
CHILD MARRIAGE: WHY LAW ALONE FAILS WITHOUT SOCIAL CHANGE

Pralay Dutta, LL.M. (Human Rights and Duties Education), Cooch Behar Panchanan
Barma University

ABSTRACT

Child marriage remains one of the most persistent violations of children's rights, particularly affecting girls in developing societies despite the existence of comprehensive legal prohibitions. Over the past few decades, national legislations and international human rights instruments have unequivocally condemned the practice and prescribed minimum wages for marriage. However, the continued prevalence of child marriage demonstrates that legal intervention alone has been insufficient to eliminate a practice deeply rooted in social, cultural, and economic structures. This article examines the limitations of a purely legal approach to addressing child marriage and argues that meaningful social change is indispensable for the effective implementation of law.

The paper analyses child marriage as a socio-legal phenomenon sustained by patriarchal norms, poverty, lack of education, and entrenched notions of family honour and gender roles. It highlights how social acceptance and economic compulsions often undermine statutory prohibitions, leading to weak enforcement, underreporting, and circumvention of legal safeguards through informal or clandestine marriages. The study further explores the adverse consequences of child marriage on health, education, psychological well-being, and intergenerational poverty, demonstrating that the harm extends beyond individual victims to society at large.

By examining legal frameworks alongside social realities, the article underscores the gap between law on the books and law in practice. It emphasises the need for a holistic strategy that combines legal enforcement with community engagement, education of girls, economic support for vulnerable families, and involvement of local leaders and civil society. The article concludes that while law plays a crucial normative and protective role, sustainable eradication of child marriage is possible only when legal measures are reinforced by transformative social change that challenges and reshapes deeply embedded cultural practices.

Keywords: Child Marriage, Social Change, Gender Inequality, Legal Enforcement, Human Rights.

Introduction

Child marriage commonly understood as a marital union where one or both parties are below the age of eighteen continues to be a serious social and legal challenge in many parts of the world, particularly in South Asia and sub-Saharan Africa. Despite the enactment of multiple international conventions and domestic legislations aimed at eliminating the practice, child marriage remains deeply entrenched within certain communities. Legal reforms have undoubtedly marked progress by recognising child marriage as a violation of fundamental rights. However, experience shows that law by itself is insufficient to eradicate a practice sustained by social customs, economic vulnerability, and gender inequality. This article seeks to examine why **legal prohibition alone fails without corresponding social change**, and why a holistic socio-legal approach is essential to eliminate child marriage.

1. Understanding Child Marriage: A Global and Local Snapshot

1.1 What is Child Marriage

Child marriage refers to any formal marriage or informal union involving a person below the age of eighteen. It is widely recognised as a violation of human rights as it deprives children of their childhood, education, health, and autonomy. The practice disproportionately affects girls and reinforces cycles of gender discrimination and poverty.¹

1.2 Prevalence and Patterns

According to UNICEF, approximately **12 million girls are married before the age of eighteen every year**.² Although boys are also affected, girls remain significantly more vulnerable due to entrenched patriarchal norms. Countries such as India, Bangladesh, Niger, and Mali record some of the highest rates of child marriage globally. India, due to its population size and socio-cultural diversity, has historically contributed a substantial proportion of child marriages worldwide.³

2. Legal Frameworks Against Child Marriage

2.1 International Legal Standards

¹ UNICEF, *Child Marriage: Latest Trends and Future Prospects* (UNICEF, 2023).

² *Ibid.*

³ International Center for Research on Women, *Child Marriage in India* (ICRW, 2020).

International human rights law unequivocally condemns child marriage. Key instruments include:

- **Universal Declaration of Human Rights (1948)** – recognises marriage as requiring free and full consent of the intending parties.⁴
- **Convention on the Rights of the Child (1989)** – obligates states to protect children from harmful traditional practices.⁵
- **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** – calls upon states to eliminate child marriage and ensure equality in marriage.⁶

These instruments collectively establish eighteen as the minimum acceptable age for marriage.

2.2 National Laws

Many countries have enacted domestic legislation to comply with international obligations.

- **India:** The *Prohibition of Child Marriage Act, 2006* prescribes eighteen years for females and twenty-one years for males and criminalises the facilitation of child marriage.
- **Bangladesh:** The *Child Marriage Restraint Act* sets similar age limits but suffers from weak enforcement.
- **Other Nations:** Comparable statutes exist worldwide, though enforcement remains inconsistent.

3. Why Laws Have Limited Impact

3.1 Cultural Norms and Social Acceptance

In several communities, child marriage is viewed not as a violation but as a customary practice. Social norms prioritising family honour, preservation of chastity, and early marital settlement

⁴ Universal Declaration of Human Rights, 1948, Art. 16.

⁵ Convention on the Rights of the Child, 1989, Art. 24(3).

⁶ CEDAW, 1979, Art. 16(2).

for girls continue to legitimise the practice.⁷ While law may prescribe punishment, it cannot instantly dismantle customs that have existed for generations.

3.2 Gender Norms and Inequality

Patriarchal structures reduce girls' identities to their roles as wives and mothers. Education and career aspirations are often regarded as secondary. Early marriage is frequently justified as providing social security, even though evidence suggests it perpetuates vulnerability.⁸

3.3 Economic Pressures

Poverty is a major catalyst for child marriage. Families facing economic hardship often view early marriage as a means of reducing financial responsibility. In regions where dowry is prevalent, younger brides are perceived as less "costly."⁹ Legal restrictions fail to counteract these deeply rooted economic incentives.

3.4 Weak Enforcement and Corruption

The effectiveness of child marriage laws is undermined by poor enforcement mechanisms. Lack of awareness among officials, reluctance to interfere in "family matters," falsification of age records, and judicial delays create an environment where violations go unpunished.¹⁰

4. Case Studies Illustrating the Limits of Legal Enforcement

4.1 India: Prohibition of Child Marriage Act, 2006

Although the PCMA criminalises child marriage, implementation remains uneven. Authorities often hesitate to intervene due to social resistance and fear of backlash. Studies indicate that child marriages continue even in states with relatively strong legal machinery, highlighting the influence of social norms over statutory law.¹¹

4.2 Bangladesh: Legal Age vs Social Practice

In Bangladesh, underage marriages frequently occur with the implicit approval of families and community leaders. Misreporting of age and informal ceremonies allow families to circumvent

⁷ Flavia Agnes, *Law and Gender Inequality* (Oxford University Press, 2011).

⁸ Amartya Sen, *Development as Freedom* (Oxford University Press, 1999).

⁹ Law Commission of India, *Report No. 205 on Child Marriage* (2008).

¹⁰ Planning Commission of India, *Evaluation of PCMA Implementation* (2013).

¹¹ Madhu Mehra, "Child Marriage and the Law in India" (2018) 5 SCC J-18.

the law. Social acceptance often outweighs legal deterrence.¹²

5. Consequences of Child Marriage

5.1 Health Risks

Early pregnancy significantly increases the risk of maternal mortality and complications during childbirth, as adolescent girls' bodies are not fully developed.¹³

5.2 Educational Disruption

Marriage often marks the end of formal education for girls, limiting their economic opportunities and reinforcing cycles of poverty.¹⁴

5.3 Psychological Impact

Child brides frequently experience depression, anxiety, and loss of autonomy, leading to long-term psychological harm.¹⁵

5.4 Intergenerational Poverty

Children born to child brides are more likely to suffer from malnutrition, limited education, and poor health, perpetuating structural inequality.¹⁶

6. The Social Roots of Child Marriage

6.1 Patriarchy and Gender Discrimination

In patriarchal societies, girls are valued primarily for marriageability. Social norms dictate submissiveness and domesticity, limiting resistance to early marriage.

6.2 Honour and Shame Cultures

Concepts of family honour linked to female sexuality often drive early marriage as a preventive

¹² Human Rights Watch, *Marry Before Your House Is Swept Away* (2015).

¹³ World Health Organization, *Adolescent Pregnancy* (WHO, 2022).

¹⁴ UNICEF, *Ending Child Marriage* (2019).

¹⁵ ICRW, *Psychosocial Impact of Child Marriage* (2017).

¹⁶ World Bank, *Economic Impacts of Child Marriage* (2018).

measure against perceived social transgressions.¹⁷

6.3 Religious Interpretations

Selective and conservative interpretations of religious texts are sometimes used to justify early marriage. Religious leaders often exert greater influence than legal authorities.

6.4 Lack of Education

Low literacy rates and limited awareness of legal rights prevent communities from challenging the practice effectively.¹⁸

7. What Social Change Looks Like

7.1 Community Engagement and Awareness

Community-based dialogues involving families, elders, and local leaders have proven effective in shifting social norms from within.¹⁹

7.2 Empowering Girls Through Education

Access to quality education, scholarships, and vocational training delays marriage and enhances girls' autonomy.

7.3 Economic Support for Families

Conditional cash transfer schemes and livelihood programs reduce the economic incentives for child marriage.

7.4 Involving Men and Boys

Engaging men and boys in discussions on gender equality helps dismantle patriarchal attitudes sustaining child marriage.

¹⁷ Bina Agarwal, *Gender and Law in India* (Cambridge University Press, 2015).

¹⁸ National Family Health Survey-5 (India), 2019-21.

¹⁹ UNFPA, *Community-Led Approaches to End Child Marriage* (2020).

7.5 Role of Media and Civil Society

Media campaigns and grassroots NGOs play a crucial role in reshaping public perceptions and holding authorities accountable.

8. Successful Models and Interventions

Community-based programs in South Asia and Africa demonstrate that norm-change initiatives, combined with economic incentives and youth leadership, significantly reduce child marriage rates.²⁰

9. Why Legal Enforcement Still Matters

Law remains indispensable as it establishes minimum standards, provides remedies for victims, and institutionalises accountability mechanisms. However, its effectiveness depends on social acceptance and internalisation of its objectives.

Conclusion

Child marriage persists not merely due to weak laws but because it is sustained by deeply entrenched social norms, economic vulnerability, and gender inequality. Law is necessary as a protective and normative framework, but it is insufficient in isolation. Only when legal reform is accompanied by genuine social transformation through education, economic empowerment, community engagement, and cultural change can child marriage be effectively eradicated. Protecting children's rights requires not only statutes and sanctions, but also the collective will of society to challenge and abandon harmful traditions.

²⁰ Girls Not Brides, *What Works to End Child Marriage* (2021).