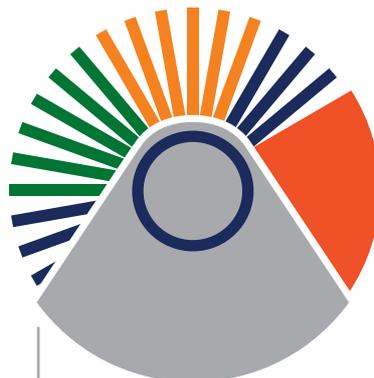


The Status of Child Marriage in India:

A Guide for NGOs and CSOs
on Using the Law to End
Child Marriages in India



**Including a directory
of child marriage
prohibition officers
in six states**



Cover and inside cover:

Illustrations were created by girls on the theme of child marriage in response to a logo design competition organised by WPC and *Girls Not Brides*.

Cover right, Roshni (first prize).

Cover left, Snehanjali (second prize).

Inside cover, Shikha (third prize).

SLIC

Socio-Legal Information Centre

SOCIO-LEGAL INFORMATION CENTER: OUR VISION

- To protect fundamental human rights, increase access to basic resources for marginalised communities, and eliminate discrimination.
- To create a justice delivery system that is accessible, accountable, transparent, efficient and affordable, and works for the underprivileged.
- To raise the level of pro bono legal expertise for the poor to make the work uniformly competent as well as compassionate.
- To equip through professional training a new generation of public interest lawyers and paralegals who are comfortable both in the world of law as well as in social movements, and who learn from the social movements to refine legal concepts and strategies.
- To work towards an increased awareness of rights as universal and indivisible, and their realisation as an immediate goal.

WPC

WomenPowerConnect

WOMENPOWERCONNECT: OUR VISION

WomenPowerConnect (WPC) was born out of the realisation that, despite substantial grassroots efforts, Women's organisations and groups in India lacked the necessary co-ordination needed for translating their efforts into legislative and policy outcomes necessary for real progress. WPC was conceived as a unified voice representing the varied number of women's organisations.

The genesis of WPC was through a consultative process. On 5 June 2004, a group of likeminded NGOs and development professionals came together to engage in a dialogue on the possibility of establishing a national level umbrella organisation for women. Out of this dialogue emerged an endorsement on behalf of those present for the creation of WPC.

Our vision is a world where women realise their full potential to live with dignity and freedom of choice.

Our mission is:

1. To be a national level representative body for building a sustaining community of vibrant members.
2. To facilitate formulation and implementation of policies that are equitable, accountable and effective in enabling the realisation in women's rights.
3. To act as a resource hub that uses and shares/disseminates information and data for engendering policies.
4. To collaborate with diverse stakeholders for securing women's rights.

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The Status of Child Marriage in India: A Guide for NGOs and CSOs on Using the Law to End Child Marriages in India*

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FOREWORD

Approximately one in four girls in India is married before she reaches the age of 18 years. It is well known that when girls are married at an early age they have had less opportunity to mature physically and psychologically. They have not been prepared to deal with the challenges of married life. They experience violence, sexual exploitation or domestic servitude by their husband and in-laws. They are not able to defend themselves against physical and mental abuse in the marital home. Further, child marriages have a telling impact on reproductive health care, nutrition, infant care and safe sex. Women endure pregnancy at a risk of repeated miscarriages and delivery complications and give birth to underweight babies.

Child marriage is largely prevalent among impoverished, marginalised communities and non-literate families and is a consequence of patriarchy and gender discrimination. At each stage of her life such girls are pushed to domestic work or as part of labour force without leisure, having little to eat, being exposed to violence and abuse, and left exhausted with nothing to look forward to or hope for. They experience gender discrimination in the very ecology of their existence – in the family, neighbourhood and community, public spaces, schools and educational institutions, etc. The state policies and programmes regarding girls do not provide answers to gender violence and non-realisation of selfhood and dignity. Overall, state action is woefully inadequate and superficial.

In this context, the role of education in combatting gender discrimination and child marriage cannot be understated. It is established that girls with a secondary school education or higher are much less likely to marry early than those with primary education or less. Being in school enables a girl to resist her marriage more effectively when compared with a girl who is out of school. Those who oppose early marriage are able to stop child marriage by arguing that the child's future cannot be put at stake. Whereas a child not attending school would find it difficult to resist early marriage and justify postponement of marriage and would eventually get married and to resign to fate.

In spite of all odds, many a girl has pursued education seeking to complete secondary school education and go beyond. The rate at which girls in India have reached the stage of secondary school education is now clearly on par with boys, if not better in some states. This has been achieved through the girls' own inner strength and resistance to all forms of gender discrimination at every step.

With the lockdown due to Covid-19 and closure of schools and all residential educational institutions, education has become so unpredictable. Older girls who aspired for higher education were at a loss, and it exacerbated their anxieties about the future. They were forced into the gendered roles that they so vehemently fought against before lockdown. Patriarchal values rebounded and girls were pushed into domestic work, labour force, early marriage and control over their mobility and freedom. With uncertainty about reopening of schools, and stray incidents of girls' elopement or fear of them being sexually abused, parents of some adolescent girls fixed marriages of their daughters. They also took advantage of restrictions imposed by the lockdown and so there were limited guests and little expenses. The weddings took place in stealth. These were the very same parents who were full of pride that their daughters were performing well in their studies and even encouraged their pursuit of higher education.



This begs the question whether their daughters would have been forced to work or get married if schools were there, or if there were any other alternate arrangements that promised a certainty and stability in the lives of girls. It showed how universalisation of secondary school education and attainment of gender equality are inextricably linked.

There is an education emergency and the state has to open schools and hostel facilities, provide scholarships and cash transfers, and give all support to enable girls to fulfil their aspirations to complete education. At the same time a multi-pronged approach is required to end child marriages, strengthening the capabilities of stakeholders working on ending child marriages, empowering child marriage prohibition officers to act with a sense of immediacy to stop child marriage.

I congratulate both WomenPowerConnect and the Socio-Legal Information Centre for bringing out this publication “*The Status of Child Marriage in India: A Guide for NGOs and CSOs on Using the Law to End Child Marriages in India*”. The recent judgments dealing with the Prohibition of Child Marriage Act 2006 mentioned in this publication highlight the extent of judicial discretion available in India to provide protection to children. For example, in cases where the girl willingly elopes (and this is established through process of law), judges can offer her the option to wait until the age of 18 before making a final decision and protect the couple from harassment from their family members.



Prof. Shantha Sinha

Founder, M. Venkatarangaiya Foundation

Former Chairperson, National Commission for Protection of Child Rights



FOREWORD

It has been over two decades since I started working on early, forced and child marriages in India. My early life experiences led to this path of activism and social work around this issue. Having first-hand experience in this matter, I understand what it means to be a girl in a family that believes in early marriages. I was 15 when my family got me almost married. Determined to continue my education and forge my own path, I resisted and rebelled to stop the marriage. In Rajasthan, the state in India where I come from, early marriages are among the socially accepted practices. I was born into a similar system that was limiting and oppressive. Dreams were scarce, and choices were absent. The only work we were supposed to do was unpaid and domestic. I disagreed to settle for what was offered to me. I believe that girls have the ability to lead and dream if given support and opportunity. My work canters around the encouragement and enabling of girls to see themselves as leaders and change-makers.

The primary reasons for child marriage are both cultural and economic. Traditional practices such as referring to girls as “*pariah dhan*” (loosely translates to “someone else’s property”), customs of giving very high dowry, *aata-saata pratha* (where two families agree to give their daughters in exchange for marriage to each other), and *gauna* (where a child marriage takes place, but the consummation of the marriage takes place later) are all linked to lack of agency and gendered social norms. The focus needs to shift from marriage to empowerment of girls. Without enabling and empowering girls and women, marriage will continue to be used as the instrument of patriarchy at all ages.

Due to the Covid-19 pandemic, the economic reasons for child marriages steeped. As schools shifted to an “online mode”, girls from families who could not afford smartphones and laptops dropped out from their studies. Boys in the family got a preference to access smartphones or laptops if there were limited resources. The pandemic has also increased child labour and child trafficking as children were forced to start working to support their families. We need to fight against both cultural mindsets that lead to early marriages and support schemes and initiatives that encourage girls to go for vocational training and skill upgradation and become economically empowered.

I am sure we will continue to address the challenges thrown by the pandemic. Using the law is one option; however, using the Prohibition of Child Marriage Act 2006 needs to be fast-tracked, particularly if a girl faces the threat of getting married. Delayed dates for court hearings are detrimental in time-sensitive matters. With very little evidence in these cases, as invitation cards are not prepared, even the police find it difficult to intervene in the case of minors. Families who do not marry their girls early risk social ostracism and boycott. Civil society organisations (CSOs) play a vital role in the intervention and prohibition of early and forced child marriages. From raising awareness, empowering girls, sensitising boys and negotiating and counselling family members, CSOs are instrumental in bringing about a faster result in cases of child marriage. This guide for NGOs and CSOs is an immensely useful tool and resource for organisations working in this field.

I hope that this research will complement other existing resources on the issue, and I congratulate WomenPowerConnect and Socio-Legal Information Centre for bringing out this publication and raising the issue of child marriages in the context of the Covid-19 pandemic.



Usha Choudhary

Co-Founder, Vikalp Sansthan



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ABBREVIATIONS

CDPO	Child development protection officer	FIR	First information report
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	NFHS	National Family Health Survey
CEFM	Child, early and forced marriages	NGO	Non-governmental organisation
CMIE	Centre for Monitoring Indian Economy	PMCA	Prohibition of Child Marriage Act
CMPO	Child marriage prohibition officer	POCSO	Protection of Children from Sexual Offences
CSO	Civil society organisation	SDG	Sustainable Development Goal
CWC	Child Welfare Committee	SJPU	Special Juvenile Police Unit
DCPO	District child protection officer	SLIC	Socio-Legal Information Center
DCPU	District Child Protection Unit	UNFPA	United Nations Population Fund
DSWO	District social welfare officer	WCD	(Ministry of) Women and Child Development
		WPC	WomenPowerConnect

GLOSSARY OF LEGAL TERMS

Appellant

A person who moves a higher court against an order of a lower court.

Injunction order

An order by a court refraining a party from doing some specific act. In child marriage cases, injunction orders from a court can prevent the marriage from taking place.

Minor/minority

As per the Indian Majority Act 1875, a minor is any person under the age of 18 years.

Major/majority

As per the Indian Majority Act 1875, a person becomes a major when they reach the age of 18.

Petition

A formal written request to an authority, usually to a court, asking for their intervention in a matter or dispute.

Petitioner

The person who files a petition in a court.

Respondent

The person against whom a petition is filed.

Writ petition

An application that is filed in the high courts or Supreme Court of India seeking a direction from the court for enforcing fundamental rights.

There are five types of writs that can be issued by the courts:

1. *Habeas Corpus*: an order calling upon a person who has detained another person to appear before the court alongside the detainee. They must let the court know on what grounds they have confined the other person and set them free if there is no legal jurisdiction for the imprisonment. For example, in a case of child trafficking or missing children, a writ petition can be filed, seeking production of the child or children by the police before the court.
2. *Mandamus*: a command directing a person or organisation to take a specific action that pertains to their/its office and is in the nature of a public duty. For example, a writ of Mandamus can be sought directing the police to register cases against parents forcing a minor child to get married.
3. *Prohibition*: a writ issued by a superior court to prevent an inferior court from acting beyond its jurisdiction.
4. *Quo Warranto*: a writ remedy or proceeding whereby the state inquires into the legality of a claim that a party asserts to an office or franchise, to oust them of their authority if the claim is not well founded.
5. *Certiorari*: a writ that aims to keep the exercise of powers by inferior judicial and quasi judicial tribunals within the limits of the jurisdiction assigned to them by law and to restrain them from acting in excess of their authority.



INTRODUCTION

What is child marriage?

A historical overview and a snapshot of the problem in India

In India (as in other parts of the world), marriages have historically been associated with the maintenance of social control rather than individual choices and preferences. Marriages traditionally consolidate gender roles, with women taking on household responsibilities and men expected to be bread earners. Society is maintained and structured on many norms among which marriage is a very important one because it underpins the core values of both patriarchy and caste in India. Marriage is seen as a legal contract through which a woman has given herself to her husband. It further reinforces a sexual subjugation of women in different ways – through religious rituals, social and cultural practices, and other popular norms of society. A woman is always seen as the property of men and hence men need to protect the woman and her sexuality and chastity, which limits a women’s agency.

With the institution of child marriage, a structure is enforced that is closely associated with the rise in patriarchy, parental and societal control over who and when to marry, and control of women’s sexuality. Child marriages ensure that the bride has little negotiating power within the relationship; she is unlikely to be able to bring any resources with her to the marriage and would be unable to exit the marriage. The practice strengthens patriarchal controls, but at the same time also harms boys and men who are denied the “right to choice” in forming relationships.

Child, early and forced marriages (CEFM) are prevalent in almost all societies, including developed countries. Over 200,000 minors were reportedly married in the USA (87% girls and 13% boys) in 2018.¹ However, in terms of the percentage of girls who are married before 18 years of age, this is greatest in poorer countries, specifically in Niger (76%), Central African Republic (68%) and Chad (67%). The country with the highest absolute number of child marriages is India, and it is estimated that one-third of all child brides live in India.²

In India, it was the British who defined child marriage for the first time and enacted a law to prevent it. The age of consent was fixed at 10 years of age in the Indian Penal Code in 1860. The trigger for the enactment of a law prohibiting child marriage was the case of Phulmoni Dasi, a 10-year-old girl who died due to excessive bleeding when her husband consummated the marriage. In 1884, Rukhmabai, a victim of child marriage, refused to live with her husband, who took her to court. Rukhmabai lost the case, but she still refused to go back to her husband. This case led to a widespread debate on the issue of child marriages and initiated the social reform movement. These two cases led to the enactment of the Age of Consent Act in 1891 where the age of marriage for girls was raised to 12 years. As a result of pressure imposed by the social reform movement, in 1929 the age of marriage was raised to 14 years for girls and 18 years for men. However, the British overall followed a policy of non-interference and did not attempt to enforce the laws once enacted.

After Independence, the Child Marriage Restraint Act (“Sharda Act”) was amended in 1949 to make the age of marriage 15 for girls, and the Sharda Act was amended again in 1978 to fix the age of marriage as 18 for women and 21 for men. In 2006, the Prohibition of Child Marriage Act (PMCA) fixed the age of marriage at 18 years for women and 21 years for men.

It is important to note that the age of consent (that is, the age at which one can consent to sexual activity) is different in law. The Indian Penal Code 1860 raised the age of consent to 16 years in 1940 for girls. Sexual relations with a girl below 16 years of age amounted to rape irrespective of consent; however, marriage was an exception, and a husband was permitted to consummate the marriage of a 15 to 18-year-old girl. With the enactment of the Protection of Children from Sexual Offences Act 2012, age 18 was recognised as the age of consent for both men and women, and marriage is no longer an exemption.³ Recently in 2021, the Indian Parliament and current government initiated a heated debate regarding an amendment to the PCMA 2006 –raising the legal age of marriage of women from 18 to 21 years in order to empower women and ensuring gender parity.

¹ Ferguson Sarah, *What you Need to Know about Child Marriage in the US*, 2018,

<https://www.forbes.com/sites/unicefusa/2018/10/29/what-you-need-to-know-about-child-marriage-in-the-us-1/#6bbeeb885689>

² UNFPA – UNICEF Global Programme to End Child Marriage, *Country Profile India*, 2020, <https://www.unicef.org/media/111381/file/Child-marriage-country-profile-india-2021.pdf>

³ As demonstrated in the case “Independent Thought vs Union of India” (2017), details of which can be found here: <https://indiankanoon.org/doc/87705010/>



Child marriage in India is currently defined as the marriage of a girl under the age of 18 years and of a man or boy under the age of 21 years. This is a legal definition, and it does not take into account the complexity of the problem. With growing awareness of the law, parents arrange the marriages of their daughters when they turn 18 years of age (or are close to 18); therefore the problem of early marriages remains. Many women are married before they have sufficient negotiating powers; for example, before they have the ability to earn or make decisions about contraception, and before they have legal knowledge about how to exit a marriage. Therefore, a more nuanced understanding of child marriages, which includes early and forced marriages, provides a more accurate picture of the nature of the violation of the rights of both children and young adults entering relationships.

Causes of child marriage in India

Child marriage is a complex problem with multiple causes. Poverty and lack of resources alone cannot explain CEFM entirely. Cultural practices associated with the low value placed on the girl, the centrality of marriage in the lives of most people, laws regulating the division of property, and societal control of women's sexuality all contribute to child marriages.

Culture and customs vary from state to state in India. For example, in the northeastern states, there is less stigma attached to adolescents and young adults entering into consensual relations with each other. In Jharkhand, amongst the tribal community, the practice of *Dhuku* marriage⁴ (an informal marriage amongst consenting young adults) is practiced. While these customs can lead to child and early marriages, the stigma associated with premarital sex (common in other parts of India) also contributes to CEFM as marriages are the only legitimate space for having sexual relations. Customs of paying huge dowries, personal laws that permit marriage at the age of puberty, such as in the *Shariat*, and denial of equal property rights to daughters in both Hindu and Muslim laws leads to religious, regional and caste-based differences in the causes underlying child marriages.

The following list of causes of child marriage is indicative and does not aim to provide a comprehensive explanation of the practice, given the complexity and diversity within India.

- **Poverty and lack of education**

The economic status of a household is an essential determinant that supports the practice of child marriage. Families living in poverty find this an easy way of reducing the cost of living for the family and a way for girls to escape such poverty. In reality, girls from poor families are likely to remain poor and pass it on, perpetuating a vicious cycle of intergenerational poverty.

Girls are considered a financial liability since they are perceived to be financially dependent on male members of the family, so marrying them early is considered a viable option. The patriarchal mindset that favours boys over girls is embedded in our society; when given a choice a family would rather spend its resources on education and health for boys than for girls. Child marriage, therefore, is seen as a way of reducing the cost inherent in a girl's education. In turn, the lack of good quality education for girls that could motivate them to remain in school or help them acquire a job or marketable skills contributes to the vicious cycle of poverty. It is patently obvious that school education is not geared towards skill building and is a major contributor to CEFM.

Parental illiteracy is also a major cause that promotes child marriage. Parents with little or no education do not understand the consequences of early marriage on their daughters and are unaware that it is a violation of a child's basic human rights.

- **Control over a girl's sexuality and fear of violence against women and girls**

In a patriarchal society, there are many ways of subjugating and oppressing women including the practice of CEFM. Parents often fear the sexual autonomy they see as leading to premarital sex or pregnancy out of wedlock along with sex- and gender-based violence, which they see as reasons for marrying girls early. This paves the way for the control of girls' sexual and reproductive lives and transfers this control from family members to her husband and in-laws. At the community and societal levels, this social norm is used to camouflage the actual causes such as structural inequalities and patriarchal practices.

⁴ *Dhukni* or *Dhukua* comes from the local word *Dhukna*, which means "to enter or get in". So, a *Dhukni* woman is a term given to a woman who has "entered" the house of a man and is living with him without marriage. This relationship, in the tribal community, is referred to as a *Dhuku* marriage.



Further, these social norms are more rigid for people from the LGBTQIA+ community.⁵ India still doesn't approve of the marriage of same-sex couples, and societal stereotypes make them face inhuman behaviour. Many families see homosexuality as a disease and use marriage as a corrective measure where gay and lesbian people are forced into heterosexual marriages as a cure. They also believe that marriage at an early age can further stop the sole existence of homosexuality as it will not even provide the child the time to explore their sexuality. In 2020, a 16-year-old boy from Uttarakhand filed a complaint against his father who even after knowing that his son was homosexual threatened and forced his son to marry a 16-year-old girl. These measures affect the child both physically and mentally.

- **Caste**

India follows the caste system vividly in a number of ways. It is maintained through the institution of marriage under the concept of endogamous marriage alliances. These alliances strictly make sure that “ideal” marriages take place between families belonging to the same varna and caste. Since the upper caste follows the idea of caste purity and pollution, and patriarchy follows the idea of pure patrilineal succession, the system of control over women's sexuality and morality becomes the prime concern as a safeguard for their ideology.

The Brahminical caste structure finds the sexuality of lower caste males as a danger to the upper caste purity. This leads to the system of endogamy as an institution to restrict the sexual access of upper caste women from the lower caste men. Hence, in many places there is a fear of breaking the caste system, which again falls on women as their morality and sexuality are controlled and can often lead to child marriage.

- **Dowry**

The practice of dowry is widely prevalent in India; the bride's family pays the groom in cash and/or gifts upon marriage. The older the daughter becomes, the fewer her suitors, and so her parents have to pay more to get a match. Families, therefore, prefer to have the daughters married at a young age so as to reduce the cost of dowry.

- **Inadequate implementation of laws**

Laws prohibiting child marriage have not been implemented effectively. The enforcement of the PCMA 2006 is weak in India. An adequate budget has not been allocated to implementing the act by states, and this has led to overburdened child marriage prohibition officers, some of whom do not even know what their roles and responsibilities are.⁶

- **Cultural practices, social norms, customs and traditions**

It is important to acknowledge that child marriage continues to be practised because it has become a social norm that is accepted and propagated by communities. In many states of India, child marriage is still deeply rooted in religious beliefs and customs. Firstly, marriage is central to a woman's identity across India, and her identity is tied to that of her husband. The fear of not being able to marry their daughter pressurises parents to marry girls as soon as they reach puberty, and they tend to comply for the fear of being ostracised. Customs that require huge expenditure on weddings by the family of the girl further pressurise parents to marry their daughters early as dowry costs are reduced when the bride is a young child. Illiterate parents have little or no authority to go against these traditions and are under pressure to conform to cultural norms.

Region-specific customs that perpetuate child marriages include: *Gauna* in Rajasthan (a marriage between minors where the marriage is consummated only upon reaching adulthood – it essentially provides camouflage to the child marriage having taken place); and *Dhuku* marriages in Jharkhand. *Mrityu Bhoj*, a custom where high costs are incurred on funerals, also contributes to child marriages in Rajasthan as costs are reduced at the funeral by conducting a marriage at the same time as the funeral.

⁵ The full form of LGBTQIA+ is Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual and other gender non-conforming individuals. It serves as an umbrella term to include those who do not identify as heterosexual or “cisgender”, that is, a person whose gender identity corresponds with their sex assigned at birth.

⁶ Oxfam and WPC, *Mapping and Identifying Gaps in Support Services Addressing Domestic Violence and Child Marriage: Bihar, Jharkhand, Chhattisgarh, Odisha and Uttar Pradesh*, 2018, Oxfam India, available on request.



- **Rural areas and role of the panchayat**

In rural areas, due to a lack of development and sufficient education traditional cultural practices of child marriage still exists. These beliefs are strengthened even more due to poor economic backgrounds, especially, for example, farmers who are in debt often use child marriage as a tool to reduce financial burdens. In rural regions specifically, the local bodies (that is, the panchayat) are often involved in allowing CEFM so as to maintain caste hierarchies and patriarchy. The members of the panchayat belong to the same village in which they work, and at times themselves follow the belief that “there is nothing wrong in such practices” and term it as the practice of their forefathers and that breaking marriage is bad.

There is a recent case of a girl of just 10 years who was married and forced to drop out of school. Her in-laws began pressing the girl’s family to send her away. The girl was hesitant and appealed to her father, who eventually gave in to his daughter’s preference and annulled the marriage. However, her family was placed under pressure by her in-laws’ social influence in the community, who enlisted the support of affluent Rajput families in the village. The in-laws wielded power and persuaded caste chiefs from 12 villages to convene a panchayat meeting, during which the girl stated her desire to finish her education rather than be married. Her wishes were dismissed by the panchayat, and instead she and her family received a warning not to try to annul the marriage again.

Consequences of child marriage

Child marriage has both physical and mental repercussions on the minor who enters into marriage. Girls are disproportionately harmed as the entire burden of household responsibilities, care work and early pregnancies fall upon their shoulders; but boys are also harmed by having to take on duties of supporting a family at an early age.

- **Child marriage perpetuates poverty**

The primary negative consequence of child marriages, which impacts not just the individual girl but the entire society, is the promotion of a cycle of poverty. Investing in adolescent girls is one of the most impactful ways to tackle poverty; when adolescent girls are empowered, educated and healthy, they are able to pursue their dreams, earn higher wages and have healthier families.⁷ Child marriages perpetuate domestic violence and female subjugation, and they reduce opportunities for paid work for women. Delaying marriage can help create a larger pool of women leaders and allows girls to complete their education and acquire vocational and life skills.

- **Physical and health consequences**

Child marriages can lead to early pregnancies, and this can translate into obstetric complications, pregnancy-induced hypertension, higher mortality rates, premature delivery, high incidence of miscarriages and stillbirths, and complications for the newborn baby including lower weight at birth. Girls are more likely to suffer from sexually transmitted diseases including HIV and AIDS due to a lack of awareness about contraceptives.

- **Domestic violence**

There is a strong correlation between CEFM and domestic violence. As younger women and girls lack negotiation skills, they are less able to exit an abusive marriage and they do not have the economic capacity to leave their husbands.

- **Loss of education**

When a girl gets married, she is often expected to drop out of school to look after the home, children and extended family. It is important to note that access to education affects marriage timing more than marriage affects access to education. Most girls drop out of school and then get married.⁸

⁷ UN Foundation, Smalley Hannah, *3 Essential Issues to Empower Women and End Poverty*, 2016, <https://unfoundation.org/blog/post/3-essential-issues-to-empower-women-and-end-poverty/>

⁸ *Girls Not Brides, Child Marriage and Education*, <https://www.girlsnotbrides.org/learning-resources/child-marriage-and-education/>



Further, once married a girl will find it next to impossible to return to school or to acquire an education. Hence, ensuring good quality education for girls is central to the prevention of child marriages.

- **Child trafficking**

Child trafficking for the purpose of marriage is in demand in northern Indian states of Haryana, Punjab, Rajasthan and Uttar Pradesh where there is a deficit of brides due to the skewed sex ratio. Girls from Jharkhand, West Bengal, and the northeastern states are at risk of being trafficked as brides. There is no official government data on the numbers of girls who have been trafficked specifically for marriages.

According to a study conducted by WPC in 2017 in Meham, a city in the Rohtak district in Haryana, bride trafficking is the predominant reason for trafficking into the state.⁹ Due to the low sex ratio in the state, many men (especially those who had less property or low educational qualifications) are unable to marry women from their communities. The study found that men paid money (ranging from Rs. 5000 to Rs. 60,000) to get women from other states as their wives. Women were bought from states such as Odisha, Madhya Pradesh, Chhattisgarh and West Bengal to marry the men in Haryana, many of whom were under 18 years of age.

Many of these girls and women faced violence and neglect in their matrimonial homes. Some were not allowed to step out of the house; they were kept locked in and were not allowed to interact with their neighbours or their natal families, and were treated as domestic labour. In some cases, the women were abandoned or threatened with abandonment if they failed to give birth to a male child; thereby perpetuating a vicious cycle of a skewed sex ratio.

DATA ANALYSIS AND INTERPRETATION

India is home to the largest number of child brides in the world, and one third of the global total number of child brides is in India. There has been considerable improvement in reducing child marriages in India as per the official National Family Health Survey (NFHS) data from the years 2006 to 2020. Official data has shown a trend towards improvement in cases of child marriage across India from 2015 onwards. As per the NFHS 4 data (2015–2016), 26.8% girls are married before the legal age of 18, which is an improvement over the situation in 2005–2006 when almost half of all girls were married before the age of 18. The latest NFHS 5 data (2019–2020) does not yet provide all India figures; however, the data released for some states indicate that child marriage rates have continued to reduce (except in Assam where cases have risen).

Table 1: NFHS data on child marriage

Women aged 20–24 years married before age 18 years (%) – rural and urban	NFHS 4 (2015–2016)	NFHS 5 (2019–2020)
West Bengal	41.6	41.6
Assam	30.8	31.8
Bihar	42.5	40.8
Gujarat	24.9	21.8
Karnataka	21.4	21.3
Maharashtra	26.3	21.9
Telangana	26.2	23.5
Uttar Pradesh	21.1	15.8
Odisha	21.3	20.5

Note: Information about the Union Territory of Delhi is not available and not collected by NFHS.

Source: Government of India, Ministry of Health and Family Welfare¹⁰

⁹ WPC, unpublished, Available on request

¹⁰ Ministry of Health and Family Welfare, *National Family Health Survey (NFHS) 4, 2015–2016*, <http://rchiips.org/nfhs/pdf/NFHS4/India.pdf>; *National Family Health Survey (NFHS) 5, 2019–2021*, http://rchiips.org/nfhs/NFHS-5_FCTS/India.pdf



Key statistics for CEFM in India



of girls in India are married before their 18th birthday.¹¹



of boys are married before their 21st birthday.¹²



India has the highest absolute number of girls and women who were married or in a union before the age of 18 in the world – 15,648,000.¹³



Child marriage is more prevalent in rural areas than in urban areas.¹⁴



In general, rates of child marriage are highest in the central and western parts of India. For instance, child marriage rates in districts of Rajasthan and Bihar range from 47% to 51%.¹⁴

According to NFHS 4 data (2015–2016),¹⁵ Bihar had the highest rate of child marriage in India. In 2019–2020, West Bengal reported the highest numbers of cases of child marriage followed by Bihar.¹⁶ States with high rates of child marriage are also known to be source states of child trafficking. Child trafficking for the purpose of marriage is a reality, with men from richer states such as Haryana and Punjab seeking brides due to the skewed sex ratio in these states.

We must consider that the NFHS data may not reflect reality. While the official data translates into millions of child marriages taking place, it is likely to be much higher. Because the NFHS data is based on self-reporting, it is unlikely that families provide the correct information to the data collectors as there is growing awareness of the law, and respondents would prefer to hide the fact of having arranged child marriage. However, while the success rate in reducing cases of child marriage may be exaggerated in the NFHS data, it does indicate a trend towards improved figures until 2020.

The National Crime Records Bureau data on numbers of cases filed under the PCMA 2006 in the year 2020 shows an increase of about 50% from the previous year (785 cases were recorded). The states of Karnataka followed by Assam recorded the highest numbers of cases (see Table 2).

Normally, very few cases are filed under the PCMA, as a child would find it extremely difficult to report a marriage arranged by their parents/guardians. The few cases that are filed are normally those filed by parents or guardians where the child elopes.¹⁷ However, there may be an emerging trend of children using the law, for example, in 2021 a 15-year-old girl filed a case against her parents for forcing her to marry in Bangalore;¹⁸ in 2020 a 16-year-old girl called 181 (a helpline for women and girls in distress) when her parents were trying to forcibly marry her in New Delhi;¹⁹ and in 2020 the police helpline number for women and girls 1098 was used by a number of minor girls who were being coerced into getting married in Bangalore.²⁰

The distress caused by Covid-19 may provide an explanation as to why more child marriages have been arranged, even in metropolitan cities, and the increase in reporting by minors themselves.

11 Ministry of Health and Family Welfare, *National Family Health Survey (NFHS) 5, 2019–2021*, http://rchiips.org/nfhs/NFHS-5_FCTS/India.pdf

12 Ministry of Health and Family Welfare, *National Family Health Survey (NFHS) 5, 2019–2021*, http://rchiips.org/nfhs/NFHS-5_FCTS/India.pdf

13 *Girls Not Brides, Child Marriage Atlas, India*, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/india/>

14 *Girls Not Brides, Child Marriage Atlas, India*, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/india/>

15 Ministry of Health and Family Welfare, *National Family Health Survey (NFHS) 4, 2015–2016*, <http://rchiips.org/nfhs/pdf/NFHS4/India.pdf>

16 Ministry of Health and Family Welfare, *National Family Health Survey (NFHS) 5, 2019–2021*, http://rchiips.org/nfhs/NFHS-5_FCTS/India.pdf

17 See for example: Partners for Law in Development, *Child Marriage Prosecutions in India: Case Law Analysis of Actors, Motives and Outcomes 2008–2017, 2021*, https://www.academia.edu/5008712/Child_Marriage_Prosecutions_in_India_Case_Law_Analysis_of_Actors_Motives_and_Outcomes_2008_2017

18 Times of India, *Bengaluru girl, 15, files complaint against parents for marrying her off*, 2021, <https://timesofindia.indiatimes.com/city/bengaluru/girl-15-files-complaint-against-parents-for-marrying-her-off/articleshow/80591106.cms>

19 Times of India, *Delhi: Parents try to marry off minor 'before they die'*, 2020, <https://timesofindia.indiatimes.com/city/delhi/parents-try-to-marry-off-minor-before-they-die/articleshow/76633535.cms>

20 New Indian Express, *Bengaluru sees 40 child marriages since Jan 2020*, 2021, <https://www.newindianexpress.com/cities/bengaluru/2021/may/23/bengaluru-sees-40-child-marriages-since-jan-2020-2306363.html>

Table 2: State cases filed under the PCMA 2006 in 2020

State	Cases
Assam	138
Bihar	5
Gujarat	15
Karnataka	184
Maharashtra	50
Odisha	24
Tamil Nadu	77
Telangana	60
Uttar Pradesh	12

Source: National Crime Records Bureau, 2020²¹

In India in 2020 there were zero convictions under the PCMA in metropolitan cities, and the conviction rate is 16.7% in non-metropolitan cities and states. **This indicates that child marriage cases are either not reported or not investigated in metropolitan cities (despite articles appearing in newspapers showing their prevalence) and an overall low conviction rate in PCMA cases in non-metropolitan cities.**

THE IMPACT OF COVID-19 ON CHILD MARRIAGES IN INDIA

The impact of Covid-19 has been disastrous for children globally. As schools shut down, jobs were lost and household incomes reduced, families were likely to push their daughters into early marriages to avoid costs associated with their upbringing and save costs incurred on marriages. In its *Global Girlhood Report 2020*, Save the Children noted that 2020 could have been a year of “irreversible setbacks and lost progress” for girls and predicted that 1 million girls are expected to become pregnant due to child marriages.²² This increase will bring the total number of child marriages to around 12.5 million in 2020. According to UNICEF, between 2021 and 2030 up to 10 million additional girls are in danger of child marriage.²³ The United Nations Population Fund (UNFPA) believes that the Covid-19 pandemic will lead to an additional 13 million child marriages worldwide between 2020 and 2030. Delayed programmes, on top of growing economic hardships globally, could result in an estimated 13 million more child marriages over 10 years.²⁴

Following the spread of Covid-19, India imposed one of the strictest lockdowns in the world on 24 March 2020 for a period of 21 days. On 14 April 2020, the lockdown was extended for another 19 days. This policy decision made exceptions only for “essential services” listed in an order issued by the Ministry of Home Affairs.²⁵ The list of essential services excluded schools, Anganwadi centres, and sexual and reproductive health and rights services.

²¹ Crime in India 2020, <https://ncrb.gov.in/en/Crime-in-India-2020>

²² Save the Children, *The Global Girlhood Report 2020: How COVID-19 is putting progress in peril*, 2020, <https://resourcecentre.savethechildren.net/document/global-girlhood-report-2020-how-covid-19-putting-progress-peril/>

²³ UNICEF, *10 million additional girls at risk of child marriage*, 2021, <https://www.unicef.org/press-releases/10-million-additional-girls-risk-child-marriage-due-covid-19>

²⁴ UNFPA, *Millions more cases of violence, child marriage, female genital mutilation, unintended pregnancy expected due to the COVID-19 pandemic*, 2020, <https://www.unfpa.org/news/millions-more-cases-violence-child-marriage-female-genital-mutilation-unintended-pregnancies>

²⁵ Ministry of Health and Family Welfare, Annexure to MHA Order Number 40-3/2020 dated 24 March 2020, https://www.mohfw.gov.in/pdf/Annexure_MHA.pdf (accessed on 17 May 2021)



Although there is no official data yet available on the numbers of child marriages that were solemnised during the pandemic, however, the “push” factors that accelerate child marriages were in place, specifically lack of access to education, reduced access to sexual and reproductive health and rights services, and loss of livelihoods. The impact of Covid-19 on girls in India has been disastrous for the following reasons:

- **Interruption in education and the digital divide**

With schools closed, the progress made by decades of work for child protection and development took a massive hit. The closure of 1.5 million schools in India due to the lockdown impacted 247 million children, in addition to the over 6 million girls and boys who were already out of school before the pandemic began.²⁶ Evidence from the 2013 Ebola outbreak shows that the probability of returning to school greatly diminishes the longer girls are kept out.²⁷ In New Delhi, the government reported that close to 15% of students in government schools have not been “traceable” since the initial lockdown in March 2020.²⁸

With the lockdown, existing inequalities were amplified. As educational institutions had to shift towards an online education system, this sudden paradigm shift from offline to online classes led to several challenges for teachers and students, particularly for those coming from marginalised groups. Firstly, not everyone can easily adjust to the “new normal” of digital learning. A recent report by the Digital Empowerment Foundation indicates that 30% of India’s population lacks basic literacy and closer to 90% for digital literacy.²⁹ Secondly, online methods of teaching are less effective and according to the Azim Premji Foundation have led to a “regression in learning”.³⁰ This regression is visible not only in government schools but also in private schools.

- **Control over girls’ sexuality**

With the closure of schools and disruption in education due to the pandemic, parents were more worried about controlling their daughters’ sexuality and hence resorted to marrying them early to preserve their family honour. Parents constantly have a fear that their daughters will either enter into a relationship or get pregnant before marriage. In a conservative society, the social stigma associated with a pregnancy before marriage or a “love marriage” (as opposed to an arranged marriage) is greater than that associated with child marriage. The widespread notion of family honour pressurises families to marry their daughters early to preserve the girl’s virginity. As losing your virginity before marriage is considered to be a religious sin, girls are married early, as it is believed that their husbands will protect them from immoral behaviour and sexual violence.

- **Lack of nutrition**

When families lose their jobs they confront the scarcity of food and other fundamental needs. Often women and girls eat last due to gender norms that expect women to serve men and family elders first, and then eat themselves. This was compounded by the fact that government schemes to provide meals at school were stopped due to lockdown. When girls do not have access to midday meals in schools and their families struggle to afford rations, this affects their physiological development. The increased strain on girls to care for their families has a direct influence on their emotional development. As patriarchal families return to their former gender norms of females working in the home, this will hinder them and negatively impact their long-term health.

26 UNICEF study cited in Times of India, *Closure of 1.5 million schools due to COVID-19 impacted 247 children India*, 2021, <https://timesofindia.indiatimes.com/home/education/news/closure-of-1-5-million-schools-due-to-covid-19-impacted-247-million-children-in-india-unicef-study/articleshow/81325064.cms>

27 Affoum N and Recavarren ISR, *Child marriage: the unspoken consequence of COVID-19*, World Bank Blogs, 2020, <https://blogs.worldbank.org/developmenttalk/child-marriage-unspoken-consequence-covid-19>

28 Press Trust of India, *Delhi: 15% children in govt school 'not traceable' since lockdown*, Business Standard, 2020, https://www.business-standard.com/article/current-affairs/delhi-15-students-in-govt-schools-not-traceable-since-lockdown-120081000569_1.html

29 Cited in The Financial Express, *A look at India's deep digital literacy divide and why it needs to be bridged*, 2018, <https://www.financialexpress.com/education-2/a-look-at-indias-deep-digital-literacy-divide-and-why-it-needs-to-be-bridged/1323822/>

30 Azim Premji Foundation, *Loss of Learning during the Pandemic*, Bengaluru, Azim Premji University, 2020, http://publications.azimpremjifoundation.org/2490/1/Loss_of_Learning_during_the_Pandemic.pdf



- **Lack of reproductive healthcare available leading to unwanted pregnancies**

As the health system gradually collapsed in India due to the huge increase in Covid-19 patients, girls found it difficult to access hospitals for reproductive care or abortions. Getting married was an easier solution than facing the stigma of an unplanned pregnancy outside of marriage. Although there is no official data yet, estimates place the number of unwanted pregnancies in India during the first phase of the lockdown at around 23 lakhs (2.3 million).³¹

- **Increase in domestic violence**

During the lockdown reported incidents of domestic violence increased twofold, according to the National Commission for Women. It received 2,043 complaints in June 2020, the highest seen in eight months.³² As families are forced to stay indoors and girls and women cannot go out and ask for help, cases of domestic violence have shot up. Additionally, access to services established under the Protection of Women from Domestic Violence Act 2005 (such as protection officers, service providers, counsellors) and to courts was restricted during the first phase of the lockdown. Inability to access the services that are in place to help prevent cases of CEFM will lead to an increase in child marriages; equally, domestic violence at home pushes girls into eloping and running away from the natal family.

- **Abandoned children**

The death of both parents (particularly in the second wave of Covid-19 in India) led to abandoned and orphaned children, many of whom are at high risk of sexual abuse and violence. Girls, as is the norm, are more vulnerable to sexual abuse and violence than boys. According to the National Commission for Protection of Child Rights more than 1,700 children lost both their parents during the second wave of the pandemic.³³

Domestic violence, frequent pregnancy, inability to complete their education or develop a wider social network, and financial dependence perpetuates a vicious circle in which girls are considered a burden on a family. Because of Covid-19, shrinking incomes and the diversification of funds spent on combating the virus, it is expected that more and more girls will be pulled out of school and either trafficked for marriage or sex work or married early to ease the financial burden on the natal family. There is no official data yet on the extent of the increase in child marriages in India, but the long-term social consequences of Covid-19 are likely to be enormous.

THE LEGAL FRAMEWORK

International laws

Article 1 of the Convention on the Rights of the Child 1989 (ratified by India in 1992) defines a child as below the age of 18 years (unless under the law applicable to the child the threshold of adulthood is lower) and consequently child marriage is a marriage of any person below the age of 18.

It is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 that contains clear provisions against child marriage. India ratified CEDAW in 1993. Article 16 (2) of the CEDAW Convention states:

“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.”

³¹ Times of India, 23 lakh unintended pregnancies likely due to lockdown, 2020.

<https://timesofindia.indiatimes.com/city/nagpur/23l-unintended-pregnancies-likely-due-to-lockdown/articleshow/76916167.cms>

³² Hindustan Times, NCW received 2,043 complaints of crimes against women in June, highest in 8 months, 2020.

<https://www.hindustantimes.com/india-news/ncw-received-2-043-complaints-of-crimes-against-women-in-june-highest-in-8-months/story-XXf69w9inWi0dSbw3PhTjJ.html>

³³ Hindustan Times, Covid orphaned 1,700 children, another 7,400 lost one parent, Supreme Court told, 2021.

<https://www.hindustantimes.com/india-news/covid-orphaned-1-700-children-another-7-400-lost-one-parent-supreme-court-told-101622476669678.html>



India has entered a reservation on Article 5 (cultural and traditional practices that discriminate against women) and Article 16 of CEDAW (on the betrothal of a child and compulsory registration of marriages). India's reservations emerged from a policy of non-interference in the personal affairs of any community without its initiative and consent. However, this policy has gradually eroded – in the case “Independent Thought vs Union of India” (2017), the Supreme Court of India recommended that the PCMA 2006 have overriding effect over personal laws and amendments be made to the personal laws:

“After the PCMA was enacted both the Hindu Marriage Act, 1955 and the Dissolution of Muslim Marriages and Divorce Act, 1939 also should have been suitably amended, but this has not been done. In my opinion, the PCMA is a secular Act applicable to all. It being a special Act dealing with children, the provisions of this Act will prevail over the provisions of both the Hindu Marriage Act and the Muslim Marriages and Divorce Act, in so far as children are concerned.” Paragraph 19 of Independent Thought; Justice Madan Lokur.³⁴

In Joint General Recommendation 31 (2014),³⁵ the CEDAW Committee and the Committee on the Rights of Child on Harmful Practices recommended to state parties that:

“...a minimum legal age of marriage for girls and boys, with or without parental consent, is established at 18 years. When a marriage at an earlier age is allowed in exceptional circumstances, the absolute minimum age must not be below 16 years, the grounds for obtaining permission must be legitimate and strictly defined by law and the marriage must be permitted only by a court of law upon the full, free and informed consent of the child or both children, who must appear in person before the court.”

Therefore, international law recognises that in exceptional circumstances if a child is mature and at least 16 years of age, the marriage may be solemnised.

The general recommendation also instructs state parties to ensure that:

“...the process of drafting legislation is fully inclusive and participatory. For that purpose, they should conduct targeted advocacy and awareness-raising and use social mobilization measures to generate broad public knowledge of and support for the drafting, adoption, dissemination and implementation of the legislation.”

It is important to note that in August 2020 the Prime Minister of India made an announcement to raise the legal marriageable age of girls from 18 to 21 years to tackle issues of population control, early pregnancies, maternal mortality, and lack of opportunities for girls in education and economy. A task force was set up thereafter to consider submissions made by NGOs and adolescent girls' groups and experts on the issue, and numerous objections were made to raising the age of marriage for girls to 21:

- Firstly, a legal amendment to increase the age to 21 will not work unless adolescent girls are empowered and self-reliant through education and work opportunities. Hence, ensuring an enabling environment is more important.
- Since child marriages are bound to increase due to increasing impoverishment caused by the pandemic, the amendment will criminalise poorer sections of society.
- Education on sexuality is necessary to help change mindsets and reduce the association of sex with marriage alone.

Law enforcement has had little success in preventing child marriages from taking place in the absence of an enabling environment. The elimination of child marriage by 2030 is a target under the Sustainable Development Goals (SDGs). Target 5.3 aims to “eliminate all harmful practices, such as child, early and forced marriage and female genital mutilations” by 2030. 193 countries have agreed to end child marriages by the year 2030. With less than a decade remaining to meet the SDG goal and with the onslaught of Covid-19, urgent action is required. In the absence of determined efforts by governments it is unlikely this goal will be fulfilled.

³⁴ Supreme Court of India, *Independent Thought vs Union Of India* on 11 October, 2017, <https://indiankanoon.org/doc/87705010/>

³⁵ CEDAW and UN Committee on the Rights of the Child, *Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices*, 2014, <https://reliefweb.int/report/world/joint-general-recommendation-general-comment-no-31-committee-elimination-discrimination>



National laws

The Prohibition of Child Marriage Act (PCMA) 2006 is the primary legislation in force for stopping child marriages from taking place in India. The PCMA was an amendment of the Child Marriage Restraint Act 1929, which made the age of marriage 15 for girls and 18 for men. In 1978, the Child Marriage Restraint Act was amended to make 18 the age of marriage for women and 21 the age of marriage for men. The 1978 act was largely punitive in nature and did not create a network of stakeholders who could work towards ending child marriages. Also, a child marriage, once solemnised, remained valid and was not void or voidable. A court could order an injunction order prior to the solemnisation of child marriage, but once solemnised the marriage was valid.

For this reason, there was a need for amendments in the child marriage laws. The PCMA retained 18 as the age of marriage for women and 21 as the age of marriage for men. However, several new provisions were introduced, salient amongst which are that:

- Child marriages are voidable at the option of either contracting party, but only before the man or woman filing the petition completes two years of attaining majority at age 18 (i.e. before they reach age 20 years) (section 3).
- The PCMA protects the interests of female child brides by authorising the district court to pass orders for maintenance or residence for the female to be paid by the male (if he is 18 years of age or above) or his parents or guardians while granting a decree of nullity for annulling the child marriage. Provision for maintenance/residence for female parties is provided in section 4, while the legitimacy of children born is assured under section 6 of the PCMA.
- Section 12 makes certain kinds of child marriages void. These are if the child is taken or enticed out of the keeping of the lawful guardian, if the child is by force or deceit compelled to go to any place, or if the child is trafficked/sold for marriage or used for immoral purposes after marriage.
- The solemnisation of child marriage is a penal offense (unless there was reason to believe the marriage was not a child marriage and this is proved) as is promoting and permitting solemnisation (sections 10 and 11). But no woman can be punished with imprisonment.
- Punishment for male adults (18+) marrying a child is two years of rigorous imprisonment or a fine (section 9).
- Offenses under the PCMA are cognisable and non-bailable (section 15).
- The magistrate has the power to issue an injunction for preventing child marriage without giving notice to the other party in case of any urgency (section 13 (6)).

The PCMA created an office of the child marriage prohibition officers (CMPO) under section 16 of the act. The CMPOs have the following duties:

- To prevent solemnisation of child marriages by taking such action as they deem fit.
- To collect evidence for the effective prosecution of persons contravening the provisions of this act.
- To advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages.
- To create awareness of the negative consequences of child marriages.
- To sensitise the community on the issue of child marriages.
- To furnish such periodical returns and statistics as the state government may direct.
- To discharge such other functions and duties as may be assigned to them by the state government.

Please refer to Annexure 1 for a list of CMPOs and their contact details in six of the ten states covered by the SLIC – EU project.³⁶

³⁶ The project aims to defend the rights of marginalized people during the times of Covid-19 and beyond in 10 high-priority states of Delhi, Maharashtra, Assam, Orissa, Tamil Nadu, Karnataka, Telangana, Uttar Pradesh, Gujarat and Bihar. The inception of the project was December 2020 and from then until now more than 90 meetings at the state, national and district on various issues have been covered; the capacity of lawyers, paralegals, activists and community collectives have been built; and 90 fact-finding exercises have been done. The outcome of the meetings, fact-finding exercises and campaigning has helped us realise the urgent need to again reach out to the girls and their families and local grassroots organisation to train them on child marriage and advocate on the same issues with international NGOs and the government.



The state government may also request a respectable member of the locality with a record of social service, an officer of the gram panchayat or municipality, an officer of the government or any public sector undertaking, or an office-bearer of any NGO to assist the CMPO.

Under section 13 of the PCMA, a magistrates' court has the power to issue an injunction order against a child marriage taking place. An application for an injunction order may be made by the CMPO, the complainant, or any person. The court may also take *suo moto* cognisance. In case of urgency, the court may issue an interim order without giving any notice to the party against whom the injunction order is issued. Noncompliance with the injunction order leads to imprisonment or a fine – however, no woman is punished with imprisonment.

Please refer to Annexure 2 for a sample application for an injunction order against child marriage.

The PCMA is not without its limitations. The age of marriage differs for girls and boys and is based on an outdated notion that men need to study more or gain work experience prior to marriage, which is not required for girls. Secondly, the law makes child marriages voidable and not void *ab initio* – which reflects social reality but also recognises child marriages as valid. As the law is dependent on the creation of the post of the CMPO, adequate budget allocation is required for its successful implementation, which many states have not provided for.

Recent case laws under the PCMA of the higher judiciary

- **No punishment for a male adult between 18 and 21 years of age for marrying a female adult**

The Supreme Court of India in 2019 dealt with the “Hardev Singh vs Harpreet Kaur” case, where the respondent (the party who is required to answer a petition for a court order) and appellant (usually the primary applicant) who disagrees with a decision made and submits an appeal) married without the consent of their parents and the parents of the respondent (wife) filed a first information report (FIR) under section 9 of the PCMA stating he is an adult. The Supreme Court noted that the respondent was a major at the time of marriage. The Supreme Court interpreted section 9 of the PCMA to read that the words “male adult above eighteen years of age, contracts a child marriage” to mean “male adult above eighteen years of age marries a child”. The Supreme Court also clarified this judgment is not a comment on the validity of marriages entered into by a man aged between 18 and 21 years and an adult woman. In such cases, the man may have the option to get his marriage annulled under section 3 of the PCMA.

- **There are contrary judgments over whether Hindu and Muslim laws are in consonance with the PCMA or not**

In the case “Independent Thought vs Union of India” (2017) it was made clear that:

“After the PCMA was enacted both the Hindu Marriage Act, 1955 and the Dissolution of Muslim Marriages and Divorce Act, 1939 also should have been suitably amended, but this has not been done. In my opinion, the PCMA is a secular Act applicable to all. It being a special Act dealing with children, the provisions of this Act will prevail over the provisions of both the Hindu Marriage Act and the Muslim Marriages and Divorce Act, in so far as children are concerned.” Paragraph 19 of Independent Thought; Justice Madan Lokur.³⁷

However, in the case “Shoukat Hussain and Anr vs the State of Punjab” (2021), the High Court of Punjab and Haryana granted protection to a 36-year-old man who married a 17-year-old minor with her consent. Both parties to the marriage were Muslim. The High Court held as follows:

“Article 21 of the Constitution of India provides for the protection of life and personal liberty and further lays down that no person shall be deprived of his or her life and personal liberty except as per the procedure established by law. The Court cannot shut its eyes to the fact that the apprehension of the petitioners needs to be addressed. Merely because the petitioners have got married against the wishes of their family members, they cannot possibly be deprived of the fundamental rights as envisaged in the Constitution of India.”

³⁷ Supreme Court of India, *Independent Thought vs Union Of India* on 11 October, 2017, <https://indiankanoon.org/doc/87705010/>



Secondly, regarding Muslim marriages, the High Court held that marriage of a Muslim girl is governed by the personal law of the Muslims and, referring to Principles of Mohammedan Law by Sir Dinshah Fardunji Mulla, it was held that the petitioner, being 17 years of age, was competent to enter into a contract of marriage.

- **No prosecution of husband in order to meet the ends of justice**

In the case “Shalini @ Janvi vs State of Uttar Pradesh” (2019), the petitioner (minor girl, 16 years) testified that her father was trying to sell her for Rs. 50,000 to a man in Hyderabad and her grandmother had threatened to kill her. She told the court that she met a man called Anil Kumar, who lives in the same village, and he agreed to marry her. She informed the court that she married out of her own volition and does not want to leave Anil Kumar. The High Court referred to the Hindu Marriage Act and the PCMA to observe that the marriage is not void under PCMA as the petitioner in her section 164 statement has asserted her marriage. The High Court quashed the allegations against Anil Kumar noting that:

“From the above-noted evidence, it becomes evident that petitioner No.1 had neither been kidnapped nor abducted. By her own repeatedly asserted statements, she has stated that she was to be sold by her father. She hails from a disturbed and broken family. It is under such circumstances; she got married to Anil and wants to live with him as his wife. She has neither been kidnapped nor abducted. In such circumstances, it would be against the interests of substantial justice to rule that petitioner No.1 had been kidnapped or abducted by accused Anil/petitioner No.2.”

- **In cases of elopement, each case needs to be analysed based on its facts and circumstances**

In the case “Diya vs State of Punjab and Ors” (2020), the High Court noted that it is approached every day with cases of runaway couples seeking protection. In this case, the girl eloped with a 21-year-old man, and her parents filed a case of kidnapping along with other offences. The High Court of Chandigarh noted that:

“As regards protection to be given to the minors/children or even a major, I have already observed that in appropriate cases, depending upon factual position, the same ought to be provided to them to protect their life. Albeit, one has to sometimes tread cautiously in the case of [a] minor to provide protection, as invariably, the protection granted by this Court may be used as a shield by the accused to project it as immunity from the statutory offences, as noted above. Therefore, each case will have to be examined on its own facts and circumstances.”

In this case, the Superintendent of Police at Mohali was directed to look into the representation and ascertain the threat perception of the petitioners.

- **Instructions regarding issuance of FIRs in PCMA cases**

The High Court of Punjab and Haryana in the case of “Gagandeep Singh and Another vs State Of Punjab and Others” (2020) dealt with a writ petition³⁸ under Article 226 for the protection of the life and liberty of the petitioner, who had entered into a marriage with a minor against the wishes of her parents. The petitioners thereafter withdrew the petition.

The High Court sought information from the Crimes Against Women (CAW) Cell in Haryana on the issuance of FIRs in PCMA cases. It was informed that FIR had been registered in 39 out of the 104 complaints received during the year 2020, and that the rest of the complaints were not registered because either the girls were found to be above 18 years of age or the marriage was not held or the complaint was found to be false. The High Court issued the following instructions regarding issuance of FIRs:

“(i) that appropriate action is taken for registration of FIR under Section 9 of the Prohibition of Child Marriage Act, 2006 in cases where male adult person aged more than 18 years solemnises marriage with a minor girl less than 18 years of age;

³⁸ In common law, a writ is a formal written order issued by a body with administrative or judicial jurisdiction; in modern usage, this body is generally a court. Warrants, prerogative writs, subpoenas, and Certiorari are common types of writ, but many forms exist and have existed



(ii) that appropriate action is taken for registration of FIR under Section 4/Section 6 of the Protection of Children from Sexual Offences Act 2012 where such male adult person having solemnised marriage with a minor girl less than 18 years falling within the definition of 'Child' under Section 2(a) of the Prohibition of Child Marriage Act, 2006 had with such minor girl sexual intercourse falling within the definition of penetrative sexual assault/aggravated penetrative sexual assault under Section 3/Section 5 of the Protection of Children from Sexual Offences 13 of 14 Act, 2012 as the case may be;

(iii) that appropriate action is taken for registration of FIR under Section 10 of the Prohibition of Child Marriage Act, 2006 where any Pujari/Pandit of Mandir, Molwi/Qazi of Masjid, Granthi of Gurudwara and Paadari of Girjaghar in the States of Punjab, Haryana and U.T. Chandigarh conducts marriage of a male adult person of the age of 18 years or more with a minor girl less than 18 years of age falling within the definition of 'Child' under Section 2(a) of the Prohibition of Child Marriage Act, 2006; and

(iv) that appropriate action is taken for registration of FIR against other persons as provided under Sections 10 and 11 of the Prohibition of Child Marriage Act, 2006, as may be warranted by the facts and circumstances of the case."

- **Consent of a minor in child marriage is insignificant**

In the case of "Ranjeet Singh vs State of Punjab and Ors" (2021), the High Court dealt with the release of a minor detained in a Nari Niketan who had married out of her own volition to a man belonging to another caste. In this case, the High Court held that the consent of a minor in a case of child marriage is insignificant. The High Court noted that the minor refused to go back home to her father but said that she was not facing any difficulties in the Nari Niketan. Hence, she was directed to remain in the Nari Niketan until she attains the age of majority or is willing to return to her parental home.

- **Compromise is not possible even when the victim girl files an affidavit for compromise in a Protection of Children from Sexual Offences (POCSO) and PCMA case**

In the case of "Sankar vs State of Tamil Nadu" (2021), the accused argued that the female prosecutor was above 18 years of age and was in a consensual live-in relationship with him. The testimony of the prosecutor was that she was below 18 years of age and had sexual relations and married him due to threats and coercion. He suppressed information of his earlier marriage from her. She had two children with him. The prosecutors ought to compromise on the matter in court and filed an affidavit for the compromise. However, the High Court noted that as the case was also a case of aggravated penetrative assault under the POCSO Act, no compromise was possible.

- **Marital rape of a minor cannot be quashed under section 482 of the Criminal Procedure Code**

In the case of "Manohar vs the State of Karnataka" (2020), the petitioner argued that he was misled by the complainant's relatives and parents that she was a major. The petitioner was searching for a wife, and he was informed that the complainant had passed her Class 10 but thereafter had not completed her education. The complainant filed a case under both PCMA and POCSO. The High Court of Karnataka made the following observations while denying quashing of charges:

"The concept of marital rape also would have to be considered in that a husband cannot force himself on his wife against her wishes. An act of rape being one of the most heinous offenses, defiling a person both mentally and physically, cannot be countenanced on the basis of the arguments advanced; any sexual act without the consent of the other party be it a man or woman would amount to rape subject to the same being proved during the course of the trial."

Summary of the judgments

- Primarily cases involving eloping reach the courts, rather than cases where parents and guardians have arranged the child marriages. This indicates that child marriage is a social problem and is acceptable to large sections of society, unless it is consensual. Consequently, there is a need to empower minors to be able to speak up against being pressurised to get married.



- Courts adjudicate elopement cases based on the facts and circumstances of each case. **Acquittals in cases of consensual relations are done by referring to section 3 of the PCMA, which makes marriages voidable (and not void) by referring to personal laws, or by referring to Article 21 of the Constitution and citing basic human rights doctrines.** Hence, the courts are aware of the abuse of the PCMA and are capable of meeting the ends of justice by protecting men and boys from undue harassment. However, the testimony of the girl is of utmost importance in such cases; if she alleges sexual abuse, it is difficult to retract the statement and thereafter attempt a compromise. Hence, in cases where the girl may be pressurised by her parents to file a false case against her husband or boyfriend, her testimony and oral statements are critical. In cases where statutory rape is alleged, consent should be considered as a mitigating factor, and more options should be created for the judiciary to acquit young men who have eloped with an adolescent (close to the age of majority) out of her own volition.

Recommendations

- Comprehensive sex education needs to be provided in schools to inform children of the dangers of early marriage and early pregnancies at an early age (10-11 years).
- An amendment is required in the PCMA stating that the act prevails over all personal laws. Such an amendment would be in accordance with the judgment of “Independent Thought vs Union of India” and would end conflicting decisions relating to personal laws and child marriage.
- The condition of Nari Niketans and children’s homes where girls who are involved in elopement cases are housed needs to be improved to provide adequate vocational and life skills so that they have more options upon reaching the age of majority.
- More awareness needs to be provided through schools, Anganwadis, communities and change makers in the communities to attempt to change the mindset that girls, young women and women are not the lesser sex, and if given the opportunity they can excel.
- Non-traditional livelihood opportunities must be provided to the girls so that they can be empowered to be at the centre stage of the family.

The Protection of Children from Sexual Offences (POCSO) Act 2012 was enacted to protect children from all forms of sexual offenses. The act made 18 years the age of consent for all children (boys and girls) with no exemptions. Consequently, marriage (which was earlier an exemption in cases of sexual activity with a child) could no longer be used as an excuse. The Supreme Court affirmed the POCSO Act in 2017 in “Independent Thought vs Union of India” (2017) SC 4904. Prior to this decision of the Supreme Court, sex with a wife aged 16 or 17 years of age was not rape (section 375 Indian Penal Code 1860).

The POCSO Act is only applicable to child survivors and adult offenders. In case a child perpetrates a sexual offense on an adult or a child, then the child will be tried under the Juvenile Justice (Care and Protection of Children) Act 2000. Section 19 of the POCSO Act imposes an obligation on a person who has any apprehension or knowledge that an offense under the act has been committed to report it to the local police or Special Juvenile Police Unit (SJPU). The act imposes punishment for failure to report or record a case under section 21 with imprisonment of up to 6 months or fine, or both – this is a non-cognisable offence. Any false complaints made in good faith are not liable under the act; however, those made to humiliate, threaten or defame someone are punishable (section 22). This offence does not apply to a child.

The Juvenile Justice (Care and Protection of Children) Act 2015 deals with children who are either in conflict with the law (Chapter IV) or in need of care and protection (Chapter VI). A child who is given in marriage would fall under the category of a child in need of care and protection. Section 75 of the Juvenile Justice Act deals with punishment for cruelty to a child. Cruelty is defined as follows:

“Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both”



Rule 55 of the Model Juvenile Justice Act Rules 2016 states:

“For the purposes of section 75 of the Act and this rule, giving a child in marriage shall be considered as cruelty to the child. On receipt of information of risk of a child being given in marriage, the police or any officer authorized under the Act or under the Prohibition of Child Marriage Act, 2006 (6 of 2007), shall produce the child before the Committee for appropriate directions and rehabilitative measures.”

The Child Welfare Committee (CWC) has the responsibility of dealing with a child in need of care and protection. The CWC has the authority to, amongst others, conduct an enquiry; place the child in foster care; give directions to the parents or guardians; conduct inspection visits; take *suo moto* cognisance of cases of children in need of care and protection not produced before the Committee (this decision has to be made by three CWC members); inspect surrender deeds and declare orphaned, abandoned or surrendered children as fit for adoption; take action for rehabilitation of sexually abused children; and access legal services for the child (section 30 of the Juvenile Justice Act).

It is important to note that, because the realities in India are such that many couples who are close to the age of majority are not allowed by their parents or society to meet each other (due to caste difference or different religious backgrounds), elopement offers the only solution. A boy, close to the age of majority, who enters into a consensual relationship with a minor girl could be considered as a “child in conflict with law”. As per section 15 of the Juvenile Justice Act, in case of a heinous offence by a child above 16 years, the trial may be as per the Criminal Procedure Code. If the girl is pressured by her parents to allege the boy kidnapped her and/or raped her, the boy risks detention.

USING THE LAW TO PREVENT CHILD MARRIAGES FROM TAKING PLACE

NGOs and CSOs are often confronted with cases where it is known that a child marriage(s) is about to be solemnised, or with cases where an underage couple wish to consensually marry/elope. Cases of child marriage are difficult to deal with due to the social sanction they have and because natal family members are usually involved in arranging the marriage. Filing a case against natal family members under the PCMA 2006 is more easily said than done due to the complex and nuanced relationship the child has with his or her parents and guardians. For this reason, at the first stage, counselling is the preferred means to try and prevent a case of child marriage. Providing legal information and informing an adolescent of her options, as well as to her parents or guardians of the legal repercussions of child marriage, as the first step may prevent a child marriage from taking place without requiring recourse to the law.

Tips for legal counselling of a child

UNICEF has provided the following guidelines in legal counselling and providing legal aid to a minor. While these guidelines are specific to legal professionals, they would apply not only to lawyers but also to paralegal workers and NGOs providing legal counselling and information to a minor.

1. Competence when providing legal aid to children

Legal professionals who provide children with legal aid should have knowledge of relevant domestic law and procedures, children’s rights, children’s developmental stages and how to communicate with children. They should keep their skills up to date and refresh them with regular professional development training.

2. Acting in a child’s best interests

The best interests of the child should be a primary consideration in all actions taken when children are in contact with the law. Legal professionals must be aware of this obligation and comply with it by evaluating and acting in the best interests of their child clients.



3. Effective participation

Legal practitioners must ensure that a child's views and voice are heard and given due weight throughout the legal process.

4. Building a relationship

A legal professional should build a relationship of trust and support with a child client.

5. Child-sensitive communication

Communication is the basis of good quality legal aid. To communicate effectively with a child, practitioners will need to adopt a different approach than that used with adults. They will need to take into account the child's age, gender, religion, physical and/or mental disability, level of confidence and developmental stage, emotional state, education and culture.

6. Providing reliable and relevant information

Children cannot participate meaningfully in legal processes unless they have a clear understanding of the facts and are aware of the possible consequences of the decisions they take. Reliable and relevant information should be provided directly to children in simple and accessible language so they can make informed decisions, even if they are not always the main decision maker.

7. Effective participation in formal hearings

Legal professionals must ensure that children participate in formal legal proceedings in a meaningful and safe way with adequate support and procedural safeguards in place.

8. Working with family members and other supportive adults

In most cases a legal practitioner will develop a cooperative and supportive relationship with a child client's family (or with other supportive adults). However, it is important to be clear from the outset that the practitioner will be instructed by the child and not the adult. This means that the legal professional will not take instructions from a family member if they conflict with the child's instructions. Furthermore, it should be made clear that professional confidentiality does not apply to conversations with family members. Where needed, parents can be recommended to seek their own legal representation or referred to other service providers.

9. Privacy and confidentiality

The right to privacy is vitally important: child victims and witnesses can be put directly in danger and experience severe emotional harm if their identity is disclosed, and child defendants can experience discrimination and stigmatisation if their offending is widely publicised. The level of risk arising from breaching the right to privacy may not always be clearly apparent to other justice professionals involved in the case, such as judges or prosecutors.

10. Protecting children from discrimination

Legal professionals should ensure that children are treated fairly and are not discriminated against because of their age, gender, ethnicity, disability or other status.

11. Keeping children safe

Legal professionals should keep children safe and enable them to participate in the legal process without risk of secondary victimisation.

12. Working with others

Legal professionals need to collaborate with other professionals to guarantee that a child's rights are upheld. Other professionals may include the police, prosecutors, judges, interpreters, social workers, psychologists, court officials, teachers, medical staff, housing officers and so on.

Source: UNICEF, Guidelines on Child-Friendly Legal Aid, 2018³⁹

³⁹ UNICEF, Guidelines on Child-Friendly Legal Aid, 2018, <https://www.unicef.org/eca/media/5171/file>



In addition, the following tips can benefit organisations counselling a minor:

- Ensure that the environment in which the interviewing process takes place is safe, private and comfortable.
- Use language the child is comfortable with, or enlist the assistance of a translator if necessary.
- Remember that any allegation of sexual violence against a child (which can include touching, kissing or groping and is not limited to penetration alone) is a serious criminal offence and has to be reported to the local police or SJPU under section 19 of POCSO.
- Maintain eye contact throughout the client interview process.

Tips for counselling parents or guardians of a child

- When counselling parents or guardians, inform them of what the law says in simple language. Let them know that under section 11 of the PCMA, promoting or permitting solemnisation of child marriage is a punishable offence and in cases where a child has contracted a marriage it is presumed that the person having charge of the child has negligently failed to prevent the marriage from being solemnised.
- If the parents or guardians agree to postpone or not solemnise the marriage, please take an undertaking in writing from them.
- The presence of a lawyer could benefit in persuading the parents or guardians from postponing or cancelling the marriage.
- When counselling does not lead to the desired result, it is advisable to approach stakeholders under the PCMA and the Juvenile Justice Act to prevent child marriage from taking place.

Approaching the CWC

A child in need of care and protection may be produced before a Child Welfare Committee (CWC). The police, SJPU, a public servant, social worker, public-spirited citizen or medical professional (section 31 of the Juvenile Justice Act) may produce the child before the CWC.

Approaching the police: Filing an FIR

As solemnisation of child marriage is a criminal offence, the filing of a first information report (FIR) may be necessary if all other means fail. An FIR is provided by any person who has knowledge of the commission of a cognisable offence to a police officer under section 154 of the Criminal Procedure Code. It may be given in writing or orally to the police officer. An FIR has to be signed by the informant. The police must be informed about the facts constituting the offence for getting the FIR registered. Under the procedural law, the police can commence investigation after registering the FIR.

In an emergency you can approach the nearest police station even if the offence was not committed within its jurisdiction – this is known as a “zero-FIR”. Subsequently, the investigation will be handed over to a police station having local jurisdiction. A zero-FIR can be registered in all cases of sexual violence.



CONCLUSION

The Covid-19 pandemic perpetuated impoverishment globally. According to the World Health Organization and the World Bank, the pandemic has resulted in half a billion people being pushed into extreme poverty due to health care costs.⁴⁰ In India, both rural and urban areas witnessed a decline in household incomes, reduced food intake, and borrowing and selling assets. Early and child marriages is a coping strategy for families to deal with poverty, and testimonies and news reports from the country indicate a surge in the numbers of cases of child marriages from the year 2020 onwards.

According to the Centre for Monitoring Indian Economy (CMIE), more than 900 million people (mostly women) are no longer even looking for work.⁴¹ According to the CMIE, the overall labour participation rate fell from 46% to 40% between 2017 and 2022. Interestingly, Saudi Arabia has overtaken India in terms of women in the workforce.⁴²

As schools reopen and women gradually re-enter the job market, efforts need to be made by NGOs and CSOs to upskill women workers, add value to the existing school curriculum (for example, by offering sessions on reproductive or sexual health), and provide platforms for sharing good practices.

The Indian government has taken the issue of economic empowerment of women seriously. The Prime Minister of India addressing the 30th Foundation Day of the National Commission of Women on 31 January 2022 observed that old fashioned people consider women's work to be household chores. Women's Commissions across the country need to promote the role of women in entrepreneurship and skill development. The government's 2022 budget underlined the importance of supporting women-led businesses and paving the way for additional opportunities for women to improve their skills and boost their presence in the economy. The development of entrepreneurship skills is being considered as an intervention to change people's mindset, empower women and protect them from risks.

However, opportunities for economic independence on their own will not lead to a reduction in cases of child and early marriages. Such initiatives need to be supplemented with training workshops aimed at bringing about changes in mindsets – for example, sex education, information on violence against women, and empowering girls to speak up for themselves. Schemes such as the Pradhan Mantri Mudra Yojana, Stand Up India and Vocal for Local need to be supplemented with a focused approach to end violence against women and girls. In the absence of a concerted effort to end child marriages, schemes for economic empowerment are not necessarily beneficial; for example, men may take the earnings from women and girls, who end up becoming conduits for receiving financial benefits for the family. Hence, a more holistic approach is currently required that targets the causes of child marriage in their entirety.

⁴⁰ World Health Organization, *More than half a Billion People Pushed or Pushed further into Extreme Poverty*, 2021.

<https://www.who.int/news/item/12-12-2021-more-than-half-a-billion-people-pushed-or-pushed-further-into-extreme-poverty-due-to-health-care-costs>

⁴¹ CNBC, *Majority of Indians, mostly women, no longer looking for jobs: Report*, 2022.

<https://www.cnbc18.com/economy/majority-of-indians-mostly-women-no-longer-looking-for-jobs-cmie-report-13267312.htm>

⁴² Economic Times, *How India Inc can help change social norms holding back women from workplace*, 2022.

<https://economictimes.indiatimes.com/opinion/et-commentary/how-india-inc-can-help-change-social-norms-holding-back-women-from-workplace/articleshow/90965107.cms>



ANNEXURE 1

LIST OF CHILD MARRIAGE PROHIBITION OFFICERS⁴³



⁴³ This list was prepared on 31 October 2021 following internet-based research, phone calls to government offices and cross checking with the CMPOs themselves. It was updated on 18 April 2022. As officers are transferred and/or fresh appointments are made, this list will inevitably change. We will endeavour to update our online version of this list, available at www.womenpowerconnect.org, as frequently as necessary and publish the PDF/printed version on a yearly basis.

Assam

In the State of Assam, district child protection officers (DCPOs), district social welfare officers (DSWOs), and child development protection officers (CDPOs) often double up as child marriage prohibition officers (CMPOs).⁴⁴

Location	Designation(s)	Name	Phone no.	E-mail address
Baksa	DCPO	Shri Dhanjit Choudhury	9678975206	dcpubaksa@gmail.com
Barpeta	Probation Officer and DCPO	Ms Daisy Hazarika	94352-57661	dcpubarpeta@gmail.com
Bongaigaon	DCPO	Mostafa Hussain	9707553951	imon_simsim@rediffmail.com
Cachar	CDPO and DCPO	Ms Basanti Kar	9435376109	dc pocachar123@gmail.com
Chirang	DCPO	Ms Surashree Pathak	8720911612	dcpscchirang@gmail.com
Darrang	Probation Officer cum DCPO	Shri Kabendra Warisa	7896811458	dcpodarrang@gmail.com
Dhemaji	DCPO	Shri Alex Doley	9707757559	pekegim@gmail.com
Dhubri	CDPO and DCPO	Shri Surjya Baruah	9854365785	dcpu.dhubri@gmail.com
Dibrugarh	Probation Officer and DCPO	Shri Pulin Chandra Borah	9435489154	dcpudibrugarh@gmail.com
Dima Hasao	DCPO	Ms Anjali Arya	9508830327	dcpudimahasao@gmail.com
Goalpara	Probation Officer and DCPO	Ms Dipti Phukan	9435102052	icpsglp@gmail.com
Golaghat	DSWO and DCPO	Ms Bonti Saikia	94351 67169	dcpugolaghat@gmail.com
Hailakandi	DCPO	Sri Jitul Borah	9435455328	dcpo.hailakandi@gmail.com, hailakandi.dcpu@gmail.com
Jorhat	Probation Officer and DCPO	Ms Bornali Barthakur	9435051005	DCPU.jorhat@rediffmail.com
Kokrajhar	CDPO and DCPO	Ms Jitanjali Islary	9954508467	probationofficer.kokrajhar@gmail.com
Kamrup	DCPO	Ms Malabika Kalita	9864322167	dcpokr@gmail.com
Kamrup (Metro)	Probation Officer and DCPO	Ms Binjumoni Das	9085308087	dcpukammet@gmail.com
Karbi Anglong	Probation Officer and DCPO	Ms Basappi Terangpi	8474083011; 9859675592	dcpuka@gmail.com
Karimganj	DCPO	Shri Bikash Ranjan Konwar	9613363038	jjbkxj14@gmail.com
Lakhimpur	DSWO and DCPO	Shri Khagen Mohan	9435390592	dcpo.nlp@gmail.com
Morigaon	DCPO	Ms Parinita Hazarika	9864457888	dcpsmorigaon@gmail.com
Nagaon	Probation Officer and DCPO	Ms Ajanta Sonowal	9435161733	nagaondcpo@gmail.com
Nalbari	Probation Officer and DCPO	Sri Kangkan Bhuyan	9854257768	dcpu.nalbari@gmail.com
Sivasagar	Probation Officer and DCPO	Dibya Jyoti Deori	8473949702	dcposivasagar@gmail.com
Sonitpur	DSWO and DCPO	Ms Samsera Hazarika	801195663	dcpusonitpur@gmail.com
Tinsukia	DCPO	Ms Rizwana Tasmin Hazarika	8876766707	dcpotinsukiaassam@gmail.com
Udalguri	DCPO	Shri Gautam Saharia	9854018928	dcpuudalguri@gmail.com

⁴⁴ Please refer to State Child Protection Society, District Child Protection Unit (DCPU), <https://scpsassam.org/organisation-structure/district-unit/dcpu-5/> (accessed 18 April 2022)



Bihar

In Bihar, sub divisional officers (SDOs) double up as CMPOs. Details here are for Patna district only.⁴⁵

Location	Designation(s)	Name	Phone no.	E-mail address
Barh	SDO	NA	06132 – 242305; 9473191204	sdmbarh@gmail.com
Danapur	SDO	NA	0612 – 2201781; 9473191201	sdodanapur10@gmail.com
Masaurhi	SDO	NA	0612 – 2434111; 9473191203	sdo.masaurhi@gmail.com
Paliganj	SDO	NA	06135 – 277375; 9955235666	sdmpaliganj@gmail.com
Patna (entire district)	SDO	NA	0612 – 2201781; 9473191200	sdo_patnasadar@yahoo.com
Patna City	SDO	NA	0612 – 2631813; 9473191202	sdopatnacity@gmail.com

NA, not available

⁴⁵ Save the Children, Child Marriage: Robbing Children of Innocence, Good Practices in Preventing Child Marriages in Bihar, 2022, <https://resourcecentre.savethechildren.net/pdf/3257.pdf/> (accessed 18 April 2022)

Gujarat

In Gujarat, DSWOs doubles up as CMPOs.⁴⁶

Location	Designation(s)	Name	Phone no.	E-mail address
Ahmedabad	NA	Kum. J.R. Gajjar	NA	swo-ddo-ahd@gujarat.gov.in
Amreli	NA	J.R. Sodarva	NA	swo-amr@gujarat.gov.in
Anand	NA	A.K. Shekh	NA	dswo-sw-ananddp@gujarat.gov.in
Aravalli	NA	P.H. Bhoi	NA	swo.arvalli001@gmail.com
Banaskantha	NA	A.M. Chhasiya	NA	swo-ddo-ban@gujarat.gov.in
Bharuch	NA	D.V. Dave	NA	ddo-bha@gujarat.gov.in
Bhavnagar	NA	R.D. Parmar	NA	swo-ddo-bav@gujarat.gov.in
Botad	NA	D.H. Bhatt	NA	swo-dp-botad@gujarat.gov.in
Chhotaudepur	NA	Dr. C.R. Birai	NA	swochhotaudepur@gmail.com
Dahod	NA	J.M. Chaudhari	NA	dswo-ddo-dah@gujarat.gov.in
Dangs	NA	H.R. Deshmukh	NA	swo-ddo-dan@gujarat.gov.in
Devbhumi Dwarka	NA	N.S. Dhrangu	NA	swo-swsj-dev@gujarat.gov.in
Gandhinagar	NA	PL. Shrimali	NA	swo-ddo-gnr@gujarat.gov.in
Gir Somnath	NA	S.J. Chavda	NA	swo-girsomnath@gujarat.gov.in
Jamnagar	NA	P.B. Vyas	NA	dswo-ddo-jam@gujarat.gov.in
Junagadh	NA	H.R. Thosani	NA	swo-ddo-jun@gujarat.gov.in
Kachchh	NA	P.K. Svadnkar	NA	Swo-pan-kachchh@gujarat.gov.in
Kheda	NA	K.T. Vaghela	NA	swoskb57446@gmail.com
Mahesana	NA	J.K. Chavda	NA	swo-ddo-meh@gujarat.gov.in
Mahisagar	NA	J.N. Verma	NA	swo-sje-lun@gujarat.gov.in
Morbi	NA	K.V. Bharkhada	NA	swo-sje-mor@gujarat.gov.in
Narmada	NA	A.J. Vsaniya	NA	swo-ddo-nar@gujarat.gov.in
Navsari	NA	D.B. Tandel	NA	swo-ddo-nav@gujarat.gov.in
Panchmahals	NA	A.H. Salot	NA	swo-ddo-pan@gujarat.gov.in
Patan	NA	I.R. Mansuri	NA	swo-ddo-pat@gujarat.gov.in
Porbandar	NA	V.O. Joshi	NA	swo-ddo-por@gujarat.gov.in
Rajkot	NA	D.M. Savariya	NA	swo-ddo-raj@gujarat.gov.in
Sabarkantha	NA	C.G. Sadhu	NA	swosabarkantha@gmail.com
Surat	NA	M.N. Gamit	NA	cor-ddo-sur@gujarat.gov.in
Surendranagar	NA	J.S. Patel	NA	dscw-srn@gujarat.gov.in
Tapi	NA	A.M. Chaudhri	NA	dswo-dp-tapi@gujarat.gov.in
Vadodara	NA	A.S. Shekh	NA	swo1-ddo-vad@gujarat.gov.in
Valsad	NA	K.M. Kutar	NA	swo-sje-val@gujarat.gov.in

NA, not available

⁴⁶ Please refer to <https://sje.gujarat.gov.in/Child-Marriage-Prohibition-Act2009?lang=English> (accessed 18 April 2022)



Karnataka

In the state of Karnataka, according to a notification dated 2 May 2008, the following officials have been given charge as CMPOs:⁴⁷

Location	Designation(s)	Name	Phone no.	E-mail address
All	Director, WCD	NA	NA	NA
Concerned Revenue Districts	All deputy commissioners	NA	NA	NA
Concerned District	All deputy directors, WCD; All programme officers, WCD	NA	NA	NA
Concerned Revenue Taluk	All Tehsildar / Revenue Department	NA	NA	NA
Concerned Taluk	All Labour Officers, Labour Dept	NA	NA	NA
Concerned Taluk	All Block Education Officers	NA	NA	NA
Concerned Taluk	All CDPO, WCD	NA	NA	NA
Concerned Hobli	All Village Accountants, Revenue Department	NA	NA	NA
Concerned corporation / Municipal area	All Revenue Officers/City Corporation/Municipalities	NA	NA	NA

NA, not available

⁴⁷ Government of Karnataka, Notification, <https://www.makalahakku.com/main-control/uploads/Child%20Marriage%20Prohibition%20Officers%20Order%20and%20List.pdf> (accessed 18 April 2022)

Odisha

In Odisha, CDPOs function as CMPOs:⁴⁸

Location	Designation(s)	Name	Phone no.	E-mail address
Angul	NA	Gourishankar Behera	9439064633; 06764-230329	NA
Balangir	DSWO and DCPO		9438713528; 06652-235820	NA
Balasore	DCPO	Mamata Nayak, Dy. Collector	9437157999; 06782-262407	NA
Bargarh	NA	Surendra Digal	9439360887; 06646-233440	NA
Bhadrak	NA	Padman Ku Ray	9437215822; 06784-250185	NA
Boudh	NA	Rahul Pradhan	943 782 7254; 06841-222444	NA
Cuttack	NA	Pragati Mohanty	985 324 6528; 0671-2509009	NA
Deogarh	NA	Romeo Mohapatra	943 834 8294; 06641-226645	NA
Dhenkanal	NA	Anuradha Goswami	986 120 9603; 06762-223246	NA
Gajapati	NA	Arun Kumar Tripathy	8763270750; 06815-222586	NA
Ganjam	NA	Subodh Kumar Sarangi	9439458773; 06811-260188	NA
Jagatsinghpur	NA	KanhuCharan Rout	9938638668; 06724-221185	NA
Jajpur	NA	Niranjan Kar	9178831718; 06728-223622	NA
Jharsuguda	NA	Sunanda Moharana	9437278475; 06645-270570	NA
Kalahandi	NA	Shailendu Sekhar Mohapatra	9438090100; 06670-230213	NA
Kandhamal	NA	Rasmita Karan	9437423427; 06842-254453	NA
Kendrapara	NA	Bijay Kumar Sahoo	9439930989; 06727-232005	NA
Keonjhar	NA	Debangana Barik	9438785419; 06766-255052	NA
Khurdha	NA	Banishree Pattnaik	9439633715; 06755-220801	NA
Koraput	NA	Rajashri Das	9438368593; 06852-252104	NA
Malkangiri	NA	Narayan Das	9437790432; 06861-231211	NA
Mayurbhanj	NA	Mamata Mayee Biswal	9438162561; 06792-255562	NA

NA, not available

⁴⁸ Government of Odisha, Department of Women and Child Development,
<https://wcd.odisha.gov.in/women-developments/prevention-violence-against-women-prohibition-child-marriage> (accessed 18 April 2022)

Odisha (continued)

Location	Designation(s)	Name	Phone no.	E-mail address
Nawarangpur	NA	Suresh Pattnaik	8895186403; 06858-223322	NA
Nayagarh	NA	Pritikanta Panda	8895825863; 06753-252199	NA
Nuapada	NA	Baladev Rath	9437001706; 06678-225060	NA
Puri	NA	Manoj Kumar Tripathy	9438648067; 06752-226767	NA
Rayagada	NA	Ramesh Chandra Nayak	9439188462; 06856-223656	NA
Sambalpur	NA	Suchismita Pattnaik	9438444544; 0663-2412914	NA
Subarnapur	NA	Chaturbhuj Dash	9437528364; 06654-220364	NA
Sundargarh	NA	Sreebanta Jena	9938170450; 06622-273343	NA

NA, not available

Tamil Nadu

In Tamil Nadu, DSWOs double up as CMPOs.⁴⁹

Location	Designation(s)	Name	Phone no.	Postal address
Chennai	DSWO	S. Chinna- kamatchi	NA	123, Eldams Road, Teynampet, Chennai 18
Coimbatore	DSWO	Sherinphilip	NA	Collectorate Compound, Coimbatore 18
Cuddalore	DSWO	P. Thangamani	NA	89, Pudupalayam Main Road, Cuddalore
Dharmapuri	DSWO	Sailakshmi	NA	Narasimha Achari Street, Near Head Post office, Dharmapuri
Dindugal	DSWO	C. Lakshmi	9894787524	Collectorate Compound, Dindugal 624004
Erode	DSWO	R. Anbu		4th Floor, Collectorate Complex
Kanchipuram	DSWO	Grace Annabai	9444685049	49, A Maligai Chetti Street, Kancheepuram
Kanyakumari	DSWO	Umamadevi	NA	30 b, Allen Street, Egil Gate, Nagercoil, Kanyakumari District
Karur	DSWO	Karpagam	9942828909	Collectorate Room No. 2, Thanthonimalai, Karur
Krishnagiri	DSWO	Sailakshmi	NA	111 Cross, Kittampatti, 13/63, Power Houses Colony, Krishnagiri
Madurai	DSWO	M. Jayalakshmi	9443465964	4, Hakkim Ajmal Khan Salai, Madurai 625002
Nagapattinam	DSWO	Marimuthu		Collectorate Complex, Nagapattinam
Namakkal	DSWO	V.P. Padma-kumareswari	9443294972	Collectorate Compound, Namakkal
Nilgiris	DSWO	N. Tamilarasi	NA	Raj Bhavan Buildings, Nilgiris
Perambalur	DSWO	T. Boomadevi	NA	Backside of National ITI, Thirumangalam, Perambalur
Pudukottai	DSWO	Alaguselvi	9443508584	Collectorate Building, Pudukottai
Ramanathapuram	DSWO	S.M. Yuvarani	NA	District Collector's Complex, Ramanathapuram
Salem	DSWO	Gnanaguru	NA	Old District Board Building, Near Collectorate, Salem
Sivagangai	DSWO	S.A. Yuvarani	NA	Collectorate Complex, Sivagangai
Thanjavur	DSWO	S. Kasthuri	NA	Ex. Military Quarters Campus, Thanjavur District
Theni	DSWO	Rajarajeswari	NA	Collectorate Compus, Thenji
Tirunelveli	DSWO	V. Umadevi	NA	St.Mark Street, Palayamkoti South Bazar, Tirunelveli
Thiruvannamalai	DSWO	C. Susila	NA	Collectorate Compound, Thiruvannamalai
Tiruvallur	DSWO	Ruthvennila	NA	Collectorate Compound, Tiruvallur
Tiruvarur	DSWO	G. Kanthimathi	NA	Collectorate Building, Tiruvarur
Tiruchi	DSWO	A. Ranjitham	NA	11, Arabic College Street, Mannarpuram, Tiruchi
Tuticorin	DSWO	T. Balamani	NA	34, Munniyasamipuram, Tuticorin, Tuticorin District
Vellore	DSWO	Saroja Thiruvencatam	NA	Collectorate compound, 38th Street, Sathuvachari, Vellore
Villupuram	DSWO	Prabavathi	NA	Collectorate compound, Villupuram
Virudhunagar	DSWO	A. Anandavalli	NA	Collectorate complex, Virudhunagar

NA, not available

⁴⁹ Tamil Nadu Government Portal, <https://www.tn.gov.in/rti/swmp/PIO-APPL-DSWO.pdf> (Only the numbers verified by our researchers are reproduced here).



ANNEXURE 1: KEY FINDINGS

- The child marriage prohibition officers (CMPOs) often have dual roles and so do not have sufficient time and resources devoted entirely for implementation of the PCMA 2006.
- Many states, including Delhi, Maharashtra and Telangana have not made the list of CMPOs a public document; thereby making it difficult for concerned individuals to records complaints or seek redress.
- The list of CMPOs is not easily accessible even in the states that have made the list public as the officers often have dual roles and so it is difficult to research who is the CMPO.

ANNEXURE 2

SAMPLE APPLICATIONS FOR AN INJUNCTION ORDER AGAINST CHILD MARRIAGE



BEFORE THE COURT OF LEARNED CHIEF METROPOLITAN MAGISTRATE,
WEST DISTRICT, TIS HAZARI COURTS, DELHI

APPLICATION NO...../2022

IN THE MATTER OF:

Ms CCOMPLAINANT / APPLICANT

Vs

Mr XNON APPLICANT NO 1/ ACCUSED NO 1

AND

Mrs YNON APPLICANT NO 2/ ACCUSED NO 2

COMPLAINT UNDER SECTION 13 OF THE PROHIBITION OF CHILD MARRIAGE ACT, 2006
FOR ISSUANCE OF AN INJUNCTION

MOST RESPECTFULLY SHOWETH:

1. That the Complainant, Ms C, is employed with a non-government organisation, which is actively engaged in the field of women empowerment, child rights and promotion of gender justice. The organisation regularly received phone calls and emails from women and girls in distress who require counselling, legal advice or other forms of support.
2. That on 14th October 2021, the Complainant received a phone call from a minor girl aged around 15 years of age, alleging that her parents are pressurising her to get married to a man double her age. The minor girl, Ms Z, informed the Complainant that her father has lost his work in a factory due to the Covid Pandemic, and she had dropped out from school due to inability to afford internet services. Her parents were arranging her marriage as the man had agreed to marry her without taking any dowry and is gainfully employed in Faridabad, Haryana. Thereafter, the Complainant called up the women helpline number and registered a complaint on behalf of Ms Z.
3. That the women's helpline sent a counsellor to ascertain the facts of the case. It was ascertained that the accused persons Mr X and Mrs Y are a married couple and have a 15-year-old daughter, Ms Z. Ms Z was a student of a Government School until 2020, but she dropped out after the pandemic. The helpline warned Mr X and Mrs Y that marrying off Ms Z is an offence under the Prohibition of Child Marriage Act, 2006 and took an undertaking from them in writing stating that they will not arrange the marriage of Ms Z.
4. That on 19th October 2021, Ms Z again called up the Complainant stating that her parents are continuing to put pressure on her to get married. The Complainant provided facts and details about the future husband identified for her who is based in Haryana. Ms Z apprehends that her marriage will be arranged within a week's time as the boy and his family came to her house to see her and have approved of the match.
5. That Ms Z, being a minor, and in control of her parents, is not in a position to approach this Hon'ble Court for relief.
6. That there is no legal reason why the present Complaint should not be allowed.
7. That the present Complaint is bona fide.

PRAYER

In view of the facts and circumstances laid out herein above, and the urgency of the matter, this Hon'ble Court may be pleased to (1) issue an interim injunction against Mr X and Mrs Y prohibiting them from solemnising the marriage of Ms Z, and

(2) Confirm the injunction issued in 1 after giving notice and hearing the accused persons, and

(3) Pass such other/ further order(s) in favour of the Complainant and Ms Z as this Hon'ble Court may deem fit based on the facts and circumstances of the case.



BEFORE THE COURT OF LEARNED CHIEF METROPOLITAN MAGISTRATE,
WEST DISTRICT, TIS HAZARI COURTS, DELHI

APPLICATION NO...../2022

IN THE MATTER OF:

Ms CCOMPLAINANT / APPLICANT

Vs

Mr XNON APPLICANT NO 1/ ACCUSED NO 1

AND

Mrs YNON APPLICANT NO 2/ ACCUSED NO 2

AFFIDAVIT

I, Ms C (Full Name), daughter of....., aged about.....Years, Resident of, Presently residing at.....do hereby solemnly affirm and declare as under:

1. That I am the Complainant in the above noted case and am well conversant with the entire facts and circumstances of the same and as such, I am competent to swear the present affidavit.
2. That the accompanying Application seeking Injunction Order has been drafted by me / by my counsel under my instructions and the contents of the same have been read over and explained to me in my vernacular, which are true and correct to the best of my knowledge and are not being repeated herein for the sake of brevity and the same may be read as part and parcel of the affidavit.

Deponent

VERIFICATION

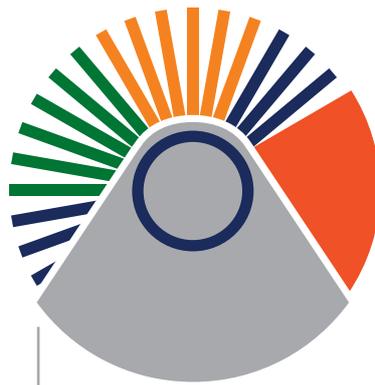
Verified aton thisday of.....2022 that contents of the above affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therefrom.

Deponent



The Status of Child Marriage in India:

A Guide for NGOs and CSOs
on Using the Law to End
Child Marriages in India



**Including a directory
of child marriage
prohibition officers
in six states**