**Submissions on child, early and forced marriage in Pakistan**

**by Centre for Legal Aid Assistance & Settlement UK (CLAAS-UK)**

**addressed to the**

**Office of the United Nations High Commissioner for Human Rights**

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**Subject**: Call for submission for two reports on the issue of child, early and forced marriage



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# General context

In Pakistan, according to the Child Marriage Restraint Act of 1929, the minimum legal age of marriage is 16 years for women and 18 for men. However, in 2017, nearly 40% of the population of 20 year old girls in Pakistan were married before turning 18 ([Girls not Brides](https://www.girlsnotbrides.org/articles/ready-to-marry-dynamics-of-child-marriage-in-pakistan-evidence-from-three-development-programmes/)). In 2020, 119 cases of child marriages were reported by the Pakistani NGO Sahil ([Cruel Numbers 2020, Sahil](https://sahil.org/cruel-numbers/)). Poverty and social norms are the key drivers of child, early and forced marriage (CEFM) in Pakistan.

CEFM is particularly affecting women and girls belonging to religious minorities. According to human rights organisations working in Pakistan hundreds of Hindu, Sikh and Christian girls are abducted, forcibly converted to Islam and then forcibly married every year and some organisations estimate that the number is higher than 1,000 per year. The National Council of Churches in Pakistan (NCCP) has recognised that the number of abductions of girls belonging to religious minorities is increasing. This means that girls and young women, primarily from Hindu and Christian communities, are being abducted, raped, forcibly converted to Islam, and then married to their abductors, often under coercion.

Earlier this year Reena, a 16-year-old young Christian girl from Jaranwala, was abducted, then drugged, tortured, and raped when she refused to convert to Islam. Naila Javed was 14 years old when she was abducted but was lucky as she could escape before being forcibly converted and married. Neha Afzal was not that lucky and has been forcibly converted and married for three years now after being abducted when she was a child. CLAAS receives cases like these ones almost every week. These are just a few examples that show the tip of the iceberg of the reality faced by religious minority women and girls in Pakistan.

According to information collected by CLAAS-Pakistan, the abduction is the beginning of a series of human rights violations suffered by girls and women belonging to religious minorities. There is in place a network of actions that facilitate the abduction by complicit acquaintances, relatives or men looking for brides, and the following rapid conversion and marriage of women and girls.

After being kidnapped, girls and women are taken to religious institutions where they are converted to Islam against their will. Most of the times the conversion is already prepared and the age of maturity of the victim or the fact that she has been abducted is not considered.

After being forcibly converted to Islam, girls and women are married to strangers against their will and under duress.Even though the laws prohibit the marriage of girls under the age of 16 (18 years in Sindh province) and that in 2017 the prohibition of forced marriages was introduced in the Penal Code (Section 498-B), these continue to happen under the Sharia law, which states that girls reach maturity when they have their first menstrual cycle and are therefore adults capable of making decisions.

# A comprehensive report to the General Assembly on progress made towards ending CEFM, including in the context of the COVID-19 pandemic

## Measures taken to implement the recommendations of the last report of the Secretary-General on CEFM (A/75/262)

CLAAS-UK and CLAAS-Pakistan is not aware of any measure taken by the Government of Pakistan to implement the recommendations of the last report of the Secretary-General on the issue of CEFM. There are not health and protective mechanisms, including legal services, safe accommodation, and psychosocial support, nor support to maintain or return to education for victims of CEFM.

## Legislative actions taken to address CEFM

No legislative actions have been taken to address the root causes of child, early and forced marriage in Pakistan since 2017. A bill to protect women and girls belonging to religious minorities from forced conversion and subsequent child/forced marriage was rejected by a Parliamentary Committee to Protect Minorities from Forced Conversions in October 2021.

## Measures adopted by CLAAS to support girls and women affected by CEFM.

CLAAS UK and CLAAS Pakistan work together to provide shelter for girls and young women who are victims of rape, forced marriages and forced conversions to Islam. CLAAS also provides financial support and free legal aid to Christian women and girls victims of CEFM and their families, as well as support to maintain or return to education.

## Gathering data and research

No progress has been made in gathering data disaggregated by sex, age, geographical location, socioeconomic status, disabilities, educational level and other factors, in particular on the situation of already married girls and girls in informal unions.

No research has been conducted/published on married girls, including widow girls and women, and whose husbands have left them to fight or seek refuge internally or across borders, or who have been detained or disappeared

CLAAS UK is not aware of any examples of national reports on CEFM submitted to relevant international treaty bodies, nor national voluntary reviews conducted through the high-level political forum on sustainable development.

**In the context of the COVID-19 pandemic:**

Rising poverty due to the pandemic has experts worrying about increase in young girls being married off, as poverty is one of the main drivers of CEFM. Federal and State governments have not addressed the impact of COVID-19 on girls and women survivors of CEFM and at risk. CLAAS continued to support victims of forced conversion and forced marriage during the pandemic.

# A report to the Human Rights Council on progress, gaps and challenges in addressing CEFM and measures to ensure accountability

## Applicable legal framework, policies and programmes of CEFM

**Child marriage:** Pakistan’s Child Marriage Restraint Act 1929 sets the legal age of marriage for boys to 18 and 16 for girls. In April 2014, the Sindh Assembly adopted the Sindh Child Marriage Restraint Act, which changed the minimum age to 18 for both girls and boys, punishable by law. In 2015, the Punjab Assembly adopted the Punjab Marriage Restraint Act. Under the Punjab Marriage Restraint Act, any adult who marries a child, defined as a boy under 18 years and a girl under 16 years of age, can be punished with imprisonment of up to 6 months and a fine of Rs. 50,000. The same punishment will apply to a *Nikah*Registrar who solemnizes or conducts a marriage between two children, or a marriage of an adult with a child. Parents or guardians of either party will be punished if they facilitate or organize the marriage of a minor (anyone under the age of 18) or a child. Parents and/or guardians will be punished with imprisonment of up to 6 months and fine of Rs. 50,000. Furthermore, the Court can forbid any party from solemnizing, facilitating, or organizing a child marriage through an Injunction (a Court Order preventing child marriage). This includes the groom, parents, or guardians, *nikah* Registrars and any other person involved. Violation of an injunction is punishable with imprisonment of up to 3 months and fine of Rs. 1000.

In February 2017, the Government of Pakistan in an effort to crack down on child marriage, made an amendment to the Penal Code, toughening penalties for those found guilty of the crime. According to Section 498B of the amended Penal Code, the punishment was increased to five to ten years imprisonment and a fine of one million Rupees in case the concerned woman is a minor or non-Muslim.

However, even if child marriages are prohibited under the law, they continue to happen. A high court in Pakistan ruled in 2021 that men can marry underage girls, under Sharia law, after they have experienced their first menstrual cycle. The ruling was made by the Sindh High Court on February 3rd during the hearing of Huma Younus, a 14-year-old Catholic girl who was abducted, pressured to convert to Islam, and forced into child marriage.

**Forced marriages:** In November 2011 the National Assembly of Pakistan passed the Prevention of Anti-Women Practices Act 2011 criminalising several discriminatory customs practised towards women. Among these practises are forced marriages, which since the passing of the Prevention of Anti-Women Practices Act 2011 are regulated under Section 498B of the Pakistani Penal Code which criminalises anyone who compels a woman to enter marriage. Perpetrators shall be punished with imprisonment between three and seven years and a fine of 500,000 Pakistani Rupees (Section ---- of the Penal Code). In 2017 a proviso was inserted to Section 498B, by which the punishment was increased to five to ten years imprisonment and a fine of one million Rupees in case the concerned woman is a minor or non-Muslim.

**Forced conversions:** There is no law in place against forced conversions, a proposed bill that would have addressed this issue in Sindh was dismissed in 2019.

As detected by CLAAS Pakistan and many other NGOs in their reports (see [ACCORD](https://www.ecoi.net/en/file/local/2047750/ACCORD-Pakistan-Religious-Minorities-March-2021.pdf) or [CREID](https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/15800/CREID_Inter%20sections_Series_Violence_and_Discrimination_against_Women_of_Religious_Minority_Ba%20ckgrounds_in_Pakistan.pdf?sequence=6&isAllowed=y)), the main problem is that Pakistani authorities and public officers, including police officers, are not aware of these laws and even if they do know them, they just ignore them, leaving women and girls from religious minorities unprotected. Concerning state protection, authorities are failing to protect women and girls from forced conversion and child, early and forced marriages. Coordination between federal and provincial/district levels for the national law and policy is essential to be effective in local and rural areas.

## Statistical data on the enforcement of legal measures

There is no official record of the number of cases of CEFM prosecuted available to the public, nor data on the number of cases investigated, cases that result in a conviction; and the number of CEFM annulled and other civil or administrative related procedures. Police crime statistics do not include child marriage in their reports (See [Punjab Police - Crime Statistics](https://punjabpolice.gov.pk/crimestatistics) or [Sindh Police - Crime Statistics](https://www.sindhpolice.gov.pk/annoucements/crime_stat_all_cities.html)).

## Judicial proceedings against CEFM

CLAAS is not aware of any measure implemented to ensure the integration of a human rights-based approach in judicial proceeding against CEFM, including age and gender sensitivity, victim-centred approach, respect of the best interest of the child, consideration of the evolving capacities of children, including adolescents, as well as their right to be heard. CLAAS has been observing how judges ignore the best interest of the child and do not take into consideration the evolving capacities of children in judicial proceedings. Legal training and a system requiring greater accountability of judges is urgently needed, including sensitisation to issues faced by women and girls and religious minorities. All in all, the criminal justice system and the police system should be reformed in order to ensure proper protection to victims.

## Right to a remedy for victims of CEFM

CLAAS is not aware of any concrete measures to guarantee the right to reparations and remedies for victims of CEFM. CLAAS denounces that proper legal protection, redress and procedures are not available to vulnerable communities, particularly in rural areas and the right to remedy should be guaranteed by Federal and State governments. Sufficient protection to judges, lawyers and other members of the legal system should be also provided in order to ensure that they are not ruled by the threat of mob violence and the misuse of blasphemy laws.

## Good practices or lessons learnt

CLAAS is not aware of any good practices or lessons learnt on the use of international and regional human rights protection mechanisms in relation to CEFM, nor any examples of national human rights institutions to enhance State accountability for preventing and responding to CEFM. Moreover, there is no information available of the budgetary implications for the State for all measures related to CEFM and no methodologies/approaches were implemented to measure the eradication of CEFM.