

# Policy Brief

## MINIMUM MARRIAGE AGE IN PAKISTAN

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### Executive Summary

*The minimum marriage age in most parts of Pakistan is set at 16 years. Despite legislation, girls are married off at an age as young as six years when they are not even mature enough to give an informed consent for such an arrangement. This poses immense dangers to the health of the girls and their children. Moreover, it subjects them to a cycle of physical and emotional abuse. Lack of implementation of minimum marriage age promotes early marriages of girls, thus limiting their chance to a healthy and prosperous life. The government's attempt to target the minimum marriage age in the legislatures, without bringing the required social change to curb such practices in the society hinders successful implementation of this law. A holistic approach should be taken by the government in cooperation with NGOs, law enforcement agencies, religious groups and communities, to alleviate the dangers posed by early marriages.*

### Context and Importance of the Problem

#### Minimum Age of Marriage in Pakistan

The Child Restraint Act 1929 in the Pakistan Penal Code sets the minimum age of marriage in Pakistan at eighteen years for boys and sixteen years for girls. Despite this, the highest percentages of girls getting married in Pakistan are from the age group 11-15 years (39% of the total victims), followed by girls aged 6-10 years (34%). [see Table A] (Salman 30). These girls are married at an age when they are unable to give an informed consent for this arrangement; a pre-requisite for marriage.

#### Implications for Girls' Health and Society

Early marriages limit the chance to a healthy and prosperous life for girls. It diminishes the

opportunities available to them for receiving education and is especially detrimental to their health. When girls are married at an early age, they become more vulnerable to deaths relating to premature pregnancies, one of the leading causes for maternal mortality. The reported maternal mortality rate in Pakistan is 250 per 100,000 live births which is higher than other developing countries in the region like India (210 per 100,000 live births) and Bangladesh (220 per 100,000 live births) ("UNICEF 2013"). In addition, infants born to mothers over the age of 18 have a higher chance of survival than those born to mothers under 18 ("UNICEF 2014"). The infant mortality rate in Pakistan stands at 69 per 1,000 live births which is also higher compared to other developing countries in the region; India (33 per 1,000 live births) and Bangladesh (44 per 1,000 live births) ("UNICEF 2013").

Moreover, it contributes towards a high population growth rate. Literature suggests that women who are married before the age of 18 tend to have more children than those married after 18 years (*Early Marriage*). Pakistan is currently struggling to figure out policies that can bring down the population growth rate, and early marriages pose a serious threat to the success of these efforts.

Additionally, child marriages further reinforce the patriarchal structure of the society as the age difference between the woman and her partner is more likely to be higher if the woman is married at a tender age (*Early Marriage*). This would ensure that the husband has absolute decision making power in matters of the household and elsewhere.

### **Factors Promoting Child Marriage**

A number of factors in Pakistan contribute to the practice of child marriage and hinder progress in this regard.

It has been observed that poor families tend to marry off their daughters at a very young age. With women having limited access to public space and minimal economic opportunities available to them, daughters are considered to be a liability. Parents tend to lift the economic burden of raising a girl off their shoulders by marrying them at an early age. By doing so they entrust the husband as the giver and provider of their daughter. Furthermore, it is considered that the dowry for the daughter will be inexpensive if she is married off earlier (Malhotra 5).

In certain parts of Pakistan, different customs also prescribe early marriages of girls as a way of avoiding dishonor or to resolve

disputes (Malhotra 5). For example, what is known as Sada in Sindh, Swara in Khyber Pakhtunkhwa and Vani in Punjab, is a traditional practice where young women and girls are exchanged in marriage for settling blood feuds (Jilani).

Moreover, various religious factions are also an obstacle in reinforcing laws regarding child marriage. For instance, the Council of Islamic Ideology (CII) argues that the age of the girl or the boy is irrelevant to the performance of Nikkah and so setting a minimum age for marriage becomes irrelevant (Ali). Given that the assemblies are obligated to take into account the advice of the religious groups by virtue of their influence and popularity among the masses, it becomes increasingly difficult to pass laws that contradict their teachings.

Apart from the religious groups, the law also faces opposition from political parties in different parts of the country. This lack of political will is a challenge in enforcing legislation against child marriages, thus making it difficult to bring change in the society.

### **Current Approach**

The Child Marriage Restraint Act of 1929 is the principal document governing the legal age of marriage in the provinces of Pakistan. However, in the last three years, Punjab and Sindh have sought to change the Act by passing legislation in their respective provincial assemblies.

#### **The Punjab Marriage Restraint (Amendment) Bill 2015**

The Punjab Assembly passed a bill in 2015 that amended the 1929 Act. The Punjab Marriage Restraint Act 2015 increased the terms of imprisonment and fine for guardians

and male adults for contracting child marriage. It also allowed the family court to exercise powers of a Judicial Magistrate of first class in matters relating to child marriage after a complaint has been received by the Union Council.

However, the bill leaves room for contradiction as after defining a female child as a girl under 16, in a later clause, it defines minors as both girls and boys under 18 (Mehdi). While the bill increases the punitive fine imposed on the guilty, the crime is still bailable meaning that the person responsible for the illegal marriage can escape punishment for a mere Rs. 50,000 (Jalil).

### **Sindh Child Marriages Restraint Act 2014**

The Sindh Assembly passed the Sindh Child Marriages Restraint Act in 2014. This law raises the minimum age of marriage to 18 for girls and boys, thus repealing the Child Marriage Restraint Act of 1929 ("Provincial Government of Sindh Pakistan"). It also implements stricter punitive measures, as the offence of contracting marriage with a minor is non-bailable with a mandatory imprisonment of two years. It also imposes a fine on the guilty party and makes the offence cognizable, which implies that Courts can directly try offenders without the interference of a third party.

## **Critique of Current Approach**

### **Failure of Legislative Efforts**

The government's efforts to amend the minimum marriage age have been largely concentrated in the legislatures, and the opposition to those efforts starts there as well. For instance, a bill proposed in the National Assembly, calling for stricter penalties against parties guilty of child

marriages, was deemed 'anti-Islamic' by the CII and hence rejected by the National Assembly's Standing Committee on Religious Affairs (Usman). Similarly, a law prohibiting marriages under 18 was turned down in the Gilgit-Baltistan Legislative Assembly because of a similar argument (Mir).

Needless to say, the laws that have been passed leave plenty of room for interpretation. The Muslim Family Law Ordinance 1961 mentions that the consent of both, male and female, is essential for the marriage to take place. Although this was an attempt to offset the traditional set up that promotes child marriages, the issue of "consent" remains unclear, leaving it open to exploitation. The Universal Declaration of Human Rights recognizes "free and full" consent as a right to marriage and also states that it cannot be "free and full" if the boy or girl is not mature enough to make an informed decision (*Early Marriage*).

The Punjab Marriage Restraint Act also fails to address the issue of minimum marriage by keeping a lower marriageable age for girls (16 years) while a higher age limit defining minors (18 years). Though the punishment for contracting marriage with a minor is much more serious in Sindh, the number of reported child marriages for Sindh remain higher than other provinces. It might be because of higher reporting of the crime or due to the high prevalence of this crime despite stricter penalties. [See Table B] (Salman 31). Moreover, the laws also rely, largely, on the victims' ability to report the crime to the Union Council, courts and the police. It leads to the assumption that many cases would remain unreported, and the actual incidents of this crime would be higher than the ones reported.

## **Economic, Patriarchal and Religious Restraints**

In addition, the current approach to dealing with child marriage does not take into account the economic, cultural and religious restraints.

### **(i) Economic Restraints:**

Poverty and economic constraints among the masses are one of the major reasons for marrying off girls in Pakistan. In a country like Pakistan where poverty is rampant, girls are considered as an economic burden giving way to early marriages. For example parents have the perception that if they marry their daughters off at a younger age, the burden of paying a dowry will be lower (Malhotra). Therefore, there is a need to have viable economic policies so that the conditions of the poor families are improved.

### **(ii) Patriarchal Restraints:**

Pakistan is a patriarchal society where cultural practices like Watta Satta, in which brides are exchanged between families is prevalent. (Malhotra). In such situations, the consent of a girl is not considered important. In conditions like these there is a need for social change through policies that target such a mindset.

### **(iii) Religious Restraints:**

As Islam is Pakistan's dominant religion, policy makers cannot formulate effective policies without taking into account the reservations of Muslims scholars. Without their support, little can be achieved to effectively eradicate child marriages.

Although a law raising the minimum age of marriage and increasing punishments for the offence is a step forward, but legislation that does not take on board the religious scholars has very little chance of success.

## **Policy Recommendations**

Child marriage remains a grave issue of concern for stake holders who have failed to explore the root causes of this social evil. It is important to realize that marriage is not a mere social construct, it is a civic arrangement where two parties consensually and voluntarily assume a set of social responsibilities. Hence, the absence of the underlined themes are principally a breach, violation and encroachment to the fundamental privileges existent in the contract.

In order to combat the issue of child marriage, there are a number of policy options that can be explored.

**Involve the Men.** Fathers are mostly involved in making decisions concerning their daughters' marriages (Verma, Sinha and Khana 29). Awareness programs targeting the male heads of households can help to convince them of the risks and dangers involved in marrying off young girls. Involving men in the process will also ensure that they become aware of the rewards that come with building a community that empowers women ("How can we end child marriage").

### **Find Supporters among Religious Groups.**

Islamic scholars who support the prohibition of early marriages can be taken on board to counter those in the legislative bodies against such amendments. Such leaders can back the amendment of the minimum marriage age in the federal and provincial legislatures thus increasing the popular support for such a law. They can also challenge the social customs in their respective communities by spreading awareness about the consequences of child

marriage (“How can we end child marriage”).

**Cooperation among Key Players.** Stronger cooperation among the actors, working to prevent early marriages, can be a source of social change as well. The government and non-governmental organizations can work together to introduce educational programs. For example, an international organization’s regional office in Bangladesh works with local government in order to decrease child marriages in the Unions (Verma, Sinha and Khana 26). Organizations seeking to increase the minimum age of marriage can develop such linkages with politicians who seem interested in the cause in Pakistan to implement programs in a more effective manner.

**Facilitate access to Education.** The completion of secondary education decreases the likelihood that girls will get married at an early age (Verma, Sinha and Khanna 27; Malhotra 4). The government should establish well-staffed schools for girls’ primary and secondary education in order to equip them with skills such as reading, writing and mathematical ability, which may help them contribute to the economic wellbeing of the household. For instance, educational camps in Rajasthan, India, provide girls with skills and secondary education (Verma, Sinha and Khanna 27). Promoting girls’ access to education and financial opportunities will also motivate parents to refrain from viewing them as a financial burden.

**Stronger Implementation of Laws.** The existing laws limiting child marriage need to be implemented rigorously. The local government can raise awareness of minimum marriage laws among the Nikkah Registrars so that such marriages are avoided. In addition, the parties, involved in law

enforcement, need to be educated about the consequences resulting from the continuing practice of child marriage in order to discourage them from overlooking offences (Verma, Sinha and Khanna 10). Enforcement of the law can be ensured by implementing harsh punishments to the parties, including the Nikkah registrars, Union Council members (who failed to report a child marriage) and witnesses, involved in carrying out a Nikkah that involves a minor.

### **Spreading awareness**

- (i) Mass media should be used to run campaigns specifically targeting child marriage and its harmful effects. Such campaigns should emphasize on the need to respect decisions of boys and girls to remain unmarried as long as they wish rather than stigmatizing them (*How to End Child Marriage*).
- (ii) Positive deviants should be supported and celebrated so that they can be seen as role models. Different forums should be made available for them in schools, religious institutions, community centers etc. to give motivational speeches (Greene et al.).
- (iii) Organizations should work with adolescents (youth aged 10 to 14) to question gender roles and norms. As at this age people’s attitudes and beliefs are still forming which allows them to question harmful social and gender norms. This can be achieved by arranging activities “such as taking photos portraying

- gender inequalities in order to explore and discuss the unequal gender norms and their feelings about them in their community.” (Greene et al.).
- (iv) Posters can be placed in a targeted community which convey desired behavior-change messages. The can be strategically placed around gathering spots and can be changed regularly in order to keep the community engaged. “Poster topics can include girls’ hopes and dreams for their future; parents’ hopes and dreams for their daughters; personal testimonials from educated women and their parents; lost opportunities for girls who were married early; community leaders’ opinions about keeping girls in school; and parents committing to keep their daughters in school” (Greene et al.).

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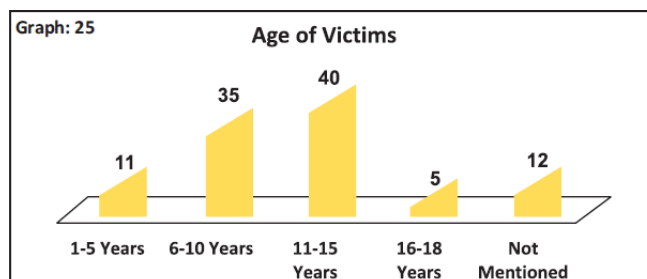
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## Appendix

Table A. Age of Victims of Child Marriage. Taken from: Salman, Habiba. *Cruel Numbers 2014*. Rep. Sahil, Mar. 2015. Web. 4 Mar. 2016.  
<<http://sahil.org/wp-content/uploads/2015/04/Cruel-Numbers-2014.pdf>>.

Table B. Provincial Divide. Taken from: Taken from: Salman, Habiba. *Cruel Numbers 2014*. Rep. Sahil, Mar. 2015. Web. 4 Mar. 2016.  
<<http://sahil.org/wp-content/uploads/2015/04/Cruel-Numbers-2014.pdf>>.

