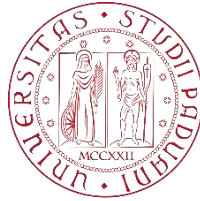


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**Master's degree in
Human Rights and Multi-level Governance**



ANALYSING THE PROGRESS AND
DILEMMAS OF ENDING FEMALE CHILD
MARRIAGE IN INDIA FROM A HUMAN
RIGHTS PERSPECTIVE

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Table of Contents

| | |
|--|----|
| Acronyms | 3 |
| Introduction | 5 |
| 1. Background | 5 |
| 2. Research questions | 5 |
| 3. Structure | 6 |
| 4. Literature review | 7 |
| 5. Methodology | 10 |
| Chapter I – Child marriage from an international and human rights perspective | 12 |
| 1. Child marriage in International Human Rights Law | 12 |
| 2. Regional conventions and charters against child marriage | 16 |
| 3. Global differences in legal age of marriage | 20 |
| 4. Status of female child marriages around the world | 24 |
| Chapter II - Child marriage as a violation of human rights | 29 |
| 1. Child marriage leads to the risk of early pregnancy. | 29 |
| 2. Child brides may suffer more domestic violence in marriage. | 32 |
| 3. Child marriage as an obstacle to keeping girls in school | 34 |
| 4. Child marriage reduces women's autonomy, participation, and decision-making power. | 37 |
| 5. Child marriages are prone to psychological problems. | 39 |
| 6. Child marriage as a detrimental to the health and development of the next generation 42 | |
| Chapter III – The trends and status of female child marriage in India | 46 |
| 1. Even with the largest number of child brides, female child marriage is becoming less common in India. | 46 |
| 2. India’s progress is strong compared to other countries in South Asia. | 49 |
| 3. The prevalence of child marriage varies across states and union territories in India. | 53 |
| 4. There are also variations in incidence rates within states, related to urban-rural disparities. | 56 |
| Chapter IV - The background and causes of female child marriage in India | 62 |
| 1. Economic backwardness and poverty | 63 |

| | |
|--|-----|
| 2. The lack of education for girls and parents | 66 |
| 3. Caste-based discrimination and religion | 71 |
| 4. Social norms related to gender equality and patriarchy | 76 |
| Chapter V - Progress and challenges in India's laws against child marriage in India | 82 |
| 1. Promoting the end of child marriage by law | 82 |
| 1.1. Advances in the Child Marriage Prohibition Act, 2006 | 83 |
| 1.2. Contradictions between PCMA, 2006 and personal laws | 85 |
| 2. Discussion on raising the age of marriage for women and the Uniform Civil Code in India | 87 |
| 3. Challenges in the implementation of the law | 90 |
| 4. Lack of an effective marriage registration policy | 92 |
| Conclusion | 96 |
| Key findings | 96 |
| Recommendations | 98 |
| Reflection and further study | 99 |
| Bibliography | 100 |

Acronyms

| | |
|------------|--|
| ACRWC | African Charter on the Rights and Welfare of the Child |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CJI | Chief Justice of India |
| CPMO | Child Marriage Prohibition Officer |
| CRC | Convention on the Rights of the Child |
| CSW | Commission on the Status of Women |
| DHS | Demographic and Health Survey |
| EU | European Union |
| GNI | gross national income |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social, and Cultural Rights |
| IPV | intimate partner violence |
| KGBV | Kasturba Gandhi Balika Vidyalaya |
| LMICs | low- and middle-income countries |
| NCRB | National Crime Records Bureau |
| NCW | National Commission for Women |
| NFHS | National Family Health Survey |
| NGO | non-governmental organization |
| NPP | National Population Policy |
| OAS | Organization of American States |
| OBCs | other backward classes |
| OECD | Organization for Economic Co-operation and Development |
| PCMA, 2006 | Prohibition of Child Marriage Act of 2006 |

| | |
|---------|---|
| PCs | parliamentary constituencies |
| POCSO | Protection of Children from Sexual Offences Act, 2012 |
| SAARC | South Asian Association for Regional Cooperation |
| SADC | South African Development Community |
| SC | Scheduled Caste |
| SDGs | Sustainable Development Goals |
| ST | Scheduled Tribes |
| UCC | Uniform Civil Code |
| UDHR | Universal Declaration of Human Rights |
| UN DESA | Department of Economic and Social Affairs of the UN |
| UNFPA | United Nations Population Fund |
| UNICEF | United Nations Children's Fund |
| UTs | Union Territories |
| WHO | World Health Organization |

Introduction

1. Background

Child and forced marriage are a violation of human rights and a harmful practice that disproportionately affects women and girls worldwide, preventing them from living their lives free from all forms of violence. Child marriage is considered to be a form of forced marriage, given that one and/or both parties have not expressed full, free and informed consent.¹

Nowadays, the issue of child marriage remains distressingly prevalent. According to the report “Progress on Sustainable Development Goals: Gender Snapshot 2022” published by UN Women and the Department of Economic and Social Affairs of the UN (UN DESA), In 2021, nearly 1 in 5 women aged 20-24 were married before turning 18 (19.5%, compared to 25.8% in 2001).²

This study examines the issue of female child marriage with a focus on India, where is the home to one-third of the world's girl brides, standing out as a significant example due to its vast population and deep-rooted traditions. The motivation behind this thesis arises from a desire to fully understand the intricate dynamics of female child marriage in India, the structural and social barriers to ending it, and the deep-rooted reasons why this practice persists.

2. Research questions

This dissertation will provide an in-depth exploration of child marriage in India, and the issues explored include, among others:

1. What is the situation of child marriage worldwide?
2. Why is child marriage a violence against human rights?

¹ “OHCHR | Child and Forced Marriage, Including in Humanitarian Settings,” OHCHR, accessed December 10, 2022, <https://www.ohchr.org/en/women/child-and-forced-marriage-including-humanitarian-settings>.

² “Progress-on-the-Sustainable-Development-Goals-the-Gender-Snapshot-2022-En_0.Pdf,” accessed October 8, 2023, https://www.unwomen.org/sites/default/files/2022-09/Progress-on-the-sustainable-development-goals-the-gender-snapshot-2022-en_0.pdf.

3. What are the characteristics and trends of child marriage in India?
4. What are the underlying causes of child marriage in India?
5. What legal measures have the government of India taken? What are the effects?

3. Structure

This study begins with the international legal environment related to child marriage. By tracing the development of international human rights conventions, from the implementation of the Universal Declaration of Human Rights (UDHR) in 1948 to the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), it is possible to give a clearer understanding of how the ideology of defending women's rights and curbing child marriages has gradually gained strength globally, as the law has become more refined and robust. Furthermore, this study will also illustrate the current global status of the issue of child marriage, placing the issue of child marriage in India in a global perspective. This exploration will help clarify India's position in the face of international expectations and obligations.

Child marriage is recognized as a violence against human rights. The negative impacts of female child marriage are comprehensive, long-lasting, and even carry over to the next generation. Early marriages often deprive young girls of their basic rights to health, education, and security, pushing them into a life of domesticity, potential violence, and poverty. Additionally, early marriage often leads to early pregnancy, increasing health risks for both mother and child. Therefore, it is all the more important to understand the issue of child marriage from a human rights perspective, which also provides a yardstick for assessing the effectiveness of curbing child marriage.

After analyzing the child marriage in an international perspective, the focus of the study will shift completely to India. Child marriage in India is characterized by prevalence and diversity. The distribution of its incidence is closely linked to economic and social development. This thesis will depict the current status and changing trends in child marriage in India through graphs and charts based on current and past data. From this, the

worst regions of child marriage in India such as Bihar, West Bengal, and Assam can also be derived and analysed with a focus on them.

The study also aims to uncover the deep-rooted causes of female child marriage in India using a combination of data, graphs, comparisons, and qualitative analysis. The impact of factors such as poverty, low level of education, and slow economic development has a causal relationship with the occurrence of child marriage. Factors such as cultural traditions, religion, and social attitudes also play a very important role. This will provide a basis for measures to be taken to curb child marriages.

Finally, this study measures the legal measures taken by the government of India to combat child marriage. The process of reducing female child marriages has accelerated significantly since the implementation of the Prohibition of Child Marriage Act, 2006 (PCMA, 2006). However, there are problems and obstacles in the implementation process that need to be given high attention. India's complex economic and social context and deep-rooted traditional social norms have made the process of reducing child marriage difficult. However, it has also provided us with valuable experience to reflect on the shortcomings.

4. Literature review

A comprehensive review of the existing literature on child marriage in India forms the foundation of this research. Regular reports on the status and trend analysis of child marriage worldwide and regionally are published by some United Nations agencies, including UN Women, the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), etc.

A report from UN Women and Department of Economic and Social Affairs of the UN (UN DESA) in 2022 warns that it will take nearly 300 years to achieve equality between men and women, and that the elimination of child marriage is one of the most important elements of this. It also states that to end child marriage by 2030, progress must be 17 times faster than in the last decade.³ On the basis of the data from National Family Health Survey 2019-2021 (NFHS 5), UNFPA has conducted a number of researches and has analyzed in

³ "Progress-on-the-Sustainable-Development-Goals-the-Gender-Snapshot-2022-En_0.Pdf."

detail not only the relationship between in India, but even the more severe states, to explore the situation of child marriage in India.

Some studies have explored the relationship between the formation of child marriage and several factors, such as economics and education, through Cross-sectional study and Logistic regression. A study by Binu et al. (2022) emphasized the sociodemographic factors related to child marriage among girls aged 15–17 in India. They found that a lower educational attainment of the mother and the girl herself made the latter more susceptible to early marriage. Additionally, socioeconomic status and caste, entrenched in the broader sociocultural fabric of India, emerged as significant determinants.⁴ Research by Margaret E. Greene et al. (2019) suggests that the gender discrimination and patriarchy, which are embedded in people's hearts and minds, are the root of social norms, which underpin child marriages.⁵

Center Pew Research (2021) conducted a meticulous nationwide questionnaire survey on attitudes towards inter-caste marriages and found that the idea of caste is still prevalent in India and that there are significant social barriers to inter-caste marriages.⁶ The survey also addressed patriarchal attitudes in India and found that a larger majority of Indians believe that having a boy is more important than having a girl.⁷

The harms of child marriage have long been a focus of child marriage research. A study from Mavra Qamar et al. (2022) found that the women who experienced very early marriage have a higher risk in sexual violence from their spouses. Shilpa Aggarwal, Kate L. Francis et al. (2022) focused on the mental health of child brides with a long-term study in

⁴ Binu V.S. et al., “Direct and Indirect Factors Associated with Child Marriage: Evidence from India Using NFHS-4 Data,” *Child Abuse & Neglect* 131 (September 2022): 105785, <https://doi.org/10.1016/j.chiabu.2022.105785>.

⁵ “Social and Gender Norms and Child Marriage: A Reflection on Issues, Evidence and Areas of Inquiry in the Field | Align Platform,” accessed November 4, 2023, <https://www.alignplatform.org/resources/2019/04/social-gender-norms-and-child-marriage>.

⁶ Center Pew Research, “4. Attitudes about caste,” *Pew Research Center’s Religion & Public Life Project* (blog), June 29, 2021, <https://www.pewresearch.org/religion/2021/06/29/attitudes-about-caste/>.

⁷ Pew Research Center, “2. Son Preference and Abortion,” *Pew Research Center’s Religion & Public Life Project* (blog), March 2, 2022, <https://www.pewresearch.org/religion/2022/03/02/son-preference-and-abortion/>.

three states, got the conclusion that mental health of child brides is related to child marriage.⁸

The implications of child marriage extend into the domain of maternal health, as highlighted by Paul et al. (2019). Their research, which spanned a vast sample of 69,751 girls under 18 years, discovered a concerning association between early marriage and diminished utilization of maternal health care services. Girls who married early were found to be less proactive in seeking antenatal care, often beginning their visits later in their pregnancy. Furthermore, their chances of delivering in a recognised healthcare facility and having qualified birth attendants were significantly reduced. Godha et al. (2013) expanded the lens to include other South Asian nations, discovering that child brides in India, Bangladesh, Nepal, and Pakistan faced similar healthcare challenges.

Regarding legal measures related to child marriage, Vaibhav Chadha et al. (2022) compare India with the United States and Australia, pointing out the pioneering and insufficient nature of India's law, and the government's lack of resolve, by analyzing with some landmark cases.⁹ Nutan Kumari et al. conducted a survey of the marriage registration system in one district of Rajasthan and found that the low rate of registration was related to child marriages, lack of awareness, economic deprivation and the absence of government mandates.¹⁰ Kanalya Arivalagan (2021-2022) called on the government of India must pass more comprehensive legislation and ensure that the law is strictly enforced. “Without that first step, the states and rural communities are left with little incentive to solve this crisis.”¹¹

A recent report by UNICEF (2021) posited that the pandemic may lead to an increase in child marriages due to economic downturns and school closures, with India standing to be

⁸ Shilpa Aggarwal et al., “Child Marriage and the Mental Health of Adolescent Girls: A Longitudinal Cohort Study from Uttar Pradesh and Bihar, India,” *The Lancet Regional Health - Southeast Asia* 8 (January 2023): 100102, <https://doi.org/10.1016/j.lansea.2022.100102>.

⁹ Vaibhav Chadha and Uddhav Tiwari, “Legal Efforts to Curb Child Marriage in India, USA and Australia: A Comparative Analysis,” *The Age of Human Rights Journal*, no. 18 (June 23, 2022): 463–89, <https://doi.org/10.17561/tahrj.v18.6582>.

¹⁰ Nutan Kumari, Rajan Ram, and Chander Shekhar, “Determinants of Under-Registration of Marriage among Women in India: An Exploratory Study in Jhunjhunu District of Rajasthan,” *Clinical Epidemiology and Global Health* 14 (March 1, 2022): 100976, <https://doi.org/10.1016/j.cegh.2022.100976>.

¹¹ Kanalya Arivalagan, “Crisis in India: The State’s Failure to Protect Girls from Child Marriage Notes,” *Journal of Global Rights and Organizations* 12 (2022 2021): 47–66.

significantly affected due to its existing challenges. Shilpa Aggarwal (2023), Joshua Yukich (2021) and other authors have also supported that the COVID-19 pandemic has led to increased risk of child marriage in the most vulnerable girls.¹²

5. Methodology

The study employed qualitative research, a combination of research methods including political and legal analysis, data from different sources including international organizations, NGOs, government and case studies, case studies and comparisons to enhance the comprehensiveness of the study. The use of multiple research methods ensured a comprehensive understanding of the problem of female child marriage in India and allowed for a holistic study of its causes, consequences and potential solutions.

- Analysis of politics and law

Analysis of politics and law is also a crucial method for this study to help us understand the policy landscape and its implications. This involves an analysis of international, national and regional laws, government policies, initiatives, and their implementation. The research explores the roles and responsibilities of various stakeholders, including government bodies, policymakers, advocacy groups, parents, and other guardians, in addressing child marriage and protecting the rights of children.

- Data acquisition and analysis

Data from diverse sources are collected to ensure a comprehensive analysis. Primary data sources include reports and publications from international organizations such as the UNICEF, and Organization for Economic Co-operation and Development (OECD), as well as reputable non-governmental organizations (NGOs) working on child rights and gender issues in India. Government documents, statistical reports, and official publications are also considered as essential sources of information.

The analysis significantly incorporates data from National Family Health Surveys (NFHS1-5) to examine trends and status of female child marriages in India. These data enables a meticulous exploration of regional discrepancies, socioeconomic determinants, and

¹² Aggarwal et al., “Child Marriage and the Mental Health of Adolescent Girls.”

demographic factors, providing nuanced insights into the evolving patterns of child marriages.

- Comparative analysis

Comparative analysis is undertaken by examining child marriage practices, policies, and interventions in other countries facing similar challenges, such as Bangladesh, Nepal, and Maldives, etc. By comparing the Indian context with other nations, it is possible to draw out the strengths of India's approach to stopping child marriage and to reflect on where improvements are needed.

- Case studies

To gain a deeper understanding of the complex issue of child marriage in India, the research incorporates case studies as a valuable methodological tool. Case studies allow for an in-depth examination of specific instances of female child marriage, enabling a comprehensive analysis of the factors, dynamics, and consequences involved. Conducting case studies involves selecting representative cases from different regions of India, considering factors such as socio-cultural diversity, economic disparities, and regional variations in child marriage prevalence.

- Synthesis of insights

Integrating the derived insights, this research endeavors to provide a cohesive and profound understanding of the intricate issue of child marriage in India. By juxtaposing the Indian scenario with those of other nations experiencing analogous challenges, the research illuminates the comprehensive array of factors, dynamics, and consequences encompassing child marriage.

This refined methodology, designed to encompass diverse dimensions, aims to yield profound insights into the multifaceted realm of female child marriage in India. Taking advantage of a large number of data sources, methodologies, and analytical tools, this research hopes to contribute significantly to the existing body of knowledge and incite pragmatic interventions to mitigate child marriage.

Chapter I – Child marriage from an international and human rights perspective

Child marriage, which seriously undermines the rights of women and children, has been fought against in international law, and ending it is now a pursuit of the international community. This chapter will introduce international rules related to child marriage, current inter-regional differences in legislation and the status of child marriage, aim to present the status of child marriage in India from an international perspective, also briefly summarize the issues to be addressed and analyze, and the research methodology used.

1. Child marriage in International Human Rights Law

The definition of child marriage from the United Nations Children’s Fund (UNICEF), which is generally accepted, is the marriage or similar union, formal or informal, between a child under a certain age – typically 18 years – and an adult or another child.¹³

The core elements which are interlinked of legislation related to child marriage are the minimum age of marriage, and free individual and informed consent.¹⁴ Therefore, child marriage is also called or considered as early and forced marriage. In the development of international law, such as the International Bill of Human Rights, the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), these two aspects have been emphasized and improved.

Throughout nearly century, the international community has continued to focus on the rights of children and women, with the consensus and treaties on child marriage becoming increasingly complete.

As early as 1924, Geneva Declaration of the Rights of the Child adopted by the League of Nations, declared that the child must be protected against every form of exploitation,

¹³ “Child Marriage,” accessed January 3, 2023, <https://www.unicef.org/protection/child-marriage>.

¹⁴ “Child Marriage and the Law: Technical Note for the Global Programme to End Child Marriage,” accessed June 26, 2023, <https://www.unfpa.org/resources/child-marriage-and-law-technical-note-global-programme-end-child-marriage>.

beyond and above all considerations of race, nationality or creed.¹⁵ This was the first human rights document approved by an inter-governmental institution, and adopted in an extended form by the United Nations in 1959.¹⁶

Article 16 of the Universal Declaration of Human Rights (UDHR), adopted in 1948, stipulated the equal rights of “men and women of full age, without any limitation due to race, nationality or religion” to marry and to found a family.¹⁷ The right to ‘free and full’ consent to marriage is recognized in the UDHR, which says that consent cannot be ‘free and full’ when one of the parties involved is not sufficiently mature to make an informed decision about a life partner.¹⁸ Based on this article, the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages was drafted by the Commission on the Status of Women (CSW) on 7 November 1962 and entered into force on 9 December 1964.

This convention ratified by 56 parties reaffirms that all states should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, inter alia, complete freedom in the choice of a spouse, eliminating completely child marriage and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded.¹⁹

For the issue of marriage age, which is the critical factor in determining child marriage, the convention states that States Parties “shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses. (Article 2)”

¹⁵ “Geneva Declaration of the Rights of the Child of 1924 - UN Documents: Gathering a Body of Global Agreements,” accessed May 22, 2023, <http://www.un-documents.net/gdrc1924.htm>.

¹⁶ Trevor Buck, *International Child Law*, Third edition (Milton Park, Abingdon, Oxon ; New York, NY: Routledge, 2014).

¹⁷ United Nations, “Universal Declaration of Human Rights,” United Nations (United Nations), accessed January 3, 2023, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹⁸ “Child Marriage,” UNICEF DATA, accessed June 1, 2023, <https://data.unicef.org/topic/child-protection/child-marriage/>.

¹⁹ “Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages,” OHCHR, accessed January 3, 2023, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-consent-marriage-minimum-age-marriage-and>.

In 1966, two crucial international human rights treaties adopted by the United Nations General Assembly, which are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Together, they form the International Bill of Human Rights with UDHR²⁰ and play a significant role in promoting and protecting human rights worldwide. Although they don't mention explicitly child marriage, they both stipulate that marriage must be fully voluntary by both parties.

Article 23 of the ICCPR recognizes the right to marriage and provides safeguards to ensure free and full consent of both parties. This article emphasizes “no marriage shall be entered into without the free and full consent of the intending spouses”.²¹ The similar content shows up in the Article 10 of ICESCR, “...Marriage must be entered into with the free consent of the intending spouses.”²²

Another international human rights treaty that addresses child marriage is CEDAW, which was adopted by the United Nations General Assembly in 1979 and ratified by 189 parties.²³ The treaty aims to ensure that women are given the same rights as men in all areas of life and to eliminate all forms of discrimination against women. The article 16 stipulates the women's rights in relation to marriage, and emphasis that “The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory”²⁴

However, at least 30 States have entered reservations to the Convention on the Elimination of All Forms of Discrimination against Women, including article 2 on the prohibition of

²⁰ “International Bill of Human Rights | OHCHR,” accessed July 18, 2023, <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights>.

²¹ “International Covenant on Civil and Political Rights | OHCHR,” accessed July 18, 2023, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

²² “International Covenant on Economic, Social and Cultural Rights | OHCHR,” accessed July 18, 2023, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

²³ “UNTC,” accessed May 23, 2023, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en.

²⁴ “Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979 | OHCHR,” accessed May 7, 2023, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

discrimination and article 16 on ensuring and promoting gender equality in the family and marriage. These reservations perpetuate and deepen de jure and de facto inequalities in marriage and the family, which is where women and girls expect the maximum protection.

CRC is a significant international human rights treaty that sets out the civil, political, economic, social, and cultural rights of children. It was adopted by the United Nations General Assembly in 1989, has been ratified by 196 parties and 140 signatories in the world,²⁵ making it the most widely ratified human rights treaty in history.²⁶

CRC defines the child, which means every human being under the age of eighteen years unless under the law applicable to the child, majority is attained earlier (Article 1). Although marriage is not mentioned directly in the CRC, it highlights other related rights, such as protecting children from practices that may negatively impact their physical, mental, or social development by some specific articles. It requires States Parties to take appropriate measures to prevent traditional practices harmful to children (Article 24), and to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child (Article 19), also emphasizes the prohibition of the sexual exploitation and sexual abuse to children (Article 34).²⁷

These international legal instruments, particularly CEDAW and the CRC, have played a significant role in raising awareness, setting standards, and urging governments to take action to prevent and eliminate child marriage. In addition, a specific target to end child marriage is stated in the UN's 2030 Agenda for Sustainable Development, which is under SDG 5: Gender Equality. Target 5.3 aims to eliminate all harmful practices, including child, early and force marriage, by 2030.²⁸ This provides a global framework and commitment to addressing child marriage.

²⁵ “UNTC,” accessed May 23, 2023,

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en.

²⁶ “Convention on the Rights of the Child | UNICEF,” accessed May 21, 2023, <https://www.unicef.org/child-rights-convention>.

²⁷ “Convention on the Rights of the Child Text | UNICEF,” accessed April 23, 2023, <https://www.unicef.org/child-rights-convention/convention-text>.

²⁸ “Transforming Our World: The 2030 Agenda for Sustainable Development | Department of Economic and Social Affairs,” accessed May 31, 2023, <https://sdgs.un.org/2030agenda>.

All the above has led to measures to restrict child marriage in various countries. For example, the authorities of member states are required to establish a minimum age for marriage, abolish traditional practices that undermine the rights of women and children, regulate legal procedures for marriage, and take measures to achieve the equal rights of women and children in development and life.

However, due to the difficulty of setting uniform standards in international law for all countries, it's allowed for lower marriage age for some reasons or conditions in many countries, such as consent of parents or government authorities, religion, and some other circumstances not detrimental to the interests of the children. This provides space for the continuation of child marriage to some extent.

2. Regional conventions and charters against child marriage

Over the past 50 years, an increasing number of regional conventions and charters have focused on female child marriage. Legal and policy advances in Africa began with the 1981 African Charter on Human and Peoples' Rights. This began with the 1981 African Charter on Human and Peoples' Rights, which called on States Parties to ensure that women and men enjoy equal rights and are regarded as equal partners in marriage.²⁹

International treaties and conventions are reflected in the Charter. Article 18(2) of the Charter calls on States parties to eliminate discrimination against women, and article 6 of the Charter is more specific in that it requires States to take appropriate national legislative measures to ensure that³⁰:

- The minimum age for marriage for girls and women shall be 18 years.
- No marriage shall be entered into without the free and full consent of both parties.
- Encourage monogamy as the preferred form of marriage and promote and protect women's rights in marriage and the family, including in polygamous marital relationships.

²⁹ “African Charter on Human and Peoples’ Rights | African Union,” accessed October 27, 2023, <https://au.int/en/treaties/african-charter-human-and-peoples-rights>.

³⁰ UNFPA (2020). “Technical Brief: Harmonization of Minimum Ages and Adolescent Sexual and Reproductive Health Rights”, <https://esaro.unfpa.org/en/publications/technical-brief-harmonization-minimum-ages-and-adolescent-sexual-and-reproductive>.

- Every marriage shall be registered in writing and in accordance with national legislation to be legally recognized.

This was followed by the 1999 African Charter on the Rights and Welfare of the Child (ACRWC), which provides for the protection of children from harmful social and cultural practices, and the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (also known as the Maputo Protocol), whose Article 21(2) explicitly prohibits child marriages and the betrothal of boys to girls.

The former provides for the protection of children from harmful social and cultural practices, with article 21 (2) explicitly stating that child marriage and the betrothal of boys and girls should be prohibited, and effective action should be taken to make the registration of all marriages in official registries compulsory. The Maputo Protocol further provides that States parties shall enact appropriate national legislative measures to ensure that no marriage shall be entered into without the free and full consent of the intending spouses.³¹ They both emphasize that the minimum age of marriage for females must be eighteen years, and to date, sixteen African countries have set the age of marriage at eighteen years without any legal exceptions.³²

In 2008, the South African Development Community (SADC) developed a more targeted the Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage. The Model Law not only emphasizes that legislation should ensure that no person under the age of 18 years may marry, but also provides that any purported marriage contracted before the age of 18 years is a prohibited marriage and void. This also addresses the issue of child marriage in terms of protecting married children. The Model Law also provides for penalties, including fines and/or imprisonment, for persons (other than children) who commit the offense of child marriage.³³

³¹ “Maputo Protocol on Women’s Rights in Africa. | African Union,” accessed October 27, 2023, <https://au.int/en/newsevents/20201117/maputo-protocol-womens-rights-africa>.

³² UN Women 2023, “Legislating and Enforcing the Minimum Age of Marriage - a Comparative Study of Experiences and Lessons Learned” n.d.

³³ “SADC Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage-English.Pdf,” accessed October 27, 2023, <https://www.childrenandaids.org/sites/default/files/2020-01/SADC%20Model%20Law%20on%20Eradicating%20Child%20Marriage%20and%20Protecting%20Children%20Already%20in%20Marriage-%20English.pdf>.

In South-East Asia, the South Asian Association for Regional Cooperation (SAARC) Convention on Regional Arrangements for the Promotion of Child Welfare of 2002 places an obligation on States Parties to ensure that appropriate legal and administrative mechanisms, and social safety nets and defences, are in place. Article IV (3) of the convention provides that States Parties shall make sure the national laws that protect children from any form of discrimination, violence, abuse, neglect, trafficking, exploitation, torture or degrading treatment, and makes official civil registration of marriage compulsory to facilitate the effective enforcement of national laws, including on the minimum age of marriage.³⁴

Although the SAARC Convention does not stipulate that the minimum age for marriage should be 18 years, in 2014 SAARC agreed unanimously to adopt the Kathmandu Call for Action to End Child Marriage in South Asia, which calls on governments to eliminate child marriage through legal reforms and support for a regional action plan, and to establish 18 years as the minimum age for marriage.

In Europe, article 12 of the European Convention on Human Rights of 1950 sets out the right of persons of marriageable age to marry and to found a family in accordance with national laws.³⁵ In 2011, the Council of Europe negotiated and adopted the Convention on Preventing and Combating Violence Against Women and Domestic Violence, popularly known as the Istanbul Convention, which establishes a comprehensive legal standard for women's protection against violence and all forms of discrimination.

Although Istanbul Convention does not emphasis child marriage under the age of 18, Articles 32 and 37 of the Convention explicitly address the issue of forced marriages, which could happen men and women, no matter below or over 18 years old. Article 32, which sets out the civil consequences of forced marriages, indicate that States parties shall take legislative and other measures to ensure that forced marriages can be dissolved and annulled and do not impose financial or administrative burdens on the victims. Article 37 provides for States parties to criminalize forced marriages of adults or minors, which

³⁴ United Nations High Commissioner for Refugees, “Refworld | Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia,” Refworld, accessed October 27, 2023, <https://www.refworld.org/docid/595c93b24.html>.

³⁵ “European Convention on Human Rights - ECHR Official Texts - ECHR - ECHR / CEDH,” ECHR, accessed October 27, 2023, <https://www.echr.coe.int/european-convention-on-human-rights>.

includes abduction, enticement of children and adults away from their place of residence for the purpose of forcing them to marry.³⁶

Similarly, there are regional human rights charters or conventions in the Arab States and in the Americas. The Arab Charter on Human Rights, adopted by the Council of the League of Arab States in 2004, recognizes the family as the natural and fundamental unit of society, and considers that men and women of marriageable age have the right to marry and to found a family in accordance with the rules and conditions of marriage. According to the Charter, no marriage shall be entered into without the full and free consent of both parties (Article 33(1)).³⁷ Like the Universal Declaration of Human Rights, the Arab Charter does not set a minimum age for marriage.³⁸

In 1969, the American Convention on Human Rights was adopted at the Inter-American Specialized Conference, as the first regional treaty to establish that “no marriage shall be entered into without the free and full consent of the intending spouses” (Article 17(3)).³⁹ However, the Americas have introduced a series of human rights norms and standards, including the Charter of the Organization of American States (OAS), the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belém do Pará), and have made efforts to eliminate child marriages, but have not provided a conclusive definition of the legal age of marriage.⁴⁰

³⁶ “COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE,” accessed October 27, 2023, https://doi.org/10.1163/2210-7975_HRD-9953-2014005.

³⁷ Rights UN Office of the High Commissioner for Human and States League of Arab, “Arab Charter on Human Rights,” 2004, <https://digitallibrary.un.org/record/551368>.

³⁸ UN Women 2023, “Legislating and Enforcing the Minimum Age of Marriage - a Comparative Study of Experiences and Lessons Learned” n.d.

³⁹ “Basic Documents - American Convention,” accessed October 27, 2023, <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

⁴⁰ “The Rights of the Child in the Inter-American Human Rights System,” accessed October 27, 2023, <http://www.cidh.org/countryrep/Infancia2eng/Infancia2Cap1.eng.htm>.

3. Global differences in legal age of marriage

According to data collected by the Committee on the Rights of the Child and the WORLD Policy Center, as of 2019, 15 countries in the world legally allow girls to marry before the age of 18, they are Afghanistan, Bahrain, Burkina Faso, Gabon, Haiti, Kuwait, Mali, Niger, Pakistan, Palau, Papua New Guinea, Qatar, Senegal, Timor-Leste and Tonga. At least 7 countries - Brunei-Darussalam, Iran, Lebanon, Palestine, Saudi Arabia, Sudan and Yemen - do not have laws setting a minimum age of marriage for boys and girls.⁴¹

Although age 18 is recognized as the lowest marriageable age in most parts of the world, the international law creates exceptions and gaps for national laws. For instance, China has the highest marriage age for men around the world, which is 22 years old, and 20 years old for women;⁴² In the United States, the minimum age for marriage is set by each state and territory with most states at 18. Mississippi has the highest marriageable age at 21 for male and female, but if with parental consent, male can get married at 17 and 15 for female.⁴³ As of May 2023, 42 states allow minors to marry in at least some circumstances.⁴⁴

In all Member States of the European Union (EU), the minimum age required for marriage coincides with the age of majority and is set at 18 years – except for Scotland, where the age of marriage is 16 years, which is also the age of majority.⁴⁵ Moreover, there are also possibilities of marriage before reaching the age of majority in most of the other Member States, where the absolute minimum age explicitly set for marriage with consent, either parental or by a public authority, is 16 years. There are also some countries that do not have an absolute minimum age of marriage in the legislation for exception, for example Belgium, Finland, France, Greece, Ireland, Luxembourg and Slovenia, and Estonia sets it at 15 years.

⁴¹ UN Women 2023, “Legislating and Enforcing the Minimum Age of Marriage - a Comparative Study of Experiences and Lessons Learned” n.d.

⁴² Article 1047 No marriage may be contracted before the man has reached 22 years of age and the woman 20 years of age. (Relevant articles: Legislation 1)“PRC Civil Code”Order of the President of the People's Republic of China No. 45, Issue Date: 2020.05.28

⁴³ “Mississippi Marriage Age Requirements Laws - FindLaw,” accessed June 7, 2023, <https://www.findlaw.com/state/mississippi-law/mississippi-marriage-age-requirements-laws.html>.

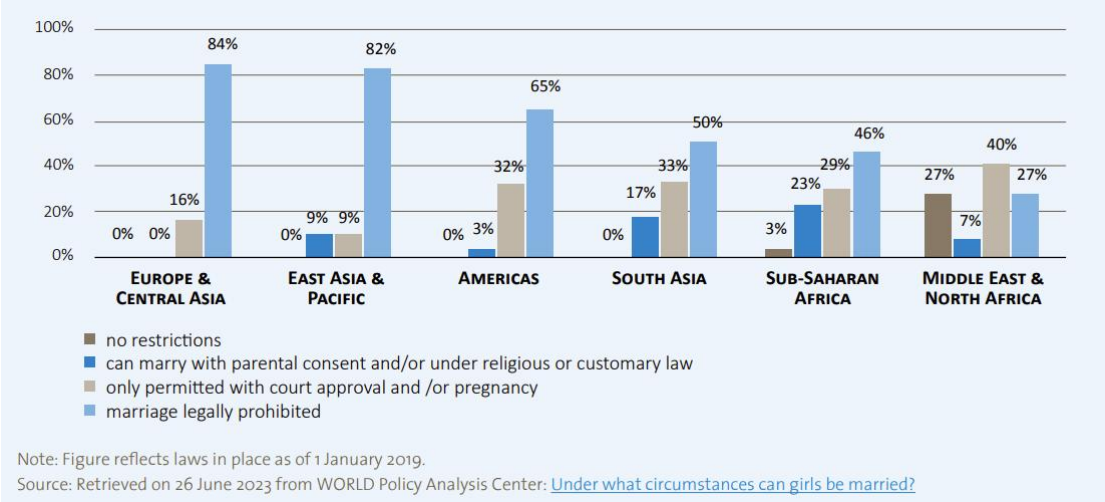
⁴⁴ “Connecticut Lawmakers Vote to Ban Child Marriages,” accessed June 7, 2023, <https://www.chron.com/politics/article/ct-child-marriage-minimum-age-lamont-fraidy-reiss-18132681.php>.

⁴⁵ “Marriage with Consent of a Public Authority and/or Public Figure,” European Union Agency for Fundamental Rights, November 14, 2017, <http://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/marriage-consent-public-authority-andor-public-figure>.

Only in Denmark, Germany, the Netherlands, and Sweden is it not possible to get married before the age of 18. Polish law distinguishes between men and women -- a woman can apply for marriage at 16, but there is no such exception for men.⁴⁶

In the case of very early marriage for females under 13 years of age, most countries in Europe and Central Asia (84%), East Asia and the Pacific (82%) and the Americas (65%) explicitly prohibit it, with no exceptions (see Figure 1). Only when authorized by a court or in cases of pregnancy, marriage at age 13 is permitted in 16 per cent of countries in Europe and Central Asia. 9 percent of East Asian and Pacific countries also make exceptions for court approval and/or pregnancy, and the same number of countries in this region admit the exceptions for parental consent and/or under religious or customary law.

Figure 1: Circumstances under which girls aged 13 years can be married, by region, 2019.



In other regions, the exceptions are more numerous. Around 30 per cent of countries in the Americas, South Asia, and sub-Saharan Africa, and as many as 40 per cent of countries in the Middle East and North Africa allow girls to marry at 13 years of age if the court permits it and/or if they are pregnant. Relatively less common are cases where parental consent or customary religious law influence the marriage. And it is noteworthy that 3% of countries

⁴⁶ “At What Age Can You Legally Get Married in Europe? | Euronews,” accessed June 6, 2023, <https://www.euronews.com/2023/03/01/at-what-age-can-you-legally-get-married-in-europe>.

in sub-Saharan Africa and as many as 27% of countries in the Middle East and North Africa have no restrictions on girls marrying at age 13.⁴⁷

In recent years, many countries and regions are also adjusting the marriage age. In February 2023, the Marriage and Civil Partnership (Minimum Age) Act came into force in England and Wales. The new law increases the legal age of marriage to 18 from 16, covers non-legally binding ceremonies and redefined the concept of force marriage - previously forced marriage was only an offence if coercion, such as threats, was used - it is now illegal to arrange for children to marry under any circumstances, whether force is used.⁴⁸

Child marriage law reform in New York State has progressed quickly and smoothly. In 2017, New York State raised the legal minimum age of marriage from 14 to 17, subject to parental consent.⁴⁹ In 2021, the New York State Senate voted unanimously in favor of Senate Bill A. 3891/S3086, the proposed Ending Child Marriage Act, which was signed by the Democratic governor, and which would raise New York's minimum age of marriage from 17 to 18 and eliminate a legal loophole allowing children under the age of 18 to marry. The bill raised the minimum age of marriage in New York State from 17 to 18 and eliminated a loophole in the law that allowed children under the age of 18 to marry. With the law went into effect, New York became the sixteenth state in the United States, following Rhode Island, Delaware, Minnesota, New Jersey, and Pennsylvania.⁵⁰

Malawi amended the Constitution in 2017 to revise a provision which permitted children between the ages of 15 and 18 to marry under parental consent and therefore closed the legal loophole.⁵¹ Many other developing countries or regions have also enacted similar laws in recent years: Mexico(2014)⁵², Honduras (2017),⁵³ Ecuador (2015),⁵⁴ Costa Rica (2017),⁵⁵

⁴⁷ UN Women 2023, "Legislating and Enforcing the Minimum Age of Marriage - a Comparative Study of Experiences and Lessons Learned" n.d.

⁴⁸ "Minimum Marriage Age Rises to 18 in England and Wales - BBC News," accessed June 6, 2023, <https://www.bbc.com/news/uk-politics-64748930>.

⁴⁹ "Assembly Passes Legislation to Increase the Age for Marriage Consent," accessed October 28, 2023, <https://assembly.state.ny.us/Press/20170608/>.

⁵⁰ "Victory Against Child Marriage in New York State | Human Rights Watch," July 27, 2021, <https://www.hrw.org/news/2021/07/27/victory-against-child-marriage-new-york-state>.

⁵¹ "Malawi Amends Constitution to Remove Child Marriage Loophole | Human Rights Watch," accessed June 7, 2023, <https://www.hrw.org/news/2017/02/24/malawi-amends-constitution-remove-child-marriage-loophole>.

⁵² UN Women 2023 "Legislating-and-Enforcing-the-Minimum-Age-of-Marriage-a-Comparative-Study-of-Experiences-and-Lessons-Learned-En.Pdf."

Panama (2015),⁵⁶ Trinidad and Tobago (2017)⁵⁷,etc.

Despite the adoption of child marriage laws, many countries still face many obstacles to their implementation. In December 2014, the Mexican Federal Congress approved the General Law on the Rights of Boys, Girls and Adolescents, which sets the minimum age of marriage at 18 years without any exceptions, both in terms of legislation and enforcement, and urges states to reform their laws. Prior to this, most Mexican states did not allow minors to marry, but exceptions existed, enabling girls under the age of 18 to marry with the consent of their parents or guardians, or with the authorization of a judge or mayor.⁵⁸

However, since the law on marriage is a matter for the states to legislate, this general law needs to be reformed by the state legislatures in order to progressively realize its effectiveness. For the time being, its impact has not been significant, since in some areas, civil guidance states the minimum age is 14 for girls and 16 for boys. According to the report from Investigación en Salud y Demografía (Insad) 81% of marriages among girls aged 12 to 17 years old are not recognized legally.⁵⁹

Some countries have encountered religious or conservative obstacles to raising the legal age of marriage. Some of these countries overcame the obstacles and succeeded in reforming, while others are still in the process of reforming today.

In the Philippines, the enactment of the Prohibition of Child Marriage Practices and Penalties Act was strongly opposed by the Muslim community because Muslim practices allow for child marriages, and the minimum age of marriage for Muslims is set at 15 years

⁵³ “Honduras Bans Child Marriage, No Exceptions | Reuters,” accessed June 8, 2023, <https://www.reuters.com/article/us-honduras-childmarriage-idUSKBN19Y0T8>.

⁵⁴ “Ecuador - Girls Not Brides,” accessed June 8, 2023, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/ecuador/>.

⁵⁵ “Costa Rica - Girls Not Brides,” accessed June 8, 2023, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/costa-rica/>.

⁵⁶ “Panama - Girls Not Brides,” accessed June 8, 2023, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/panama/>.

⁵⁷ “Getting Married in Trinidad & Tobago - U.S. Embassy in Trinidad & Tobago,” accessed June 8, 2023, <https://tt.usembassy.gov/getting-married-trinidad-tobago/>.

⁵⁸ UN Women 2023 “Legislating-and-Enforcing-the-Minimum-Age-of-Marriage-a-Comparative-Study-of-Experiences-and-Lessons-Learned-En.” n.d.

⁵⁹ Hannah Summers, “Mexico’s Lost Generation of Young Girls Robbed of Innocence and Education,” *The Guardian*, May 2, 2017, sec. Global development, <https://www.theguardian.com/global-development/2017/may/02/mexico-lost-generation-young-girls-innocence-education>.

old in the Philippine Code of Muslim Personal Laws, and females can even marry at the age of 12 years old with the permission of the Shari'a District Court.⁶⁰

But still, the law was eventually signed into law on December 10, 2021. The Act outlaws and penalizes both marriage and non-marital cohabitation with children under the age of 18 (Section 4), recognizes the need to abolish all traditional and cultural practices and structures that perpetuate discrimination, abuse, and exploitation of children, including the practice of child marriage, and overrides the provisions of the Code of Muslim Personal Laws on early marriage. At the same time, a transitional period of one year's delay in entry into force was established for both Muslim and indigenous communities.⁶¹

However, reform in Pakistan is still pending. In 2014, the Sindh Provincial Assembly of Pakistan unanimously passed the Sindh Child Marriage Restraint Act, which raises the legal minimum age of marriage for both boys and girls to 18 years and provides for penalties related to child marriage. This makes it the only district in Pakistan where child marriage under the age of 18 is strictly prohibited. In Khyber Pakhtunkhwa, however, a similar bill was rejected in 2016. At the national level, a bill to raise the minimum age of marriage for girls from 16 to 18 was introduced in the National Assembly in 2017, however, objections indicated that the bill violated Islamic prohibitions. The bill was then referred to the Islamic Ideology Committee, which has made no progress to date.⁶²

4. Status of female child marriages around the world

The practice of child marriage has continued to decline globally. Today, one in five young women aged 20 to 24 years were married as children versus nearly one in four 10 years

⁶⁰ "P.D. No. 1083," accessed October 28, 2023, https://lawphil.net/statutes/presdecs/pd1977/pd_1083_1977.html.

⁶¹ "Republic Act No. 11596," accessed October 28, 2023, https://lawphil.net/statutes/repacts/ra2021/ra_11596_2021.html.

⁶² "Child marriage: What are the laws in Pakistan?," accessed October 29, 2023, <https://www.geo.tv/latest/413712-child-marriage-what-are-the-laws-in-pakistan>.

ago.⁶³ And the percentage of that young men aged 20–24 years were first married is 4.5% of young men or in union before age 18.⁶⁴

Despite a general global trend towards later marriage for both sexes, the percentage of women and men who marry during childhood remains sizeable, and women are the main victims of child marriage. According to UNICEF, 650 million females alive today were married before their 18th birthday, while the number of males married before 18 is 115 million.

In addition to gender differences, there are large regional gaps in the prevalence of child marriage. Worldwide, half of females alive today were married before 18 occurring in Bangladesh, Brazil, Ethiopia, India and Nigeria.⁶⁵

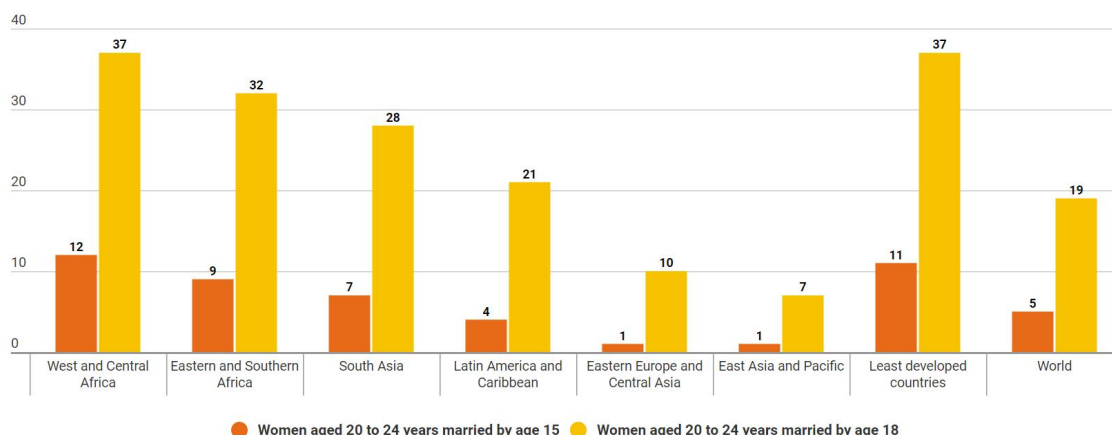
As seen in Figure 2, the world level of child marriage is nearly 20 per cent, and the highest regional levels are found in West and Central Africa, where 1 in 3 young women were married before age 18. Eastern and Southern Africa are at a similar level at 32 per cent, while somewhat lower levels are found in South Asia at 26 per cent, Latin America, and Caribbean at 21 per cent and the Middle East and North Africa at 16 per cent.

Figure 2: Percentage of women aged 20 to 24 who were first married or in union before age 15 and before age 18, by region.

⁶³ hmoumen, “Is an End to Child Marriage within Reach?,” UNICEF DATA, May 5, 2023, <https://data.unicef.org/resources/is-an-end-to-child-marriage-within-reach/>.

⁶⁴ Christina Misunas, Colleen Murray Gastón, and Claudia Cappa, “Child Marriage among Boys in High-Prevalence Countries: An Analysis of Sexual and Reproductive Health Outcomes,” *BMC International Health and Human Rights* 19, no. 1 (December 2019): 25, <https://doi.org/10.1186/s12914-019-0212-8>.

⁶⁵ “10 Million Additional Girls at Risk of Child Marriage Due to COVID-19 – UNICEF,” accessed June 12, 2023, <https://www.unicef.org/eap/press-releases/10-million-additional-girls-risk-child-marriage-due-covid-19-unicef>.



Notes: Estimates are based on a subset of 101 countries covering 77 per cent of the population of women aged 20 to 24. Regional estimates represent data covering at least 50 per cent of the regional population. Data coverage was insufficient to calculate regional estimates for the Middle East and North Africa, North America and Western Europe.
Source: UNICEF global databases, 2022.

South Asia has experienced the most progress in the past decade and continues to drive global reductions and is on pace to eliminate child marriage in about 55 years, where a girl’s risk of marrying in childhood has dropped from 46 per cent to 28 per cent. However, the proportion of child marriages remains high in South Asia, where remains home to nearly half (45 per cent) of the world's child brides. While India has recorded significant progress in recent decades, it still accounts for one-third of the global total.⁶⁶ Less progress has been observed in Sub-Saharan Africa, where 35 per cent of young women are married as children today compared to 38 per cent a decade ago.⁶⁷

Although the number of child marriages is decreasing, with 25 million child marriages averted in the last decade,⁶⁸ the number of girls married in childhood still is 12 million per year as of 2022.⁶⁹

Since the outbreak of COVID-19 in 2019, school closures and economic disruptions have increased the risk of child marriage for girls in many areas. A report from UNICEF estimates, before the COVID-19 outbreak, 100 million girls were at risk of child marriage in the next decade. However, due to Covid-19, there will be ten million additional child

⁶⁶ “Global Polycrisis Creating Uphill Battle to End Child Marriage – UNICEF,” accessed June 12, 2023, <https://www.unicef.org/press-releases/global-polycrisis-creating-uphill-battle-end-child-marriage-unicef>.

⁶⁷ “Child Marriage.”

⁶⁸ “10 Million Additional Girls at Risk of Child Marriage Due to COVID-19 – UNICEF.”

⁶⁹ “Child Marriage.”

marriages occurring before the end of the decade.⁷⁰ If the action to end child marriage does not accelerate, the world is at least 200 years away from the Sustainable Development Goals to end child marriage.⁷¹

As noted earlier, India has made great strides to end child marriage in recent years. The prevalence of the practice has declined steeply over the last two decades from 49 per cent in 2001 to 23 per cent in 2021.⁷² However, India still accounts for one-third of all females marriages before 18 years old globally (Figure 3). This prevalent practice poses severe social, economic, and health consequences for the affected individuals, their families, and society.

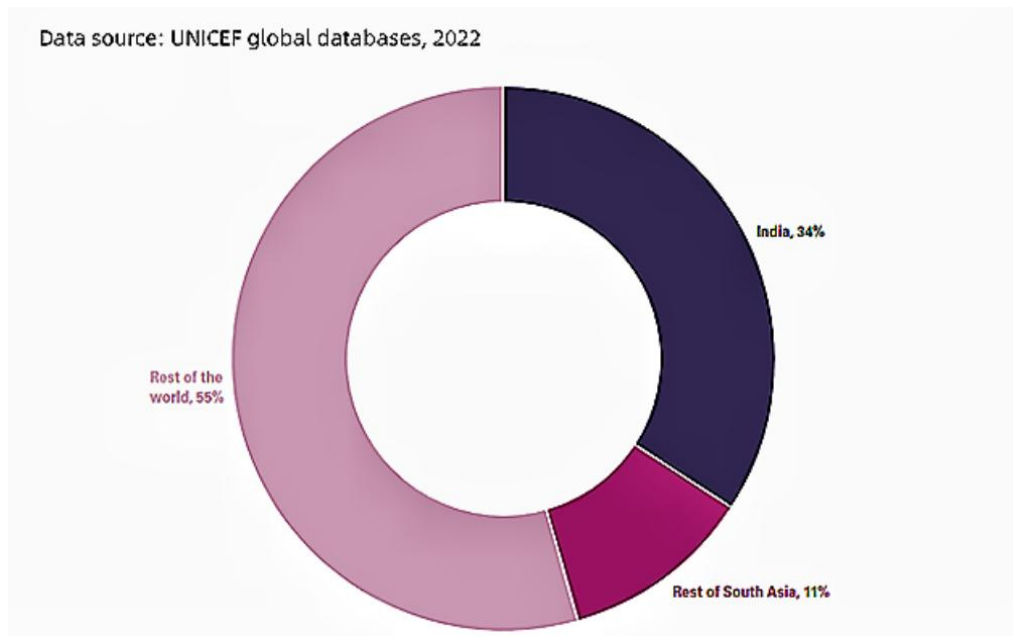
India's vast population and diverse cultural landscape provide a rich and complex context to examine the issue of child marriage. With its numerous states, each characterized by distinct traditions, customs, and socioeconomic factors, India offers an opportunity to explore the varying dynamics and underlying factors contributing to child marriage across different regions. Understanding these nuances is crucial for developing effective interventions and policy recommendations to combat this deeply rooted practice.

Figure 3: Number of girls and women who first married or in union before age 18 in India, South Asia and the rest of the world.

⁷⁰ “10 Million Additional Girls at Risk of Child Marriage Due to COVID-19 – UNICEF.”

⁷¹ “Child Marriage.”

⁷² “Ending Child Marriage: A Profile of Progress in India - UNICEF DATA,” accessed June 13, 2023, <https://data.unicef.org/resources/ending-child-marriage-a-profile-of-progress-in-india-2023/>.



The significant decline in child marriage in India reflects the effectiveness of the multifaceted efforts made by the Indian government. The most important practice is the Prohibition of Child Marriage Act of 2006 prohibits the marriage of females under 18 and males under 21, aiming to safeguard the rights and well-being of children.⁷³ In addition, the states have enacted laws. However, despite these legal provisions, child marriage persists in many parts of the country, highlighting the need for a comprehensive analysis to identify the underlying drivers and barriers to change.

⁷³ “India Code: Prohibition of Child Marriage Act, 2006,” accessed June 13, 2023, https://www.indiacode.nic.in/handle/123456789/2055?sam_handle=123456789/1362.

Chapter II - Child marriage as a violation of human rights

Child marriage is a violation of children's human rights and a form of gender-based violence that robs rights of children.⁷⁴ Child marriage exposes children, especially girls, to physical and psychological harm, making it difficult for them to pursue a life of equality, autonomy, and development.

Child marriage increases the vulnerability of child brides to violence, discrimination and abuse while depriving them of the right to take control of their own lives, removing them from school, and preventing them from fully participating in the economic, political and social spheres. The negative effects can even be carried over from the mother of an early marriage to her offspring.

1. Child marriage leads to the risk of early pregnancy.

Physically, girls in early marriages are more vulnerable to early pregnancy, domestic violence, including sexual violence, and are at high risk of disease and even maternal mortality. According to the World Health Organization (WHO), about 12 million girls aged 15-19 and at least 777,000 girls under 15 years of age give birth every year in developing regions.⁷⁵ Girls aged 15-19 are twice as likely to die in childbirth as women aged 20 and over. Together with HIV, complications during pregnancy and childbirth are the leading causes of death among young women aged 15-19.⁷⁶

Child marriage increases the risk of pregnancy for girls because girls who marry at young age often have limited autonomy to decide about childbearing and contraceptive use.⁷⁷ The

⁷⁴ "Child Marriage: A Violation of Child Rights | Save the Children," accessed June 28, 2023, <https://www.savethechildren.org/us/charity-stories/child-marriage-a-violation-of-child-rights>.

⁷⁵ "Adolescent and Young Adult Health," accessed October 21, 2023, <https://www.who.int/news-room/fact-sheets/detail/adolescents-health-risks-and-solutions>.

⁷⁶ "UNFPA ESARO | Adolescent Pregnancy," accessed October 21, 2023, <https://esaro.unfpa.org/en/topics/adolescent-pregnancy>.

⁷⁷ "Adolescent Pregnancy," accessed October 21, 2023, <https://www.who.int/news-room/fact-sheets/detail/adolescent-pregnancy>.

study based on the latest Demographic and Health Survey (DHS) between 2008 and 2017 across 34 sub-Saharan Africa countries indicates that women married at under 18 years old were more likely to experience childbirth, compared to women married later. More than half of child marriages in this region have a child in the first year of marriage, and more than a third of child marriage families have at least three children, which is almost five times the proportion of adult marriages with the high number of children ever born.⁷⁸ Another analysis based on demographic and health data from 15 countries in South Asia, the Middle East and Africa showed that women in child marriages in all countries had more children than women who married as adults.⁷⁹

Child brides are not sufficiently physically mature, posing great risks for pregnancy and childbirth, while the lack of adequate and specialized maternal care services also contributes to increased risks to the life and health of child brides. The results of a study that analyzed and researched data from seven countries in South Asia and Africa, including Bangladesh, Ethiopia, Nepal and Niger etc. showed that in most of the countries studied, there is a negative correlation between child marriage and maternal health-care utilization, which is more pronounced in rural areas.⁸⁰

The study also concludes that the marginal effects in use of delivery care services between women married at age 14 years or younger and those married at age 18 years or older are more than 10% and highly significant in Bangladesh, Burkina Faso, and Nepal.⁸¹ This means that there is a severe lack of maternal care for mothers under 14 years of age in these areas, which further increases the risk of early delivery and the lack of assurance of their health and well-being.

The high risk of preterm labor and poor maternal care can cause many illnesses. For instance, one common problem related to early childbirth amongst women in Nepal that is

⁷⁸ Sanni Yaya, Emmanuel Kolawole Odusina, and Ghose Bishwajit, "Prevalence of Child Marriage and Its Impact on Fertility Outcomes in 34 Sub-Saharan African Countries," *BMC International Health and Human Rights* 19, no. 1 (December 19, 2019): 33, <https://doi.org/10.1186/s12914-019-0219-1>.

⁷⁹ Adenike Onagoruwa and Quentin Wodon, "MEASURING THE IMPACT OF CHILD MARRIAGE ON TOTAL FERTILITY: A STUDY FOR FIFTEEN COUNTRIES," *Journal of Biosocial Science* 50, no. 5 (September 2018): 626–39, <https://doi.org/10.1017/S0021932017000542>.

⁸⁰ Deepali Godha et al., "Predicting Maternal Health Care Use by Age at Marriage in Multiple Countries," *The Journal of Adolescent Health: Official Publication of the Society for Adolescent Medicine* 58, no. 5 (May 2016): 504–11, <https://doi.org/10.1016/j.jadohealth.2016.01.001>.

⁸¹ Godha et al.

uterine prolapse, which can be caused by inadequate child spacing, lack of proper rest after childbirth and demanding labor during pregnancy. In other countries, uterine prolapse usually occurs in post-menopausal women. However, uniquely in Nepal, as many as 14 percent of cases occur in women before the age of 20, and even in some areas the percentage can be as high as 23 percent or more. A study found that as many as 61% of women with uterine prolapse had their first child before the age of 19, which reflects its strong association with child marriage and early childbirth. The study also showed that the majority of women, most of whom were married before the age of 18, began to experience symptoms after their first delivery.⁸²

A similar phenomenon occurs in other countries and regions where child marriage is more prevalent. In Baliakandi, a rural community in Bangladesh, where over half of all marriages were child marriage in 2019, the pregnant adolescents there are twice as likely to experience obstetric complication compared to adults. One third of all complications reported in this region, including prolonged or obstructed labor, traumatic or difficult deliveries, and hemorrhages, are related to maternal immaturity.⁸³

Women who suffer from the disease not only have to endure the pain of the disease, but also, in many cases, are subjected to discrimination and stigmatization from the others and even from their husbands. In addition to disease, as a country with a high prevalence of child marriage, Nepal's maternal mortality ratio for women under the age of twenty is twice as high (297 per 100,000 live births) as women in their twenties (155 per 100,000 live births) and significantly higher than country's average (229 per 100,000 live births).⁸⁴

A review of South Asian countries found that the utilization of skilled birth attendance after child marriage was low. In most rural areas of developing countries, nearly 43% of births are attended by traditional birth attendants with limited resources, and uneducated girls in those rural areas have limited access to, and limited awareness of the importance of, access

⁸² Aleksandra Perczynska, Her Turn Program Coordinator; Daniel Coyle "Child Marriage as a Health Issue – Nepal Case Study," accessed October 22, 2023, <https://www.ohchr.org/sites/default/files/Documents/Issues/Children/Study/RightHealth/HerTurn.pdf>.

⁸³ Kyu Han Lee et al., "Child Marriage in Rural Bangladesh and Impact on Obstetric Complications and Perinatal Death: Findings from a Health and Demographic Surveillance System," *PLOS ONE* 18, no. 7 (July 19, 2023): e0288746, <https://doi.org/10.1371/journal.pone.0288746>.

⁸⁴ Aleksandra Perczynska et al., "Child Marriage as a Health Issue – Nepal Case Study"

to skilled birth attendants at delivery to prevent or manage serious intrapartum and postpartum complications.⁸⁵ This leaves young women vulnerable to maternal mortality and morbidity due to preventable complications and lack of adequate specialized care during and after delivery.⁸⁶

Globally, the suffering inflicted on girls each year as a result of early pregnancy cannot be ignored. According to an analysis by Save the Children in 2021, it is estimated that more than 22,000 girls die each year from pregnancy and childbirth resulting from child marriage. West and Central Africa, the highest-rate region of child marriage around the world, accounts for nearly half (9,600) of the global deaths related to child marriage, or 26 deaths per day. Adolescent maternal mortality in the region is four times higher than in the rest of the world.⁸⁷

2. Child brides may suffer more domestic violence in marriage.

Domestic violence, also called intimate partner violence (IPV), can be defined as a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner. Domestic violence or abuse can occur in a married, cohabiting or dating relationship, and it includes physical, sexual, emotional, economic or psychological behaviors or threats of behaviors that affect another person, such as any behavior that frightens, intimidates, threatens, manipulates, hurts, humiliates, blames, harms or injures another person.⁸⁸

An analysis of prevalence data from 2000-2018 across 161 countries and areas, conducted by WHO on behalf of the UN Interagency working group on violence against women, found that nearly one in three women (15 years of age and older) in the world have

⁸⁵ Abdul Hakeem Jokhio, Heather R. Winter, and Kar Keung Cheng, “An Intervention Involving Traditional Birth Attendants and Perinatal and Maternal Mortality in Pakistan,” *New England Journal of Medicine* 352, no. 20 (May 19, 2005): 2091–99, <https://doi.org/10.1056/NEJMsa042830>.

⁸⁶ S Daarwin Subramanee et al., “Child Marriage in South Asia: A Systematic Review,” *International Journal of Environmental Research and Public Health* 19, no. 22 (November 17, 2022): 15138, <https://doi.org/10.3390/ijerph192215138>.

⁸⁷ “Child Marriage Kills More than 60 Girls a Day,” Save the Children International, October 11, 2021, <https://www.savethechildren.net/news/child-marriage-kills-more-60-girls-day>.

⁸⁸ “What Is Domestic Abuse? | United Nations,” accessed October 22, 2023, <https://www.un.org/en/coronavirus/what-is-domestic-abuse>.

experienced physical or sexual violence, or all two forms of violence, at least once in their lifetime. These estimates confirm that physical, intimate partner and non-partner sexual violence remain pervasive in the lives of women and adolescent girls around the world.⁸⁹

The analysis also indicates that almost 1 in 4 ever-married/partnered adolescent girls (15–19 years old) is estimated to have already been subjected to physical and/or sexual violence from an intimate partner at least once in their lifetime.⁹⁰ While the data does not show that families in child marriages are more prone to violence compared to families married as adults, these girls who should have spent their childhood or adolescence in school and with their parents would not have been exposed to violence from an intimate partner if they had not entered marriage or union. Moreover, since the victims are much younger and still physically and psychologically immature, the consequences in physical and psychological may be even more serious.

In some countries, studies have shown a strong relationship between female vulnerability and the incidence of domestic violence. A study of Ethiopian women aged 20-24 who were married below the age of 19 showed that nearly one in six women married before the age of 18 had their first sex forced by their husbands, and the probability was as high as one in three for younger brides, those married before the age of fifteen. In addition, the prevalence of physical violence from the husband was higher than eight percent for all respondents, and more than one in ten brides who married under the age of 15 suffered it.⁹¹

A more recent study for Amhara national regional state of Ethiopia in 2020 shows that the above situation has not changed. The study added an analysis of verbal violence, finding that child-brides were more likely to experience spousal verbal abuse (46.9%) than women married at/after 18 (36.9%). Similarly, child-brides were also more likely to experience spousal beating and non-consensual sex or marital rape by their first husbands compared to woman married at/after 18.⁹²

⁸⁹ “Violence against Women Prevalence Estimates, 2018 – Executive Summary,” accessed October 22, 2023, <https://www.who.int/publications-detail-redirect/9789240026681>.

⁹⁰ “Violence against Women Prevalence Estimates, 2018 – Executive Summary.”

⁹¹ Annabel Erulkar, “Early Marriage, Marital Relations and Intimate Partner Violence in Ethiopia,” *International Perspectives on Sexual and Reproductive Health* 39 (April 2, 2013): 6.

⁹² Mikyas Abera et al., “Early Marriage and Women’s Empowerment: The Case of Child-Brides in Amhara National Regional State, Ethiopia,” *BMC International Health and Human Rights* 20, no. 1 (December 2020): 30, <https://doi.org/10.1186/s12914-020-00249-5>.

Similar situations occur in many countries, and while there are variations, they all illustrate the prevalence of violence against child brides in developing countries with a high incidence of child marriage. A recent study shows that there is no significant difference between women married as children and women married as adults in Afghanistan, in terms of the odds of experiencing violence and in any of the categories of abuse, physical abuse and emotional abuse. However, women married before the age of 15 were 22% more likely to experience sexual violence compared to women married as adults.⁹³ This study also illustrates that the likelihood of reporting any physical, emotional, or sexual violence is highly correlated with lower socioeconomic status and rural residence.

Early marriage is an important factor in the occurrence of domestic violence, which has been recognized in many studies. Based on the data from demographic and health surveys (DHS) in 48 low- and middle-income countries (LMICs), one study shows that past year IPV tends to decline with each year of delay in the age of first marriage. This relevance exists for any form of violence, whether physical, sexual, or psychological.⁹⁴

It is a harsh reality that the youngest child brides, who are not yet fully developed physically and mentally, are at the greatest risk of domestic violence: for women married at age 15, the relative risk of past year physical IPV was 3.3 times higher than women married at age 24 years; the risk of past year sexual IPV was 2.2 times higher; for psychological IPV, the relative risk was 3.4 times higher for the same comparison.⁹⁵

3. Child marriage as an obstacle to keeping girls in school

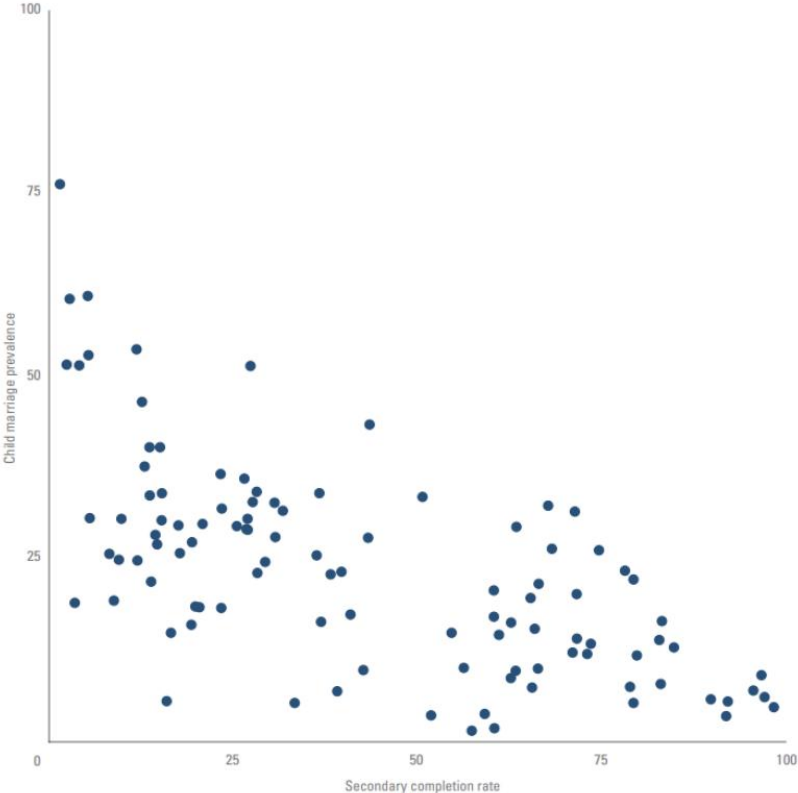
Every child has the right to education. The Article 28 of the Convention on the Rights of Child (CRC) states that the States Parties should take measures to make primary education compulsory and available free to all, and recognizes the children's rights to get the financial

⁹³ Mavra Qamar, M. Anne Harris, and Jordan L. Tustin, "The Association Between Child Marriage and Domestic Violence in Afghanistan," *Journal of Interpersonal Violence* 37, no. 5–6 (March 1, 2022): 2948–61, <https://doi.org/10.1177/0886260520951310>.

⁹⁴ Carolina V. N. Coll et al., "Cross-National Associations between Age at Marriage and Intimate Partner Violence among Young Women: An Analysis of Demographic and Health Surveys from 48 Countries," *International Journal of Environmental Research and Public Health* 20, no. 4 (February 12, 2023): 3218, <https://doi.org/10.3390/ijerph20043218>.

⁹⁵ Coll et al.

assistance, normal and higher education, educational guidance and etc.⁹⁶ Child marriage often leads to the discontinuation of education, particularly for girls, perpetuating cycles of poverty, limiting their future prospects, and denying them opportunities for personal growth. Figure 4: Percentage of women aged 20 to 24 years who were first married or in union before age 18 (child marriage prevalence) and percentage of the cohort of girls 3 to 5 years older than the intended age for the last grade of upper secondary education who have completed secondary education (secondary completion rate).



Note: Each dot represents a country.
 Source: UNICEF

Child marriage and school attendance tend to be negatively correlated. The correlation between the incidence of child marriage and the proportion of girls completing lower secondary school are gleaned on Figure 4, which shows that, the higher the incidence of child marriage, the lower the rate of girls' educational attainment in each country. None of the five countries with the highest rates of child marriage has a girls' secondary school

⁹⁶ “Convention on the Rights of the Child | UNICEF.”

completion rate of more than 15 per cent. In the top three countries with the highest child marriage rates, no more than 5 per cent of girls complete secondary school.⁹⁷

An Interview with girls in early marriages and marital decision makers in Ethiopia and India shows that the positive effects of education on the development of girls, such as improved self-efficacy, increased employment opportunities, and improved household management skills, are widely recognized⁹⁸, but that there are still obstacles to women's continuing their education after marriage, and that in some areas it is considered virtually impossible.

Many factors prevent girls from continuing their schooling after marriage, such as social norms that restrict married girls' access to education, in-laws' and husbands' restrictions on continuing education after marriage, and the responsibilities of married life and motherhood, even for the girls who are highly motivated to go to school⁹⁹, but eventually they were forced stay away from school.

Among those interviewed, it was common for them to state that social norms dictate that only unmarried girls should attend school, and some participants even outright stated that they were not in favor of married girls attending school, or even incorrectly claimed that it was illegal for married girls to attend school. This social norm also deeply affects girls themselves.

“According to me studying after marriage is not a good idea.” An Indian housewife married before 18 ages said.

In most of these cases interviewed, the power to decide whether a girl continues to go to school has been placed in the hands of in-laws, husbands. These decision makers often prefer that girls have children early and spend more time caring for their families. Yet even when some girls are lucky enough to receive support from in-laws and husbands to stay in school, early family responsibilities and motherhood make it impossible for them to

⁹⁷ Karoline Hassfurter, “The Power of Education to End Child Marriage,” UNICEF DATA, September 19, 2022, <https://data.unicef.org/resources/child-marriage-and-education-data-brief/>.

⁹⁸ Anita Raj et al., “Students and Brides: A Qualitative Analysis of the Relationship between Girls’ Education and Early Marriage in Ethiopia and India,” *BMC Public Health* 19, no. 1 (January 7, 2019): 19, <https://doi.org/10.1186/s12889-018-6340-6>.

⁹⁹ Anita Raj et al., “Students and Brides: A Qualitative Analysis of the Relationship between Girls’ Education and Early Marriage in Ethiopia and India,”

balance their studies, with some girls never returning to school after marriage, and others attempting to go back to school after marriage only to have to drop out again.

“Including married girls, all should go to school if possible, for no limit to learn and know more. But there are few in numbers who go back to school after marriage due to responsibilities they are experiencing at home.” A teacher who is decision maker for girl able to cancel/postpone marriage in Ethiopia.

“...After marriage also, my husband loves me and respects me. He got me admitted to 9th standard. I even went to school for 5 months after which I got pregnant and was not able to continue my education.” An India housewife married before 18 ages said.

In addition to these constraints, the economic costs and uncertainty of the benefits of schooling are reasons why many families prevent girls from continuing their education. And gender inequality is also well reflected in this issue, with men being much more likely than women to continue their education after marriage.¹⁰⁰

4. Child marriage reduces women's autonomy, participation, and decision-making power.

Girls who take on family responsibilities at an early age generally have a low status in the family due to lack of education, insufficient management skills, physical and mental immaturity, and lack of respect from their husbands and family members, among other reasons, which makes them vulnerable to the loss of decision-making power.

The loss of the right to decide for child brides is reflected, first and foremost, in the inability to decide on matters that concern themselves. Women have the right of bodily autonomy which is the foundation for gender equality and a fundamental right¹⁰¹, to make decisions about their own bodies and reproductive health. According to UNFPA, only 55 per cent of women have bodily autonomy, based on the measurements of their ability to make their own decisions on issues relating to health care, contraception and whether to

¹⁰⁰ Anita Raj et al., “Students and Brides: A Qualitative Analysis of the Relationship between Girls’ Education and Early Marriage in Ethiopia and India,”

¹⁰¹ “Bodily Autonomy: A Fundamental Right,” accessed July 6, 2023, <https://www.unfpa.org/press/bodily-autonomy-fundamental-right>.

have sex.¹⁰² Unfortunately, the problem is even worse for women in child marriages. Those subjected to child marriage are often denied their right to make decisions about, or lack accurate information about, their sexual and reproductive health.¹⁰³

From the origins of child marriage, it is not up to the girls to decide whether to marry or not. In cases of child marriage in Pakistan, parents are the main decision makers in the marriage. Especially in a patriarchal social structure, fathers play the biggest role. However, minors, both boys and girls, have little space to decide on their own marriages.¹⁰⁴

Surveys have shown that decision-making in child marriages is often done with the involvement of elders and extended family, and girls are usually excluded from discussions on decision-making, including the timing of the marriage, the choice of groom and the outcome of the discussions. In India, parents, especially mothers, often steer their daughters towards marriage proposals out of a variety of concerns.¹⁰⁵

According to a study by Nasrullah et al. in Pakistan, 11.5 percent of women who married as adults experienced at least one unintended pregnancy, while among women in child marriages, the percentage was nearly double that, at 21.3 percent. Rapid repeat births (42.9% of child brides compared to 14.2% of adult women) and pregnancy terminations (21.9% of child brides compared to 13.1% of child mothers) were also more common among child brides.¹⁰⁶ This suggests that child brides do not have sufficient autonomy over reproduction and the use of contraception.

The same conclusion was reached in a study in Amhara National Regional State Area, Ethiopia, which showed that husbands of women married under the age of 18 had a very high level of decision-making power in deciding whether their wives used contraceptives and when to have children. And those married 18 and later were more involved than child

¹⁰² “Bodily Autonomy: Busting 7 Myths That Undermine Individual Rights and Freedoms,” accessed July 6, 2023, <https://www.unfpa.org/news/bodily-autonomy-busting-7-myths-undermine-individual-rights-and-freedoms>.

¹⁰³ “SWOP Report 2021 - Autonomy | United Nations Population Fund,” accessed July 6, 2023, <https://www.unfpa.org/sowp-2021/autonomy>.

¹⁰⁴ Tasneem Kakal, Maryse Kok, and Maryam Jawad, “‘You Are a Child and This Is Not Your Business’: Decision-Making on Child Marriage in Sindh, Pakistan,” *PLOS ONE* 18, no. 9 (September 29, 2023): e0266865, <https://doi.org/10.1371/journal.pone.0266865>.

¹⁰⁵ Raj et al., “Students and Brides.”

¹⁰⁶ “Child Marriage and Its Associations with Controlling Behaviors and Spousal Violence against Adolescent and Young Women in Pakistan - PubMed,” accessed October 9, 2023, <https://pubmed.ncbi.nlm.nih.gov/25123525/>.

brides in negotiating decisions about when to have children (66.8% vs. 54.8%) or use contraceptives (79.5% vs. 68.6%).¹⁰⁷

In addition to physical autonomy, it is difficult for child brides to participate fully in family matters. The study in Ethiopia also shows women married at or after 18 were more involved in household decision-making processes than child-brides. 45% of child brides indicated that their husbands were the managers and decision makers of the family's property and/or money, compared to less than a third of women married after the age of 18. In addition, respondents who married after age 18 were also more likely to share responsibility for managing household resources with their husbands than child brides (65% compared to 51.6%).¹⁰⁸

The power in child marriage families is mostly in the hands of men, from fathers to husbands, and that child brides remain in a subordinate position both before and after marriage. In such an environment, it is also difficult for girls to participate in economic or managerial affairs outside the family. In the rural districts of Balaka and Machinga in southern Malawi, 53% of young women are married to 6% of men, and only 7% of the young people who are married to child brides are involved in paid work, compared to 42% of men.¹⁰⁹ According to the World Bank, child marriage is estimated to contribute, on average, to a loss in earnings of about nine percent for the women who married early across 15 countries.¹¹⁰

5. Child marriages are prone to psychological problems.

Girls who marry before the age of 18 are deprived of a healthy transition to adolescence and are forced into adulthood, isolated from their families, parents, and peers, without education and adequate life skills. In addition, as mentioned above, they are at greater risk

¹⁰⁷ Abera et al., "Early Marriage and Women's Empowerment."

¹⁰⁸ Abera et al.

¹⁰⁹ Erica Soler-Hampejsek et al., "Education, Child Marriage, and Work Outcomes Among Young People in Rural Malawi," *Journal of Adolescent Health* 69, no. 6 (December 2021): S57–64, <https://doi.org/10.1016/j.jadohealth.2021.09.011>.

¹¹⁰ The World Bank, the International Center for Research on Women (ICRW), "Economic Impacts of Child Marriage: Educational Attainment Brief" <https://documents1.worldbank.org/curated/en/295491498512413125/pdf/116831-BRI-P151842-PUBLIC-EICM-Brief-EducationalAttainment-PrintReady.pdf>

of suffering physical injuries from early pregnancies and domestic violence, which can lead to serious mental health problems and severe emotional distress that can be long-lasting and lifelong.

The negative correlation between child marriage and mental health has also been validated in studies in many countries around world such as India¹¹¹, Iran¹¹² and Niger¹¹³. Moreover, the negative impact is on multiple aspects of mental health: depression, anxiety, vitality, self-control, and positive health.¹¹⁴

Shilpa Aggarwal et al. conducted a longitudinal study over a period of three years in the Indian states of Uttar Pradesh and Bihar. The study collected data on the mental health status of more than 1800 unmarried adolescent girls in these two districts in the first wave (2015-2016) which included suicidal thoughts, plans, and attempts and followed up three years later (2018-2019) with a second wave of data collection on the mental status of the same interviewees. Based on these two waves of mental health data, logistic regression was used to analyze the association between marriage and mental health in conjunction with marriage status over a three-year period.

Nearly a quarter of the girls were married during the three-year follow-up period of the study. Compared to their unmarried peers, married girls had poorer mental health and a higher risk of mental health problems, whether assessed by depressive symptoms or suicide risk indicators. In addition, mental health was worse for girls who had experienced abuse by their husbands, an association that was more pronounced among married girls who had not had children.¹¹⁵

The negative impact of domestic violence on the psyche of child brides has also been suggested in a study in Ethiopia, which examined the relationship between child marriage, IPV and mental health. The study shows that young Ethiopian women who experienced

¹¹¹ Aggarwal et al., “Child Marriage and the Mental Health of Adolescent Girls.”

¹¹² Ali Fakhari et al., “Early Marriage, Stressful Life Events and Risk of Suicide and Suicide Attempt: A Case–Control Study in Iran,” *BMC Psychiatry* 22, no. 1 (January 28, 2022): 71, <https://doi.org/10.1186/s12888-022-03700-0>.

¹¹³ Neetu A. John, Jeffrey Edmeades, and Lydia Murithi, “Child Marriage and Psychological Well-Being in Niger and Ethiopia,” *BMC Public Health* 19, no. 1 (August 1, 2019): 1029, <https://doi.org/10.1186/s12889-019-7314-z>.

¹¹⁴ John, Edmeades, and Murithi.

¹¹⁵ Aggarwal et al., “Child Marriage and the Mental Health of Adolescent Girls.”

early marriage also had increased exposure to intimate partner violence and lower levels of mental health compared to women who married later in life, and that the former was an important driver of mental health problems, and that these effects persisted over time.¹¹⁶

Both studies show that domestic violence is detrimental to the mental health of child brides. However, child brides in the study who did not experience domestic violence also had higher levels of mental health problems than their unmarried peers. This suggests that the factors affecting women's mental health in child marriage are diverse, such as domestic violence, lack of autonomy, pressure from family responsibilities, shame due to health reasons, and economic reasons, etc. which directly or indirectly affect women's mental health.

Although the study by Shilpa Aggarwal et al. illustrates that pregnancy does not have a significant negative impact on the mental health of child brides¹¹⁷, the illnesses associated with early pregnancy not only cause long term physical ailments for the women, but also psychologically devastate them. In Nepal, uterine prolapse occurs in 14% of Nepalese women under 20 years of age, with child marriage being a significant cause. They are often vulnerable to social discrimination and are considered "unclean" by their husbands, families, and communities, which can even lead to more serious domestic violence and abandonment by their husbands.¹¹⁸

Another serious health risk for married adolescent girls is obstetric fistula. A Uganda survey of obstetric fistula survivors with 70 per cent of respondents under the age of 24 and more than a quarter of the total under the age of 18, shows that many women continue to suffer stigma, rejection and live in fear even after they have been healed by treatment. For those who have been rejected and abandoned by close family members, including spouses, they continue to live in isolation. Residual distress and anxiety due to pain and social

¹¹⁶ "Do Gender-Based Pathways Influence Mental Health? Examining the Linkages Between Early Child Marriage, Intimate Partner Violence, and Psychological Well-Being among Young Ethiopian Women (18–24 Years Old)," accessed October 23, 2023, <https://doi.org/10.1177/0044118X221079375>.

¹¹⁷ Aggarwal et al., "Child Marriage and the Mental Health of Adolescent Girls."

¹¹⁸ Aleksandra Perczynska, "Child Marriage as a Health Issue – Nepal Case Study," n.d.

rejection is reported to be a common experience among women whose fistula has been completely treated.¹¹⁹

In Indonesia, one in nine girls is married before the age of 18, making it the country with the worst child marriage problem in the Asia-Pacific region. Danusha Jayawardana analyzed data on more than 5,000 Indonesian women and found that the limited job market and poor health are potential factors in the negative relationship between early marriage and mental health. Furthermore, each year of delayed marriage reduces a woman's likelihood of depression.¹²⁰

Ethiopian child brides reported that they suffered emotional distress and depression at an early age due to the burden of marital responsibilities. In addition, the sexual demands of their partners and the responsibility of raising children as mothers lead to severe emotional distress and depression. Because they are young, they lack preparation for adult responsibilities, which is often further exacerbated by their diminished agency due to reduced educational and economic opportunities.¹²¹ Child brides in Iran face the same problems, while social isolation from their peers after marriage, deprivation of education, and economic dependence on the male of the family also contribute to their vulnerability to serious psychological problems.¹²²

6. Child marriage as a detrimental to the health and development of the next generation

The negative effects of child marriage are not only reflected in child brides, but also have an intergenerational impact that carries over to the next generation. Young women's bodies

¹¹⁹ John Bosco Bomboka, Mary Gorrethy N-Mboowa, and Jennifer Nakilembe, "Post - Effects of Obstetric Fistula in Uganda; a Case Study of Fistula Survivors in KITO VU Mission Hospital (MASAKA), Uganda," *BMC Public Health* 19, no. 1 (June 6, 2019): 696, <https://doi.org/10.1186/s12889-019-7023-7>.

¹²⁰ Danusha Jayawardana, "Child marriages in Indonesia increase women's depression, research shows," *The Conversation*, May 16, 2023, <http://theconversation.com/child-marriages-in-indonesia-increase-womens-depression-research-shows-198777>.

¹²¹ John, Edmeades, and Murithi, "Child Marriage and Psychological Well-Being in Niger and Ethiopia."

¹²² Shima Bozorgi-Saran and Anahita Khodabakhshi-Koolae, "Child Bride, a Story That Never Ends: A Look at Experiences of Iranian Women," *International Social Work* 66, no. 5 (September 1, 2023): 1497–1512, <https://doi.org/10.1177/00208728211066830>.

are still developing and are not always ready to bear babies. Adolescence is a period of continuous physiological development of the body, which requires adequate intake of nutrients to provide energy for growth, but pregnant adolescents share their nutrients with the fetus, which is highly likely to lead to under-nutrition of both mother and baby, which can affect their health.¹²³

A study in Indonesia suggests that differences in a woman's age at pregnancy can affect the health of her baby. Teenagers are more likely to have babies with low birth weights, a likelihood that decreases as the age of the pregnancy increases, until about age 24. In addition, economic conditions, and parental decision-making play an important role in infant health. In sum, economically deprived child-married families have a higher risk of having babies with poorer health outcomes.¹²⁴

This effect on the health of the offspring is not only seen in infancy but continues to play a role in the growth and development phase. Evidence from 15 countries in sub-Saharan Africa suggests that child marriage also increases the chances of anaemia in children at or before 5 years of age, while the risk is significantly reduced by 20 per cent when the mother marries on or after her eighteenth birthday.¹²⁵

Using data from 37,558 mother-child pairs from 16 national and local surveys in sub-Saharan Africa (2010-2014), a study explored the relationship between girls' marriage and their children's early health development. The results showed that women who married before age 18 were 25 percent more likely to have children who were developmentally off-track and 29 percent more likely to be developmentally delayed than women whose mothers married later in life.¹²⁶ The same conclusion was found in the Abang region of

¹²³ "(PDF) Affects of Adolescent Pregnancy on Health of Baby-Open Journal of Pediatrics & Neonatal Care," accessed October 26, 2023, https://www.researchgate.net/publication/328282399_Affects_of_Adolescent_Pregnancy_on_Health_of_Baby-Open_Journal_of_Pediatrics_Neonatal_Care.

¹²⁴ Fajar Maulinda, Dwini Handayani, and Turro S. Wongkaren, "The Effect of Age at First Marriage on the Incidence of Labor Complications and Babies with Low Birth Weight in Indonesia," *Child Health Nursing Research* 27, no. 2 (April 2021): 127–36, <https://doi.org/10.4094/chnr.2021.27.2.127>.

¹²⁵ Seun Anjorin and Sanni Yaya, "Anaemia among Under-Five Children: Is Maternal Marriage at 18th Birthday and above Protective? Evidence from 15 Countries in Sub-Saharan Africa," *Maternal and Child Nutrition* 17 (June 3, 2021), <https://doi.org/10.1111/mcn.13226>.

¹²⁶ Yvette Efevbera et al., "Girl Child Marriage as a Risk Factor for Early Childhood Development and Stunting," *Social Science & Medicine* 185 (July 1, 2017): 91–101, <https://doi.org/10.1016/j.socscimed.2017.05.027>.

Indonesia, research has demonstrated that mother's age at first marriage, family income and education have a significant negative impact on the odds of neonatal stunting.¹²⁷ However, the direct association between child marriage and child stunting was not confirmed in the similar study in Sri Lanka, but it illustrates the important negative impact of intimate partner violence on child development.¹²⁸

Early marriage not only has a negative impact on the health of infants but is also strongly associated with the education and development of the next generation. An analysis of DHS data from 25-32 countries in sub-Saharan Africa investigated the relationship between early marriage and reduced educational opportunities for children. The analysis found that early marriage is generally negatively associated with children's access to and retention in education. Despite considerable efforts in some countries to reduce the negative impact of child marriage, early marriage remains a powerful driver of the transmission of intergenerational inequalities, particularly in terms of access to schooling. This correlation remains strong even when the socio-economic constraints of early marriage families are considered.¹²⁹

Secondly, the study has also found that early marriage has a greater negative impact on girls than boys, which perpetuates gender inequality across generations. Girls born to early married mothers are between 6% and 11% (compared to 5.2% and 8.8% for boys) more likely to never have been to school and 1.6% and 1.7% (compared to 1% and 1.9% for boys) to enter late, and 3.3% and 5.1% (compared to 2.3% and 5.5% for boys) less likely to complete primary school. Moreover, Girls born to mothers in child marriages have 0.07 years less schooling than boys in the same situation.

¹²⁷ Ni Anggraeni, Ida Ayu Saskara, and Ni Yuliarni, "The Effect of Family Income, Education and Mother's First Marriage Age on The Incidence of Stunting in Abang Sub-District," *International Journal of Social Science and Human Research* 06 (May 12, 2023), <https://doi.org/10.47191/ijsshr/v6-i5-26>.

¹²⁸ Ruvani Fonseka et al., "Measuring the Impacts of Maternal Child Marriage and Maternal Intimate Partner Violence and the Moderating Effects of Proximity to Conflict on Stunting among Children under 5 in Post-Conflict Sri Lanka," *SSM - Population Health* 18 (March 1, 2022): 101074, <https://doi.org/10.1016/j.ssmph.2022.101074>.

¹²⁹ Marcos Delprato, Kwame Akyeampong, and Máiréad Dunne, "Intergenerational Education Effects of Early Marriage in Sub-Saharan Africa," *World Development* 91 (March 2017): 173–92, <https://doi.org/10.1016/j.worlddev.2016.11.010>.

When the age of marriage for mothers is raised, the likelihood of children attending school increases.¹³⁰

The analysis in this chapter shows that the impact of child marriage on the girl child is all-encompassing and long-lasting. It undermines the health of girls and also severely limits their rights, well-being and life chances. While poverty is a major cause of child marriage, it is also an ongoing consequence. Child brides are deprived of opportunities to grow, learn and realize their full potential, are disempowered and find it difficult to end the cycle of poverty for themselves or their families.¹³¹ The perpetuation of this situation through future generations is highly conducive to the perpetuation of extreme poverty and inequality.¹³²

¹³⁰ Marcos Delprato, et al. “Intergenerational Education Effects of Early Marriage in Sub-Saharan Africa,”.

¹³¹ Kathryn Reid, “Child marriage: Facts, FAQs, and how to help end it,” *World Vision* (blog), December 28, 2022, <https://www.worldvision.org/child-protection-news-stories/child-marriage-facts>.

¹³² The World Bank, the International Center for Research on Women (ICRW), “Economic Impacts of Child Marriage: Educational Attainment Brief”.

Chapter III – The trends and status of female child marriage in India

India has a long history of child marriage has initiated measures to curb child marriages, with ratify of CEDAW and CRC in 1992 and 1993 respectively. Many statistics show that the incidence of child marriage in India is decreasing. According to the National Family Health Survey 2019-2021 (NFHS-5), 23.3% of women aged 20-24 in India were married before age 18 years old, compared with the percentage 26.8% in 2015-2016¹³³. However, due to its large population base and accumulation of the persistent problem over time, the country is still the home to one-third of the world's girl brides. This chapter will explore the trends and status of child marriage development in India by analyzing and comparing data from past and recent, urban and rural areas, different stats, etc.

1. Even with the largest number of child brides, female child marriage is becoming less common in India.

The National Family Health Survey (NFHS) provides a large amount of data support for our analysis, with the large-scale, multi-round survey conducted in a representative sample of households throughout India. The First National Family Health Survey (NFHS-1) was conducted in 1992-93, collecting extensive information on population, health, and nutrition, with an emphasis on women and young children,¹³⁴ so far the NFHS has been completed for 5 rounds.

Since its first round in 1992, the NFHS has measured female child marriage by surveying women who were first married by age 18. As presented in Figure 5, the prevalence of female child marriage in India was 54% in 1992 and has kept been declining. However, before 2006, the rate of reduction was slow, remaining consistently around 50 percent, whereas in the decade from 2006 to 2016, it declined dramatically from 47.4 percent to

¹³³ “National Family Health Survey (NFHS-5),” accessed August 25, 2023, http://rchiips.org/nfhs/factsheet_NFHS-5.shtml.

¹³⁴ “National Family Health Survey,” accessed September 16, 2023, <http://rchiips.org/nfhs/about.shtml>.

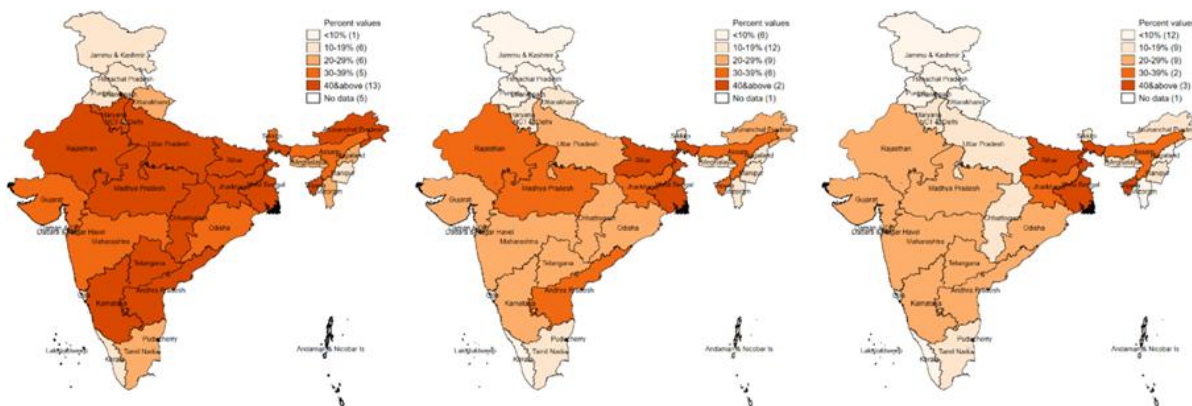
26.8 percent, which shows the tremendous progress India has made in reducing child marriages, and is the outcome of the Prohibition of Child Marriage Act of 2006.

Figure 5: National prevalence of female child marriage across NFH 5 rounds in India.

| NFHS Round | Prevalence of Female Child Marriage |
|------------------|-------------------------------------|
| NFHS-1 (1992-93) | 54.2% |
| NFHS-2 (1998-99) | 50.0% |
| NFHS-3 (2005-06) | 47.4% |
| NFHS-4 (2015-16) | 26.8% |
| NFHS-5 (2019-21) | 23.3% |

Source: <http://rchiips.org/nfhs/about.shtml>

Figure 6: State-wise trends in female child marriage in India, NFHS-3, 4 & 5 (left to right).



From Figure 6, we can clearly see the distribution of female child marriage rates in India and their development across regions. The decline in female child marriage rates in India since 2006 has been generalized across the country, but there are still a few states where female child marriage rates have remained high over a period of 15 years, and these are the core difficulties in solving the problem of child marriage in India.

Although much progress has been made, the existence of a large number of child brides in India cannot be ignored. Child brides include girls under 18 who are already married, as well as women of all ages who first married in childhood. There are many brides who married when they were minors and are now in middle age or old age. From the age distribution of existing child brides in India (Figure 7), we can see how deep the problem of child marriage is in India and how common it was before 1992, when NFHS was not started.

Figure 7: Percentage distribution of the number of girls and women in India who were first married or in union before age 18, by current age.



Note: Figures do not add up to 100 per cent due to rounding.

Source: <https://data.unicef.org/resources/ending-child-marriage-a-profile-of-progress-in-india-2023/>

Echoing the Figure 5 and 6, figure 7 also shows a significant slowdown in the rate of increase of female child marriages, with only 3 percent of child brides under the age of 20, and the percentage of child brides at the age of 20-29 is much lower than either 30-39 or 40-49 years-old child brides.

Figure 7 shows that child brides over the age of 60 make up around a quarter of the total, which seems lower than other age groups. However, according to the latest data from UNPF, in 2023, the percentage of population aged 65 and older in India is 7%, and the life

expectancy at birth years for female is 74.¹³⁵ The fact that older women, a tiny minority of the Indian population, account for such a large proportion of child brides gives us an idea of how prevalent the problem of child marriage was in India before 1992.

Female child marriage in India is a deeply rooted problem, that's why even though India has effectively reduced the prevalence of child marriage today, it still has the highest number of child brides in the world. The negative impact of child brides continues throughout a woman's life, affecting her future generations and family, and influencing the whole society. So while combating child marriage, India is also facing with the responsibility that comes from history. How to guarantee the large number of existing child brides' lives and rights on a sustainable basis is another topic for the long term.

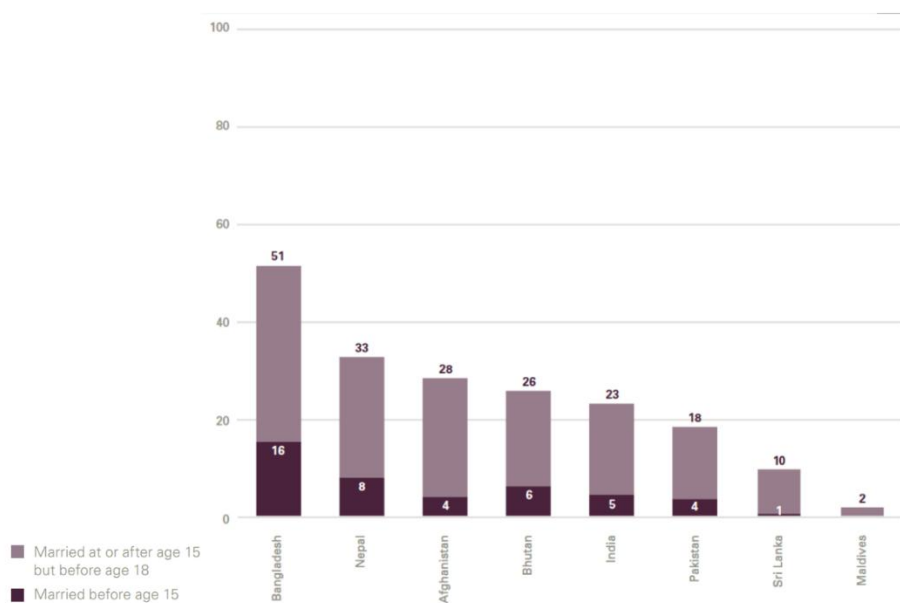
2. India's progress is strong compared to other countries in South Asia.

According to the data from UNICEF 2022, the region of South Asia is home to around 290 million child brides, accounting for 45 percent of the global total. Around one in four young women in South Asia were first married or in union before their 18th birthday.¹³⁶ From Figure 8, we know that even though India has the most child brides, accounting for one-third of the total around the world, among all eight South Asian countries, the prevalence of India is not the highest in this region, following Bangladesh, Nepal, Afghanistan, and Bhutan.

Figure 8: Percentage of women aged 20 to 24 years who were first married or in union before ages 15 and 18.

¹³⁵ "World Population Dashboard -India | United Nations Population Fund," accessed September 18, 2023, <https://www.unfpa.org/data/world-population/IN>.

¹³⁶ "South Asia - Regional Child Marriage Profile.Pdf," accessed September 30, 2023, <https://www.unicef.org/rosa/media/25271/file/South%20Asia%20-%20Regional%20Child%20Marriage%20Profile.pdf>.



Source: Data are drawn from the UNICEF global databases, 2023, based on Multiple Indicator Cluster Surveys, Demographic and Health Surveys and other nationally representative surveys.
<https://www.unicef.org/rosa/media/25271/file/South%20Asia%20-%20Regional%20Child%20Marriage%20Profile.pdf>

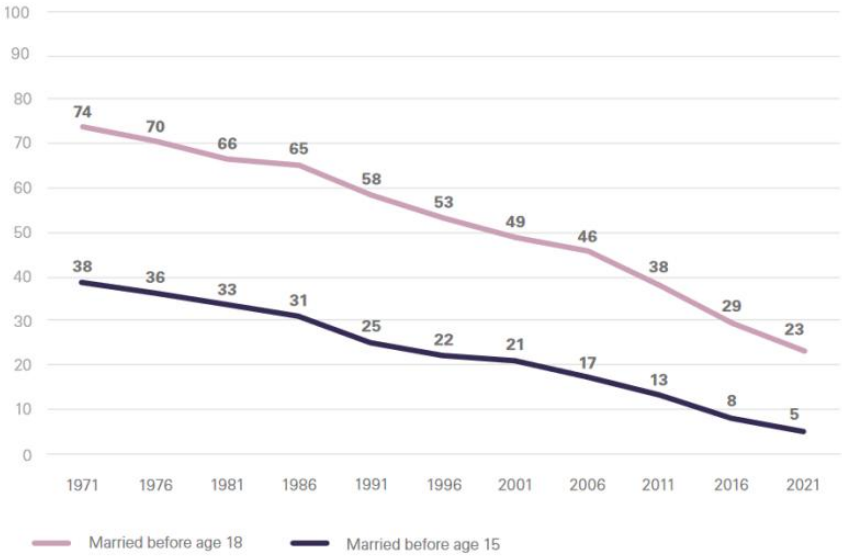
However, levels of child marriage vary considerably across the region, from over 50 percent to 2 percent. The highest prevalence is in Bangladesh, over half of women aged 20 to 24 years were first married or in union before 18, which is more than double of that in India. Furthermore, 16 percent of women married before 15 years old in Bangladesh, which is also much higher than that of other countries.

Followed by Nepal, Afghanistan, and Bhutan, they have higher or the same prevalence of female child marriage than the average level of South Asia, which is 26 percent. It's worth noting that though child marriage is less common among boys in the region, Nepal, which has the second highest rate of female child marriage in South Asia, also has the highest rate of male child marriage in this region, nearly one in ten young men were married in childhood.¹³⁷

The prevalence in India is 23 percent, ranks the fifth and is lower than the average level in South Asia, followed by Sri Lanka. Maldives is the best-performance country in South Asia, with 2 percent of female child marriage between 15 and 18 years old and no women married under 15 years old.

¹³⁷ “South Asia - Regional Child Marriage Profile.Pdf.”

Figure 9: Percentage of women aged 20 to 24 years who were first married or in union before ages 15 and 18.



NOTES: This trend analysis is based on the prevalence of child marriage across age cohorts, as measured in the National Family Health Survey 1992-1993, 1997-1998, 2005-2006, 2015-2016 and 2019-2021.
 Source: <https://data.unicef.org/resources/ending-child-marriage-a-profile-of-progress-in-india-2023/>

In addition to the large differences in child marriage rates, the process of eliminating child marriage has also shown different paces. Figure 9 shows the change in the incidence of female child marriage in India from 1971 to 2021, where it has declined from 74% to 23% during the 50 years and its decline has accelerated much faster since 2006, with the fastest decline occurring in the decade from 2006 to 2016, when it fell from 46% to 29%.

There has also been a significant decline in the incidence of child marriage among females under the age of 15, from 38% in 1971 to 5% in 2021, but it is still occurring and has not been fully addressed. The lower the age at which a woman enters into child marriage, the greater the harm it causes and the more difficult to eliminate.

Figure 10: Percentage of women aged 20 to 24 years who were first married or in union before age 18 (prevalence of child marriage) and average annual rate of reduction (%) in the prevalence of child marriage.

| | Prevalence of child marriage (%) | Average annual rate of reduction of child marriage (%) |
|--------------|----------------------------------|--|
| Maldives | 2 | 13.4 |
| India | 23 | 4.9 |
| Afghanistan | 28 | 4.8 |
| Pakistan | 18 | 3.5 |
| Bhutan | 26 | 2.6 |
| Sri Lanka | 10 | 2.4 |
| Bangladesh | 51 | 2.1 |
| Nepal | 33 | 1.7 |

NOTES: This table includes all countries in South Asia with nationally representative data on child marriage. Countries are ranked from highest to lowest according to the 10-year rate of reduction. Caution is warranted in interpreting these rates, as in some cases the differences in prevalence in the last 10 years may not be significant.
Source: <https://data.unicef.org/resources/ending-child-marriage-a-profile-of-progress-in-india-2023/>

Figure 10 compares the rate of decline in the incidence of female child marriage over the last decade in eight countries in South Asia, with Maldives ranking first with a rate of decline of 13.4 percent per annum, much higher than the second-ranked India, which has declined by 4.9 percent per annum. Afghanistan has almost the same annual rate of reduction of female child marriage as that of India, followed by Bhutan and Sri Lanka, which have seen declines in the region of 2.5 percent per annum. Bangladesh, which has the highest incidence of child marriage, has seen its incidence decline by only 2.1 percent per year. Nepal has been the slowest to reduce child marriage, with a reduction of only 1.7 percent per year.

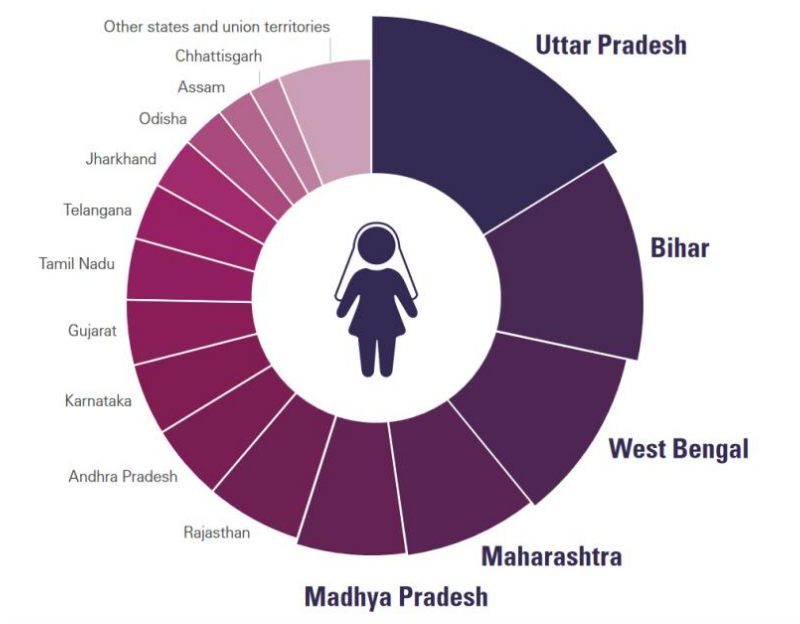
The incidence of female child marriage in India, though high, is not the worst in South Asia, and that the process of eliminating child marriage in India has been faster and more effective than most of countries in South Asia. On the contrary, Bangladesh and Nepal, the countries with the highest incidence of child marriage in the region, are the slowest in their progress towards eliminating child marriage. The goal of ending female child marriage is much more challenging in these two countries.

3. The prevalence of child marriage varies across states and union territories in India.

As the seventh-largest country by land area, India has 28 states and 8 union territories. Each state has its own government and capital city, which is the administrative, legislative, and judicial centers of its respective state.¹³⁸

The distribution of India's large number of child brides varies greatly from state to state. According to the data from NFHS-5, we can draw the conclusion that five states account for over half of the girls and women in India who married in childhood: Uttar Pradesh, Bihar, West Bengal, Maharashtra and Madhya Pradesh, and the remaining 31 states have less than half of the total number of child brides in the country.

Figure 11: Number of girls and women who were first married or in union before age 18 in NFH-5 (2019-2021), by state or union territory.



NOTES: Geographical boundaries follow the National Family Health Survey, 2019-2021. State populations are estimated using data from the Census of India 2011 (projections to 2021) and the United Nations Department of Economic and Social Affairs, Population Division, 2022.

¹³⁸ “States and Capitals in India, List of 28 State & 8 UT 2023,” accessed September 21, 2023, <https://currentaffairs.adda247.com/states-and-capitals/>.

However, it's worth noting that the Top 5 states with the highest number of child brides are also the states with most population in India (No.1-No.5 states with most population: Uttar Pradesh, Maharashtra, Bihar, West Bengal and Madhya Pradesh)¹³⁹. So, there are also states need to be paid more attention, that have high incidence of female child brides, even though with smaller number of them.

Uttar Pradesh, the most populous state, has the largest number of child brides in the country, yet the incidence of female child marriage in the state is not the highest among all states, which is 15.8%, lower than the national level of 23.3%. However, the highest incidence of child marriage is happened in West Bengal and Bihar, which are around 41.6%¹⁴⁰ and 40.8%¹⁴¹, as what we can see in Figure 11.

According to Figure 12, female child marriage still exists nowadays in every state with data collection in India. Furthermore, there is a huge diversity of the prevalence of female child marriage within India, with 12 states are below 10 percent, 18 states spread between 10 and 30 percent, and 5 states at 30 percent and above.

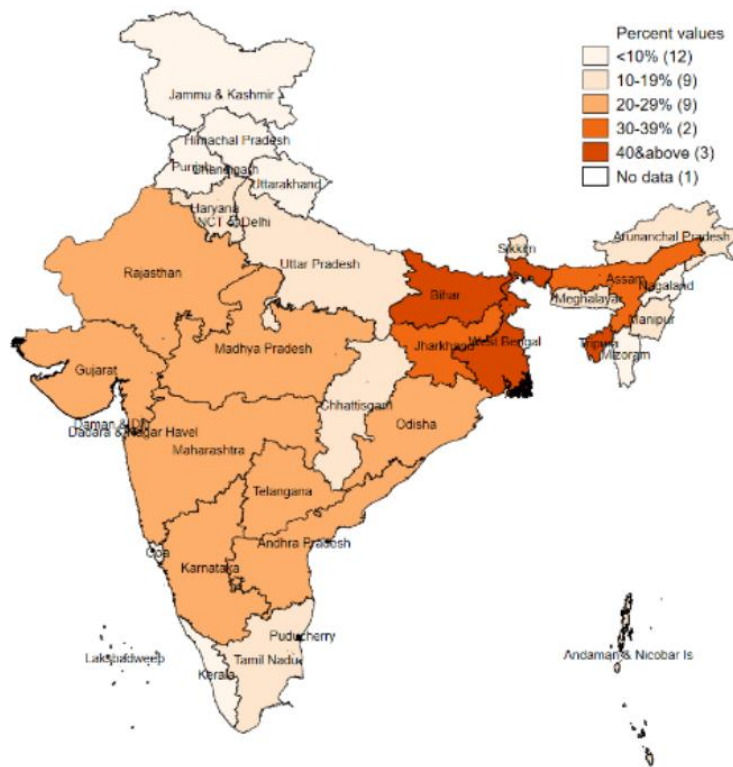
Figure 12: Prevalence of female child marriage among women in NFH-5 (2019-2021), by state.¹⁴²

¹³⁹ “Largest State in India by Area and Population,” accessed September 21, 2023, <https://currentaffairs.adda247.com/largest-state-in-india/>.

¹⁴⁰ “Analytical series 1b - child marriage in west bengal - insights from nfhs-5 final.Pdf,” accessed September 21, 2023, https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1b_-_child_marriage_in_west_bengal_-_insights_from_nfhs-5_final.pdf.

¹⁴¹ “Analytical series 1a - child marriage in bihar - insights from nfhs-5 final 2.Pdf,” accessed September 21, 2023, https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1a_-_child_marriage_in_bihar_-_insights_from_nfhs-5_final_2.pdf.

¹⁴² “Analytical series 1 - child marriage in india - insights from nfhs-5 final 0.Pdf,” accessed September 22, 2023, https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1_-_child_marriage_in_india_-_insights_from_nfhs-5_final_0.pdf.



Eight states have a higher prevalence of child marriage than the national average. In addition to West Bengal and Bihar, which are fourth and third most populous states in India, Tripura, one of the least populous states, is the other one state with the female child marriage rate of over 40 percent. The other five states with prevalence above national level include Jharkhand (32.2%), Assam (31.8%), Andhra Pradesh (29.3%), Rajasthan (25.4%), and Telangana (23.5%).¹⁴³

In addition to the states where child marriages are more severe, in conjunction with the previous Figure 6, we can also learn that in some of the northern and southern border states, such as Jammu & Kashmir, Himachal Pradesh, Punjab and Kerala, the incidence of child marriages has remained at a relatively low level since 2006, dropping from 10-19 percent in 2006 to less than 10 percent today. The least incidence of child marriages was found in Lakshadweep (1.3%) followed by Ladakh (2.5%) and Jammu & Kashmir (4.5%).

¹⁴³ “Analytical series 1 - child marriage in india - insights from nfhs-5 final 0.Pdf,” accessed September 22, 2023, https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1_-_child_marriage_in_india_-_insights_from_nfhs-5_final_0.pdf.

As a country with a huge population, the issue of female child marriage in India has a complex social background and historical roots. The following chapter with a comparison of the better and worse performing states will help us have a full understanding of the differences between states and analyze the causes of female child marriage in India in greater depth and reflect on how to deal with it.

4. There are also variations in incidence rates within states, related to urban-rural disparities.

Differences in regional child marriage rates are not only between states, but also vary widely within states, mainly between urban and rural areas. In NFHS-5, the prevalence of female child marriage is 27.0 percent in rural areas, and 14.7 percent in urban areas. According to the NFH-5 data, such variation between urban and rural areas is quite common in Every state in India.¹⁴⁴

Urbanization in India has been a prominent phenomenon over the past few decades, with significant implications for the country's social, economic, and environmental landscape. The process of urbanization in India can be traced back to the early years of its independence in 1947 when the government launched several urban development programs like the Five-Year Plans, which aimed to provide basic amenities and infrastructure in Indian cities.¹⁴⁵

The pace of urbanization has accelerated in recent years. According to the data from the World Bank, since 1960, the proportion of rural population in India has shown a downward trend every year, from 82% in 1960 to 64% in 2022.¹⁴⁶ Despite growing urbanization, India's rural population still constitutes the majority of the total population.

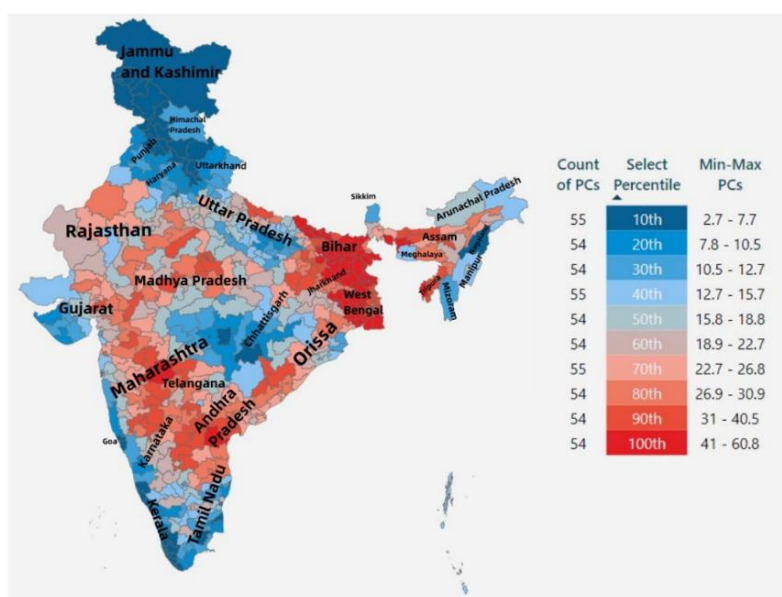
¹⁴⁴ “NFHS-5 Survey | Current Affairs,” accessed September 14, 2023, <https://www.nextias.com/current-affairs/07-05-2022/nfhs-5-survey/>.

¹⁴⁵ “Exploring Indian Urbanism: The Growth Of Indian Cities,” accessed September 24, 2023, <https://urbandesignlab.in/exploring-indian-urbanism/>.

¹⁴⁶ “Rural Population (% of Total Population) - India | Data,” accessed September 24, 2023, <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?end=2022&locations=IN&start=2005>.

The map of Figure 13 shows the incidence of child marriage in parliamentary constituencies (PCs) in India. As of 2022, India has 543 Lok Sabha constituencies and 766 districts¹⁴⁷, they are distinguished by different colors and the selection is divided into nearly deciles according to the incidence of female child marriage in Figure 13, where we can draw the regional variation between states and inside states in the incidence of female child marriage in India, and get some relations between prevalence of female child marriage and urbanization.

Figure 14: Prevalence of female child marriage among women in NFH-5 (2019-2021).



Note: From Blue to red represents the top (and bottom) 10 percentile of parliamentary constituencies with the lowest (and highest) prevalence of child marriage among women.

We can see from the above map Figure 14, female child marriage rates vary sharply among PCs. but while PCs in the bottom 10% have rates ranging from 41-61%, and the top 10% range more narrowly from 2.7-8%. India, unfortunately, has no parliamentary constituency where child marriage has ceased to exist.¹⁴⁸

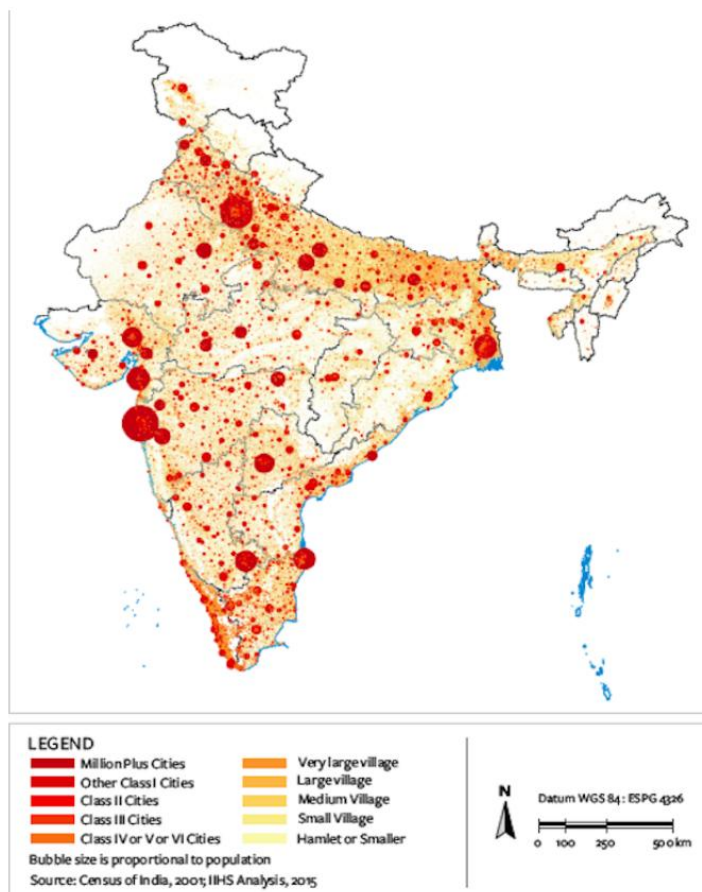
Some states with lower child marriage rates in the Figure 14, such as Kerala, Goa, Tamil Nadu, and Mizoram, all have higher urbanization than national level, with urbanization

¹⁴⁷ “A Data Story on Female Child Marriage in India,” accessed September 14, 2023, <https://www.ideasforindia.in/topics/human-development/a-data-story-on-female-child-marriage-in-india.html>.

¹⁴⁸ “A Data Story on Female Child Marriage in India.”

rates around 50 per cent, and Goa State exceeds 60 per cent,¹⁴⁹ which we can find in Figure 13.

Figure 13: Distribution of urban and rural areas in India 2011.



Sources: Census 2011 and Indian Institute for Human Settlements' 'Urban India 2015: Evidence'
<https://scroll.in/article/910521/indias-missing-middle-large-villages-are-losing-out-on-growth-opportunities-because-of-rural-tag>
 Note: Distribution of settlements is based on Census criteria, ranging from rural hamlets to cities with million-plus populations.

Bihar, the state with the second highest child marriage rate in the country, has the most underdeveloped level of urbanization. According to the latest census 2011, Bihar has an urbanization rate of only 11.28%,¹⁵⁰ much lower than the national level 31.15%, making it one of the states with the highest proportion of rural population.

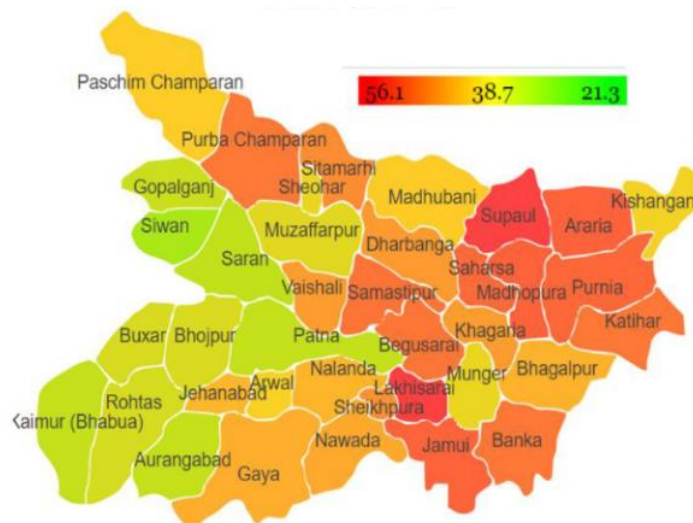
Furthermore, there is also a significant difference in the distribution of female child marriage prevalence in Bihar. Out of 38 districts of the state, 12 districts reported a higher

¹⁴⁹ "Urban Rural Population of India: Analysis & Data," accessed September 25, 2023, <https://indiafacts.in/urban-rural-population-o-india/>.

¹⁵⁰ "Urban Rural Population of India: Analysis & Data."

incidence of higher child marriage than the state average as per the NFHS-5, and majority of them lie in the eastern part of the state. The highest prevalence in Bihar is 56.1%, showing in Supaul district with 95.26% of people living in rural areas in 2011¹⁵¹.

Figure 14: District wise Trends in Child Marriage in Bihar, NFHS-5 (2019-2021)



Source:
https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1a_-_child_marriage_in_bihar_-_insights_from_nfhs-5_final_2.pdf

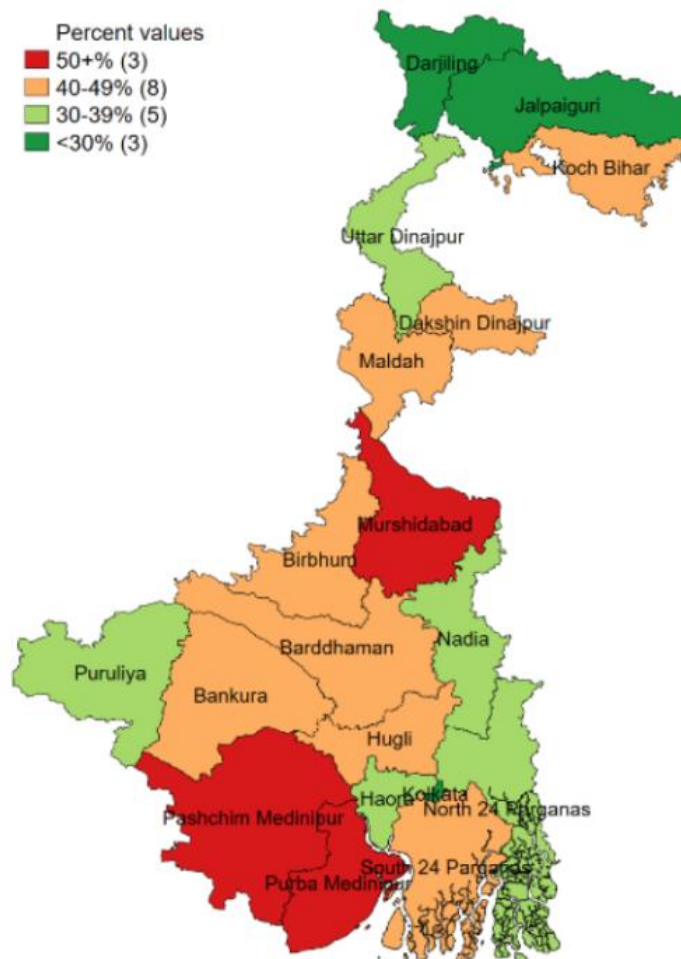
Similar discrepancies are also seen in West Bengal. According to Figure 15, the highest incidence of female child marriage is more than 56% in 2019-2021, occupied by Purba and Pachimi Mednipur, both of which have low level urbanization level, with 11.63% of the population living in the urban area in Puba and 12.22% for Pachimi Mednipur. Along with these, in three districts, namely Mushidabad, Birbhum and Purba Bardhman are those having more than 50% of child marriage. The level of urbanization, i.e., the proportion of the population living in urban areas, is less than 20% in all these states, except in Purba Bardhman, where it is 39.89%.¹⁵²

¹⁵¹ “Supaul District Population Census 2011 - 2021 - 2023, Bihar Literacy Sex Ratio and Density,” accessed September 25, 2023, <https://www.census2011.co.in/census/district/60-supaul.html>.

¹⁵² “List of Districts of West Bengal,” accessed September 26, 2023, <https://www.census2011.co.in/census/state/districtlist/west+bengal.html>.

On the other hand, the lowest proportion of child marriage is found in Kolkata, at 16.8%. Kolkata is the district with highest urbanization in West Bengal, all people there were living in urban areas and 0.00% of the population lived in rural areas of villages.¹⁵³

Figure 15: District wise Trends in Child Marriage in West Bengal, NFHS-5 (2019-2021).



Source:
https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1b_-_child_marriage_in_west_bengal_-_insights_from_nfhs-5_final.pdf

As can be seen from the above data, the incidence of child marriages is significantly higher in rural areas than in urban areas but is not entirely consistent with differences in the level of urbanization. For example, although Kolkata has the 100% of population living in urban,

¹⁵³ “Kolkata District Population Census 2011 - 2021 - 2023, West Bengal Literacy Sex Ratio and Density,” accessed September 26, 2023, <https://www.census2011.co.in/census/district/16-kolkata.html>.

but the incidence of female child marriage is still 16.8%, even higher than that of the rural areas in Tamil Nadu, which is 15.2%.¹⁵⁴

There are also some states where the incidence of female child marriage cannot be explained purely by the rural-urban divide. According to 2011 census data, Himachal Pradesh is the least urbanized state in India, with only 10.02% of the population living in cities, yet the incidence of child marriage is well below the national average. Maharashtra, on the other hand, has a high urbanization rate of 54.74%, but the incidence of child marriage is still higher than 20%.

From the maps of distribution of child marriages above, it's clear that female child marriages exist in India with both universality and variability, and that it occurs so widely in every region of the country that we cannot simply summarize its characteristics in terms of geographic or urban-rural distribution, which is the consequence of various social factors. The next chapter will delve deeper into the background and causes of female child marriage in India.

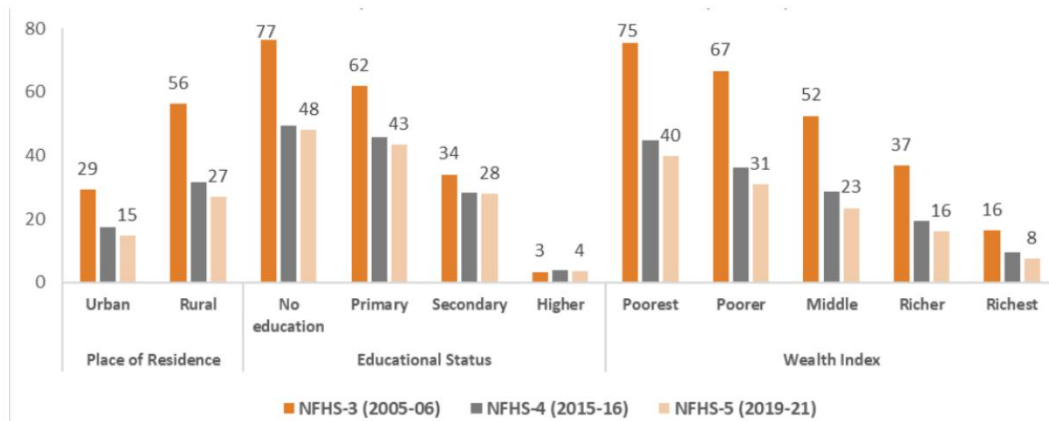
¹⁵⁴ “NFHS-5 Survey | Current Affairs.”

Chapter IV - The background and causes of female child marriage in India

Child marriage, a pervasive violation of human rights, remains a critical concern in India, reflecting deeply entrenched social norms, inequalities, and systemic issues. Despite ongoing efforts and reforms aimed at its eradication, the practice persists, predominantly impacting female children. The pursuit to decipher the roots of female child marriage is complex and necessitates an exploration into the intricate weave of India's socio-cultural fabric, economic structures, and educational paradigms.

Figure 16 analyzes the relationship between child marriage and place of residence, education and wealth index, according to NFH-3, 4 and 5, from which we can learn that irrespective of the influencing factors analyzed, there has been a significant decline in the child marriage rate in India since 2006, especially in the decade from 2006 to 2016. Moreover, the incidence of child marriage has been consistently correlated with these three factors: rural is consistently higher than urban and is negatively correlated with the level of education and the wealth index.

Figure 16: Percentages of women aged 20-24 years, who were married before 18 years of age by place of residence, education and wealth index in India, NFH-3, 4, and 5



Source: Child Marriage in India: Key Insights from the NFHS-5(2019-21)
https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1_-_child_marriage_in_india_-_insights_from_nfhs-5_final_0.pdf

This chapter endeavors to unfold the multi-layered backdrop and causative factors that sustain female child marriages in India, providing a nuanced understanding of its prevalence and persistence, especially to illuminate how poverty, educational disparities, caste systems, and prevailing social ideologies interlace to perpetuate this practice, which imperils the lives and futures of countless girls.

1. Economic backwardness and poverty

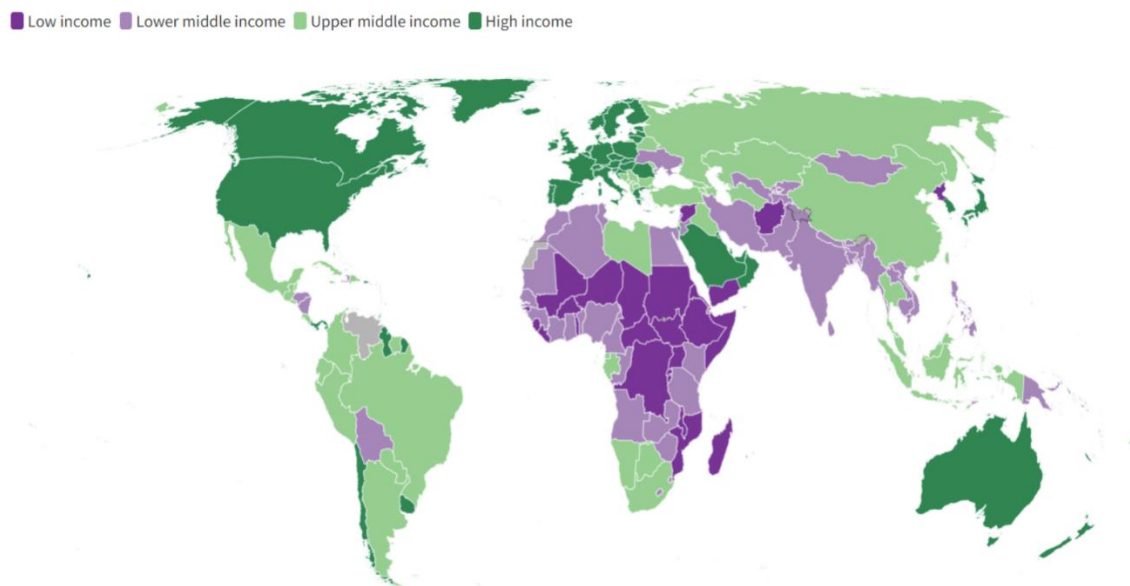
Poverty, as a key driver, perpetuates child marriage, creating an environment where families, burdened by economic hardship, view young girls as economic liabilities. Female child marriage is strongly associated with poverty, both globally and regionally.

According to the Figure 17, the three regions with the highest incidence of female child marriage are, in order, West and central Africa, Eastern and Southern Africa and South Asia. Combined with the map of Figure 17, which is based on the World Bank's gross national income (GNI) data for each country in 2022,¹⁵⁵ with four different income levels classified as low income, lower middle income, upper middle income and high income, we can see that these regions with high prevalence of female child marriage are also the ones

¹⁵⁵ “WDI - The World by Income and Region,” accessed October 2, 2023, <https://datatopics.worldbank.org/world-development-indicators/the-world-by-income-and-region.html>.

with the lowest GNI, where most of countries are marked as low income or lower middle income.

Figure 17: The world by gross national income (GNI) in 2022



Note: (1) Countries are classified each year on July 1, the start of the World Bank fiscal year, based on gross national income (GNI) per capita data (World Bank Atlas method) for the previous calendar year. For FY24 the classification uses GNI per capita for 2022.
(2) Map boundaries represent boundaries as of 2020 and do not change over time.
Country borders or names do not necessarily reflect the World Bank Group's official position.
This map is for illustrative purposes and does not imply the expression of any opinion on the part of the World Bank, concerning the legal status of any country or territory or concerning the delimitation of frontiers or boundaries.
Source: World Bank <https://datatopics.worldbank.org/world-development-indicators/the-world-by-income-and-region.html>

The global distribution of female child marriages shows a strong correlation with economic development, as does the relationship within countries. As mentioned above, according to the NFHS-5, a huge urban-rural disparity in India's female child marriage rates, with 14.7% in urban and 27% in rural.¹⁵⁶ One of the major reasons for this is that rural areas are lagging behind urban areas in terms of economic development, which also causes the fact that girls who live in rural areas or come from poorer are at greater risk with child marriage in India. More intuitively, the relationship between child marriage rates and household wealth indicators (Figure 18) shows that by 2021, 40 percent of women in poor households in the lowest wealth married before aged 18 years, while this proportion is 70 percent among all

¹⁵⁶ “National Family Health Survey (NFHS-5).”

women in the poorest 40 percent and it decreases as wealth values increase, with 8 percent of women in the richest quintile went to child marriages.¹⁵⁷

Based on the NFHS-5 data, a study analyzed a multiple regression of age at marriage, which also showed that the age at marriage was about 1.6 years lower in the poorest, poorer, and even middle categories compared to the richest category. The age at marriage in the fourth quintile (richer category) is about 1 year lower than in the richest category (Figure 18), and women in the poorest quintile are 1.5 times more likely to be married by age 18 than women in the richest quintile. It also indicates the relation between marriage age and education, a one-year increase in the education of girls will lead to higher age at marriage by 0.36 years, after controlling for the wealth index and the place of residence.¹⁵⁸

Figure 18: Multiple regression analysis of married women (aged 25 years and above) India, 2019-2021

| Background Characteristics | Beta coeff. | Std error | t |
|----------------------------|-----------------------|-----------|---------|
| (Constant) | 18.837 ^{***} | 0.019 | 973.746 |
| Highest year of education | 0.356 ^{***} | 0.003 | 133.461 |
| Type of place of residence | 0.434 ^{***} | 0.014 | 30.672 |
| Poorest | -1.788 ^{***} | 0.022 | -82.224 |
| Poor | -1.828 ^{***} | 0.02 | -89.277 |
| Middle | -1.577 ^{***} | 0.019 | -82.313 |
| Richer | -1.109 ^{***} | 0.018 | -61.867 |
| Sig: ***p<.005 | | | |

Source: https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1_-_child_marriage_in_india_-_insights_from_nfhs-5_final_0.pdf

Why do poor families tend to marry off their daughters early? Some studies have shown that economic inequality and patriarchy are fundamental in the economic decision-making of marriage. These include an unequal division of labor over household affairs and the

¹⁵⁷ Analytical series 1 - child marriage in India - insights from nfhs-5.

¹⁵⁸ Analytical series 1 - child marriage in India - insights from nfhs-5.

complete undervaluing of women's labor in decision-making. As a result, poor families tend to view girls as burdens, through marriage this burden is transferred to the marital family, although this ignores the important role of unpaid household chores performed by girls.¹⁵⁹

The custom of dowry, a centuries-old tradition, also adds to the burden of the bride's family. According to the custom, the bride's parents give cash, clothes and jewelry to the groom's family. Although the practice has been illegal in India since 1961, it continues to flourish.¹⁶⁰ A one-time cost like dowry is very high for families struggling with poverty, so many girls' marriage decisions are based on the desire to minimize this cost.¹⁶¹ Often, younger brides are asked for a smaller dowry, partly because they are perceived to be more controllable, more easily trained for the marital home, and more likely to be submissive to their husbands and in-laws. This is an important reason why many poor families decide to marry their girls early. The same notion is reflected in the cost of weddings, where multiple sisters or siblings in a family may be married in a single ceremony to save money.¹⁶²

In a patriarchal system, as a perceived "burden on the family", in order to maximize the wealth of the family, women unfortunately often fall victim to the limited interests of the poor family and tilt it in favor of the male members of the family. For example, an 18-year-old married girl in Rajasthan stated that her father decided to take her out of school and get married because he wanted to ensure that her older brother in the family could have a higher education, even though she would have loved to continue her education.¹⁶³

2. The lack of education for girls and parents

The decision to marry early and the decision to drop out of school are often made at or near the same time and are closely linked. The lack of education is both one of the results of child marriage and an important reason why girls marry early, which is inextricably linked

¹⁵⁹ Nirantar Trust, 2015 "Early and Child Marriage in India - A Landscape Analysis", accessed 29 October 2023, <http://www.nirantar.net/uploads/files/EM%20Report%20-%20English.pdf>

¹⁶⁰ "How prosperity fuels dowry demand in India," *BBC News*, May 28, 2023, sec. India, <https://www.bbc.com/news/world-asia-india-65682796>.

¹⁶¹ "Early and Child Marriage in India - A Landscape Analysis".

¹⁶² "Early and Child Marriage in India - A Landscape Analysis".

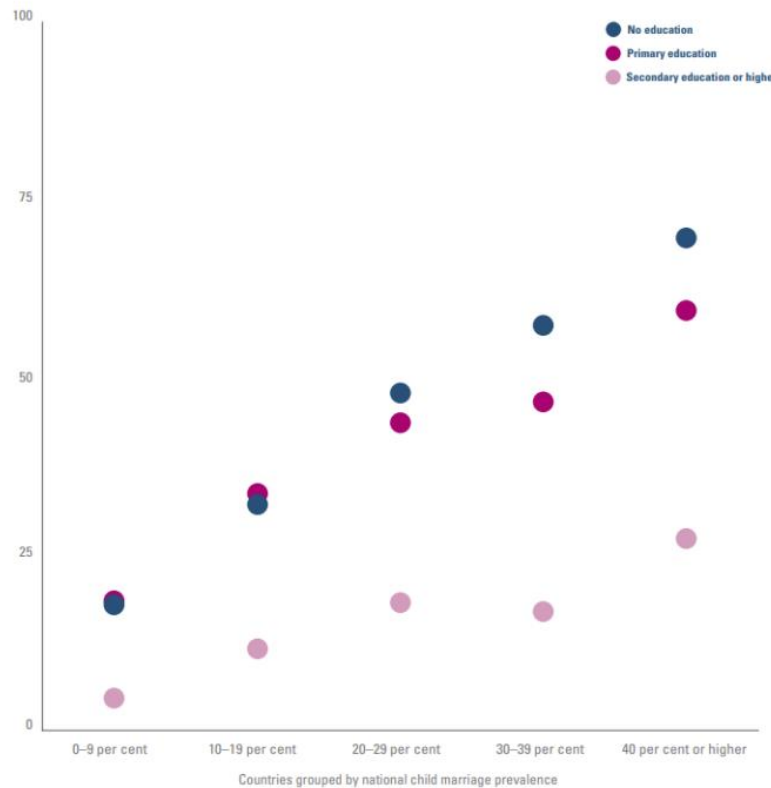
¹⁶³ "Early and Child Marriage in India - A Landscape Analysis".

to poverty. Numerous studies have shown a negative correlation between level of education and child marriage, and it's universal across the globe.

Figure 19 compares the likelihood of child marriage among females at each level of education by categorizing countries according to the prevalence of child marriage. It shows that even in countries where child marriage is uncommon (prevalence of 0-9%), girls with primary education and below are at higher risk of child marriage than girls with higher levels of education. In countries where child marriage is more common (prevalence above 20%), the role of education in reducing child marriage is more pronounced, and even primary education is effective in reducing the risk of child marriage.¹⁶⁴

Figure 19: Percentage of women aged 20 to 24 years who were first married or in union before age 18 (child marriage prevalence), by level of education

¹⁶⁴ Hassfurter, "The Power of Education to End Child Marriage."

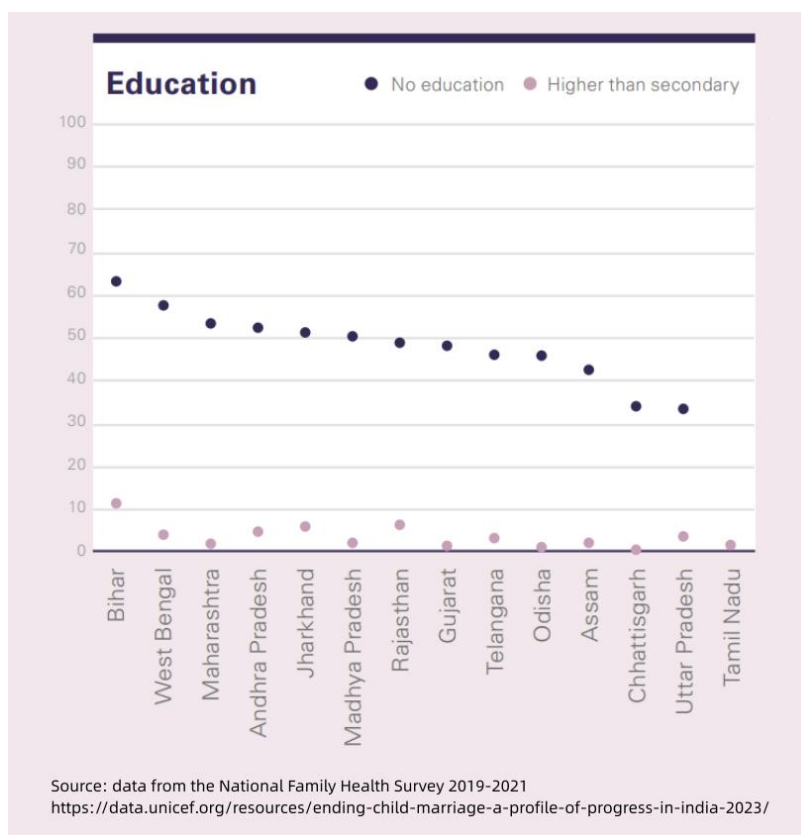


Notes: Analysis based on a subset of 77 countries with available data on age at marriage and educational attainment. Together, these countries account for 81 per cent of the world's child brides. Prevalence by education level is calculated as a population-weighted average within each group of countries.

Source: <https://data.unicef.org/resources/child-marriage-and-education-data-brief/>

Differences in the incidence of child marriage by level of education are also prevalent across states in India. In the most of the 17 states selected for Figure 20, the rate of child marriage among girls who have never had any education ranges from 30% to 60%, while the rate of child marriage among girls who have had more than junior secondary schooling is generally below 10%, or even zero or close to zero (states of Odisha, Gujarat, Tamil Nadu, and Chhattisgarh). Only in Bihar, the state with the highest incidence of child marriage, is the child marriage rate higher than 60 percent for uneducated females and higher than 10 percent for girls with higher than secondary education. Bihar is also a state with the lowest literacy rate in India at 61.8%, and the female literacy rate is much lower, which is 51.50%.

Figure 20: Percentage of women aged 20 to 24 years who were first married or in union before age 18, by education, selected states



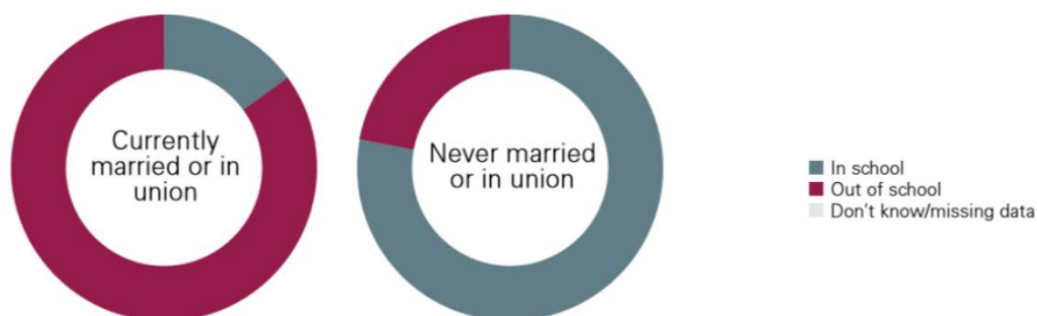
According to the latest data from India, nearly half (48%) of uneducated women are married before the age of 18. The proportion of child marriage is also much high as 43 percent among the women with primary education, compared to 28 percent among those with lower secondary education, and only 4 percent higher educational women married when they were children. Moreover, the age of marriage for girls increases by 0.36 years for every one more year of schooling.¹⁶⁵

In India, child marriage and education seem impossible to exist at the same time for girls. According to the latest data, less than a quarter of married girls (aged 15-17 years) in India are attending school, and less than a quarter of their never-married peers are out of school (Figure 21). A large number of families choose to forgo education in order to allow their girls to marry. However, at the same time, a number of families and girls realize the

¹⁶⁵ Analytical series 1 - child marriage in India - insights from nfhs-5.

importance of education and postpone marriage in order to ensure that their children are educated.

Figure 21: Percentage distribution of girls aged 15 to 17 years by schooling status



Source: data are from the National Family Health Survey 2019-2021

Among the many interventions, improving girls' education gives them a greater voice in marriage decision-making, and they have higher aspirations and tend to choose to marry later.¹⁶⁶ Studies have shown that the girl herself is the most important motivator for continuing her education, and if she is motivated to continue her studies, this is an important reason for delaying marriage.¹⁶⁷ Retention efforts are based on the assumption that girls are motivated to stay in school, however, which is not always the case. In the context of child marriage and the prevalence of patriarchy, girls are subjected to social norms from an early age and have a lower propensity and motivation to attend school themselves.¹⁶⁸

In addition, since parents and elders in the family are usually the decision makers for female child marriages in India, parental support for education is an important factor in avoiding early marriage for daughters, which is also strongly correlated with the level of education of the girl's parents. In the study conducted in West Bengal, one-third of the female respondents in child marriages had never received formal education, and most of the

¹⁶⁶ Shireen J. Jejeebhoy et al., "Marriage-Related Decision-Making and Young Women's Marital Relations and Agency," *Asian Population Studies* 9, no. 1 (March 1, 2013): 28–49, <https://doi.org/10.1080/17441730.2012.736699>.

¹⁶⁷ Raj et al., "Students and Brides."

¹⁶⁸ Raj et al.

respondents' parents had never been educated. It also has shown that educated parents are less likely to get their children married at a very young age compared to illiterate parents.¹⁶⁹ The value of girls' education is severely underestimated in families that are poor and where parents have low levels of education. School fees, low enrolment due to demand for income generation, and lack of employment opportunities, especially for girls, create uncertain economic cost-benefit ratios, and many families see education as an unnecessary expense. In the context of the above, resource-poor households may be reluctant to force girls into education, as such coercion violates local norms and is perceived as damaging to marital prospects.¹⁷⁰

In fact, rather than destroying marriage prospects, education offers brighter possibilities for future marriages. Quality education, especially at the secondary level, imparts knowledge, builds skills and empowers girls to make a successful transition into the workforce, and it is important that girls and their families see a better, more favorable path.¹⁷¹ Whether in family matters or in the job market, educated girls are more likely to contribute value.

3. Caste-based discrimination and religion

The caste system, which exists throughout South Asia, particularly among the Hindu community in India, Nepal and, to a lesser extent, Bangladesh,¹⁷² is considered to be one of the oldest forms of social stratification in the extant world.¹⁷³ In the Hindu tradition, Hindus are classified by birth according to caste and engage in different social divisions of labor according to their rank in caste system, which is more than 2000 years old.¹⁷⁴

¹⁶⁹ “Exploring the Socioeconomic Factors Associated with Girl Child Marriage and Its Impact on Pregnancy Outcomes: A Study from Malda District of West Bengal - PMC,” accessed October 1, 2023, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8971856/>.

¹⁷⁰ Raj et al., “Students and Brides.”

¹⁷¹ Hassfurter, “The Power of Education to End Child Marriage.”

¹⁷² “Child marriage and other harmful practices - A desk review of evidence from South Asian” accessed October 31, 2023, https://asiapacific.unfpa.org/sites/default/files/pub-pdf/child_marriage_and_other_harmful_practices_unfpa_apro_and_unicef_rosa_2020.pdf.

¹⁷³ “What Is India’s Caste System?” *BBC News*, February 25, 2016, sec. India, <https://www.bbc.com/news/world-asia-india-35650616>.

¹⁷⁴ “Caste discrimination: A Global Concern A Report by Human Rights Watch for the United Nations World Conference,” accessed October 31, 2023, <https://www.hrw.org/reports/pdfs/g/general/caste0801.pdf>.

The Manusmriti, widely regarded as the most important and authoritative book on Hindu law, dating back at least 1,000 years, it "recognizes and justifies the caste system as the basis of social order and regularity". The caste system divides Hindus into four main categories or varnas, in order from the highest to the lowest in rank - Brahmins, Kshatriyas, Vaishyas, and Shudras. The hierarchy continues within the major castes, which are further divided into about 3,000 castes and 25,000 sub-castes depending on their specific occupations.¹⁷⁵

The interrelationships between castes are determined by a hierarchy in which the main criterion for status is differences in purity. In the caste system, the Brahmin group occupies the highest position. In addition to the four castes, there is a lower caste outside of the Hindu caste system, they are recognized as the least pure caste and were called "untouchables" traditionally. Nowadays, they are known as Scheduled Castes (SC) and Scheduled Tribes (ST), sometimes referred to as Dalits, which is one of the most disadvantaged socio-economic groups in India.¹⁷⁶ They are recognized in the Constitution of India, which also enshrines the general principle of positive discrimination against SC and ST. According to India's latest census data of 2011, SC and ST respectively accounted for about 16.6% and 8.6% of India's population.¹⁷⁷

Although "untouchability", the practice of imposing social disabilities on people because they were born into a particular caste, was abolished by the Constitution in 1950, it remains an important part of rural India.¹⁷⁸ Discrimination against lower castes and scheduled castes exists in all aspects of social life. When asked whether there is "substantial discrimination" against SCs, STs and other backward Class (OBCs) in India, about a quarter of the members of SCs and STs answered in the affirmative.¹⁷⁹

¹⁷⁵ "What Is India's Caste System?" *BBC News*, February 25, 2016, sec. India, <https://www.bbc.com/news/world-asia-india-35650616>.

¹⁷⁶ "Hinduism - Caste System, Dharma, Varna | Britannica," accessed October 31, 2023, <https://www.britannica.com/topic/Hinduism/Castes>.

¹⁷⁷ "Census 2011 India," accessed October 31, 2023, <https://www.census2011.co.in/>.

¹⁷⁸ "Caste discrimination: A Global Concern A Report by Human Rights Watch for the United Nations World Conference".

¹⁷⁹ Center, "4. Attitudes about caste."

In the matter of marriage, the norm of no inter-caste marriage is still very strict in some parts of India to ensure intra-caste purity. While the importance of economic and social indicators beyond caste has increased, allowing intermarriage between upper castes, there are still strong social barriers to intermarriage between lower and upper castes.¹⁸⁰

A survey by the Pew Research Center shows that a significant portion of Indians say that men and women should be organized to marry people from other castes. The survey asked respondents "whether it is very important, somewhat important, not too important, or not at all important to prevent men and women in the community from marrying another caste." A large majority of Indians say it is at least "somewhat" important to prevent men (79%) and women (80%) from marrying another caste, with at least six in ten saying it is "very" important to prevent men and women from marrying another caste, regardless of gender. (62% for men and 64% for women).¹⁸¹

With such strict caste norms, the condemnation for inter-marriages particularly from dominant castes, can be quite severe, ranging from social ostracism to acts of punitive violence.¹⁸² In June 2022, an inter-caste couple in Tamil Nadu had just been married for five days when they were both murdered by the bride's brothers at a family dinner. The bride's family opposed the marriage because the groom was from the Sengunthar Mudhaliyar community, which is categorized as the most backward class in the area. The two killers were eventually arrested and charged with murder.¹⁸³ Such tragedies happen in India from time to time. According to Chief Justice of India (CJI) DY Chandrachud, hundreds of people are killed every year for falling in love or marrying across caste or against the wishes of their families.¹⁸⁴

Children from lower caste communities in India are at higher risk of underage marriage due to marginalization and discrimination. Studies have shown that adolescent girls living in the

¹⁸⁰ "Caste discrimination: A Global Concern A Report by Human Rights Watch for the United Nations World Conference".

¹⁸¹ Center Pew Research, "4. Attitudes about caste".

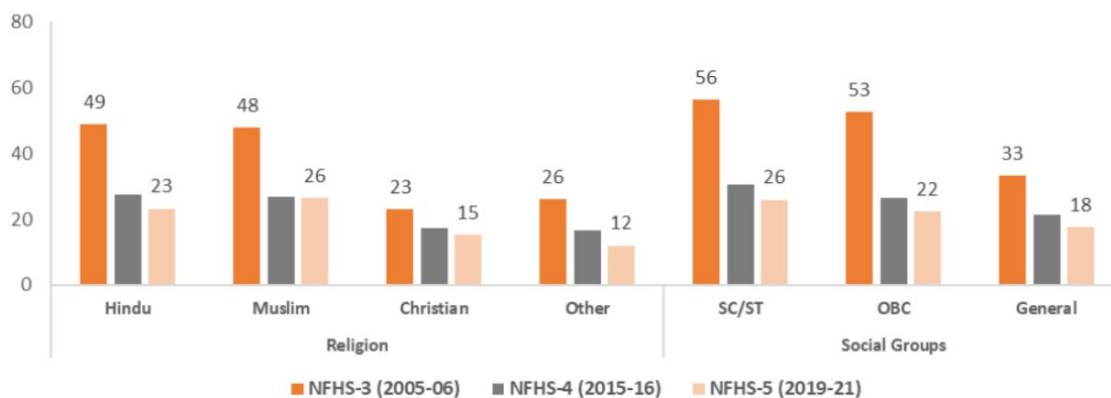
¹⁸² "Child marriage and other harmful practices - A desk review of evidence from South Asian".

¹⁸³ "Tamil Nadu Inter-Caste Couple Married 5 Days Ago, Killed By Bride's Kin At Family Dinner," accessed November 1, 2023, <https://www.indiatimes.com/news/india/tamil-nadu-inter-caste-who-married-5-days-ago-killed-by-brides-brother-572157.html>.

¹⁸⁴ "Hundreds killed each year for marrying outside caste: CJI DY Chandrachud," India Today, accessed October 31, 2023, <https://www.indiatoday.in/law/story/hundreds-killed-each-year-for-marrying-outside-caste-chief-justice-of-india-dy-chandrachud-2310427-2022-12-17>.

lowest caste (SC/ST) and poorest households in rural India are the ones most likely to fail to complete secondary school and to marry early.¹⁸⁵ Between 2005 and 2021, child marriage rates are generally decreasing in India, and differences have narrowed across caste divisions in India (see Figure 22) but remain high among SC/STs (26 percent) and OBCs (22 percent).

Figure 22: Percentage of women aged 20-24 years, who were married before 18 years of age by religion and social groups



Source: https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1_-_child_marriage_in_india_-_insights_from_nfhs-5_final_0.pdf

For the lower castes, due to the high incidence of violence against Dalit women and children, families will prefer to marry off girls at an early age as a means of 'protecting' them out of concern for their safety. In addition, poverty is also a major reason for child marriage. The lower castes are at the bottom of the economic and social ladder, and early marriages ensure that girls are raised by another family, on the one hand easing the family's financial burden, and in some cases, parents who work as bonded laborers marry off their young daughters in order to allow them to join their husbands as bonded laborers elsewhere.¹⁸⁶

¹⁸⁵ Tara S. Beattie et al., "Secular Changes in Child Marriage and Secondary School Completion among Rural Adolescent Girls in India," *Journal of Global Health Reports* 3 (August 1, 2019): e2019041, <https://doi.org/10.29392/joghr.3.e2019041>.

¹⁸⁶ Shalin Maria Lawrence, "How Caste Pride Is Driving The Spate Of Child Marriages In TN," *BehanBox* (blog), June 15, 2022, <https://behanbox.com/2022/06/15/how-caste-pride-is-driving-the-spate-of-child-marriages-in-tn/>.

To ensure caste purity, many girls are arranged as children to marry someone from the same community, or even a close relative, such as a cousin or uncle, which is an effective way to save on dowry. Women married to close relatives may pay a lower dowry or none at all.¹⁸⁷ This practice exists among both low and high castes.

In Tamil Nadu, there is a deep sense of caste pride among the middle or upper castes. The rate of inter-caste marriages in the state is about 2 per cent, and there are at least two honor killings per month related to this. As a result, daughters are married off as soon as they reach puberty and often to close relatives who may be 10-20 years older than her. When similar cases of child marriages take place in high caste families, they can even be supported and tacitly approved by local officials because of the family's influence. Some cases have happened in the state, where despite the fact that some high caste child marriages are reported or a promise is received from the police that the wedding will be stopped, in the end the wedding is not affected and even witnessed in the presence of provincial legislators and ministers from the high caste community.¹⁸⁸

Muslims also have a high incidence of child marriage, which is higher than that of Hindus (see Figure 22). This is largely since Indian law upholds the tradition of supporting child marriage in Islam. Although the legal age of marriage in India is currently 18 years for women and 21 years for men, the Muslim Personal Law (Shariat) Application Act introduced as far back as 1937 provide for the marriage of Islamic females upon reaching puberty,¹⁸⁹ which, according to plenty of court cases all around India, the minimum marriageable age for Muslim females is generally 15 years.¹⁹⁰

Although there has been increasing discussion of reforming the law to create a uniform civil code, real reform has encountered many obstacles. The Punjab and Haryana High Courts have upheld several cases of child marriages of Muslim females in the last few years,

¹⁸⁷ Ahmed Mushfiq Mobarak, Randall Kuhn, and Christina Peters, "Consanguinity and Other Marriage Market Effects of a Wealth Shock in Bangladesh," *Demography* 50, no. 5 (April 26, 2013): 1845–71, <https://doi.org/10.1007/s13524-013-0208-2>.

¹⁸⁸ Lawrence, "How Caste Pride Is Driving The Spate Of Child Marriages In TN."

¹⁸⁹ "Muslim Personal Law (Shariat) Application Act, 1937," October 7, 1937, <http://indiacode.nic.in/handle/123456789/2303>.

¹⁹⁰ ~ Jilsblognujs, "India's Battle against Child Marriage – A Conflict of Laws," *The Journal of Indian Law and Society Blog* (blog), August 26, 2020, <https://jils.blog/2020/08/26/indias-battle-against-child-marriage-a-conflict-of-laws/>.

stating that 15 years is the age of puberty for a Muslim girl, and that after puberty she can marry a person of her choice of her own free will and consent, and that such marriages will not be invalidated under section 12 of the Prohibition of Child Marriage Act,¹⁹¹ which provides for several circumstances in which a marriage of a minor may be invalidated.¹⁹²

4. Social norms related to gender equality and patriarchy

From the NFHS-5 data we see that child marriage is closely related to economy, education, social status, and religion. However, the prevalence of child marriage in India is not only geographically spread across all states and districts, but it is also prevalent in all groups of the society. Even for those in the highest income quintile of society, who have received a high school education, are in the general social group and are less influenced by religion, a significant proportion of girls are married as minors.¹⁹³

Pervasive social norms significantly influence the incidence of child marriage. Social norms are the “perceived informal, mostly unwritten, rules that define acceptable, appropriate, and obligatory actions within a given group or community.” It’s mainly reflected by “what I think people do and should or should not do in my community” and “My perception of typical and appropriate behavior within my network.”¹⁹⁴

Child marriage is not a norm itself, however many social norms contribute to it. Globally, social norms underpin the institution of marriage. And the norms that underpin child marriage encompass a wide range of areas, including transition to adulthood, sexuality, age hierarchy, religious beliefs, gender inequality and the respective economic roles of men and

¹⁹¹ “Supreme Court to review HC order on Muslim girls’ marriage age,” Hindustan Times, January 14, 2023, <https://www.hindustantimes.com/india-news/supreme-court-to-review-hc-order-on-muslim-girls-marriage-age-101673636223672.html>.

¹⁹² “India Code: Prohibition of Child Marriage Act, 2006.”

¹⁹³ “Analytical series 1 - child marriage in india - insights from nfhs-5,” accessed September 22, 2023, https://india.unfpa.org/sites/default/files/pub-pdf/analytical_series_1_-_child_marriage_in_india_-_insights_from_nfhs-5_final_0.pdf.

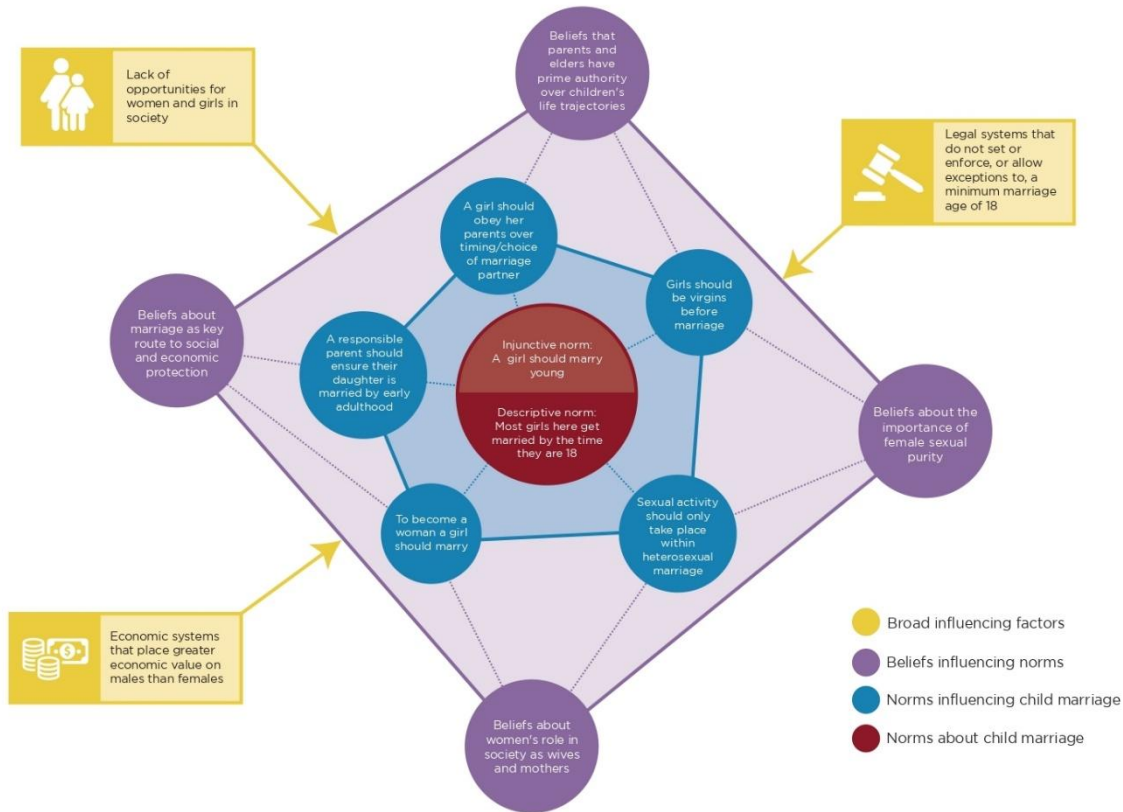
¹⁹⁴ “Social Norms Lexicon” accessed November 4, 2023, https://irh.org/wp-content/uploads/2021/03/Social-Norms-Lexicon_FINAL_03.04.21-1.pdf.

women. Deeply entrenched social norms also explain why it is sometimes difficult for legislation to have a powerful effect on the prohibition of child marriage.¹⁹⁵

Practices such as dowry, religious and caste prohibitions on intermarriage, as mentioned earlier, also fall under social norms. In addition to this, there are other social norms in India that make it difficult to end child marriages, such as family honor, gender preferences, etc. Figure 23 illustrates the different norms and beliefs that lead to child marriage, which also encompasses economic, legal and social restrictions on women and girls, and the interplay between them. It shows that beliefs such as "women's social role as wives and mothers", "parents' authority to make decisions about their children's lives", "the value placed on female chastity" and "marriage as a means of protection", influence social attitudes that permeate communities and bind women and their families. They are caught up in a situation where they are actively or passively guided by the norms that "girls are subject to parental authority", "girls should remain chaste until marriage", "girls are subject to their parents", "chastity should be maintained before marriage", "early marriage of daughters is a sign of parental responsibility", and so on, which contribute the tradition of child marriage perpetuated.

Figure 23: Gendered Norms and Beliefs Contributing to Child Marriage

¹⁹⁵ Margaret E Greene and Ellen Stiefvater, "Social and Gender Norms and Child Marriage: A Reflection on Issues, Evidence and Areas of Inquiry in the Field | Align Platform."



Source: <https://www.alignplatform.org/resources/gendered-norms-and-beliefs-contributing-child-marriage>

"Child marriage is very common in this village" "Girls are ridiculed if they don't get married early" replied a 14-years-old girl Salma from Ghasera village, Mewat District, Haryana, India when asked about her views on child marriage in an interview survey. Families that do not have child marriages are ridiculed, perhaps because people in the community "suspect them of having an illicit relationship or some kind of disability; people criticize the girl's parents for not paying enough attention or for not having enough money to marry their daughter off." Sahuni from Mewat district as well, who married at around 15 years, gave her answer for the same question, "This is a question of honor.", which was the answer repeatedly heard in this survey.¹⁹⁶

Two interviewees indicated that threats to family honor and adherence to social customs are determinants of early/child marriage. Marrying off a girl as early as possible after the onset

¹⁹⁶ Rajeev Seth et al., "Social Determinants of Child Marriage in Rural India," *The Ochsner Journal* 18, no. 4 (2018): 390–94, <https://doi.org/10.31486/toj.18.0104>.

of menarche is seen as a best way to preserve her chastity and preserves the honor of the family, regardless of how old the girl actually is.¹⁹⁷ In India and other South Asian countries, menstruation is wrongly perceived as a sign of a girl's physical and mental maturity, leading parental fear of sexual abuse and the value placed on a girl's virginity, which drives the child marriage and other harmful practices, such as honor crimes.¹⁹⁸

Parental concern about sexual abuse and violence is not unfounded, but always based on community context. Salma dropped out of school when she was 10 years old, the same as her brothers and sisters. Her peers also often do not attend or drop out of school because of "environment is not conducive" in the community where gender-based violence appears to be a threat to most adolescent girls. Adolescent girls cover their heads and faces in public and in the presence of men. They are discouraged from leaving their homes unaccompanied.¹⁹⁹

From a national perspective, India is considered one of the most dangerous countries in the world for women with the high number of rape cases that occur every year. In 2021 alone, 31,000 cases of rape were reported in India,²⁰⁰ and no trend to decline in recent years (see Figure 24). In this context, child marriage is not only about preserving family honor, but also considered by parents to protect their daughters from abuse.

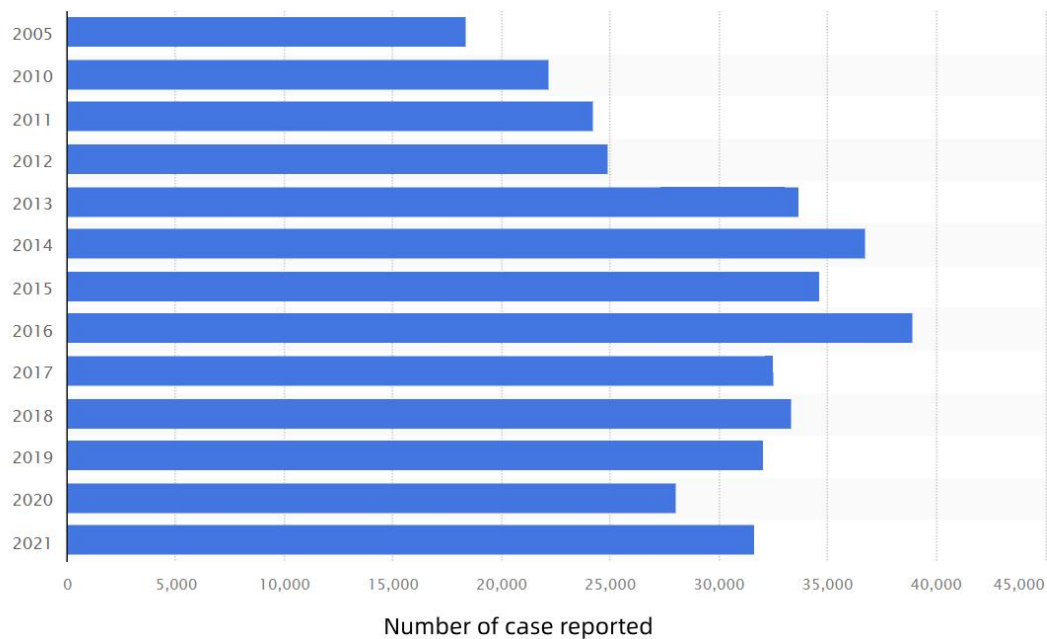
Figure 24: Total number of rape cases reported in India from 2005 to 2021

¹⁹⁷ Rajeev Seth et al., "Social Determinants of Child Marriage in Rural India,"

¹⁹⁸ "Child marriage and other harmful practices - A desk review of evidence from South Asian".

¹⁹⁹ Seth et al., "Social Determinants of Child Marriage in Rural India."

²⁰⁰ "India: rape cases," Statista, accessed November 4, 2023, <https://www.statista.com/statistics/632493/reported-rape-cases-india/>.



Source: <https://www.statista.com/statistics/632493/reported-rape-cases-india/>

Societal gender preference for boys further reinforces parents' fears of sexual abuse of their daughters. Historically and traditionally in India, sons are usually considered to have the primary role of supporting their parents and inheriting the estate, whereas women, after marriage, usually live with and support their in-laws. This has resulted in families tending to value sons more than daughters and provide them with more support, an attitude and practice known as "son preference".²⁰¹ Girls are seen as a burden and the practice of dowry further reinforces this perception.²⁰²

The most visible manifestation of son preference is the sex selection of the fetus, which has led to an imbalance in the sex ratio in India. Significantly more boys than girls are born each year, far more than would be expected under natural conditions. With the rise of ultrasound technology, some Indians are more likely to selectively abort female fetuses; in other cases, female babies are killed at birth.²⁰³

²⁰¹ Center, "2. Son Preference and Abortion."

²⁰² Nirantar Trust, 2015 "Early and Child Marriage in India - A Landscape Analysis".

²⁰³ Pew Research Center, "2. Son Preference and Abortion."

This is despite the government's explicit ban on testing the sex of the fetus in the 1994 Pre-Conception and Pre-Natal Diagnostic Techniques Act (amended in 2003).²⁰⁴ The sex ratio of newborns remains unbalanced, but the gender gap is narrowing according to data comparisons. Based on the data of 2011 census, for every 100 girls born in India, 111 boys are born.²⁰⁵ According to the NFHS-5 in 2021, the sex ratio of births in the last five years declined to roughly 100 girls for 107 boys.²⁰⁶

The gender imbalance has led to more and more men looking for potential brides,²⁰⁷ Parents and communities against this backdrop, are more concerned about greater threats to the safety of their girls and are more inclined to marry them off at an early age.²⁰⁸

The societal norms that influence child marriage are multifaceted, such as girls being viewed as a burden, gender selection, dowry paid by the girl's parents, marriage being used as a means of protection, etc., but they are all profoundly influenced by the patriarchal system and gender inequality.²⁰⁹ At the same time, social norms combine with India's complex socio-economic context, making ending child marriage in India extremely challenging.

²⁰⁴ Anita Bhaktwani, "The PC-PNDT Act in a Nutshell," *The Indian Journal of Radiology & Imaging* 22, no. 2 (2012): 133–34, <https://doi.org/10.4103/0971-3026.101114>.

²⁰⁵ Pew Research Center, "2. Son Preference and Abortion."

²⁰⁶ "National Family Health Survey (NFHS-5)."

²⁰⁷ "Child_marriage_and_other_harmful_practices_unfpa_apro_and_unicef_rosa_2020.Pdf."

²⁰⁸ "Child_marriage_and_other_harmful_practices_unfpa_apro_and_unicef_rosa_2020.Pdf."

²⁰⁹ "Child_marriage_and_other_harmful_practices_unfpa_apro_and_unicef_rosa_2020.Pdf."

Chapter V - Progress and challenges in India's laws against child marriage in India

Over the past decade, South Asia has led the rest of the world in progress towards ending child marriage. The most impressive achievement has been in India, where the risk of girls marrying before the age of 18 has fallen from 47 per cent to about 23 per cent between 2006 and 2021. This has been made possible by India's strong fight against child marriage, with legislation restricting child marriage, increasing girls' education rates and spreading awareness of the dangers of child marriage throughout society.²¹⁰

India's efforts to work towards the elimination of child marriage have been holistic, involving legal reforms, education, economic empowerment, and so on. This chapter focuses on the measures taken and progress made in India in terms of legislation, as well as the challenges faced in implementation.

1. Promoting the end of child marriage by law

India's law restricting child marriages can be traced as far back as 1929 during the British India period. The Child Marriage Restrict Act, 1929 set the age of marriage at 14 years for girls and 18 years for boys. Because the Act lacked implementation by the British Indian government and faced obstruction from religious groups, it became a dead letter during British regime.²¹¹ After India's independence, the Act amended the age of marriage to 15 years for girls in 1949 and was amended to 18 years for girls and 21 years for boys in 1978. This law has now got abolished and replaced with the Prohibition of Child Marriage Act, 2006 (PCMA 2006),²¹² which is armed with enabling provisions to prohibit child marriages, protect and provide relief to victims and enhance punishment for those who abet, promote

²¹⁰ Chadha and Tiwari, "Legal Efforts to Curb Child Marriage in India, USA and Australia."

²¹¹ Geraldine Hancock Forbes, *Women in Modern India* (Cambridge [England] ; New York : Cambridge University Press, 1996), <http://archive.org/details/womeninmodernind0000forb>.

²¹² "Sharda Act: Abolition of Child Marriage," *Getlegal India* (blog), October 11, 2021, <https://getlegalindia.com/sharda-act/>.

or solemnize such marriages.²¹³

1.1. Advances in the Child Marriage Prohibition Act, 2006

The effectiveness of PCMA 2006 is demonstrated by the fact that the rate of child marriage in India has declined at a significantly faster rate since 2006, while at the same time, there are limitations in the law itself that make it insufficiently robust in its application.

The PCMA 2006 contains detailed provisions on child marriage, maintaining the minimum age of marriage - 18 years for women and 21 years for men. It provides for all child marriages, whether solemnized before or after the commencement of the Act, to be voidable at the option of the contracting party who was a child at the time of the marriage. PCMA, 2006 also provides that a petition for the annulment of a child marriage has to be filed before 2 years after the child party reaches the age of majority, i.e., before 20 years for child brides. There are also provisions on what to do when a marriage is found to be null and void, for example, the local court shall issue an order directing that the parties to the marriage and their parents or guardians shall return money, gifts, valuables, etc. received from the other party at the time of the marriage (Section 3).²¹⁴

The PCMA 2006 also provides for the reliefs of the annulment of child marriages in order to protect women's rights. For example, after the annulment of the marriage, the male partner or his parents and guardians shall pay maintenance to the female partner until she remarries, during which time the district court shall also make an order guaranteeing her right of residence (Section 4). Children born of child marriages are also legitimate (Section 6), and the district court should prioritize the interests of the children by guaranteeing child support and a reasonable distribution of custody (Section 5).²¹⁵

The Act also provides penalties for adult males over 18 years of age who marry minor girls (Section 9), whoever performs, conducts, directs or abets any child marriage (Section 10), any person who permits or promotes a child marriage who is responsible for the children, including parents, guardians, members of organizations or associations, and any other

²¹³ “CHILD MARRIAGES,” accessed November 5, 2023, <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1947773>.

²¹⁴ “India Code: Prohibition of Child Marriage Act, 2006.”

²¹⁵ “India Code: Prohibition of Child Marriage Act, 2006.”

person in any capacity whatsoever, lawful or unlawful (Section 11). The penalties are all rigorous imprisonment of up to two years or a fine of up to 100,000 rupees. In the case of adult grooms in child marriages, the penalties are more severe and can be both.²¹⁶

The Act also provides that each state government should appoint an officer or some of its officers as a Child Marriage Prohibition Officer (CPMO), who is responsible for curbing the problem of child marriages in the state and for reporting and preventing child marriages (Section 16). The duties of the CPMO are determined and assigned by the state government and broadly include taking appropriate action to prevent child marriages, collecting evidence to prosecute those accused, advising, and counseling the local people, raising public awareness about child marriage itself and the problems caused by it, and reporting relevant data and information to the state government on a regular basis.²¹⁷

However, in fact, PCMA 2006 still recognizes the validity of child marriages,²¹⁸ which are invalid unless they are in violation of the injunction from courts (Section 13 and 14) or involve several special circumstances in Section 12, such as when the child is removed from his or her legal guardian by abduction, involves forceful coercion or deception, or when the child is sold or trafficked for the purpose of marriage, etc.²¹⁹ It requests that child marriages be annulled by filing a petition. However, the reality is that very few women choose to file an annulment order in court to annul a marriage, penalizing their husbands and families.²²⁰

Declaring child marriages "null and void" demonstrates zero tolerance for this practice, and international human rights instruments such as the CEDAW provide that betrothals and child marriages are not legally valid (Article 16).²²¹ The PCMA 2006 is still deficient in this regard.

Although the PCMA 2006 failed to lay down strict provisions on the issue of nullity of

²¹⁶ "India Code: Prohibition of Child Marriage Act, 2006."

²¹⁷ "Child Marriage Prohibition Officers," Nyaaya, accessed November 5, 2023, <https://nyaaya.org/legal-explainer/child-marriage-prohibition-officers/>.

²¹⁸ "Child Marriage and Karnataka Amendments: Debate on Void Marriages," Centre for Law & Policy Research, accessed November 5, 2023, <https://clpr.org.in/blog/child-marriage-and-karnataka-amendments-re-engaging-with-the-debate-on-voidability/>.

²¹⁹ "India Code: Prohibition of Child Marriage Act, 2006."

²²⁰ "Child Marriage and Karnataka Amendments."

²²¹ "Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979 | OHCHR."

child marriages, such efforts have been undertaken at the state level in India. The Karnataka government passed an amendment in 2017 declaring all child marriages in the state null and void ab initio (void from the beginning). The amendment also strengthened the penalties for child marriages by providing for a minimum period of imprisonment of one year for child marriages, which can be extended to two years, and added a provision for police officers to conduct their own trials under the Act. Karnataka Act No. 26 of 2017.²²² Karnataka thus became the first state in India to annul a child marriage.²²³

Karnataka's leading example has made the outcome of its efforts to end child marriages highly anticipated, and unfortunately, COVID-19 has left a large number of families facing cause and uncertainty, especially in rural areas, where child marriages have seen an increase in the state. Government data shows that the number of child marriages in the state reached 418 in 2021-22, up from 102 in 2017-18, an increase of 300 percent.²²⁴

1.2. Contradictions between PCMA, 2006 and personal laws

Apart from its own limitations, the contradiction between the PCMA 2006 and India's personal laws based on religious practices is also an impediment to its implementation. Indian personal law is quite complex, and each religion observes its own specific laws. For example, the India Christian Marriage Act, 1872 provides for the registration of marriages of Christians and stipulates that the age of marriage for Christians is 21 years without distinction as to sex. However, minors can marry with the consent of their father or other guardian.²²⁵

The Hindu Marriage Act 1955 sets the same age of marriage for both men (21 years) and women (18 years) (Section 5) as the PCMA 2006, however, child marriages are not included in the circumstances in which a marriage is invalid or voidable under Sections 11

²²² Admin, "The Prohibition of Child Marriage (Karnataka Amendment) Act, 2016, Act No. 26 of 2017," *Feminist Law Archives* (blog), August 7, 2020, <https://feministlawarchives.pldindia.org/prohibition-child-marriage-karnataka-amendment-act-2016-act-no-26-2017/>.

²²³ "Child Marriage and Karnataka Amendments."

²²⁴ "Child Marriages in Karnataka Rose by 300% in 5 Years, Shows Govt Data," *The Indian Express* (blog), September 14, 2022, <https://indianexpress.com/article/cities/bangalore/child-marriages-in-karnataka-rose-by-300-in-5-years-shows-govt-data-8149838/>.

²²⁵ "The Indian Christian Marriage Act, 1872," accessed November 5, 2023, <https://indiankanon.org/doc/1166543/>.

and 12 of the Hindu Marriage Act.²²⁶ which has led to child marriages in Hinduism being regarded as valid, and there have been many judicial decisions in support of this view.

The application for annulment of a Hindu child marriage was upheld by the Madras High Court in 2011 in *T. Sivakumar v. Inspector of Police, Thiruvallur Township, Thiruvallur District*, where the Court held that the Prevention and Eradication of Child Marriages Act, 2006, being a secular law, prevailed over the Hindu Marriages Act, 1955, in the event of conflict between the two. Marriage Act, the Court also held that the 2006 Act lacked adequate publicity and application, particularly with regard to the penalty of imprisonment of up to two years, and that if the police were to strictly enforce the penalty, it would have an effective role in reducing child marriages.²²⁷ The decision of the Madras High Court was later supported by additional jurisprudence.²²⁸

In contrast, the suppression of child marriages is much more difficult in the Muslim community due to the Muslim tradition of marriage and the widespread implementation of the Muslim Personal Law (Shariat) Application Act, 1937. The law does not specify the age of marriage for Muslims,²²⁹ but Muslim customary law generally considers the age of marriage to be 15, and girls may marry upon reaching puberty without the consent of a guardian, which has been legally upheld by courts in many cases.

In February 2021, the Punjab and Haryana High Court provided protection to a Muslim couple (17-year-old girl married to a 36-year-old man) by holding that the PCMA,2006, being a special law, does not override personal law and therefore the court ruled their marriage legal by giving precedence to Muslim law.²³⁰

In January 2023, the Supreme Court of India agreed to examine a judgment of the Punjab and Haryana High Court upholding the voluntary marriage of a minor Muslim girl. In that case, the 16-year-old Muslim girl expressed her desire to voluntarily marry her 16 year old spouse and did not want to return home because her parents had forced her to go out with

²²⁶ “Hindu Marriage Act, 1955,” May 18, 1955, <http://indiacode.nic.in/handle/123456789/1560>.

²²⁷ “T.Sivakumar vs The Inspector Of Police on 3 October, 2011,” accessed November 5, 2023, <https://indiankanoon.org/doc/47946406/>.

²²⁸ Chadha and Tiwari, “Legal Efforts to Curb Child Marriage in India, USA and Australia.”

²²⁹ “Muslim Personal Law (Shariat) Application Act, 1937.”

²³⁰ “Case in Supreme Court: Can an underage Muslim girl marry after attaining puberty?,” *The Indian Express* (blog), January 14, 2023, <https://indianexpress.com/article/explained/explained-law/supreme-court-to-examine-whether-an-underage-muslim-girl-can-marry-after-attaining-puberty-what-is-the-case-8380620/>.

her uncle. The High Court's decision was opposed by the National Commission for the Protection of Child Rights, which argued that it violated the PCMA, 2006 and essentially allowed child marriage.²³¹

Contrary to the above cases, there are also many courts that have held that PCMA, 2006, should take precedence over personal laws. The Karnataka High Court in its 2013 decision in *Seema Begaum D/O Khasimsab v. State of Karnataka* (2013) stated that "no Indian citizen can claim immunity on the ground that he belongs to a particular religion."²³² In *M. Mohamed Abbas v. Chief Secretary to the Government of Tamil Nadu* (2015), the Court dismissed the plaintiff's writ petition seeking to restrain the defendant from interfering with a Muslim wedding under the 2006 Act. The Court held that the 2006 Act, which aimed at ensuring the education and empowerment of girls and their equality with men in society, did not violate the constitutional freedom of religion.²³³

As can be seen from the many cases mentioned above, the complex system of personal laws in India has largely been an obstacle in the process of ending child marriages, and there has been no end to the dissenting views at the social and judicial levels.

2. Discussion on raising the age of marriage for women and the Uniform Civil Code in India

According to the PCMA, in 2006, the minimum age of marriage in India was 21 for men and 18 for women. The age gap between men and women has long been seen as a reflection of gender inequality, leading to a number of proposals to uniformity the legal age of marriage.²³⁴

The Government of India has proposed an amendment to ban child marriage in 2021 to raise the minimum age of marriage for females to 21 years, the same as for males, overriding any other law, custom or usage, including the age of marriage for individuals

²³¹ "Case in Supreme Court."

²³² "Case in Supreme Court."

²³³ Chadha and Tiwari, "Legal Efforts to Curb Child Marriage in India, USA and Australia."

²³⁴ "Why is increasing the minimum marriage age for girls to 21 years being debated? – The Leaflet," February 1, 2023, <https://theleaflet.in/why-is-increasing-the-minimum-marriage-age-for-girls-to-21-years-being-debated/>.

based on faith.. The proposal also extends the validity period for annulment of child marriages from two years (i.e., 20 years) to five years (i.e., 23 years) after attaining majority, i.e., 23 years. The Bill has been referred to the Parliamentary Standing Committee for consideration and is scheduled to come into force two years after it is passed by Parliament, providing ample time for citizens to prepare for this reform.²³⁵

A similar petition came from the National Commission for Women (NCW) seeking equal application of the Protection of Children from Sexual Offenses Act, 2012 (POCSO) across all religions and personal laws and arguing that the difference in the age of marriage under personal laws, particularly Muslim personal laws, and the PCMA, 2006, is not only arbitrary, irrational, and discriminatory, but also violates provisions of the criminal law. The petition likewise seeks a direction from the Court to standardize the age of marriage for both men and women, irrespective of their religious beliefs, but proposes that it be standardized at 18 years of age instead of 21 years of age²³⁶

In line with the recommendations of CEDAW and CRC, the State party should take measures to ensure that "the minimum legal age of marriage for both boys and girls, with or without parental consent, is set at 18 years". While there is ample evidence that raising the age of marriage for women has positive effects on women's standard of living, education, empowerment, health, etc., there is still a debate on whether to raise the age of marriage for women to 21 years. Supporters hope that raising the age of marriage will boost the country's economy and health by attracting more women into the labor force rather than entering marriage early to run a household. Opponents fear that the higher marriable age

²³⁵ The Hindu Bureau, "Increase in Minimum Age of Marriage for Women to 21 Years Two Years after Bill Is Notified: Centre," *The Hindu*, March 15, 2023, sec. India, <https://www.thehindu.com/news/national/increase-in-minimum-age-of-marriage-for-women-to-21-years-two-years-after-bill-is-notified-centre/article66622738.ece>.

²³⁶ "Supreme Court Issues Notice in Petition Calling for POCSO Act to Take Precedence over Personal Laws – The Leaflet," December 13, 2022, <https://theleaflet.in/supreme-court-issues-notice-in-petition-calling-for-pocso-act-to-take-precidence-over-personal-laws/>.

will further restrict women's freedom,²³⁷ and reinforce patriarchy, leading parents to control more the autonomy of young girls and punish them for their sexual behavior.²³⁸

Although raising the minimum age of marriage for girls to 21 years is controversial, there is a general consensus in Indian society that harmonization of the age of marriage is necessary irrespective of gender or religion.²³⁹

The conflict between personal law and other laws is not only in the context of marriage, but also in the context of divorce, inheritance, and other issues. To address the disparities between the laws, India's Prime Minister Narendra Modi in 2023 proposed a plan to create a Uniform Civil Code (UCC), with a set of universal rules on marriage, divorce, inheritance, adoption, guardianship, and the division of land and assets to replace these mazes of personal laws.²⁴⁰

In fact, the UCC has been a subject of debate in India since the promulgation of the Constitution in 1949.²⁴¹ The resistance to its realization is manifold. Supporters of the UCC say that a modern State does not need "double laws" and that a common civil code would be a step towards eliminating gender discrimination in personal laws and contribute to national integration. Religious minorities and tribal communities, on the other hand, fear that a uniform statute would deprive them of their constitutional right to religious and cultural freedom, especially in the context of India's religious ambivalence.²⁴²

The government has not yet published the UCC draft, but it can be predicted that its legislative process will inevitably be accompanied by a number of obstacles, and whether it can be realized in recent years is still unknown.

²³⁷ "Will raising the marriageable age for women set her free or rob her freedom further? – The Leaflet," December 6, 2020, <https://theleaflet.in/will-raising-the-marriageable-age-for-women-set-her-free-or-rob-her-freedom-further/>.

²³⁸ Flavia Agnes, "Increasing Marriage Age for Girls May Only Strengthen Patriarchy," *The Times of India*, accessed November 7, 2023, <https://timesofindia.indiatimes.com/blogs/toi-edit-page/increasing-marriage-age-for-girls-may-only-strengthen-patriarchy/>.

²³⁹ "Why is increasing the minimum marriage age for girls to 21 years being debated?"

²⁴⁰ Sonia Sarkar, "Will Modi's Uniform Civil Code Kill Indian 'Secularism'?", Al Jazeera, accessed November 5, 2023, <https://www.aljazeera.com/features/2023/8/17/will-a-uniform-civil-code-end-indian-secularism>.

²⁴¹ "What Is Uniform Civil Code? Constitutional Provisions, Arguments | Explained," Hindustan Times, June 28, 2023, <https://www.hindustantimes.com/india-news/what-is-uniform-civil-code-constitutional-provisions-arguments-explained-101687927925602.html>.

²⁴² Sarkar, "Will Modi's Uniform Civil Code Kill Indian 'Secularism'?"

3. Challenges in the implementation of the law

The lack of effective implementation of PCMA, 2006 is an ongoing problem in India. This is reflected in the reporting and conviction rates of child marriages, with 23% of females in the 20-24 age group being married before the age of 18, according to data of NFHS-5 (2019-21).²⁴³ However, statistics from the National Crime Records Bureau (NCRB) show that only 785 cases were registered under the PCMA, 2006 in 2020 and 1,050 in 2021,²⁴⁴ This indicates that a large number of child marriages are taking place without being reported. Even though the case reported are increasing - 395 in 2017, 501 in 2018 and 523 in 2019 - maybe due to the initiatives by the government and better enforcement of law by States/ UTs, which increases the awareness among citizens to report such incidents,²⁴⁵ it's not enough to effectively curb child marriage.

On the other hand, the conviction rate in child marriage cases in India is also extremely low at 10 percent, the lowest among all types of crimes against children, according to the Kailash Satyarthi Children's Foundation. In 2019, 2020, and 2021, the number of cases resulting in convictions was only 12 (out of 1,640 total), 6 (out of 2,092), and 10 (2,865), respectively. Moreover, at least 96% such cases were pending trial across the country by the end of 2021.²⁴⁶

There has been little police action to sanction those involved in child marriages. The latest official crime figures show that fewer than 2,000 people were arrested across India in 2021 for arranging or participating in child marriages.²⁴⁷ However, since February 2023, Assam state, where more than 30 percent women aged 20-24 married before 18 years,²⁴⁸ has embarked on a tough arrest campaign against child marriages, with nearly 5,000 arrests in

²⁴³ "NFHS-5 Survey | Current Affairs."

²⁴⁴ "Why is increasing the minimum marriage age for girls to 21 years being debated?"

²⁴⁵ "CHILD MARRIAGES."

²⁴⁶ "96% Child Marriage Cases Pending Trial across India by 2021: Rights Body," Hindustan Times, October 5, 2022, <https://www.hindustantimes.com/cities/chandigarh-news/96-child-marriage-cases-pending-trial-across-india-by-2021-rights-body-101664912525692.html>.

²⁴⁷ "India Child Marriage Arrests Leave Families without Breadwinner | Government | Al Jazeera," accessed August 24, 2023, <https://www.aljazeera.com/features/2023/3/1/india-child-marriage-arrests-leave-families-without-breadwinner>.

²⁴⁸ "NFHS-5 Survey | Current Affairs."

eight months.²⁴⁹ Those men arrested who marry girls under 14 years of age have been criminally charged under the POSCO, while those who marry girls between 14 and 18 years of age have been registered under the PCMA, 2006, which is a bailable offence. Those arrested included not only the husbands, but also the relatives who permitted and promoted the marriages and the religious workers who performed the marriages.²⁵⁰ Sixty-two of them were convicted by the court by October 2023.²⁵¹

The arrests were unprecedented, raising many issues and criticisms. Many poor families have lost their breadwinners as a result, leaving many women and children in dire straits. "Now that he's been arrested, he'll probably lose his job, and with the help of our neighbors and relatives, we'll be able to eat for now but I don't know what will happen to us." Gulsona Begum, whose husband was arrested just two weeks after they were married, said. She had no identification and claimed she was of age, but police believe she was underage. Some villagers said several men fled to neighboring countries for fear of arrest, leaving their teenage wives at home.²⁵²

Many human rights experts and social organizations are strongly opposed to the Assam government's actions, arguing that criminalizing people who are already poor is not the best way to solve social problems. They also think that arrests were made without a petition from the child brides, due process was not followed, and the government should seek to ban child marriages instead of undermining it after years of marriage consummated.²⁵³

The situation in Assam also mirrors the difficulty of enforcing the PCMA, 2006 in India: child marriages that have already taken place are difficult to file or criminalize in the absence of an application from the child bride party, and having her relatives or husband arrested only adds to the plight of the woman. Child marriage has never happened in isolation, what are behind this social evil are poverty, illiteracy, lack of awareness and age-

²⁴⁹ The Hindu Bureau, "1,039 Arrested in Fresh Assam Crackdown on Child Marriage," *The Hindu*, October 3, 2023, sec. Other States, <https://www.thehindu.com/news/national/other-states/over-1000-held-in-second-phase-of-crackdown-against-child-marriage-in-assam/article67375708.ece>.

²⁵⁰ "Overnight Crackdown, Tip-Offs from Sources: Behind the 916 Child Marriage Arrests in Assam," *The Indian Express* (blog), October 3, 2023, <https://indianexpress.com/article/india/assam-child-marriage-crackdown-arrest-8966223/>.

²⁵¹ Bureau, "1,039 Arrested in Fresh Assam Crackdown on Child Marriage."

²⁵² "India Child Marriage Arrests Leave Families without Breadwinner | Government | Al Jazeera."

²⁵³ "India Child Marriage Arrests Leave Families without Breadwinner | Government | Al Jazeera."

old traditions. “The government should address the main issue of empowerment of girls and women by providing education, health facilities and employment opportunities, instead it marginalizes the already marginalized, turns men into criminals and punishes them” said Armaan Ali, Executive Director of the National Centre for Promotion of Employment of Persons with Disabilities.

4. Lack of an effective marriage registration policy

Article 16 of CEDAW provides that States parties shall take measures for the compulsory official registration of marriages.²⁵⁴ The same view is also espoused by the United Nations Human Rights Council resolution on child, early and forced marriage– adopted at the 41st session of the Human Rights Council in July 2019 – urging states to respect, protect and fulfil the human rights of women and girls, to promote equality in all aspects of marriage and its dissolution, and to ensure the timely registration of births and marriages.²⁵⁵ Similarly, the UN Human Rights Office’s Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage seeks commitment from all States that they shall take all appropriate measures in “establishing a civil or other register in which all marriages will be recorded.” Article 3 of the Convention states that, “All marriages shall be registered in an appropriate official register by the competent authority,” and makes no exceptions for child marriages.²⁵⁶

India became a signatory to CEDAW on July 30, 1980, and ratified it on July 9, 1993 with two declarations and one reservation. Regarding the compulsory registration of marriages under Article 16 (2) of the Convention, India decelerated and stated that while agreeing in principle that compulsory registration of marriages is highly desirable, it is impracticable in

²⁵⁴ “Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979 | OHCHR.”

²⁵⁵ “41st Session of the Human Rights Council (24 June - 12 July 2019),” OHCHR, accessed November 5, 2023, <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session41/regular-session>.

²⁵⁶ “Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages,” OHCHR, accessed January 3, 2023, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-consent-marriage-minimum-age-marriage-and>.

a vast country like India with diverse customs, religions and cultural levels.²⁵⁷

In India, there are personal laws regarding to various religions, providing for the registration of marriages, such as the Hindu Marriage Act, 1955, the Indian Christian Marriages Act, 1872 and the Parsi Marriage and Divorce Act, 1936.²⁵⁸ Moreover, the Special Marriage Act, 1954 Provides for the process and effect of registration of marriages other than religious marriages, but does not make such registration mandatory.²⁵⁹

Recommendations for compulsory registration of marriages have been consistently voiced. The National Population Policy (NPP) and the National Commission for Women (NCW) in 2000 and 2005 respectively recommended the introduction of an all-India bill on compulsory registration of marriages.²⁶⁰ NCW also sought to address the number of issues arising out of non-registration of marriages by drafting the Compulsory Registration of Marriages Bill, 2005. The Law Commission of India, in its 211th report on 'Marriage and Divorce Registration Act', recommended the enactment of a Marriage and Divorce Registration Act to make it applicable to the whole of India and to all citizens. In 2017, the Commission reiterated this in its 270th report, stating that mandatory registration was a 'necessary reform'. but there is no such law at the national level.²⁶¹ However, there is no legislation in force at the national level that provides for compulsory registration of marriages.

On the other side, some States have adopted the above recommendations and enacted laws, rules and regulations requiring compulsory registration of marriages. According to a comprehensive review of the marriage registration system in India conducted by UNFPA, more than 17 States, including, Karnataka, Andhra Pradesh, Haryana, Maharashtra and Rajasthan,²⁶² have enacted specific laws for registration of marriages (requiring mandatory

²⁵⁷ “Smt. Seema vs Ashwani Kumar on 14 February, 2006,” accessed November 6, 2023, <https://indiankanoon.org/doc/1037437/>.

²⁵⁸ “UNFPA_Note_-_Registration_of_Marriages_-_Simplification_of_Processes_and_Facilitation_of_Greater_Access_to_Women’s_Rights_and_Entitlements,” accessed November 5, 2023, https://india.unfpa.org/sites/default/files/pub-pdf/unfpa_note_-_registration_of_marriages_formatted2.pdf.

²⁵⁹ “Special Marriage Act 1954 | District Bhopal, Government of Madhya Pradesh | India,” accessed November 6, 2023, <https://bhopal.nic.in/en/form/special-marriage-act-1954/>.

²⁶⁰ Kumari, Ram, and Shekhar, “Determinants of Under-Registration of Marriage among Women in India.”

²⁶¹ “UNFPA_Note_-_Registration_of_Marriages_-_Simplification_of_Processes_and_Facilitation_of_Greater_Access_to_Women’s_Rights_and_Entitlements”.

²⁶² Kumari, Ram, and Shekhar, “Determinants of Under-Registration of Marriage among Women in India.”

registration); and more than 12 States and Union Territories (UTs) have regulated the process of registration of marriages through statutes and ordinances.²⁶³

Despite the existence of numerous legal regimes related to marriage registration, the reality is that vital registration coverage, especially marriage registration, has been low in India. A study of data analysis and face-to-face interviews of 150 married women and men in Jhunjhunu district of Rajasthan, a state with a mandatory registration of marriages, revealed that only one in five married women registered their marriages. Respondents from rural dwellers (31%), SCs and STs (24%), low educational attainment (24%) and wealth index (8.5%) registered marriages at a lower rate than their peers. The main reasons for this result include lack of awareness, absence of marriage license requirement, social norms, and child marriages.²⁶⁴

Although this regional study does not reflect the national rate of marriage registration, it verifies that early marriages are mostly performed through ceremonies and are always unregistered. Participants also mentioned that they married before the legal age and did not register for fear of being penalized.²⁶⁵ As a result, monitoring the situation of child marriage becomes difficult and complicates access to those who are subject to child marriage.²⁶⁶

In most cases, failure to register a marriage has a significant detrimental effect on women. The Supreme Court of India has indicated that although registration itself cannot be used as proof of the validity of a marriage or as a determining factor as to whether a marriage is valid or not, it has great evidentiary value in matters of child custody, rights of children born in wedlock and so on. In addition, the registration system plays a significant role in preventing child marriages and ensuring a minimum age for marriage, ensuring free will of the parties, checking bigamy, safeguarding women's rights to alimony and inheritance, preventing abandonment of women after marriage and trafficking in human beings for the

²⁶³ “UNFPA_Note_-_Registration_of_Marriages_– Simplification of Processes and Facilitation of Greater Access to Women’s Rights and Entitlements”.

²⁶⁴ Kumari, Ram, and Shekhar, “Determinants of Under-Registration of Marriage among Women in India.”

²⁶⁵ Kumari, Ram, and Shekhar.

²⁶⁶ “UNFPA_Note_-_Registration_of_Marriages_– Simplification of Processes and Facilitation of Greater Access to Women’s Rights and Entitlements”.

purpose of marriage.²⁶⁷ It is therefore recommended that the Government of India should make registration of marriages mandatory, which will effectively help to curb the practice of child marriages.²⁶⁸

However, it should be recognized, that while the universal marriage registration policy can help to prevent child marriage, it cannot by itself have a substantial impact on preventing or reducing the incidence of child marriage unless it is accompanied by greater efforts to end child marriage, including interventions that reach out to the community, change discriminatory social norms, and improve girls' access to education, health care and decent work, etc.²⁶⁹

²⁶⁷ “Smt. Seema vs Ashwani Kumar on 14 February, 2006.”

²⁶⁸ Chadha and Tiwari, “Legal Efforts to Curb Child Marriage in India, USA and Australia.”

²⁶⁹ “UNFPA Note - Registration of Marriages – Simplification of Processes and Facilitation of Greater Access to Women’s Rights and Entitlements”.

Conclusion

This study sets out to investigate the deep-rooted causes of child marriage in India and to analyze the progress made in curbing child marriage and the obstacles that exist. Using qualitative research, this study is based on a human rights and global perspective, analyzing international efforts to curb child marriage, and interpreting the current state of child marriage around the world. Providing an in-depth analysis of data and existing research from UNICEF, UNFPA, World Bank, etc. as well as selected countries in Africa and South Asia, this study examines how child marriage is a violation of human rights, particularly the rights of women and children.

In the context of the global commitment to end child marriage, India, as the country with the highest number of child brides in the world, plays a crucial role. With a large amount of data and visualization figures, this study visualizes the distributional characteristics and developmental trends of child marriage in India and seeks to identify the root causes of child marriage in its complex economic, cultural, and social context. Finally, it analyses the effectiveness of legal approaches to curbing child marriage, as well as their shortcomings and the challenges to their implementation.

Key findings

In response to the questions about the international situation of child marriage and its harms, the status and social roots of child marriage in India, and the progress and shortcomings of Indian legislation, the following findings are summarized:

1. Although 18 years of age is generally recognized by the international community as the legal age of marriage, most countries and some regional conventions also set 18 years as the minimum age of marriage. However, legal exceptions based on religious, cultural, and other factors are prevalent in various countries, allowing girls under the age of 18 to marry under certain conditions, such as parental consent and court approval. This has become a common impediment to ending child marriages.

2. Child marriage deprives women of their autonomy, their right to education and makes them more vulnerable to physical and psychological abuse. The negative effects are not only long-lasting and heavy for women but can be detrimental to the development of future generations, creating intergenerational inheritance.
3. The global distribution of child marriage is correlated with the level of economic development, with more than one third of women in the least developed countries married before the age of 18. By region, Africa and South Asia have the highest incidence of child marriage globally.
4. While India has the highest number of child brides, its rate of decline in child marriages has accelerated after 2016, leading the way in South Asia. Child marriage in India is prevalent in all states, with the northern states having a higher rate of child marriage than the southern states. There is not only inter-state but also intra-state variations, with child marriages being more prevalent in rural than in urban areas, and negatively correlated with economic development and educational attainment.
5. Child marriage in India is rooted in its complex and diverse society and culture. The prevalence of caste attitudes, son preference, patriarchy, and different religious traditions make it difficult to eradicate the tradition of child marriage. Poverty and lack of education reinforce gender discrimination and make it more difficult to address the issue of child marriage.
6. India's PCMA, 2006 has accelerated the decline in child marriage rates, but its inherent limitations and weak implementation have limited its effectiveness. Primarily, the PCMA, 2006 does not meet its international obligations under CEDAW, without recognizing the natural invalidity of child marriages. Moreover, India's complex personal laws often override the PCMA, 2006, making child marriages based on religious beliefs legally protected.
7. The implementation of a uniform system of marriage registration is yet to be realized in India. Although compulsory registration has been introduced in some states, its implementation has not been effective, adding another obstacle to curbing child marriages.

Recommendations

India has made many efforts to combat child marriage on various fronts, but continues to face many difficulties. This study discusses some of these issues, such as the criticism of Assam's actions to combat child marriage, and the continuing debate in Indian society over the creation of UCC, elimination of the marriable age gap between men and women, and the establishment of a marriage registration policy, etc. Based on this, the author makes the following recommendations:

1. The rights of the girl child should be prioritized in the development and implementation of laws.²⁷⁰ The legal force of the PCMA, 2006 should be enhanced to recognize its primacy over other laws, including personal laws. At the same time, a revision of the PCMA 2006 should be put on the agenda to demonstrate a firm stance against child marriages, and the restrictions on the process to apply for the child brides' rights should be relaxed and penalties increased.
2. Enforcement of the law should focus on preventing child marriages in the early stages, and in cases where child marriages have already taken place, the procedures for pursuing them should be in accordance with the law, so as to avoid secondary victimization of child brides.²⁷¹ The government should help empower child brides and solve their problems such as poverty and education.
3. The government should promote the establishment of UCC in order to eliminate discrepancies between laws and avoid legal protection for child marriages.²⁷² On the other hand, it's important to establish a national policy of mandatory marriage registration and strengthen registration of vital events , such as birth registration, in order to provide effective tools to stop child marriages.
4. As mentioned in many of the recommendations, deep-rooted gender discrimination, traditional social norms under a patriarchal system and lack of education are the root causes of child marriage.²⁷³ Education is recognized as an effective measure to delay

²⁷⁰ Chadha and Tiwari, "Legal Efforts to Curb Child Marriage in India, USA and Australia."

²⁷¹ "India Child Marriage Arrests Leave Families without Breadwinner | Government | Al Jazeera."

²⁷² "What Is Uniform Civil Code?"

²⁷³ "Social and Gender Norms and Child Marriage: A Reflection on Issues, Evidence and Areas of Inquiry in the Field | Align Platform."

the age of marriage,²⁷⁴ and the government must increase its support for education and achieve equality in education. Reaching out to communities and families, measures are being taken to change traditional social attitudes and to enhance people's awareness of gender equality and opposition to child marriage.

Reflection and further study

This study's analysis of measures taken by India focuses on PCMA, 2006 and lacks a comprehensive analysis of other laws that protect the rights and interests of children such as PCMAO, Care and Protection of Children Act 2015, Right to Education Act (RTE). Future research could focus more on the linkages between the laws, analyze in depth the progress and shortcomings, and explore ways to maximize the utility of the laws in ending child marriage.

²⁷⁴ Hassfurter, "The Power of Education to End Child Marriage."

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