

## CHILD MARRIAGE: A SILENT HEALTH AND HUMAN RIGHT ISSUE

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### *Abstract*

*Child marriage is a human rights crisis in South Asia, caused by poverty, economic pressure, customary laws, and deeply rooted patriarchal customs. South Asian governments are under an absolute legal obligation to end child marriage, as it violates states' international and constitutional obligations to protect children's rights and discriminatorily with women's and girls' ability to enjoy a wide range of human rights. This paper provides insight into the impact on girls due to the significantly higher incidence of child marriage among girls and the unique risks of reproductive rights violations and sexual violence faced by girls who were married as children. It also provides recommendations and a conclusion to strengthen the legal framework and law enforcement.*

**Keywords:** *Data Protection, Privacy, Freedom of Speech, IT Act, Social Media.*

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## INTRODUCTION

Child marriage is defined as a girl or a boy marrying before the age of 18, and it includes both informal and formal unions between children. Most of the time, these marriages are also forced marriages, where consent from either party is not stated but the marriage still occurs under parental coercion. The “United Nations Sustainable Development Goals” mention that global-level action is needed to end this human rights violation by 2030.<sup>1</sup> Child marriage affects both girls and boys, but it affects girls more than boys. Child marriage not only violates children’s rights but also exposes them to exploitation and abuse, particularly among girls in South Asia.<sup>2</sup> Child marriage is a human rights violation. Despite laws against it, the harmful practise continues.<sup>3</sup> Child marriage can convey dependable wretchedness or mental injury to those young women who marry before the age of 18, and they are less disposed to continue with their education and are more likely to be victims of domestic violence.<sup>4</sup> South Asian governments have an absolute legal obligation to end child marriage. Child marriage has far-reaching consequences that disregard states’ global and constitutional commitments to safeguard children’s freedoms and interfere discriminatorily with girls’ ability to exercise a wide range of human rights. The persistence of child marriage in South Asia reflects the failure of

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<sup>1</sup> Child marriage available at <https://www.unicef.org/protection/child-marriage> (Last visited on December 12, 2022)

<sup>2</sup> UNFPA, *Marrying Too Young: End Child Marriage* 30 (2012), available at: <https://www.unfpa.org/sites/default/files/pub-pdf/MarryingTooYoung.pdf> (Last visited on December 10, 2022)

<sup>3</sup> Child marriage is a violation of human rights, but is all too common, UNICEF data, available at: <https://data.unicef.org/topic/child-protection/child-marriage/> (Last visited on December 05, 2022)

<sup>4</sup> Bhanji SM, Punjani NS, “Determinants of Child (Early) Marriages among Young Girls- a Public Health Issue” 3 *Women’s Health Care* (2014)

legislatures to address one of the most pressing and common human rights issues, and it also violates human constitutional rights. Child marriage is certainly not a solitary infringement of a girl's privileges; rather, each example of child marriage starts a chain of violations that she will remember her entire life. Child marriage threatens the survival and well-being of girls by subjecting them to forced initiation into sex as well as early, unplanned, and frequent pregnancies. Furthermore, girls and women who marry as children are frequently denied educational opportunities, socially isolated, and economically dependent on others for the rest of their lives.<sup>5</sup> All these factors result in serious violations of girls' rights, such as their reproductive rights or their right to be free of gender-based violence. It is the responsibility of the government as well as society to implement strict laws and policies prohibiting the practice, and society needs to follow those laws and policies to end child marriage. Those who violate the laws should face harsh punishment from the government.<sup>6</sup>

Child marriage is rooted in South Asian cultural practises such as religion, social norms, and patriarchy. Regional inequalities resulting from a caste system and religious traditions have resulted in modern gender inequalities that frequently lag behind male economic and social progress. Similarly, patriarchal values and social norms, such as male household heads and female nurturers, have become entrenched in South Asian countries, limiting females' access to opportunities and influence outside of the home. The region's alarmingly high rates of child marriage have been influenced by

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<sup>5</sup> Mathur, S., M. Greene, and A. Malhotra., "Too Young to Wed: The Lives, Rights and Health of Young Married Girls." International Centre for Research on Women (ICRW): Washington, D.C (2003)

<sup>6</sup> Subramanee SD, Agho K, Lakshmi J, Huda MN, Joshi R, Akombi-Inyang B. Child Marriage in South Asia: A Systematic Review. *International Journal of Environmental Research and Public Health*. 2022; 19(22):15138. <https://doi.org/10.3390/ijerph192215138>.

the hardening of stereotypes about girls in South Asia. The historical convergence of societal factors and regional economic pressures has set the stage for higher regional child marriage rates. Children have faced new challenges because of COVID-19, as they have moved away from historical attitudes towards girls. Children have stayed at home for more than a year due to a combination of school closures, economic shock, disruptions in health care, and familial deaths, which has only exacerbated the issue of child marriage. UNICEF estimates that the pandemic will result in more than 10 million additional child marriages by 2030. In other words, now is the time to take serious action against child marriage for the benefit of children worldwide.<sup>7</sup>

## **REASON CHILD MARRIAGE PERSISTS IN SOUTH ASIA**

### ***Gender Discrimination***

Due to prevalence of Gender inequality in south Asia it can also be the one of reason of major cause of child marriage in South Asia. Families and communities view girls as secondary source and see them as they only have roles which is to be fulfil as mothers or wives in family and nothing more than that. They paid little attention to the girl and consider girls marriage as a financial burden in family that did not increase the family's income. In fact, delaying marriage means more family expenses and dowry. As a result, many parents, especially the poor, see little benefit in investing in their daughters' education and delay getting married until they reach puberty.<sup>8</sup>

### ***Poverty***

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<sup>7</sup> Kyle felter, "Child marriage in South Asia" Harvard model congress 2 (2022)

<sup>8</sup> Bhanji, S. M., & Punjani, N. S., "Determinants of child (early) marriages among young girls: A public health issue 3 women's health care, 1-3 (2014)

Poverty is an important predictor of early marriage. Underage girl marriages are more common in rural and impoverished areas, according to numerous studies. Girls from low-income families are more exposed to child marriage because the parents did not afford the cost of education for them. Also, girls who belong to poor families are more likely to be sexually abused by men and boys from wealthy families, so parents see marriage as a way to protect their daughter's chasteness. Many parents in rural Bangladesh and India see girls as a financial burden and marry them as soon as they reach puberty<sup>9</sup>.

### ***Weak Enforcement of Child Marriage Laws***

The practice flourishes in South Asia, despite widespread laws against child marriage. One of the main reasons for the prevalence of child marriage in South Asia is the poor enforcement of child marriage laws. This, combined with married children (under the age of 18) being legal adults and deprived of child protection rights, opens the door to abuse and exploitation. Most governments have authorized their law in accordance with international instruments and drafted clear laws to prevent child marriage. However, its enforcement remains one of the most difficult challenges. Reasons for weak law enforcement include lack of enforcement mechanisms, lack of coordination and convergence among various stakeholders, and lack of awareness of the law.

### ***Beliefs that it offers Protection***

The primary reason for child marriage is economic necessity. People think that girls are expensive to feed, educate, and eventually abandon by their

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<sup>9</sup> Supra note 6

families. As a result of her marriage, the bride's family receives a dowry. The younger the girl, the larger the dowry, and the sooner the financial burden of raising the girl is lifted. Parents increase their social status and strengthen social ties between tribes and clans by marrying off their daughters into "good" families. Parents also believe that marrying their daughters at an early age protects them from rape, premarital sex, unwanted pregnancies, and sexually transmitted diseases, particularly HIV and AIDS<sup>10</sup>.

### ***Educational Opportunities***

Another factor to consider when discussing past views about the financial burden a daughter owes to her family is her education costs. Girls are forced into dependent and often risky marriages at an early age, without the opportunity to grow independently in an academic environment or the possibility of earning income through professional development. The impact on the child's academic future is immeasurable.

## **HEALTH CONSEQUENCES OF CHILD MARRIAGE.**

### ***Child Brides are Vulnerable to Abuse and Poor Mental Health***

Due to demand of dowry girls have to face violence against them, including psychological abuse or physical abuse. After marriage girls moves to their husband house which is totally new to them. They have to perform household duties and fulfil the role of wife. Due to high demand of dowry parents force their daughter to marry older men and after marriage they were forced to be in marital relation with older men. Polygamy may also be acceptable in some of these areas. Due to early marriage of girls, they miss

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<sup>10</sup> Nadia Agha, 'Terrible tradition: she is too young for it' available at: <https://www.dawn.com/news/1050480> (Last visited on: December 12, 2022)

out all those childhood activities, to play around with friends, education etc. Due to all these issue girls feel isolated as there is no one to talk to them or to understand them which results them into depression and causes severe mental health problem.<sup>11</sup>

### ***Risk of Sexually Transmitted infection and Cervical Cancer***

Child brides are frequently married to much older men in South Asia, who are more likely to be HIV positive than younger men because they have had unprotected sex with multiple or high-risk partners. Furthermore, when it comes to negotiating condom use or refusing sex with their partners, girls have less control than adult female counterparts, and they have limited access to health information, protection, and services. All these factors raise their chances of getting HIV or other sexually transmitted infections.<sup>12</sup>

### ***Early Pregnancy Can Bring Out Poor Maternal and Infant Health Outcomes***

“Girls are under excessive pressure to prove their fertility soon after marriage, and they have limited access to reproductive health information and influence decisions of family planning. When adolescent girls become pregnant, they are not physically, mentally, and emotionally prepared to give birth. Girls under the age of 15 are five times more likely to die from their mothers. In addition, young pregnant women are more likely to have low birth weight babies and premature births, two factors that increase the risk of death. If these children survive, they will face a higher risk of

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<sup>11</sup> Nour NM, “Health Consequences of Child Marriage in Africa” *12 Emerging Infectious Diseases*, 1644-1649 (2006)

<sup>12</sup> Santosh K. Mahato, “Causes and Consequences of Child Marriage: A Perspective” *7 International Journal of Scientific & Engineering Research* 698-702 (2016)

malnutrition.”<sup>13</sup>

## LEGISLATIVE RESPONSE TO CHILD MARRIAGE IN SOUTH ASIA

### *Pakistan*

Child marriage is legally prohibited in Pakistan under the Child Marriage Restraint Act 1929. The minimum age for marriage under their act was 16 for females and 18 for male. It is given under section 2 of Child Marriage Restraint Act 1929. Nonetheless, under another new bill passed by the Pakistani Senate, the minimum age for female marriage has been raised to 18.

- An adult male (over the age of 18) who contracts marriage with a child is subject to a Rs.1000 fine and a month's imprisonment, or both (section 4),
- A person who performs a child marriage ceremony (section 5), and
- A parent or guardian who fails to intervene to prevent a child marriage (section 6).

However, unlike in India, the current law does not require the annulment of illegal child marriages. “Tribal customary law, specifically Vani and Swara, which require the forced marriage of girls as compensation or currency to settle a dispute or debt, persists, despite a recently proposed amendment that would authorise harsh punishment for Vani and Swara perpetrators.”<sup>14</sup>

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<sup>13</sup> Supra note 9

<sup>14</sup> Razi et, al., “Child Marriage in Pakistan: A Critical Analysis in the Light of Socio-Legal and Religious Context”<sup>18</sup> Palarch's Journal of Archaeology of Egypt/Egyptology 283-302 (2021)



### ***Bangladesh***

The Child Marriage Regulation Act 2017 (CMRA) superseded the previous British law enacted in 1929 and CMRA 2017 is Bangladesh's current law dealing with child marriage. The law sets the minimum age for marriage at 21 for men and 18 for women. CMRA makes it illegal to initiate, permit, or celebrate child marriage. Regulations to Limit Child Marriage (Regulations) were also developed in 2018, outlining details of the composition and responsibilities of the Child Marriage Prevention Commission and other functions.

### ***Nepal***

“According to Nepalese child marriage law, both girls and boys can marry at the age of 18 with parental consent and at the age of 20 without consent. Furthermore, it recognises daughters as rightful heirs and increases the punishment for child marriage to imprisonment for up to three years and a fine of up to ten thousand rupees, with the punishment decreasing as the girl's age increases. The Marriage Registration Act of 1971 and the Birth (Registration) Act of 1977 are two other pieces of legislation. Despite these positive steps against child marriage, a large number of girls are still married before the age of 18.”<sup>15</sup>

### ***India***

To prevent child marriage, India has taken active and progressive legal measures. The Child Marriage Restriction Act of 1929 was the first Indian

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<sup>15</sup> Ending Impunity for Child Marriage in Nepal, available at: [https://nepal.unfpa.org/sites/default/files/pub-pdf/Ending%20Impunity%20for%20Child%20marriage%28final%29\\_25Nov16.pdf](https://nepal.unfpa.org/sites/default/files/pub-pdf/Ending%20Impunity%20for%20Child%20marriage%28final%29_25Nov16.pdf) (Last visited on: November 20, 2022).

law to set a minimum age limit for marriage. In December 2006, new laws banning child marriage were passed, in which one of the parties is a minor and setting the legal age of marriage at “18 for female and 21 for male”. The new law imposes severe penalties on anyone who commits, permits or encourages child marriage. These penalties include up to” two years in prison or a fine of up to one lakh rupee.” The law allows courts to intervene to prevent child marriage through suspension orders. Another positive aspect of the law is the provision of alimony and residency for the separated wife until she remarries. In addition, a 2006 Supreme Court decision made the registration of all marriages mandatory, creating a more favourable environment for law enforcement and enforcement. Despite these commendable changes, the biggest challenge in India is enforcement and oversight. Moreover, many people follow the coexistence of identity laws and customs that allow child marriage, which is a major obstacle to the abolition of child marriage in India. In 2021, the Indian government proposes a bill to amend the Child Marriage Act.

- The bill amends the Child Marriage Prohibition Act of 2006 to raise the minimum age of marriage for women to 21. In addition, it supersedes any other law, custom or practice.
- A person married before attaining majority may seek annulment within two years of attaining majority (i.e., before 20 years of age) as given in Child marriage prohibition act 2006. (“The Prohibition of Child Marriage (Amendment) Bill, 2021”) The Bill raises this to five years (I.e., at the age of 23).

### *Sri Lanka*

For most of the non-Muslim population, the minimum age of marriage for

men and women was set at 18 in 1995. Progressive court rulings and legal reform in Sri Lanka played a major significant role in reducing the rate of child marriage. For example, all marriages must be registered, as well as the mutual consent of both parties to the marriage, effectively nullifying any non-consensual marriage forced upon a girl by her parents. This has contributed to raising public awareness of the injustice and illegality of child marriage. “However, the country has a mixed legal system for Sri Lanka’s minority Muslim community. The Muslim Marriage and Divorce Act of 1951 continues to govern matrimonial law in the community, allowing girls as young as 12 years old to marry with the permission of a “Quazi,” or Muslim court. Child marriage in Sri Lanka is lower than in other South Asian countries”<sup>16</sup>.

### *Afghanistan*

Afghan civil law sets the legal age of marriage at 16 for girls and 18 for boys. In Afghanistan, a girl cannot legally marry until she attains the age of 16. However, according to Sharia Law, if her father allows her, she can marry at the age of 15. The government of Afghanistan has issued orders to take to control forced and early marriage in the country. In response to this, the Ministry of Labour and Social affairs and Disabled has developed a national strategy for children at risk in order to raise awareness on rights violation and negative health consequences for young girls due to forced and early marriage<sup>17</sup>.

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<sup>16</sup> Reforms regarding child marriage in Sri Lanka available at: <https://borgenproject.org/child-marriage-in-sri-lanka/> (Last visited on: November 25, 2022)

<sup>17</sup> Early marriage in Afghanistan available at: <http://www.iccwtnispcanarc.org/upload/pdf/5449204478Early%20Marriage%20in%20Af>

### ***UNICEF Action***

UNICEF has stood firmly against child marriage since its establishment in 1946. As the central organization tasked with ensuring an equitable future for all children, the rights of children to live healthy lives free of violence and full of choice forms the backbone of UNICEF's actions to halt child marriage rates worldwide. In addition to advocacy at various international summits, the most pertinent, on-the-ground action taken by UNICEF to tackle child marriage in South Asia is UNICEF's partnership with the United Nations Population Fund. In 2016, UNICEF and the UNFPA launched the "Global Programme to End Child Marriage" in 12 countries that face the highest rates of child marriages globally including South Asian countries like India, Nepal, and Bangladesh. At its core, the Programme coordinates actions with governmental bodies, non-government organizations (NGOs), and citizens to propel education, protect children, and achieve gender equality goals for girls living in these countries. The initiative also works with teachers, families, health providers, and other community officials to devise strategic goals and interventions for the betterment of girls' futures. The Programme plans to connect with over 14 million adolescent girls across the 12 countries by 2023. When analysing the results of the UNFPA-UNICEF partnership since 2016, the productivity of the program collectively and on a country-by-country basis is unmatched. Across all 12 countries, the Programme has saved millions of girls from entering harmful child marriages and saw governments make stronger commitments to ending child marriage in the form of advocacy and data support across political levels. In the South Asian region, numerous results were similarly worthy of praise. In Bangladesh, the Programme established

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[ghanistan.pdf](#) (Last visited on: November 26, 2022)

over 3,000 adolescent clubs where children could learn and play together outside of the home and supported over 37,000 girls in their secondary education endeavours. Additionally, in India, the Programme connected over 200,000 adolescents with life-saving reproductive health information and helped nearly 3,50,000 girls continue their education. Finally, the Programme empowered over 29,000 girls and taught them valuable life skills on how to live a life of independence and assisted nearly 28,000 girls in continuing their educational journeys. As the Programme continues to roll out Phase II, the eyes of the world are on its future, diverse impacts of its programmatic interventions, and the girls that will be saved from early marriages.<sup>18</sup>

## RECOMMENDATIONS

In South Asia, the protection of children's rights due to child marriage is at risk now and in the future. Child marriage has declined globally over the past two decades and progressively perceived as a human rights violation. However, it is still widespread in most of South Asia. Child marriage is closely related to issues affecting children and young people and should be ended. Addressing this threat will require partnerships and cooperation between sectors such as "education, health and justice, and between girls and boys, their families, communities, religious and traditional leaders, governments and other stakeholders" is required. Early marriage for girls is socially acceptable and widespread in South Asia. Regardless domestic and international treaties and laws, child marriage remains prevalent in the region, especially in the four hotspot countries of Bangladesh, Afghanistan, India, and Nepal. The following are the main concerns suggested for public

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<sup>18</sup> Kyle felter, "Child marriage in South Asia" Harvard Model Congress", 2 (2022)

and state legislatures.<sup>19</sup>

### ***Strengthening the Legal Framework and Law Enforcement***

All countries in South Asia have laws to prevent child marriage, but there is a lack of uniform legislation setting a minimum age for marriage for girls over the age of 18, and a lack of awareness and enforcement remains a major challenge to child marriage. Governments should educate the public and law enforcement officials about girls' legal rights not to marry children and to be protected from reproductive rights violations and sexual violence that this practise causes. Educate girls about legal options to avoid or abort child marriage. The government should impose severe penalties on violators. In countries where the current penalty is low, it should be increased. The government should conduct comprehensive training programmes. Inform law enforcement officials, civil status registrars, judicial authorities, and religious leaders about the negative impact of child marriage, especially in poor and high-risk areas where it is common, and their role in preventing child marriage.<sup>20</sup>

### ***Expand Girls' Educational Opportunities***

Providing girls with an education, especially at the secondary level, is an important strategy to prevent child marriage. Young married girls often drop out of school. Parents and girls need more assurance about the quality, safety, and value of continuing education to keep girls in school. Families

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<sup>19</sup> Tina Khanna, International Center for Research on Women for the UNFPA Asia Pacific Regional Office, "Child marriage in south Asia: Reality, Responses, and The Way Forward", Available at: [https://resourcecentre.savethechildren.net/pdf/child\\_marriage\\_paper\\_in\\_south\\_asia.2013.pdf/](https://resourcecentre.savethechildren.net/pdf/child_marriage_paper_in_south_asia.2013.pdf/) (Last visited on: December 01, 2022)

<sup>20</sup> Ibid.

also need financial incentives to make education more affordable. While much progress has been made in primary education, girls' secondary and university enrolment rates are lagging in many South Asian countries. Provide adequate resources from the national and state budgets to ensure quality education for girls at all levels. The government should provide financial incentives to girls from low-income families and facilitate education for married adolescent girls. Efforts should be made to encourage girls who have dropped out of school to apply for readmission so that they can continue and complete their secondary education. Provide sufficient resources from national and state budgets to ensure quality education for girls at all levels. By providing a safer and more accessible environment in school, clean toilets, recruiting more female teachers, and improving the quality of the school, the school will become a better place for girls, and their parents will find it more attractive.<sup>21</sup>

### ***Provide Life Skills Education, Reproductive Health Education & Services***

Early marriage and having a child in her teenage years have serious implications for a girl's health and development. Life skills education for a girl, her family and community can help delay marriage. Reproductive health information and services are also important for adolescent girls, especially to support married couples. Governments should focus school curricula on life skills, reproductive health, and rights. Train teachers and professionals to have conversations with students about relationships, sexism, contraception, and maternal and new-born health. Improve health systems and train health care providers to provide adolescent girls with information on sexual and

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<sup>21</sup> Malhotra, Anju, Ann Warner, Allison McGonagle, and Susan Lee-Rife., "Solutions to end child marriage." *Washington, DC: International Center for Research on Women* (2011).

reproductive health issues.<sup>22</sup>

### ***Invest in Programs that Empower Young Women and Girls Economically***

Projects to work on young ladies' monetary proficiency and wage-producing abilities can emphatically affect the prevention of child marriage in South Asia. In Nepal, projects to outfit young ladies with occupations and pay-age abilities have demonstrated success in preventing child marriage. at the point when you support market-based interventions for the monetary strengthening of young ladies. Such interventions ought to be executed at both national and local levels and should give priority to girls and women in marginalised communities where child marriage is common.<sup>23</sup>

### ***Improve Safety and Provide Security in Public Areas***

Women and girls live at risk of sexual harassment and violence in numerous public places. The risk of sexual harassment and rape forces parents to marry their daughters early before they lose their chastity. Governments need to ensure that girls have safe means of transport to get to school safely and create safe areas for women and girls, especially during humanitarian emergencies. By setting up friendly helplines for girls and women to report and seek help in cases of abuse and violence, this will likewise assist with ending child marriage.

### ***Working with Men and Boys to Prevent Child Marriage***

One of the most effective ways to prevent child marriage is to work with both men and boys. A study conducted in India revealed that boys can

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<sup>22</sup> Ibid

<sup>23</sup> Supra note 17



become effective advocates for girls by training them as educators. In addition, a young girl or boy who articulates her views in a mature manner can convince her parents to stop child marriage. It is especially important that children and young people are equipped with the necessary skills and knowledge to become advocates for their rights. This can be done through the work of World Vision, which works with boys and men in India.

### ***Address the Needs of Married Girls***

There are limited public and civil society programmes to meet the needs of married youth. Protecting married adolescent girls from health and social hazards requires tailored and targeted interventions. Governments should amend laws that prohibit married and/or pregnant girls from attending school and do more to help girls return to school after marriage or childbirth. Conduct community awareness and education campaigns to highlight the value of married girls completing secondary school.

## **CONCLUSION**

The actions portrayed above show that no single measure is adequate to diminish the pace of child marriage altogether. The answer lies in a holistic approach with a clear focus on adding value to girls. Ongoing programmes need to find ways to connect with each other and improve their strategies. For example, by expanding existing programmes to promote girls' education, it may be helpful to prevent child marriage, including through community campaigns and key stakeholder engagement, including parents and families; we need to find a way to monitor or watch the marriage process in culturally sensitive areas. At the same time, the programme should pay particular or special attention to improving the safety of girls on

their way to school, to ensure they are protected from any kind of violence. Efforts should be made to reach out to countries with legal systems to prevent child marriage that do not comply with international standards. Child-centered programmes should emphasis the role children play in delaying the age of marriage and develop effective negotiation skills with parents. Programs should work with children's groups to increase participation and enhance girls' self-esteem and aspirations to improve expectations and provide alternatives to early marriage. A support system that focuses on child-centered programmed will go a long way towards sustaining these changing aspirations. Finally, the operational links between education, livelihoods, and sexual and reproductive health and rights interventions need to be identified and implemented. To really address child marriage, these linkages should work within a strong legal system and with the active participation of the community and family members. Likewise, efforts should be made to lay out orientation fair standards and practices that priorities young ladies' education, employability, procuring potential, and regenerative health outcomes.