact that more than half of the districts in Bihar, Jharkhand, Madhya Pradesh, Rajasthan and West Bengal have a higher incidence of child marriage than the respective state average.^{xv}

Factors such as wealth index, religion, caste, education, rural-urban setting have an impact the age of marriage for girls.^{xvi} A strong correlation between education and child marriage has been observed in National Family and Health Survey-3 survey

conducted during 2005-06 in India, which concluded women with no education are six times more likely to get married than those with 10 years or more of education.^{xvii}

3. Forced marriages in India

Article 16(2) of the United Nations Declaration on Human Rights notes that “marriages shall be entered into only with the free and full consent of the intending spouses.” Further to this The Convention of the Elimination of all forms of Discrimination against Women (CEDAW), Article 16 (1) (b) reiterates men and women’s “right to free choose a spouse and to enter into marriage only with their free and full consent.” Forced marriages are marriages where one or both the spouses did not give their free and full consent.^{xviii} This would technically also include child marriage, since children given their age, are not able to give free, prior and informed consent to their marriage partners, or to the timing of their marriage^{xix}

Sex marriages with wealthy Arabs who come to India on business trips and marry women for a short period of time has become a social menace in many states of India. Women in many cases are sexually abused. These short term contract marriages are illegal in India and illegal even in Islamic law, however are widely practiced and in many instances with no consent of the women. A rise in these kind of marriages is occurring in Varanasi, Hyderabad, Mumbai and Delhi.

In a similar situation, a case was booked under Prohibition of Child Marriage Act (2006), Juvenile Justice Act (2000) and Protection of Children from Sexual Offences Act (2011) against offender who was an Arab national and married a minor girl forcibly in 2013. Similar cases have been observed where Arab nationals come to India, organise Arab Wedding with minor Muslim girls and later abandon them.^{xx}

The United Nations Office on Drugs and Crimes (UNODC) has also documented rampant large-scale trafficking of girls from other states into Haryana where they are held as bonded labourers and forced into marriages. Girls from other States, especially from the North Eastern States, West Bengal, Assam, Bihar, Jharkhand, Odisha, Madhya Pradesh and Uttar Pradesh are brought to Haryana for forced marriage and bonded labour. Destinations include Karnal, Mewat, Rewari, Kurukshetra, Jind, Yamuna Nagar and Hisar areas of Haryana.^{xxi}

4. Consequences of child early and forced marriages

Child, early and forced marriages have impact on adolescents and young women overall development, education, empowerment, health and their sexual and reproductive health. It violates the basic human rights of individuals.

Adolescents and young women, who face consequences of early and child marriage are mostly pulled out of school, lack basic education and skills for gainful employment thus exacerbating the vicious cycle of poverty^{xxii} These young women are prone to domestic violence and this phenomenon is more common among economically and socially disadvantaged groups who are perennially stuck in

poverty. Empowerment of girls is severely hampered as a result of this gender discrimination.

Health consequences include early pregnancy and childbearing. Women younger than twenty years old have higher rates of new born mortality than women aged 20-39 years.^{xxiii} The risk of maternal deaths for girls under 15 is double that of older women, including higher rates of obstetric fistula.^{xxiv}

Child marriage not only affects the physical health of a girl but also has serious undesirable effects on the mental health. A study done in the US suggests that the overall lifetime and 12-month rates of psychiatric disorders were higher for women who married as children, compared with women who married as adults. Major depressive disorder is one of the commonest problems among women who are married before 18 years of age.^{xxv}

Lack of access to health services puts adolescents and young women under risk of unsafe abortions, vulnerability to sexual abuse and coercion has also been documented. As a result of sexual violence and coercion, a greater proportion of adolescents and young girls are susceptible to sexually transmitted infections, reproductive tract infections, unsafe abortions and unintended pregnancies.

Children born to women married as minors are significantly more vulnerable to malnutrition than those born to married to women at majority age.^{xxvi}

5. Recommendations

Given the situation of high prevalence of early, child and forced marriages in India,

- We call for the strict and full enforcement and implementation of the following legislations that are already in place in India, but poorly implemented. These laws if implemented and enforced strictly can reduce early, child and forced marriages in India to a great extent:
 1. The Prohibition of Child Marriage Act, 2006;
 2. Compulsory Registration of Marriage Act;
 3. Protection of Children from Sexual Offences Act 2012;
 4. Dowry Prohibition Act, 1961;
 5. Protection of Women from Domestic Violence Act, 2005 (PWDA);
 6. Immoral Traffic (Prevention) Act, 1956 (ITPA);
 7. Juvenile Justice (Care and Protection of Children) Act, 2000.
- We call for the full implementation of the National Policy for the Empowerment of Women (2001), National Youth Policy (2003), National Health Policy (2002), National Population Policy (2000), and the National Plan of Action for Children (2005).

- We call upon our government to take measures to ensure marriages are entered into only with the free and full consent of the both the partners.
- We also call upon our government to implement programmes that raise awareness on the legal age of marriage especially in rural areas.
- We call for free education at secondary and tertiary levels to encourage girls to pursue higher education.
- Strict measures in terms of policies and programmes and its subsequent implementation should be put in place to address forced marriages. Government should take stringent action against practices such as Arab marriages, short term contract marriages, trafficking of girls for forced marriage and bonded labour.

ⁱ Retrieved from <http://www.girlsnotbrides.org/states-adopt-first-ever-resolution-on-child-marriage-at-human-rights-council/>

ⁱⁱ Retrieved from <http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/concern-over-indias-refusal-to-sign-child-marriage-resolution/article5276990.ece>

ⁱⁱⁱ Retrieved from <http://health.india.com/diseases-conditions/why-is-india-refusing-to-sign-the-un-resolution-against-child-marriage/>

^{iv} United Nations Convention on the Rights of the Child, Article 1.

^v The Prohibition of Child Marriage Act, 2006

^{vi} The District Level Household and Facility Survey (DLHS-3) is a nationwide survey in India covering 601 districts from 34 states and union territories of India. This is the third round of the district level Household survey which was conducted during December 2007 to December 2008. This survey provides data on reproductive and child health programme and related indicators.

^{vii} International Institute for Population Sciences (IIPS), 2010. District Level Household and Facility Survey (DLHS-3), 2007-08: India. Mumbai: IIPS.

^{viii} The mean age at first marriage is the mean age of men or women at first marriage if subject throughout their lives to the age-specific marriage rates of first marriages only in a given year

^{ix} International Institute for Population Sciences (IIPS), 2010. District Level Household and Facility Survey (DLHS-3), 2007-08: India. Mumbai: IIPS.

^x Table 1 in text submission

^{xi} International Institute for Population Sciences (IIPS), 2010. District Level Household and Facility Survey (DLHS-3), 2007-08: India. Mumbai: IIPS.

^{xii} International Institute for Population Sciences (IIPS), 2010. District Level Household and Facility Survey (DLHS-3), 2007-08: India. Mumbai: IIPS.

^{xiii} International Institute for Population Sciences (IIPS), 2010. District Level Household and Facility Survey (DLHS-3), 2007-08: India. Mumbai: IIPS.

^{xiv} International Institute for Population Sciences (IIPS), 2010. District Level Household and Facility Survey (DLHS-3), 2007-08: India. Mumbai: IIPS.

^{xv} UNICEF. 2012. Child marriage in India, an analysis of available data 2012.

^{xvii} UNICEF. 2012. Child marriage in India, an analysis of available data 2012.

^{xviii} Sexual Rights Initiative (SRI) paper on Language on early, child and forced marriages

^{xix} United Nations Population Fund, (2012). MARRYING TOO YOUNG (2012), p. 11.

^{xx} http://zeenews.india.com/news/kerala/three-arrested-in-kerala-over-forced-marriage-of-minor-girl_872575.html

^{xxi} <http://www.indiatvnews.com/news/india/un-report-reveals-rampant-trafficking-of-girls-nicknamed-paro-in-24857.html?ref=veng>

^{xxii} UNICEF. 2012. Child marriage in India, an analysis of available data 2012.

^{xxiii} UNICEF. 2012. Child marriage in India, an analysis of available data 2012.

^{xxiv} UNFPA . 2013. State of World Population

^{xxv} Yann Le Strat, Caroline Dubertret, and Bernard Le Foll, Child Marriage in the United States and Its Association with Mental Health in Women. *Pediatrics*, 2011. 128 (3): p. 524-530

^{xxvi} *BMJ* 2010;340:b4258 doi:10.1136/bmj.b4258.