



Child Marriages in Madhya Pradesh :
An Incessant Infringement of Rights

Research Study conducted by Pairvi
Supported by Madhya Pradesh Human Rights Commission



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PAIRVI

Public Advocacy Initiatives for Rights and Values in India (PAIRVI) grew out of a strong belief that reducing the gap between public policy and aspirations of people is a pre requisite for democracy, and civil society organizations have a key role in putting forward the voice of people in the policy making. PAIRVI facilitates and strengthens grassroots advocacy efforts in north and central India. Its major concerns and interventions include capacity building of grassroots organizations in advocacy, strengthening human rights infrastructure in the country and promote and encourage awareness and access to child rights, right to food and livelihood, and right to economic and environmental justice.

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- Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available measures.
- Such other functions as it may consider necessary for the protection of human rights.

PAIRVI
G-30, First Floor
Lajpat Nagar-III, New Delhi – 110024
Email : pairvidelhi@rediffmail.com
Phone : 011-29841266, 65151897

Madhya Pradesh Human Rights Commission
Paryavas Bhawan, Jail Road, Bhopal-462011
Phone: (0755) 2572034, Toll Free No.: 1800-2336399
Fax: (0755) 2574028, E-mail: mphrc@sanchamet.in
website: www.mphrc.nic.in

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A Rapid Assessment of Child Marriages
in Bhind, Morena and Gwalior Districts
of Madhya Pradesh

2009

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A Rapid Assessment of Child Marriages in Bhind, Morena and Gwalior districts of Madhya Pradesh

Edited By: Ajay K Jha

Lead Researcher: Vinod Koshti

Published By

PAIRVI

G-30, 1st Floor, Lajpat Nagar-III, Delhi-110024

Telefax: 91-11-29841266

Email: pairvidelhi@rediffmail.com, pairvidelhi1@gmail.com

URL: www.pairvi.org

Supported By

Madhya Pradesh Human Rights Commission

Paryavas Bhawan, Jail Road, Bhopal-462011

Phone: (0755) 2572034, Toll Free No.: 1800-2336399

Fax: (0755) 2574028, E-mail: mphrc@sancharnet.in

website: www.mphrc.nic.in

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Though the report is combined effort of many people, the undersigned takes the responsibility for any deficiencies and mistakes that might have appeared inadvertently. Feedback would be welcome at pairvidelhi@rediffmail.com

Ajay K Jha
Director
PAIRVI



Foreword



Children are the best optimism that present holds for the future. Children's upbringing including education and values instilled in them and mental and physical health determine their potential to contribute to the nation's development. In developing and least developed countries that have significant child population, future of child is critical to its future place in the global order. Yet, child marriage is one of the saddest realities and challenges that many countries are facing. It is a serious global concern today and has prompted many efforts. However, it is intriguing that despite reforms in policy and programmes, this pernicious practice continues even today.

The global human rights activism has provided much desired importance to the issues of children. A number of international covenants like UDHR, ICCPR, ICESCR, CEDAW has bound state parties and civilized humanity into commitments to end discrimination based on gender including child marriages at the earliest. Municipal laws of most of the countries profess deepest commitment to eliminating discrimination based on sex and gender. However, laws on marriage, both public and private have failed to completely address the discrimination against the girl child perpetrated in the form of child marriage. India too faces the challenge to end this social vice, provide adequate safeguard to childhood against all forms of abuse including under-age marriage.

Madhya Pradesh Human Rights Commission has been cognizant of the child marriages happening in the state. It has taken a number of efforts to stop child marriages in the state. Reported cases have come down in the previous years however, going even beyond the reported cases, it has ensured that law against child marriage is enforced and children's interests are not sacrificed due to marriage. Besides intervention in cases, it has also provided critical insights towards policy alternatives and implementation.

The present report is one of the efforts of the Madhya Pradesh Human Rights Commission undertaken in collaboration with PAIRVI. The report of a rapid assessment in three districts of Madhya Pradesh underscores the urgent need for more efforts to overwhelm the reasons and factors for perpetuating child marriages. The Commission thanks PAIRVI for its cooperation and we are sure that the report would prove helpful in designing policy response and action strategies both for the government as well as civil society.

Justice D M Dharmadhikari
Chairperson
Madhya Pradesh Human Rights Commission
Shyamala Hills, Bhopal



Preface

Despite the deepest commitment of the Constitution of India to eliminate any kind of discrimination based on gender, child marriages continuing unabated prove to be highly discriminating against the girl child. It interrupts the childhood of girls and boys and inflicts on them grave injustice with girls being affected the worst of the two. It not only reinforces stereotypical role of women of bearing children and doing household chores at the cost of her freedom, education and health but also limits their prospects of being a successful human being. It compromises on her individuality and preference for marriage and having a family, procreation, avocation and role in the family, community and society. Despite all scientific, social and statistical evidences arguing against it, child marriages continue in South Asia, East Asia, Sub Saharan Africa and Latin America. Though child marriage is declining in all the parts of the world, however, it was estimated in 2004 that with the current trend, some 100 million girls will be married prematurely below 18 by the turn of the decade seriously affecting their lives and their destinies (Bruce & Clark, 2004). It is not only children's, feminine or social issue but is a development issue with significant proposition and impact on contribution of womenfolk in development.

India is not much better in terms of number of girls married before 18 than Niger which has supposedly the highest proportion of girls married between 15-19. A combination of failed ineffective laws, lackadaisical administrative approach, poverty, lack of education and economic opportunities, traditional beliefs continue to sacrifice astounding number of girls on the altar of child marriage. Madhya Pradesh (along with Uttar Pradesh, Bihar, Rajasthan and Andhra Pradesh) has earned the reputation of having high reported and unreported cases of child marriages, which became the immediate concern for the present study.

Child rights has been one of the important concerns of policy advocacy and action at PAIRVI efforts. We have engaged in highlighting the children's concerns and issues related to children at different platforms. For the current study the initiative came from State Human Rights Commission of Madhya Pradesh which prompted us to structure and initiate the study.

The present report is a result of a rapid assessment of child marriage in three districts of the state namely Gwalior, Bhind and Morena. The process interacted with a range of stakeholders from children to parents, from service providers to government officials, and from NGOs to experts and academics. It came across arguments, facts, efforts, failure of law and lapses of implementation, which could be commonplace anywhere in India.

The study is based on systematic methodology and qualitative research design. Since the study is a rapid assessment of the status of child marriages it does not claim to produce an exhaustive account of the child marriages in the state. However, it presents a glimpse to the child marriage situation in Madhya Pradesh highlighting major concerns, identifying gaps in the current policies and programmes and suggesting focus areas for future interventions. It indicates the need for a more detailed exercise to establish the extent and magnitude of child marriage in Madhya Pradesh and local and unique factors perpetuating and sustaining it.

The report has been arranged in 7 chapters. While the first chapter introduces child



marriage and its socio-legal perspectives, second chapter dwells mainly on methodology of the rapid assessment. Chapter 3 lays down the profile of the sample districts. Chapter 4 deals with child marriages in Madhya Pradesh and draws facts and figures on trends and prevalence along with sample case studies. Chapter 5 deals with socio-cultural and economic barriers in curbing child marriages in India and lists down the factors which have encouraged the society to contract child marriages. Laws on child marriages have been dealt with in chapter 6, which also discusses working of the law and administrative arrangements. In chapter 7 conclusion and recommendations not only draws from the experience and insights gained in the field but also from already available voluminous literature and rich experience gathered in the field of child marriage research and action. The Annexures are meant for the more involved readers seeking greater details of legal literature, methodology and tools, outcomes of interactions, and recommendations and suggestions.

The report is presumed to be useful for civil society and NGOs, researchers, academics, and National and State Human Rights Commission. We wish an interesting read to anybody and everybody having interest in child marriage due to its still being an important discourse while humanity transitions into 21st century.

Thanking you

Ajay K Jha



Contents

1. INTRODUCTION	1
1.1. Child Marriage: The practice	
1.2. Child Marriage in India	
1.3. Child Marriage in Madhya Pradesh	
2. METHODOLOGY	4
2.1. Review of Literature	
2.1.1. Tracing the Roots of Child Marriage in India	
2.1.2. Legal Discourse on Child Marriage	
2.2. Objectives of the Study	
2.3. Methodology	
2.3.1. Research Design	
2.3.2. Scope of Study	
2.3.3. Sampling Plan	
2.3.4. Sources of Data	
2.3.5. Methods of Data Collection	
2.3.6. Tools of Data Collection	
2.4. Limitations of the Study	
2.5. Ethical Consideration	
3. PROFILE OF THE SAMPLE DISTRICTS	11
3.1. Profile of Madhya Pradesh	
3.2. Profile of Bhind, Morena and Gwalior	
3.2.1. Population Statistics of Bhind, Morena and Gwalior	
3.2.2. SC/ST Population in Three Districts	
3.2.3. Sex Ratio in Bhind, Morena and Gwalior	
3.2.4. Literacy and Educational Level	
3.2.5. Health Status	
4. CHILD MARRIAGE IN MADHYA PRADESH	20
4.1. Marriage Trends in Sample Area	
4.1.1. How are Marriages Solemnized	
4.1.2. Age at Marriage	
4.2. How People Evade the Legal Mechanism	
4.2.1. Obtaining Fake Age Certificates	



- 4.2.2. Evading Government Officials
- 4.2.3. Assistance of Panchayat Officials
- 4.2.4. Improvising Rituals
- 4.2.5. Mass Marriages
- 4.3. Prevalence of Child Marriages in Madhya Pradesh
- 4.4. Incidents of Child Marriages in Madhya Pradesh: Case Studies
- 4.5. Voices against Child Marriage

5. SOCIO-CULTURAL AND ECONOMIC BARRIERS IN RESTRAINING CHILD MARRIAGES IN MADHYA PRADESH 33

- 5.1. Patriarchal Structure of Society
- 5.2. Women's Subordination
- 5.3. Gender Discrimination
- 5.4. Lack of Security of Girls in the Region
 - 5.4.1. Terror of Armies of Great Empires of the Mughals and the Marathas
 - 5.4.2. Terror of the Dacoits and Bandits
 - 5.4.3. Rise in Crime Against Women
 - 5.4.4. Factors Related to Security of Girls
- 5.5. Lack of Education
- 5.6. Poor Economic Status
 - 5.6.1. Poverty
 - 5.6.2. Daughter is Burden
 - 5.6.3. Dowry
- 5.7. Societal Pressure to Follow the Customs
 - 5.7.1. *Chhikna* (Cast Aside)
 - 5.7.2. The Tradition of '*Kanyadaan*' of Girls Before Puberty
 - 5.7.3. Protection of Girls' Virginitv and Sexuality

6. LAW ON CHILD MARRIAGE: IMPLEMENTATION AND ADMINISTRATIVE DIMENSIONS 43

- 6.1 International Law on Child Marriage
 - 6.1.1 Universal Declaration of Human Rights, 1948
 - 6.1.2 United Nations Convention on the Rights of the Child, 1989
 - 6.1.3 Convention on the Elimination of All Forms of Discrimination against Women, 1979
 - 6.1.4 The Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage, 1962
 - 6.1.5 International Covenant on Civil and Political Rights (ICCPR)



6.1.6 International Covenant on Economic Social and Cultural Rights (ICESCR)	
6.2. Legal Provisions Restraining Child Marriages in India	
6.2.1. The Child Marriage (Restraint) Act (CMRA), 1929 (as amended in 1978)	
6.2.2. The Prohibition of Child Marriage Act, 2006	
6.2.3. The Compulsory Registration of Marriages Act, 2006	
6.3. Government Initiatives Against Child Marriage	
6.3.1. <i>Mukhyamantri Kanyadan Yojna</i>	
6.3.2. <i>Bal Vivah Virodhi Abhiyan</i>	
6.3.3. <i>Ladli Laxmi Yojana</i>	
6.3.4. <i>Gaon Ki Beti Yojana</i>	
6.3.5. <i>Raksha Sutra Bandhan</i>	
6.4. Functioning of Legal Machinery at Grass Root	
6.5. Initiatives Taken by Madhya Pradesh Human Rights Commission to Stop Child Marriage	
7. CONCLUSION AND RECOMMENDATIONS	53
References	58
Annexure I: Tools used in the research study	61
Annexure II: Guidelines for Interview Schedules of the Key Stakeholders	64
Annexure III: The Child Marriage Restraint Act, 1929	68
Annexure IV: The Prohibition of Child Marriage Act, 2006	73
Annexure V: Recommendations of the Law Commission of India	80
Annexure VI: About the Team	82



List of Tables

Table 2.1	:	Sex ratio and Prevalence of Child Marriage in Morena, Bhind and Gwalior
Table 2.2	:	Details of Sample taken for the Study
Table 3.1	:	Profile of Madhya Pradesh at a glance
Table 3.2	:	Population Details of Bhind, Morena and Gwalior at a glance
Table 3.3	:	Largest Three SCs and STs in Bhind, Morena and Gwalior
Table 3.4	:	Child Sex Ratio of the worst affected districts of Madhya Pradesh
Table 3.5	:	Sex Ratio in Bhind, Morena and Gwalior
Table 3.6	:	Literacy Rate of India, Madhya Pradesh, Bhind, Morena and Gwalior
Table 3.7	:	Educational Level attained in Bhind, Morena and Gwalior
Table 3.8	:	Educational Infrastructure in Bhind, Morena and Gwalior
Table 3.9	:	Infant Mortality Rate in Madhya Pradesh
Table 3.10	:	Infant Mortality Rate in Bhind, Morena and Gwalior
Table 4.1	:	Comparasion of Child Marriages between DLHS-2 and DLHS-3
Table 4.2	:	Age at Marriage and Percentage of Marriages below Legal Age at Marriage in the Study Area
Table 5.1	:	Prevalence of Child Marriage in Madhya Pradesh



List of Maps and Figures

- Map 3.1: District Map of Madhya Pradesh
- Map 3.2: District Map of Bhind
- Map 3.3: District Map of Morena
- Map 3.4: District Map of Gwalior

Fig 3.1: Trend of the Sex ratio of Madhya Pradesh and India from 1901 to 2001

List of Boxes

- Box 1: The Marriage of Puppets
- Box 2: Girls are unsafe get them married
- Box 3: The Straight Economics of Child Marriage
- Box 4: Could not bear the pressure
- Box 5: No option after a certain age
- Box 6: Concept of *Kanya Daan* in ancient literature
- Box 7: Not an Easy Task



Abbreviations

ANM	:	Auxilliary Nurse Midwife
ASHA	:	Accredited Social Health Activist
AWW	:	Anganwadi Worker
CEDAW	:	Convention on the Elimination of all Forms of Discrimination against Women
CMPO	:	Child Marriage Prevention Officer
CMRA	:	The Child Marriage Restraint Act, 1929
CORT	:	Centre for Operations Research and Training
CRC	:	Convention on the Rights of Child
DHS	:	Demographic and Health Survey
DLHS	:	District Level Household Survey
FGD	:	Focus Group Discussion
GOMP	:	Government of Madhya Pradesh
ICRW	:	International Centre for Research on Women
ICCPR	:	International Covenant on Civil and Political Rights
ICESCR	:	International Covenant on Economic Social and Cultural Rights
IIPS	:	International Institute of Population Sciences
IMR	:	Infant Mortality Rate
IPC	:	Indian Penal Code
MICS	:	Multiple Indicator Cluster Survey
MMKY	:	Mukhya Mantri Kanyadaan Yojana
MMR	:	Maternal Mortality Rate
MOHFW	:	Ministry of Health and Family Welfare
MP	:	Madhya Pradesh
NCPCR	:	National Commission for Protection of Child Rights
NCRB	:	National Crime Records Bureau
NCW	:	National Commission for Women
NFHS	:	National Family Health Survey



NGO	:	Non Governmental Organization
NHRC	:	National Human Rights Commission
NIPCCD	:	National Institute for Public Cooperation and Child Development.
NRHM	:	National Rural Health Mission
PCMA	:	The Prohibition of Child Marriage Act, 2006
RCH-RHS	:	Reproductive and Child Health - Rapid Household Survey
SC	:	Scheduled Caste
ST	:	Scheduled Tribe
SRS	:	Sample Registration Survey
STD	:	Sexually Transmitted Diseases
UDHR	:	Universal Declaration of Human Rights
UNCRC	:	United Nations Convention on the Rights of the Child
UNFPA	:	United Nations Population Fund
UNICEF	:	United Nations Children's Fund



Executive Summary

Chapter 1: Introduction

History has witnessed the prevalence of child marriage in various cultures in different countries of the world including India. It is a social malaise that has been a great lag in the area of rights of children and women in India. The consequences include soaring birth rates, grinding poverty and malnutrition, high illiteracy and infant mortality and low life expectancy, especially among rural women. While 21st century India is being projected as a leading economy and leader in the global political it also must provide leadership in addressing the issues of child marriage, female feticide and infanticide, gender inequality etc. These practices are rampant in many parts of the country and the incidence of it is highest in the states of Madhya Pradesh, Rajasthan, Bihar, Uttar Pradesh, and Chhattisgarh.

Chapter 2: Methodology

The present study is an outcome of the realization that despite historical attempts to combat child marriage, it continues and is continued in a more rigid fashion now-a-days. The main aim of the study is to analyze the situation prevailing in Madhya Pradesh. In addition, the study also analyses the gaps in the existing legal mechanisms against child marriage and their functioning at the grassroots level.

The study was carried out in three districts of Madhya Pradesh namely Bhind, Morena and Gwalior, which have lowest sex ratio and high prevalence of child marriages. Primarily qualitative in nature, the study is descriptive in design which is based on the responses of 156 stakeholders including those involved in the child marriage, people from community, government officials, health workers, influential people in the villages, panchayat members, social activists etc.

Chapter 3: Profile of the sample Districts

Child marriage is highly prevalent in India. The top five states are – Madhya Pradesh at 73 per cent, Andhra Pradesh at 71 per cent, Rajasthan at 68 per cent, Bihar at 67 per cent and Uttar Pradesh at 64 per cent (ICRW 2007) marriages taking place below the legal age. According to IIPS (1999), in Madhya Pradesh the mean age at marriage for boys is 21.9 years and for girls is 18.1 years. MP has a sex ratio of 920 and has the highest IMR (88) in the country. The demographic details of MP show that the overall condition of women especially those in the rural areas are very poor.

Of the three districts, population of Gwalior is the highest with 1.63 millions followed by Morena and Bhind having populations of 1.59 millions and 1.43 millions respectively. Morena has the maximum rural population while Gwalior has maximum urban population. Bhind, Morena and Gwalior have significant SC Population with 21.5 per cent, 21.1 per cent and 18.9 per cent of the population belonging to the schedule castes respectively. Except for Gwalior (3.5 per cent) scheduled tribe population in the districts is statistically insignificant.



Bhind, Morena and Gwalior have lowest sex ratio in Madhya Pradesh at 822, 829, and 848 females per thousand males respectively. This is despite the fact that literacy rate in these districts is higher than state and national average. However, in all these three districts the IMR is lower than state and national average.

Chapter 4: Child Marriage in Madhya Pradesh

The study revealed that in almost all the three districts of Bhind, Morena and Gwalior, it was found that puberty is considered as the most important determinant for the marriage of girls. The study estimates that around 75 per cent of the girls in the rural area of Madhya Pradesh are being married in 14-17 years of age whereas in the urban areas it comes to around 60 per cent. As far as boys in the rural Madhya Pradesh is concerned around 68 per cent of the boys are getting married in 16-19 years of age whereas it is only 40 per cent in the urban areas.

Due to the efforts of the state as well as civil society organizations (CSOs) the awareness about the child marriage legislations among the people has notably increased. Besides education and awareness, fear of prosecution has been instrumental in increasing the age at marriage. There is a marked trend of increase in the age at marriage in last five years. However, the study observes that condition is worse in the scheduled castes and scheduled tribes and in the interior most villages of the region. Although people prefer to marry their daughters after they attain puberty, there are still cases when the girls are married even below the age of 14 years. The study estimates that around 5 per cent of girls and 3 per cent of boys are still being married below the age of the 14.

Though people are well aware of the *kanuni umar* (Legal age of marriage), they consider the age of puberty for girls as the *sahi umar* (right age of marriage) to marry. In case of boys the physical determinants of marriageable age is gauged by the appearance of secondary sexual characters like moustache and pubic hair. For girls the question of security gets prominence and for the boys the early marriage is seen as an entry into manhood and proof of his virility. The study widely observes that in the study districts of Madhya Pradesh, girls are commonly married when they are 14-17 years of age whereas the boy are getting married in the age of 16-19 years.

It was observed that majority of marriages are happening in these areas just before the legal age of marriages of the boys and girls. The registration of births is not practiced in these areas and hence, people generally lack an official document verifying age of the children. The lack of proper documents becomes a 'boon' especially for the rural population where they manage to get fake certification from some or other sources which suits to their purpose. If we do not take into consideration the inflated age of boys and girls, the percentage of child marriage will shoot very high as majority of the marriages are the borderline cases where the age of boy and girl is just below the legal age of marriage. Ignoring this fact, the study estimates that around 20 per cent of girls and almost 29 per cent of boys are getting married at or above the legal age at marriage in the rural Madhya Pradesh. In other words, it can be said that almost 80 per cent of marriages are held in Madhya Pradesh before the boys and girls attain their legal age at marriage i.e., child marriages are still happening in around 80 per cent of the cases in rural Madhya Pradesh.



However, in the urban areas of Madhya Pradesh, it is estimated that around 40 per cent of girls and 60 per cent of boys are married after attaining their legal age of marriage.

Chapter 5: Socio-Cultural and Economic Barriers in Restraining Child Marriages in Madhya Pradesh

The patriarchal structure of the society which leads to the women's subordination and gender based discrimination is a very dominant determinant of the child marriage. The feeling of insecurity of girls, earlier due to the terror of armies of great empires of the Mughals and the Marathas, and then due to the terror of dacoits and bandits, rise in crime against women, and others factors related to the security of girls contributes significantly towards the propagation of child marriage. Lack of education, poor economic status, poverty and social practices like dowry, chhikna (Caste Aside), kanyadaan of girls before puberty and protection of girls' virginity and sexuality are other set of factors behind the child marriages. However, the practice of child marriages can also be seen in the economically well-off and educated families. All these factors are inter-related and have a reciprocal influence over each other. The intensity of societal pressure is such that any individual or agency – government or non-governmental – trying to enforce laws is seen as an 'enemy' and the entire community rises against such efforts.

Chapter 6: Law on Child Marriage: Implementation and Administrative Dimensions

There are a number of international human rights covenants and treaties which provides a normative framework to address the issues of the child marriages globally. These are – Universal Declaration of Human Rights (1948), United Nations Convention on the Rights of the Child (1989), The Convention on the Elimination of all forms of Discrimination against Women (CEDAW, 1979), The Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage (1962), International Covenant on Civil and Political Rights (ICCPR, 1966), and International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) and so on. In India the Prohibition of Child Marriages Act, 2006, and Compulsory Registration of Marriages Act, 2006 aim at elimination of child marriages. Despite enactment of laws and efforts of the government to ensure compliance, people have come up with ways of evading the laws. They obtain fake age certificates, perform marriage secretly, take help of panchayat officials, and adopt other means to marry their children.

Government of Madhya Pradesh has also launched various schemes with prohibition of child marriage as one of their objectives. These are like Mukhya Mantri Kanyadaan Yojana, Bal Vivah Virodhi Abhiyan, Ladli Laxmi Yojana, Gaon ki Beti Yojana, Raksha Sutra Bandhan etc. The study also observed that only in less than 5 per cent of the cases the complainant reports the incident due to genuine concern for the girl's well being. In rest of the cases, the complaint is made because of personal enmity, family feud and by boys who have love interest in the girls whose marriage is being solemnized. Madhya Pradesh Human Rights Commission has also undertaken various programmes and workshops to create awareness of the present legal provisions regarding child marriages.



Chapter 7: Conclusion and Recommendations

The solutions while obvious are not simple. It requires comprehensive development approach. The prevention of child marriage is not only about laws, attitudes and customs; it is equally about education, health care and empowerment. It is related to gender equality and participation of women in decision making as much as it is related to equal employment and life skills opportunities.

The current approaches in combating child marriages are focused more on preventing it. A little shift in the emphasis on delaying marriages and providing adequate incentives and opportunities to support that can have improved results not only on the statistics but also on the attitude and behavior of people. Strengthening education network and outcomes, encouraging parents to commit a minimum number of years for girls at schools, providing more accessible scholarships and especially for those belonging to disadvantaged communities can help improve community response for delaying child marriages. The study makes some specific recommendations as listed below:

- Reinforcing community involvement in preventing child marriages
- Increasing access to education
- Providing skills and economic opportunities to young women
- Education of marriage laws with skills training for unmarried girls
- Counseling at high schools and above
- Employment of grassroots level workers/NRHM framework to build information network
- Increasing women's participation in social, religious and political activities
- Strict enforcement of laws
- Compulsory registration of births and marriages
- Setting up of special cells with the responsibility of monitoring and preventing child marriages in areas and districts of high prevalence
- Compulsory declaration of age of bride and groom before marriage officers
- Involving men folk in discussion and efforts to combat child marriage
- Improved access to family planning and health care services to young girls and women
- Supporting programmes to end violence against women
- Rehabilitation programmes for victims of child marriage
- Monitoring of law and other legal mechanisms
- Bridging the gap between public and personal laws
- Encouraging civil society cooperation.

Therefore, the study suggests that any efforts towards restraining child marriages should include initiatives ranging from grassroots initiatives, to efforts desired at intermediate (sub-district) levels, to state and national priorities in terms of curtailing child marriages. It should range from the most obvious step to educate girl child, to strengthening community involvement in preventing child marriages, from employing alternative opportunities to girls and young women to involving men folk in the action.



“I am one of those unfortunate Hindu women whose hard lot is to suffer the unnameable miseries entailed by the custom of early marriage. This wicked practice of child marriage has destroyed the happiness of my life. It comes between me and the things which I prize above all others - study and mental cultivation. Without the least fault of mine I am doomed to seclusion; every aspiration of mine to rise above my ignorant sisters is looked down upon with suspicion and is interpreted in the most uncharitable manner.”

Extract from a letter written by Rukhmabai, a victim of child marriage, to *The Times of India* on June 26, 1885, and reproduced in the book *Child Marriages in India* by Jaya Sagade (2005)



1. INTRODUCTION

Child marriage has been prevalent in many cultures throughout human history. It is based on the age old religious traditions, socio-cultural practices, and economic factors. Not only in India, child marriage is prevalent in majority of sub-Saharan African and South East Asian countries. However with an increase in the human rights advocacy the tradition of child marriage has decreased greatly as it was considered unfair and dangerous for the children. Child marriage perpetuates an unrelenting cycle of gender inequality, sickness and poverty. Its consequences ripple through the world's poorest regions devastating the lives of girls, their families and their communities. Despite nearly universal condemnation, this harmful tradition still thrives in many countries of the world and India.

1.1. Child Marriage: The Practice

Child marriage usually refers to three separate social phenomena which are practiced in some societies. The first and more widespread practice is that of marrying a young child (generally defined as below the age of eighteen) to an adult. The second practice is form of arranged marriage in which the parents of two children from different families arrange a future marriage. In this practice, the individuals who become betrothed often do not meet one another until the wedding ceremony, which occurs when they are both considered to be of a marriageable age. In most practicing culture, this age is at or after the onset of puberty. However the most prevalent in India is marriage between children who have not achieved the age of consent. The present study is focussed on this process of solemnization of marriage.

In many parts of the world parents encourage the marriage of their daughters while they are still children in hopes that the marriage will benefit them both financially and socially, while also relieving financial burdens on the family (UNICEF, 2005). Child marriages are arranged in various ways and involve both boys and girls. It is more usual for girls to be married to boys and men who are older than them while boys are more commonly married to girls of a similar age. Child marriage is a health issue as well as a human rights violation. Because it takes place almost exclusively within the context of poverty and gender inequality, it also has social, cultural and economic dimensions. Other terms applied to child marriage include "early marriage" and "child brides".

Globally, 36 per cent of women aged 20-24 were married or in union before they reached 18 years of age (UNICEF, 2005). In South Asian region, 59 per cent of women aged 20-24 were married or in union before they reached 18 years of age (UNICEF, 2009). An estimated 14 million adolescents between 15 and 19 give birth each year. Girls in this age group are twice as likely to die during pregnancy or childbirth as women in their twenties (UNFPA, 2005). Marriage of young girls is most common in sub-Saharan Africa and South Asia. In Niger, 77 per cent of 20 to 24 year old women were married before the age of 18. In Bangladesh, this rate was 65 per cent (UNICEF, 2005). This shows that the child marriage is still a grave social problem not only in India but in many countries of the world.



1.2 Child Marriage in India

The practice of child marriage is rampant in many parts of the country and the incidence of it is highest in the States of Rajasthan, Bihar, Uttar Pradesh, Chhattisgarh and Madhya Pradesh. According to the 1991 Census, the percentage of married females in the total number of females in the age group 10 to 14 was 13.2 in Rajasthan, the highest in the country. Madhya Pradesh was in second place at 8.5 percent, followed by Uttar Pradesh at 7.1. For the country, the percentage of married women under the age of 18 stood at 53.3 percent. The situation did not change substantially in the following decade. The 2001 Census reports that there are nearly 3,00,000 girls under 15 who have given birth to at least one child.

Child marriages continue to be a fairly widespread social evil in India. The National Family Health Survey - 3 (IIPS and Macro International, 2007) reveals that more than one-fourth (27 per cent) of Indian women age 24-49 married before age 15; over half (58 per cent) married before the legal minimum marriage age of 18, and three-fourth (74 per cent) married before reaching age 20. There has been a steady rise in age at first marriage, which is reflected in the gradual decline in the proportion of women married by ages 15, 18, and 20 years from the oldest to the youngest age groups.

A considerable proportion of women still marry below the legal minimum age at marriage (IIPS and Macro International, 2007). The median age at first marriage among women age 20-49 is 17.2. Men in India tend to marry at much older ages than women. Among men age 20-49, only 16 percent were married by age 18, 28 percent by age 20 and 56 percent by age 35. More than one-third of men in India marry before attaining the minimum age at marriage for men (age 21 years) set by the Child Marriage Restraint Act of 1929. The proportion of men married by age 20 has decreased steadily in recent years, from 35 per cent among men age 40-44 to 19 per cent among men age 20-24. The median age at marriage for men age 20-49 is 23.4 years, over six years older than the median for women in the same age group.

The National Family Health Survey-3 further highlights that the proportions of women and men who marry before the legal minimum age at marriage are considerably lower among urban residents than among rural residents in all states, with the exception of Goa for women and Arunachal Pradesh, Goa, and Punjab for men. Rural-urban differences in the proportion of women marrying before age 18 are largest in Jharkhand, Rajasthan, Chhattisgarh, Bihar, West Bengal, Uttar Pradesh, and Madhya Pradesh. Rural-urban differences among men in the proportion marrying before reaching age 21 are largest in the same states (with the exception of West Bengal).

The NFHS-3 findings further revealed that 16% of women aged 15-19 were already mothers or pregnant at the time of the survey. Though NFHS-3 did not compile data on girls who were married below the age of 15, the 2001 Census of India had revealed that 300,000 girls under 15 had given birth to at least one child.

Complications and mortality are common during childbirth for young pregnant girls. Girls who come from poor backgrounds and who are often married at an early age have little or no access to health care services. Risks associated with young pregnancy and



childbearing include “an increased risk of premature labour, complications during delivery, low birth-weight, and a higher chance that the newborn will not survive.”

1.3. Child Marriage in Madhya Pradesh

The condition of Madhya Pradesh is not much better than the overall position of India. It has the second highest percentage of married females in the total number of females in the age group 10-14 years, as per 1991 Census of India.

The median age at first marriage in Madhya Pradesh is 15.9 years among women age 20-49 and 19.9 years among men age 25-49. On average, men get married four years later than women in MP. More than half (57%) of women age 20-24 years got married before the legal minimum age of 18 and 54 percent of men age 25-29 years got married before the legal minimum age of 21 (IIPS and Macro International 2008). Among young women of age 15-19 in Madhya Pradesh, 14 percent have already begun childbearing, a little lower than the national average (16%). Young women in rural areas (16%) are more than twice as likely to have already begun childbearing as young women in urban areas (7%).

Around 53 per cent of women of the age group 20-24 are getting married by the age 18. Similarly around 54 per cent of the men of the age group 25-29 are getting married by the age of 21 years. Around 13.6 per cent of the women of the age group of 15-19 were already mothers or pregnant at the time of the survey (IIPS and Macro International 2008).

The present study is a part of such an effort of the Madhya Pradesh State Human Rights Commission to take a note of the existing situation prevailing in the state. PAIRVI, an advocacy and support organisation is committed to highlight the issues of human rights violation in eight Hindi speaking states of India including Madhya Pradesh. Although a rapid assessment which is conducted in a span of only 25 days in three districts of Madhya Pradesh, the study identifies the fundamental issues related to the practice by consulting various stakeholders including experts in the field.



2. METHODOLOGY

2.1. Review of Literature

2.1.1. Tracing the Roots of Child Marriage in India

Child-marriage was not prevalent in ancient India. The Rigveda mentioned that a girl could be married only when she was fully developed both physically and mentally and that she was to be fully developed physically before leaving her father's home. Men were advised to marry a girl with a fully developed body. One hymn mentions that a female should be married only "when she is not a child". In the Vedic period the marriages were effected when the couples reached a mature age. The girl's consent was always sought. She even had the freedom to choose her life partner (Sagade, 2005). *Manusmriti* describes eight types of marriages – *Brahma Vivaha*, *Daiva Vivaha*, *Arsha Vivaha*, *Prajapatya Vivaha*, *Asura Vivaha*, *Gandharva Vivaha*, *Rakshasa Vivaha* and *Pishaka Vivaha*. But among these *Bal Vivaha* (child marriage) is conspicuous by its absence.

Child-marriage is a 'blessing' of the medieval age and it was born from the same compulsions that perpetuated Sati (Birodkar, undated). There are many reasons to believe that this custom originated in the medieval ages. In the turbulent atmosphere of the mediaeval ages, law and order was not yet a universal phenomenon and arbitrary powers were concentrated in the hands of a hierarchy led by a despotic monarch. Women were at the receiving end during any war, arson, plunder, etc. and during these days were spawned customs like child-marriage, segregation of women, wearing of the *Ghungat* (veil) etc. This age also perpetuated customs like Sati and looking upon the birth of a baby girl as a bad omen, even killing newly born baby girls by drowning them in a tub of milk. Amidst the feeling of insecurity, the presence of young unmarried girls was a potential invitation for disaster (Birodkar, undated).

The predatory feudal lords and princelings who stalked all over India in the middle ages were a source of constant threat. Hence parents would seek to get over with the responsibilities of their daughters by getting them married off before they reached the marriageable age. This way the danger to a growing girl's chastity was somewhat reduced.

Along with this principal reason, there were a few other reasons arising from the nature of the feudal society which were conducive for the prevalence of this practice. In a feudal society, notions of rivalry, personal honour, hereditary friendship or enmity are rated very highly. Because of this, military alliances play a very important role in preserving or destroying the balance of power between the various kingdoms and fiefdoms. To ensure that the military alliances entered into were observed by both parties, practices like exchanging Juvenile members of the respective families who were educated and brought up at each other's palaces were followed.

The caste hierarchy also perhaps had its role to play in perpetuating such a system.



Caste which is based on birth and heredity does not allow marriages between members of different castes. But as youngsters whose emotions and passions could be ruled by other considerations might violate this injunction. Out of the necessity to preserve itself, the hereditary caste system could have helped in nourishing the practice of child-marriage.

Among other subsidiary considerations which could have helped to preserve this custom might be the belief that adults (or adolescent) boys and girls would indulge in 'immoral practices' like sexual intercourse before marriage. This consideration would have been more relevant in the context of the puritanical and orthodox environment of the bygone ages. The practice could also have been perpetuated, especially among the economically weaker sections, by the consideration of keeping marriage expenses to a minimum. A child-marriage need not have been as grand an affair as adult marriages.

Hence, the safety of adolescent girls emerges along with economic concerns as the most important factors. In this regard, especially during the sixth and seventh century, pre-puberty marriage began to be considered the best option. With the passage of time it became an institutionalised custom, the violation of which was met with social disapproval and disgrace (Sagade, 2005). It was believed to be a sin to keep a girl in her parental home after she has reached menarche.

2.1.2. Legal Discourse on Child Marriage

In India during the 1860's, marriage meant girls getting married below 8 or 9 years old. Socio-reform religious movements such as the Brahma Samaj and the Arya Samaj pioneered work against child marriage. Late in the 1860's some success was met when the Indian Penal Code prohibited intercourse with a wife who had not reached ten years of age. Nevertheless, it wasn't until 1880 that child marriage as a problem became a public issue in India during the debate on the Age of Consent Bill. The case of Phulmonee (eleven year old bride who died when her husband raped her) whipped up the sentiments and became the centre of the debate. More than 500 women doctors sent a memorandum to the Viceroy requesting him to stop marriage of girls below 14 years of age. The resulting bill compromised at 12 years old. Shortly thereafter, in 1886 the first petition against 'Hindu Infant Marriage' was proposed to the Government by the natives of Meerut.

Discussions on the evils of child marriage began as early as the last century. The Child Marriage Restraint Act (CMRA) was introduced only in 1929. In fact, the Indian political class woke up to the reality when Census 1921 reported that there were 600 brides between the ages of one and 12 months. The provisions of the Act are only to restrain and not to invalidate such marriages. This Act was amended in 1978, when the minimum age of marriage was fixed at 21 for boys and 18 for girls and offences under the Act were made cognizable.

The CMRA, however, remained ineffective for a variety of reasons. According to the National Crime Bureau Records 2005, 122 incidences were reported in the country under the Child Marriage Restraint Act in 2005, compared to the 93 cases that were reported in 2004. These statistics are obviously not an accurate reflection of the number of cases of child marriages occurring in the country. Either most cases of child marriage are not reported or they are ignored by the police and government authorities. Even from the reported 122 cases, only 45 resulted in conviction. Under the CMRA there were very few convictions. It has been said that "the courts have been reluctant to find adults guilty under the Act. It has



been held, for instance, that a guest escorting the bride and reminding others to raise a customary chorus cannot be punished under the Act (*Emperor v. Fulabhi Bhulabhai Joshi and others*, AIR1940 Bombay 363). Negotiation and preparation for the marriage is also not punishable (*Sheikh Haidar Sheikh Rahimmo Attar Musalman v. Syed Issa Syed Rahiman Musalman and others*, AIR 1938 Nagpur 235).

Section 5 of the Act, which makes the person who conducts, directs, or performs the marriage liable, has been very narrowly construed by the court. It has also been held by the courts that for a person to be punished under the Act it must be proved that the marriage has been duly performed in accordance with all the religious rites applicable to the form of marriage (*Khushalchand Janki Prasad v. Shankar Pandey Gaya Prasad*, AIR 1963 Madhya Pradesh 126). This kind of reasoning allows an accused party to raise the plea that the marriage has not been performed according to applicable ceremonies. Though there have been some judgments under the Act prescribing that deterrent punishment should be awarded, courts have given extremely light punishments and let off the accused with small fines (*Khushalchand Janki Prasad v. Shankar Pandey Gaya Prasad*, AIR 1963 Madhya Pradesh 126). In this case the accused was sentenced to a simple imprisonment of seven days and a fine of Rs. 100 only. Under the CMRA a police officer had no powers to arrest without a warrant or an order of the Magistrate. The Act also prohibited complaints after the first year of marriage and therefore made prosecution of child marriages extremely difficult.

Taking cognisance of the aforesaid factors the National Human Rights Commission reviewed the Child Marriage Restraint Act, 1929 in July 2002. The Commission recommended to the Central Government (Department of Women and Child Development) a number of amendments to the CMRA, 1929. In pursuance of these recommendations, the Central Government (Legislative Department, Ministry of Law and Justice) introduced a bill entitled the Prevention of Child Marriage Bill, 2004 in the Rajya Sabha incorporating almost all the recommendations of the Commission (NHRC, undated). Finally the Prohibition of Child Marriage Act was enacted in 2006 to deal with all the issues emerging out of the CMRA. It holds all those who are participating in and abetting a child marriage guilty and provides harsher punishments.

While the PCMA, 2006 was being enacted, the Supreme Court of India requested the assistance of Law Commission on certain legal issues relating to Child Marriage. In the mean time PCMA, 2006 was enacted giving certain important rights to victims of child marriage and children born from these marriages. The Commission took these changes into account and further examined whether the new Act addressed all the concerns relating to child abuse, health and human rights, which are on inevitable consequences of child marriage. The Commission forwarded its suggestion to the Supreme Court in December, 2007. The Commission also suggested to bring the age of marriage both for boys and girls at 18 and to declare all under age marriages in future as null and void. (See Annexure 5 for complete recommendations)

Thus, it can be seen that the practice of Child Marriage, which has no traces in the Ancient times emerged gradually during the middle ages as an easily available option to deal with the then contemporary problems. In due course of time, it became deeply ingrained in the society and spread like a menace affecting particularly the rights of children especially the girl child. The practice of Child Marriages is like an incessant infringement of



rights which have its severe manifestations not only on the individual and families but also on the societies and nation. The unique socio-cultural and economic background of the country which has sustained the practice historically, requires a unique intervention plan which should not be restricted to the enactment and implementation of social legislations. There is a need to change the attitude and beliefs of the masses at large for which all the social-political-economic institutions of country should play a coordinated role.

Based on these facts in the background, a rapid assessment of the situation of the child marriage in Madhya Pradesh is conducted by PAIRVI supported by Madhya Pradesh Human Rights Commission. It is realised that despite historical attempts to combat these practices, it continues and is continued in a more rigid fashion now-a-days. The study is a rapid assessment as it is conducted within a time frame of 25 days only.

2.2. Objectives of the Study

The ultimate aim of the study is to analyse the situations prevailing in Madhya Pradesh which has still sustained the practice of Child Marriages. The specific objectives of the study are as follows:

1. To study the prevalence of child marriage in the three districts namely Bhind, Gwalior and Morena of Madhya Pradesh.
2. To identify the existing factors – social, economic, cultural, and historical – which contributes to the continuation of practice in the above districts.
3. To examine the gaps in the existing legal mechanisms against child marriage and their functioning at the grass root level.
4. To recommend measures for effective intervention in order to restrain the practice of child marriages.

2.3. Methodology

The study examines the widely prevalent cultural and traditional beliefs and underlying rationale of the child marriages in three districts of Madhya Pradesh. A number of key stakeholders were identified through the desk review and consultations which included those involved in the child marriage, people from community, government officials, health workers, influential people in the villages, panchayat members, social activists etc.

2.3.1. Research Design

Qualitative in nature, the study is descriptive in design. The study is a kind of rapid assessment conducted in a very short span of time.

2.3.2. Scope of Study

The study is confined to only three districts of Madhya Pradesh namely Bhind, Morena and Gwalior. It focuses on the qualitative details of the practice of child marriage hence to generate a quantitative data is beyond the scope of the study.



2.3.3. Sampling Plan

Three districts of Madhya Pradesh were identified for the study on the basis of the low sex ratio and the high prevalence of marriages below 18 years of age.

Table 2.1: Sex ratio and Prevalence of Child Marriage in Morena, Bhind and Gwalior

Districts	Sex Ratio	Prevalence of marriages below 18 years of age
Morena	822	73.90 %
Bhind	829	61.20 %
Gwalior	848	35.80 %

(Source: Census of India 2001 and RCH-RHS 1998-99)

Two panchayats from each district were selected based on the criteria of purposive sampling. The criteria used for the sampling are as follows:

- * 5 children of either sex (preferably married who are less than 18 years of age) were selected through snowballing technique for interview from each panchayat
- * 1 Focus Group Discussion (FGD) was conducted in each panchayat with the local village people
- * 1 member of panchayat was interviewed from each of the panchayat
- * 2 case studies of child marriage from each of the districts

However, the study team during its field work managed to collect data from more than the stipulated sample. The details of the respondents are given below:



Table 2.2: Details of Sample taken for the Study

Districts	Villages	Children	FGD (10 members group)	Panchayat Member	Case Studies	School Teacher	Social Activists	Health Workers	Doctors	Government Officials	Experts	Total
Bhind	3	11	3x10	1	2	2	3	3	2	2	6	156
Morena	3	10	3x10	1	2	0	1	1	1	2		
Gwalior	3	9	2x10	1	2	2	6	1	3	3		
Total	9	20	80	3	6	4	10	5	6	7		

Thus, the study is based on the response of 156 respondents.

2.3.4. Sources of Data

Both primary and secondary sources of data were used in the study. Primary data was collected through interviews, FGDs, case studies, and observations whereas the sources of secondary data were books, journals, reports, websites of different government, international and national non-government organisations.

2.3.5. Methods of Data Collection

In the study, the methods of data collection used were as follows:

- > Interview
- > Group Discussion
- > Desk Review

2.3.6. Tools of Data Collection

The following tools for the data collection were developed for the study. These are:

- > Interview guidelines for the children
- > Guidelines for Focus Group Discussion
- > Interview guidelines for the government officials
- > Interview guidelines for Panchayat members
- > Interview guidelines for Health workers
- > Interview guidelines for social activists/NGO workers



2.4. Limitations of the Study

The study aimed to examine the status of child marriage in the Madhya Pradesh through a rapid assessment. The rapid assessment has its own strengths as well as limitations. The entire study had to be conducted within a time frame of only 25 days. This limitation restricted us to probe deeply into the practice of child marriage. The qualitative findings of the study are in harmony with the data available in the various government and international reports. However, the same could not be substantiated by the fresh quantitative data.

2.5. Ethical Consideration

Child marriage is a punishable offence in the country. Despite this fact it is rampant in almost all the places. The study followed the principle of confidentiality of the respondents in order to get honest responses from them. Hence, the annexures do not carry the names of the respondents.



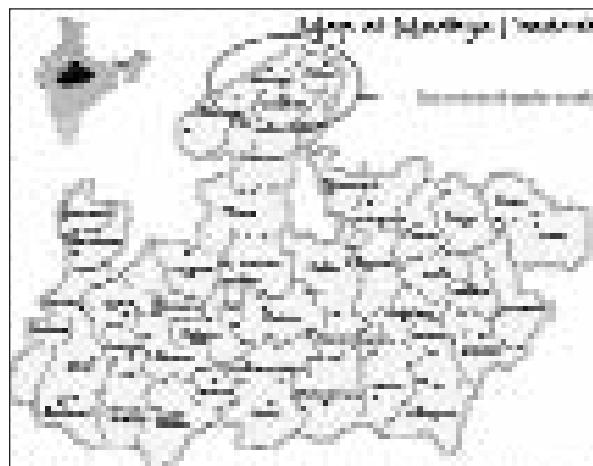
3. PROFILE OF THE SAMPLE DISTRICTS

3.1. Profile of Madhya Pradesh

The study was conducted in three districts of Madhya Pradesh namely Bhind, Morena and Gwalior. Madhya Pradesh, often called the Heart of India, was originally the largest state in India until November 1, 2000 when the state of Chhattisgarh was carved out.

Map 3.1: District Map of Madhya Pradesh

(Source www.indiarealitynews.com)



Madhya Pradesh is the second largest Indian state in size with an area of 308,000 km². It has a total population of 60.4 million (2001 Census), the rural to urban ratio being approximately 73:27. Scheduled castes and scheduled tribes account for 15.4 and 19.9 percent respectively of the total population.

According to Census of India, 2001, Madhya Pradesh's sex ratio is 920 in 2001 which is lower than the national average of 933. The sex ratio is higher in rural areas (927 females per 1000 males) compared to urban areas (899 females per 1000 males). Madhya Pradesh has made impressive advances in literacy in the last decade. The literacy rate increased sharply from 44 per cent in 1991 to 64 per cent in 2001 against a national average of 65 per cent. The female literacy rate is only 50.3 percent, somewhat lower than the national average of 54.3 per cent. Population below poverty line (BPL) in MP including Chhattisgarh has been estimated to be 42.5 per cent in 1995 by Planning Commission. The infant mortality rate of Madhya Pradesh has been estimated by SRS at 88 in 2000 which is highest of all the states in India. The rural IMR is 94, while urban IMR is 54.

**Table 3.1: Profile of Madhya Pradesh at a glance**

Indicator	Unit	Madhya Pradesh	All India
Total Population	Million	60.4	1027.0
Rural	Per cent	73.3	72.2
Urban	Per cent	26.7	27.8
SC	Per cent	15.2	16.2
ST	Per cent	20.3	8.2
Sex Ratio	Female/1000 Males	920	933
Literacy Level	Per cent	64.1	64.8
Male Literacy Level	Per cent	76.8	75.3
Female Literacy Level	Per cent	50.3	53.7
Rural Literacy Level	Per cent	57.8	58.7
Urban Literacy Level	Per cent	79.4	79.9

Source: Census of India, 2001

Thus, the demographic details of Madhya Pradesh show that the overall condition of women especially those in the rural areas are very poor. Males especially in the urban centre have their status better than the national average. Data also reflects the high prevalence of patriarchy in the state. All these factors have a direct relation with the continuance of the practice of child marriage in Madhya Pradesh.

The study was carried out in the Gwalior, Bhind and Morena districts of Madhya Pradesh. The following section gives a profile of the districts selected for the study:

3.2. Profile of Bhind, Morena and Gwalior

3.2.1. Population Statistics of Bhind, Morena and Gwalior

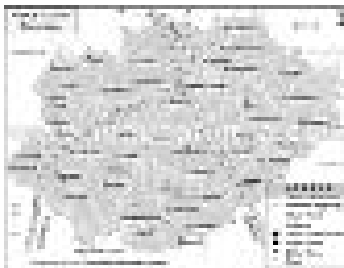
The study covers three districts which cover a total area of 14,672 km², which has a total population of 4,653,382. Bhind has a total area of 4,459.00 km² whereas Morena has 4998.78 km² and Gwalior has 5214 km² of area. Of the three districts the population of Gwalior is highest 1.63 millions whereas Bhind and Morena have 1.43 and 1.59 million population respectively. However, Morena has the highest percentage of the male population 54.88. In terms of rural urban divide, Morena has maximum rural population with 78.5 per cent whereas the percentage of rural population in Gwalior is 39.8 only. This shows that Gwalior district is highly urbanised in its nature with 60.2 per cent of urban population. Comparison of the overall profile of the three districts shows that Bhind and Morena have very similar statistics. Gwalior is very distinct from the other two districts.



Map 3.2: District Map of Bhind
(Source: www.mapsofindia.com)



Map 3.3: District Map of Morena
(Source www.mapsofindia.com)



Map 3.4: District Map of Gwalior
(Source www.mapsofindia.com)

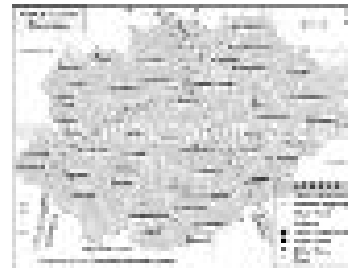


Table 3.2: Population Details of Bhind, Morena and Gwalior at a glance

Indicator	Madhya Pradesh	Bhind	Morena	Gwalior
Total Area (km ²)	308,000	4,459	4,998	5,214
Population Statistics				
Total (Million)	60.4	1.43	1.59	1.63
Male (%)	52.1	54.7	54.9	54.1
Female (%)	47.9	45.3	45.1	45.9
Rural (%)	73.5	76.2	78.5	39.8
Urban (%)	26.5	23.8	21.5	60.2
SC (%)	15.2	21.5	21.1	18.9
ST (%)	20.3	0.5	0.8	3.5

Source: Census of India 2001



3.2.2. SC/ST Population in Three Districts

The Schedule Tribe (ST) population of the State of Madhya Pradesh is 12,233,474 as per 2001 census. This constitutes 20.27 per cent of the total population of the State. Madhya Pradesh holds 1st rank among all the States/UTs in terms of ST population and 12th rank in respect of the proportion of ST population to total population. The state has a total of forty six Scheduled Tribes. The ST population in the state is overwhelmingly rural with 93.6 per cent residing in rural areas.

Around 15.2 per cent of population in Madhya Pradesh belongs to the scheduled caste community. The percentage of the SC population in all these three districts is far above the state level. Bhind, Morena and Gwalior have 21.5 per cent, 21.1 per cent, and 18.9 per cent of SC population respectively. Unlike SCs, the percentage of STs in the three districts is very low as compared to the state which has 20.3 per cent of ST population. Bhind district preceded by Morena has lowest proportion of scheduled tribes with 0.5 per cent and 0.8 per cent respectively whereas Gwalior has 3.5 per cent of ST population.

The following table shows the largest three scheduled castes and scheduled tribes in the three districts of Madhya Pradesh.

Table 3.3: Largest Three SCs and STs in Bhind, Morena and Gwalior

Districts	Scheduled Castes			Scheduled Tribes		
Morena	Chamar (2,16,145)	Koli (34,586)	Bhangi (17,095)	Gond (4,673)	Majhi (770)	Korwa (432)
Bhind	Chamar (2,54,224)	Koli (47,035)	Bhangi (12,933)	Shaharia (7,143)	Korku (1,938)	Gond (1,383)
Gwalior	Chamar (1,79,890)	Koli (59,564)	Bhangi (23,290)	Saharia (33,239)	Majhi (8,186)	Gond (5,255)

* Figure in brackets are population of the respective SC/ST in the district

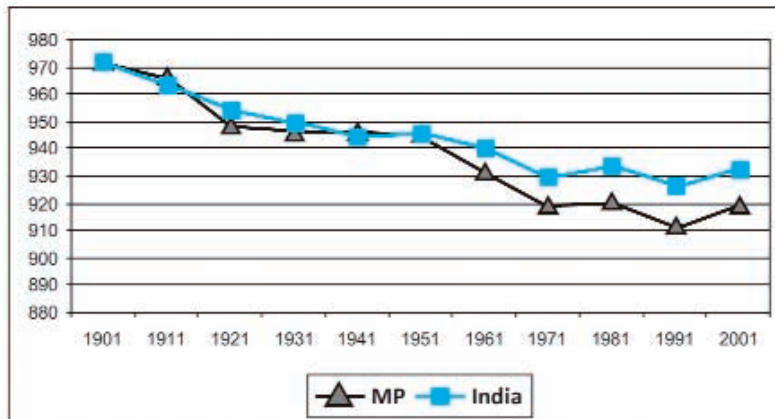
Source: Census of India, 2001

3.2.3. Sex Ratio in Bhind, Morena and Gwalior

The gender inequity is a major human rights concern. It cuts across all the other forms of discrimination, and represents an added bias, denying women of their rights. The 2001 census shows that the sex ratio of Madhya Pradesh is 920 (Rural 927 and Urban 899) and is in a decreasing trend. The following graph highlights the alarming decreasing trend of sex ratio.



Fig 3.1: Trend of the Sex ratio of Madhya Pradesh and India from 1901 to 2001



Source: MP Government website (<http://www.health.mp.gov.in/pndt.htm>)

In the year 1901, the sex ratio of Madhya Pradesh was same as that of India and nearly maintained a comparatively similar trend till 1951. But since then, the decreasing trend is steeper. The comparison of the child sex ratio for 1991 and 2001 Census of all the districts of Madhya Pradesh shows that the districts having poor child sex ratio - Bhind, Morena, Gwalior, Datia, Shivpuri, Guna, Sheopur, Tikamgarh, Chhatarpur, and Sagar - have shown decreasing child sex ratio. There are 10 districts which have been worst affected as is shown below:

Table 3.4: Child Sex Ratio of the worst affected districts of Madhya Pradesh

District	1991 CENSUS	2001 CENSUS	Difference
Gwalior	888	853	-35
Indore	940	908	-32
Dhar	970	943	-27
Datia	899	874	-25
Sidhi	977	954	-23
Morena	857	837	-20
Jabalpur	951	931	-20
Bhind	850	832	-18
Neemuch	948	931	-17
Jhabua	991	974	-17

Source: MP Government website (<http://www.health.mp.gov.in/pndt.htm>)



Thus, we see that Bhind, Morena and Gwalior have the lowest sex ratio in Madhya Pradesh. The following table helps in the further analysis of sex ratio in these districts.

Table 3.5: Sex Ratio in Bhind, Morena and Gwalior

Districts	Sex Ratio (Females per 1000 males)	Sex Ratio (0-6 years)	Difference
Morena	829	832	+3
Bhind	822	837	+15
Gwalior	848	853	+5

Source: Census of India, 2001

Table 3.5 clearly shows that there is a positive growth in the sex-ratio which is considerably high in Bhind. However, this gives no relief as the sex ratio of these districts are still too low which raises issues to be addressed.

The main reason for the skewed sex ratio is the underlying belief that girls are considered as liability, whereas the boys are considered as asset, because of the patriarchal norms prevalent in the society. As a result of which there is a practice of female foeticide and infanticide. Even if the girl child survives, poor nutrition and health care act as constant threats to her well being. All these factors contribute directly or indirectly to the practice of child marriage and raise serious concerns.

3.2.4. Literacy and Educational Level

The literacy rate of Madhya Pradesh is 64.11 per cent (Census, 2001), which is close to the national literacy rate of 64.8 per cent. As far as Bhind, Morena and Gwalior are concerned their total literacy rate is higher than the state and national rate. Only the female literacy rate of Morena is lower than the state and national level. While the female literacy has considerably improved over the last decade, a great disparity persists in the literacy rates of males and females.

Table 3.6: Literacy Rate of India, Madhya Pradesh, Bhind, Morena and Gwalior

Literacy Rate	India	Madhya Pradesh	Bhind	Morena	Gwalior
Total (%)	64.8	63.7	70.5	64.7	69.4
Male (%)	75.3	76.1	83.2	79.9	80.4
Female (%)	53.7	50.3	55.2	46.2	56.4

Source: Census of India, 2001



The literacy rate of the three districts of Bhind, Morena and Gwalior shows satisfactory statistics when compared to the national and state's rate. Looking into the data on the educational level of the three districts, we come to know that more than half of the total literate persons in Bhind (54.5) and Morena (58.2) leave school before or at primary level. Around one-fifth of the total literates in Bhind (21.8%) and Morena (20.7%) go up to the Matriculation level or above which comes to around 12.64 per cent and 10.88 per cent of the total population respectively. Gwalior has a better percentage of the educated persons. Around 34.2 per cent of the total literates and 20.02 per cent of the total population in Gwalior go for the education level up to Matriculation/Higher Secondary/ Diploma or above. Gwalior has a 12.3 per cent graduate which is substantially high as compared to Bhind (4.0 per cent) and Morena (4.2 per cent).

Table 3.7: Educational Level attained in Bhind, Morena and Gwalior

Educational Level Attained*	Bhind	Morena	Gwalior
Below Primary	27.8	31.3	23.3
Primary	26.7	26.9	23.62
Middle	20.9	18.8	17.3
Matric/HS/Diploma	17.8	16.4	21.9
Graduate and above	4.0	4.2	12.3
Without Level	2.8	2.4	1.5

* Percentage of the total literate persons in the district

Source: Census of India, 2001

The literacy rate and the level of education are directly related to the educational infrastructure present in the district. Table 3.8 shows that there are 25, 46, 54 villages in Bhind, Morena and Gwalior respectively which do not even have a primary schools. The analysis of the Table 3.8 clearly gives us a picture that there is a lack of educational infrastructure in all the three districts. The position of Gwalior is worst whereas Bhind is the best among the three districts. It should be noted that despite worst educational infrastructure, Gwalior has the maximum number of the educated persons among the three districts.



Table 3.8: Educational Infrastructure in Bhind, Morena and Gwalior

Educational Infrastructure	Bhind	Morena	Gwalior
Total inhabited villages	889	782	612
Primary School (No of Villages)	864	736	558
Middle Schools (No of Villages)	388	308	223
Secondary/ Sr. Secondary Schools (No of Villages)	213	153	70
College (No of Villages)	2	2	2
Villages with no Schools	25	46	54
Population covered by one Primary School	1,607	2,037	2,667
Population covered by one Middle School	3,682	5,71	7,319
Population covered by one Secondary School	6,707	10,410	23,316
Population covered by one College	7,14,280	7,96,357	8,16,055

Source: Census of India, 2001

3.2.5. Health Status

The Government of Madhya Pradesh has accepted in its Annual Work Plan Document of Mid-Day Meal Scheme (GOMP, 2007) that the health care delivery infrastructure in the state is still not adequate enough to meet out the health needs of the people in efficient and cost effective manner which has resulted in the persistent poor state of health in the state.

State of infant and child mortality is perhaps the best assessment of the state of basic health care, quality and reach of health delivery, general environment for health, crucial health determinants such as nutrition, sanitation, safe drinking water etc. It is also a very good determinant of the performance of development initiatives that focus on poverty, backwardness, gender equity, and even empowerment. The Infant Mortality Rate for Madhya Pradesh has been estimated by SRS-6 (Sample Registration Survey) at 88 in 2000. The rural IMR is 94, while the urban IMR is 54. The national IMR at the same time was 68. Madhya Pradesh falls amongst the lowest in IMR compared with other states.

The male and female IMRs were estimated at 89.6 and 89.5 for entire state, and 94.9 and 96.8 for rural areas. It is only in urban areas that the female IMR of 50.7 is lower than the male IMR of 59.6.

**Table 3.9: Infant Mortality Rate in Madhya Pradesh**

IMR	Rural	Urban	Overall
Madhya Pradesh	94	54	88
Male	94.9	50.7	89.6
Female	96.8	59.6	89.5

Source: Mid Day Meal Scheme Annual Work Plan and Budget: Madhya Pradesh 2007-2008

Table 3.10: Infant Mortality Rate in Bhind, Morena and Gwalior

Districts	Bhind	Morena	Gwalior
IMR	59.9	65.3	57.54

Source: Mid Day Meal Scheme Annual Work Plan and Budget: Madhya Pradesh 2007-2008

Table 3.10 shows that in all the three districts the IMR is lower than the state and the national level. The Maternal Mortality Rate (MMR) of Madhya Pradesh is 498 deaths per 1,00,000 live births which is higher than the all India MMR of 408.

Thus the above discussion of the profile of Madhya Pradesh shows its poor status as compared to the national average. The three sample districts have performed even worse as far as infrastructure or health and educational indicators are concerned. The three districts have very poor sex ratio and literacy rates. Hereby, it justifies the basis for undertaking such study in this region and highlight the urgency and significance of addressing the issue undertaken.



4. CHILD MARRIAGE IN MADHYA PRADESH

4.1 Marriage Trends in Sample Area

Culturally, in India, marriages are universal, arranged by the parents, occur at a young age for the girls and usually with a significant age difference between the bride and the groom. Marriage is most often arranged between two families instead of between two individuals (Sathe, 1987 as mentioned in Sagade, 2005). Marriage is traditionally a religious ceremony and sacred duty rather than a matter of personal convenience and preference (Sagade, 2005). Once a girl attains menarche, the parents consider her to be fit for marriage.

In tribal population the marriage is very simple. Usually, the parents of the groom have to bear all the wedding expenses. The parents of the bride do not spend for the wedding and stand to gain from the presents given by the groom's parents (Pandey and Tiwary, 2001). Unlike the non-tribal populations, the tribes do not follow the custom of *gauna* (Return Marriage). The couple starts cohabiting after the marriage. However, in non-tribals *gauna* is still performed. The *gauna* system prevails primarily in communities where age at marriage is very young. In these cases, women either do not start living with their husbands immediately after marriage, or return to their parental home after only a couple days of living with the husband (actual cohabitation with their husband starts after a gap of a few months or even one or more years). The study team tried to understand the most common ways in which the marriages are solemnised in the concerned three districts of Madhya Pradesh.

4.1.1. Solemnization of Marriages

Marriages in the villages visited by the study team are ceremonious occasions celebrated with pomp and gaiety. These ceremonies entail all kinds of social and economic obligations. Marriages are arranged within the caste groups and the dates are fixed by the local priest. Days like *Akshay Triteriya* or *Akha Teej* are considered very auspicious and mass marriages of all caste groups take place on this day. Marriage ceremonies are most commonly performed in the following ways:

- * Individual Ceremonies: These marriages are arranged by the families themselves and the wedding takes place in the house of the bride. Both the bride and the groom belong to the same caste and there is usually no registration of these marriages. There are no mechanisms for verification of the age of the marrying couple. Families sometimes in order to save money arrange the marriage of two or more sisters of the same household with grooms of the same or different household in the same ceremony. The practice of marriage of teenage girls and boys is common place in such private marriage ceremonies.
- * Community Marriages: The concept of community marriage was initiated to facilitate



the marriage of children belonging to poor couples from the same caste and to do away with the practice of lavish weddings which pushed the poor villagers into penury. These are organized mostly by the caste panchayats or caste samities formed in the villages. Since these marriage are conducted in the public gaze and government officials and politicians visit these ceremonies; precaution is taken to ensure that couples meet the legal age requirement. As a matter of fact people produce some age proof the authenticity of which is highly questionable (this matter is dealt separately in section 6.5 in this report). From the local sources we came to know that on the occasion of *Akha Teej* this year the Jatav Samaj had organized a mass wedding ceremony of the couples at Dabra Block in the Gwalior District, in which around 80-90 couples got married. Marriages in these ceremonies are registered.

- * Marriages under Mukhya Mantri Kanyadaan Yojana: This is an innovative state wide government scheme started in April 2006 in the Sijhora village of district Mandla with the *kanyadaan* of 251 girls. Marriages are solemnized free of cost under this scheme as all necessary arrangements are made by the district administration. Every couple is provided assistance to the tune of Rs.6000. Out of this amount, Rs.5000 is spent on provision of household items and Rs.1000 on the arrangements. The main objective is to provide help to marriageable daughters of poor family even for widows and divorcees. According to a press release (Department of Public Relations, 2008) marriages of over 60 thousand girls belonging to poor families have been solemnised under *Mukhya Mantri Kanyadaan Yojana* by 2008. Stringent procedures have been laid to ensure that child marriages do not take place and the scrutiny of applications take place at the level of gram panchayat, block or *janpad* panchayat and district level. The marriages under this scheme are registered.

The ceremony of marriage marks the socially acceptable initiation of reproduction. The system of *gauna* (or *vida*) is also followed in these areas especially when the age of the girl is less at the time of marriage. As a custom the consummation of marriage (*gauna* or *vida*) takes place after one or two years of marriage. The interregnum usually coincides with the period between puberty and the institutionalized recognition of her potential motherhood. Before the marriage has been consummated the bride stays at her natal home. As the age of the couple at the time of marriage is increasing, more and more people perform the ceremony at the time of the main marriage ceremony.

Conversations with villagers in all the districts have revealed that though marriages take place at the age of 14-16 years for the girls, the families wait for their daughters to reach the legal age of marriage and only then *gauna* takes place. Father of a girl who arranged the marriage of his teenage daughter in Dimni village of Bhind district said that he has instructed his family members that even upon the eventuality of his death under no circumstances should the girl be sent to her in-laws before she attains 18 years. This changing trend in the age of marriage was also observed by a team of doctors in the District Government Hospital, Gwalior. They said that in the last 7-8 years there has been a steep decline in the cases of teenage pregnancy and in the last one or two years less than 10 cases have come to the hospital where the expectant mother appeared to be less than 18 years. The age of first child has gone up to somewhere around 19-20 years even for women in the rural areas they observed.



4.1.2. Age at Marriage

Age at marriage is a subject of great practical importance as it is related to both socio-economic background and achievements. In the three districts of Madhya Pradesh the research team tried to explore different perceptions of people in urban and rural regions about the suitable age of marriage for boys and girls. The age considered suitable for marriage was in all the districts below the legal age of 18 and 21 years for girls and boys respectively.

Another aspect which stemmed out from the interviews was the fact that people were aware of the legal age of marriage. Even in the remote village of *Nakloli ki Maraiya* in Bhind district which is surrounded by miles and miles of barren ravines the villagers – both men and women – were aware of the legal age of marriage for boys and girls. A 78 year old lady in her local dialect told us that government wants the girls to marry only when girls reach the age of 18 years and because of that all the marriages taking place over *Akha Teej* were of only of girls who have left school 2-3 years ago. Assuming that the girls mostly drop out after middle school, it can be derived that the girls whose marriage was solemnized this year were in the age bracket of 14-16 years.

In spite of the awareness levels people clearly distinguish between the *Kanuni Umar* (legal age of marriage) which has to be 'proper' to escape from being prosecuted and which can like all legal provisions tampered with and the *Sahi Umar* (right age of marriage) when the children have to be married. The village women in Surpura village of the Bhind district stated that they might wait till 18 for their daughter's marriage but at no cost they will allow them to cross that age even by one day. This leads to the fact that the awareness drives by the government and civil society organisations about the age of marriage have somewhere failed to drive down the point that the legal age has to be adhered to not only to escape from being jailed but this has been determined to ensure that the married couple and their future offspring can lead a healthy mental, physical and social life.

In these three districts the right age of marriage depends on several factors and varies for girls and boys. The onset of puberty in rural areas is seen as the sign of maturity of the girl and in the villages on *Akha Teej* people arrange mock weddings of the puppets of the girl who has started her menstrual cycle. This marks the end of playing age of the girl and in the next *Akha Teej* she should be a woman ready to bear children.

The dais (birth attendants) of the villages have said that the 'government age' is only for the purpose of the papers in case the wedding is organized under the government scheme or it is a community marriage; otherwise the families start looking for a groom from the day the girl attains puberty. They are of the opinion that due to the food and environment of the villages the outward physical changes marking attainment of maturity in girls appear at an early age and thus by the time a girl is 16 years old she has to be married. The gynaecologists however categorically stated that such belief that in the villages the girls attain maturity early has no scientific proof and that marriage and childbirth before 18 years exposes the girls to a host of medical problems. Contrary to the belief that the women in villages are healthy, the doctors said that most of the teenage girls are anaemic and need to be put on nutritional supplements.

**Box 01: The Marriage of Puppets**

Performing mock marriages of the puppets in these areas is quite prevalent. It is performed by the girls at their onset of puberty on the day of Akha Teej. All the rituals performed during the marriage ceremony are performed by the girls wherein they marry their puppets. All the girls are formally invited on the occasion. The elder women guide them how to perform those rituals of marriage. A feast is also organised on the occasion. Finally the married puppets are immersed in the nearby river or lake. This performance of marrying puppets has become a part of their culture. It has two significant objectives – (i) it marks an end of the playing age of the girl who should get prepared for marriage as she has already attained puberty, and (ii) it orients the girl and her friends with all the rituals of the marriage so that they are mentally prepared for the marriage. It is also commonly believed that a girl generally gets married by the next Akha Teej if she performs the marriage of puppets.

Along with this factor for those girls going to school, completion of middle school is seen as the ripe time for the girls to get married. The officials of the Department of Women and Child Welfare state that the age of marriage is lower for the girls in the SC and the ST community. The Anganwadi workers (AWW), Auxiliary Nurses and Midwives (ANM) and the ASHA workers of the villages in the sample districts told the study team that they repeatedly tell the villagers about the age they should get their daughters married. However, the extent to which they themselves are convinced that right age of marriage for the girls is 18 years is in itself a big question.

The rural urban divide over age at marriage was also clearly noticeable from the FGDs and interviews. For the girls in urban areas who have access to education, 16 years which is about the time the girls complete their matriculation is considered to be the proper age for her to enter into matrimonial alliance.

In case of boys the physical determinants of marriageable age is gauged by the appearance of secondary sexual characters like moustache and pubic hair which is somewhere between 12-14 years and his ability to earn his living. The preference of the youth of the region to join the military and the paramilitary forces after completing high school degree and their subsequent recruitment into the services immediately leads to their marriage. Thus the marriageable age for boys even by conservative estimates could be put at around 17-18 years. Though the marriageable age is lower than the legal age for girls and boys yet the reasons as we have seen vary, for girls the question of security of the girl gets prominence from among a myriad of factors and for the boys the early marriage is seen as an entry into manhood and proof of his virility.

According to NFHS-3, (IIPS and Macro International, 2008) in Madhya Pradesh the median age at first marriage is 15.9 years among women age 20-49 and 19.9 years among



men age 25-49. However, the estimate derived by triangulating all the information received from various sources says that **in these three study districts of Madhya Pradesh the girls are commonly married when they are 14-17 years of age whereas the boys are getting married in the age of 16-19 years.** The following section provides the detailed projection of the child marriages in Madhya Pradesh.

4.2. Evading Legal Mechanism

Despite the enactment of laws prohibiting the marriages of girls below the age of 18 years and boys below 21 years and government efforts to ensure compliance with the laws people have come up with ways of evading the laws and continuing the practice of child marriage.

4.2.1. Obtaining Fake Age Certificates

The most prevalent method of evading the legal mechanisms is by obtaining a fake birth certificate, which can easily be produced cheaply. In the absence of any easily available mechanisms to determine the age of the child, the officials find it difficult to issue a certificate. This is manipulated many a times by the people to obtain a birth certificate which often suits to their purpose. The government officials are left with no other option but to rely on the version of the concerned parent and external physical features of the child. It needs no mention that it is very difficult to differentiate between a 16 year old child and an 18 year old one. The study reveals that it is quite common to show 16 year old children as 18 year old ones on paper.

4.2.2. Evading Government Officials

In many cases when officials come to the village to conduct preliminary enquiries based on any report of a child marriage, the families of both the bride and groom travel to the neighbouring states to conduct the marriage ceremony. The study team also came to know that in the headquarters of these three and neighbouring districts of Shivpuri and Sheopur, *dharamshalas* are present where such marriages take place in complete secrecy. These *dharamshalas* are booked one year in advance for special occasions like *Akshay Tritiya*.

4.2.3. Assistance of Panchayat Officials

Panchayats issue *panchnamas* with fake date of birth and based on these documents marriages take place for minors in the age group of 15-17 years even under the Mukhya Mantri Kanyadaan Yojana. One of the Sarpanch interviewed by the team said that since the daughter's marriage is a big burden for the father and these days when finding a right groom is very difficult, there is absolutely no harm in changing a detail or two in the *panchnama* about the age of the girl thereby enabling the family to conduct the marriage of the girl without any hassle. He, however, maintained that age is pushed up only when the girl attains marriageable age which is 15-16 years and is not done for smaller children.



4.2.4. Improvising Rituals

There have been many cases where government officials have detained the groom in police custody to ensure that the marriage does not take place. In such cases it was found that preventing the groom from physically reaching the marriage mandap is not always a deterrent for the solemnization of the marriage as priests consider that marriage of the girl could take place in the physical absence of the groom with any symbol representing the groom. In most cases the *kataar* (knife) which is carried by the groom is sent to the bride's house and *saptapadi* takes place with the *kataar*, and the marriage. This custom is commonly practiced in many marriages as the grooms many a times do not get leave from the armed forces and families do not want to miss the auspicious occasion.

4.2.5. In Mass Marriages

In the mass marriages conducted by caste panchayats the marriages of underage couples are not openly performed but many organizers would accommodate a few under 14 couples for money. These couples do not figure in the marriage register and for all official purposes no such marriage take place. These couples are also hidden the moment a VIP or government official comes to visit the ceremony said an NGO representative in Gwalior.

4.3. Prevalence of Child Marriages in Madhya Pradesh

Madhya Pradesh is one of the states in India where child marriage is widely practiced. The literature review conducted on child marriages gives us the following statistics:

- * NFHS-2 found that age at effective marriage in rural Madhya Pradesh is 15.5 years with average age of first born 18.1 years.
- * Five states in India have the highest prevalence of child marriage: Madhya Pradesh at 73 percent, Andhra Pradesh at 71 percent, Rajasthan at 68 percent, Bihar at 67 percent and Uttar Pradesh at 64 percent. (ICRW, 2007)
- * The mean age at marriage for boys in India is 23.8 whereas the mean age at marriage for girls is 19.2. (IIPS, 1999)
- * In India 31 percent of boys and 37 per cent of girls are marrying below legal age at marriage. (IIPS, 1999)
- * In 145 of the 504 districts in India, in case of 50 percent or more marriages girls were less than 18 years old. (IIPS, 1999)
- * In Bhilwara, Tonk and Bundi from Rajasthan, Basti, Baharaich, Maharajaganj and Lalitpur from Uttar Pradesh, Paschim Champaran from Bihar, Shajapur from Madhya Pradesh and Murshidabad from West Bengal, as many as in 75 percent or more marriages girls were below 18 years of age. (IIPS, 1999)
- * In Madhya Pradesh, the mean age at marriage for boys is 21.9 years and for girls is 18.1 years. (IIPS, 1999)



- * There are around 45.9 per cent boys and 51.4 per cent girls who are married below the legal age at marriage. (IIPS, 1999)
- * In India, the mean age at marriage for boys is 23.8 years and for girls is 19.2 years. (IIPS, 1999)
- * In India, there are around 30.7 per cent boys and 36.9 per cent girls who are married below the legal age at marriage. (IIPS, 1999)
- * The proportion of girls marrying below 18 is highest in Shajapur (MP) which is 84 per cent. (IIPS, 1999)
- * In around 24 districts out of 50 in MP, 50 per cent or more girls are married before attaining the legal age at marriage. (IIPS, 1999)
- * Total child marriage in India during 1998-2007 is 47 per cent out of which 29 percent was in the urban areas whereas in the rural areas it was 56 per cent. (UNICEF, 2004a)

4.1 Comparison of Child Marriages between DLHS-2 and DLHS-3

INDICATORS	DLHS-3 (2007-08)			DLHS-2 (2002-04)		
	Total	Rural	Urban	Total	Rural	Urban
Mean age at marriage for boys *	21.8	21.1	23.9	21.6	20.7	24.1
Mean age at marriage for girls*	18.5	17.9	20.3	18.2	17.2	20.2
Boys married below age 21* (%)	40.5	46.9	19.3	44.3	53.4	19.7
Girls married below age 18* (%)	29.2	34.3	13.2	45.5	54.7	20.5
Currently married women age 20-24 who were married before age 18 (%)	53.8	58.5	33.5	NA	NA	NA
DLHS-3 reference period is from 1-1-2004 to survey date; DLHS-2 reference period is from 1-1-1999/1-1-2001 to survey date.						

Source: IIPS, 2008

- * According to UNICEF's The State of the World's Children reports for the three consecutive years from 2004-2007, the child marriage in India is
 - ~ 46 per cent (for the reference period 1983-2003)
 - ~ 46 per cent (for the reference period 1986-2004)
 - ~ 46 per cent (for the reference period 1987-2005)
 - ~ 45 per cent (for the reference period 1987-2006)
 - ~ 47 per cent (for the reference period 1998-2007)
- * 78.6 per cent women in Madhya Pradesh have given birth to their first child between



the age group of 15-19 years. (IIPS, MOHFW & CORT, 2004)

- * According to RCH-RHS survey 1998-1999, in Madhya Pradesh around 71 per cent of women were married below 18 years of age. (IIPS, 1999)

4.2 Age at Marriage and Percentage of Marriages below Legal Age at Marriage in the Study Area

District	Mean Age at marriage		Percentage of marriage below legal age at marriage	
	Boys	Girls	Boy (<21)	Girl (<18)
State – Total	21.8	18.2	42.8	43.5
State – Rural	20.7	17.2	53.4	54.7
State – Urban	24.1	20.2	19.7	20.5
Bhind	21.1	17.1	54.1	56.4
Gwalior	22.7	19.4	29.0	24.3
Morena	20.3	17.0	61.6	51.7
Reference period: 1st Jan 1999 to survey date for phase-1 and 1st Jan 2001 to survey date for phase-2				

Source: IIPS, MOHFW & CORT, 2004

- * 66.8 per cent of women aged 15-44 are married below 18 years in Madhya Pradesh in 2002-2004. In the rural area this percentage is around 75.5 per cent whereas in the urban areas it is 47.4 per cent. (IIPS, MOHFW & CORT, 2004)
- * Around 45.9 per cent boys and 51.4 per cent girls in Madhya Pradesh are marrying below legal age of 21 years and 18 years respectively. (IIPS, 1999)
- * A 1998 survey in Madhya Pradesh found that nearly 14 per cent of girls were married between the ages of 10 and 14. (Item in *The Independent* (9/1/1999), quoted in Somerset, Carron (2000) *Early Marriage: Whose Right to Choose? Form on Marriage and the Rights of Women and Children*, London)
- * The DLHS-3 recorded that 40.5% of boys are married below the age of 21 years and 29.2% of girls aged below 18 were married. The scenario of rural parts in the state is nastiest where about 58.5% women aged 20-24 years got married by the time they are 18 years old.
- * In MP, 77.2 per cent people said that they practice child marriage (NIPCCD and CSR, 2008)

To find the exact data on the prevalence rate of child marriage is beyond the scope of the study. However, based on the secondary information and the responses of the key



stakeholders identified, which includes various government officials, members of the non-government organisations, local experts and academicians, the study has reached to the following estimations regarding the prevalence of the child marriage.

In almost all the three districts of Bhind, Morena and Gwalior, it was found that puberty is considered as the most important determinant for the marriage of girls. The study estimates that around 75 per cent of the girls in the rural area of Madhya Pradesh are being married in 14-17 years of age whereas in the urban areas it comes to around 60 per cent. As far as boys in the rural Madhya Pradesh is concerned around 68 per cent of the boys are getting married in 16-19 years of age whereas it is only 40 per cent in the urban areas.

Due to the efforts of the state as well as civil society organizations (CSOs) the awareness about the child marriage legislations among the people has notably increased. A fear of being put behind the bars due to the media reporting of such cases have been instrumental in the rise of the age at marriage. There is a marked trend of increase in the age at marriage in the last five to six years. However, the study observes that condition is worse in the scheduled castes and scheduled tribes and in the interior most villages of the region. Although people prefer to marry their daughters after they attain puberty, there are still cases when the girls are married even below the age of 14. **The study estimates that around 5 per cent of girls and 3 per cent of boys are still being married below the age of 14.**

It should be mentioned that majority of marriages are happening in these areas just before the legal age of marriages of the boys and girls. The registration of births is not practiced in these areas and hence the people generally lack an official document verifying age of the children. The lack of proper documents becomes a boon especially for the rural population where they manage to get a fake certification from some or other sources which suits to their purpose. People in the FGDs have easily accepted that in the case if the age of the girl or boy is just below the legal age, they do not bother too much and get a *panchnama* or school certificate or doctor's certificate made to avoid any kind of legal implications of the marriages. If we do not take into consideration the inflated age of boys and girls, the percentage of child marriage will shoot very high as majority of the marriages are the borderline cases where the age of boy and girl is just below the legal age at marriage. Ignoring this fact, **the study estimates that around 20 per cent of girls and almost 29 per cent of boys are getting married at or above the legal age at marriage in the rural Madhya Pradesh. In other words it can be said that almost 80 per cent of marriages are held in Madhya Pradesh before the boys and girls attain their legal age of marriage i.e., child marriages are still happening in around 80 per cent of the cases in rural Madhya Pradesh. However, in the urban areas of Madhya Pradesh, it is estimated that around 40 percent of girls and 60 percent of boys are married after attaining their legal age of marriage.** It can be derived that in the urban areas with greater access to higher education and increased awareness levels of the parents the prevalence is low as compared to the rural areas.

The popular understanding related to the age difference between the girl and the boy at marriage during the FGDs shows that it has come down and now if the age of the girl at marriage is 16 years the boy is 19 years old.



Table 5.1: Prevalence of Child Marriage in Madhya Pradesh

Age	Less than 14 years of age		Girls: 14-17 years Boys: 16-20 years		Above Legal Age of Marriage	
	Girls	Boys	Boys	Girls	Girls (18 yrs)	Boys (21 yrs)
Rural	5 %	3 %	75 %	68 %	20 %	29 %
Urban	0 %	0 %	60 %	40 %	40 %	60 %

4.4. Incidents of Child Marriages in Madhya Pradesh: Case Studies

Following are some of the case studies which would help us in understanding the practice in the better way.

Child marriage and lost childhood: Tanu, 15 years

Tanu was among the hundreds of underage girls for whom this year's *Akha Teej* marked their entry into married life. Tanu was in class eight and her father felt that if she studies any further he will not find any grooms for her. In fact in their Pal community, no girl studies beyond class tenth. She said that in the community marriage where she got married, all other girls were of her age group only. She maintained that even the boys get married earlier and pointing at a kid standing near us she said that he is only 10 years old and got engaged this year. She pretends to be happy as she feels that when you are in a position where you cannot do anything it is always better to enjoy the situation. Upon being asked as to whether she felt like opposing the decision of the family she replied that no girl opposes the decision of her family because they will not be heard and it will be against the tradition of the family. Her husband is in the army and soon after marriage left for his job. Tanu misses her school, her friends and above all her freedom but in spite of all this she knows that she has to adjust like her mother and other women have done before.

Child marriage opens doors for entry into manhood: Suraj, 16 years

Joining the family business immediately after the completion of his class X was enough for the family members of Suraj to arrange his marriage with the daughter of a long time family friend. His bride is only 13 years old and is studying in class seventh. All his elder brothers got married at this age and he feels that in his Kushwaha community all boys get married before 18 years of age. According to him it is funny to marry the girl with whom you have played ever since childhood but he is sure that things would change. He sees no harm in such underage marriages and says that such marriages have been taking place since a long time and as a tradition the practice will go on. He is totally unaware of the aspects of hazards of child bearing for woman at an early



age. Suraj is one of those boys who are married off as soon as they show signs of manhood and start earning. He proudly says that though he was the first among his group of friends to get married all his friends will get married in a year of two.

A girl who will never get to play with her dolls: Prema, 15 years

Prema's father was falsely diagnosed with cancer last year and immediately after that her father arranged the marriage of the two sisters. Perna was 14 years old and her elder sister 16 years when the marriage took place. She is still in her father's house but her sister has left for her in-laws. She very candidly admitted that her father got the age increased in the school mark sheet to use it as age certificate. Though she is happy at the fact that her father has recovered, she feels that her life has changed forever. She no longer goes to school, cannot wear the dresses she likes and has to behave like a married woman which she feels is very awkward. Her husband is also studying in school and she shyly replies that she has seen him only twice as they stay almost 50 kilometres from her village. She has reconciled to her fate and feels that it hardly makes a difference since she would have anyway got married in another year or two, just like other girls of the village.

Present Tense, Past Imperfect: Laddo; 16 years

Laddo was married to a 16 year old boy when she was fourteen. She says that she was too young to understand the entire concept of marriage. She remembered crying the whole day when her father dragged her back from the school saying that she had studied enough to take care of her future children. In fact all her other friends in school also had their marriage fixed and I was considered lucky as my future husband was already in service. I never spoke against the decision since this is the story of almost all the girls in my village and my grandmother tells me that she was married when she was three years old. She became pregnant a year after the marriage and this year she delivered a baby girl. She is apprehensive of her daughter's future and hopes that things will be different by the time her daughter grows up.

These cases indicate the plight of girls in these villages and also show that the custom is still striving and the situation of girls is not very different from that of their mothers. The cases also highlight the prevalence of the practice among the boys however in these marriages the girls are always the victims. Lack of education and awareness about their rights has ensured that the male members of their family take all the decisions pertaining to their lives. Girl brides are common in these villages and these cases are only of that of the minuscule few who came forward to tell their stories.



4.5. Voices against Child Marriage

Caste Panchayat takes vow against child marriage: An initiative of Bhandev Bai

Bhandev Bai, herself married when she was 11 years, was always against the custom of child marriage. In the late 90s when she realized how lives of young girls are ruined she started her crusade against this custom in Raikapura village of Gwalior district. She was met with serious opposition from the villagers and the men folk in particular were of the opinion that women had no point coming out of the four walls of the kitchen and speaking against the age old tradition. Even after frequent threats from villagers she did not relent from her path and after four years she could form a group of women who themselves being victims of the custom vowed not to repeat the same in case of their daughters. She started working for the NGO Sambhav and would spend hours explaining the health hazards of early marriage. "Almost one out of five girls in the village used to die during pregnancy during that time" says Bhandev Bai and gradually the village elders realised the importance of marriage at the age of 18 for girls. Her efforts finally brought results when in 2001 the members of all caste panchayats pledged not to perform the marriage of their minor daughters. She proudly claims that the custom of marriage of minor girls has almost come to an end in her village. Today she works on the issues of gender equality and to increase the institutionalization of the deliveries in the village. Her efforts have brought smiles in the lives of the girls of Raikapur who otherwise had no option but to reconcile to their fate.

Education breaks shackles of child marriage: Efforts of an iron willed lady Kherobai

The story of Kherobai in Pulkapura village of Gwalior district is not much different from Bhandevbai. Daughter of a farmer, her parents arranged her marriage when she was in class III and after three years she was sent to her in laws house. Though her husband always supported her she was moved by the plight of her friends all of whom had delivered the first child by 16 years of age. She worked in a local NGO working on women issues and during her initial years went from home to home urging the parents to send their daughters to school. Education she feels is the only way to break the shackles of the social evils. Currently almost all the girls go to the middle school and the age at marriage has gone up to 16 years from what was 11-12 years a decade ago due to her relentless efforts.

More than two decades of advocacy against child marriage by NGO activist: A case of Pehalwan Singh Bhadoria

Inspired by the work of Late Lallu Dadda, a famous Gandhian and freedom fighter of the Bhind District, Pehalwan Singh Bhadoria popularly known as Pehalwan Dadda took up the mantle of working with the deprived sections living in the bandit infested areas of Surpura village of Bhind District. Very soon in his work with the villagers he realized that customs like foeticide is leading to the skewed sex ratio in the area and for the society to develop it has to address the issues related to women. He then focused his attention



towards the issues of female foeticide and child marriage. He said that even during the 80s when he started his work, child marriage was the norm and girls were not sent to school and those who went to school were not allowed to go once they attained puberty. He started by spreading awareness about the consequences of early marriage and in many cases he even took the risk of informing the officials when such marriages were being arranged. Gradually, he says the trend began to change. The opening of the government degree college in Surpura has also led to the bringing down the graph of marriages of children below 14 years. Still he feels there is a long way to go and initiatives should be taken to ensure that girls can get access to higher education to totally end this practice.

Raising a voice of protest against child marriage: The story of Suman Lata

Suman Lata was studying in class VIII when her grandfather forced her parents to find a groom for her. Many of Suman's classmates had already got married and her grandfather was also against her going to school. As a bright girl and also associated with the local NGO in Gohad village of Bhind district she was aware of the consequences of an early marriage and refused to give in to the pressures of her family. Dr. Dev, an NGO activist, also encouraged her to study further and eventually her father agreed to continue with her studies. Today she is studying in the third year of her graduation and got married last year. She understands that the custom is an infringement of the basic rights of the girl child and states how her married friends who come to the village feels that they should have also stood against the decision of their families and all of them have vowed not to marry their daughter before they are 18 years. She regularly interacts with the teenage girls in her village and motivates them to study and take control of their own lives. She adds with a smile that even today she hears someone or the other in the village asking her not to spoil their daughters.

From these incidents we can say that sustained individual efforts can definitely bring about a change in the mindset of the people towards the custom. All these cases also highlight the role of voluntary organizations and the need to strengthen their efforts. These cases should be documented and used as cases which can be replicated in other areas where girls are still being made victim of this practice. The cases also bring out the fact that education is essential to dispel the darkness surrounding the lives of the people and an educated woman can only take decisions to protect her interest and that of the family. As seen in these cases women empowerment and gender equality is crucial for the society to get rid of this custom.



5. SOCIO-CULTURAL AND ECONOMIC BARRIERS IN RESTRAINING CHILD MARRIAGES IN MADHYA PRADESH

The causes of child marriage are complex, varied, multi-dimensional and often linked. These causes are deeply embedded in the historical, social, economic and cultural context. One of the most significant reasons can be attributed to a patriarchal structure of the society. The institution of patriarchy is prevalent not only in India or developing countries but is universal. However, there exists an extensive regional, cultural and religious variation concerning specific aspects of patriarchy. Marriage has different meanings for men and women in different societies. In our context the institution of patriarchy operates in the name of culture for justifying child marriage of young girls. Other reasons for the practice of child marriage include poverty, parental desire to prevent sexual relations outside marriage, the fear of rape, a lack of educational or employment opportunities for girls, and traditional notions of the primary role of women and girls as wives and mothers etc.

Lots of efforts have been undertaken to curb the practice of child marriages in the country. However the nature of data shows that all of them have failed in restraining child marriages especially in the rural areas. The study identifies a number of reasons in three districts of Bhind, Morena and Gwalior as the most significant socio-cultural barriers which neutralises all the efforts to restrain child marriages. During the study the effort was made to understand and compile the widely spread mindset of the people which provide them with the basis for the child marriage. All these factors act as a counter force against all initiatives taken by the government or NGOs to restrain child marriages. These factors which act as counter current are most significant determining factors which need to be considered in order to plan and design a proper and effective intervention strategy. These factors have emerged after the analysis of rich qualitative data generated during the field visits.

5.1. Patriarchal Structure of Society

An entrenched patriarchal and feudal mind-set dominates the area visited by the research team. It operates at all levels on the basis of sex, age, and caste and contributes in lowering the status of women in every possible manner. The collective effort of the patriarchy is to reinforce the subordination of women in the name of care, protection and welfare and make them dependent on men throughout their lives. They are not to be left independent, so at every stage in their life they are under the dominion of some male member of the family – be it father, husband, or son. Marriage has more to do with transference of father's dominance to her husband rather than forming social institutions. Such transfer is expected to take place before a girl reaches the age when she might question it. Education and career, in order to ensure the subordination and due to the prescribed role of women under patriarchy, are not perceived as essential for adolescent females. Discrimination against girls in decision making in the family, education, employment, matters of sexuality, etc., is what creates and perpetuates the conditions in which child marriages occur. Various other factors emerge from this system of patriarchy which have a reciprocal influencing relationship on one other.



5.2. Women's Subordination

Women in these three districts have no say in the decision making process of the house. All the decisions of their lives are taken by the male folks. The patriarchy operates in such an environment where the older women have no choice but to support the custom of child marriage. Younger women in these districts generally opined that the thought of disobeying the members of the family on matters of their marriage never crossed their minds. Even the mothers who married their daughters at younger age never felt that anything is wrong in the practice. They were found to be very critical about the rising age of marriage. One of the women said that now-a-days because of the mobile phones there is a greater likelihood of girls bringing disrepute to the family. It was found that the women are socialised with the notion that they should at all times take care to ensure that the male members of the family can walk in the villages with their heads held high. Child marriage ensures a woman's easy submission and acceptance of the traditional gender roles. She herself then becomes the carrier of the patriarchal ideology and unknowingly contributes to the strengthening of patriarchy.

5.3. Gender Discrimination

Gender discrimination is both a cause and effect of the child marriage. It could easily be derived by the observations during various discussions and interviews that the boys and girls are treated differently within the families. Not much investment is done on the girl's health, nutrition and education. In one of the FGDs, the women specifically said that "what a girl will do by getting education; at the end of the day she has to cook food for the family." According to the prevailing social norms of the area, a girl is not supposed to go for education or for employment options. This gender discrimination places a woman in an inferior position whereby she cannot participate in any decision making process of the family.

The common perception which propagates the gender discrimination is that there is no point investing on girl because she will leave the family after marriage. Only a boy after growing up will take care of the parents and the family. This is a very dominant thought in this area which is also responsible for the fact that everybody wants a baby boy in their family. This is further substantiated by the low sex ratio in these three districts.

The skewed sex ratio of these three districts as we have already seen is a matter of grave concern and in the communities where the practice is rampant like the Gujjar community the situation has reached a point where a number of households have no female member in their family. One of the social activists working on the issue of female foeticide said that it is highly prevalent in the area. He said "even today the birth of a girl child brings remorse to the entire family."

5.4. Lack of Security of Girls in the Region

Lack of safety of the girls has emerged as one of the most significant factor resulting into the child marriage which has its roots deeply embedded in the regional historical background also. Historically, there are two major reasons whose baggage is still carried by the people of this region. Apart from these, there are some contemporary factors also which have raised the issues of the safety of girls in these districts in particular.



5.4.1. Terror of Armies of Great Empires of the Mughals and the Marathas

All the three districts have been very close to the seats of power like Gwalior, Agra and Dholpur. These centres have been ruled by the great Mughal, Maratha and Scindia Empires. Therefore, this area has witnessed movements of armies and generals of these empires. People in the villages tell the tales of how these passing armies used to pick up young girls from the neighbouring villages. This regular abduction of young women resulted in the fear of safety of their women. Child marriage was emerged as an easy way out to deal with the problem.

5.4.2. Terror of the Dacoits and Bandits

It is a well known fact that the region has been subjected to depredations of dacoits, robbers or thugs since ages. Even during Mughal times the powerful administration failed to curb this menace (Government of MP website). The area is full of tales of how the dacoits have created havoc and lifted women from the open fields. The FGDs in all the villages had someone or the other making a reference to this factor as a cause of early marriage. One of the villagers in Mehgaon village of Bhind said, "*kisan ko to uske kheti aur uske beti ki raksha karni parti hain.*" (The farmer has to protect his produce and his daughter). The *behad* (ravines) and meadows are out bounds for the village girls even today and this deep rooted fear for the safety of the girls gets manifested in parents trying to arrange the marriage of the daughters as early as possible.

5.4.3. Rise in Crime Against Women

Blaming the infusion of television and modern culture, the elders in the area felt that crime in the area has increased, particularly those against the women. Madhya Pradesh with 15,370 reported incidents of crime against women is the state with the fourth highest number of such crimes (NCRB, 2007). This fright for the safety of young girls has resulted in parents deciding that early marriage is the best available option to protect the girl and most importantly the family prestige from getting tarnished.

5.4.4. Factors Related to Security of Girls

It was found that the people specifically in the Gwalior region (Ghatigaon Block) are afraid of a particular community. This community happens to be the one with no female members, as said by the villagers of Pulkapura. The villagers during the FGDs mentioned that some members of this community have a practice of abducting their daughters whenever a boy in their community attains a marriageable age. A common fear can be observed in the villagers during the field visits. Out of this fear the villagers said that they prefer to marry their daughters at an early age.

All the above factors whether historical or contemporary have resulted in a comparatively permanent feeling of lack of safety of the girls. These feelings of the lack of safety are crystallised in the hearts of the people. They do not realise that the things have changed and the age old issues of threats no longer exist. Some of the things have taken the



shape of a custom which nobody dares to challenge. It is a kind of 'chosen fright' which people attribute as a reason for marrying their daughters at early age. It should also be mentioned here that this argument of threat is valid only in the case of the daughters and are not applicable to the boys in the region.

5.5. Lack of Education

Societal perception towards a girl pursuing higher studies, distance of the middle and high schools from the villages and the safety concerns for the girl to travel alone result in a very high percentage of girls staying back at home after primary schooling. These factors which result in low literacy rates of girls came out during the FGDs in the villages of Morena district. In fact a look at the government figures establishes the observations. Morena district has a female literacy rate of 23.79 which is far below the national rate of 53.67. Madhya Pradesh incidentally also has a very high dropout rate of 59.79 for girls between classes I to VIII and this rate is as high as 67.34 and 73.56 among the girls of SC and ST population (Directorate of Public Instruction, 1997)

From the day the girl leaves school, marriage is considered to be the only option left for her by the male members of her family. The women with no say in the decision making process of the house and lack of awareness level have to comply with the decision. In fact 90% of the women who participated in the FGDs in the villages of these three districts in the age group of 18-24 could barely write their names and only 12% has actually studied in a high school. Noted educationist Neela Hardikar was of the opinion that the lure of the monetary assistance provided by the government schemes has resulted in many families enrolling their daughters in the high schools. However, the actual turn out is very low and in the interior villages of Morena and Bhind districts, it is almost nil. Thus being deprived of the light of education these girls become puppets in the hands of their male family members and at the first opportunity they are 'packed-off' to their husband's house.

With low literacy rate in general and high rate of drop-outs in these districts, the school teachers, interviewed, were of the opinion that it would be largely difficult to bring a change with regard to child marriages. Women are least exposed to the outer world and their level of awareness is very limited in these districts. It was also observed that these areas largely lack the basic educational infrastructure which further deteriorates the condition. Education and hence, women empowerment is considered as the biggest bottleneck by a number of experts, academicians and social activists which needs to be addressed with utmost importance.

5.6. Poor Economic Status

The social and economic background of people determines the quantity of resources available for a marriage ceremony, influences marital values and attitudes, affects the cultural milieu in which the need for early or late marriage is felt, and provides the social networks in which spouses are sought (Sagade, 2005). These factors in turn contribute to determine the age at marriage for girls and boys.

**Box 02: Girls are unsafe get them married**

Many villages which are in the vicinity of Gujjar villages live in a constant fear for the safety of girls since it is very common for male members of this community to kidnap teenage girls from nearby villages when a boy in their community attains marriageable age. The onset of Bajra season sees a sharp rise in the cases of abduction of the girls by the people from the Gujjar community as the tall bajra plants offer a perfect hideout for the kidnapers. In the Mahadevpura village in Morena district many girls have to leave school after 8th standard just because it was unsafe for them to cross the Bajra fields.

The Sahria community for ages has lived in fear of the Gujjars coming to their village and abducting girls from the fields. The lack of girls in the Gujjar community due to the prevalence of female foeticide is attributed as the main reason behind this practice. The Sharias in order to ensure protection of their unmarried girls followed the custom of child marriage which continues even today although they have migrated about 60 kilometres from their original village to the present location to escape from the Gujjar community.

5.6.1. Poverty

Poverty is one of the main determinants of early marriage. People think that marrying their child at an early age will help them alleviating family's poverty and secure the family's honour when it is at stake. There is a lack of awareness of the fact that the child marriage worsens the cycle of intergenerational poverty. It is largely seen as a way to escape the cycle of poverty.

The resultant need to cut costs is another reason why people practice child marriage. In various discussions it emerged that in these areas people often marry more than one daughter at one time to save expenses on marriage celebrations. In fact at times in order to accommodate two or more daughters at one time, the families seldom consider the age of the younger daughters. The poor farmer already under debt tries to ensure that he is not required to take more loans from the local moneylender and marrying of his minor daughters is the best available option for him. Marrying their daughters in community marriages or in the Mukhya Mantri Kanyadaan Yojana is also preferred in these districts.

5.6.2. Daughter is Burden

During the focus group discussions, the villagers were found to be of the opinion that women do not contribute monetarily to the income of the family. The burden should be done away with as early as possible. Child marriage also reduces the economic burdens involved in supporting females as, after marriage, a girl joins the family of her husband.



A government official in Bhind opined that the patriarchal structure prevalent in the society is heavily biased against the girl child and at the earliest available opportunity the male members of the family try to get rid of the responsibility of the daughter who is treated as a burden. At the same time the official mentioned that the moment the boys start showing traits of adulthood he is considered deemed fit to start shouldering the responsibilities of the family.

5.6.3. Dowry

Dowry is widely practiced in these areas. It has a strong positive correlation with the age at marriage: higher the age, higher the amount of dowry. Dowry rates soar high with each passing day of the girl's life after she attains puberty and to escape from the need to pay more the already impoverished parents fix the marriage at an early age when they find a boy demanding less dowry. The villagers of the interior Nakloli ki Maraiya in Bhind district during the FGD stressed that it is always better for a poor farmer to marry off his daughter as cheaply as possible and escape from landing in debt with the landlord. Thus to avoid more expenditure by marrying the daughter at a later age, parents prefer to marry her off at an early age. In this way the system of dowry perpetuates child marriages.

Therefore, it can be seen that the poor economic conditions of the larger population of this area is detrimental to all the efforts undertaken to address the issues of child marriage. This factor combined with the patriarchal mindset and the social customs like dowry is a great barrier and provides the momentum to the practice of child marriage.

Box 03: The Straight Economics of Child Marriage

In Gohad village of Bhind district a father of two sons and daughters was diagnosed with cancer; already burdened with the medical costs he quickly fixed the marriage of his elder daughter who was 17 years old in a family. Fearing for the future of the younger daughter aged 13 he decided to solemnize her marriage as well on the *Akha Teej* on 27th April 2009 with a son of the same family who was 17 years old. According to the father the groom's side had agreed for a lesser dowry and it could also save the cost of the second wedding.

5.7. Societal Pressure to Follow the Customs

These districts are marked by the presence of comparatively closed social system in which every member of the society abide by the social norms and practices. The society also exerts overt pressure on their members. The pressure to abide by the social norms is also a reason for the persistence of the child marriage. The villagers in the group discussions said that if there is an unmarried daughter in the family, the society start enquiring their parents why their daughter is not getting married. Whenever there is a delay in the marriage the family



have to listen unpleasant comments from all sections of the society everyday. The study team was told that even a little reluctant parent who wants to marry their children at legal minimum age is forced by the society to look for a groom or a bride for their teenaged child.

Some of the social customs and practices which are instrumental in the persistence of child marriages were specifically identified by the team. There is a lot of pressure exerted by society to follow these customs and practices. The entire social mechanism is involved for ensuring that nobody deviates from these customs and practices. Some of the critical cultural practices which have a direct impact on the child marriages are as follows:

Box 04: Could Not Bear the Pressure

Kamlabai of Gohad village of Bhind district was married at the age of 11. Aware of the consequences of the child marriage, she was adamant that she will not marry her daughter before she attains the age of 18. However, her resistance gave way when it became difficult for her to bear the taunting remarks of the villagers every day. She mentioned that it appeared as if the entire village was against her decision and finally had to arrange the marriage of her daughter with a 19 year old boy. She quickly adds that even though marriage has taken place, she will perform *gauna* only after the girl attains 18 years.

5.7.1. “Chhikna” (Caste Aside)

Almost everywhere during the field visit the study team was told by the villagers that marriage should take place in the age group of 15-16 years for girls and 17-19 years for the boys. Such is the pressure of the society that families where sons or daughters are unmarried even after attaining 19 and 16 years respectively have to face ‘social ostracism’. In Laltipara village of Gwalior district the people referred to the practice of boys and girls being cast aside and no matrimonial ties are solicited if they cross 18 and 16 years. In the local parlance they call it ‘ladke ladkiyon ka chhik jana’ (casting aside of boys and girls). “Chhik jana” (Caste aside) is a social practice wherein if a girl or boy is cast aside by the caste group or village then it becomes difficult not only to find a match for that boy or girl but also for other siblings in the family. It is by and large assumed by all the villagers that the boy or girl has some drawback which is why the parents are not looking or getting for a match. The matter of grave concern is that even the boys and girls of age 21 and 18 years respectively are being cast aside in this region.

The interviews with different representatives of the caste panchayats in these districts also brought forth how the caste groups pressurize the families to find a match for their child at an early age. All such representatives reiterated the fact that they try to ensure that marriages should only take place as per legally permissible age however, people do not always conform to this. In fact one of the representatives of Kushwaha Samaj in Mahadevpura village in Morena district replied that he himself had to arrange his daughter’s marriage at 17 years after she failed twice in high school.



Box 05: No option after a certain age

Guddibai in Laltipara village of Morad block, Gwalior informed the team that in her neighbourhood there is a 21 year old boy who is still unmarried. He has been cast aside now (chhik gaya hai). Now he is getting no more marriage proposals. People now don't want to marry their daughter with him as they think that he must be having some problems due to which he is still unmarried. There are around 4-5 such cases in the village.

5.7.2. The Tradition of 'Kanyadaan' of Girls Before Puberty

The tradition of 'Kanyadaan' before the girl attains puberty is a belief which has a stronghold amongst the people of the area. An FGD with the women folk in Gohad village of Bhind district primarily composed of women in the age group of 19-72 years talked about this tradition emphatically. Interestingly all the women of the group were married below 18 years old. The older women in the group were married as early as 8 years and one of these women mentioned how her father solemnised her marriage when she was 9 years old. She said that her father was convinced that only after marrying her daughter will he get the punya of 'kanyadaan'. In fact, in the works of Parashar, the marriageable girls were divided into five categories; *Kanya* is the name given to a ten years old girl. Other categories being: *Nagnika* (a girl seven years old or younger), *Gauri* (a girl eight years old), *Rohini*, (a girl of nine years old), *Rajaswala*, (a girl above ten years old) (Singh, 1997).

The propagation of the idea by the priestly class of the villages was noted in the region and the local temple priest of Dimni village in Morena district categorically mentioned that the only reason why people marry their daughters before puberty is because only then the father could attain *Moksha* (liberation). The tradition of 'kanyadan' was found in this region to be a significant factor which reinforces the practice of child marriage.

Box 06: Concept of Kanya Daan in ancient literature

A glance at ancient Indian literature could help trace the origins of this belief. The injunction in the Dharmasutra for a woman to wait three years after obtaining womanhood to select a mate was limited to three months by Guatama and Vishnu. Guatama said that a girl should be married before she attains womanhood, otherwise it would be a sin. According to the Baudhayana and Vashithat Dharmasutras a father who allowed his daughter to remain unmarried until after her first menstruation was considered guilty of the sin of abortion on each monthly period. Later, the Manusmitri while stressing the suitability of the bride makes it clear that marriage of a girl before her first menstruation was



permissible. In the Baudhayana it is said that a girl should be given in marriage to a suitable groom even if she is immature, and that if she is mature she should be given in marriage even if the groom is unsuitable. By the time of the Yajnavalkyasmriti and its contemporary literature, the fear of post-puberty marriage became so great that the marriageable age was brought down even lower. Nagnika, girls seven years old or younger, were regarded as the best by Vaikknasa. Marichi considered the best age for marriage of girls to be five years old. It was said that if a father does not give her girls in marriage, then the ancestors of the girl would drink the menstrual flow of the girl. These beliefs have been transferred down the ages and are even today are rooted as firmly in the minds of the people as they might have been in the days of Manu.

5.7.3. Protection of Girls' Virginity and Sexuality

This factor has been emphasized by people in all the three districts equally by men and women folk. The loss of virginity before marriage is seen as a grave sin and also as bringing disrepute to the members of the family. At the same time, woman's sexuality and virginity plays an enormous role in preserving the so called honour of the family. The loss of it even if it is done by force is blamed on the girl only. In Gohad village of Bhind district people cited the example of a family which consumed pesticides after their daughter was raped in the fields. The importance on virginity and the fear of girls losing it before marriage was stressed upon by people from both the economically weaker and stronger sections alike. Discussions with a group of farmers in Mahadevpura village of Morena brought out the fact that the family loses sleep the moment the girl's first menstrual cycle starts. Similarly, the women folk added that mobility of the girl gets completely restricted the moment she attains puberty and she leaves out of the house only accompanied by an elder member of the family.

This concern centred on sexuality of the girl who has attained puberty leads the family to start looking for a groom and efforts are made to ensure that the virgin girl is safely handed over to her in-laws. This outlook is seen across all the caste groups in the Hindu community. During the FGDs, it did emerge that this preoccupation with the girls' virginity and the fear surrounding its loss is more in the rural areas. During an interview with a school teacher in Laltipara village located near the Gwalior city it was found that this apprehension was equally seen in the parents of the girls of the village which was very near the urban centre and during the course of the interview he mentioned that elders feel that going to the city (bazaar) the girls get influenced by its culture and hence, it is more important to keep them under strict vigil till they are married off as early as possible.

The institution of child marriage reduces possibility of any suspicion regarding the virginity of a young girl. Marriages are arranged therefore, either immediately after or



sometimes even before she attains puberty. Since marriage represents an alliance between two families and patrilineages, the honour, reputation, and consequently, power of men is measured in terms of 'purity' of their women (Sagade, 2005). Consequently, there are marked pressures towards performing marriages at early ages of girls in order to minimise the risk of, and attendant dishonour associated with, improper sexual conduct by females.

All the above mentioned factors are very closely related with each other. Each of these factors further reinforces each other also. Hence, any effort to restrain child marriage needs to be addressing these factors. The study team also tried to understand the common perspective of the villagers towards the measures of the government and other organisations. It was realised that the social pressure is so strong in these areas that all the efforts to curb child marriages go in vain. Mr. Devendra Singh, a social activist and director of NGO Dharti working in the area was of view that the practice of child marriage is seen not just among the poor and the illiterates. Economically well off and educated people, who publicly speak against the practice, arrange marriage of their children below legal age unable to withstand the pressures from the respective communities. The intensity of societal pressure is such that any individual or agency – government or non-governmental – trying to enforce the laws is seen as an 'enemy' and the entire community rises against such efforts. Mr. Pahalwan Singh Bhadoria, a noted social activist in Surpura village of Bhind district had to face the angst of the community many times when he attempted to stop such marriages.



6. LAW ON CHILD MARRIAGE: IMPLEMENTATION AND ADMINISTRATIVE DIMENSIONS

Child marriage is one of the worst forms of denials of child rights. Child marriage violates the rights of the girl child to be free from all forms of discrimination, inhuman and degrading treatment, and slavery. It is both a human rights violation and a barrier to development of a human being. Compared to boys, girls due to their social and physiological vulnerability are severely affected by this practice of child marriage. They are robbed of their ability to reach their full potential and scant regard is paid towards the grave health risks related to marriage and child birth at an early age. The magnitude of such risks increases manifold in view of the fact that quality health care services was non-existent in most of the villages visited by the study team. In the three districts chosen for the study this practice remains one of the most persistent forms of sanctioned sexual abuse of girls and young women.

6.1 International Law on Child Marriage

There are a number of international human rights declarations and treaties which provides a normative framework to address the issues of the child marriages in our country. These are as follows:

6.1.1. Universal Declaration of Human Rights, 1948

This practice is a direct violation of the Article 16 of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations in 1948 which clearly states that marriage should be entered into only with the free and full consent of the intending spouses. Many child brides also experience violence from spouses and their in-laws. Such atrocities violate the spirit of the Article 5 of Universal Declaration of Human Rights stating that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. A research study conducted by the International Centre for Research on Women (ICRW, 2005) in India has found that women married as children were twice as likely to report being beaten, slapped or threatened by their husbands as women who were married as adults. They also were three times as likely to report being forced to have sex.

6.1.2 United Nations Convention on the Rights of the Child, 1989

The practice of child marriage is also a gross violation of the provisions of 1989 United Nations Convention on the Rights of the Child (UNCRC) which underlines the need to recognize that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding. India became a signatory to the convention in 1992 and setting up of the National Commission for Protection of Child Rights (NCPCR) in March 2007 was a step taken in the direction of emphasizing the principle of universality and inviolability of child rights and to recognise the tone of urgency in all the child related policies of the country.



While child marriage is not referred directly in the Convention on the Rights of the Child, 1989, child marriage is connected to other rights – such as the right to express their views freely, the right to protection from all forms of abuse, and the right to be protected from harmful traditional practices.

6.1.3 The Convention on the Elimination of all forms of Discrimination against Women, 1979

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly provides for the prohibition of Child Marriage in Article 16. The article 16.2 states that “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.” The social pressure on young brides to bear a child immediately after marriage are great as it is a principal means of proving their worth as wife, daughter- and sister-in-law. Young girls do not have the capacity to negotiate with their spouse, nor the information and services to delay the birth of their children. Thus, they are denied the right to decide freely and number and spacing of their children which is recognized in CEDAW.

6.1.4 The Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage, 1962

The Convention was passed by the General Assembly in November, 1962. This Convention requires the state parties to take legislative action to specify a minimum age for marriage and stipulates that no marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to the age, for serious reasons, in the interest of the intending spouses. The Convention calls upon parties to eliminate the marriage of girls under the age of puberty and requires that states to stipulate the minimum age of marriage.

6.1.5 International Covenant on Civil and Political Rights (ICCPR)

The International Convention on Civil and Political Rights (ICCPR) was adopted by the UN General Assembly on 16 December 1966. Article 23 of the ICCPR provides for the right of men and women of marriageable age to marry. It also states that no marriage shall be entered into without the free and full consent of the intending spouse.

6.1.6 International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was also adopted in 1966. The ICESCR provides in Article 10 that marriage must be entered into with the free consent of the intending spouse. Differences in marriageable age between males and females violate Article 10; the practice of early marriage has a negative impact on the right to health, education and work. The Committee has also recommended that the legal minimum age of marriage be raised to 18.



The human rights guarantee strong penalties for violations of laws and policies preventing child marriage. Locating child marriage as a human rights violation also helps to raise it as a grave public concern rather than a private matter between families. The human rights agenda helps to view child marriage through the lenses of both civil and political rights and economic, social and cultural rights covenants. Most of all, the human rights perspective helps to frame child marriage as a crime against women and the girl child.

6.2. Legal Provisions of Restraining Child Marriages in India

Child marriage was addressed (indirectly) in India first through the Indian Penal code (IPC) in 1869. The IPC laid down the age of consent for sexual intercourse for married and unmarried women (S.375) Native Marriage Act, 1872 fixed 14 as the age of consent to marriage. The Child Marriage Restraint Act, 1929 was passed mainly due to pressure created by the nationalist movement.

6.2.1. The Child Marriage (Restraint) Act (CMRA), 1929 (as amended in 1978)

According to the CMRA, 1929, a 'Child' means a person who, if male, has not completed 21, and if female, has not completed 18 years. The Act lays down that any person who performs, conducts or directs a child marriage commits an offence under the law. The offender can include the parents, relatives or even the priest who performs the marriage. The offender can be punished for up to three months imprisonment and fine, and the magistrate, on being informed can stop the marriage. A close relative or a friend of the minor can get report lodged at the police station to provide information of a child marriage taking place.

The law proved totally incapable in curbing child marriages. Very few cases were reported under the Act. The Act stipulated that the complaints had to be filed within a year of the marriages. The law also did not declare the marriages below stipulated age void or voidable. The marriage was valid and legally enforceable despite one or both the parties to the marriage being below the prescribed age. The remedy of civil nature was also available to enforce the conjugal rights emanating from such a marriage. The main rationale for this was supposed to be the vulnerability of women in the child marriages. It was supposed to be in the best interests of the child bride and the offspring out of the wedlock.

6.2.2. The Prohibition of Child Marriage Act, 2006

The Prohibition of the Child Marriage Act (PCMA), 2006, coming in effect from 1st November 2007 brings about far reaching changes in the law. The new law declares the marriages below the stipulated age voidable at the instance of the contracting parties if they were minor at the time of the solemnization of the marriage. It also enhances the punishment for child marriages. While keeping the protection for child bride and legitimacy of the offspring from such marriages, it also gives power to the court to issue injunctions restraining child marriages. A complaint regarding a possible child marriage may be made



by any person having personal knowledge or reason to believe, or a non-governmental organization having reasonable information, relating to the likelihood of taking place of solemnization of a child marriage or child marriages. It is also provided that the Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate may also take suo motu cognizance on the basis of any reliable report or information.

Main features of the Prohibition of Child Marriage Act, 2006:

- * It declares that “child marriages shall be voidable at the option of the contracting party who was a child at the time of the marriage.” It allows for a petition to be filed declaring the marriage void within 2 years of the child attaining majority. However, since a girl is supposed to attain majority at the age of 18 and a boy at the age of 21, the girl can file a petition till she becomes 20 years of age and a boy till he becomes 23 years of age.
- * The Act also allows for maintenance and residence for the girl till her remarriage from the male contracting party or his parents.
- * It allows appropriate Courts to order for custody for any child born from the marriage.
- * The Act also makes all offences cognizable and non-bailable. All the punishments for contracting a child marriage have been enhanced. The punishment for a male over 18 years of age has been enhanced to rigorous imprisonment of up to 2 years or with a fine up to Rupees 1 lakh or both. A similar punishment is prescribed for anyone who performs, conducts, directs or abets any child marriage.
- * The same punishment is also prescribed for anyone who solemnizes a child marriage including by promoting such a marriage, permitting it to be solemnized or negligently failing to prevent the marriage.
- * No woman can be punished with imprisonment.
- * The Act further allows for injunctions to prohibit child marriages including ex-parte interim injunctions. It states that any child marriage solemnized in contravention of an injunction order will be void.
- * The Act lays emphasis on the prohibition of child marriages by providing for the appointment of Child Marriage Prohibition Officers by the State Governments and gives powers to these Officers to prevent and prosecute solemnization of child marriages and to create awareness on the issue.

Though the Act has done away with many shortcomings of the previous Act of 1929, there are still some loopholes that people feel, may prevent the Act from becoming sufficient deterrent. Besides, it has been also alleged that the Act does not address the patriarchal bias. It has been strongly recommended by many activists against the child marriage including the Law Commission (205th Report) that there is no reason to prescribe different ages for boys and girls for marriage. They insist that there is no scientific evidence which support such provision. The provision shows a patriarchal bias to control the sexuality of women and girls by laying down that she must marry a boy who is much older to her.

Secondly, it has been also argued not declaring marriages below prescribed age void ab initio will still encourage people to contract child marriages. In the present case contracting parties or their parents can ask for declaring marriages void. It is believed that



given the reluctance society has against invoking law, the use of the provision will be sparing. A strict legal indictment on child marriages has become necessary to take away the social sanction that the practice has.

The Act also does not ask for compulsory registration of marriage. Though there is a law existing on Compulsory Registration of Marriages, however, it leaves the states on their sweet will to enact provisions to implement the Act. States which have made provisions to operationalize the compulsory registration have failed to understand its critical role in restraining child marriages by having not made enough efforts to ensure its effective implementation.

Though the Act talks about penalizing people for their negligence to prevent child marriage, it is a question whether public servants will also be covered under the provision? The Act appoints CMPOs with the solitary purpose of preventing child marriages. If there was a provision for imposing penalties on CMPOs for their failure to prevent child marriages contracted in their respective areas, the law could have been far more effective. It is widely known that child marriages also take place on account of lenient approach of police and other government officials and their failure to take action in time. A penal provision for negligence in preventing child marriage could have made the concerned authorities taking child marriages seriously.

The CMPOs appointed under the Act has a number of duties listed in connection with preventing child marriages (S.16(3)). These include:

- (a) to prevent solemnization of child marriages by taking such action as he/she may deem fit;
- (b) to collect evidence for the effective prosecution of persons contravening the provisions of this Act;
- (c) to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnization of child marriages;
- (d) to create awareness of the evil which results from child marriages;
- (e) to sensitize the community on the issue of child marriages;
- (f) to furnish such periodical returns and statistics as the State Government may direct; and
- (g) to discharge such other functions and duties as may be assigned to him by the State Government.

The State Government may invest the Child Marriage Prohibition Officer with such powers of a police officer as may be needed and issue a notification in such respect. The Child Marriage Prohibition Officer shall have the power to move to the Court for an order under sections 4, 5 and 13 and along with the child under section 3.

However, despite the elaborate duties and functions assigned to CMPOs, states have failed to appoint CMPOs citing financial stringency. In majority of states, District Magistrates have been given the additional responsibility of CMPOs. Obviously, preventing child marriages do not come high on the agenda of District Magistrates.



6.2.3. The Compulsory Registration of Marriages Act, 2006

The Compulsory Registration of Marriages Act, 2006 states that every Indian citizen must register his or her marriage within ten days of their marriage, irrespective of religion. Such compulsory registration is of critical importance to prevent child marriages in the country. The state government in Madhya Pradesh, Uttar Pradesh, Haryana, Bihar, where child marriages are so rampant, have not taken any initiative to make registration of marriages compulsory. The Central Government has made it mandatory for all states to make registration of marriages compulsory as the states are in a better position to be aware of the social structure and local condition of their respective.

Registration of marriages has been made compulsory in some states in India. The Himachal Pradesh Marriage Registration Act, 1996 came into force in 2004, making it compulsory to register all marriages within the state. Karnataka has the Marriage (Registration and Miscellaneous Provisions) Act, 1976 making registration of all marriages compulsory. Rajasthan has a Rajasthan Compulsory Registration of marriage Bill, 2002. The Government of Rajasthan has made it mandatory to register marriages of couples with the authorities for their marriages to be recognized by the law. It was declared that '.... No marriage will be officially recognized unless couples have a certificate obtained after registering with the authorities Couples who register their marriage will also benefit as they will be more mature when they marry' (BBC News, October 24, 2001). Maharashtra has enacted the Maharashtra Regulation of Marriage Bureaus and Registration of Marriages Act, 1998, making gram sevaks the registrars. The Legislative Assembly of Tripura passed the Tripura Recording of Marriage Bill, 2003. Under the marriage law in Goa, a civil registration is mandatory, and only registered marriages are considered marriages are considered valid.

6.3. Government Initiatives Against Child Marriages

The government has launched the following schemes with prohibition of child marriage as one of their objectives:

6.3.1. *Mukhya Mantri Kanyadaan Yojana*

In April 2006 the Government of Madhya Pradesh launched a scheme named Mukhya Mantri Kanyadaan Yojana. Mass marriages of poor girls are performed with the state government financial assistance. Under the scheme, an amount of Rupees Five thousand is paid to each girl for domestic needs. Similarly, a sum of Rupees One thousand per girl is paid to the organizer for the arrangements. It may be mentioned that under the Mukhya Mantri Kanyadaan Yojana, financial assistance is provided to solemnize the marriage of daughters/widows/deserted women belonging to economically weaker sections and disabled category.

Although the provisions of the scheme do not directly prevent child marriages, however it has significant indirect implications which are very much effective in prohibition of child marriages. The program reduces the financial burden of marriage from the family which is a major factor for early marriages. Besides this factor the applications for the



marriage are scrutinized at various levels and the government officers try to ensure that no case of child marriage takes place in these ceremonies. The media attention received by these marriages also ensures that couples are of legal age of marriage.

6.3.2. *Bal Vivah Virodhi Abhiyan*

In April 2005 the National Commission for Women (NCW) launched the Bal Vivah Virodhi Abhiyan (Campaign Against Child Marriage), a nationwide awareness program against child marriage with particular focus on the state of Rajasthan, Bihar, Chattisgarh, Madhya Pradesh, Jharkhand and Uttar Pradesh. The NCW even published an advertisement in regional newspapers to generate awareness in the rural areas known for child marriage in these states (NCW, Annual Report, 2005-06 Chapter 10)

6.3.3. *Ladli Laxmi Yojana*

Ladli Lakshmi Yojana was started in May 2007 with a view to create positive thinking about the girl child among the masses. The scheme's benefit will be available to a girl born on or after January 1, 2006 in a non-Income Tax Payee family and female orphans. The parents should not have more than two offspring and should have adopted family planning. The child should be registered in an anganwadi. At the time of registration, the government would purchase a Rs.6,000 National Saving Certificate and of Rs.6,000 for the next four years and these would be renewed from time to time. At the time of girl's admission in the sixth standard, Rs.2,000 and on admission in the ninth standard Rs.4,000 would be paid to the girl. When she gets admitted in the 11th standard she would receive Rs.7,500. During her higher secondary education she would get Rupees 200 every month. On completion of 21 years she would receive the remaining amount, which would be more than Rupees 1 lakh. The Yojana basically aims at preventing child marriages, improving girl's education and improving their health conditions.

6.3.4. *Gaon Ki Beti Yojana*

This is another state government scheme implemented in 2005 to promote higher education among girls and through it reduce incidents of child marriage. Under the revised scheme all girls of the village having passed the 12th examination in first division, would be provided free higher education plus an additional financial assistance of Rs. 500 per month for ten months. The scheme would be applicable to government educational institutions, non-government educational institutions getting government grant and fees of which are at par with the government institutions and in universities. This scheme might be applicable to those girls who have passed examination from Navodaya School fulfilling all the required conditions. There is no income or caste bar for eligibility under the scheme. The student has to take admission in higher educational institution during the same year in which she passes class XII examination.



6.3.5. *Raksha Sutra Bandhan*

The government of Madhya Pradesh as part of the Action Plan to check child marriages in the state had started this initiative on the occasion of *Akshay Tiritiya* on April 20, 2007. Under this program camps and rallies were organized to generate a greater awareness and publicity among people about the evils of the practice. All the district collectors were instructed to organize awareness campaign by the Department of Woman and Child Development against this practice. Later a band was tied by minors and sons on their parents urging them not to perform their marriages in early age.

6.4 Functioning of Legal Machinery at Grass Root

In Madhya Pradesh, the District Magistrate under the section 13 (4) and (5) of the Prohibition of Child Marriage Act of 2006 is deemed to be the Child Marriage Prohibition Officer with all powers as are conferred on a Child Marriage Prohibition Officer by or under the Act. In all the three districts for the purposes of preventing solemnization of mass child marriages on certain days such as *Akshaya Tiritiya*, the District Magistrate constitutes task force. In Gwalior district this year four such teams (Murar, Gwalior, Laskar and Jhanshi) were constituted with each team being lead by a city magistrate. The teams keep a strict vigil on all the mass marriages taking place in the area on such occasions and in case of report of any incident of child marriage is directed by the District Magistrate to take immediate action and present a detailed report of the incident to the Programme Officer, District Women and Child Development Officer. Similar teams were constituted in Bhind and Morena districts also. Officially no case of child marriage was reported in the three districts visited by the research team.

The officials of the various government departments who are involved in the prevention of child marriages have under conditions of anonymity said that the cases of child marriage where the age of the bride is below 14 years have gone down drastically in the last 8-10 years and on rare occasions when such marriages are solemnized, the families perform the marriage rituals secretly in private ceremonies. However, upon receiving any report of such cases the department takes prompt action to prevent the cases of child marriage. The officials also reported that all written and verbal complaints of incidents of child marriage (which are at times anonymous) are investigated and if the complaint involves girls below 14 years the officials along with the Police force intervene and in many cases the family members of both the sides and the groom are placed under police detention to ensure that the marriage does not take place. However the official stand is different when it comes to girls above 14 years and below 18 years, in such cases the officials mentioned that the parties are always in possession of documents supporting their legal age. "Ab marks sheet verify karna to hamara kaam nahi hain na..." (Verifying marks sheet is not our job...) said one official in Morena. Further the officials said that they have to consider the volatile law and order situation of the area and when the age of the girls 14-17 years and the families have made all the arrangement of marriage the officials do not intervene.

Under Mukhya Mantri Kanyadaan Yojana the officials in all the three districts mentioned that no marriage takes place of children below 14 and all the couples have



certificate age as per legally required for marriage i.e. 18 years for girls and 21 years for boys. The officials felt that it is virtually impossible only based on external features to differentiate between a 15-16 year old girl and a 18 year old girl. Conducting medical tests for age determination of girls is not possible due to social considerations.

Commenting on nature of the complaints officials in all the three districts said that only in less than 5 per cent of the cases the complainant reports the incident due to genuine concern for the girl's well-being. In rest of the cases the complaint is made because of personal enmity, family feud and by boys who have love interest in the girls whose marriage is being solemnized. The reports of such marriages as per the officials come only a day or two before the marriage ceremony and it gives the officials no time to take recourse to steps like family counselling.

The local villagers in these three districts, however, are of the opinion that the government is aware of the fact that marriages take place for girls in the age group of 15-17 years. Even if they have prior information they come only on the day of Barat to harass poor people. There have also been instances where people have used their contacts with the police and government officials to settle their personal rivalries. The village ANMs, AWWs and ASHA workers when contacted clearly mentioned that they do not dare to complaint against such incidents as they will have to live in the village and fear for their security. The case of Shakuntala Verma was cited by many officials while pointing towards the dangers of trying to prevent such marriages in the state. Although the district task forces are formed by the District magistrate to prevent the child marriages, officials of the Department of Women and Child Welfare felt that the basic responsibility ultimately comes to their shoulder. They said that they do not get enough support from other officials due to which they feel quite helpless.

Box 07: Not an Easy Task

Shakuntala Verma, an aanganwadi supervisor in Dhar district was attacked because she had identified 15 child marriages taking place in the Bhangarh village. The attack on the woman highlighted the difficulty of ending the centuries-old practice in the region. This attack on Shakuntala Verma was not an isolated one. In Adarsh Indira Nagar, a colony near Indore city, another aanganwadi worker, Anita Waghmare, was threatened after she had thwarted a child marriage.

(Source: FRONTLINE: Vol. 22, Issue 14, Jul 02-15, 2005)



6.5. Initiatives Taken by Madhya Pradesh Human Rights Commission (MPHRC) to Stop Child Marriages

With regard to child marriages the State Human Rights Commission of Madhya Pradesh has undertaken various programmes and workshops to create awareness of the present legal provisions regarding child marriages.

An exclusive workshop was organized in which Justice Sujata Manohar, encouraged NGOs and participants to take pro-active steps to report incidents of child marriages so that Commission may intervene timely. The concerned authorities were also directed to take legal actions.

Before every '*Akskhyā Tritya*', the day which amongst the Hindus is the most auspicious day for marriages, the Commission has been issuing written directions to the District and Police authorities to remain vigilant and attend marriage functions where mass marriages are organized to ascertain the age of the couples intending to marriage.

The Human Rights Commission has its own phone line in which it is receiving complaints of child marriage by persons from media, general public and members of the society. In many cases the Commission has intervened on the basis of information received over telephone and has alerted the concerned police station successfully prohibiting a child marriage. A number of marriages involving children have been successfully prevented through its efforts.

In one of the incidents from Sidhi, a local resident telephoned to a woman Sarpanch who was attending a conference at Bhopal that a child marriage was to take place by next day at Sidhi and the women Sarpanch failed to seek timely intervention of the local police and village authorities. She along with other Sarpanches approached the Commission and the Commission immediately issued directions to Sidhi Collector to send Police to the place where marriage was organized and to ascertain marriage age of the couple. Due to the above intervention the child marriage was avoided.

The MPHRC is the only Commission in India which has its own network of reporters and NGOs which are mainly members of public named '*Aayog Mitra*'. The *Aayog Mitra* have been given standing instructions to immediately report to the Commission of any child marriage about to take place. The Commission would activate the local police to prevent such marriages.

The Commission has been working proactively towards legal awareness regarding child marriages and has been instrumental in creating an environment to restrain child marriages in Madhya Pradesh.



7. CONCLUSION AND RECOMMENDATIONS

Child marriages take place due to a variety of reasons. The reasons and consequences vie with another to multiply the challenges that women face. Unbelievably high number of child marriages taking place contribute to high infant mortality rate and maternal mortality rate. The price of child marriage is not only in terms of mortality, but it blocks the overall development of girl child and severely restricts the horizon, which she is entitled to as a human being.

The solutions while obvious are not simple. It requires comprehensive development approach. The prevention of child marriage is not only about laws, attitudes and customs, it is equally about education, health care and empowerment. It is related to gender equality and participation of women in decision making as much as it is related to equal employment and life skills opportunities.

The recommendations are based not on only insights gained from the present study, but also on the experience of number of other studies and lessons learned. It includes initiatives ranging from grassroots initiatives, to efforts desired at intermediate (sub district) levels, to state and national priorities in terms of curtailing child marriages. It also ranges from the most obvious step to educate girls, to strengthen community involvement in preventing child marriages, from employing alternative opportunities to girls and young women to involving men folk in the action.

The recommendations also argue that the current approach in combating child marriages are focused more on preventing it. A little shift in the emphasis on delaying marriages/increasing the age of marriage and providing adequate incentives and opportunities to support that can have improved results not only on the statistics but also on the attitude and behaviour of people. Strengthening education network and outcomes, encouraging parents to commit a minimum number of years for girls at schools, providing more accessible scholarships, and especially for those belonging to disadvantaged communities can help improve community response for delaying child marriages. The study makes some specific recommendations as listed below.

Reinforce community involvement in preventing child marriages

Social attitudes need to be addressed before the issue of the child marriage can be addressed through legislation or comprehensive development efforts. Ending child marriages is also difficult for parents willing not to marry their underage girls in the face of severe social pressure. The role of community and the civil society is indispensable in this context. The study reveals that the communities do not feel any responsibility towards preventing child marriages. The law is mainly seen as a restraint in carrying out ones obligation of getting the girl married. Greater role for the community and involvement of civil society can improve awareness of the social, health and legal aspects related to child marriage. The



community based efforts aimed at increased education, participation and respect for girl child can provide viable alternatives to child marriages. Parents and community leader must be sensitized to support girls education and resist social pressure to child marriage.

Increasing access to education

The lack of educational opportunities for girl children has been the single most important factor perpetuating child marriages. Increasing number of studies have categorically established link between education and child marriages. An educated girl is less likely to agree to under age marriage. It is important to understand that primary education is not enough. Girls must have universal access to at least high school. This might include providing 'safe' education in all girls schools, or at least gender sensitive schooling environment. In the country where primary education to girls is not accessible, improving the educational infrastructure will be highly challenging. Married girls must also have opportunities to education and must continue education. Married girls' education will go a long way in ensuring that her daughter would not have to endure what she had.

Provide skills and economic opportunities to young women

Child marriage is inextricably linked to poverty and income of the family. Economic status of the family is a strong indicator of whether the girls are likely to be married before legal age in these families. Majority of girls are married early because the parents run short of options for engaging her once they have finished middle schools. Increased access of girls to skills education and economic opportunities will not only provide little support and financial stability to the family but would also provide a strong reason to delay marriages. It would also have pertinent impact on feminization of poverty having strong link with child marriages.

Education of marriage laws with skills training for unmarried girls

Girls should be considered the most important stakeholders and key to social transformation required to prohibit child marriage. Knowledge of marriage laws into high school curriculum and skills training would improve girls knowledge not only about their rights not to get married early but would also have profound impact on their awareness and knowledge about reproductive health issues.

Counselling at high schools and above

The rising median age of marriage and high drop out rate at high schools (for girls) indicate that the school going girls are more likely to get married during their education at high schools. All the high schools must seize the opportunity to delay their marriages by providing competent emotional support and counseling to girls and their parents. The girls facing pressure for marriage in their families generally confide in their friends and teachers. The high schools must make the best out of this opportunity to reach out to them and their parents.



Employ grassroots level workers/NRHM framework to build better information network

It has been observed that CMPOs have no information on child marriages taking place because they lack an effective information network. They are not informed about the child marriage unless a family feud or love relations expose child marriages. To make sure that no child marriage is taking place in the villages, the existing network of NRHM can be employed strategically. Village level functionaries like Aanganwadi workers, ANMs, ASHAs, and even teachers have extensive reach to families in the villages and the local administration must utilize their services to know and intervene effectively. If any child of school going age is going to get married Panchayat and village school must take the responsibility. The Panchayat should act and alert concerned officials to prevent the marriage.

Increasing women's participation in social, religious and political activities

Women's participation and visibility is key to assertion of their right not to get married early. It can also create the most important demonstrative effect on other girls in the village. It can have a very positive impact in terms of reassurance of women's safety and their leadership capacity. Women's participation in Panchayat activities and other social and religious activities must be ensured.

Strict enforcement of laws

Strict enforcement of child marriage prevention laws would have deterrent effect on the parents and the communities. Effective prosecution and improved conviction rates can set example before people. It is mostly argued that conviction and punishment would act to impediment of child brides. It is important to understand that the necessity of stringency in punishment in order to save thousands of girls landing up in similar situation must overwhelm the concern for child marriage victims. Changes in the Hindu Marriage Act, 1955 and increase in punishment in S. 18 of the Act to bring it at par with Prevention of Child marriage Act, 2006 is also absolutely necessary. Strict implementation of laws related to dowry, sexual harassment, violence against women, child abuse et cetera should also be ensured in order to instil the sense of safety among women, which is one of the most important reasons for parents being forced to dispose of their girls by marrying them early.

Compulsory registration of births and marriages

Compulsory registration of births would successfully lead to fudging in the age of girls/children for marriage which is very commonly resorted to in the state. The NRHM which emphasizes of institutional delivery can be utilized to register births taking place in institutional setting. Simplification of birth registration is extremely important to encourage people to get the births in the families registered. Equally important is compulsory registration of marriage. Marriages should be registered within a stipulated time. No legal consequences should follow and no benefits accrue to any contracting party from a marriage which is not registered.



Set up special cells

Special cells should be set up in areas and districts of high prevalence to be charged with the responsibility of monitoring and preventing child marriages. These cells can be headed by the CMPOs. These cells must also include local NGOs and professional counselors to evoke better community response and improve understanding of harmful consequences of child marriages both on girls and boys.

Compulsory declaration of age of bride and groom before marriage officer

The Madhya Pradesh Human Rights Commission has suggested that bride and groom should compulsorily declare their age before marriage officers appointed under the PCMA 2006.

Involving men folk in discussion and efforts to combat child marriage

The current approaches are focused more on engaging women as change makers and have not been able to address the attitudes in men folk adequately. Discussions on marriage, children, reproductive health, family planning etc. are seen as issues related to women and have not adequately evoked response from men. Men are the main decision makers in the family and need to be targeted well in this context.

Improved access to family planning and health care services to girls and women

Lack of access to family planning and health services not only make women frail and submissive but also fail to arrest the trend of child marriage in their own families. Women in better control of their health and reproductive capacities are more likely to resist early child birth and child marriages.

Supporting programmes to end violence against women

Violence against women especially in the rural areas goes entirely unnoticed and has acceptance to a large extent. Addressing violence against women will enhance their participation in decision making in the family and at all levels. Women's role in the decision making is crucial to ensure that girls are not getting married before the legal age.

Rehabilitation programmes for victims of child marriages

Social, economic and family based support to victims of child marriages is necessary in order to wean away social sanction for child marriages. Child marriages continue also because women lack courage to resist it and later come out of it. Rehabilitation programmes providing food, shelter, education and empowerment services would ensure that women do not suffer violence and abuse in marriages and come out stronger which would arrest the trail leading to child marriages in the family further.



Monitoring the law

A social audit can be conducted to see the implementation of law. It is also necessary to see the performance of the Act of 2006 and that whether it has been able to achieve its objectives. Popular opinion suggest to the contrary. Therefore, it is important to have latest data including unofficial data on child marriage. Reporting of cases of child marriages should be encouraged and law enforcement and reporting mechanism should also be strengthened. Particular communities engaging in child marriages should be targeted without making it threatening.

Bridging the gap between public and personal laws

There is sufficient gap between the public and personal laws on marriage which acts against the best interest of the children. Involvement of caste and religious leaders, and alternative and progressive interpretation of religious texts might help shed the notions of religious obligations regarding early marriages. It would also help bridging the gap between law and customs and public and private laws.

Encouraging civil society cooperation

Close cooperation of civil society may provide essential information and access to communities required for evoking desired changes in the authorities, practices and belief regarding child marriages. Commitment to civil society support to combat child marriage might help achieve more than what governments could do. The NGOs may substantially increase the reach and access, and effectiveness and impact of the campaigns against child marriages and also prove to be a critical factor in monitoring the laws and their implementation.



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Annexure I:

Tools used in the research study

1. FGD Guidelines

Three FGDs shall be conducted in each sampled village. The first FGD shall be carried out with a group of women and men representing all the sections of the village. The second and third FGDs shall be conducted with the women and men folks separately.

Guidelines:

- * How marriage ceremonies are performed in your village? What are the customs and rituals related to marriage and how do they differ in different groups? What is the process of selecting a bride or a groom for the boy or the girl?
- * What are the major changes which have come in the different aspects of marriages and from when? What are the major factors responsible for the changes?
- * What is the age of boys and girls getting married these days? Is there a change in the age at marriage? If yes why? What should be the age at marriage? Are you aware of the legal age at marriage?
- > Are you aware of any law pertaining to marriage? Do officials come to stop marriages of the minors? How do you manage to marry your sons/daughters at an early age?

2. Interview Guidelines for the Social Activists/NGO Workers

- * What in your opinion are the root causes of child marriage in the area?
- * Please comment on the existing legal mechanisms on the issue of child marriages?
- * What is the status of enforcement by government agencies in the area?
- * What are the barriers in restraining child marriages in your area?
- * How prevalent are the cases of the child marriage?
- * How people evade the legal mechanisms to perform marriages of younger child?
- * Could you share some cases of restrain/best practices against the practice in your area?
- * What is the popular opinion regarding child marriage? Has there been any change in the people's perception towards child marriage?

3. Interview guidelines for the Government Officials

Government officials include the following:

- Child marriage Prevention Officer (CMPO)
- Sub-Divisional Magistrate (SDM)



Officials of Department of Women and Child Welfare
District Magistrate (DM)

Guidelines:

- * What is the status of implementation of the Prohibition of Child Marriage Act 2006?
- * How prevalent are the cases of the child marriage?
- * What programmes are undertaken to stem out the practice?
- * How does the department handle the complaints against child marriage?
- * Is there a monitoring mechanism to prevent such marriage?
- * How many cases have been registered under the act so far?
- * What is the popular opinion regarding child marriage? Has there been any change in the people's perception towards child marriage?

4. Interview Guidelines for Health Workers

Health Workers include the following:

Auxiliary Nurse and Midwives (ANMs)

Aanganwadi Workers (AWWs)

ASHA workers

Guidelines:

- * What is the average age of girls when they deliver their first child?
- * How old are the girls and boys in your village at the time of their marriage?
- * Do you inform the authorities about child marriages in your area?
- * What is the popular opinion regarding child marriage? Has there been any change in the people's perception towards child marriage?
- * How prevalent are the cases of the child marriage?
- * How people evade the legal mechanisms to perform marriages of younger child?
- * Could you share some cases of restrain/best practices against the practice in your area?

5. Interview Guidelines for the Panchayat members

- * How prevalent are the cases of the child marriage in your area?
- * How many marriages in your village take place under the Mukhya Mantri Kanyadaan Yojana?



- * On what basis do you issue a Panchnama to certify the age of the person?
- * What is the state of prevalence of child marriage in your village?
- * On the marriages conducted under personal ceremonies is there any mechanism to ensure that the couple getting married has attained the legal age of marriage?
- * What is the percentage of marriages getting registered in your villages?
- * What is the popular opinion regarding child marriage? Has there been any change in the people's perception towards child marriage?

6. Interview Guidelines for the Doctors

- * How prevalent are the cases of the child marriage?
- * What is the average age of girls when they deliver their first child?
- * What are the medical problems faced by the victims of child marriage?
- * What is the popular opinion regarding child marriage? Has there been any change in the people's perception towards child marriage?

7. Interview Guidelines for the Children

- * Who in your family decides about the marriages and related affairs?
- * At what age are the marriages performed in your families?
- * Do you know about the legal age of marriage?
- * Are you aware of the health implications of an early marriage for you and your partner?
- * How do you perceive the institution of child marriage?



Annexure II:

Specific Findings from the interviews of various stakeholders

1. Responses of the Social Activists/NGO workers

The NGO workers and the local activists working in the three surveyed districts came up with an array of reasons for the continuation of the practice of child marriage in the districts. Among these the lack of education among parents and children emerged as the major reason. Besides this, the insecurity of the families over the girl child coupled with poor economic conditions and the cultural and traditional beliefs related to girl's virginity were responsible for people still continuing with the practice. The representatives of the civil society also linked the practice to the skewed sex ratio of the area and social evils like dowry.

The representatives of the NGOs and the various activists were of the opinion that the PCMA 2006 is much more effective than the CMRA 1926 which according to all of them lacked the necessary provisions to curb child marriages. Civil society acknowledged the efforts under taken by the civil administration in curbing child marriage. But they admitted a lack of coordination between civil society and administration in tackling the issue jointly. They also felt that government efforts to curb the practice have not penetrated into the interior villages and in the tribal belts where incidents of child marriages are very high. They commented that the existing feudal and orthodox mindset of the people along with the lack of gender equality act as barriers to the efforts to curb out the menace from the region. They also emphasized on the fact that the practice is still very much prevalent in the area.

Even though the age of marriage has gone up parents still prefer to conduct the marriages of their children before they attain the legally marriageable age. The NGO workers also narrated how people adopt ways to evade the existing laws against the practice. They shared cases of girls who resisted efforts of their family and the society at large to marry them off before they attained the legal age of marriage. They felt that largely due to the efforts of the voluntary organizations people are now a days aware of the legal implications of performing the marriages of the children at an early age. They attributed the spread of education as another factor responsible for the increase in the age of marriage. However even today the practice of early marriage was prevalent and the need to strengthen the voluntary efforts was stressed upon.

2. Responses of the Panchayat Members

The Panchayat representatives of the villages visited by the research team threw light on various aspects of child marriages. They came up with the fact that the age of marriage has gone up in the last five years or so. Now rarely does someone arrange the marriage of a child who is below fourteen years but they stated that in the villages people do prefer to marry their child by 16-17 years in case of girls and 18-19 years in case of boys. They said



that after the launch of the Mukhya Mantri Kanyadaan Yojna (MMKY) many people prefer to get their children married under the scheme. In these marriages the age of the child is verified and this ensures that there is no scope for the parents to marry off their underage children. In spite of verifying the details provided by the families while issuing a *panchnama* many a times it becomes difficult to ascertain the age of children who are a year or two below the legal age.

They said that throughout the year they try to educate the people about the harmful effects of child marriage. Whenever they come to know that someone is arranging the marriage of his/her minor child they try to speak to both the bride's and the groom's families and try to postpone the marriages. They agreed that in spite of their efforts it is very difficult to stop personal ceremonies of child marriage and they also mentioned that upon receiving reports of such marriages the government officials also intervene and if required detain the members of the families. They said that barring marriages under MMKY and mass marriages conducted by the various caste groups, no other marriages are registered in the villages.

3. Responses of the Government Officials

The government officials at various levels responsible for the prevention of child marriages in the state expressed their views on various aspects related to the implementation of the Act and the efforts of government to root out the practice. In Madhya Pradesh the District Magistrate is conferred with the powers of the Child Marriage Prevention Officer and on special occasions like *Akshaya Tithi* special task forces are created to ensure that the child marriage are not being solemnized. The officials felt that the people were by and large aware of the laws restraining the practice and the government tries its best to ensure that the practice is stopped. The officials elaborated upon various initiatives of the Department of Women and Child Welfare to stop child marriage which included community counselling sessions, awareness drives through ICDS centres etc. They mentioned that in spite of these efforts, people still indulge in the practice and the stranglehold of the customs and traditions along with the societal set up makes it very difficult for the government officials to stop the practice. The officials pointed out that for monitoring such cases the village level workers of various government programmes are relied upon.

The officials of the Department of Women and Child Development also visit ceremonies of mass marriages to check that all the couples have attained the legal age of marriage. No case has been registered under the PCMA 2006 in the last years however every year the officials receive about 15-20 complaints; the number of which rises in the dates prior to *Akshaya Tithi*. The officials felt that over the few years people are becoming more and more aware of the harmful effects of child marriage and they felt that the increase in education levels of the girls and the various government programmes for girls have played a role in the heightened awareness levels.

4. Responses of the Health Workers

The health workers interviewed by the research team highlighted various health related aspects of child marriage. In their opinion in the rural areas the average age of delivery of



the first child is on the rise. They also mentioned that in villages, the boys and girls usually get married just before the legal age. These health workers however mentioned that despite being aware of the practice of child marriage in their villages they prefer not to report such incidents to the authorities as they fear that they might be harmed by the people. They feel that there has been a considerable change in the mindsets of the people with regards to child marriage.

In the opinion of the health workers, people in the villages are now aware of the fact that child marriages are punishable and this was one of the reasons behind the increase in the age of marriage. These workers felt that people even today want to arrange the marriage of their boy or girl at an early age and various historical, social, cultural, economic and traditional factors are responsible for the continuation of the practice. They felt that the prevalence is quite high. In some villages the health worker said that even today there are cases when girls are married off as early as 14 years of age. The people harp upon the difficulty of the officials to accurately determine the age of a person and hence they can manage to get birth certificates showing legal age of marriage when in reality they are two or three years below the specified age. These workers also mentioned cases of community level workers who took the initiative to educate the community against the harms of child marriage and how they could actually ensure that entire community stood up against the practice and pledged not to practice the custom.

5. Responses of the Doctors

The doctors in the government hospitals of all the three districts said that in the last five years or so there has been an increase in the average age of girls when they deliver their first child. They said that the incidents of child marriages have come down since only once or twice a year they come to know that a girl of less than sixteen years has come for delivery. None of the doctors interviewed had personally handled a case of delivery of a minor girl in the last couple of years. They said that the doctors always stress upon the need to get married only after the attainment of the legal age of marriage and they try to educate the people about the harmful effects of child marriage. Anemia, sexually transmitted diseases (STD) and deaths due to toxemia are common among the underage mothers and when such cases are detected both the mother and the child are put under supplementary nutritional therapies. Besides this the doctors recommend contraceptive pills and the use of condoms during sexual intercourse to all the underage couples to avoid early pregnancy and in case of pregnancy to delay the second child. The doctors feel that improving IMR and MMR are indicators of the fact that the incidents of child marriage are on the decline and felt that gradually with sustained efforts this problem can be curbed totally.

6. Responses of the Children

The children interviewed by the research team during the field visits expressed their opinion about the practice of child marriage. Most of them felt that it was a usual practice and have seen their elder siblings being married off before they have attained the legal age. The girls have to leave education after high school and though they want to study further they feel that they do not have any other option but to abide by the decisions of their family to marry them off in a year or two after they leave school. The boys were of the opinion that



it was customary for them to get married by the age of 17-18 years when they start earning. None of the boys were aware of the health hazards that their spouses will be exposed to in case of early marriages. They even lacked basic awareness about the reproductive health. Barring a few girls who have resisted attempts of early marriage by the family no one was aware of the impact of child marriage on the girls' health.

All the girls wanted to study further however, they feared defying their family's decision to take them off school. The girls unlike their mothers have said that they will not marry off their children before they attain the legal age of marriage. The married boys felt that it was for the male partner to decide when the couple should have a baby and they were totally ignorant of the risks of an early pregnancy for the girl. One of the boys interviewed by the team gleefully showed his school marksheet which showed his age as 21 when he was actually only 20 years old and his marriage was performed under the MMKY last year. He mentioned that all his other friends have such marksheets with false date of birth. The boys and the girls also feared choosing their partner on their own. The girl children were of the view that their study is stopped due to their marriages and hence they wanted to marry after completing at least class X whereas the boys opined that there is no harm in marrying once they start earning even if it is at 18 years of age. Almost all the children maintained that in the case of marriages the children are the last ones to be consulted.

7. Outcomes of the FGDs

The focused group discussions were carried out in all the villages visited by the research team and the summary of the outcome of these discussions is as follows. In all the villages the participants of the FGDs elaborated upon the various marriage customs that are practiced in their village. They also came up with various ceremonies which marked the attainment of puberty by girls. In all the villages the customs of marriage were almost same for various groups of Hindu community. Arranged marriages within the same caste was the norm. In fact if the girl selected her partner on her own the family disowns the girl. The villagers felt that marriages have changed quite considerably in the recent years and they said that previously it used to be a month long affair whereas now it is completed in a day or two because of paucity of time with people. Another major change which has come about was in terms of age of marriage. According to the participants the families now wait till the girls or the boy has attained 14-15 years or 16-17 years before they start looking for a prospective groom or a bride respectively. Now marriages rarely get solemnized before the children are fourteen years old. This increase in the age of marriage has resulted in the fact that people do not prefer the custom of *Gauna*. Now-a-days *Bidai* takes place immediately after marriage. The participants of FGDs in all the villages were aware of the legal provisions prohibiting the practice and mentioned that the fear of being imprisoned has lead families not to go for an early marriage of their children.

In the villages, people are largely of the opinion that police only comes to harass the families during the marriage ceremonies. The FGDs threw up ways adopted by the villagers to evade the legal mechanism. This included getting age certificates or marksheets showing that the child has attained the legal age of marriage or in most of the cases getting a *panchnama* made with the required age.



Annexure III:

The Child Marriage Restraint Act, 1929

The Child Marriage Restraint Act, 1929

(19 of 1929)

An Act to restrain the solemnisation of child marriage.

Section 1 : Short title extent and commencement –

- (1) This Act may be called the Child Marriage Restraint Act, (1929).
- (2) It extends to the whole of India (except the State of Jammu and Kashmir) and it applies also to all citizen of India without and beyond India.
- (3) It shall come into force on the 1st day of April, 1930.

Section 2 : Definitions – In this Act, unless there is anything repugnant in the subject or context:

- (a) "Child" means a person who, if a male, has not completed twenty one year of age, and if a female, has not completed eighteen years of age ;
- (b) "child marriage" means a marriage to which either of the contracting parties is a child ;
- (c) "contracting party" to a marriage means either of the parties whose marriage is (or is about to be) thereby solemnised and
- (d) "minor" means a person of either sex who is under eighteen years of age.

Section 3 : Punishment for male adult below twenty one years of age marrying a child –

Whoever, being a male above eighteen years of age and below twenty one, contracts a child marriage shall be punishable with simple imprisonment which may extend to fifteen days, or with fine which may extend to one thousand rupees, or with both .

Section 4 : Punishment for male adult above twenty one years of age marrying a child –

Whoever, being a male above twenty one years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to three months and shall also be liable to fine.

Section 5 : Punishment for solemnising a child marriage – (1) Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to three months and shall also be liable to fine unless he proves that he had reason to believe that the marriage was not a child marriage.

**Section 6 : Punishment for parent or guardian concerned in a child marriage –**

- (1) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punishable with simple imprisonment which may extend to three months and shall also be liable to fine. Provided no woman shall be punishable with imprisonment.
- (2) For the purpose of this section, it shall be presumed unless and until the contrary is proved, that where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent marriage from being solemnised.

Section 7 : Offences to be cognizable for certain purposes – The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences under this Act as if they were cognizable offences -

- (a) for the purpose of investigation of such offences : and
- (b) for the purposes of matters other than (i) matters referred to in Section 42 of that Code and (ii) the arrest of a person without a warrant or without an order of a Magistrate.

Section 8 : Jurisdiction under this Act – Notwithstanding anything contained in Section 190 of the (Code of Criminal Procedure, 1973) (2 of 1974), no Court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall take cognizance of, or try, any offence under this Act.

Section 9 : Mode of taking cognizance of offences – No Court shall take cognizance of any offence under this Act after the expiry of one year from the date on which the offence is alleged to have been committed.

Section 10 : Preliminary inquiries into offences – Any Court, on receipt of a complaint of an offence of which it is authorised to take cognizance, shall unless it dismisses the complaint under Section 203 of the Code of Criminal Procedure, 1973 (2 of 1974) either itself make an inquiry under Section 202 of that Code or direct a Magistrate subordinate to it to make such inquiry.

Section 11 – Repealed by the Child Marriage Restraint (Amendment) Act, 1949 (41 of 1949), Section 7.

Section 12 : Power to issue injunction prohibiting marriage in contravention of this Act --

- (1) Notwithstanding anything to the contrary contained in this Act the Court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnized,



issue an injunction against any of the persons mentioned in Sections 3, 4, 5 and 6 of this Act prohibiting such marriage.

- (2) No injunction under sub-section (1) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction.
- (3) The Court may either on its own motion or on the application of any person aggrieved rescind or alter any order made under sub-section (1).
- (4) Where such an application is received, the Court shall afford the applicant an early, opportunity of appearing before it either in person or by pleader, and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.
- (5) Whoever knowing that an injunction has been issued against him under sub-section (1) of this Section disobeys, such injunction shall be punished with imprisonment or either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Provided that no woman shall be punishable with imprisonment.

The Child Marriage Restrain Act, 1929

Commentary by National Commission for Women

To eradicate the evil of child marriage, the Child Marriage Restraint Act was passed in 1929. The object is to eliminate the special evil which had the potentialities of dangers to the life and health of a female child, who could not withstand the stress and strains of married life and to avoid early deaths of such minor mothers.

It extends to the whole of India except the State of Jammu and Kashmir and it applies also to all citizens of India within and beyond India.

It came into force from the 1st day of April, 1930.

- (a) "Child" means a person who, if a male, is under twenty one years of age, and if a female, is under eighteen years of age
- (b) "child marriage" means a marriage to which either the contracting parties is a child ;
- (c) "contracting party" to a marriage means either of the parties whose marriage is or is about to be thereby solemnised ;
- (d) "minor" means a person of either sex who is under eighteen years of age.

The penal provisions do not invalidate the fact of marriage nor do the penal provisions apply to a child. Its section 3 provides that, who ever, being a male above eighteen years of age and below twenty one, contracts a child marriage shall be punished with simple imprisonment, which may extend to fifteen days, or with fine which may extend to one thousand rupees, or with both.

Whoever, being male above twenty one years of age contracts a child marriage shall be



punished with simple imprisonment which may extend to three months and shall also be liable to fine.

In the Indian social set-up a male adult can be imputed greater sense of foreseeability of the consequences of this social evil of child marriage and in this context the punishment prescribed by the law to deter them is too mild in effect specially in this era of social justice when penology has become more reformatory than deterrent.

Whoever performs, conducts or directs any child marriage shall be punished with simple imprisonment which may extend to three months and shall also be liable to fine, unless he proves that he had reasons to believe that the marriage was not a child marriage (section 5).

Though their liability under the criminal law is that of the abettors, but it should not preclude their direct responsibility for the offence and suitable amendment should be made in the Act to punish them as principal offenders. If this social evil is to be eradicated the role of such intermediaries should be brought to book with deterrent punishment. The present law is lukewarm in this regard.

Consummation of "Gauna" is not part of marriage ceremony. The marriage being complete before the consummation, a person may be convicted under this Act, though consummation has not taken place.

Section 6 provides that where a minor contracts a child marriage any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punished with simple imprisonment which may extend to three months and shall also be liable to fine.

Provided that no woman shall be punishable with imprisonment. Under this section, it is presumed that where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised. Minors are incapable of entering into any valid contract and marriage under the Hindu law is not a contract. So the words "where a minor contracts a child marriage" in section 6(l) ought not to be literally interpreted as per its dictionary meaning but ought to be understood as meaning "where a child marriage" takes place or where a minor enters into a child marriage.

The child bride or the child bridegroom are mere passive actors in such a marriage and the active participants are the parents, guardians or the custodians of such children. As the law is not mindful about the active culpability of these persons, this Act has not yielded the desired results. The imposition of fine only lacks the deterrent effect which is needed most in such cases. Further this Act does not take into account the performance of preparatory ceremonies of such a marriage like engagements etc. Some provision should be made in this Act to prevent and punish such actions also if they culminate in child marriage.

It is note worthy that a contravention of the provisions of the Act does not render the marriage invalid as the validity of the marriage is a subject beyond the scope of the Act. A marriage under the Hindu Law by a minor male is valid even though the marriage was not brought about on his behalf by the natural or lawful guardian. The marriage under the Hindu Law is a sacrament and not a contract. The minority of an individual can operate as



a bar to his or her incurring contractual obligations, but it cannot be an impediment in the matter of performing a necessary "Sanskara". A minor's marriage without the consent of the guardian can be held to be valid on the application of the doctrine of factum valet.

Section 7 provides that the Code of Criminal Procedure, 1973 shall apply to offences under the Act as if they were cognizable offence for the purpose of investigation.

Notwithstanding anything contained in section 190 of the Code of Criminal Procedure, 1973, no Court other than a Metropolitan Magistrate or a Judicial Magistrate of the First Class can take cognizance of, or try any offence under this Act.

Limitation – No Court can take cognizance of any offence under this Act after the expiry of one year from the date on which the offence is alleged to have been committed. This further dilutes the efficacy of the law.

Injunction – Section 12 empowers the Magistrate to issue injunction prohibiting marriage in contravention of this Act. The Court may issue an injunction against any of the persons mentioned in Section 3, 4, 5 and 6 of this Act prohibiting such marriage.

This injunction shall not be issued against any person unless the court has previously given notice thereof to the person concerned and has afforded him an opportunity to show cause against the issue of the injunction. This requirement of the law may defeat the purpose of social justice where there is imperative need of judicial intervention to save the welfare and interest of the child. No doubt frivolous petitions by interested persons may sometimes result in dislocation of arrangements in genuine cases and such victims may also face social humiliation but this can be safeguarded by making deterrent provisions in the Act for those who move such frivolous petitions.

The Court may either of its own motion or on the application of any person aggrieved, rescind or alter any order made under sub-section (1).

When such an application is received, the Court shall afford the applicant an early opportunity of appearing before it either in person or by pleader; and if the court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(Source: <http://wcd.nic.in/cm1929.htm>)



Annexure IV:

The Prohibition of Child Marriage Act, 2006

THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

NO. 6 OF 2007

[10th January, 2007.]

An Act to provide for the prohibition of solemnisation of child marriages and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:-

1. Short title, extent and commencement. —

(1) This Act may be called the Prohibition of Child Marriage Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir; and it applies also to all citizens of India without and beyond India:

Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

2. Definitions. — In this Act, unless the context otherwise requires,—(a) "child" means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age; (b) "child marriage" means a marriage to which either of the contracting parties is a child; (c) "contracting party", in relation to a marriage, means either of the parties whose marriage is or is about to be thereby solemnised;(d) "Child Marriage Prohibition Officer" includes the Child Marriage Prohibition Officer appointed under sub-section (1) of section 16; (e) "district court" means, in any area for which a Family Court established under section 3 of the Family Courts Act, 1984 exists, such Family Court, and in any area for which there is no Family Court but a city civil court exists, that court and in any other area, the principal civil court of original jurisdiction and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act;

(f) "minor" means a person who, under the provisions of the Majority Act, 1875 is to be deemed not to have attained his majority.



3. Child marriages to be voidable at the option of contracting party being a child. –

(1) Every child marriage, whether solemnised before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage:

Provided that a petition for annulling a child marriage by a decree of nullity may be filed in the district court only by a contracting party to the marriage who was a child at the time of the marriage.

(2) If at the time of filing a petition, the petitioner is a minor, the petition may be filed through his or her guardian or next friend along with the Child Marriage Prohibition Officer.

(3) The petition under this section may be filed at any time but before the child filing the petition completes two years of attaining majority.

(4) While granting a decree of nullity under this section, the district court shall make an order directing both the parties to the marriage and their parents or their guardians to return to the other party, his or her parents or guardian, as the case may be, the money, valuables, ornaments and other gifts received on the occasion of the marriage by them from the other side, or an amount equal to the value of such valuables, ornaments, other gifts and money:

Provided that no order under this section shall be passed unless the concerned parties have been given notices to appear before the district court and show cause why such order should not be passed.

4. Provision for maintenance and residence to female contracting party to child marriage –

(1) While granting a decree under section 3, the district court may also make an interim or final order directing the male contracting party to the child marriage, and in case the male contracting party to such marriage is a minor, his parent or guardian to pay maintenance to the female contracting party to the marriage until her remarriage.

(2) The quantum of maintenance payable shall be determined by the district court having regard to the needs of the child, the lifestyle enjoyed by such child during her marriage and the means of income of the paying party.

(3) The amount of maintenance may be directed to be paid monthly or in lump sum.

(4) In case the party making the petition under section 3 is the female contracting party, the district court may also make a suitable order as to her residence until her remarriage.

5. Custody and maintenance of children of child marriages. –

(1) Where there are children born of the child marriage, the district court shall make an appropriate order for the custody of such children.

(2) While making an order for the custody of a child under this section, the welfare and



best interests of the child shall be the paramount consideration to be given by the district court.

(3) An order for custody of a child may also include appropriate directions for giving to the other party access to the child in such a manner as may best serve the interests of the child, and such other orders as the district court may, in the interest of the child, deem proper.

(4) The district court may also make an appropriate order for providing maintenance to the child by a party to the marriage or their parents or guardians.

6. Legitimacy of children born of child marriages.- Notwithstanding that a child marriage has been annulled by a decree of nullity under section 3, every child begotten or conceived of such marriage before the decree is made, whether born before or after the commencement of this Act, shall be deemed to be a legitimate child for all purposes.

7. Power of district court to modify orders issued under section 4 or section 5.- The district court shall

have the power to add to, modify or revoke any order made under section 4 or section 5 and if there is any change in the circumstances at any time during the pendency of the petition and even after the final disposal of the petition.

8. Court to which petition should be made.- For the purpose of grant of reliefs under sections 3, 4 and 5, the district court having jurisdiction shall include the district court having jurisdiction over the place where the defendant or the child resides, or where the marriage was solemnised or where the parties last resided together or the petitioner is residing on the date of presentation of the petition.

9. Punishment for male adult marrying a child.- Whoever, being a male adult above eighteen years of age, contracts a child marriage shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both.

10. Punishment for solemnising a child marriage.- Whoever performs, conducts, directs or abets any child marriage shall be punishable with rigorous imprisonment which may extend to two years and shall be liable to fine which may extend to one lakh rupees unless he proves that he had reasons to believe that the marriage was not a child marriage.

11. Punishment for promoting or permitting solemnisation of child marriages. –

(1) Where a child contracts a child marriage, any person having charge of the child, whether as parent or guardian or any other person or in any other capacity, lawful or unlawful, including any member of an organisation or association of persons who does



any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, including attending or participating in a child marriage, shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine which may extend up to one lakh rupees:

Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised.

12. Marriage of a minor child to be void in certain circumstances.- Where a child, being a minor. –

- (a) is taken or enticed out of the keeping of the lawful guardian; or
 - (b) by force compelled, or by any deceitful means induced to go from any place; or
 - (c) is sold for the purpose of marriage; and made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes,
- such marriage shall be null and void.

13. Power of court to issue injunction prohibiting child marriages. –

(1) Notwithstanding anything to the contrary contained in this Act, if, on an application of the Child Marriage Prohibition Officer or on receipt of information through a complaint or otherwise from any person, a Judicial Magistrate of the first class or a Metropolitan Magistrate is satisfied that a child marriage in contravention of this Act has been arranged or is about to be solemnised, such Magistrate shall issue an injunction against any person including a member of an organisation or an association of persons prohibiting such marriage.

(2) A complaint under sub-section (1) may be made by any person having personal knowledge or reason to believe, and a non-governmental organisation having reasonable information, relating to the likelihood of taking place of solemnisation of a child marriage or child marriages.

(3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate may also take suo motu cognizance on the basis of any reliable report or information.

(4) For the purposes of preventing solemnisation of mass child marriages on certain days such as Akshaya Trutiya, the District Magistrate shall be deemed to be the Child Marriage Prohibition Officer with all powers as are conferred on a Child Marriage Prohibition Officer by or under this Act.

(5) The District Magistrate shall also have additional powers to stop or prevent solemnisation of child marriages and for this purpose, he may take all appropriate measures and use the minimum force required.



(6) No injunction under sub-section (1) shall be issued against any person or member of any organisation or association of persons unless the Court has previously given notice to such person, members of the organisation or association of persons, as the case may be, and has offered him or them an opportunity to show cause against the issue of the injunction:

Provided that in the case of any urgency, the Court shall have the power to issue an interim injunction without giving any notice under this section.

(7) An injunction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.

(8) The Court may either on its own motion or on the application of any person aggrieved, rescind or alter an injunction issued under sub-section (1).

(9) Where an application is received under sub-section (1), the Court shall afford the applicant an early opportunity of appearing before it either in person or by an advocate and if the Court, after hearing the applicant rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(10) Whoever knowing that an injunction has been issued under sub-section (1) against him disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both:

Provided that no woman shall be punishable with imprisonment.

14. Child marriages in contravention of injunction orders to be void.- Any child marriage solemnised in contravention of an injunction order issued under section 13, whether interim or final, shall be void ab initio.

15. Offences to be cognizable and non-bailable.- Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable.

16. Child Marriage Prohibition Officers. –

(1) The State Government shall, by notification in the Official Gazette, appoint for the whole State, or such part thereof as may be specified in that notification, an officer or officers to be known as the Child Marriage Prohibition Officer having jurisdiction over the area or areas specified in the notification.

(2) The State Government may also request a respectable member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any non-governmental organisation to assist the Child Marriage Prohibition Officer and such member, officer or office bearer, as the case may be, shall be bound to act accordingly.



- (3) It shall be the duty of the Child Marriage Prohibition Officer –
- (a) to prevent solemnisation of child marriages by taking such action as he may deem fit;
 - (b) to collect evidence for the effective prosecution of persons contravening the provisions of this Act;
 - (c) 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;
 - (d) to create awareness of the evil which results from child marriages;
 - (e) to sensitize the community on the issue of child marriages;
 - (f) to furnish such periodical returns and statistics as the State Government may direct; and
 - (g) to discharge such other functions and duties as may be assigned to him by the State Government.
- (4) The State Government may, by notification in the Official Gazette, subject to such conditions and limitations, invest the Child Marriage Prohibition Officer with such powers of a police officer as may be specified in the notification and the Child Marriage Prohibition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification.
- (5) The Child Marriage Prohibition Officer shall have the power to move the Court for an order under sections 4, 5 and 13 and along with the child under section 3.

17. Child Marriage Prohibition Officers to be public servants. The Child Marriage Prohibition Officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

18. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against the Child Marriage Prohibition Officer in respect of anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

19. Power of State Government to make rules. –

- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) Every rule made under this Act shall, as soon as may be after it is made, be laid before the State Legislature.

20. Amendment of Act No. 25 of 1955. – In the Hindu Marriage Act, 1955, in section 18, for clause (a), the following clause shall be substituted, namely: –



(a) in the case of contravention of the condition specified in clause (iii) of section 5, with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both".

21. Repeal and savings. –

(1) The Child Marriage Restraint Act, 1929 is hereby repealed.

(2) Notwithstanding such repeal, all cases and other proceedings pending or continued under the said Act at the commencement of this Act shall be continued and disposed of in accordance with the provisions of the repealed Act, as if this Act had not been passed.



Annexure V:

Recommendations of the Law Commission of India

Law Commission of India, Report-205, February 2008

(Dr. Justice AR. Lakshmanan, Chairman)

An increasing number of studies have highlighted the extremely harmful and traumatic effects of child marriage. Child marriage below a certain age is blatant child abuse. The Indian Penal Code considers any sexual intercourse with a minor wife below 15 years of age rape. The case of Phulmonee which galvanized public opinion against child marriage in the last century, and for raising the age of consent, was a case in which a girl aged 11 years died of hemorrhage from a rupture of vagina caused by her husband who had forced sex on her. However, even the present law on child marriage does not address a situation like Phulmonee's. There is no provision in the law to stop a child bride from living with her husband and from being sexually abused apart from other forms of abuse. The Child Marriage Act, in fact lays the foundation for such an abuse by not invalidating any child marriage. Research has further shown how the child bride is more liable to suffer from pregnancy related problems and how high

both maternal and infant mortality is in the case of child marriages. Apart from this child marriage deprives all girl children of their basic fundamental human rights to develop in a natural, healthy environment. It deprives girls of their right to education and to physical and mental and psychological development. It isolates girls from their environment and infringes on their fundamental right to liberty, speech, movement. To ignore the well-known adverse effects of child marriage vis-à-vis the girl child would be to ignore the manner in which the child bride experiences life and would amount to a denial of the fact that girls are human beings and have certain fundamental rights including the right to life. The adverse health consequences and the violence faced by the girl child below a certain age are factors which outweigh certain 'social' considerations in not invalidating the marriage. We further feel that there is no rationale for stipulating different ages for consent to sexual intercourse for a minor bride and for other minor girls. The rationale behind the minimum age of consent is that the girl is not mature enough to know the consequences of sexual intercourse and this rationale would be the same for a minor bride and other minor girls. We therefore, recommend the following.

- i) That child marriage below a certain age, ie. 16 years of age be made void. However, all the Sections relating to maintenance in Section 4 of the PCMA 2006 regarding maintenance to the female party to the marriage till her remarriage and the provisions relating to child custody and legitimacy of the children in Section 5 and 6 of the PCMA 2006 be made applicable to cases of void marriages also.
- ii) All marriages between 16 and 18 should be made voidable at the option of either party. The sections relating to maintenance, child custody, and legitimacy in Sections 4, 5 and 6 should be applicable to voidable marriages as they are at present.



Consequently Section 3(1) and 3(3) of the PCMA 2006 should be amended to incorporate the changes outlined in paras (i) and (ii) above and will read as under:-

“3(1) (i) Any marriage of a child below 16 years of age solemnized after the commencement of this Act will be null and void and may, on a petition be presented by either party thereto against the other party be so declared by a decree of nullity.

(ii) Every marriage of a child between the ages of 16 and 18, whether solemnized before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage.”

Section 3(3) should be amended to read as under:-

“(3) The petition under Section 3(1)(ii) may be filed at any time

till the person contracting a child marriage attains 20 years of age.”

iii) That the exception to the rape Section 375 of the Indian Penal Code be deleted. This would ensure that the age of consent for sexual intercourse for all girls, whether married or not, is 16. The 172nd Report of the Law Commission had recommended increasing the age of consent for all girls to 16.

iv) Registration of marriages within a stipulated period, of all the communities, viz. Hindu, Muslim, Christians, etc. should be made mandatory by the Government.

v) The age of marriage for both boys and girls should be 18 years as there is no scientific reason why this should be different. Consequently the present Section 2(a) of the PCMA should be deleted and replaced by the following Section 2(a):-“(a) ‘child’ means a person who has not completed 18 years of age.”

vi) Other acts like the Hindu Marriage Act should also be amended to ensure that the provisions in the said acts are the same as and do not contradict the Prohibition of Child Marriage Act, 2006.

(Dr. Justice AR. Lakshmanan)

Chairman

Source Law Commission of India, Report-205, February 2008

URL <http://lawcommissionofindia.nic.in/reports/report205.pdf>



Annexure VI: About the Team

Mr. Ajay K. Jha, Director of PAIRVI was the Research Advisor of the Study.

Mr. Vinod Koshti, an independent consultant was the Lead Researcher of the study who was mainly responsible for preparing the research design, coordination of the field visits and report writing of the study. Mr. Koshti is a research scholar in the field of Social Work from University of Delhi.

Mr. Digvijoy Phukan, Research Assistant of the study, was primarily responsible for the documentary research, review of literature, and data collection. Mr. Phukan has also contributed in the analysis of the findings and helped substantially in preparing the first draft of the report. A post-graduate student in Social Work from Department of Social Work, University of Delhi, Mr. Phukan is presently working with PAIRVI as an intern.

Mr. Javed Khan was the field investigator in the study. He was also responsible for the logistics during the field visits. Mr. Khan also helped in managing various statistical information available during the study.

Mr. Prashant Kumar, Project Coordinator at PAIRVI, was one of the field investigators for the study. He was also responsible for coordinating with the MPHRC. Mr. Prashant also assisted the team in undertaking the secondary research.