

Institute for **Cultural Relations Policy**



ICRP Research Paper Series

June
2021



Issue #16

The Institute for Cultural Relations Policy publishes online research papers and essays that reflect multidisciplinary fields, contribute to influencing and expanding the body of research on cultural relations policy, and enhance dialogue among researchers, policy makers and the public.

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CHILD BRIDES:

THE RISING HUMAN RIGHTS CRISIS IN THE FACE OF THE COVID-19 PANDEMIC

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Child marriages are a ubiquitous phenomenon facing children all around the world. However, in most cases, girls are the primary victims of forced marriages. According to the statistics taken from the UNICEF on the prevalence of child marriages worldwide, it was noted that prior to the COVID-19 pandemic, more than 100 million girls were expected to marry before their eighteenth birthday, and due to the pandemic now up to 10 million more girls are at risk for becoming child brides as a result of the pandemic. (UNICEF, 2021) It was estimated by Save the Children that about 40 million girls between the ages of 15-19 are currently married or in a union, and each year some 12 million girls will marry before they reach the age of 18. (Save the Children, 2021) It was also noted that some of the countries in which child marriages are still prevalent or in which the incidence of child marriages has increased include, India, Bangladesh, Ethiopia and Yemen just to name a few. In India for example, the estimated number of girls who are married each year is 1.5 million. (Pathak & Frayer, 2020) It was noted that from the UNICEF statistics that of the 650 million women and girls who were married before the age of 18, 285 million or more than 40% were from South Asia. (Pathak & Frayer, 2020) From the statistics taken from UNICEF it was noted that globally, the levels of child marriages are highest in Sub-Saharan Africa, where 35% of young women were married before 18, followed by South Asia where nearly 30% were married before the age of 18 and there were lower levels found in Latin America and the Caribbean in which 24% were married before 18, the Middle East had a figure of 17% and Eastern Europe and Central Asia had a figure of 12% of child marriages in which girls were married below the age of 18 years. (UNICEF, 2020)

Child marriages, however, are prohibited under international law and specifically the Convention on the Elimination of All forms of Discrimination against women (CEDAW). Specifically, Article 16 (2) of CEDAW provides that: “the betrothal and 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”. States are therefore obliged to take legal action including promulgating

legislation to ensure that there is a minimum age for marriage. The Convention on the Rights of a Child (CRC) provides that the minimum age of a child is deemed to be 18 years old and as such States have an international obligation to bring their legislation in conformity with the provisions of the CRC Convention and to provide for the minimum age for marriage to be 18. However, many states still have not provided for a minimum age of marriage and many still seek to avoid providing for minimum age of marriage due to religious and cultural practices and ideologies which cause states to avoid these obligations.

The consequences are therefore dire for young girls who are not deemed to be of inestimable value and this has exacerbated the numbers of children and particularly girls who are forced into early marriage. This is because without the force of law, the authorities would not be able to intervene to stop or to prevent illegal marriages between children and adults. Notably, without registers of marriages many of these clandestine and illegal marriages would also not be nullified in accordance with the law, as there would be no record or account of the marriage. Moreover, where states do not uphold their international obligations by incorporating the provisions of these Conventions into domestic law, then the outdated or archaic laws of the territory would prevail in relation to child marriages.

The impact of child marriage on girls

While child marriages not only affect girls but boys and girls alike, there have been greater impacts noted upon girls than on boys globally. As noted by Save the Children and the UNICEF, some of the impacts that are prominent among girls is that for girls entering into marriage at an early age may bring a premature end to their childhood. Notably, girls in most cases are no longer able to attend schools and to receive an education which is their inherent right, as they now have to take up duties as a wife. Many girls who are married unlike their unmarried peers may not have the same level of literacy and opportunities for economic and social advancement and therefore continue in a cycle of poverty and alienation.

Moreover, girls may become even more prone to having children at an early age resulting in early teenage pregnancies which limits their opportunities for going back to school or continuing their education. It was estimated by Save the Children that every year, around 17 million girls who are victims of child marriages give birth. (Save the Children, 2021) However, it was noted that these forced pregnancies also result in various health complications for these girls and for their babies as their bodies have not fully matured. Notably, in some African

territories such as Ethiopia, it was noted that many such girls later develop fistulas which is a growing public health concern. (Nour, 2006) Many girls are also open to greater risks of contracting HIV due to being married to more experienced and adult men. (Save the Children, 2021; UNICEF, 2021)

Girls who are forced into early marriages also are at risk of becoming victims of domestic violence and sexual violence. Therefore, many girls in situations of forced marriages are victims of gender-based violence and are robbed of their childhood due to forced marriages.

Why does child marriages still exist and why did it escalate during the Covid pandemic?

Child marriages generally still exist due to patriarchal, religious and cultural stereotypes of what are girls' roles and boy's roles are as ascribed by society. Under many cultures, religious laws are still promulgated to allow adult men to marry young girls and such laws are discriminatory and promote gender inequality, such countries include countries in the Middle East, several of the Muslim and Hindu territories which still do not believe there is anything wrong with girls being married under age. In others, there is an absence of laws which specify a minimum age for marriage which results in girls being married at any age including below the age of 10. This factor is noted in particular in Yemen and was exacerbated during the Yemeni conflict. It was particularly noted that during the pandemic however, more than two thirds of Yemeni girls are married before the age of 18 compared to one half which were married during the period of conflict. (Save the Children, 2021)

Another major factor which causes and exacerbates this phenomenon is poverty. It was noted that poverty especially during times of crises such as the COVID-19 pandemic has resulted in many families including parents of young girls feeling compelled to sell their daughters in order to provide for the entire family. This situation was particularly noted in India, in which many families due to the lockdown during the pandemic had lost their jobs and therefore had no source of income. They therefore felt that it was expedient to get their daughters married so that they could provide for them and for their families. Moreover, many others believed that by marrying their daughters off, this would provide them with security or protection. (Pathak & Frayer, 2020) In India in particular, it was also believed that getting your daughter married young would also avoid unwanted teenage pregnancies and protect girls from danger, especially during the pandemic, when there was a noticeable rise in gender-based violence and rapes perpetrated against women and girls.

What can be done to assist in eliminating child marriages internationally?

As noted under Article 16 (2) of the CEDAW Convention, states hold an International legal obligation to bring their laws in conformity with the provisions of the CEDAW Convention. The said Convention has been ratified and acceded to by 187 countries of the world and is one of the most widely recognized and endorsed human rights treaties. Therefore, if states would ensure that they have incorporated the provisions of the treaty under their domestic laws including Article 16 (2) of the CEDAW, this would go a long way in ensuring that girls are protected under the law until they attain the minimum age of 18 years old. By the time these girls reach the age of 18, they would have already acquired an education and can make informed choices on their own about marriage.

It must be noted for example that in India, because of the Prohibition of Child Marriage Act which now makes it illegal for persons to marry children before the age of 18, in many cases officers are able to intercept such ceremonies before they happen. (Pathak & Frayer, 2020) Notably, in the western Indian state of Maharashtra, officials were able to intercept 208 cases of child marriages within five months from April to August 2019 and 116 from April 2019 to March 2020. (Pathak & Frayer, 2020) Additionally, it was noted that in India if a man over the age of 21 marries an underage bride, he and the girls' parents or guardians along with anyone who officiates the marriage would be in violation of the law. And if convicted could be sentenced up to two years in prison or asked to pay a fine of \$1300 or both. (Pathak & Frayer, 2020)

Although, the sentence of 2 years is a very small period of time for imprisonment and the fine of \$1300 is a very small sum to pay for the value of a girl, it is noted that it still acts as a deterrent to offenders. Based on the data of the National Crime Records at least 964 persons were arrested under the Prohibition of Child Marriage Act in 2019 and 525 cases were reported. (Pathak & Frayer, 2020) And in respect of cases which officials intercepted, they were able to convince parents not to marry their daughters off to adult males until they were eighteen years since it was a breach of the law and that they too could be fined or sentenced. States also offered to support families through resources available such as welfare for families. This is particularly important especially during the pandemic where welfare is necessary to assist families that are destitute to meet their financial needs and obligations instead of selling their daughters.

Many states still oppose the enactment of the laws to prevent child marriages and up until 2017, the state of Trinidad and Tobago also had debates in parliament against the passage of the Miscellaneous Provision (Marriage) Act, No. 8 of 2017 which raised the age for marriage to

18. These debates occurred because many persons within the religious sect of the country were opposed to raising the age due to religious and cultural reasons. However, the act was fortunately passed in 2017, so that girls are only able to marry at the age of 18 or above. They would therefore be able to go to school and to receive an education and not have to worry about unwanted teenage pregnancies. They would also be able to wait until they are ready to get married and to have a say in whom they choose to get married to. They would also be able to make educated and more informed choices due to the protection under the law.

Given these considerations as they apply to both India and Trinidad and Tobago, it is imperative for states to meet their international obligations by incorporating the international law into their domestic laws for the protection of young girls and to give them a chance to realize their basic human rights. Moreover, states have to devise holistic policies to provide for welfare for families who are impoverished. This would go a long way to assisting destitute families so that they would not feel compelled to sell their little girls into slavery to be abused and in which they have no control over their own bodies or the ability to exercise their right to health and to determine when they should get pregnant.

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