

Child Marriage as Human Rights Abuse

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Abstract

Marriages involving children who are under the age of 18 years occur worldwide, including high rates in regions of South Asia, Africa, and Latin America. Child marriage is a human rights violation that predominately impacts young girls' education, health, and psychological well-being, as well as the health of their own children. Meanwhile, the tradition of child marriage is driven by factors such as poverty, financial issues, the need for protection, and family alliances. Although it is clear that child marriage must be stopped, the question is how to utilize the most effective methods. This paper recommends approaches that stress education and prevention for combatting child marriages.

In many societies, marriage is the union between two consenting adults who usually fall in love with one another. However, there are millions of girls around the world coming from different cultures, religions, and ethnicities who are forced into marriage as children. Child marriage is not an uncommon practice in many countries, but it occurs mainly in Sub-Saharan Africa and South and South-East Asia, including India, Pakistan, and Bangladesh. In many parts of the world, parents give their consent to child marriages hoping to benefit economically and socially. Many factors may lead to the risk of child marriage. Parents encourage their daughters to marry young in hopes they will be relieved from their financial burden. The age of marriage and educational levels also have a strong correlation. With early

marriage, young girls often become sexually active much sooner, which puts them in physical danger during childbirth and also threatens the health of their offspring.

Early marriage is by no means a new phenomenon – it is a socially established practice that has been carried on from generation to generation across the world – but today there are international and domestic laws barring its use. Although there are laws in place against child marriage, they are often not enforced or carried out to an appropriate extent. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child are two sources of international law that prohibit child marriages and seek to protect the rights of women and children. These provide valuable starting points for discussing the human rights impacts of child marriage and steps to prevent this abuse.

Causes and Consequences of Child Marriage

Child marriage refers to the marriage of children under the age of 18, which is usually forced and occurs when girls are 12-16 years old. This age range falls before the girl is physically, physiologically, or psychologically ready to shoulder the responsibilities of marriage and bearing of children. Despite existing laws that state an individual must be at least 18 to legally marry, governments do not always enforce existing laws. The Child Marriage Restraint Act (CMRA) of 1929 prohibited child marriages in India of girls below the age of 15 and of boys below the age of 18, for instance. In most countries, the legal age of marriage is 18, yet nearly one-third of girls in developing countries between the ages of 20-24 are married before they reach adulthood (UNICEF, n.d.). This type of marriage is a violation of basic human rights, including Article 16 of the 1948 Universal Declaration of Human Rights Article 16, which prohibits forced marriage (United Nations General Assembly, 1948). Forcing marriage upon young girls denies them their freedom and full consent, which often contributes to violations of their rights to basic health, education, and security.

There are many contributing factors as to why child marriage takes place, both in the past and present. For many families, participating in societal customs and norms are crucial to coexist in the community. Tradition is very difficult to change, as it is passed down from generation to generation and trying to change it usually ends in backlash from communities. This is why the practice of child marriage becomes difficult to change. Many of the families that are forcing their young girls to marry are often poor and use marriage as a way to provide for their daughter's future. To make sure that the woman does not go outside of marriage and have children, families will enforce chastity because in some countries virginity is a symbol of honor (Council on Foreign Relations, 2013). For many communities, the loss of virginity in girls before marriage is the worst shame that could be brought upon a family. The desire to protect a girl's virginity drives many parents to force their daughters into marriage at an extremely young age (Nour, 2006). Creating bonds and alliances throughout communities in exchange for dowries and bride payments can even be the cause of child marriage. In countries with high mortality rates, young girls who are married are able to have more children rather than someone who is married at the age of 24 (Council on Foreign Relations, 2013).

Due to the expense of education, girls are more often pushed into marriage because parents believe that their sons will better benefit from education (Day of the Girl, n.d.). Even if these child brides were allowed to pursue an education, they would not be able to continue because early childbearing and chores around the house often lead to dependency on the husband and disempowerment in the household (Council on Foreign Relations, 2013). Girls kept out of school experience a lack of exposure to anything outside the immediate home environment, including socialization with peers and non-family members. This can lead to low self-esteem and less knowledge of what early marriage entails.

Poverty is one of the major influences still driving child marriage. In many underdeveloped countries, child marriage is valued as an economic strategy because it reduces the cost of raising another child. Child marriage arrangements are made between families for business and/or property in

many cases. In many communities, women are not seen as wage earners, so daughters are seen as an economic burden. Youth is seen as an enhancing value of the bride, meaning that younger girls have more time to dedicate their lives to their new family and bear children. As we see a great preference for younger brides, families often push their daughters into marriage in hopes of a lower dowry cost, which is money that is to be given to the groom's family (Council on Foreign Relations, 2013).

The consequences of child marriage are much more than just an impact on the individual child affected. The marriage of children has negative effects on families and communities alike. Young girls are forced to marry men that they have never met before, and who may be significantly older than they are. Once married, they are responsible for looking after their husbands, the house, and the children they give birth to – all while they are still children themselves. Although the family may be benefitting from their daughters marriage financially, the emotional, physical, and psychological impact it may have on the girls are serious and lifelong. Marrying early puts these girls at an even greater risk for early pregnancy and childbirth, due to the fact that girls are often expected to bear children soon after marriage; this makes these young girls vulnerable to pregnancy and childbirth complications (Adhikari, 2003; Council on Foreign Relations, 2013). Girls under the age of 18 are physically and emotionally too immature to bear children. In India, one out of every three adult women is underweight and therefore are at risk for delivering babies with low-birth weight (Nour, 2009).

Childbirth not only affects the mother, but also the child that is being born. The mother's young age and lack of proper nutrition often leads to improper growth of the baby. If the child survives, the chances of it suffering with low birth weight and malnutrition are high, which ultimately results in delayed physical and cognitive development for those children (UNICEF, 2014). More than likely, the young brides are married off to partners who are much older and often cut off them off from their families and peers. The large age gap between the child bride and her spouse often allows for more vulnerability, domestic abuse, and nonconsensual sex. In these marriages, women have less power and

decision-making in sexual behavior and everyday practices. By being exposed to sexual behavior at an early age, they are often more exposed to reproductive issues and sexually transmitted diseases (STDs). With marriage, girls are often losing legal protections that are appointed to children, such as statutory rape laws. These laws do not apply to child brides due to the fact they are married to the perpetrator (Council on Foreign Relations, 2013).

Human Rights Frameworks and Related Laws

There are national, international, and regional rules that state girls and women have the right to consensually agree to marriage after they reach adulthood. The Convention to Eliminate All Forms of Discrimination against Women (CEDAW) is the international women's bill of rights that includes the issue of consent and sets a minimum age of 18 years for marriage. It includes core provisions for addressing discrimination, marriage, and family relations (UN Women, n.d.). Although the Convention on the Rights of the Child does not address child marriage specifically, it provides a number of norms and protective measures for children, which provides a framework for ending child marriage. They include the following: non-discrimination, the best interest of the child, the right to life, the right to be registered after birth, the right of the child not to be separated from parents against his/her own will, the right to express his/her views, the right to health and to be protected from harmful practices, the right to education, and the right to freedom from abuse and exploitation (Office of the High Commissioner for Human Rights, 1989). Some of these topics are actually mentioned and described in multiples places throughout the articles, which should serve as an indication that these are true global issues still occurring in society.

Examples of domestic law show that there have been efforts to end child marriage in some regions of the world. The Child Marriage Restraint Act, known as the "Sarda Act", was passed in 1929 to combat child marriage in India. During the 1970s and 1980s, countries such as Bangladesh, India, and

Indonesia established or raise their legal minimum age of marriage to 18 for girls and 21 for boys. Along with raising the legal age, human rights activists and the United Nations began to address harmful traditional practices affecting women. A recent initiative taken by India toward the protection of children has been the establishment of a National Commission for Protection of Child Rights in 2006. The Commission set out to enforce a child's rights and enforce the laws and programs that relate to children. After repealing the Child Marriage Restraint Act of 1929, a new Indian law was set in place called the Prohibition of Child Marriage Act. This 2007 law provides additional protections against child marriage and increases punishments for offenders (Malhotra et al., 2011).

The human rights consequences of child marriage show how this issue relates to a variety of international frameworks. Child marriage often involves young girls rather than boys, for instance, and this can be seen as discrimination on the basis of age and gender. Article 2.2 of the Convention on the Rights of the Child requires states to "take all appropriate measure to ensure that the child is protected against all forms of discrimination on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members" (Office of the High Commissioner for Human Rights, 1989). Article 2 of CEDAW protects the rights of women from discrimination in both the private and public spheres (UN Women, n.d.). Article 16 of CEDAW further contends that a woman needs to have full information about her future spouse; this includes the knowledge of the institution of marriage, her rights to make a choice as to whether or not to marry, who to marry, and also when to marry (UN Women, n.d.). Child marriage can also be linked to violations of human rights law guarantee basic education and access to employment. Early marriage is often associated with denied basic education, since girls are pulled out of school once they become wives. They are often prohibited from seeking employment outside of the home, making them dependent on husbands who may be strangers to them.

Recommendations and Next Steps

Child marriage is harmful not only to child brides, but also to their families, communities, and future offspring. In order to prevent child marriage, governments and the international community need to step forward and help answer the following question: What is the most effective approach to prevent child marriage? Top-down approaches include appeals to the international laws highlighted above, and certainly there are many grassroots, bottom-up approaches that stress community activism and non-governmental organizations (NGOs). The remainder of this paper will focus on what is currently being done and what is required to combat child marriage in the future.

Despite the many challenges of ending child marriage, there are many individuals and groups working to stop this human rights problem. UNICEF is the United Nations' children's fund that provides support for children around the world, including action to prevent and advocate against the use of forced child marriages. According to its website, "UNICEF is committed to efforts to end child marriage and is able to use its global leadership position, its mandate to provide data and evidence on child marriage, and its broad field-based programming in various sectors to bring about change on this issue" (UNICEF, n.d.) These actions include organizing the inaugural International Day of the Girl Child in 2012, which had child marriage as its theme (UNICEF, n.d.). Another organization, Girls Not Brides, is a global partnership of more than 400 civil society organizations from over 60 countries working to address child marriage. Girls Not Brides works to bring attention globally to understand what it takes to end child marriage while working to change the laws, policies, and programs to make a difference (Girls Not Brides, n.d.). The Saarthi Trust, which was set up by an award winning anti-child-marriage activist named Briti Bharti, works to end child marriage and to help guide young women. The trust was set up in 2012 to address the child marriage crisis in India by providing programs, psychological support, and education to women and children (Saarthi Trust, n.d.).

Existing research and the work of these dedicated organizations highlight solutions for this human rights program. For instance, increasing access to primary and secondary education promotes self-reliance and delays the age of marriage. By working with governments to ensure primary and secondary education, proper sexual-health, and aid for girls' families with school enrollment and financial assistance, girls will be able to develop thinking and social skills, establish support networks, make informed decision, and boost income-earning prospects (Council on Foreign Relations, 2013). The expansion on education for girls is necessary to ensure that they are receiving an adequate education. Education will open doors for these young girls so that their daughters will not have to be put through what they had to go through. Through these programs, young girls are learning empowerment, life skills training, and provision of safe spaces for girls to discuss their futures. Being in school is a benefit that comes with protection for these girls.

Girls also need basic service provisions, as well as protection under the law. For example, child brides need access to sexual and reproductive health care and information, including programs that provide family planning, maternal health services, and HIV prevention and treatment – all of which can help to prevent complications with childbirth among young mothers. Since there are laws in place specifying the legal age limits of marriage, there needs to be enforcement of these laws for both boys and girls. To eliminate the tradition behind child marriage, work could be done with the parents and the community on eliminating social norms that surround child marriage. By bringing attention to how mentally and physically abusive child marriage really is, educational efforts (involving men and husbands) can spread the word throughout communities and mass media.

Many times, child marriage is a result of poverty and the family not being able to afford raising another child or a girl. Considering child marriage often amounts to a financial contract for needy families, agencies could offer financial assistance or incentive towards parents to encourage the delay of marriage (Council on Foreign Relations, 2013). Programs could be set in place to provide direct cash to

families to invest in their daughter's education or to delay the marriage until the age of 18. One example comes from India, known as India's Apni Beti Apna Dhan program, which offers bonds to newborn girls that can be redeemed only if they remain unmarried when they turn eighteen (Council on Foreign Relations, 2013). Opportunities for loans, scholarships, subsidies, conditional cash transfers, and job opportunities for girls may also help to postpone the marriage.

Child marriages have a great psychological, emotional, and physical effect on the lives of girls. The inability to access basic rights to education and health, as well as physiological and emotional damage due to repeated pregnancies and domestic violence, are a few factors that these young girls have to face (Malhorta et al., 2011). For these girls to become wives and mothers at such a young age is a huge responsibility that they are not prepared to take on. Child marriage laws are in place, but are very seldom carried out to the full extent, thereby constituting a human rights violation by governments who lack proper enforcement mechanisms. States and civil societies need to reduce the poverty and gender discrimination that make child marriage possible. There is a long way to go toward ending this human rights problem, but it takes the smallest efforts to get people educated and to care about what is going on around the world.

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