

REPORT  
*On*  
PREVENTION  
OF  
CHILD MARRIAGES IN THE STATE  
OF KARNATAKA

*By*  
The Core Committee

*Headed By*  
JUSTICE SHIVRAJ V. PATIL  
FORMER JUDGE, SUPREME COURT OF INDIA

Submitted On  
30.06.2011

*At*  
VIKASA SOUDHA, BENGALURU

Volume I

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## PREFACE

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Pursuant to and in terms of the order made on 10.11.2010 by the Division Bench of the Hon'ble High Court of Karnataka in Writ Petition No. 11154/2006 (GM-RES-PIL), a Core Committee on prevention of child marriages was constituted by the Government of Karnataka by the order No. 310/2010, dated 21.12.2010.

The Committee started its work on 13<sup>th</sup> January 2011 on which day various aspects and issues touching and having bearing on the subject were broadly discussed. State and district level consultations were held to know about the ground realities and also to get suggestions. First district level consultation was held on 16<sup>th</sup> and 17<sup>th</sup> February 2011 at Dharwad District for the districts of Dharwad, Gadag and Belgaum. The second district level consultation was held at Gulbarga on 25<sup>th</sup> and 26<sup>th</sup> March 2011 for the districts of Gulbarga, Bidar and Yadgir. The third district level consultation was held at Bagalkote on 6<sup>th</sup> and 7<sup>th</sup> April 2011 for the districts of Bagalkote and Bijapur. The fourth district level consultation was held at Raichur on 20<sup>th</sup> and 21<sup>st</sup> April 2011 for the districts of Raichur and Koppal. The fifth consultation was held at Bellary on 26.4.2011 and the last district level consultation was held at Mysore on 28.4.2011 for the districts of Mysore, Mandya and Chamarajanagar. The Core Committee with the co-operation, co-ordination and concerted efforts of the Officers of the State, N.G.Os, experts, members of Centre for Child and the law, National Law School of India University, Bangalore, Social Activists and media examined the issues, identified the causes, and thought about the remedies. Based on the experience gained the recommendations are crystallized and action

plan is drawn, comprising short term, midterm and long term measures/steps to be taken up by the Government of Karnataka and all the concerned.

Chapter I of the report gives the background, procedure adopted and the work done by the Committee in some details. In Chapter II causes for and consequences of the child marriages are identified and enumerated. Chapter III deals with the existing legal framework for eradication of the evil practice of child marriage, to prevent it and to punish the offenders. Chapter IV speaks of strategies for the effective enforcement of law and for eradication of child marriages on the ground, taking note of the realities and prevailing conditions in the society. In the last Chapter V, recommendations are made and action plan is drawn to take effective steps, to prevent child marriages, to eliminate the practice of child marriages, and also to provide some support to the victims of child marriage for their rehabilitation.

Child marriage being a serious social evil, is a grave violator of human rights of children resulting in robbing of their childhood, destroying their future and in the final analysis affecting in a way the strength and development of the country in the long run, particularly looking at the significant numbers of child population.

The need to eliminate the evil practice of child marriage totally and if not minimize the number of child marriages year by year at the earliest, is both urgent and imperative. Damage done already is itself heavy. It is the time to act seriously, sincerely and firmly to stop the practice of child marriage.

The Committee strongly recommends and earnestly appeals to the State Government to act on the recommendations made and the action plan drawn, without any delay in putting an end to the practice of child marriage at the earliest as each day's delay damages precious rights of the children. There is neither dispute nor debate as to combating against the practice of child marriage to put an end to it. To fight this battle what is required is a strong political will, committed executive, honest law enforcing agencies and co-operation of civil society.


The State Government have put in place several social beneficial schemes, projects and programmes including a unique scheme like "Bhagyalaxmi". Reference to these schemes and Central Government schemes is made in the report stating as to how these schemes/programmes if implemented/executed effectively and honestly shall help in bringing down the number of child marriages drastically and finally eliminate the practice.

I hope and wish that the Government of Karnataka shall act on the recommendations made and execute the action plan drawn with all seriousness and concern for the cause, dispelling notions in some quarters that such reports lie on a rock or cupboard catching dust. The Committee does not desire to take pride only in delivery of this report but shall feel rewarded when it delivers results in practical terms translating intention into action on the ground. It is made clear that the recommendations made and action plan drawn do not involve serious financial implications or any substantial burden on the finances of the State. The report demands, as already stated, effective implementation of the schemes, programmes and strict enforcement of law and rules relating to the child marriages.

I am grateful to the Division Bench of the Hon'ble High Court of Karnataka for providing the opportunity to serve a social cause and thank the Government for the support given through the Department of Women and Child Development in carrying out the work of the Core Committee.

The report is produced based on the consultations held, discussions made, experiences gained, testimonials from children and interactions both at individual and institutional level.

I acknowledge the co-operation and positive contribution of the members of the Core Committee, Officers both at the State and District level, NGOs, Social activists, institutions and staff of the Core Committee, in producing this report.



30-6-2011

Justice Shivraj V. Patil,  
Former Judge,  
Supreme Court of India,  
Chairman, Core Committee

# Chapter I

## Introduction

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*"We are guilty of many errors and faults, but our worst crime is abandoning the children, neglecting the foundation of life. Many of the things we need can wait". The child cannot; right now is the time his bones are being formed, his blood is being made and his senses are being developed. To him we can answer 'tomorrow'. His name is 'today'.*

- **Gabriel Mistral, noted Nobel Laureate**

Children are the supreme asset of a nation they being the greatest gift to humanity. They are ultimate optimism that present day could have for the future. They are to be nurtured, loved and protected. They have an inborn right to justice, freedom and opportunity for development irrespective of their nationality, caste, creed and sex. Investment in terms of providing protection and opportunities for the growth of the children is *sine qua non* to ensure their development to full potential. One of the greatest achievements of progressive democracies in the last century is to have recognized the rightful place of the child in the societal fabric both in international forum as well as in domestic arena. Positive action towards realisation of child rights is evidenced by way of various United Nations Conventions, domestic legislations, and judicial interpretations and pronouncements. Child jurisprudence has given a new dimension to the role of law in social engineering. Starting with the Declaration of the Rights of the Child, adopted in 1924 by the League of Nations that says "mankind owes to the Child the best it has to give", there have been endeavours by the international community in protecting the interest of the child. The Declaration of the Rights of the Child, 1959 and the Convention on the Rights of

the Child, 1989 of United Nations, ratified by our country as well in 1992, contain legal standards necessary for realising social, economic and cultural rights of children. The Universal Declaration of Human Rights, 1948, the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, 1966 are the other instruments that reinforce the rights of the child. At the domestic level, the country has been making efforts to place the child in a better position. In this regard, reference can be made to 86<sup>th</sup> Constitutional Amendment that made education a fundamental right for children in the age group of 6 to 14 years. Policies, legislations, schemes and programmes are also in place so that the rights of the children are respected and children really enjoy them.

Children are the potential and useful human resource for the progress of the country. We should remember and remind ourselves that it is only the strong, knowledgeable, and virtuous children who can make the country strong and great. Art. 39(f) states that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and moral and material abandonment.

Children cannot and should not be treated as cattle or saleable commodities or playthings. Children are also capable of becoming as great, as good or as useful as elders and even more. If we neglect and do not provide for even basic needs such as good food, health, and education of children, heavy price will have to be paid in future. It is appropriate that the people are aware of the rights of the children and they realise the importance of their growing as responsible and productive citizens. As per the Census 2001, children below the age of 6 years were 158.8 million, accounting for 15.24% of the country's population. (*The census 2011 data for the child population was not available till the writing of the report*). Their holistic development should be of great concern in their interest and in the



interest of the country as well. The Constitution of India reflects the concern for the children as is evident from Articles 15, 24, 39(e), 39(f), 47 and 51(A). Children are to be looked after and groomed well not merely on the basis of the constitutional or statutory provisions, but also with great human touch and concern. It is well to remember that we have both obligation and duty towards their wellbeing.

Child marriage still remains a common phenomenon in India and other parts of the world, despite endeavours on the part of the Governments and civil society. Marriage at an inappropriate age, before children are physically, mentally and emotionally developed for it, robs the children of their normal childhood and deprives them of their basic human rights, which they rightfully deserve and are entitled to. It also compels them to take on the responsibilities meant to be taken by adults, may be even leading a child to bear a child and take care of it and the family. In India, where illiteracy, ignorance and poverty are primary causes for the practice of child marriage, cultural values coupled with blind beliefs, saving or retaining the property or expenditure of marriage, unburdening the so called the responsibility of parents, mind-set, sentiments and emotions etc., provide further impetus to it. Added to the existing legal framework, of late there has been an increasing concern among the community, civil society and the State with regard to continued prevalence of child marriages and to make invigorated efforts to put effective and adequate measures in place to eradicate this practice.

### **Background**

A Writ Petition<sup>1</sup> No. 11154/2006 was filed in the High Court of Karnataka at Bangalore by two petitioners against 8 respondents including the Departments of Government of India and State Government. It is stated that the petitioner No.1

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<sup>1</sup> Copy of the Writ Petition No. 11154/ 2006 (PIL) – M/s/ Muthamma Devaya and Budeappa v/s Union of India is enclosed as Annexure 1.

has been working for the cause of women and child development for the last few years and is an activist for disabled. The petitioner No.2 is working on the issue of child marriage for more than six years and he is the Director of a Non-Governmental Organization (NGO). Various averments are made in the writ petition reflecting the prevalence, extent and consequences of child marriage and pleading for the effective implementation of the provisions of the Child Marriage Restraint Act, 1929. The petitioners in the writ petition sought for various reliefs and directions. The Division Bench of the High Court comprised of Hon'ble Judges Justice J. S. Kehar and Justice A.S. Bopanna on consideration and after hearing the learned counsel for the parties made the order in the writ petition on 10.11.2010<sup>2</sup>. In the order it is stated thus:

1. "The narration of facts in the present writ petition is heart rendering. The photographs appended to the writ petition have been a cause of deep distress to us. The photographs reveal, the marriage of minor girls, not yet in their teens, to fully grown men. In one of the photographs, the girl has been made to stand on a chair, so that she could garland her tall and fully grown groom. Forces marriage of the girl child, one realize, is one of the manifestations of cruelty, possibly without any equivalent comparison. It seems that the practice is commonplace in this part of the world. It may have remained unchecked for a variety of reasons including poverty, lack of education, culture and ignorance. We are of the view that allowing the evil to continue without redressing it, would make us a party to the disgraceful activity.
2. As a first step, a Core Committee needs to be constituted, which will expose the extent to which the practice is in vogue. It would suggest ways and means to root it out from our society. And also, prevent it, to the extent possible, so that who have not fallen prey to it can be saved.

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<sup>2</sup> Copy of the Order of the Karnataka High Court dated November 10, 2010 is enclosed as Annexure 2.

3. Having been assisted by the learned counsel for the rival parties, we are satisfied, in constituting the following Core Committee, for the broad objectives narrated above.

1. Hon'ble Justice Dr. Shivraj V. Patil, Former Judge, Supreme Court of India, Chairman.
2. The Secretary to Government, Department of Revenue, State of Karnataka, Ex-Officio Member.
3. Secretary to Government, Department of Women and Child Welfare, State of Karnataka.
4. Chairperson, Karnataka Child Rights Commission, Bangalore – Ex-Officio Member.
5. The Director, Department of Women and Child Welfare, Government of Karnataka, shall assist the Committee as its Member Secretary. Needless to mention that Core Committee shall be competent to formulate its own procedure, as also, the area of its jurisdiction, around the broad objectives narrated above.

Pursuant to and in terms of the aforementioned order passed in the write petition, the Government of Karnataka vide order dated 22<sup>nd</sup> November 2010<sup>3</sup> constituted the Core Committee in relation to the issue of child marriage.

### **Approach and Methodology of the Committee**

The first meeting of the Core Committee was held on 13.1.2011, during which<sup>4</sup> it was decided to focus mainly on the following aspects:

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<sup>3</sup> Government of Karnataka order dated November 22, 2010 to constitute the Core Committee is enclosed as Annexure 3.

<sup>4</sup> Proceedings of the first meeting of the Core Committee held on January 13, 2011 is enclosed as Annexure 4.

- 1) **Creating awareness about serious and evil consequences of child marriage with a view to change the mind-set** of the people. This can be done by producing and telecasting documentary, wall writing, street dramas, using electronic and print media etc. within a given time frame.
- 2) **Identify causes and reasons for child marriages:** It is considered necessary to identify causes, reasons and consequences of child marriage so that appropriate remedies can be suggested and measures may be taken for prevention and eradication of child marriages.
- 3) **Constitutional and legal framework in support of Prevention of Child Marriage:** It is considered useful to examine and state about the existing legal framework in support of prevention of child marriage and also to suggest amendment to the Prohibition of Child Marriage Act 2006 and Karnataka State Rules 2008. Further to suggest comprehensive guidelines/orders relating to the grant of permission for conducting mass marriages, format for age certificates and compulsory registration of marriages etc.
- 4) **Identify the factors and reasons which come in the way of effectively implementing provisions of the Prohibition of Child Marriage Act 2006 and actual prevention of child marriages on the ground.** In this regard, the following suggestions were made:
  - i) Prominent persons attending mass marriages and their organisers should ensure that there are no cases of child marriages prior to acceptance of invitation or organising mass marriages.
  - ii) They should bear in mind that violation of the provisions of the Prohibition of Child Marriage Act, 2006 would attract penal consequences leading to punishment.

- iii) There must be authentic and appropriate age proof which is crucial in determining whether it is a child marriage or not.
- iv) The Chairman suggested looking into best practices followed in other states and also districts of Karnataka where NGOs have played active role and assisted in preventing child marriages.

The Chairperson directed the Secretary of the Core Committee to organize a one day consultation, which would comprise of a larger group not exceeding 25 members.

Accordingly, one day consultation on Prohibition of Child Marriage in Karnataka was organized on 19.02.2011 by the Core Committee with a larger group of members.<sup>5</sup> In that meeting there were deliberations and discussions relating to the four areas mentioned in the proceedings dated 13.01.2011. Further, it was decided to hold district level consultations especially in North Karnataka where the practice of child marriages is rampant, in order to understand the ground realities as to the impediments, difficulties and deficiencies, which come in the way for effective implementation and enforcement of the Act and prevention of child marriages.

#### *Consultations at district level*

First district level consultation was held on 16<sup>th</sup> and 17<sup>th</sup> February 2011 at Dharwad District for the districts of Dharwad, Gadag and Belgaum.<sup>6</sup> The second district level consultation was held at Gulbarga on 25<sup>th</sup> and 26<sup>th</sup> March 2011 for the districts of Gulbarga, Bidar and Yadgir<sup>7</sup>. The third district level consultation

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<sup>5</sup> Proceedings of the one day State-level consultation on Prohibition of Child Marriage held on February 19, 2011 is enclosed as Annexure 5.

<sup>6</sup> Proceedings of the District level consultation held on March 16 and 17, 2011 at Dharwad is enclosed as Annexure 6.

<sup>7</sup> Proceedings of the District level consultation held on March 25 and 26, 2011 at Gulbarga is enclosed as Annexure 7.

was held at Bagalkote on 6<sup>th</sup> and 7<sup>th</sup> April 2011 for the districts of Bagalkote and Bijapur<sup>8</sup>. The fourth district level consultation was held at Raichur<sup>9</sup> on 20<sup>th</sup> and 21<sup>st</sup> April 2011 for the districts of Raichur and Koppal. The fifth consultation was held at Bellary<sup>10</sup> on 26.4.2011 and the last district level consultation was held at Mysore<sup>11</sup> on 28.4.2011 for the districts of Mysore, Mandya and Chamarajanagar.

The members present actively participated in the consultations, explained about the ground realities and made valuable suggestions. These consultations facilitated interaction with the district level functionaries primarily the Deputy Commissioners, Chief Executive Officers of Zila Parishads, District Superintends of Police, District Registration Officers, District Health Officers, Deputy Directors of Public Instructions, Deputy Directors, Department of Women and Child Development, Sarva Shiksha Abhiyan, NGOs, children as well as the taluka and panchayat level functionaries in the districts, grass root organisations working on the issue of child rights and child marriage. These consultations also provided opportunity to the community members, woman activists, teachers, Self Help Group members and also the members of Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs) to share their views on the issue and the practical difficulties in the prevention of child marriage.

As a matter of fact these consultations simultaneously helped in generating awareness on the issue at district level, serving in a way, one of the objectives set forth by the Committee. Since members from the community, some village leaders, NGOs, students and the primary stakeholders were present during these consultations, the committee was able to reach out to a larger group in the areas

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<sup>8</sup> Proceedings of the District level consultation held April 6 and 7, 2011 at Bagalkote is enclosed as Annexure 8.

<sup>9</sup> Proceedings of the District level consultation held on April 20 and 21, 2011 at Raichur is enclosed as Annexure 9.

<sup>10</sup> Proceedings of the District level consultation held on April 26, 2011 at Bellary is enclosed as Annexure 10.

<sup>11</sup> Proceedings of the District level consultation held on April 28, 2011 at Mysore is enclosed as Annexure 11.

where the practice of child marriage is rampant. The proceedings of the consultations were widely covered by the print and electronic media in Kannada and in English<sup>12</sup> and this helped in creating awareness among the people including the participating children in the respective areas and sensitising officers and social activists working on the issue of prevention of child marriage. This is evident by the following facts and figures.

**Table 1: Comparative Statement of number of Child Marriages prevented during 2010-11 & up to June -2011**

Sl. No	Name of the District	2010-11	2011-12 (Jan 2011 to June 2011)	Total
1	Ramanagar	0	0	0
2	Chitradurga	0	0	0
3	Bellary	52	7	59
4	Bagalkote	6	2	8
5	Tumkur	0	2	2
6	Gulburga	0	2	2
7	Haveri	0	2	2
8	Mandya	2	5	7
9	Koppal	108	99	207
10	Bidar	0	1	1
11	Raichur	25	75	100
12	Bijapur	2	8	10
13	Chickmagalur	0	2	2
14	Kolar	0	0	0
15	Dharwad	55	15	70
16	Mysore	4	5	9
17	Bangalore(U)	1	1	2
18	Davanagere	1	6	7
19	Chamarajnagar	12	57	69
20	Hassan	10	6	16
21	Gadag	51	2	53
22	Shimoga	3	0	3
23	Mangalore	0	0	0

<sup>12</sup> Copies of the press clipping are enclosed as Annexure 12.

24	Chikkballapur	0	0	0
25	Belgaum	1	16	17
26	Yadagiri	0	0	0
27	Udupi	1	0	1
28	Kodagu	0	0	0
29	Karawara	0	0	0
30	Bangalore R	0	1	1
<b>TOTAL</b>		<b>334</b>	<b>314</b>	<b>648</b>

\* In the absence of adequate data these figures have been gathered by the Department of Women and Child Development (DWCD), Government of Karnataka through various sources.

The table shows that 334 child marriages were prevented in the entire state during the entire year. While the number of number of child marriage prevented during the period of six months only 314. This was a result of awareness generated through various consultations.

#### *Meetings with Expert Individuals and Organisations*

In addition to the above consultations, the Chairperson had meetings with many child rights organisations, experts in the area of child rights as well as the child rights activists and discussed various aspects of the problem, such as causes and consequences, occurrence and prevalence, understanding the bottlenecks and possible strategies to combat this problem and identify the areas of law reform, including amendments to the PCMA, 2006 and the State Rules. The Committee also consulted concerned government officials from the departments of health, police, education, and the members of Child Welfare Committee (CWC) and the State Commission for Protection of Child Rights (SCPCR) in this process.

#### *Consultation with the Sub Groups*

In order to ensure optimum output by all the people involved in the process, sub groups were formed to work in the key areas identified by the Committee. To discuss the work done by the sub groups one consultation was organised on May 12, 2011 in the presence of Chairman, Core Committee, during which all the sub



group representatives made their presentations<sup>13</sup>. Observations were made and discussions were held on the presentations. Further, two more meetings were organised with the sub group coordinators on April 25<sup>th</sup> and June 6<sup>th</sup> 2011 in this regard. After detailed discussions and consultation among the groups, the outputs of these working groups were taken into consideration in making the recommendations/ preparing the Action Plan.

#### *Sources of Information*

A wide range of sources were referred to during the process of preparation of this report. In addition to the information and data available with the various government ministries and departments, books and research papers by eminent expert individuals and organisations working in the field were used in order to develop understanding on the conceptual and anthropological aspects of the issue.

*Case Studies* were identified and documented with all the relevant details with a view to illustrate the causes and impacts of child marriages. Efforts were also made to document the strategies and success stories wherein child marriages have been effectively averted, and/or community has been mobilised against this practice, and/or the authorities such as Child Welfare Committee, Child Marriage Prohibition Officer or any NGOs were successful in generating positive responses towards prohibition of child marriage.

*Legal research* was crucial to the understanding the legal framework and suggesting amendments to the Act and the State Rules. Altogether State Rules from 14 states drafted under the Child Marriage Prohibition Act 2006 were

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<sup>13</sup> Proceedings of the Consultation held on May 12, 2011 is enclosed as Annexure 13.

reviewed and analysed for the purpose of drawing the positive components for the Karnataka State Rules and suggest amendments to it.

National level policy on the issue as well as the various schemes and plans initiated by and other such measures taken by the central and state governments meant for the welfare of children were analysed and compared in the light of their adequacy and impact in relation to prevention of child marriage. This was done with the objective of drawing from them and including the provisions that have worked well at the ground level and reaped positive results, from the schemes which are in place in the State of Karnataka.

Additionally, the Committee also sought suggestions and recommendations relevant and relating to prevention of child marriage from general public.

### **The Issue: Child Marriage**

All over the world, marriage as an institution is regarded as a moment of celebration and a milestone in a person's life. But this moment turns into the beginning of anguish and grief if the marriage takes place before the person reaches an appropriate age. The prevalent practice of "child marriage" deprives the child from enjoying his or her natural childhood. More often than not, the imposition of marriage on the children not only subjects them to suffering, but also compromises on the human rights that they are entitled to.

#### ***What is child marriage and where is it prevalent?***

In sociological terms, marriage is a formalized binding partnership between consenting adults, it is a respected and valued social institution throughout the world and may take different forms in different cultures. Child marriage, on the

other hand, involves either one or both spouses being children and may take place with or without formal registration under civil, religious and customary laws. Throughout the developing world, millions of girls are married while they are still children. The practice of child marriage spans in diverse cultures and societies with its variants in terms of causes and stimulators.

Child marriage can be defined as a phenomenon where a child is married before he or she attains adulthood. Since the Convention on the Rights of the Child defines a child as any human being below the age of eighteen, any marriage in which either the boy or the girl is below that age can be referred to as child marriage. However, in Indian context, as per the Child Marriage Prohibition Act 2006, a marriage can be defined as child marriage if the girl is below 18 years of age or/and the boy is below 21 years. Hence, In India any marriage carried out below the age of 18 years for girls and 21 years for boys, is defined as child marriage.

A closer look at the prevalence of child marriage world over reveals that it is more widespread in the developing countries. The table below shows that it is mainly seen in South Asia, Africa, and Latin America.

**Table 2: Child Marriages around the World**

Top 20 Countries with highest rates of Child Marriages	
Name of the Country (Ranks)	Percentage of Married Women Younger than 18.
1. Niger	76.6
2. Chad	71.5
3. Bangladesh	68.7
4. Mali	65.4
5. Guinea	64.5
6. Central African Republic	57.0
7. Nepal	56.1
8. Mozambique	55.9
9. Uganda	54.1
10. Burkina Faso	51.9
<b>11. India</b>	<b>50.0</b>
12. Ethiopia	49.1
13. Liberia	48.4
14. Yemen	48.4
15. Cameroon	47.2
16. Eritrea	47.0
17. Malawi	46.9
18. Nicaragua	43.3
19. Nigeria	43.3
20. Zambia.	42.1

*\* United Nations Population Division, 2000*

Child marriage continues to be a widespread social evil in India. In the year 2000, the United Nations Population Division recorded that 9.5% of boys and 35.7% of girls aged between 15-19 were married. The National Family Health Survey (NFHS-III) of 2005-2006, which provides the latest statistics available on the occurrence of child marriage carried out in 29 states, confirmed that 45% of women were married before the age of 18 years. The NFHS III findings further revealed that 16% of women aged between 15-19 were already mothers or pregnant at the time of the survey. It was also found that more than half of the Indian women were married before the marriageable age as per law as compared to 16% of men.

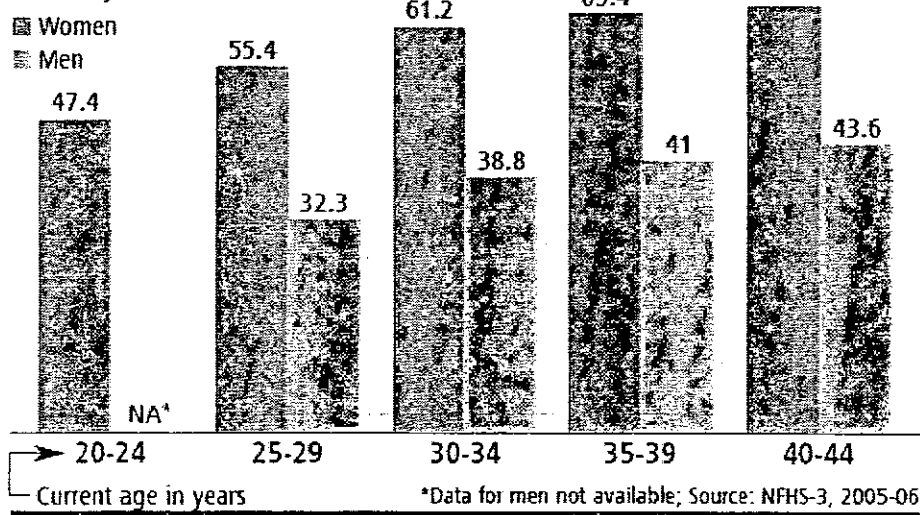
The incidence of child marriages in India varies in different regions and states. It is worth mentioning that according to NFHS III, the percentage was much higher in rural areas (58.5) than in urban area (27.9%) and exceeded 50% in eight states. The percentage of women married by the time they are 18 years, stood 61.2% in Jharkhand followed by 60.3% in Bihar, 57.1% in Rajasthan, 54.7% in AP, and 45% in Karnataka. According to the International Centre for Research on Women (ICRW) 50% women in India get married before the age of 18 years.

According to UNICEF's 'State of the World's Children-2009' report, 47% of India's women were married before the legal age of 18, with 56% in rural areas. The report also showed that 40% of the world's child marriages occur in India. According to UNICEF, 82% of girls in Rajasthan, where the practice is particularly widespread, are married by 18; 15 %of girls in rural areas across the country are married before 13; and 52 %of girls have their first pregnancy between 15 and 19.

Figure 1:Percentage of Married Men and Women by Exact Age of 21 Years and 18 Years respectively

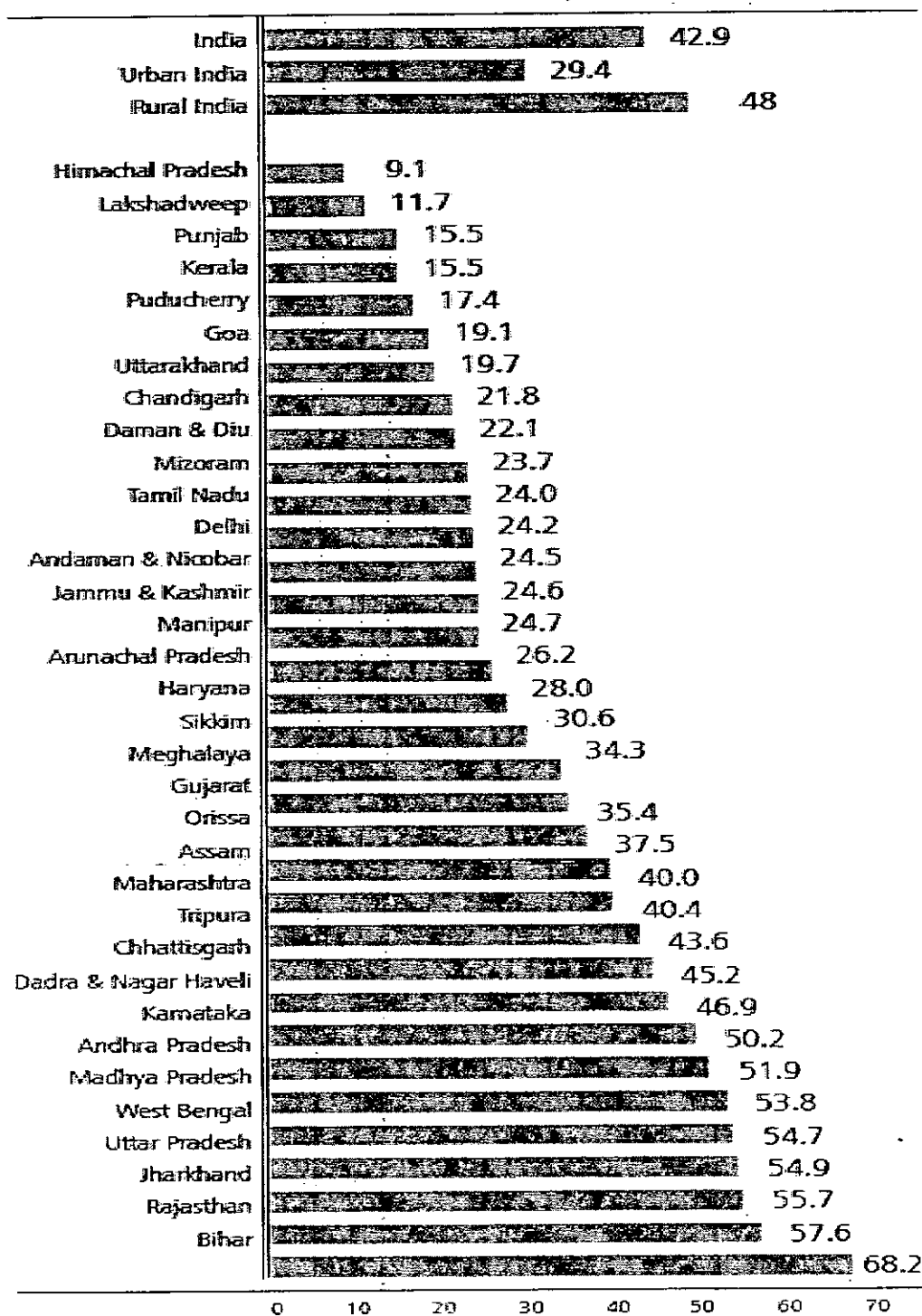
### MISMATCHED

Per cent married by the exact age of 18 years for women and 21 years for men



Source 1: NFHS-3, 2005-06

Figure 2: Marriage Register - Percentage of currently married woman aged 20-24 years who were married before 18 years



Source: DLHS-3 2007-08

Source 2: DLHS 2007-08

According to latest figures from UNICEF 'State of the World's Children-2011' (SOWC 2011) more than 1/4<sup>th</sup> of the marriages in the country are of girls below 18 years (27%) and out of every 1000 births, 45 births are given by girls aged 15-19 years. In Karnataka, 22% of girls get married before they turn 18.

According to the census of India 2001, 300,000 girls under the age of 15 had given birth, some for the second time. The National Family Health Survey shows slightly lesser figure than SOWC. According to National Family Health Survey 2005-06 (NFHS-III), 22.6 % were married before they were 16, 44.5 % were married when they were between 16 and 17, and 2.6 % were married before they turned 13.

**Table 3: Percentage of adolescent girls giving birth**

<b>Age</b>	<b>Have had a live birth (%)</b>	<b>Pregnant with first child (%)</b>	<b>Who have begun child bearing (%)</b>
15	1.3	1.2	2.5
16	4.1	2.3	6.4
17	8.6	3.8	12.5
18	17.9	6.1	24.0
19	29.7	6.1	35.7

*\*Source: NFHS - III*

Teenage pregnancy rate amongst adolescents as per NFHS-III is given above. From the table it is observed that 12 percent of girls aged 15-19 nationally have become mothers and an average of 4 percent of women aged 15-19 were currently pregnant with their first child. This means that one in six girls in the age group of 15-19 have begun childbearing so early. 3 % of girls had begun childbearing at the age of 15 in India as against 36% by the age of 19.

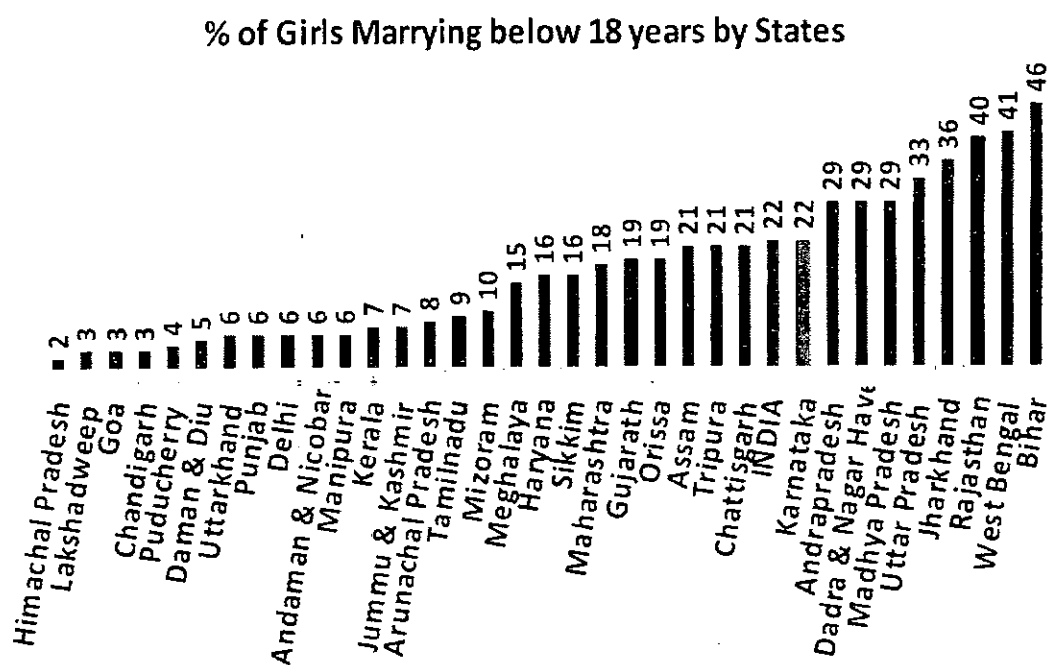
While looking at the rural – urban breakup, it is observed that child bearing in the age group of 15-19 years among rural girls is 19% which is more than twice than



that of urban woman which is 9%. Out of the total woman in the age group of 15-19 years who have begun child bearing, nearly 1/3 were illiterates and this goes on decreasing with the increase of education level.

According to District Level Household Survey on Reproductive Child Health (DLHS-RCH) III (2007-08) 23.4% of boys and 22.1% of girls were married before attaining marriageable age according to law. The graph below shows that least proportion of marriages is for boys below 21 is in Kerala (1.2 %) and for girls below 18 is in Himachal Pradesh (1.6 %). In Karnataka 22% of women get married before 18 and this is same as the national average.

Figure 3: Percentage of Girls Marrying Below 18 years by States<sup>14</sup>.



Source 3: DLHS-RCH III (2007-08)

<sup>14</sup> The Graph shows rounded-off figures.

The states with a high proportion of girls getting married below age 18 are Bihar (46 %), West Bengal (41 %), Rajasthan (40 %), Jharkhand (36 %), Uttar Pradesh (33 %), Madhya Pradesh, Dadra and Nagar Haveli and Andhra Pradesh (29 %). In these nine states more than one-fourth of the girls are married before they are 18 years old.

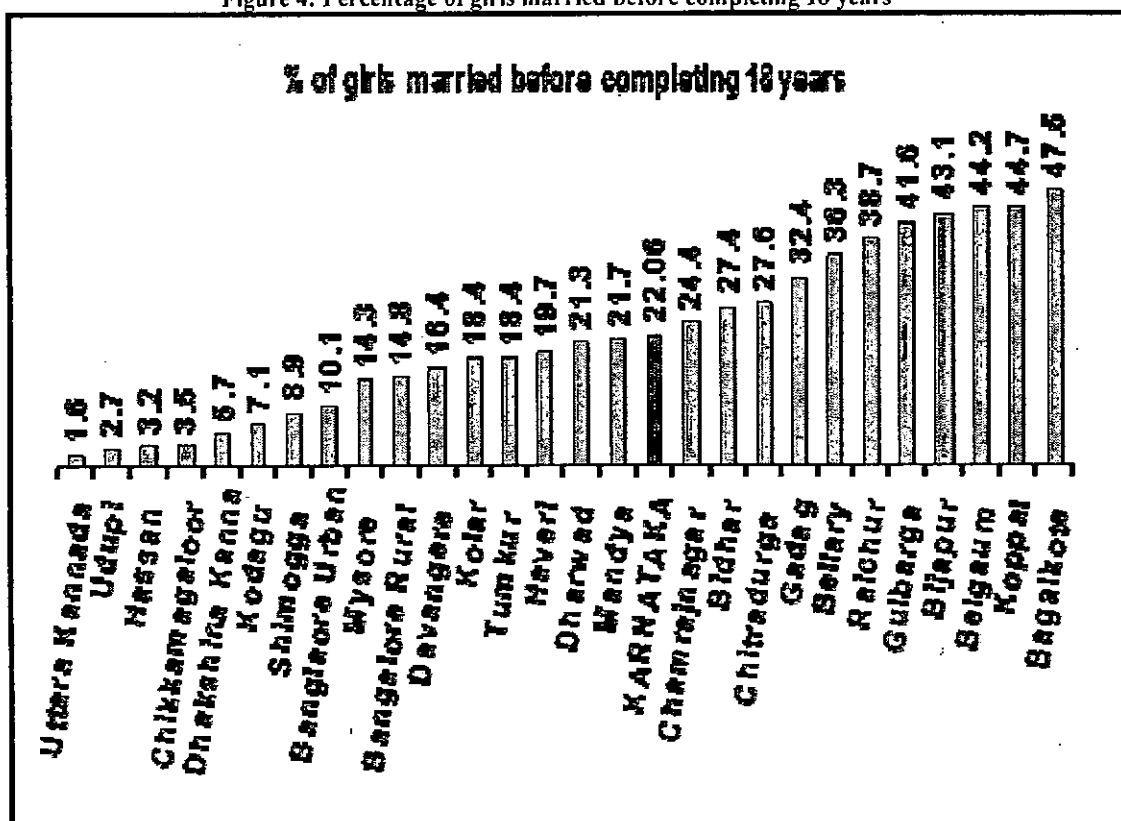
### **The Scenario in Karnataka<sup>15</sup>**

Two out of five girls in the state are married off before they attain the age of 18. According to the census 2001, the child population (0-18 years) of the State is 41% of the total population. The population of adolescent girls in the age group of 10-18 years is 5,202,954 and the population of boys in the age group of 10-21 years is 7,200,909, both together constitute 23% of the total population of the state. The projected population of adolescents for the year 2011 is almost 26% of the total population.

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<sup>15</sup> The data referred to in this report, in graphs and elsewhere, is based on the reports of various agencies prepared at different points in time. Hence there is variance in the statistics.

Figure 4: Percentage of girls married before completing 18 years

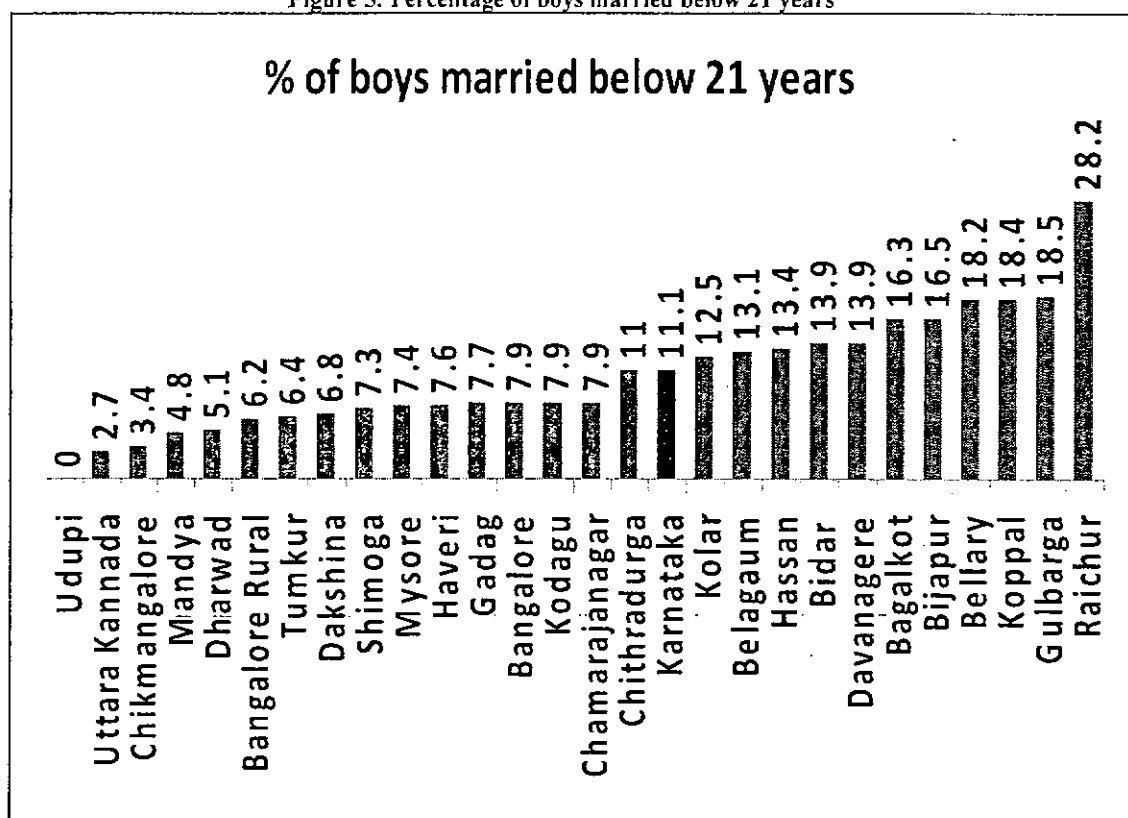


Source 4: DLHS-RCH 2007-08

According to DLHS-RCH 2007-08 also, nearly 1/4<sup>th</sup> of the girls in the state married before attaining their age of 18 years (22%). In Bagalkote nearly half of the girls married before 18 years and least child marriages were recorded in the state was Uttara Kannada (1.7%). The percentage of child marriages is often high in almost all northern districts of the state when compared to southern districts. In 11 districts this percentage is more than state's average, which is 22.06%.

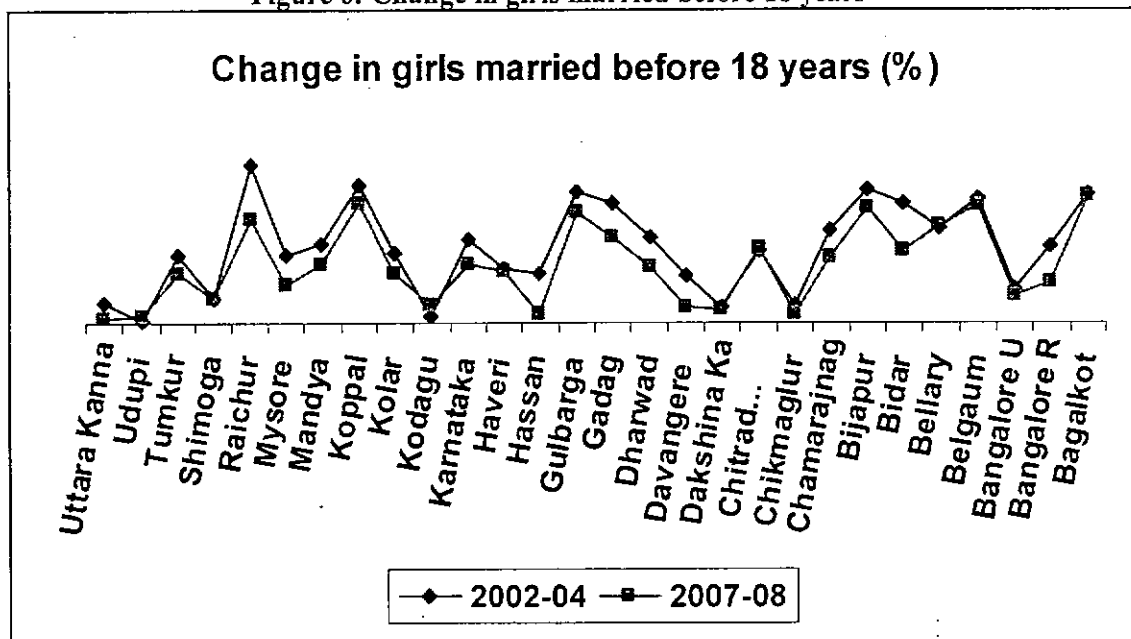
In Karnataka as shown in the graph, 11% of boys nearly one out of ten, get married before the age of 21 years. In the state, Raichur district recorded the highest marriages among boys 28.2% and in districts like Udupi, no such marriages were recorded This also points towards the correlation between poverty and illiteracy on one hand and higher incidences of child marriages on the other.

Figure 5: Percentage of boys married below 21 years



Source 5: DLHS-RCH 2007-08

Figure 6: Change in girls married before 18 years



Source 6: DLHS-RCH

The comparison between statistics from DLHS-RCH 2002-04 and 2007-08 reveals that, during this period the percentage of child marriages in the state has been reduced in several districts. But in the districts like Koppal, Gulbarga, Bijapur, Bagalkote and Belgaum where the incidence of child marriages are high, the situation still remains almost same, with few negligible exceptions.

Eradicating child marriage has long been on the agenda of the international community and of individual countries. Early marriage is an issue of significant concern to policy-makers and human rights advocates. Governments in developing countries face increasing pressure to eradicate the practice with legal sanctions against parents who marry daughters before a standard age of consent. Proponents of "child protection" and "age of consent" laws argue that forcing parents to delay marriage will increase female educational attainment and reproductive control and decrease incidence of domestic violence. For the same reasons, social programme such as education scholarships for girls increasingly

contain program rules excluding girls who marry young in an effort to discourage the practice.

Tackling child marriage is a daunting but possible task, requiring political will and proactive multi-pronged strategies at the international, national, state and community levels. It is an irony that the phenomenon of child marriage despite all the laws and international standards and it continues to thwart the natural growth and development of children of the country thereby affecting the growth and progress of the entire nation. Governments and local civil society organizations have to actively work with greater intensity to discourage the practice by raising community awareness about the adverse consequences for children, running programmes that provide them with alternatives and by demanding more effective enforcement of the laws.

Against this backdrop, the report looks into the causes that lead to the practice of child marriage, records the severe consequences of this practice on the lives of children, especially the girl child, and identifies the bottlenecks in the implementation of relevant laws, difficulties on the ground, schemes and programmes meant to be used for eradication of child marriage, with specific focus on the state of Karnataka.

Most importantly, the report also seeks to provide a road map for the eradication of this practice by way of analyzing the efficacy of the legal framework and drawing from the best practices in various states in India thereby suggesting pragmatic strategies as well as reforms in the law wherever required.

This report, including the recommendations and the action plan, is prepared in relation to issue of child marriage in the state of Karnataka and may also be useful to other states in some respects where the practice of child marriage is in vogue.

All the relevant information, documents and details have been annexed with the report.

#### **In Brief**

Every child in this country has a right to care, protection, development, enjoyment of childhood and to develop into a complete and full individual, regardless of her/his social, economic and cultural background. These rights are embodied in the Constitution of India and further articulated in the various international instruments. In this backdrop Child marriage is a blatant violation of these rights of children as enunciated in the Constitution of India and other international instruments, as it denies them rights to good health, nutrition, education, and freedom from violence, abuse and exploitation.

Child marriage above all violates the child's fundamental right to education. Children remain illiterate, ignorant and unskilled, which in turn limits their opportunities for economic employment and economic independence as a grown adult.

Despite the above said consequences, child marriage continues to prevail in India. The children especially the girl children are married off before they attain physical and mental maturity. The problem in India remains deep rooted in its complex social-economic and cultural fabric of religious traditions, beliefs, customs, social practices, and economic factors and deep-rooted social prejudices. Child marriage constitutes a gross violation of human rights, leaving physical, psychological and emotional scars on children for life.

The practice of Child Marriage is rampant, especially in the Northern Karnataka. Disturbed by the problem child rights activists filed a Writ Petition in the High Court of Karnataka. Taking cognizance of the problem in relation to the writ petition, the Honourable High Court of Karnataka issued direction to the government to constitute a Core Committee to come up with a plan of action to address the deep rooted social evil, under the Chairmanship of Honorable Justice Dr. Shivraj V. Patil and comprising of other senior officials and the chairperson of the Karnataka State Commission for Protection for Child Rights.

The chairperson of the Core Committee along with other members toured

extensively in Karnataka, especially the northern districts to understand the situation in order to come with a practical and implementable action plan to address the issue in its entirety. Several rounds of Consultations at state and district levels, Focused Group Discussions and one to one interaction were undertaken up by the Committee to get a deeper insight on the issue of child marriage and sought the suggestions from the primary stakeholders for prevention of its occurrence in the state. The present report submitted by the Core Committee is the result of the widespread and extensive consultative process with all primary stakeholders and drawn from the rich knowledge as part of their day to day to experience and struggles to tackle the menace of Child marriage.

Thus, the Report is the outcome of an enabling and consultative process, and product of many minds drawn from various cross sections of people including the children. The report looks into the causes that lead to the practice of child marriage, records the severe consequences of this heinous practice on the lives of children, especially the girl child, and identifies the bottlenecks in the implementation of relevant laws, difficulties on the ground, the scope of implementation, the schemes and programmes meant for eradication of child marriage, with specific focus on the state of Karnataka.

Most importantly, the report also seeks to provide a road map for the eradication of this practice by way of analyzing the efficacy of the legal framework and drawing from the best practices in various states in India thereby suggesting pragmatic strategies as well as reforms in the law wherever required.

This report, including the recommendations and the action plan, is prepared in the context of the state of Karnataka and may also be useful to other states in some respects where the practice of child marriage is in vogue.



## Chapter II

### Child Marriage: Causes and Consequences

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*Child of today cannot develop to be a responsible and productive member of tomorrow's society unless an environment which is conducive to his social and physical health is assured to him. Every nation, developed or developing, links its future with the status of the child.... Neglecting the children means loss to the society as a whole. If children are deprived of their childhood- socially, economically, physically and mentally- the nation gets deprived of the potential human resources for social progress, economic empowerment and peace and order, the social stability and good citizenry.*

Throughout the developing world, millions of children are married off while they are still very young, most of the times adolescents. It is difficult to ascertain the origin and attribute it to one or two factors. The practice of child marriage may be, prevalent due to a combination of economic, social, sociological and cultural factors functioning simultaneously.

Although it is scientifically proved that marriage carried out between individuals who are below the age of eighteen years is detrimental to the physical, physiological and psychological growth of children and has serious consequences for the individual, family and the society, the practice of child marriage is not totally stopped but continues to prevail in India and in many other parts of the world.

A child marriage, that too at a very young age has severe repercussions for the lives of both the boys and the girls, however, the cascading effect and the complexity of the problems are more in the case of girls.

Child marriage, by itself, is a violation of human rights of children since it deprives them of their very right to childhood and all the other rights and enjoyments that come naturally to them by virtue of being children and human

beings. In a proper perspective, child marriages must be viewed in the context of force, coercion and inducement involving pressure and emotional intimidation; where children lack the choice or capacity to give their full and informed consent. Hence, child marriage may be considered to be forced or imposed marriage because of the absolute absence of valid and informed consent.

It becomes much more complex to understand the reasons and the causes of child marriage in the given situation in India where it is enveloped in the guise of social and economic necessity by describing it by the parents as a measure towards protection of girls from unwanted masculine attention or promiscuity or performing their duty and discharging their responsibility. It is unfortunate that the parents think that marrying a girl child is a great responsibility, not realising that providing a better future and wellbeing of a daughter is a greater and meaningful responsibility.

There is consensus globally for the prevention and eradication of child marriages, which is reflected in the international instruments. Even the national legislations also prohibit child marriages; still the practice is not totally eliminated. In India also despite the legislative measures, the practice of child marriage continues to prevail owing to several complex social, sociological, cultural and economic factors.

### **Causes of Child Marriage**

The existence and prevalence of the practice of child marriage can be attributed to a wide variety of interrelated complex factors ranging from the socio cultural milieu to the sociological and economic conditions. Role of parents and families assumes paramount importance when it comes to the marriage of their wards which is perceived as a responsibility as well as a prerogative. More often than not, parents and other senior members of the family play pivotal roles in marriage of the girl child without looking into the best interest of the child. Apart

from this, on many occasions girls are not sent to schools and married off very early due to several external factors such as absence of any other alternatives, poverty, lack of awareness as to the importance of education for her future life, peer pressure, etc. or just for unburdening the responsibility of parents.

It is both vital and necessary to know and understand the reasons and factors responsible for the prevalence of practice of child marriage. Allowing them to continue and not seriously combating against this grave social evil which has adverse impact on rights of children and their future is unpardonable. Once the causes and factors for child marriages are diagnosed and known, it will facilitate to take effective measures to prepare appropriate action plan for effective and meaningful application of provisions of law, policies and schemes to eradicate the practice of child marriage, totally, if not immediately but at the earliest. Any delay in eradicating or atleast minimizing child marriages will result in violation of the human rights of children leading them to suffer in terms of health, education, career, freedom, denial of enjoyment of childhood etc., paralyzing their overall development and consequently denying them their right to participate in the development of the country by contributing their full potential.

### **Illiteracy, ignorance and lack of awareness**

Wellbeing of any society is mainly dependent on the level of education and awareness of the people. Illiteracy and ignorance, which culminate into the lack of information, allow the evil cultural practices to continue without the realization of serious consequences that follow.

- *Ignorance about serious consequences*

Unawareness of serious consequences that a child marriage entails is itself a cause for either not preventing the practice of child marriage or remaining complacent about it. As a result of illiteracy and poverty, people particularly

in rural areas are not aware about the consequences of child marriage. In the State of Karnataka, child marriage is prevalent in almost all the districts, although numbers may vary. However, large number of child marriages take place in North Karnataka in comparison to South Karnataka. Historically, and for various other reasons including political, South Karnataka area, except few taluks, is more advanced in terms of education and economy, whereas North Karnataka was at disadvantage. As a result, by and large, North Karnataka remained backward because of illiteracy and poverty. This fact is well reflected and supported by facts and reasons stated in the report of Nanjundappa Committee.

- *Ignorance about the prevalent law prohibiting the practice*

Legal framework in support of prevention and eradication of practice of child marriage is given in Chapter III of this report. Despite International Instruments including Covenants, domestic Laws, and Rules framed by various States under the Prohibition of Child Marriage Act, 2006, and various Government orders and guidelines, it has not been possible to effectively and successfully prevent or totally eradicate the practice of child marriage. Ignorance of law relating to the prevention of child marriages and penal consequences that follow is one of the reasons for continued prevalence of child marriage.

Though ignorance of law is no excuse, in defense or in a trial for offences, but actual awareness of the law among the people in regard to the prohibition child marriage and the penal consequences, will help in some measure to change the mindset and prevent child marriages.

It is very much necessary to create awareness among the people and sensitizing field functionaries i.e., officers, governmental agencies, NGOs as well as social activists.

- *Ignorance regarding the importance of education for children*

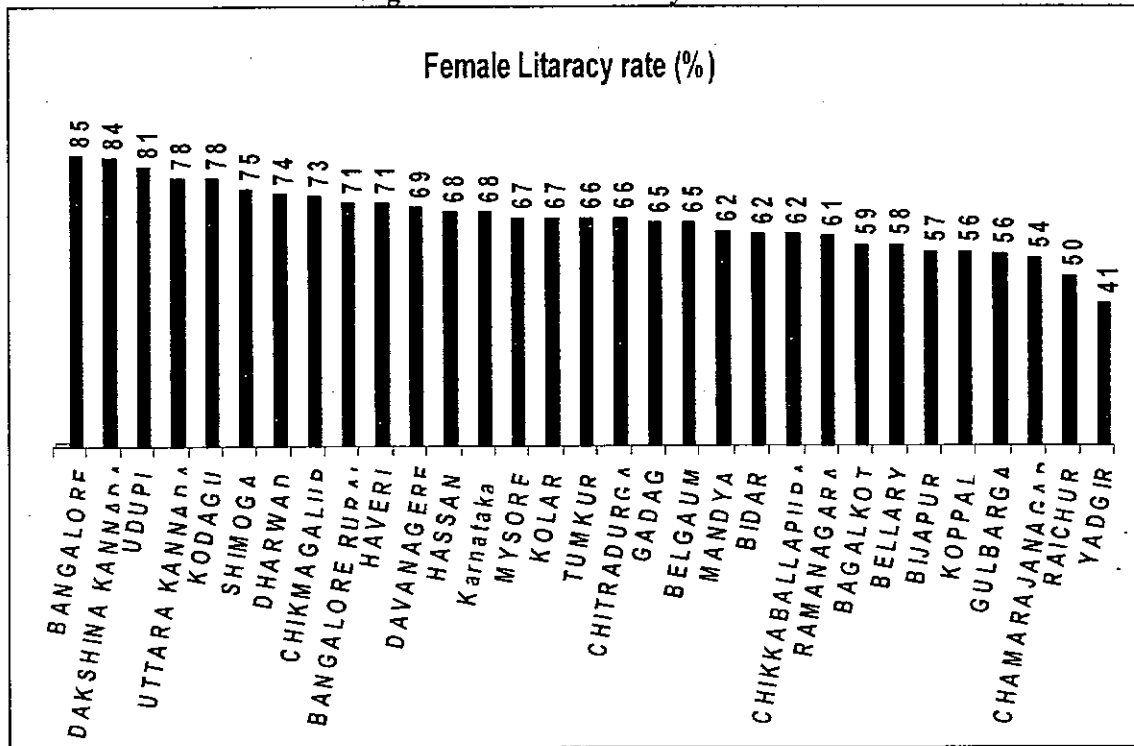
It is better to make children themselves as assets rather than making assets for children. However, illiterate and uneducated parents do not realize the importance of education for their children. It is more so when it comes to the education of girls. School is seen as irrelevant in societies where a girl's role is restricted to the home. Many girls are kept out of classes to do chores such as cooking, sweeping, washing vessels, tending to animals or fetching water, etc. On the other hand, it is also seen that higher education increases the price a bride has to pay for a spouse when social norms require that husbands have higher education levels than wives.

Also, in India, the girl child is counted as 'another's property', a guest in parents' house' or a thing which has to be given away'. Such perceptions discourage the parents to invest in daughter's education before marriage.

In terms of demographic distribution also it is generally seen that incidence of child marriages is more in states where educational levels are low as compared to states where educational levels are high on account of better access to education. Where opportunities are not available for continuing education or access to educational institutions and finding no alternatives, the tendency is to perform marriages of children at early age.

Within states also, districts with low level of literacy rates have recorded larger number of child marriages. Northern districts of Karnataka namely: Bagalkote, Bellary, Belgaum, Bidar, Bijapur, Dharwad, Gadag, Gulbarga, Haveri, Koppal and Raichur, the incidences of child marriages are more on account of lower level of education as can be seen in the following graph.

Figure 7: Female Literacy Rate

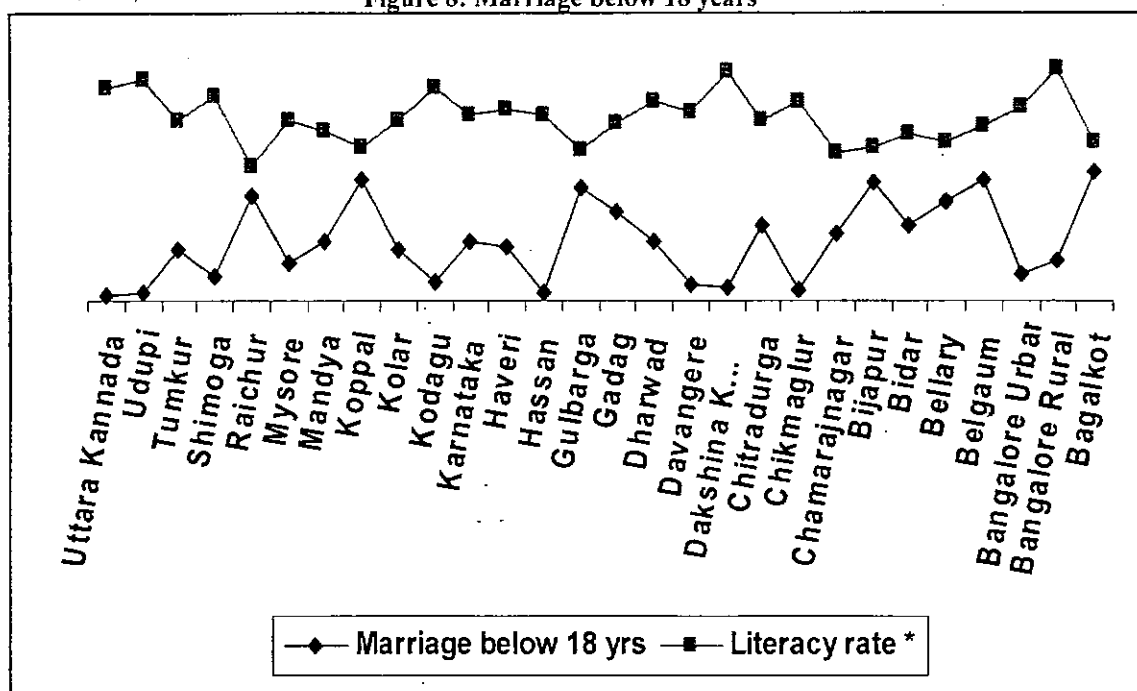


Source 7: Census of India 2011

Especially, there is a strong correlation between female literacy and child marriage.

According to census 2011, the female literacy rate of Karnataka is 68%. Bangalore urban district has highest female literacy rate (85%) and Yadgir has lowest female literacy (41%). Out of 30 districts in the state, only in 11 districts, the female literacy is more than state's average and in rest of the districts it is less than state's average, which is 68%.

Figure 8: Marriage below 18 years



Source 8: Census of India 2011

The correlation between the female literacy and occurrence of child marriage is given below. From the graph, it can be seen that in districts which have higher literacy like Uttara Kannada, Udupi, Kodagu, Dakshina Kannada and Bangalore, the percentage of girls married below 18 years is less. On the other hand, in districts which have lower literacy rate such as Gulbarga, Koppal, Bijapur and Bagalkote, the percentage of girls married below 18 years is high.

### Poverty and the Economic Factors

Acute poverty and some other economic factors also contribute towards child marriages. It may also be associated with the practice of getting young girls married to older men which is believed to benefit the child and her family both financially and socially.

- *Scarce Resources to feed*

Parents who cannot provide for the basic needs of their children may give a young daughter in marriage so that they have one mouth less to feed and to ensure that she survives. Such is the situation in areas where poverty is acute and families are large and resources are limited.

- *Child marriage as transaction*

In some communities child marriage is practiced as a transaction for economic gain/advantage. In such child marriages girls have no say in determining their future and take decisions about their lives.

The context of poverty, the practice of paying bride price can encourage early marriage. In some cultures, boy's side pays more money for younger girls. And thus by marrying their young daughters, parents lessen their economic burdens.

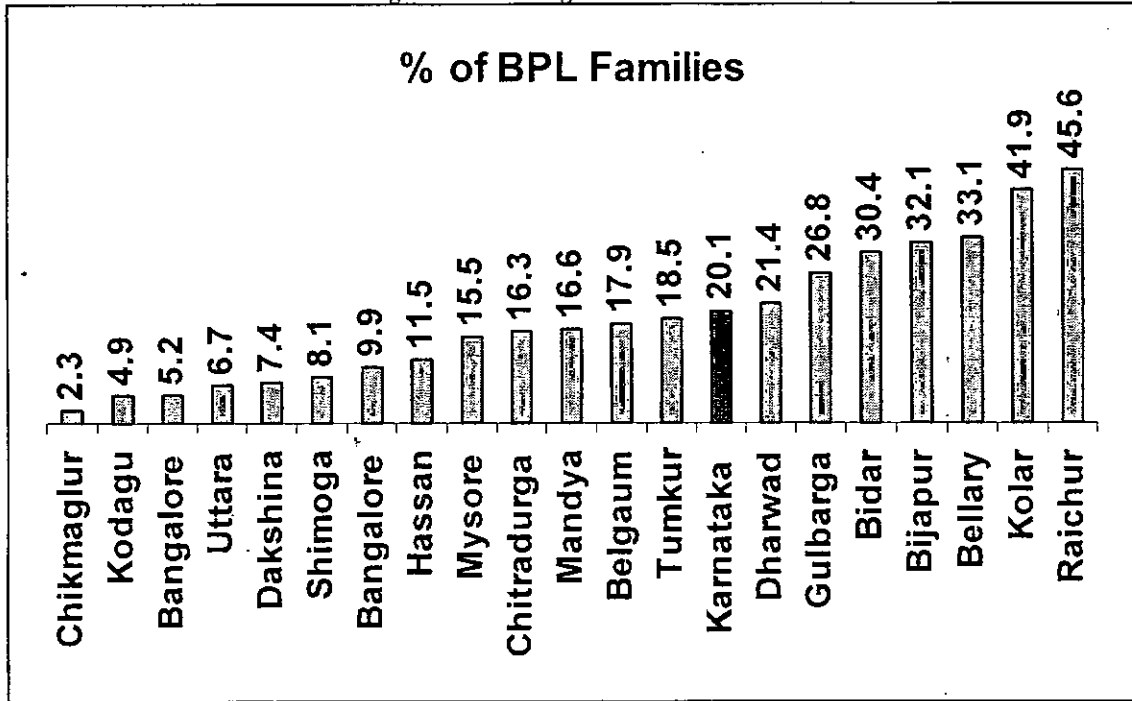
- *Early marriage is 'economical'*

In India often parents of girls on the occasion of marriage need to give dowry to bridegroom or his family either in cash or kind. The amount of dowry may go on increasing as marriage gets delayed. As the age of the girl increases she would need an older man who might be more educated. This would lead to a higher demand for dowry. Therefore the practice of dowry has also adverse impact leading to child marriage.

When we look at the linkages between child marriage and poverty, it is observed that in several districts like Raichur, Koppal, Bidar and Kolar the number of child marriages is directly related to the number of BPL families in the districts. These districts have witnessed more number of child marriages.

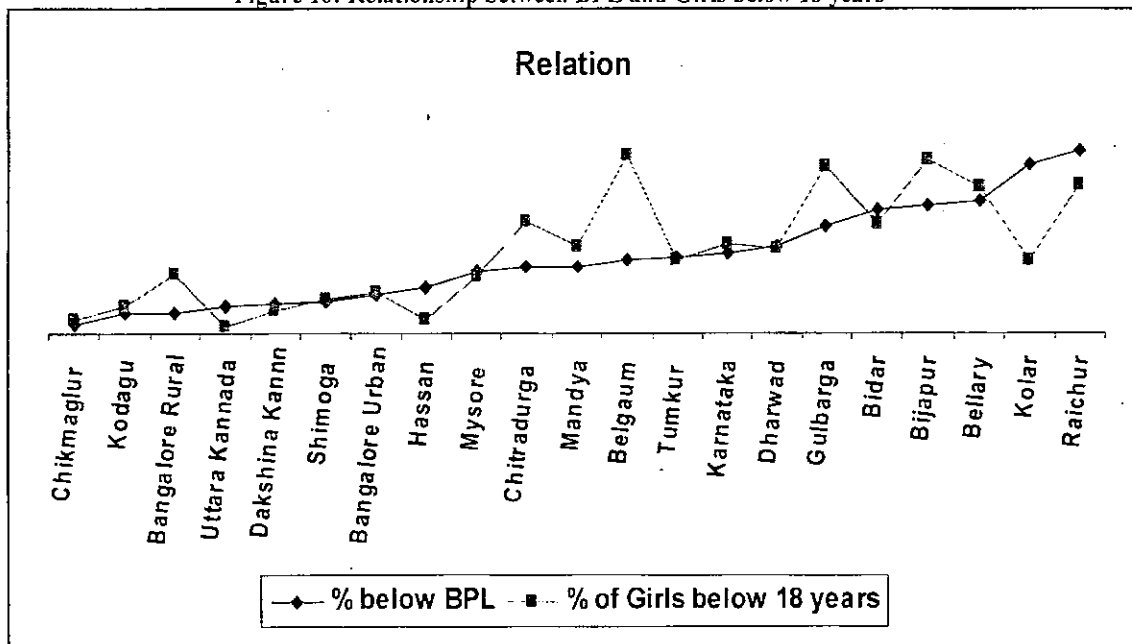


Figure 9: Percentage of BPL families



Source 9: Census of India 2011

Figure 10: Relationship between BPL and Girls below 18 years



Source 10: Census of India 2011

The graphs exhibit the direct correlation between poverty and incidence of child marriage, with some negligible exceptions.

Globalization, liberalization and privatization result further in pauperization and destitution of poor and marginalised. Children are married along with elder siblings to save marriage expenditure and strain. Also in families where the males or heads of the family are not earning and are addicted to bad habits, the mother of a child unable to sustain, is compelled to performing early marriage of a daughter to reduce to strain on her.

### **Socio-cultural and religious practices**

Religion, culture and tradition are integral part of peoples' life in India and influence every sphere of their lives. Traditional, religious and social acceptance of child marriage is a predominant reason for the prevalence of child marriage.

#### ▪ *Religion, Culture and Traditions*

Religious foundations and considerations have to some extent influenced the sustenance of the practice of child marriage. For instance, in some of the religious communities, marrying off the girls before they attain puberty or immediately after first menstruation is considered as very auspicious for the girl and the family. The religious belief that the marriage of a young girl can fetch salvation for the entire family is also one of the factors that lead to child marriage.

In many cultural groups, the age of marriage is defined in the tradition itself. Any deviation from this is looked down upon and is not well received in the clan considering it to be violation of the traditional values. Fear of sanctions from the community could also discourage them from deviating from these

cultural and religious dictates. In some communities marriage of children is seen as their cultural obligation.

- *Blind beliefs and social practices*

Beliefs such as, early marriage is a way to ensure chastity and virginity of the girl, children may not listen to the parents once they grow etc., further encourage child marriages. It is also performed to fulfill the wishes of the aged/ailing parents and elders in the family. Lack of scientific and secular education to enable people to overcome blind beliefs and customs is also a reason for child marriage.

**Unmarried till 18? Can't marry now!**

The *Uppara* community in Chamarajanagar district believes that girls above the age of 18 are ineligible for marriage and they must get married before they turn 18. This is part of their culture and is still widely practiced and girls who cross 18 years are rejected as brides in the community. People of this community thus marry their daughters young because of the pressure from the peers and elders in the family. As per the information collected by an NGO, Bharat Gyan Vigyan Samiti (BGVS) supported by the Deputy Commissioner, in 2005 alone, 103 child marriages were reported in *Uppara* families followed by 58 in 2006, 77 in 2007, 61 in both 2008 and 2009. *Uppara* community exhibits the role of blind beliefs and social practices as reasons for the practice of child marriage.

Of late the trend is changing and the community is becoming aware about this problem. Decrease in the number of child marriages happening in the Community was also clear in the district level consultation organised in Mysore.

- *Caste system*

The caste hierarchy in India perhaps also has a role to play in perpetuating child marriage in some castes where population is very less. The caste system

which is based on birth and heredity discourages marriages between members of different castes. Because of the sheer necessity to preserve itself, this could have helped in practicing and perpetuating child-marriage in the state. Imbalance in the sex ratio also adds to this.

- *Pressures from the community*

Community customs regarding gender roles, the appropriate age of marriage and the family's honor can put pressure on families to marry their young daughters. In communities where child marriage is prevalent, there is strong social pressure on families to conform. Failure to conform can often result in ridicule, disapproval or family shame. Invariably, local perceptions on the ideal age for marriage, the desire for submissive wives, extended family patterns and other customary requirements, also subscribe in a way to child marriage.

- *Patriarchal society*

In a predominantly patriarchal system, parents, perform marriage of their daughters with a view to transfer their responsibilities to another man and the family.

In view of the family, daughter's success rests in her making a good marriage and linking her family to another family. Young girls may also be encouraged to marry older men, due to the perception that an older husband will be able to act as her guardian to ensure respectable behavior.

- *Fixed gender roles and gender discrimination*

Gender roles in the society, particularly in rural areas, are almost demarcated. The role of girl is largely confined to the role of housewife and giving birth to

children. In such a situation, marriage is considered as a great responsibility as against necessity of providing good career and future of children, leading to child marriage.

- *Dominant notions of morality, virginity and pregnancy outside marriage etc.*

These are important factors encouraging the practice of child marriage. These are influenced greatly by the importance placed on maintaining 'family honour' and the importance attached to girl's virginity. Hence, in order to preserve the honour of the family and virginity of the girl, marriage is performed at an early age. Parents fear that a girl who becomes pregnant outside of marriage will lose respect and fail to secure a husband later.

- *Marriage as a security*

Parents also say they want to ensure their daughter's safety by entrusting her to a regular male guardian, and that marriage will provide security for their future. They expect that married life will shield girls from exposure to any such physical and physiological vulnerabilities.

- *Adultism<sup>16</sup>*

In Indian society, children are generally considered as lesser human beings who do not have adequate capabilities to take decisions for themselves. Lack of readiness amongst the adults to recognize the rights of children as human rights and the attitude and arrogance of adults in the society to treat children as commodities or objects under their control and they are free to make any decisions; like sale, pledge,

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<sup>16</sup> Adultism is the attitude of adult towards children that considers them as incompetent to take decisions.

abandon and also marry them off at an early age without their informed consent.

### **Lack of Alternatives to Child Marriage**

It is a sorry state of affairs that owing to the lack of opportunities either for further studies or vocational training and nothing else to do, and keeping in view the safety of the girls, families perform marriages of children at early age.

Non - availability and inadequacy of the educational facilities, such as distance from schools, nonexistence of functional toilets have led to girl children dropping out of school early and consequently pushing families to get them married early. This problem is much graver in rural areas as compared to urban areas.

### **In the guise of mass marriages**

Mass marriages also attract the parents to perform marriages of children at early age without any expenditure and also to gain some advantage such as, cash and other benefits. This is particularly so when the parents are poor and belong to scheduled castes, scheduled tribes and other disadvantaged sections of the society. Sometimes in order to gain popularity and mileage from mass marriages, the organisers do not make any serious efforts to avoid child marriage as part of mass marriages and take pride in showing big number of marriages conducted by them.

### **Lack of political will and Poor enforcement of law**

The lack of political will and executive commitment towards enforcing and implementing the provisions of the anti child marriage laws are giving scope to the prevalence of child marriage. It appears that the due seriousness the issue

demands is not attached in relation to the prevention of child marriage by the authorities.

### **Decreasing Sex Ratio**

The imbalance in the sex ratio also encourages parents of young girls to get them married early if they find some suitable match. Even in case of boys, parents find it convenient to perform their marriages whenever they find a suitable girl, irrespective of whether they have attained marriageable age as prescribed by law.

### **Spread of HIV AIDS**

HIV affected parents or parents suffering from terminal illness also desire to get their children married during their life time even before people come to know that they are the children of HIV affected parents.

### **Migration**

Socio-economic problems such as migration also contribute to the prevalence of child marriage. When people migrate from one place to another owing to various factors they want to unburden themselves from the burden of girl child. For example, migrant labourers prefer to perform marriage of the children before migrating as the children cannot be left alone.

### **Other factors**

In addition to the factors mentioned above, there are a number of reasons contributing to either the prevalence of the practice of child marriage or indirectly encourage it by not addressing it. Some cultural clans just follow the practice blindly without even understanding the ramifications. In the cultures where, marriages were traditionally used to settle disputes among conflicting families, the practice has not abandoned even after the changes in socio political

environment . Also, the global community is although aware, is not exerting adequate efforts towards in this direction. It has been widely recognized that if the international community attempts to tackle development problems in States where child marriage is rampant, the practice will persist.

It is apparent from the above analysis that the causes that lead to the practice of child marriages are multiple, complex and interrelated and many of them are embedded in our socio-economic texture and the cultural systems.

### **Consequences of Child Marriage**

The consequences of the child marriages are also equally complex and serious. As mentioned earlier, child marriage is not only detrimental to children's growth and development; it deprives them from natural childhood which they are entitled to by virtue of being children. It is a brutal violation of human rights of children and may actually leave long lasting severe consequences on the lives of the children, family and also the community in general.

There are numerous serious and irreversible consequences which can arise as a result of child marriages ranging from physical, emotional, psychological and other development related issues. The phenomenon of child marriage affects different age groups and gender differently in varied magnitude and scale. Not only children but society and the country also get adversely affected by the prevalence of this practice. Early marriage prevents the development of children to their full potential and thereby denying them effective participation and contribution to the development of the country ultimately.



### **Stunted Development of the Child**

Marriages solemnized among children can actually affect the physical, psychological, social and economic growth of the child and deprive him/her from such development which may have been possible if he/she had got married after attaining legally marriageable age.

- *Deprivation from Educational Facilities*

Child marriage generally leads to termination of education in order to make the girls to take over house hold responsibilities. Instead of reading books in classrooms they are seen washing vessels at home. Child marriage compels young girls who should be going to school, to be confined to the domestic sphere instead. The rewards of a girl child's education are seen as extremely remote to most families. Even if the child is not deprived of the educational facilities, the responsibilities and burden that come along with the marriage make it difficult for them to continue and concentrate on education.

- *Lost opportunities of employment and income*

If educational opportunities are taken away from children at an early age, it will inevitably limit their opportunities for employment and income generation in future. Additionally, coupled with termination of education, the child won't be permitted to work to earn their own money either and hence they don't have any prospect for an independent life. It restricts personal freedom, as they remain dependent on others all their lives.

- *Crippling personality development*

Child marriage by restricting the educational opportunities, especially for the girl child, blights the career prospects of the children and also by isolating them from the outside world upsets the normal course of their personality development. Moreover, this renders women incapable of realizing their full potential which directly reduces their capacity to contribute meaningfully to the development of the society and the country.

## Health Hazards associated to Child Marriage

The health of children and ultimately the entire nation are actually on stake if the practice of child marriage continues.

### ▪ *Effects on the reproductive health*

Early onset of sexual activity after marriage and the persistent pressure on a girl child to conceive can have irreparable and adverse consequences for the health of both the mother as well as the child. In other words, it can mean the endangering of the health of the adolescent due to early child-bearing, repeated pregnancies and the risk that the children born will be sick or may even die in infancy.

Table 4: Mortality Rates in India

Mother's age	Neonatal Mortality	Post neonatal Mortality	Infant Mortality	Child Mortality	Under 5 Mortality
<20	53.5	20.3	73.8	19.7	92.1
20-29	33.4	13.2	46.6	10.4	56.6
30-39	15.5	7.6	23.1	15.6	38.3
<b>State Average</b>	<b>39.9</b>	<b>15.1</b>	<b>43</b>	<b>13.9</b>	<b>66.2</b>

\* Source NFHS – III, 2006-07

According to National Family Health Survey (NFHS) III, children born to mothers under the age of 20 years are much more likely to die in infancy than children born to mothers in the prime childbearing ages. The given table gives details about the neonatal mortality, post neonatal mortality, infant mortality, child mortality and under 5 mortality rates in the state of Karnataka as against the age of the mother. Infant mortality is 74 per 1,000 for teenage mothers, compared with 47 per 1,000 for mothers age 20-29. This table clearly indicates that the infant mortality rate is high for teenage mothers at all

stages. The mortality risk ratio is high for teenage mothers (2.6) when compared to other age groups (0.9). According to State of World' Children (SOWC 2011), nearly 6000 adolescent mothers die every year in India. Chances of infant death are 50% more among mother aged below 20 than those in the age group of 20-40 years.

- *High level of MMR (Maternal Mortality Rates)*

Complications like the ones mentioned above have a direct bearing on the maternal mortality rate and the infant mortality rate. There is a likelihood of woman dying during child birth, many women suffer chronic disabilities after child birth. The chances of girls aged 10-14 dying in pregnancy and childbirth are five times more than that of women's aged 20-24.<sup>17</sup> Since they bear children before they are mature enough to do so, their health is endangered. Additionally, girls who marry younger have less access to quality health care than those who marry when they are older<sup>18</sup>.

- *Maternal Morbidity*

Apart from the above mentioned indicators, there is another consideration that comes into the picture i.e. maternal morbidity. A significant portion of maternal morbidity is associated with the unsafe abortion and complications arising out of it leading to prolonged sickness. Abortion contributes to infection, infertility and mortality among young women in developing countries primarily because the medical services are difficult to access due to economic as well as geographical conditions. According to the United Nations, maternal mortality in India (which indicates the number of women dying in

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<sup>17</sup>United Nations Population Fund (UNFPA) and the University of Aberdeen. 2004. Maternal Mortality Update 004: Delivering Into Good Hands. UNFPA: New York, NY.

<sup>18</sup> NFHS – III, 2006-07.

childbirth or from pregnant-related causes) is 25 times higher for girls under 15, and two times higher for 15-19-year-olds.

- *Extra emotional stress and mental health*

The girls, in spite of not being mature, are required to simultaneously cope with their own and their baby's physiological, emotional and economic needs. Therefore, it is evident that child marriage can have detrimental effects on the physical as well as mental health of the child involved. Child marriage along with lack of education, economic dependence, more so in case of resultant prolonged illness, denial of decision making power and capacity, inequality in the home and sexual exploitation has a negative impact on the personality of the child as a whole, including mental health.

- *Vulnerable Sexual Health*

Another consequence is that marriage exposes adolescents to higher risk of unwanted pregnancies and sexually transmitted diseases. With absolute absence of premarital counseling, there are very low chances of her being aware of the protection for safe sex, and even if she is, it will be unlikely that she would be able to ever use any form of contraception. Child brides typically experience high rates of unprotected sex and are unable to negotiate safer sex with their older spouses.<sup>19</sup> The girl and their children will be susceptible to HIV and other diseases and as a consequence damage her reproductive organs. One prominent reason why married girls may be more vulnerable to HIV is that they may have little knowledge or access to means to protect themselves against it.

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<sup>19</sup> Child Marriage- A Fundamental Violation of Human Rights: Causes and Health Consequences, M.B. Julius.

- *High Infant Mortality and Poor Infant Health*

Children born to teenage mothers also suffer health problems. A child born to a mother in her teens is twice as likely to die before the age of one, as compared to a child born to a mother in her twenties. Marrying as a minor leads to a higher probability of having poorly spaced births and consequently, the infant health is also affected because of low birth weight, premature birth, poorer healthcare and inadequate nutrition. Even if infants survive, they are likely to receive poorer health care and nutrition as a result of the mother's ignorance or inability to feed the child adequately.

- *Effect on the demography*

A high maternal and infant mortality rate has an adverse effect on the demographics of the country with women being unhealthy for the most part and having less participation in the social and political life as well as being less advantageous in the economic arena. Adolescent mothers generally suffer from anemia, high blood pressure, delayed or obstructed labour, complications in pregnancy and weight loss and malnutrition during lactation. Such a scenario leads to a generally unhealthy subsequent generations also.

***Child Marriage is a Violation of Human Rights of Children!***

1. **Right to a free and joyful childhood** is violated when they get additional responsibilities
2. **Right to education** is violated when they are not able to attend schools
3. **Right to development** is violated when they are subject to adult roles and do not get the conducive environment and education
4. **Right to participation** is violated when they cannot say they do not want to get married and with whom and are ill informed about the repercussions

5. **Right to health** is violated because of the early child bearing and associated complications.
6. **Right to equality** (gender) is violated when men take charge of young girls' life.
7. **Right to employment** is violated because of the low levels of education and restrictions on earning a living.
8. **Right to a dignified life** is violated because of subjugation and disempowerment it leads to.

### **Poverty**

Evidence shows that early marriage results in perpetuating poverty. Child marriage tends to reinforce cycles of poverty, especially in rural areas. Child brides lack independent income options and yet are likely to have a larger number of children. Therefore they face severe financial insecurity. This is rather ironic since parents tend to marry off their girl children at an early age in the hopes that it will bring security to the family.

### **Reinforcement of patriarchal social relations and gender discrimination**

Early marriage is associated with women's low social status and social isolation. Girls who have been made to enter into a child marriage often complain of being actively held back from pursuing education. Particularly in cases where there is a large age gap between the child bride and her spouse, she is expected to respect the traditions of the household and prove her fertility as early as possible. Her role as a wife and mother takes precedence over all else and hence eclipses any chance she might have for education. This kind of a preset social stereotype places the girl child in a downward spiral where she is treated as a lesser human.

being who is inferior to her male counterpart. This has a disastrous consequence on her self-esteem and confidence to face the world.

- *Polygamy and young widows*

Studies have indicated that high rates of polygamy also have a direct correlation with the highest age gaps in the world. If a girl is married younger, she is more likely to have a husband with many wives since a large age gap between a child bride and her spouse plays a dominant role in her subjugation and her opinion become immaterial. However, the worst thing associated with early marriage is child widowhood. Large age gap also often results in young brides becoming young widows scarring them for whole of their life. Sometimes they become widows even before the marriage is consummated.

**Young Victim Narrated her Tale of Woe**

Eighteen year old Siddamma did not know what marriage meant when she tied the nuptial knot. She is now a widow living with her mother after being thrown out by her in laws. During the district level consultation Siddamma told her heart touching story. She said, "I had to get married when I was 14 because of pressure from my father, who was a heart patient. He died within a year after my marriage and my husband died because of TB last year. Now I am 18 years old and I have to look after my mother also. How do I lead my life now?"

In orthodox Hindu Society, it is difficult for the widows to get remarried and they become instruments of social discrimination and isolation, with no means to survive and vulnerable to social malpractices, illicit relations and even prostitution.

- *A matter of fate not choice*

The child bride has neither the freedom nor the maturity to choose her life partner since these marriages are arranged by the family or more specifically by the parents of the child often ending up in compromising the childhood of a child by forcing her into an institution and relationships that she isn't physically or mentally ready to take up and deal with. These marriages do not involve the conscious choice of the bride and even if it does it is impossible for her to take an informed decision because of her age and lack of information available to her.

- *Physical and sexual vulnerability*

Young and newly married women are powerless, secluded and voiceless. Their choice or say is very limited when it comes to sexual behavior. Marital status further legitimizes sexual activity. Marital rape is one of the extreme forms of institutionalized violence against married women. In child marriages the incidence of child marriage is very high and it is a silent form of oppression and a violation of her reproductive rights. This becomes further serious given that the husband is exempted from criminal liability for rape if the girl is fifteen or above fifteen years old.

The pressure of social acceptance and economic security forces a girl child to conceive immediately after marriage. This not only impairs the reproductive health of the girl child but also violates her right to live with dignity as she is being treated as a mere means to satisfy her husband's needs and family expectations. The early age and lack of awareness about her rights makes the girl child more vulnerable to such ill treatment and humiliation. The structures of patriarchy, which are responsible for creating cultural systems in the favour of child marriages, is also responsible for the fostering gender norms which support the male dominance in a sexual relationship.



Physical, sexual and mental harassment of the child brides may result in a disastrous marital life which often ends in divorce or abandonment of wives. Studies have shown that the divorce rates are rather high in early marriages when compared to adult marriages.

### **Sustenance of Gender Divide and Rise in Violence and Sexual Abuse**

Early marriage of girls invariably results in loss of autonomy of the women. In patriarchal societies, child marriage reinforces male dominance by confining the girl child to the domestic sphere from a very early age and restricting her participation in wider society. There is normally least or no participation in the decision making also, be it with regard to the household, family relations or even for herself. This also leads to a situation where abuse and violence against married women are rampant.

In some cases she almost remains as prisoner confined to her in laws' house with limited access to means of communication with the outside world. So much so that girls who marry younger are more likely to accept domestic violence as the way of life. In such relationships of dominance, abuse is present in physical, emotional as well as sexual form. Child brides often show signs symptomatic of child sexual abuse and post-traumatic stress.

### **An Obstacle to National Development**

Although child marriage affects the lives of children and the families at micro level, its macro impact for the demography, health status as well economy of a nation are equally, if not more, severe. For a society and a nation the child marriage reinforces poverty cycles, and increases population pressure, health care costs resulting in lost opportunities of human development. Comparatively low age at marriage in various states in India is also realised as a dominant cause

for the rise in population which hinder the development in all fields. Hence, continuation of the practice of child marriages can render efforts made by a nation in the fields such as health care, empowerment of poor and improving gender balance, as futile and put the country at a lower rung of development in the world. This is detrimental to the wellbeing of society, nation and civilization, as a whole.

An analysis of the consequences of child marriage points towards the pressing nature of the demand to take effective steps to curb this phenomenon.

#### **In Brief**

The practice of child marriage immensely contributes to numerous social, economic and cultural problems in the society. It breeds into acute poverty, illiteracy malnutrition, infant mortality, low life expectancy, perpetuation of blind beliefs and customs, and above all the gross violations of human rights of children

The state-wide consultations conducted by the Core Committee brought to light the magnitude of child marriage practice in some districts particularly in Bellary, Belgaum, Dharwad, Gadag, Koppal, Raichur, and Chamarajnagar. The Committee, while interacting with the primary stakeholders also found that the implementation of the laws and rules framed for the abolition of Child Marriages and efforts of Governments are not having the desired effective at the ground level.

In the course of debates and discussion on the issue, the Committee identified various reasons for the rampant practice of child marriage in the state. Some of the major causes identified by the committee are as follows.

*Poverty and Economic interdependence:* Poverty is a critical and central factor that encourages child marriages. Rather, it is one of the reasons behind child marriage practice. Wherever poverty exists, a young girl may be regarded as an economic and social burden and her marriage is believed to benefit the girl child as well as her family, both socially and economically. The poverty and low income pushes family to a helpless situation, and the recourse is to ensure the so called economical 'safety' of their daughter through early marriage.

Consequently, the most common and prevalent practice among vulnerable and poor families are early marriage of minor daughters. This is a rampant practice in the northern part of Karnataka. Poverty also compels family members and parents to perform early marriage either during mass marriages or during any other elder sibling's marriage in the family.

*Lack of Reproductive Health Education:* The psychological and health need of adolescent girls and their well-being is important for a child's development. There are enough research evidence to show that prevention of child marriage requires equipping girl children with adequate information about reproductive health, sexuality, capacity for sound and healthy decisions in relation to these aspects on one hand and simultaneously educating their family members, parents and community at large to understand the ill effects of child marriage and thereby creating an environment in which alternatives to early marriage are supported.

The Core Committee recognise the lack of adequate measures to educate the adolescent girls about the importance of reproductive health education and its linkage to prevention of early marriage and enabling the child to make a decision to delay the marriage.

*Customs and Blind beliefs in the family and society:* The conservative culture and blind believes combined with patriarchal power relations has attached high values on female virginity in Indian society since very long. It is perceived as a dishonour to families if a girl going is not virgin at the time of her marriage. Hence, parents start searching for a groom for their daughter even before her puberty. For instance, the Uppar community in Chamaraj Nagar district believes that girls above the age of 18 are ineligible for marriage and girls above 18 years are rejected as brides in the community.

The socio-economic discrimination, issues of family and personal honour, relationships within the caste and community, customs and beliefs, religious practices perpetuate the child marriage practice.

The caste hierarchy in India also has a role to play as the caste system which is based on birth and heredity does not allow marriages between members of different castes. Out of sheer necessity to preserve itself, caste groups resort to child-marriage.

### **Lack of Legal Awareness**

While marriage is a celebration in India, child marriage is reflective of a society insensitive and indifferent to its children.

According to the Prohibition of Child Marriages Act 2006 child marriage is an offence and punishable under the law. It is illegal for parents or advocates of child marriage to marry children below marriageable age.

The Core Committee found that more often the law is not enforced, and family members and parents marry their daughters before 18 years. Creating wide spread awareness about the legal consequences of child marriage is one of the important strategies to put an end to this harmful practice.

### **Illiteracy and inadequate education facilities**

Educated women are more likely to delay marriages, ensure their children are immunised, better informed about nutrition for themselves and their children, and choose safer birth spacing practices. Their children have higher survival rates than those of uneducated women and tend to be better nourished. Educating girls and women is not only pivotal to improving maternal health, but it also has tangible benefits for families and societies. The practice of Child Marriage denies basic rights to quality education and thereby denies freedom from violence, abuse and exploitation.

Contrary to this, every child has fundamental right to education and the state has an obligation to provide such an opportunity for the child to receive good quality of education in the mainstream school /college at least until the age of 18 years. The Core Committee has recognised the inseparable linkage between quality education and prevention of child marriage. If the state is able to provide quality education to all children in general and girl children in particular up to 18 years the practice of child marriage will be completely rooted out.

Further, the Committee has recognised education as an important strategy to prevent child marriage and strongly recommends that quality education to all girl children up to class XII would not only address the problem of child marriage but have an overarching effect on all other related problems such as illiteracy, poverty, lack of skilled work force etc.

### **Consequences of Child Marriage**

The Committee while deliberating on the causes of child marriage has also identified the consequences of child marriage. The Committee recognises that the practice of child marriage has many detrimental and harmful consequences on the young child. These consequences could be classified as physical, developmental, psychological and social.

**Physical Consequences:** When a girl child is married at an early age she is likely to be forced into sexual activity with her spouse who is usually much older than her. As the bride remains physically and sexually immature it has serious health consequences. The child is also exposed to domestic violence and ill equipped to protect herself.

**Developmental Consequences:** Child marriage limits the development of a girl child. Early marriage of a girl child results in a low level of education and life skills, increases vulnerability to abuse and poor health and thus results in the vicious circle of poverty.

**Psychological Consequences:** A girl child married in her early age has to carry the burden and huge responsibility of the family ad wife and mother. Since the young girls are not physically, emotionally not prepared for this the heavy burden has a serious impact on their psychological well being.

**Social Consequences:** Early marriages have also been found to have connections with abandonment and increased levels of divorce. Child brides often face the danger of being widowed with severe consequences their development. Some brides are reduced to slaves of the family they are married into.

**Health:** There are serious and irreversible consequences on the health of children who marry very young. Early and repeated pregnancies damage the reproductive health of the girls and are the major reasons for high maternal and infant mortality and morbidity in India. This also gets reflected in the overall health status of the entire country.

## Chapter III

# Law and Policy Framework

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*One of the greatest achievements of progressive democracies in the last century is to have recognized the rightful place of the child in the societal fabric. Both in the international forum as well as domestic policies, positive action for the child's welfare is evidenced by way of various United Nations Conventions, State legislations and judicial interpretations. The efforts towards preserving environment and bringing about sustainable development are aimed at giving our children what is naturally theirs. Child centric human rights jurisprudence has come to be a new dimension to the larger role of law in social engineering.*

The pervasiveness of the phenomenon of the child marriage across various socio economic cultural milieus has evoked responses in varied degree by the international community as well as the national governments. In many countries there has been an increasing recognition that child marriages are detrimental to the entire nation's wellbeing. Legislative measures, although may not be a complete answer and panacea for this, have to be put in place to keep a check on this social evil and prevent violations of human rights of children which they are entitled to enjoy otherwise.

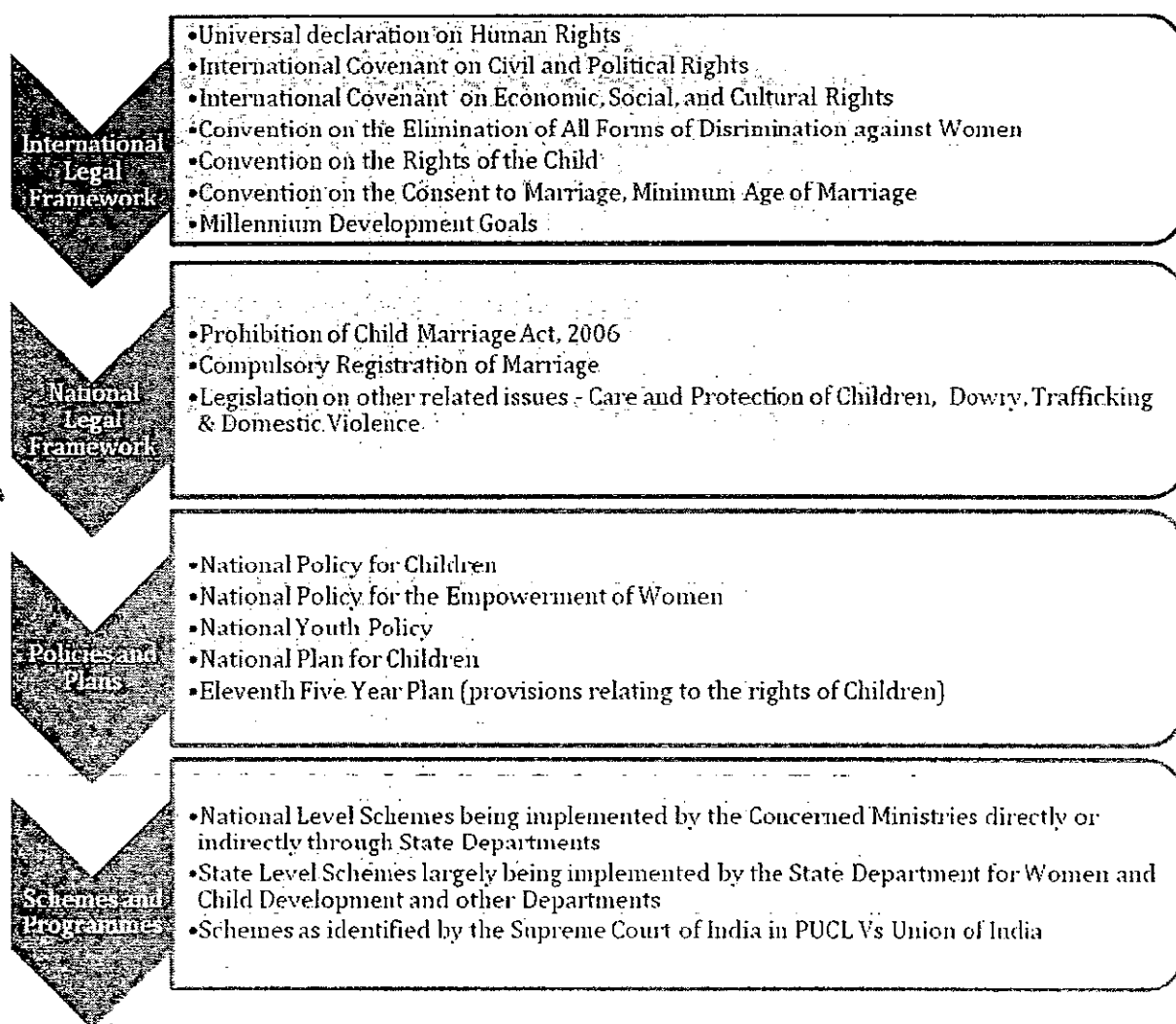
There has been a range of responses by the law and legal framework, both at the national as well as international level, through which attempts have been made to exterminate the harmful practice of child marriage. International human rights law, particularly, Universal Declaration of Human Rights (UDHR), Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC), discourage the practice of child marriage on the basis of the principles of human rights. Further, many countries,

including India, have expressed their commitment by adhering to these conventions and also by making relevant laws based on their respective internal socio economic situations.

In addition to aforementioned conventions, International Covenant on the Civil and Political Rights (ICCPR), International Covenant on Economic Social and Cultural Rights (ICESCR), Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages as well as the Millennium Development Goals (MDGs) also have bearing on the practice of child marriage and its eradication.

The binding legal framework in India in the form of legislation is of utmost importance in the pursuit of eradication of heinous practice of child marriage. However, an overview of the legal framework points towards the need to revisit the existing provisions with a view to strengthen them by plugging the loopholes and removing the deficiencies to make them more effective in dealing with the issue, particularly at the grass root level.

## Legal Commitments of India towards Prevention and Eradication of Child Marriages





## **International Legal Framework**

Child marriage is a practice that is gravely detrimental to the interest of a child, more so in case of a girl child where she has to face many unwanted and undesirable conditions / situations in her household. She is physically and emotionally not ready for the circumstances she is forced into by her family members. In most cases she is grossly unaware of the circumstances and is offered an untrue and rosy picture. In cases where she is aware or unwilling, she is simply vetoed. This in most cases leads to serious consequences as stated in Chapter 2 of this Report. International conventions, standards and norms based on the principles of universality of human rights have taken cognizance of the sad state of affairs with regards to children, although initially it has been more focussed on the fundamental freedoms such as equality and the right to free choice.

### ***The Universal Declaration of Human Rights (UDHR), 1948***

10<sup>th</sup> December, 1948 was remarkable day in the modern history of mankind. That is the day on which the United Nations made declaration on human rights. This declaration was not a sudden or miraculous event. It was the effect of a cumulative and continuing movement of human conscience and changes in thinking that went on over a long period. The UDHR has been a milestone in the journey of granting international recognition to the conceptual understanding of 'human rights'. It was the effect of a cumulative and continuing movement of human conscience and changes in thinking that went on over a long period. It strongly advocates the idea of non-discrimination and aims to secure equal rights to all. The UDHR did make an effective move towards curbing child marriages as can be seen in the following article:

#### **Article 16: Universal Declaration of Human Rights**

1. *Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.*
2. *Marriage shall be entered into only with the free and full consent of the intending spouses.*
3. *The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."*

The UDHR can be said to have an effective incorporation curbing child marriage where it embodies the element of 'consent' as an essential to a valid marriage. Free and full consent of the contracting parties to the marriage is only possible if the parties possess the mental capacity to understand the institution they are entering and the changes that follow. This is not possible before they attain the age of majority.

#### **International Covenant on Civil and Political Rights (ICCPR), 1966**

This Covenant was adopted by the United Nations General Assembly on 16<sup>th</sup> December 1966 and the same was entered into force on 23rd March 1976. It elaborates the civil and political rights and freedoms spoken about in the Universal Declaration of Human Rights.

Article 23 stresses upon the free and full consent as an essential component to a valid marriage. The consent of the parties to a marriage can be said to be valid if both the parties have attained the marriageable age (i.e., 18 years for the bride and 21 years for the groom in India as per the Prohibition of Child Marriage Act, 2006). Hence, this article can hence be considered as an initial measure to obstruct child marriage. State parties to this Covenant are required to incorporate

such laws within their domestic legal structure so as to give effect to this article. Furthermore, this article talks about equal rights and protecting a child in matters relating to marriage or its dissolution.

**Article 23** of the Convention has an impact on child marriage where it stresses upon the necessity of informed 'consent' and equality of rights in a marriage.

1. *The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*
2. *The right of men and women of marriageable age to marry and to found a family shall be recognized.*
3. *No marriage shall be entered into without the free and full consent of the intending spouses.*
4. *States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children."*

Although this Article helps in preventing and eradicating child marriage, it does not expressly prohibit a child marriage. It would have been more effective had there been a specific provision prohibiting child marriage.

#### ***International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966***

This Covenant is designed to secure the basic economic, social and cultural rights of every individual. State parties are accordingly required to enact laws within their domestic legal systems to give effect to the provisions of this Covenant.

Besides embodying the element of 'consent', this instrument also talks about special protection being accorded to the mother, which necessitates a

consideration of the age-factor. Adolescent girls married before the marriageable age, are at a greater risk as compared to those married after they attain prescribed age. This is because girls married at a very young age lack the bargaining power in the household, have an inadequate understanding regarding health-related matters and are denied any say when it comes to child bearing. More so, in India they are required to be dutiful to their husbands and bear a child when they are asked to and not when they choose to. In most cases, they are hardly aware of the choice that would have been available had they been married after they attain a certain age or maturity level. These unfortunately lead to higher rates of child and maternal mortality primarily because of the fact that a girl before a certain age is not physically suited to bear a child. If forced into motherhood at this point of time, it may invite extreme risks for both the mother and child. These are facts often overlooked by families when they give a girl child in marriage. Article 10 of ICESCR has therefore very strong impact on child marriage especially where it intends to secure the health of the mother and special measures being taken on behalf of children without any form of discrimination. The practice of the non-discrimination principle would result in a bar on child marriage irrespective of the sex or the economic status of the child.

**Article 10** of this Covenant deals with protection of children from economic and social exploitation and also supports prevention and eradication of child marriage

- 1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*
- 2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.*

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

"Protection and assistance should be accorded to the family. Marriage must be entered into with the free consent of both spouses. Special protection should be provided to mothers. Special measures should be taken on behalf of children, without discrimination."

### ***Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979***

This Convention is specifically designed to eliminate all forms of discrimination against women. The member States are accordingly required to respect and act accordingly by taking suitable steps in this regard.

This convention aims at providing 'same' rights to women as are available to men. Article 16 seeks to ensure equal rights of women in all matters relating to marriage and family relations. This article has made an immensely important move towards eliminating child marriage where it has legally invalidated such marriages and has required states to enact laws prohibiting child marriages by prescribing age limits and ensuring registration of marriages. This implies that a woman must be married at an age when she is capacitated to choose her spouse. She should have the ability and liberty to choose her husband and should also have a right to say no to child bearing if she is not ready for the same. These can be duly taken care of if she has attained the marriageable age. Hence, this instrument, if adhered to in letter and spirit, it shall be both effective and useful in prevention child marriage.

#### **Article 16: CEDAW**

*1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:*

- a) The same right to enter into marriage;*
- b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;*
- c) The same rights and responsibilities during marriage and at its dissolution;*
- d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;*
- e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;*
- f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;*
- g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;*
- h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.*

*2. The 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.*

### ***Millennium Development Goals (MDGs), 2000***

The eight Millennium Development Goals (MDGs) are set to be achieved by 2015 for meeting the world's main development challenges. The MDGs are drawn from the actions and targets contained in the **Millennium Declaration** adopted by 189 nations and signed by 147 heads of state and governments, including India, during the UN Millennium Summit in September 2000. These MDGs are divided into 21 quantifiable targets that are measured by 60 indicators.

#### ***Goal 4: Reduce child mortality***

- Target 4A: Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate

#### ***Goal 5: Improve maternal health***

- Target 5A: Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio
- Target 5B: Achieve, by 2015, universal access to reproductive health

A glance at these goals, especially the fifth goal gives us an idea as to the efforts to be made towards curbing child marriage. This goal by way of the envisaged targets, has focused on the issue of maternal health and the childbirth. To ensure these, it is necessary that women are married at an age when they are physically ready and also aware of the health related issues that come along with marriage and pregnancy. When married at a young age, girls are usually uninformed and lack an educative insight into the health related issues of childbirth and early pregnancy and their consequences. However, this goal though does not expressly talk about curbing child marriage; it has an inbuilt impact on minimizing child marriages.

***Convention on the Rights of the Child, (CRC), 1989***

The General Assembly, by its resolution 44/25, adopted the Convention on the Rights of the Child, which was opened for signature in New York on 26 January 1990 and came into force on 2<sup>nd</sup> September 1990. The Convention has been ratified by all countries with the exception of the United States and Somalia.

While child marriage has not been dealt with specifically as an issue in the CRC, given that it has ramifications for the realisation of 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 – which are exhaustively addressed by the Convention and the Committee on the Rights of the Child constituted thereunder. The relevant Articles in the CRC are:

***Article 1:*** A child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

***Article 2:*** Freedom from discrimination on any grounds, including sex, religion, ethnic or social origin, birth or other status.

***Article 3:*** In all actions concerning children ... the best interests of the child shall be a primary consideration.

***Article 6:***

- 1.*** States Parties recognize that every child has the inherent right to life.
- 2.*** States Parties shall ensure to the maximum extent possible the survival and development of the child

***Article 12:*** The right to express his or her views freely in all matters affecting the child, in accordance with age and maturity.

***Article 19:*** The right to protection from all forms of physical or mental violence, injury or abuse, maltreatment or exploitation, including sexual abuse, while in the care of parents, guardian, or any other person.



*Article 24: The right to health, and to access to health services; and to be protected from harmful traditional practices.*

*Articles 28 and 29: The right to education on the basis of equal opportunity.*

*Article 34: The right to protection from all forms of sexual exploitation and sexual abuse.*

*Article 35: The right to protection from abduction, sale or trafficking.*

*Article 36: The right to protection from all forms of exploitation prejudicial to any aspect of the child's welfare.*

Early marriage deprives a girl of her adolescence. In many traditional societies, the idea of an adolescent period between puberty and adulthood is alien and a girl who menstruates can bear a child, and is therefore 'a woman'. This contradicts the fact that the CRC covers everyone up to age 18 and regards childhood as a process of development – one that does not end with a definitive physical maturity marker. Also, other rights such as right to good health, quality education, choice and participation in the decision making are also compromised if the marriage is performed before the child attains 18 years of age.

The CRC Committee, constituted by the convention, also takes the view that, "in cases where girls are considered adults before the prescribed age for marriage in law, they would be deprived of the comprehensive protection of the CRC". But the problem is that the CRC lacks an express provision specifically banning child marriage, which if added will be more effective in deterring child marriages.

***Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1964***

This Convention reaffirms the consensual nature of marriages and requires the state parties to establish a minimum age by law and to ensure the registration of marriages. Article 1 reads:

**Article 1:**

*1. No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.*

*2. Notwithstanding anything in paragraph 1 above, it shall not be necessary for one of the parties to be present when the competent authority is satisfied that the circumstances are exceptional and that the party has, before a competent authority and in such manner as may be prescribed by law, expressed and not withdrawn consent.*

**Article 2:** *State Parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.*

**Article 3:** *All marriages shall be registered in an appropriate official register by the competent authority.*

This Convention does not ban child marriage specifically or expressly. Although importance has been given to the 'consent', requiring prior consent does not usher the end of child marriages, because the consent can be either uninformed or ill-informed in the case of a child. Also, under Article 2 the competent authority may dispense with the minimum legal age required for marriage if there are 'special reasons'. The competent authority's own prejudices could allow for the

perpetuation of discriminatory traditions thus allowing early marriages. The Convention does not definitively ban child marriage, but makes the registration of marriages compulsory.

### **Legal Position with regard to Child Marriage in India**

India has endorsed most of the international instruments aiming at the realisation and protection of rights of the children and women, however, the constitutional provisions pertaining to the rights of children are of utmost importance which also lay down the foundation for realisation of these rights.

#### ***Constitutional provisions***

Following provisions of the Constitution of India have bearing on the rights of the child.

1. **Article 14** provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
2. **Article 15(3)** provides that, "Nothing in this article shall prevent the State for making any special provision for women and children."
3. **Article 21** provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.
4. **Article 21A** directs the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
5. **Article 23** prohibits trafficking of human beings and forced labour.
6. **Article 24** prohibits employment of children below the age of fourteen years in factories, mines or any other hazardous occupation.

7. **Article 25-28** provide freedom of conscience, and free profession, practice and propagation of religion.
8. **Article 39(e)** and **(f)** provide that the State shall, in particular, direct its policy towards securing to ensure that the health and strength of workers, men and women and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and that the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that the childhood and youth are protected against exploitation and against moral and material abandonment.
9. **Article 45** envisages that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

This constitutional commitment has also found place in the policy statements, domestic legislations, plans, programmes and schemes at the national and state level. In the context of prevention and eradication of child marriage, the PCMA 2006 and the Karnataka State Rules framed under the Act are in place and are enforceable. Persons violating the provisions of the Act are liable to punishment. Besides there are other policy documents, plans and schemes etc. at both the central as well as state level which are aimed at realisation of rights of children.

#### ***National Policy for Children, 1974***

In 1974, the Government of India adopted a National Policy for Children, declaring the nation's children as 'supremely important assets'. This policy lays down recommendations for a comprehensive health programme, supplementary nutrition for mothers and children, nutrition education for mothers, free and compulsory education for all children up to the age of 14, non-formal pre-school

education, promotion of physical education and recreational activities, special consideration for the children of weaker sections of the population like the scheduled castes and the schedule tribes, prevention of exploitation of children and special facilities for children with handicaps.

The National Policy for Children 1974 is the first policy document concerning the needs and rights of children. It is a very brief document that covers few but does not cover large number of issues faced by children in India. It recognises children to be a supremely important asset to the country. The goal of the policy is to take the necessary steps in ensuring the constitutional provisions for children and the UN Declaration of Rights are implemented. It outlines services the state should provide for the complete development of a child, before and after birth and throughout a child's period of growth.

Some of the aims that are relevant in the context of the issue of child marriage are: Children should be protected from abuse, neglect, cruelty and exploitation. Existing laws need to be amended to take into account so that the best interest of the child is always first priority. The policy outlines that programme formulation and implementation should give priority to child health, nutrition, orphan and destitute children, crèches and children with disabilities.

#### ***The National Plan of Action for Children, 2005***

The National Plan of Action for Children, 2005 promises to ensure basic rights to all children under the age of 18 years, where the Government would have the prime responsibility to guarantee an environment for the growth, development and protection of children. The Plan has been divided into

1. "Child survival" dealing with Child health, Maternal health and Nutrition;

2. "Child development" dealing with Early childhood care and education, Rights of the girl child, Adolescents, Children with disability, Child and environment and Education;
3. "Child protection" dealing with Children in difficult circumstances, Children in conflict with law. Sexual exploitation and child pornography, Child trafficking, Combating child labour and Children affected by HIV/AIDS;
4. "Child participation" and
5. "Mobilising resources, Implementation of the plan and monitoring".

If this Plan of Action is implemented effectively as envisaged, it will certainly help in preventing child marriages and eradicating its practice within a reasonable time.

With special focus on the child marriage issue, the introductory part of the Plan mentions that the abolition of female foeticide, female infanticide and child marriage is required in order to improve the development and protection of girl children. Under the maternal health section, the Plan speaks of preventing and progressively eliminating child marriage and the practice of under-age child-bearing caused by the non-enforcement of the Child Marriage (Restraint) Act.

However, the relevant section of this document is the one on the "Rights of the girl child" which defines the goal of the Plan as being to eliminate child marriages by 2010. The corresponding strategies to be taken up to pursue this goal would be to implement and enforce laws protecting rights of the girl child through the generation of social support and invoking necessary action.

Further, under the "Adolescents" section, the goal of the Plan is stated as to eliminate all the child marriages by the year 2010. Although this has not been possible until now because of various reasons.

Priority Area	Goal	Key Strategy Stipulations
Protection of the Rights of the Girl Child	<b>Elimination of Child Marriage by 2010</b>	<ul style="list-style-type: none"> <li>Advocacy through social, political and religious leaders and through all government programmes to change attitudes and practices discriminatory towards girls.</li> <li>Enforce laws that protect the equal rights of the girl child by generating social support and through other necessary action.</li> <li>Encourage and support non-government organizations and community based organizations to promote positive attitudes and practices towards the girl child.</li> <li>Take affirmative action for removal of gender discrimination against the girl child and inform and sensitize society about the traditional and customary practices which are harmful to the girl child.</li> <li>Promote gender sensitization among all those in authority, including the judiciary, police and local authorities and members of the general public.</li> <li>Develop and promote day care services in order to relieve the girl child from sibling care responsibilities. This will enable her to access opportunities for her own development.</li> <li>Take measures to ensure that all girl children receive holistic health care and protection including preventive and curative services covering their health at all ages, including reproductive health information and services.</li> <li>Address nutrition discrimination against the girl child through sensitization, awareness and outreach programmes to ensure that she has equal access to food allocation within the home.</li> <li>Take preventive, protective and rehabilitative measures to address the greater vulnerability of the girl child to economic and sexual exploitation.</li> </ul>
	Assurance of equality of status for girl child as an individual	
	Ensure survival, development and protection of the girl child and to create an environment wherein she lives a life of dignity with full opportunity for choice and development	
	Stop sex selection, female foeticide and infanticide	
	Protect the girl child from deprivation and neglect and ensure equal share of care and resources in the home and the community and equal access to services.	
	Take measures to protect girl children from any treatment which undermines their self esteem and causes their exclusion from social mainstream	
	Equal opportunity for free and compulsory elementary education to all girls.	

The provision relating to the development of adolescents is also important in the context of prevention of child marriage, which talks about incorporating measures to make the process of abolition of child marriage more effective and implementation-friendly. Another important aspect of the Plan is the inclusion of NGOs as well as the community itself, in supporting the cause against child marriage.

#### ***The 11th Five Year Plan and the Issue of Child Marriage***

The 11<sup>th</sup> Five Year Plan as released by the Ministry of Women and Child Development, Government of India, with the fundamental objective of reviewing strategies and programmes for the protection, welfare and development of children. One of the priorities in the 11<sup>th</sup> Plan has been to empower the girl child multi-dimensionally by seeking to uphold its dignity and security in their family as well as in the society, with utmost focus on social justice.

This Plan also talked about amendments to be brought to the Prohibition of Child Marriage Bill. The Plan also emphasised on the need for States to possess a special child marriage prevention cell preventing solemnization of child marriages, and subsequently providing counselling services. In order to prevent the happening of child marriages, this 5 year Plan suggested the initiation of advocacy and sensitization programmes even involving multi-media campaigning should be undertaken to cater to all sections of the society. The Plan reaffirmed that by prohibiting child marriages, the society would be ensuring better health of the girl child as well as facilitating higher education, economic productivity due to well-designed skills.

In the context of the issue of child marriage, the Plan reiterated that the objective of the state would be to ensure that schools, *Balika Sanghas* and Youth Groups impart compulsory education on reproductive health. When the registration of



marriage is made compulsory/mandatory, by appropriate law by the states and it is effectively enforced, it will check the performance of child marriages in as much as no child marriage can be registered. The party violating the law and performing child marriages will take the consequences. This may act as a deterrent factor in prevention of child marriages. In the state of Karnataka such law is already in operation but the deficiency is, it is not effectively enforced<sup>20</sup>.

The Plan promised to overcome the obstacles to girls' education like domestic/sibling responsibilities, child labour and preference to child marriage over education. The Plan also took note of the fact that while the marriageable age for women has increased from 15.5 years to 19.5 from 1961 to 1997, yet 44.5% of girls are still being married off before the age of 18 which results in early pregnancies, affecting negatively the health of the pregnant child as well as the child born. In view of tackling such issues, the Eleventh Plan attempted at compulsory registration of marriages, calling for the verification of age at the time of marriage. On the other hand, it also cautioned that the decreasing sex ratio and annihilation of the girl child would lead to a spiral of child marriage rates.

#### ***National Policy for the Empowerment of Women, 2001 (NPEW)***

This policy adopted in 2001 with several goals set to be accomplished by 2010, sought to bring about advancement, development and empowerment of women. One of the core objectives identified by the Policy was the "elimination of discrimination and all forms of violence against women and the girl child". The policy recognized a special need to have a holistic approach to women's health which includes both nutrition and health services catering to the needs of women and the girl at all stages of the life cycle. The Policy proposed to make registration of marriages compulsory so that good and accurate data at micro level is available

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<sup>20</sup> The Karnataka Marriages (Registration and Miscellaneous Provisions) Act, 1976 and State Rules 2006 are enclosed as Annexure 15.

to effectively meet the problems of early marriage. The Policy had set 2010 as the deadline to eliminate child marriages through spread of education, compulsory registration of marriage and special programmes, which help in delaying the age of marriage. But, unfortunately it has not happened.

Further, elaborating on the rights of girl child, the policy aims at eliminating all forms of discrimination against girl child and violation of her rights "by undertaking strong measures both preventive and punitive within and outside the family." The Policy focused on the strict enforcement of laws against prenatal sex selection and the practices of female foeticide, female infanticide, child marriage etc. Ancillary to the issue of child marriage is also the need for education which will have direct and indirect impact on child marriage. The Policy seeks to address that as well by proposing equal access to education for women and girls.

Considering the fact that 2010 is already over, still the goals and targets sets by this policy have not been achieved due to various reasons and shortcomings. In this view there is a need for focused attention and vigorous action on the issue of child marriage and it needs to be dealt with specifically, strongly and firmly.

### ***The National Youth Policy, 2003***

The National Youth Policy, 2003 is a comprehensive document which seeks to involve the youth of the country in developmental processes by developing them socially, culturally and economically. The youth targeted through the Policy are from the age group 13 to 35 years, through the respective sub-groups 13-19 years and 20-35 years. The Policy means to showcase the commitment of the country to the overall development of the youth by preparing them for charging ahead towards national reconstruction and social transformations in the future. As the Policy itself explicitly states, its objective is to stimulate the youth to rise up to global challenges through their contribution to the well-being of the community.

*Article 5 of the Policy states that the Policy aims at:*

- (a) Reaching higher educational levels and expertise through the aptitudes of the youth and thus improving access to employment opportunities;*
- (b) Providing adequate nutrition for the complete potential development of the youth through good health, protection from diseases and unpleasant habits;*
- (c) Developing youth leadership in programmes of national development*
- (d) Giving equal opportunities to everybody, without distinction of "race, caste, creed, sex, language, religion or geographic location"*

This policy specifically focuses on the youth in the age group of 13 to 19 years, developing them socially, culturally and economically. It may to some extent help in prevention of child marriages.

### **Child Marriage Restraint Act, 1929 (CMRA)**

In India, as early as in 1929 Child Marriage Restraint Act was brought into force. This Act defined a child as a person, if a male, who has not completed twenty one years and if a female, who has not completed eighteen years. The Act held performing, conducting or directing any child marriage as punishable. 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.

The Act did not make child marriage itself invalid. The Act only had the objective of restraining the solemnization of marriages and not its prevention and prohibition. Further, the procedures under the Act were also not convenient to follow neither did the legislation identified the authorities in charge of prevention

of child marriages. Further, the Act declared offence cognizable only for the purpose of investigation otherwise it would have proven to be a major deterrent for the solemnization of child marriage. Also, the penalty envisaged in the Act was rather meager and disappointing. The maximum punishment for such grave offence was simple imprisonment, which could extend to three-months, and a fine of Rs.1000/- only. Under the Act preparation, negotiation, abetment had not been made punishable

The Act did not have provision for mandatory registration of marriage and non-registration of the marriage did not affect the validity of the marriage.

Owing to aforementioned reasons, amongst others, the CMRA having failed to serve the purpose was replaced by The Prohibition of Child Marriage Act, 2006.

### **The Prohibition of Child Marriage Act, 2006 (PCMA)**

To overcome the shortcomings of Child Marriage Restraint Act, 1929 (CMRA) the Government of India enacted the Prohibition of Child Marriages Act, 2006 (PCMA), which received the assent of the President of India on 10 January, 2007 and it came into force on the 1<sup>st</sup> November 2007. The Child Marriage Restraint Act has been repealed with the introduction of the PCMA. This Act is an improvement over the 1929 Act. According to its Preamble, it is an Act to "*provide for the prohibition of solemnisation of child marriages.*" However it attempts to ensure using a more nuanced method than merely penalising those involved in a child marriage as was done under the Child Marriage Restraint Act, 1929.

The Act also defines a '*child*' as a male who has not completed twenty one years of age and a female who has not completed eighteen years of age. Therefore if either or both the contracting parties to a marriage is a child as per this definition, the marriage is considered as a '*child marriage*'.

***Voidability of marriage at the option of child:*** The legislation makes child marriage voidable at the option of contracting party who was a child at the time of marriage. Child can file a petition for annulling marriage at the district court; if he/she is a minor, through guardian or next friend along with the Prohibition of child marriage Officer. Petition is to be filed within two years of attaining majority. According to the Act no order for nullity 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.

***Maintenance and Residence for the Female Child:*** Act makes a provision for maintenance and residence to female contracting party to child marriage. If the child marriage is cancelled or nullified, 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.

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.

The Act also makes provision for custody and maintenance of children of child marriage. While making an order for the custody of a child, the welfare and best interest of the child shall be the paramount consideration.

Other party to marriage may be given access to the child in such a manner as may best serve the interest of the child, and such other orders as the district court may in the interest of the child deem proper. 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 guardian.

The district court has power to modify the orders of custody and maintenance if there is any change in the circumstances.

***Legitimacy of children:*** Children of child marriage are deemed legitimate irrespective of the fact that the marriage has been annulled by a decree of nullity of marriage.

***The court to which the petition should be made:*** The appropriate forum is the district court where the defendant or child resides, or where the marriage was solemnized or where the parties last resided or where the petitioner is residing on the date of presentation of petition.

***Punishment:*** The punishment for a male adult above 18 years of age, who contracts a child marriage, shall be rigorous imprisonment which may extend to two years or fine upto one lakh rupees or both.

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 reason to believe that the marriage was not a child marriage.

If parents, guardian any other person any member of an organization or association of person, do any act or negligently fail to prevent, and/or attend/participate in the child marriage, they shall be liable to upto two years of rigorous imprisonment and fine upto one lakh rupees.

***Presumption:*** It is 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 solemnized.

***Marriages to be null and void in certain cases:*** Sec.12 further lays down circumstances in which the marriage of a minor child is to be void. That is where the child

- (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 purpose.

***Power of Court to issue injunction to stop conducting of child marriage:*** Sec. 13 gives the power to court to issue injunction prohibiting child marriages in certain circumstances.

- On application by the Child Marriage Prohibition Officer or on receipt of information through a complaint or otherwise from any person, when satisfied that a child marriage in contravention of this Act has been arranged or is about to be solemnized, the Magistrate shall issue an injunction against any person including a member of an organization or any association of persons prohibiting such marriage.
- On a complaint by any person having knowledge or reason to believe, regarding a possible child marriage or likelihood of solemnization of a child marriage.

The injunction is issued against any person or member of any organization or association of persons after giving a notice and giving an opportunity to show cause against the issue of injunction. At the same time, it is provided that in the case of urgency, the court shall have the power to issue an interim injunction without giving any notice under this section. Any child marriage solemnized in contravention of an injunction order issued under Sec.13, whether interim or final shall be void *ab initio*.

According to the Act, District magistrate has power to take appropriate measures to stop child marriage, using minimum force. The Act also considers offences under the Act as cognizable and non-bailable.

**Child Marriage Prohibition Officers (CMPOs):** All the state governments are required to appoint for the whole of the state, or such part thereof as may be specified, Child Marriage Prohibition Officers (CMPOs) under the section 16 (1) of the Act. The state government may also request a respectable member 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 organization to assist the CMPO and such member, officer or office bearer, as the case may be, shall be bound to act accordingly

***Duties of the CMPO, among others, are:***

- (a) to prevent solemnization 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 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;

The Act also says that the state government may invest the Child Marriage prohibition Officers with such powers of a police officer.

**Salient features of the Prohibition of Child Marriage Act, 2006**

- ✓ Promoting, permitting, or participating in child marriages is punishable.
- ✓ Child Marriage Prevention Officers have been appointed to deal with cases of child marriage.
- ✓ Child marriages can be declared null and void at the option of the contracting party—a child - within two years of his/her attaining majority.



- ✓ While granting the decree of nullity, the court shall order both the parties to the marriage and their parents or guardian to return to the other party the money, valuables, ornaments and other gifts received on the occasion of marriage by them from the other side or an amount equal to their value.
- ✓ The court can order maintenance for and residence to the female contracting party.
- ✓ If the children are out of child marriage, then their best interests should be the paramount consideration.
- ✓ The Courts have the power to issue injunction for prohibiting Child Marriages from taking place.

However, while the PCMA is certainly an improvement over the CMRA, several key issues still remain. These include:

- **Validity of Child Marriages:** PCMA does not automatically invalidate any marriage even those of children below a certain age. The child marriage is declared void in certain circumstances which have been covered in section 12 of the Act.
- **Inconsistencies with Personal Laws:** As things stand the personal laws on marriage as well as the Indian Penal Code Provisions are not entirely consistent with the provisions under the newer PCMA. Various personal laws allow the marriages even before the marriageable age prescribed by the Act.
- **Registration of marriage** has not been made compulsory under this Act, which could have discouraged many people to conduct child marriages.
- **No punishment for Officials** – the Act does not prescribe punishment for the officials who allow child marriage or negligently fail to prevent it.

- It is also interesting to note that women are exempted from imprisonment as a punishment for promoting solemnization of child marriage or negligently failing to prevent it.

In addition, it is also to be noted that the Act implicitly acknowledges traditional marriages, such as those performed in temples and without any formal registration etc. these marriages could also be marriages involving children. However, the Act if implemented in true letter and spirit has the potential of contributing towards eradication of child marriages in India. With regard to the validity of child marriage it could be argued that the approach taken in the Act is far more practical to the extent that it recognises that in certain circumstances, having the marriage annulled may not be the best option for the child.

### **Karnataka State Rules, 2008**

While the Prohibition of Child Marriage Act, 2006 provides for the legal framework at the central level for the elimination of child marriage for entire nation, it also empowers the state governments to frame State Rules for the carrying out the provisions of the Act. Accordingly, in exercise of powers conferred by sub-section (1) of section 19 of the Prohibition of Child Marriage Act, 2006 (Central) Act No.6 of 2007), the Government of Karnataka has framed Rules and the same are called as the Prohibition of Child Marriage (Karnataka), Rules, 2008.

There are altogether Five Rules under the Prohibition of Child Marriage (Karnataka), Rules, 2008. While first and second Rules are pertaining to the title and definitions, Rule 3, 4 and 5 are substantial in terms of their content.

Rule 3 states that Any person who has reason to believe that an act of Child Marriage has been or is being or is likely to be committed may give information

about it to the Child Marriage Prohibition Officer (CMPO) in the prescribed format. It further says that in case the information is given to the CMPO orally, he or she shall cause it to be reduced in writing in the prescribed form and shall ensure that the same is signed by person giving such information. And in case, the informant is not in a position to furnish written information, the CMPO will satisfy and keep a record of identity of the person giving such information.

Rule 4 enumerates the functions and duties of the CMPO. It says that the CMPO shall ensure that the organizers of mass marriage shall maintain a register and a list of the proposed eligible couples to be married, and record details after verifying their photographs, birth certificate/school certificate/medical certificate in proof of age from a registered Medical Practitioner.

Rule 4 (2) states that the Child Marriage Prohibition Officer shall ensure the person/applicant to avail the benefit of legal services under Karnataka Legal Services Authority in obtaining injunction, prohibitory orders, maintenance orders, custody orders and matters pertaining to the enforcement of the Act.

The CMPO is empowered to move the court *suo moto* for getting interim orders like injunction, prohibitory orders, maintenance orders, custody orders and also getting suitable orders as to the residence of female contracting party to the Child Marriage.

The CMPO is also required to maintain a directory of Non-Governmental Organizations registered under Karnataka Societies Registration Act, 1960/Companies registered under the Companies Act, 1956 or any other law for the time being in force. The CMPO at Taluk level and at the District level shall report the statistics of the incidence of Child Marriage periodically (quarterly) as per Sec.16(3)(f) of the Act to the Director, Women and Child Development in a prescribed format. It is also a duty of the CMPO to collect evidence and assist the Court/Magistrate in effective prosecution of the cases.

According to the Rule 4 (7) the CMPO shall facilitate in getting appropriate orders from the courts for custody of the children born out of the Child Marriage and provide all possible assistance to stop the Child Marriage and to ensure the person/applicant, police help, if any, in the event of occurrence of Child Marriage.

While discussing the approach to be adopted by the CMPO the Rules say that it should be primarily preventive and remedial and prosecution should be resorted to only, if all other measures and directions are found ineffective or parties fail to comply with the orders or directions within the stipulated time. And he/she is supposed to discharge his duties with due care, decorum, and privacy and in a manner to uphold the dignity and harmony of the child and the family relationship.

Rule 4(12) authorises CMPOs to take any action that they deem fit in order to prevent child marriages in the state. This is a very important rule that empowers CMPOs in Karnataka for taking appropriate measures for preventing child marriages in the state.

With regard to the action to be taken in case of emergency, Rule 5 states that whenever CMPO/person receives reliable information through e-mail or telephonic call or the like, either from any person who has reason to believe that an act of Child Marriage is being or is likely to be committed in such an emergency situation, the CMPO /person shall seek immediate assistance of the police, who shall accompany the CMPO to the place of the occurrence, record the incident in writing and report the same to the Magistrate without any delay for seeking appropriate orders under the provisions of the Act.

### **Shortfalls in the Karnataka State Rules**

The experience shows that there are deficiencies in the State Rules, which require to be remedied by appropriate amendment to effectively prevent and eradicate child marriage from the state. Although they spell out comprehensively the responsibilities and duties of the CMPO, there is need for making them perform their duties and discharge their functions effectively. The linkages with other corresponding administrative structures have not been defined in terms of nodal officer at the state level or at the district level in order to ensure coordination.

The Rules also fall short putting in place a sound mechanism for the rehabilitation of the victims of the child marriage and also do not prescribe any penalties in case of non-performance of the duties by the CMPOs or punishment to the officials on being oblivious to the occurrence of child marriage in their respective areas. Omission of police from the list of CMPOs is also unexpected considering the critical role played by the police in the cases of child marriage. The Rules also do not prescribe any specific measures to combat the problem especially in the areas where most of the child marriages take place, such as religious places, by which the marriages can be monitored very effectively.

Specifically, Rule 3 and 4 do not include the networking and sharing of information with stakeholders which is important given the complexity of the issue and involvement of various stakeholders. The provisions are frail with regard to the matters concerning confidentiality and security of the informers. Further, vigilance and Sharing of information with the concerned officials designated under the Immoral Trafficking Prevention Act do not form part of CMPOs, as the rehabilitation plan and measures for the victims.

The Rules are though progressive in so far as they list a wide range of responsibilities for the CMPOs, there are few weak links, as stated above, that are required to be overcome, largely by additions or modifications.

### **Other Laws having Bearing on the Issue of Child Marriage in India**

In addition to the specific law to prohibit child marriages, it is pertinent to examine such other laws also that have bearing on the practice of child marriage and those that are to be reviewed in the light of problems and issues faced while making attempts to eliminate this practice.

#### ***Compulsory Registration of Marriage***

As mentioned above, one of the major drawbacks of the Prohibition of Child Marriage Act, 2006 is that it does not make the registration of marriages compulsory. The Supreme Court in the case of *Smt. Seema Vs. Ashwani Kumar* 2007 (12) Scale 578 directed the State and Central Governments to create Rules to ensure the compulsory registration of marriage as it was seen as an effective method of curbing the practice of child marriage.

In Karnataka, the *Karnataka Marriages (Registration and Miscellaneous Provisions) Act, 1976* currently provides for the compulsory registration of marriages. The compulsory registration of marriages will significantly contribute to curbing child marriages. With such provision officials shall not register a child marriage at all. Also, in the absence of registration of marriages parties shall not be able to exercise their rights arising out of such marriage.

#### ***Juvenile Justice (Care and Protection of Children) Act 2000 as amended by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006***

In addition to providing for the protection and fair treatment of children in conflict of the law the Juvenile Justice Act (JJA) not only provides for the protection and fair treatment for, "*children in conflict with law*" but also for "*children in need of care and protection*". When the children are under the care and protection of child welfare committees, child marriages can be effectively

prevented and in case child marriages have already taken place suitable remedies can be provided. As per section 29 of the Act, every State Government is to set up Child Welfare Committees (CWC) and any child in need of care and protection may be brought before the CWC by a police officer, public servant, helpline, state recognised voluntary organisation, social worker or by the child himself/herself. Thereafter, the CWC shall be the final authority regarding the care, protection, treatment, development and rehabilitation of the child. It shall provide for his/her basic needs and ensure the protection of his/her human rights.

According to the Act, in addition to the State & District Child Protection Units, Juvenile Justice Boards, and Child Welfare Committees in each district, there should also be Special Juvenile Police Units, Homes for Juveniles in conflict with law, including Observation Homes and Special Homes as well as the Homes for children in need namely Children's Homes and Shelter Homes. By doing so, the Act provides institutional and administrative mechanisms for the rehabilitation of such children in need. Children's homes and shelter homes are particularly important for preventing child marriages and for providing alternatives for children who protest against marriage. In instances where child marriage is reported, CWC members can intervene and counsel parents.

Additionally, the role of the CWCs is also critical with regard to inquiry, restoration as well as rehabilitation. Several mechanisms have been introduced under the Act for the rehabilitation and social reintegration of the child. These include adoption, sponsorship by family or stay in a children's home, the establishment of after-care organisations to take care of children after they leave the children's home and creation of linkages between governmental, non-governmental, corporate and other community agencies to facilitate the rehabilitation of the child in a co-ordinated manner. The rehabilitation aspect of

the victims of child marriages can be taken care of very effectively with such options being available to a child.

#### **Few Cases handled by CWC Bangalore Urban (Girls)**

##### **Case 1**

**Sona (16 years)** is from a BPL family and has dropped out from school. Mother, an alcoholic took her to domestic work. Her employer and youth group have got her forcefully married to a Nepali boy called Raju. She was unhappy and hence ran away. She was given shelter at an NGO and transferred to CWC Bangalore Urban where she was sent to the safe custody of Crisis Intervention Centre in 2008 July. On counseling it was found that the girl was not interested in reuniting with her mother or the boy. So she was provided regular counseling and her stay was continued at CIC for further rehabilitation.

The jurisdictional police station officers were directed to appear before CWC with the boy and the mother. The employer, mother and the boy appeared. Statements were taken. Since the parents of the minor girl are irresponsible and alcoholic, she continued to stay at CIC.

During CIC stay she has undergone, KOS exam (results awaited), beautician course and computer training. In the year of 2010 she turned eighteen years and is moved to the Reception Centre and is currently working as a traffic police assistant.

##### **Case 2**

**Sudha's (14 years)** mother forcibly married her to a man who was already married and had two children. The marriage was not consummated. So the mother advised her to stay as his wife. She was confined in the house from where she managed to escape. She sought help from a flower vendor who took her to the police station. All the accused have been arrested and are in judicial custody. The child has been produced before CWC and is currently in Crisis Intervention Centre.



With all this there are some deficiencies in the provisions of the Act and while its implementation, the CWCs also face certain difficulties in relation to restoration of the child to his/her parents. This may be an ill-conceived notion in the case of victims of child marriage because it is often at their parental home that their problems begin.

### ***The Dowry Prohibition Act, 1961 (DPA)***

The object of this Act is to prohibit the evil practice of giving and taking of dowry. This is in addition to S. 498-A of IPC which deals with offences of cruelty by husband or his relatives, on wife. The Dowry Prohibition Act was enacted in 1961 and has been amended twice since then. Other than providing the legal definition of dowry, the DPA provides penalties for those who give and take dowry as well as mandates the appointment of Dowry Prohibition Officers (DPO) vested with the charge of ensuring the implementation of the law. This Act assumes significance in the context of issue of child marriage since it makes the practice of the transaction of dowry a punishable offence. In the context of the issue of child marriage, adequate implementation of this Act can actually contribute towards reducing the number of girls getting married very early.

The burden of dowry is one of the major reasons responsible for the tendency among parents of getting their girls married very early when girls are young, they need to pay less dowry and with the increasing age the demand of dowry of keeps on increasing. In this situation, parents are tempted to marry their daughters whenever the find suitable match. However, if there is no need to pay dowry, parents would not prefer getting their daughters married at an early age. This Act with its stringent provisions and mechanisms has the potential of contributing towards eradication of this practice.

### ***The Immoral Traffic (Prevention) Act, 1956 (IMTPA)***

Title of this Act itself clearly states that it is enacted for the purpose of prevention of immoral traffic. The important aspects of this Act for the purposes of study on laws related to child marriage include that it deals with the children and intends to prosecute the offender of trafficking and coercion of children into the commercial sex exploitation/prostitution. Since, many a times children are trafficked for commercial sex work in the guise of marriage, at times forcibly.

- 1) Section 2(aa) defines "child" as a person who has not completed the age of eighteen years.
- 2) Section 4 of the Act prescribes higher punishment for "any person over the age of eighteen years who knowingly lives on the earnings of the prostitution.....of a child, shall be punishable with imprisonment for a term of not less than seven years and not more than ten years."
- 3) Section 5 prescribes greater punishment for instances where a child is procured, induced or taken for the sake of prostitution
- 4) Section 7(1-A) provides for greater punishment if the offence of prostitution in or in the vicinity of public place is conducted against a child. Further, under 7(2) (c) proviso, it is prescribed that where such offence is committed with the knowledge of the owner of the premises, in respect of a child in a hotel, the license of such hotel shall stand cancelled.
- 5) Section 17 leaves it to the discretion of the Magistrate to place any child rescued from prostitution in any institution established or recognized under any Act dealing with children for the safe custody of children.

The importance of this Act can be ascertained in the context of coercion of children into marriage as well as the punishment to those who force children into marriage through deceitful means resulting in their sexual exploitation. Resorting to section 17 of the Act, the magistrates can also refer the victim to the Child Welfare Committee or the institutions established under JJ Act, which are the bodies empowered to take required decisions for the rehabilitation of the children.

## **Schemes and Programmes**

Poverty, ignorance, unemployment, lack of opportunities and other such factors are widely cited as the primary reasons that lead to and promote the practice of child marriage in India. These can actually be considered as push factors that are required to be tackled through provision of some services, supports and opportunities to children, especially for the girls. Since, it is also understood that the economic status of the family also compels the families to give away their daughters in marriage, any approach for eradicating child marriage must also focus on the family and provide necessary support.

Going by this argument, schemes and programmes that are especially meant to provide assistance to the families in terms of basic needs such as food, as well as those directed specifically towards the realisation of rights of children such as education, health, nutrition, etc; must be looked into and strengthened.

In India at the national level there are several schemes primarily initiated and implemented by the Ministry of Women and Child Development (MWCD), Government of India either directly or through the state departments. Similarly there are several schemes initiated by the Government of Karnataka. These schemes are executed by, the Department of Women and Child Development (DWCD) and various other Departments. If only all the schemes are properly and effectively implemented, the benefits really reaching those for whom they are meant, prevention or eradication of child marriage will be effective.

Briefly stated, the schemes, their objectives, eligibility criteria, nodal authority for implementation and major provisions and entitlements, are given as follows:

## **National Level Schemes**

***Balika Samriddhi Yojana (BSY):*** This scheme aims at changing the existing negative community perceptions towards the girl child and her mother at child birth, improving the enrolment levels and continuation of girl children in schools, increasing the marriageable age of girls, and assisting girls to engage in income-generating activities. It is implemented in both rural and urban areas, where girl children of families below the poverty line are benefitted, provided they are born on or after 15th August, 1997. However, it is restricted to only two girl children in a household, irrespective of the number of children in the family. The scheme is being implemented through Integrated Child Development Scheme (ICDS) infrastructure in the rural areas and through functionaries of the Health Department in urban regions. (The application forms being available with Anganwadi Workers in villages and Health functionaries in urban localities.) An important provision states that girl children are entitled to the following benefits: A grant amount of Rs. 500. When the girl (born after 15-08-1997) begins attending school, an annual scholarship is given. This scheme

***Nutrition Programme for Adolescent Girls (NPAG):*** Addressing the problem of under-nutrition in adolescent girls and pregnant women and lactating mothers, is in the epitome of this scheme. The scheme was introduced on a Pilot Project basis in 51 backward districts. 6 kg of free foodgrains are given per month to undernourished adolescent girls of the age group 11-19 years and weighing less than 35 Kg. The state governments and union territories implement the scheme at the state level. This scheme by taking care of the nutritional aspects of young girls from the poor families decreases the chances of them getting married soon just because of the inability of families to feed their children.

**Swayamsidha:** Dedicated to Women's Empowerment, this scheme is a Self-Help Groups- based programme with emphasis on convergence activities. The objective is to ensure that Self-Help Groups' members avail the benefit of all schemes and services in an integrated and holistic manner. The effort is to socially and economically ensure their direct access to and control over resources. Mostly women are eligible for the benefits under the scheme. SHG women of 1279 groups are doing Income Generating Activities such as Food preservation, Dairy Farming, Vermi-Compost, Tye and Dye, Cutting and Tailoring, Embroidery, Kitchen gardening, and Petty shops etc. Financial independence can be easily secured by women through this scheme which could lead to empowerment and the ability to take their own decision particularly with regard to their own marriage.

**Swadhar:** This is a Scheme which provides for primary need of shelter, food, clothing and care to the women/girls living in difficult circumstances and without any social and economic support; to provide emotional support and counselling to such women; to rehabilitate them socially and economically through education, awareness, skill and personality development; to arrange for specific clinical, legal support for women by linking and networking with other organizations; to provide for help-lines to women in distress. Implementing agencies are the Social Welfare/ Women and Child Welfare Departments of who in turn implement it through State Government, the Women's Development Corporations, Urban Local Bodies, and reputed Trusts or NGOs for the rehabilitation of such women. This can help in the rehabilitation of the children who are either victims or are vulnerable to child marriage.

**Kishori Shakti Yojana:** The objectives of this scheme are to improve the nutritional and health status of girls aged 11-18 years; to provide the

required literacy skills through the informal stream of education; to stimulate a desire for more social exposure and knowledge and to help them improve their decision making capabilities; to train and equip the adolescent girls to improve/ upgrade home-based and vocational skills; to promote awareness about health, hygiene, nutrition, family welfare, home management and child care, and to take all measures to facilitate their marriage only after 18 years; to enable them to gain a better understanding of their socio-environmental issues; to encourage girls to initiate productive activities and be useful members of the society. The

scheme caters to adolescent girls between the ages 11-18 years.

***Ujjawala:*** This scheme is geared towards the prevention of trafficking and rescue, rehabilitation and Re-Integration of victims of trafficking for Commercial Sexual Exploitation. This is done through social mobilization and local involvement, awareness generation programmes; to rescue victims and provide rehabilitation services by providing basic amenities; to facilitate reintegration of the victims into the society and the repatriation of cross-border victims. The implementing agencies of this scheme are the Social Welfare/Women and Child Welfare Department of State Government, Women's Development Corporations and Centres, Urban Local Bodies, reputed Trusts or NGOs, with adequate experience in care and protection of victims. This scheme can contribute towards rehabilitation of the victims of child marriage.

#### **Eight Schemes as identified by the Apex Court**

Supreme Court of India through its interim orders in the case of PUCL vs Union of India, identified eight schemes which are forerunner in the realization of right to food and ensure food security for the vulnerable groups, which can be divided into three different categories:

#### Entitlement Feeding Programmes

- **Integrated Child Development Services:** Covers all Children under the age of six, pregnant and lactating mothers and adolescent girls.
- **Mid Day Meal Scheme:** Covers all primary school children.

#### Food Subsidy Programmes

- **Targeted Public Distribution System:** Provides 35 kgs per month of subsidised food grains at half the cost of the economic price to all families identified as living below the poverty line (BPL families).
- **Antyodaya Anna Yojana:** Provides 35 kgs of rice per month at Rs. 3/- per kilo or 35 kgs of wheat per month at Rs. 2/- per kg. This scheme is aimed at 1 crore poorest of the poor families.

#### Social Assistance Programmes

- **National Old Age Pension Scheme:** Provides a monthly pension to all BPL adults above the age of 65.
- **National Family Benefit Scheme:** Provides compensation of Rs. 10,000/- in case of death of bread winner of BPL families.
- **Annapurna Yojana:** Provides 10 kgs of free food grain for destitute poor who are not covered under the National Old Age Pension Scheme.

Food schemes are converted by the Supreme Court into "legal entitlements" in its order dated 28 November 2001. Embedded in this order is a direction to State Governments to fully implement them according to official guidelines. Meanwhile, central government passed enacted a law - Mahatma Gandhi National Rural Guarantee Employment Act (MGNREGA) - which provides work guarantee to the rural people, who are deemed the most destitute segment of the population, to improve their purchasing power and eventually alleviate their poverty.

All these schemes are targeted at the resourceless people and if implemented in a coordinated and comprehensive manner can nullify the poverty as the reasons for giving away their young daughters in marriage.

### **Schemes at State Level**

In addition to the central schemes, Government of Karnataka has also initiated many schemes that are meant for improving the status of girls and women in the society by providing them incentives, services and opportunities. Following is the brief overview of such schemes.

#### ***Bhagyalakshmi Scheme<sup>21</sup>***

Bhagyalaskmi Scheme is a pioneering scheme of the state government of Karnataka that aims at overall wellbeing of girls. This scheme seeks to promote the birth of girl children in below poverty line families and to raise the status of the girl child in the family in particular and society in general. All girl children born in BPL families after March 31<sup>st</sup> 2006 are eligible to be enrolled as beneficiaries under the scheme, which is allowed upto one year of the birth of child on production of birth certificate. However, the conditions are that benefits of the scheme are restricted to 2 girl children of a BPL family; the father, mother or guardian should have undergone terminal family planning methods and the total number of children should not exceed 3; the birth of the child should be compulsorily registered and the child should:

- a. be immunized as per the programme of the Health Department
- b. be enrolled in the Anganwadi centre
- c. take admission in a school recognized by the Education Department.
- d. not to become a child labourer
- e. not to marry until the age of 18 years.

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<sup>21</sup> Government Order No. MME 99 MMA 2006 dated October 17, 2006 and Government Order No. MME 35 MMA 2008 dated March 10, 2008 for Bhagyalakshmi scheme are enclosed in Annexure 15



The Department for Women and Child Welfare of the state is the nodal authority for implementation of this scheme.

*Major provisions or entitlements:* After enrolment and due verification by the department, An amount of Rs. 19,300/- will be deposited with the financial institution in the name of the first girl beneficiary and Rs. 18,350/- in the name of the second girl beneficiary of the same family. On attainment of 18 years of age, the first girl beneficiary of the family who fulfills the conditions of the scheme will get a maturity amount of Rs. 1,00,097/- and the second girl beneficiary will get Rs. 1,00,052/- at the time of getting married after 18 years.

- The beneficiaries who are desirous to continue higher education after passing SSLC and have attained 15 years are eligible to pledge the bond and avail loan upto a maximum of Rs. 50,000/- from recognized banks.
- Interim payments such as scholarship and insurance benefits will be made available to the beneficiary on continued fulfillment of the eligibility criteria out lined in the scheme.
- If the girl child falls sick, medical insurance claims upto a maximum of Rs.25,000/- is provided.
- If a natural death of the insured person takes place, insurance of Rs.42,500/- is given.
- If the insured person dies in an accident, insurance of Rs.1,00,000 will be given to the family.

*Bhagyalakshmi* is a comprehensive scheme covering all major aspects of girls' life. Not only this contributed towards improving the status of girls in the society, the provisions in the scheme directly fulfil the financial needs especially related to health and education, thereby opening up better venue for girls.

### ***Hostel for Girls***

Hostels for girls have been started in the back ward areas of the State with an objective to enable girls from rural areas to pursue higher education and reduce school dropout of girls. Admissions to the hostels are available for students residing in rural areas, whose family income is less than Rs.10,000 p.a. and are studying in 6th Std. and above up to post-matric courses. Such a facility provides a pragmatic alternative for the girls of poor families who are pushed to marriage at a very young age because of the scarcity of resources.

### ***Attendance Scholarship for Girls from Rural Areas***

Scholarship is provided to girls from rural areas in order to reduce the dropout rate at primary and secondary school levels, to encourage rural girls to pursue and improve their education. The scholarship is linked to a minimum of 80% attendance and successful completion of examinations. Family income of the girl must be below Rs. 10,000/- per annum and she must be a resident of the village with a population less than 20,000. An amount of Rs.25/- p.m. for 10 months is given to girls studying in 5th to 7th standard and Rs. 50/- p.m. to girls studying in 8th to 10th standard. The importance of education especially for the girl child normally takes a back seat, however, this scheme encourages and motivates parents to send their daughters to school regularly and if that is done, the marriage automatically takes place at an appropriate age when they have finished atleast their schooling. And if the girls have been very regular till 10<sup>th</sup> standards in their studies, there are all the chances of them and their parents taking up higher studies more seriously.

***Incentive Scholarships from I to IV std students.***

The main aim of this scheme is to minimize the dropout rate among schedule caste students at their primary educational level. Each child is given an incentive of Rs. 75/- per annum. All SC students studying in Govt. / recognised or aided schools are eligible for the award of scholarship at the rate of Rs. 75/- per annum. The Taluk Social Welfare Officer at taluk level or District Social Welfare office at district level is the nodal agency for this scheme which is targeted at providing educational incentives to children from backward sections of the society.

***Three Month Chinnara Angala Special Training Programme***

Under this scheme, special classes are conducted for children who have dropped out of schools and for children who are yet to be enrolled in schools. Special classes are to be held for a period of 3 months during the summer holidays, so that the children could be enrolled in normal schools at the end of this period. Children below the age of 14 who are yet to be enrolled in schools, or those who have dropped out from schools are benefitted from this scheme. This scheme is specially targeted to the out of school children so that they could be mainstreamed into the regular schooling system, which could also help in reducing the number of child marriages.

### ***Incentive Scholarship for High School Going Girls***

This scheme aims at reducing the dropout rate among high school going girls who are SCs, and to encourage them to study further. An Incentive Scholarship of Rs. 500/- was sanctioned for high school going girls students, in addition to the Pre-Matric scholarship of Rs. 100/- per annum. All high school going girls except those residing in Govt. / aided hostels are eligible for the scholarship. There is no income limit for these scholarships. As the name suggests, this scheme works as an incentive for parents to encourage their daughters to complete their studies even in high school, since it was noticed that the dropout rates among girls are quite high at this level. This scheme could also help in postponing the age of marriages or preventing child marriages.

### ***Pre Matric Scholarships***

These scholarships are given to encourage students from the schedule caste to complete their education. All SC students studying from V to X std who fulfill certain conditions are eligible for benefiting from this scheme. This scheme is implemented by the Taluk Social Welfare Officers at the taluk level. Implementation of this scheme also can encourage the parents to make their children, especially girls, continue their education.

In order to inculcate a competitive spirit among SC children for scoring better marks in the exams, Merit scholarships are given in addition to Pre-Matric scholarship. Any school going student with good merit in annual exams is eligible for Merit scholarship. This is also an incentive based scheme of the government that encourages the parents and they attach much more importance to the education.

### ***Child Tracking System***

The Department of Women and Child Development is working towards quick access to data which is essential for tracking children in the context of protection, continued education, prevention of child marriage and follow up on the growth and development of children. This is done through the Child tracking system in Karnataka which is developed with the assistance of national informatics centre (NIC). The software developed enables the Departments concerned to know the status of the beneficiaries with regard to health, education, migration from one place to another and other benefits availed from other departments in different schemes and also the status of payments to the beneficiaries from time to time. This system plays a pivotal role in keeping a tab on the overall developmental status of children and thereby works at a deterrent to the practice of child marriage. Addition of the child marriage also as an information to be collected can also work as a deterrent.

In addition to these, there are several other schemes run by various departments aimed at alleviating poverty, ensuring education and health facilities, and so on.<sup>22</sup>

An overview of various schemes at the national and state level actually reaffirms the belief that the goal of eradication of child marriage is very much achievable. If a family has access to most of the schemes mentioned above – their food security is taken care of, health and nutrition for their children are ensured, and they are motivated enough to send their children especially daughters to school, the menace of child marriage will soon perish in the want of conducive environment.

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<sup>22</sup> Causes of Child Marriage and Linkage with Schemes and Programmes to prevent it are enclosed in Annexure 16.

It is clear that poverty and illiteracy cannot be used as excuses for performing child marriages any more.

In nutshell, **Enlightenment** about these schemes and programmes leads to **Empowerment** and that leads to **Enforcement**. Thus these three Es will have great impact on the efforts of preventing and eradicating child marriages.

### **Role of Judiciary on the Issue of Child Marriage in India**

Judiciary in India has always played a proactive role in interpreting and evolving socially beneficial legislation. On the issue of child marriage also Supreme Court of India and High Courts of various states have given landmark judgments in the direction of eradicating child marriage.

**Child Marriage as Void / Voidable:** In *Jitender Kumar Sharma v State and another*,<sup>23</sup> the Delhi High Court after examining the provisions of clause (iii) of section 5 of The Hindu Marriage Act, 1955 and the Provisions of The Prohibition of Child Marriage Act, 2006 held that "The principle which is now applicable is that a marriage in contravention of clause (iii) of section 5 of The Hindu Marriage Act, 1955, is not *ipso facto* void but could be void if any of the circumstances enumerated in section 12 of The Prohibition of Child Marriage act is triggered and that, and that in any event all marriages would be voidable at the option of the 'child' spouse in terms of section 3 of The Prohibition of Child Marriage Act, 2006"<sup>24</sup>. It is the option of the victim girl to accept this marriage or not.

**Child Marriage is violation of human rights:** The Delhi High Court in the case of *Association for social justice & research Vs. Union of India & others*, 2010 recognized child marriage as a violation of human rights.

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<sup>23</sup> WP (CRL) 1003/ 2010

<sup>24</sup> WP (CRL) 1003/ 2010, para 14

**Marriage Registration:** As mentioned earlier, Supreme Court in the case of *Seema Vs. Ashwani Kumar*. 2007(12) Scale 578, observed that one way of eradicating the child marriages would be to register all marriages. The court maintained that the compulsory registration of marriages would be a step in the right direction as the practice of child marriage was still prevalent in many parts of the country.

**Punishment:** The Madras and Allahabad High Court in *Ayyah Pilli V. Manik Pillai*<sup>25</sup> and *Jwala Prasad V. Emperor* case<sup>26</sup> had held that a priest invited to perform the marriage ceremony was legally bound to make an inquiry about the age of the parties. Similarly, in *Rambhau Vs. Rajram*<sup>27</sup> case the Bombay High Court held the creditors guilty of advancing money to guardian for the marriage expenses of child under CMRA. The Supreme Court *Parsaram V. Smt. Narani Devi*<sup>28</sup> said that major members of the family be punished for their act in making arrangements for celebration of child marriage

In the *Neetu Singh Vs. The State & Ors*<sup>29</sup> the High Court of Delhi held that marriage of minor 'is neither void nor voidable' but only punishable. In the case of *Manish Singh Vs. State Govt of NCT and Ors*<sup>30</sup> wherein a writ of *habeas corpus* was filed in a matter pertaining to "run away marriages", considering various factors such as the statement of the girl who was at the threshold of maturity, the High Court of Delhi held that the marriage on account of minority of the girl is neither void nor punishable under the PCMA. Such marriage is punishable only under Section 18 of Hindu Marriage Act, 1955 with imprisonment of 15 days as also under the Child Marriage Restraint Act and the Writ Petition was disposed of with this clarification.

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<sup>25</sup>(1965)1Madras Law Journal 172

<sup>26</sup>AIR 1934 ALL 331

<sup>27</sup>AIR 1956 Bom 250

<sup>28</sup>AIR 1972 All 357 at p359

<sup>29</sup>77(1999)DLT601

<sup>30</sup>AIR2006Delhi37

Another important case with regard to the measures to be taken to curb the practice of child marriages, The High Court of Rajasthan in the case of *Sushila Gothala Vs. State of Rajasthan*<sup>31</sup> directed the state to stop the menace of child marriage in an effective manner and also punish the officers responsible for not prohibiting child marriage. The government replied to petitioner it had taken all possible measures to stop child marriage and message from the Chief Minister of Rajasthan and Deputy Inspector General of Police was published in the newspaper appealing to the people not to marry of their girl below the age of 18 years.

#### **In Brief**

The practice of child marriage has been prohibited through a number of International Instruments; Conventions, Covenant's and treaties.

The Universal Declaration of Human Rights, 1948 states through its Article 16 (1) that men and women of full age have the right to marry and form a family. They are entitled to equal rights as to marriage, during marriage and its dissolution. Marriage shall be entered into only with the free and full consent of the intending parties.

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1964 reaffirms the consensual nature of marriages and requires the state parties to establish a minimum age by law and to ensure the registration of marriages.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 is specifically designed to eliminate all forms of discrimination against women. The member States are required to respect and act accordingly by taking suitable steps in this regard.

This convention aims at providing 'same' rights to women as are available to men.

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<sup>31</sup> AIR 1995 Raj 90



Article 16 seeks to ensure equal rights of women in all matters relating to marriage and family relations. This article has made an immensely important move towards eliminating child marriage where it has legally invalidated such marriages and has required states to enact laws prohibiting child marriages by prescribing age limits and ensuring registration of marriages.

The Convention on the Rights of the Child, (CRC), 1989 has been ratified by all the countries with the exception of the US & Somalia. A number of articles under the CRC hold relevance to child marriage like Article 3, Article 19, Article 24, 28 29 and 36.

In addition to the international legal instruments the Indian Constitution provides many provisions for the safety and upliftment of children. Some of the important provisions of the Constitution are as follows:

1. Article 14 provides for equality before the law
2. Article 15(3) provides for special provision for women and children.
3. Article 21 provides for personal liberty
4. Article 21A provides for free and compulsory education to all children of the age of six to fourteen years
5. Article 23 prohibits trafficking of human beings and forced labour.
6. Article 24 prohibits employment of children below the age of fourteen years
7. Article 39(e) and (f) provides for policy towards ensuring that the health and strength of workers, men and women and the tender age of children are not abused
8. Article 45 envisages that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

#### **The Prohibition of Child Marriage Act 2006 (PCMA) and Karnataka State Rules 2008**

India has a history of taking concrete measures to restrain the practice even before independence through concrete legal measures such as the Child Marriage Restraint Act 1929. The PCMA replaces the previous Restraint Act. The shift reflects the stronger intention of the state to not simply to restrain but prohibit child marriage. While the new law maintains some parallels with

the older law, there are significant departures in the interest of the child. As in the previous Act, the definition of child remains the same in the new law- i.e. a child is a male under 21 years of age and a female under 18 years of age.

The State Rules framed under the Act provide powers to the CMPOs to prevent child marriage and take appropriate measures to support the victims. However, lack of rehabilitation mechanisms and absence of the systems for information sharing and networking are the areas of concern, among others.

### **Others laws, schemes and programmes**

In addition to the PCMA, there are other policies, laws, schemes and programmes in place that have bearing on the rights of the child and practice of child marriage. While National Policy for Children, National Plan of Action and National Charter for Children provide policy framework for the realisation of the rights of the children, legislations such as Juvenile Justice (Care and Protection of Children) Act 2000 is crucial especially for providing rehabilitation through the Child Welfare Committee and institutions as provided in the Act. Provisions of the Immoral Trafficking Prevention Act are relevant in the cases of coercive and deceitful marriages among children. Also, it is believed that the enforcement of the Compulsory Registration of Marriages Act will discourage child marriages since child marriages will not get registered.

Schemes and programmes of the central and state government being implemented through various departments, if implemented in true letter and spirit can actually help in reducing the incidence of child marriage. This is because of many of the major causes such as poverty, illiteracy and lack of educational and health facilities, etc. can be easily eliminated. Schemes like *Bhagyalakshmi* and *Adarsha Vivah* of the State Government of Karnataka can be used effectively to provide financial assistance to the girl children and protecting them from getting married before the marriageable age.

## Chapter IV

# Strategies for Better Implementation of the Law and Eradication of Child Marriage

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*"There is need to make people aware about rights of children and as to the importance of their growing as responsible and productive citizens. Educational institutions, Governments, NGOs and media can play vital role in this regard. Social communication needs to be stimulated at different levels and through multiple channels across the plural society. Methods and mechanics are to be designed to inform children and parents through the educational system and other media to sensitize public functionaries and opinion makers. Voluntary organizations could be powerful means of social mediation and communication in promoting rights of children and equally in preventing their exploitation and suffering. In the democratic set up, the most important need is institutional support at the political and policy levels."*

India has a history of taking steps to prohibit the practice of child marriage even before independence through legal measures such as 'The Child Marriage Restraint Act 1929, the problem remains to be addressed urgently. In 2006, India came up with a new legislation; the Prohibition of Child Marriage Act 2006 to address this social menace with renewed commitment and perseverance. However, ground reality shows that these legislations are not implemented effectively to address the problem of child marriage either to eradicate it totally or reduce it substantially. This can be attributed to a number of factors such as

the deficiencies in the law, lack of political will, want of adequate commitment on the part of the enforcement machinery, non-active involvement of civil society and people not being aware about its consequences, etc. itself as well as the problems related to its implementation. The slow progress and inaction in addressing the social issue is of serious concern and posed a big threat for the considerable chunk of child population to enjoy their childhood.

The fact that despite legal control, the age old menace of child marriage still persists in India and the multi-dimensional impact of child marriage compels us to delve deep into the subject.

#### **What has been done so far?**

Taking cognizance of the inadequacy of the erstwhile CMRA, of 1929 the Government of India passed the Prohibition of child Marriage Act in 2006 demonstrating its desire towards the complete eradication of child marriage. The state governments were empowered to draft Rules under the Act for carrying out the provisions of the Act.

Accordingly the state Government of Karnataka formulated Rules under the PCMA, 2006 and the same were notified on February 6<sup>th</sup> 2008. Child Marriage Prohibition Officers were appointed at state, district, taluk and hobli levels vide notification dated 2<sup>nd</sup> May 2008<sup>32</sup>.

Subsequently, directions were issued to all Deputy Directors and Child Development and Protection Officers at district and taluka levels (CDPOs across the state to monitor mass marriages for preventing the incidents of child marriage.

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<sup>32</sup> Government of Karnataka Notification dated May 2, 2008 of the appointment of Child Marriage Prohibition Officers (CMPOs) is enclosed as Annexure 17.

While realising the seriousness of the issue and the complexity of the problem of age determination, the Secretary, DWCD also wrote letters to the Secretary, Department of Health, Government of Karnataka asking for issuing instructions to all District Health Officers (DHOs) regarding sensitivity for age certification.

It is said that the State Government took the initiative to orient over 5000 police personnel including 900 Child Welfare Officers (CWOs) and 35 Senior CWOs of SJPU on PCMA and its enforcement as part of the training on violence against women and children.

Few other initiatives on the part of the State Government of Karnataka to curb child marriage are following:

- 'Prohibition of Child Marriage' was the Central Theme for the Children's Day program at state level and in the districts-as sensitisation program
- One of the conditions laid down in the *Bhagyalakshmi* Scheme, which is a pioneering scheme of the state government, is that the beneficiary should not marry before 18 years of age. The scheme is presently covering 9 lakh girls in Karnataka since April 2006.
- Focused intervention in Raichur district as part of the District Protection Plan on Child Marriage during which:
  - Intensive intervention by District Administration and Police during the marriage season
  - Networking with 32 organisations that organised Mass Marriages
  - Orientation and networking with heads of religious institutions, social organisation and monitoring
  - Orientation to district and taluk officials on PCMA and specifically 103 Revenue Department's enforcement Officials of Raichur taluk
  - Orientation of girl children in schools on United Nations Convention on the Rights of the Child (UNCRC)

- Media Campaign and Information, Education and Communication (IEC) materials distribution to taluks

Additionally, a module for training of trainers on the issue of Child marriage was also prepared in the year 2010.

All these measures, put together, had some effect and resulted in preventing child marriages although in a limited manner:

**Table: Number of Child Marriages Prevented for the past 2 years**

Sl.No	Name of the District	No of Couples in Mass Marriage	No of Child Couples Identified	No of Child Marriages prevented
1	Raichur	977	130	130
2	Belgaum	56	21	21
3	Dharwad	1000	33	33
4	Gadag	1875	26	26
5	Bagalkot	9	6	6
6	Bellary	300	49	49
<b>Total</b>		<b>4220</b>	<b>265</b>	<b>265</b>

*Source: Department of Women and Child Development, Government of Karnataka, June 2011*

*\* These figures are not based on the comprehensive and complete information survey.*

**Table: Number of Child Marriages prevented in Individual marriages and number of cases booked for the past two years**

Sl.No	Name of the District	Details	
		Cases booked	Cases Prevented
1	Haveri	2	
2	Belgaum	2	5
3	Raichur	1	
4	Tumkur	1	
5	Hassan	1	5
6	Bijapur	2	2
7	Bangalore(Urban)		3
8	Ramanagar		1
	<b>Total</b>	<b>9</b>	<b>16</b>

*Source: Department of Women and Child Development, Government of Karnataka, June 2011*

*\* These figures are not based on the comprehensive and complete Information survey*

The tables above show that after the implementation of the Act in the State, the government was able to prevent 265 child marriages which were about to take place as part of the mass marriages. Also 9 cases were booked across the state for the violation of PCMA.

### **The Deficiencies**

Despite the efforts made at various levels and through various means, including legislative and administrative as well as by the civil society, the practice of child marriage could not be eradicated completely and hence there is a need to understand the dynamics and the complexity of this issue, both at the micro level as well as the macro level.

The Core Committee through its interaction with the stakeholders at various levels identified several procedural issues and gaps in the implementation that confront the agenda of eradication of child marriage. CMPOs who are the focus of the efforts have not been adequately equipped, trained and sensitised for dealing with the issue. Even the identification of the CMPOs also did not represent all the relevant departments and authorities, police and health being left out from the list. Many of the CMPOs were neither serious nor committed in performing their duties, exercising their powers and discharging their functions.

It has been noticed that the enforcement officers under the Act are themselves largely not well informed about their roles, responsibilities and the ways and authority available to them in preventing child marriages. Further, not only were few important departments left out, the nodal authority/department also was not identified leading to ambiguity and confusion regarding the specific roles and responsibilities. There was no provision made towards regular training and capacity building of the identified CMPOs resulting in the lukewarm response at the ground level. Absolute absence of any mechanism at the taluk and district level to mobilise data /information on the issue, prevented from the precise assessment of the problem. Most importantly, there were no systems put in place for monitoring or preventing, and responding to incidence, which led to lacklustre and fragmented efforts with very limited impact.

In Indian context the occurrence of child marriages happen both as individual marriages and also as part of mass marriages. It is interesting to note that individual incidences of child marriage largely happen in temples and other religious places and at some other places, in a clandestine manner. Monitoring of



such marriages is difficult and such incidences of child marriages more often than not, go either unnoticed, and even if noticed go unreported.

Mass marriages on the other hand happen on large scale, normally with wide publicity. Such marriages are normally conducted by individuals such as religious heads, politicians or influential or rich people, to gain popularity. Social service organisations also organise such mass marriages. Organisers of such marriages normally wish to exhibit a big number of couples that they have got married. In the process, invariably, child marriages also take place. These marriages are traditionally accepted in Indian society and families also find it convenient and less expensive to get their daughters married together even if they are under aged.

### **Constraints**

Despite the existence of policies and plans that not only address the prohibition of child marriage but also define strategies for its elimination, there are several key issues both in terms of legislation and implementation that act as constraints towards the goals of eradicating child marriage. Deficiencies in the legislation, lack of political will and commitment, and awareness among the implementation authorities are just a few to be mentioned.

The Prohibition of Child Marriages Act, 2006 does not invalidate any marriage performed even below the marriageable age while IPC stipulates that sexual intercourse with a wife under 15 years is punishable. Further, there are no deterring measures such as punishment for officials for allowing the practice to flourish.

In addition to the legal constraints, social factors such as poverty, illiteracy, ignorance about the law and the social beliefs and maintaining comparatively

lower status of women in the society, also come in the way of eradicating the practice of child marriage and it remains socially accepted.

Further, the administrative and procedural issue such as nodal authority to be approached in order to prevent child marriage, inadequate training and capacity building of the functionaries and lack of consistent follow up are some issues that need to be tackled through a multi-pronged approach. Absence of any specific and authentic norms concerning age determination and guidelines relating to grant of permission to conduct mass marriages also leave the enforcement agencies sometimes helpless.

### **Strategies for Effective Implementation of Law and Eradication of Child Marriage**

Understanding of the constraints pertaining to the eradication of practice of child marriage, points towards the need for a multipronged strategy along with a roadmap for better implementation of the law. This would include adopting a clear and unambiguous position on various issues such as appropriate age certificate for marriages and rectifying the legislative loopholes between religious, customary and civil marriages, generating awareness among all stakeholders, including parents, on the negative impacts of child marriage, creating safety nets for girls and young women who escape a forced, and often violent, marriage, promoting gender equality and the right of girls and young women to education, promoting and protecting the sexual and reproductive health and rights of girls and young women, availability of services and information and community outreach, to name a few.

Such a strategy should be a combination of preventive, prohibitive and enforcing

measures, and such measures can have overlap in terms of prevention , prohibition and as well as enforcement of the law.

**Rehabilitation** of the victims of child marriage is also very important aspect of dealing with this issue. A child who has been a victim of child marriage must be brought back to the mainstream. Depending upon the situation, the children must be provided the assistance in terms of psychological help, financial assistance and above all empowerment through education, skill training, and employment.

### **Preventive strategies**

Preventive strategies could be considered as those measures which can help in preventing any incidence of child marriage.

#### **1. Awareness Generation**

Child marriage is a practice that concerns family and the community. The most critical part of the strategy towards eradicating is to generate awareness among the people – community, children, religious leaders and all other stakeholders, with regard to the ill effects of early marriage. Law alone is not enough to deal with the issue such as child marriage, it requires the change in the mind-set of people. People should be made aware of the negative consequences of child marriage as well as the penal provisions under the law. Aggressive campaigning needs to be done by using various media extensively such as print, electronic and even folk media so as to reach out to even the last man in the state with the least resources at his disposal. The awareness brought about like this can actually persuade the community and the family to shun away from this practice.

**Gowramma Sankin** of Bagalkote district got married to a 40 year old man when she was studying in 4<sup>th</sup> standard. She is 60 years old now. She has faced many problems and difficulties because of that in her life.

She is now working for social welfare of women. During the district level consultation, she narrated the story of *Vanika Obavva* in English and strongly felt that all women should be strong and courageous like her. She thinks the law alone cannot eradicate child marriage, role of society is very important. She also expressed the need for create awareness about the evil consequences of child marriage in the society. She is also poet and her poems on the social evils like child marriage are very popular. Through her poems she has been spreading awareness about the child marriage.

- ***Awareness regarding the existing law***

The very first step towards the implementation of any law is the awareness with regard to the objects and provisions of the law among the general community as well as those who are expected to implement it. With regard to the PCMA, 2006 it becomes even more important given the fact that the law concerns the families, children and the community, more so in rural areas. It is very important to make people aware regarding the provisions in the Act, particularly emphasising that child marriage is prohibited by law and that it is punishable.

- ***Awareness among children***

Children, who are themselves the bearers of rights and the sufferers of the consequences, need to be aware about their rights and this can be done in a very systematic and organised manner through inclusion of the relevant information in their academic curriculum itself. It is suggested that relevant information related to the rights of the children, negative

consequences of child marriage and the law prohibiting child marriage, be inserted in the text books of all the classes in a customised manner. This would require revision of the curriculum and textbooks covering children in the age group of 10-18 spread across classes from 5<sup>th</sup> to 12<sup>th</sup>.

Training and sensitisation programmes for both the teachers and children should also be organised to complement this. Relevant content and provisions on child rights with special focus on child marriage should be incorporated into the school syllabus, pre-service and in-service teachers training programmes and all other programmes undertaken by education department as part of awareness and capacity building.

The Content across various subjects could be on awareness (UNCRC, Child Rights Charter, current situation, child rights, legal aspects, adverse effects of child marriage), Prevention (education of the community, SDMC, local civil society organisations, roles and responsibilities of the stake holders), Protection –using SDMCs as vehicles of awareness building, prevention and main streaming girl children to receive equitable quality education, and most importantly, whom to approach in case of violations<sup>33</sup>.

▪ ***Religious leaders***

In India, religion plays a major role in peoples' life and particularly, an occasion as important as marriage has major influence from religious tenants. It is equally important to sensitise the religious leaders since the wrong perception is that the practice has sanction from the religion and also because most of the marriages take place at the religious places. Once

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<sup>33</sup> Content on child rights and child marriage in English and Kannada to be included in the curriculum of school books are enclosed as Annexure 18.

religious leaders are sensitised they can influence the masses and discourage them to conduct child marriages.

## **2. Media sensitisation**

Media, that too electronic, has immense potential in spreading message across the country in a very short span of time through TV channels etc., and also in a very effective manner. Because of their great reach, both print and electronic media can play a very important role in disseminating the information and creating the public opinion. Not only the media can be used for publishing the evil effects of child marriage, it also needs to be sensitive enough in reporting the cases of violation of child rights, incidents of child marriage, successful prevention of child marriage and about rescue and rehabilitation of the victims of child marriage.

## **3. Sensitisation and capacity building of enforcement officers**

The experience at the ground, as gathered from the district level consultations, has revealed that the enforcement officers, specially the CMPOs incharge, are more often than not adequately sensitised about their role and responsibilities in combating the practice of child marriage. The capacity building process for the CMPOs should be institutionalised and the designated CMPOs should be given training in the area of child rights in addition to the know-how about dealing with the issue of child marriage. Such methodical and ongoing training on a regular basis can impart vigour to the attempts in eradicating child marriage.

#### **4. Review and reporting Mechanism**

As things stand today, there is no effective mechanism of reporting reviewing and providing feedback on the performance of the CMPOs which actually leads to non-seriousness and does not allow the vertical or horizontal flow of motivation and revitalisation of efforts towards preventing child marriages. If such a system is put in place CMPOs and other functionaries will also be able to incorporate suggestions and will be able to retain the momentum. This could include details related to the action taken to address child marriage, and impact on the local community (including success stories), in order to build community's ownership of and faith in the community monitoring process.

#### **5. Monitoring**

The monitoring strategies geared towards keeping a check on the practice of child marriage must include identification of institutional structure through which the incidences of child marriages could be effectively monitored at various levels.

- ***Constitution of Child Marriage Monitoring Committees (CMMCs)***

Such Committee should be set up at various levels –village, taluk, district and state - and their primary focus should be monitoring and preventing any incidence of child marriage. Committee should involve a wide range of people including children, child reporters, families, professionals, community leaders, NGOs, teachers, doctors, and government functionaries in the monitoring process. As mentioned in the section on role of children in eradicating child marriage, empowerment of children should be ensured for them to be able to play an effective role.

### **Monitoring Tool Kit**

A simple PRA Tool Kit to collect information from children, families, community members and government officials in each village on an annual basis could be suggested so as to collect data from the village about the following:

- Status of child rights in that village, specifically related to child marriage
- Institutional or Infrastructural barriers that come in the way of realizing these rights in the village
- Suggestions for addressing child marriage in the village
- Information on Central and State Laws and Schemes - specifically for girls, for parents, senior citizens, families and for specific sectors such as disabled, SC/STs etc, which can help in eradicating child marriage
- List of functionaries, NGOs, Civil society organizations, people's movements who can play a role in monitoring child marriage

All the duty bearers under various laws meant for the protection and promotion of the child rights should also be lineally connected in order to enable bottom up information sharing and monitoring and vice versa. Recommendations for a detailed Plan and Mission Statement to be adopted by each CMMC at each level to be evolved which will contain the Long Term and Short Term Objectives, Goals, Outputs.

- ***Mapping at-risk communities, seasons, geographical locations***

The Core Committee has taken note of the incidences of child marriages happening across state and has realised that there are several communities in which the practice of child marriage is very common because of the cultural and traditional values and norms. Also, few days in the years are considered very auspicious on which marriages happen on large scale and children also get married along with the adults. Not only this, few pockets, geographical locations are much more prone to the practice of child



marriage. In the case of Karnataka, northern parts of the state witnesses a larger number of child marriages. While devising any strategy or action plan, such vulnerabilities should be taken into account and additional efforts should be made for deterring the practice of child marriages. Special attention and endeavours should be invested in such areas and appropriate provisions should be factored into the plan.

**6. Access to education, especially for girls vocational training**

Inadequate access to the educational facilities for girls is often cited as a reason for early marriage of girls. Apart from the awareness generation with regard to the importance of education, it is equally important to make all the educational facilities and infrastructure available for children, especially girls so that they are not pushed into marriage for want of these requirements. Also, the education should be made meaningful so as to enable them to make use of it when they grow up as adults.

**7. Alternatives for adolescents**

Provision of pragmatic alternatives to marriage is required for the adolescents as it is seen that many young girls and boys are not able to resist marriage because they do not know what to do after a point finding nothing else to do. Facilities in terms of vocational trainings, free or subsidised higher studies and engagement in other constructive activities or career planning activities can delay the age of marriage in many cases.

**8. Data Bank and Information Management system** should be set up and equipped with all the necessary resources, in order to keep a track on the children in a given area, their status especially viz a viz their health, education and vulnerability to be pushed into labour or early marriage.

Such a data management system would definitely help in coordinating and converging all the measure taken by the central and state governments as well as the local administration and ensuring that the benefit of all such measures reaching the intended.

#### **9. Complaint mechanism system**

A Complaint mechanism system should be set up that would enable complaints relating to Child Marriage and the same should be addressed by all concerned authorities at District and State Level after centralised collection, analysis and addressal. This can be done through setting up a centralised toll free help line in the state with adequately equipped back end support. A mobile number for the state can be used and popularised so that each and every person in the state could reach this helpline 24x7. Parallely, complaint box system and the system of receiving complaints through post also can be adopted.

#### **10. Role of children in eradicating child marriage<sup>34</sup>**

Children and adolescents are critical observers of their own condition and should be participants in decisions concerning themselves and their lives. These young people need to participate in finding solutions to the problems they face. Specific ways through which children can play an effective role in the process of eradication of child marriage should include the following: It has to be ensured that all children have access to all relevant information including the negative consequences of child marriages, the existence of law that prohibits it, advantages of the birth registration, and the availability of options to resort to if they are witness

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<sup>34</sup> A detailed note on child participation in curbing child marriages is enclosed as Annexure 19.

to any child marriages. Most importantly, children should be made aware about the rights they are entitled.

#### **TAKING HER LIFE INTO HER HANDS - THE STRUGGLE OF A STUDENT TO PREVENT HER OWN CHILD MARRIAGE**

Sunitha, a class 10 student is a resident of a village in T. Narasipura Taluk, Mysore District. Sunitha has to travel four km to school every day as there is no bus facility from her village. This was not very comforting for her parents. In the meantime unable to handle the economic pressure in the family her parents decided to get her married off to a 25 year old illiterate daily wage worker, much against her consent.

Sunitha's parents began preparing for the wedding. Sunitha realizing that her parents would not listen to her and that she needed strong support approached Rural Literacy and Health Programme (RLHP) an NGO working in the region, for help. The activists of RLHP tried to convince her parents about the illegality of the marriage and the penal provisions, but failed.

Then the Child Development Project Officer personally visited Sunitha's house and counseled her parents. The CDPO warned them of the legal consequences of the child marriage.

The parents finally agreed to stop the marriage and allow Sunitha continue her education. A jubilant Sunitha now wants to get through SSLC, go through training at the Industrial Training Institute and secure a decent job. Her father has changed his mind now and is willing to support her education.

Brave Sunitha not only prevented her marriage but also achieve her dream to continue her education and take up a career.

### **Children succeeded in preventing marriage of their classmate**

Madivala Veerabhadrappe and Manjamma were all set to marry off their 12 year old daughter Radha a student of class VI to her uncle, Suresh of Byalal village in Harapanahalli taluk of Davangere district. The girl's maternal and paternal grandfathers had died almost a year back. The residents of the village hold the belief that auspicious ceremonies like marriage should be held within a year of the death of elders in the family. Such a belief spurred Radha's family to arrange her marriage.

Radha who did not want to marry so young and lose out on her education informed her classmates of her family's plan. Shocked at this her classmates decided to act fast and prevent the disaster. They set out immediately, on a procession to Radha's house, to demand that the marriage plan be dropped. Some of the youngsters, determined to stop the child marriage marched to the nearby police station and appealed to the officers to help them to stop the marriage.

The policemen accompanied the girls to Radha's house and persuaded her parents to call off the marriage. They briefed them about child marriage being illegal and that such acts are punishable offence. The collective force of the children resulted in preventing a child marriage and thereby assuring a better future for Radha.

Children are likely to have access to information about impending marriages in the community. However, when they share such information, there should be no compulsion on them to express their names/identities. In addition they also need mechanisms such as 'children's post boxes' in schools through which they can share their information with responsible persons without the danger of repercussions. The functioning of these mechanisms should be worked out in details in such a manner to ensure follow up action on one hand and ensure protection of children on the other.

Representatives of children should be part of the Child Rights Protection Committees. Their participation in the committee will have to be well supported. Attention should be paid to their needs and requirements – including in fixing the time and venue for the meetings, providing child friendly documents etc. If not, their participation will be merely tokenistic and can also be manipulated.

### **Enforcement Strategies**

There are a number of preventive measures that, if adopted, can help in reducing the incidences of child marriages. Although there is a possible overlap between the preventive and enforcing measures, enforcement measures largely aim at making the existing system work, through prescribing some procedures helping and ensuring the implementation of law.

#### **1. Code for mass marriages**

Genuine concern for the poor and needy in organising mass marriages by the prominent citizens, NGOs, trusts, temple authorities and others is a good gesture towards social responsibility. Organising mass marriages by itself cannot be commented on adversely, what is to be condemned and discouraged is allowing or including child marriage in such mass marriages.

As discussed in the previous section, a large number of child marriages are conducted conveniently during the mass marriages and in the name of social service. There is an urgent need to tackle this issue, without loss of any time, by adopting comprehensive guidelines to regulate this practice and by making them mandatory to be observed.

### ***Comprehensive Code for Mass Marriages (Mandatory Guidelines and Procedures)***

Since some child marriages take place as part of the mass marriages, it is very important that the mass marriages are regulated through some norms, guidelines and procedures. The Revenue Department based on code and procedures, should issue Government Order incorporating the same.

#### **2. Legal support to victims**

As a strategy to curb the practice and encourage the reporting of occurrence of the incidence, it is suggested that the as far as possible all support in terms of legal aid, taking the service of legal services authority as well, and access to rehabilitation options must be made available to the victims of child marriage. This will help in overcoming the fear among the victims and encourage them to file complaints at any given point in time, either during or after the incidence.

#### **3. Prosecution of violators**

Stringent procedures need to be put in place in order to ensure that the violators of the law are prosecuted and awarded with optimum punishment and this itself will work as a deterrent and those who intend to conduct child marriages will be discouraged to do so.

#### **4. Role of CWCs and SJPU**

In addition to the administrative machinery of the state, the role of Child Welfare Committees (CWCs) and the Special Juvenile Police Units (SJPU) is equally important. While the SJPU can play a pivotal role in preventing the occurrence of child marriage in their areas, CWCs' role is very

important for the adequate rehabilitation of the victim of child abuse or those who are being forced into marriages.

#### **5. Age determination norm**

Although the prohibition of child marriage act (PCMA) 2006 expressly prescribes the minimum age for girls and boys, there have been no norms to determine or verify the correct age of girls and boys. And experience has shown that this has actually given way to many child marriages going unchecked.

The committee suggests that the birth certificates and school certificate should be considered as the age proof and the option of medical certificate be resorted to in the cases where these two are not available or child has never been to school. The Core Committee as suggested norms and relevant formats to be followed for the age verification of the children alleged to have been forced into marriage.

#### **6. Role of Community and Civil Society**

All the efforts made by any government departments may not be that fruitful in the absence of community and civil society support and participation in the process. Community including the parents, children and the NGOs can play a key role in combatting the practice of child marriage by informing the concerned agency about the incidence of child marriage and thereby assisting to prohibit child marriage. The role of the community and the civil society organization is also important in organising various programmes to empower community and formulating opinion against the practice of child marriage thereby bringing about requisite changes in the traditional and customary practices in community

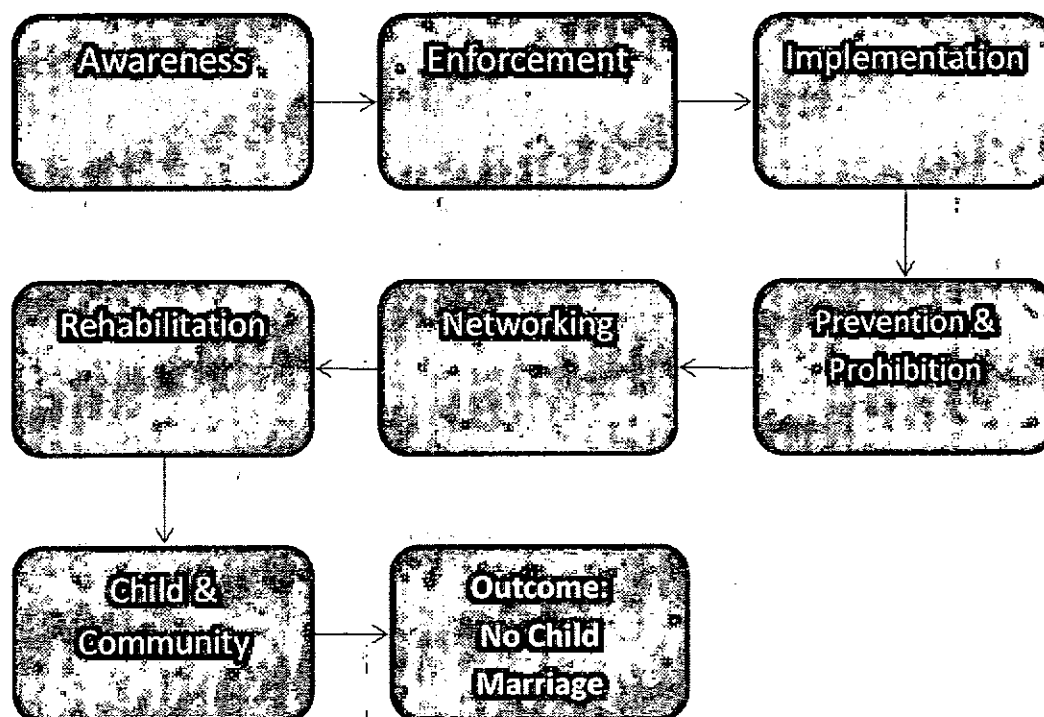
## **7. Convergence**

Convergence is critical for placing the systems for mutual support in tandem with each other and ensuring adequate coordination towards reaching the desired results. In the case of children, convergence among various stakeholders' enables the child to have secured and meaningful childhood. Such convergence is seen as a vehicle to ensure that preventive mechanism together with the all other measures are being effectively implemented and the rights of the children are being protected and promoted.

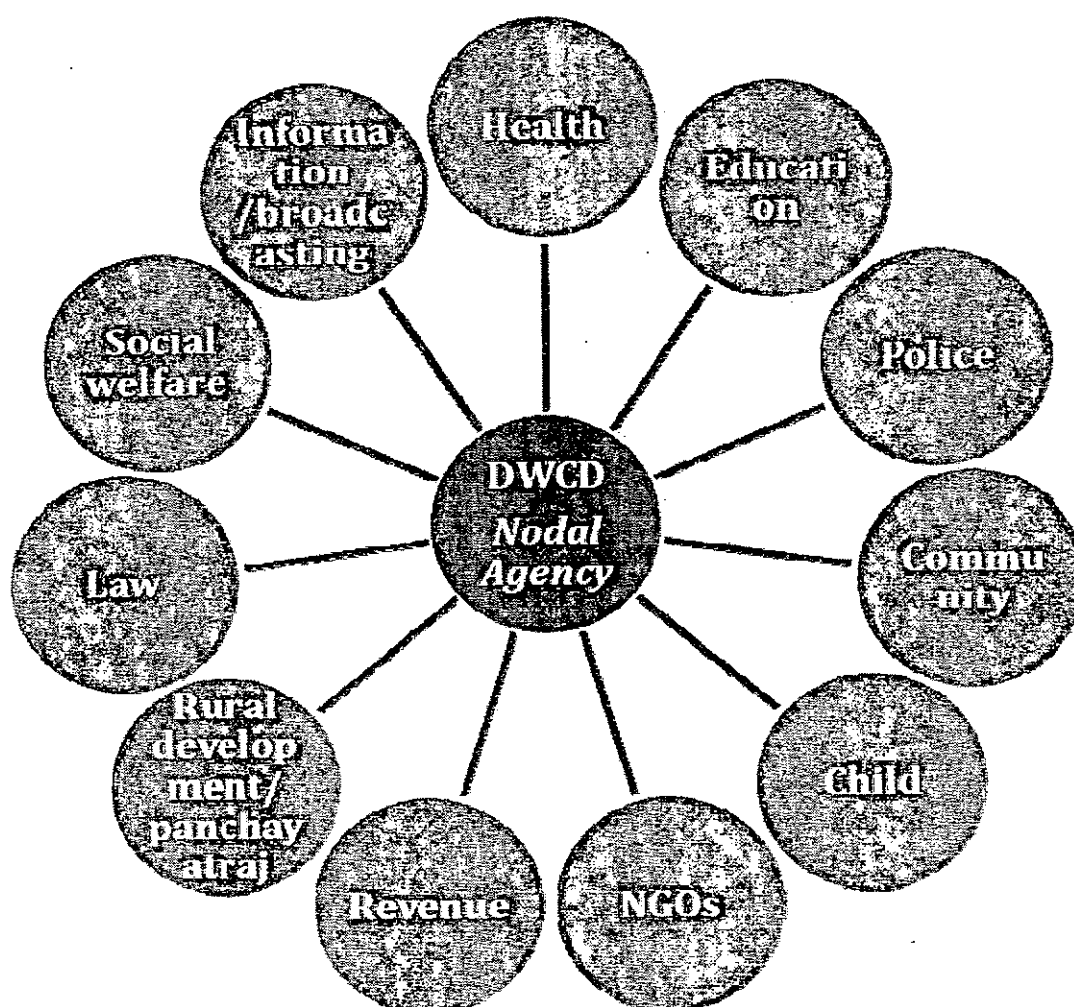
There is an urgent need to bring together various departments of State Government such as Women and Child Development, Education, Social Welfare, Revenue, Rural development and Panchayat Raj (RDPR), Police, Health and Information and Publicity, under one umbrella so that various aspects of the issue could be tackled with effectively and in a coordinated manner. The Department of Women and Child (DWCD) should be the nodal department responsible for the effective implementation of the law. The support of other line departments is crucial for the effective implementation of the law and the recommendations being made by the Core Committee. Therefore, the operational key in ensuring success in preventing child marriages are: Inter-sectoral convergence and Community Ownership steered through grass-root democratic institutions.



*Process for Convergence:* The process for Inter-departmental linkages and coordination for networking is listed in the diagram below. The process shall ensure that no child marriages take place.



*Key Players in Convergence:* Following are the key players in convergence. A basic description of each of these players and their roles and responsibilities as follows:



**Department of Women and Child Development** plays key role as the Nodal Department to implement policies, programmes and legislations to prohibit child marriage practices in the State.

*Roles and Responsibilities*

- ⊙ Implementation of policies, programmes and law (JJ Act, CMP Act, and so on)
- ⊙ Implementation of welfare schemes with the support of all concerned departments that benefit the children and family
- ⊙ Coordinating with all line departments for the effective implementation of policies, programmes and laws
- ⊙ Networking at all levels to build powerful social movement against child marriage
- ⊙ Follow-up, documentation and time-to-time recommendation for suitable changes in the policies and programmes

**Department of Police** plays the key role of assisting the nodal department to enforce law to prevent child marriages.

*Roles and Responsibilities*

- ⊙ Issuing relevant Government Orders to all subordinate institutions to assist the implementing authority for an effective implementation of the laws
- ⊙ Registering cases, and filing FIRs and charge sheets on institutions and people violating the laws or practicing child marriages
- ⊙ Providing necessary protection to prevent child marriage either at family level or during mass marriages
- ⊙ Organising interaction with community as part of awareness building to prevent child marriages

**Department of Revenue** plays the key role of assisting, supporting and coordinating with the nodal department to enforce the law to prevent child marriages

*Roles and Responsibilities*

- ⊙ Issuing mandatory guidelines, certification and registration of mass marriage and individual marriages.
- ⊙ Providing support to all families for economic and social development
- ⊙ Issuing guidelines to Village Accountants and Revenue Inspectors to keep constant vigilance in the jurisdiction to prevent child marriages
- ⊙ Maintaining relevant records on the issue

**Department of Health** plays the key role of assisting and supporting the nodal department to ensure good healthcare access to every girl child and thereby preventing child marriages.

*Roles and Responsibilities*

- ⊙ Age verification-certificate, tools for the same established, standardized criteria / measures
- ⊙ Provide medical assistance to affected person
- ⊙ Awareness programmes in Government Hospitals
- ⊙ Awareness building and adolescence education programmes in collaboration with education department about ill-effects of child marriage
- ⊙ Implementing all health related programmes to benefit the girl child and her family

**Department of Education** plays key role of assisting and cooperating with the nodal department to ensure equitable quality education to every girl child and thereby preventing child marriages.

*Roles and Responsibilities*

- ⊙ Taking measures to impart education against child marriage practice through curriculum at all level as part of awareness and sensitization to parents, teachers, children and community.
- ⊙ SDMC as an institutional body to be considered as a key player at the grass-root level to achieve impact
- ⊙ Working hand-in-hand to implement all special programmes meant for girl children to ensure quality education
- ⊙ Taking all necessary measures to ensure free education to all children until they complete 12<sup>th</sup> standard
- ⊙ Reserve at least 5 percent of seats in all residential schools meant for children for the children affected by child marriage practices

**Department of Rural and Panchayatraj** plays important role of assisting and supporting the nodal department to implement all development programmes through Gram Panchayats (GP) to prevent child marriage

*Roles and Responsibilities*

- ⊙ Awareness and sensitization to all PDOs and GP members on child marriage practice at the gram panchayat level
- ⊙ Conducting special Gram Sabhas in the child marriage intensive pockets to sensitize parents and community
- ⊙ Taking effective measures to conduct Makkala Gram Sabha more meaningfully, as part of child rights awareness programme
- ⊙ The PDO at the GP level should be made the responsible officer to prevent child marriage practice at village level

**Department of Social Welfare:** plays the key role of assisting and supporting the nodal department to implement the policies and programs to prevent child marriages among SC/ STs.

*Roles and Responsibilities*

- ⊙ Implementation of welfare schemes with the support of all concerned departments that benefit the SC and ST children and family.
- ⊙ Coordinating with all line departments for the effective implementation of such schemes and programmes meant for marginalised children.
- ⊙ Networking at all levels to build powerful social movement against child marriage.

**Community-Parents-NGOs-Children** play the key role of informing the nodal agency about the incidence of child marriage and thereby assisting to prohibit child marriages. This can also be done through the formation of child rights protection committees.

*Roles and Responsibilities*

- ⊙ One-to-one campaign to create awareness about child marriages
- ⊙ Disseminating information to educate community members about the ill effects of child marriages
- ⊙ Assisting the nodal agency and other line departments for the effective implementation of policies, programmes and laws to prevent child marriage practices
- ⊙ Mobilizing people at various level to prevent child marriages
- ⊙ Function as the *Ambassador* in the community at large to prevent and prohibit child marriages

- ⊙ Organize various programmes to empower community and religious leaders to understand the ill effects of child marriages on childhood and thereby seeking their assistance to implement various policies, programmes and laws to secure childhood and to empower family
- ⊙ Formulate opinion against child marriages, to bring about change in the traditional and customary practices in community

If all the departments work in coordination with each other and all the schemes and programmes run by various central and state departments are implemented adequately, child marriages can be effectively reduced in the state of Karnataka<sup>35</sup>.

The issue of child marriage is, though a complex one, it can be tackled by the coordinated and concerted efforts from vigilant civil society, dedicated NGOs, honest and committed law enforcement agencies, proactive judiciary and positive and meaningful media. Although the government has the obligation to put all systems, procedures and mechanism in place, participation of all stakeholders, including the community and civil society and children themselves only can make them effective.

#### **In Brief**

Despite the legislative measures and the efforts made by the state government, the practice of child marriage is still prevalent in Karnataka. While law enforcement has been weak on one hand, there have been many problems at the ground such as lack of awareness among people, lack of sensitized and trained functionaries on the other and have been impediments in moving forward.

A combination of prohibitive, preventive and rehabilitative strategies is therefore required to deal with the problem. Awareness generation among people on the

<sup>35</sup> Causes for Child Marriage and Linkage with Schemes and Programmes to prevent it is enclosed in Annexure 16.

law and the negative consequences of the practice of child marriage is very important to curb the practice. Print, electronic and folk media should be made use of extensively and continuously for generating awareness among people.

Making children aware about their rights and the negative consequences of child marriage is equally important, which should be done by ensuring child participation in the decision concerning children and also empowering them by making them aware about their rights. Empowerment of children to be able to voice their concerns and participate in the decisions that have bearing on their rights can also go a long way in curbing this practice.

Sensitisation and capacity building of enforcement officers is crucial for making the law work. It is also required to put review and reporting mechanism in place at village, taluka, district and state level.

Providing alternatives to adolescents, especially girls, in terms of educational opportunities and vocational training can really help in deterring the practice of child marriage.

It is also required to have a sound data collection and management system as well as complaint mechanism.

Enforcement strategies include - adopting and adhering to guidelines and procedures for mass marriages and age determination as well as proving support the victims of child marriages and prosecuting the violator. Role of Child Welfare Committees and the Special Juvenile Police Units is also very important for implementation of the law and rehabilitation of victims.

However, the role of community is primary and important of all the efforts made for preventing and eradicating child marriages. It is required that all the stakeholders and all the state departments work in tandem and in coordination with each other in a convergent manner for the efforts made towards eradicating child marriage successful.



## CHAPTER V

# Recommendations and Action Plan

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*Social Justice must begin with children. Unless the tender plant is properly tended and nourished it has little chance of growing into strong and useful tree. So the first priority in the scale of social justice must be given to the welfare of the children.*

- Subba Rao J., *Social Justice and the Law* (1974)

### PART 1 - RECOMMENDATIONS

The state and district level consultations, and discussions with senior officials of key departments, cross section of stakeholders, civil society organizations, children and Kishore group members, functionaries, legal and media experts and others concerned facilitated detailed analysis of the prevailing situation in the state, and the emergence of various recommendations and strategies for effective implementation of an action plan.

The Recommendations are delineated under the 3 major strategies:

1. Awareness on the consequences of child marriage to prevent its occurrence
2. Reformation to Legislative and legal framework, including amendment to the existing Prohibition of Child Marriage Act and state rules.
3. Effective Implementation of the Prohibition of Child Marriage Act by addressing the constraints and hurdles.

### **1. Awareness on consequences of child marriage for prevention its occurrence**

As discussed in the earlier chapters prevention of child marriage and protection of rights children can become a reality only when there is wide spread awareness amongst the parents, children, family, communities and society at large about the irreversible impact that child marriage has on an individual and the family, society and nation at large. The need of the hour is for powerful communication and consistent messages through appropriate channels that can reach various sections of society; and bring about behavioural and attitudinal change, dispelling myths, wrong notions and blind beliefs that were obstructing eradication the heinous practice of child marriage.

Since the formation of the Core Committee, several consultations were held at the State level as well as District level. There were district level consultations covering the districts of Dharwad, Gadag, Belgaum, Gulbarga, Bidar, Yadgir, Bagalkot, Bijapur, Raichur, Koppal, Bellary, Mysore, Mandya and Chamarajanagar. Owing to the active and meaningful participation of stakeholders including the district-level officers, NGOs, social activists, children and media in large numbers in every such district level consultation besides having the benefit of knowing the ground realities, awareness was simultaneously generated about the issue of child marriage. Testimonies were heard from children. The media coverage in this regard has been extensive and meaningful which was one of the important factors as regards creating awareness simultaneously. Consequently there was significant prevention of child marriages, both as individual cases as well as in mass marriages through coordinated action. The Table as given in Chapter 1 of this report indicates the

impact brought about in just a few months, due to awareness post consultations.

The district level consultations were primarily aimed at discussion on district and region specific issues, and the awareness generated in the process was a spin off rather than a planned, strategic intervention. If such an unchartered move could evoke spontaneous response and lead to synergy in action from the enforcers and civil society, then a focused, systematically planned and sustained awareness campaign by the State would go a long way and bring about the desired social transformation – prevention of child marriage even in districts that are considered to have high incidence of child marriage.

**Development of content for awareness** is critical to a successful awareness campaign. The materials and messages to be developed need to specifically contain the 4 key elements of a) the serious consequences of child marriages on children, especially girls, families and society at large, b) the punitive provisions of the legislations, c) the rehabilitation provisions in all the Acts and the other services and schemes available for children, families/individuals, and d) the scope for child's contribution to his/her individual development, that of the family, community and the nation at large, if provided opportunity and access.

**The awareness campaigns** and messages should necessarily target the most vulnerable population to bring in the desired change. The messages developed need to be tailor made to meet the requirements of specific sections of society who are directly involved in organizing or party to the child marriage. The awareness programs will effectively use print, electronic and popular media including folk arts, commercial theatres etc through a cost effective systematic, planned and sustained strategy. The state should declare the year

14<sup>th</sup> November 2011 to 14<sup>th</sup> November 2012 as the 'Year of Campaign Against Child Marriages', to create yearlong awareness intensively and continuously by multifaceted approach to reach the last man in the state.

### **Towards a People's Movement**

The vision of a powerful and intense advocacy and awareness campaign is that it ultimately snowballs into a people's movement for protection of rights of children and condemnation of practices and beliefs that violate these rights. What law and legal measures cannot do, change in people's thinking and perception can. In India, more so in rural India where behaviour is guided by socio-cultural and religious dictums, change in mind sets of people can bring a more lasting impact. When the intrinsic value of children and their development is understood and appreciated by each and every one, the seed of transformation is sown and the process of change moves from the hand of the state or the initiator, to that of the people.

The one point agenda of a strategically developed and well implemented campaign for the prohibition and prevention of child marriage will lead to multi-dimensional impact for change. This coupled with access to education, skill development leading, possibility for employment will bring in a marked change in the value for girl child, her status and autonomy, health and wellbeing of children, economic and social progress of the family and community.

Hence it is strongly recommended that the state design an effective awareness campaign, in collaboration with civil society organizations and media experts, and implement it with commitment realizing that it yields useful dividends. To win the war against the age old evil practice of child marriage the state and the

concerned actors 'shall not rest till the last man in every village and slum is touched. This shall be the driving motto of the state and enforcers advocating for annihilation of a deeply entrenched heinous practice of child marriage. The one-year long campaign in Karnataka will move into every nook and corner of the state to wake people up to fight against the evil practice of child marriage. By 14<sup>th</sup> November 2012, no person in the state shall remain uninformed to say that he/she does not know that child marriage is a crime, a social evil and has serious adverse impact on the child, family and community.

## **2. Law reformation - Amendments to the existing Prohibition of Child Marriage Act and State Rules.**

The implementation of the Prohibition of Child Marriage Act in the state commenced in 2007, with the state notifying the state rules and subsequently in 2008 notifying the Child Marriage Prohibition Officers. The implementation of the Act and the Karnataka state rules by the state, in coordination with the non-governmental organizations, UN Agency such as UNICEF and other mechanisms like Child helpline service, have brought to fore serious field level issues that have implications on the legislation.

As discussed in the earlier chapter child marriage in Karnataka manifests in two ways - as individual incidences that are more clandestine and hard to intervene; and child marriage disguised as part of mass marriages conducted by organisations or eminent individuals of the community. The enforcement therefore demands making mandatory specific procedures for dealing with the situation appropriately. Likewise the weak implementation of the Karnataka Compulsory Registration of Marriages Act also has implication on the prevalence of child marriage as procedures require strengthening. Hence

recommendations for reform of both the central legislation and the state rules become imperative.

The existing legal frame work and the improvement needed in that regard are stated elaborately in Chapter 3 of this report. The amendments are also suggested keeping in view the state's commitments to the UN CRC and in tandem with the other child legislations in the country, especially the Juvenile Justice Act and Right to Compulsory Education Act.

### **2.1. Recommendations for Reforms to the Act**

Keeping in view what is stated in Chapter 3 of the report the PCMA needs certain amendments.

On the punitive measures the amendments proposed are – a) women should also be brought under the purview of imprisonment as often they are equally responsible for the child marriage and many a times they are used as a front by the male elders of the families, b) the Act indirectly confers validity to a child marriage and hence need to be amended such that the provisions to make the child marriage void *ab initio* are incorporated c) Sections 9,10,11 to include 'a minimum term of imprisonment of 3 months', c) inclusion of prohibition of 'engagement' of minors or couple who are under age as this act is considered as preparation for marriage, d) to explicitly state the role of police in taking cognizance of the crime and act suo motto.

### **2.2 Recommendations to Amendment to State Rules**

The recommendations to the state rules are made after careful and detailed examination of the prevailing ground realities, and the required changes that would ensure strengthening of procedures for implementation.

The recommendations to the amendments to the state rules shall include (fall within the following categories) –

i. **Child friendly approach** ( Sec 2) in implementation of the legislation to uphold the 'best interest of the child' as enshrined in the UN CRC to ensure sensitive handling of the incidences and cases, avoiding secondary victimisation of the child, timely response to reduce trauma, appropriate rehabilitation, space for child to express her/his opinions and decisions, maintaining confidentiality to safeguard the child's interests etc.

ii. **Expansion of functions and roles CMPOs (Section 16, Rule 4, 5)** – the functions of CMPOs are determined by the 2 central objectives of the PCMA – 'Prevention and Prohibition of child marriage'. The rules therefore need to delineate with clarity the roles and functions of the CMPOs towards these objectives commensurate with the departmental functions and responsibilities.

The functions of the CMPOs shall take into consideration all other child legislations that have bearing on the case as may be – for e.g. when trafficking of a child happens in the guise of marriage taking appropriate measures and informing concerned authorities under the ITPA.

iii. **Procedures to be specific (Section 3,4,5, Rule 4)** pertaining to production before the Child Welfare Committees such as the step by step process, orders to be passed, time frame for completion of inquiry, roles of the CMPOs and CWC members to be delineated in the hearing as well as rehabilitation process.

iv. **Procedures for Rehabilitation ( Sec 3,4,5, Rule 4)** so as to ensure holistic and comprehensive support for the victim/survivor and

vulnerable children through a convergent approach, and to include educational, shelter both short term and long term, legal, counseling, recreational, vocational services and support and also repatriation and restoration wherever required (as mandated in the state rules of the JJ Act)

- v. **Punitive Measures for CMPOs and officials for non-compliance and dereliction of duties** including mentioning personal Confidential Records and initiating departmental action
- vi. **Reporting by and Data (Sec 16 (2 Rule 5))** from CMPOs and all field functionaries and agencies directly involved in prevention and prohibition of child marriage as mandatory. Data to include prevention of child marriage as individual instance as well as part of mass marriages.
- vii. **Procedures to include guidelines and procedures for prevention of child marriage in mass marriages, process for age verification and compulsory registration of organisations and individuals** who conduct mass marriages, as mandatory to prevent child marriage in mass marriages and other misuse of the scheme/benefits.
- viii. **Sensitisation of CMPOs and organizers of mass marriages** on the procedures and guidelines, process for age verification issued by the state.
- ix. **Promotion of child participation** through providing forums for children in school and out of it, to ensure awareness on the issue of child marriage, child rights, sensitisation and active participation as peer support, as well as space to hear the child who is a victim/survivor or potential target to child marriage



- x. **Confidentiality of and protection to informers, especially children (Proposed Rule)** as a responsibility of the state to promote active people's participation in prevention of child marriage
- xi. **Monitoring and review mechanisms to be set up (Proposed Rule)** such as Child Rights Committees at village levels and Child Marriage Prohibition Monitoring committees at district level, the Coordination Committee at state levels. The composition of members and their role and functions is as proposed in the schedule.
- xii. **Rules to take cognizance of the 73<sup>rd</sup> Amendment (Proposed Rule)** – role of Panchayat institutions in prevention, prohibition and importantly monitoring.

In the light of the recommendations made necessary steps may be taken expeditiously by the government for carrying out the amendments to the Child Marriage Prohibition (Karnataka) Rules and the Karnataka marriage (Registration & Miscellaneous Provisions) Rule.

The Committee recommends that the state propose amendments to the central government for bringing about amendments to the Prohibition of Child Marriage Act, 2006. A working paper on the proposed amendments is being submitted to the DWCD for future use.

### **2.3 Recommendations for the revision of the notification of CMPOs**

While the onus of the implementation of the PCMA is that of the nodal Department of Women and Child Development other key departments to have definite responsibilities in implementation, given that child rights protection is a shared and convergent commitment. Hence it is recommended that the departments of Education, Police, Health, RDPR, Revenue, Social Welfare, Backward Class and Minorities, Urban and Municipal Administration be brought within the purview of the Act.

In continuation of the above section on recommendations to the state rules the Committee strongly recommends the inclusion of Heads of departments of key departments at state level and other key officials of line departments at district, taluk and gram panchayat level for implementation and monitoring, commensurate with the departmental functions and responsibilities, in the light of recommendations made in Chapter 3 of this report<sup>36</sup>.

#### **2. 4. Suggestions for Amendments to the State Rules of the Karnataka Marriage (Registration & Miscellaneous Provisions) Act 1976**

The KMA mandates registration of all marriages with the Registrar of Marriages under the Revenue department at Taluk and district level. Officials have been appointed at village, panchayat and taluk level to oversee the implementation. Enforcement of this Act would also adequately ensure prevention of child marriage. However the state rules need to be reviewed, procedures spelt out with clarity and in tandem with the PCMA.

Section 3 of the Karnataka Marriages (Registration and Miscellaneous Provisions) at 1976 mandates compulsory registration of all marriages in the State. However, Section 8 states that non-registration does not invalidate the marriage. This contradiction needs to be addressed as it is not favorable for effective implementation of the Act. Hence it is proposed that an amendment be made to the Act and Section 8 (a) include that parties to marriage who fail to get their marriages registered within a period of 30 days shall be liable for punishment up to three months or fine of Rs. 10,000/- or both.

It is therefore recommended that the Department of Women and Child Development and Department of Revenue, the nodal departments for implementation of this Act amend the state rules based on proposed

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<sup>36</sup> List of Existing and Proposed C.M.P.Os is enclosed as Annexure 20.

amendments such as a) delineation of the roles and responsibility of the authorities under the Act for effective enforcement b) mechanism for stepping up marriage registration across the state and review c) procedures for implementation of penal provisions of the Act d) measures for dealing with officials for non-compliance and dereliction of duties including mentioning personal Confidential Records and initiating departmental action (Proposed Rule)

### **3. Effective Implementation of the Prohibition of Child Marriages Act by addressing the constraints and hurdles**

*Social policy implementation involves the accomplishment of policy objectives through the effective and efficient planning and programming such that the desired result and outcomes are achieved*

**Brynard P.**

The process of implementation of protective legislations and social policies, as experience has shown, are not one of administrative responsibilities alone, but importantly one of good governance and political will. The challenge is further enhanced in the implementation of protective legislations for children as every delay impacts the timely growth, development and protection of rights of children.

Strategies for successfully implementing a social legislation such as Prohibition of Child Marriage Act, must necessarily take into consideration the key elements of structures for planning, road map for action, tasks for the performers and mechanisms for monitoring and performance review. This is a challenge as implementation involves multiple players, multiple tasks and at multiple levels.

Central to the Core Committee's recommendation of the Implementation strategies for addressing the issue of child marriage are the 3 key objectives of the Act a) Prohibition and prevention of child marriage b) Protection and rehabilitation of victims/survivors and c) Prosecution of offenders.

The road map for implementation is charted through the series of Recommendations and the Action Plan in Part II of this chapter.

### **3.1 Sensitisation of Enforcement Officials and Functionaries**

Effective enforcement of any legislation requires committed, trained and efficient personnel. Proper knowledge of the legislation, understanding of the provisions of the law, skills in application and timely response to cases of violation or abuse become imperative for meeting out justice to the aggrieved persons. Justice to children should be timely as their balanced, wholesome development is at stake. It is recommended that sensitisation and enhancing the capacity of the enforcement personnel and field functionaries therefore are prerequisites for effective implementation of the Prohibitions of Child Marriage Act.

While the objective of the sensitization program is to impart knowledge and skill at one level, at another the core purpose is to bring about attitudinal change in the personnel. Empathy towards the issue, sensitivity towards the child victims and above all motivation to be part of the change process are critical without which no sensitization program can succeed. A highly motivated person then becomes an agent/engine of change.

The expertise for evolving an effective sensitization plan should be drawn from civil society organisations/NGOs with expertise and experience, legal professionals, medical professionals including psychiatrists, child psychologists, etc. who will be able to provide the required orientation.

The plan for capacity building and sensitization of enforcement officials will necessarily cover the 4 categories of enforcement and field personnel namely a) the judiciary including Magistrates and Public Prosecutors, b) members of statutory bodies like the Child Welfare Committees, Special Juvenile Police Units, and like the panchayat ward leaders and other elected people's representatives, c) importantly the designated Child Marriage Prohibition Officers drawn from key departments and functioning from state to taluk levels and finally d) field functionaries such as supervisors and anganwadi workers, AHSA and ANMs who interact with the community on a day to day basis at the village level.

It is recommended that the sensitisation programs cover important aspects to build knowledge on a) the United Nations Convention on the Rights of Children, international and national instruments that safeguard human and child rights, constitutional provisions, b) detailed coverage of the Karnataka Compulsory Registration of Marriage Act, provisions of the Prohibition of the Child Marriages Act, relevance of other important legislations like Juvenile Justice Act, Dowry Prohibition Act, Prohibition of Domestic Violence Act, and related rules, procedures for enforcing, role of various enforcers – specifically the CMPOs. This is very important as most people are aware of the law but not the consequences of violation of its provisions. c) Also important is to provide information on the importance of convergence, skills for networking, redressal mechanisms, the

various schemes of the government for referral services for families and children.

The methodology adopted, quality of trainers and resource persons, and follow-up through refresher course are elements that determine a successful sensitisation intervention.

Empowering enforcers and functionaries through knowledge and skill transfer motivates them for action. Combined with rewards, incentives and appreciation citations the motivation can be kept alive. However the pre-requisite is a dynamic monitoring and review system in place – which is dealt in the latter part of this section.

### **3.2 Enforcement and Implementation of the Prohibition of Child Marriages Act**

The abolition of the heinous practice of child marriage and creation of a protective environment for children free from abuse will become a reality only when the PCMA and other child related legislations are effectively enforced by the state. Enforcement calls for efficient and committed enforcement officials and road map for implementation. The Core Committee recommends that the following measures be implemented -

- Enforcement of the existing laws and rules
  - Inclusion of further provisions in Rules of Karnataka Marriages (Registration and Miscellaneous Provisions) Act 1976 and strengthen enforcement and monitoring at all administrative

levels such as providing time frame for registration of marriages, reporting from all marriage choultries, wedding halls, marriage venues about the weddings performed, periodic reporting to taluk and district officials about the registration of marriages etc. The process of registration has to be simple and easy with at venue/on the spot facility for mass marriages and village based registration for individual marriages. Towards this purpose the Village Accountant is now the empowered authority for registration as per the Government Notification no. WCD 100 SWW, 2006 dated 07.11.2007.<sup>37</sup> The registration process should be strengthened by strict implementation as per the provisions of the rules and of the Act.

- Stringent enforcement of the Right To Education Act to ensure all children have access to elementary education, whereby teachers, SDMC, panchayat members actively monitor access of children to schooling and prevent drop out. Special attention will be given on priority basis to children who are vulnerable to drop out such as girls, migrant families, nomadic communities etc
- Stringent enforcement of the Dowry Prohibition Act 1961 as amended in 1986 to ensure that the fear of economic burden and perception of girls as economic liability do not drive families to perform child marriage
- Amendments of the Act and rules of the PCMA, as proposed in Chapter III so as to make the legislation easily and effectively enforced, implemented and monitored covering all aspects of the child and family.

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<sup>37</sup> Government Notification No. WCD 100 SWW, 2006 dated 07.11.2007 on appointment of Village Accountant as Marriage Registration Authority, is enclosed as Annexure 21.

➤ The prime movers in this onerous task are the Child Marriage Prohibition Officers who are empowered by the Act to take up specific roles that include prohibition, prevention, monitoring and reporting. The state shall notify additional officers of the key departments of Health, Police, Social Welfare, RDPR, Municipal Administration, Backward Classes & Minorities at state, district and taluk level as indicated in the list provided as Annexure 20 so as to ensure comprehensive coverage. The specific responsibilities of the CMPOs at all levels would include<sup>38</sup> -

- Respond to information and complaint on a child marriage happening with urgency and stop the event
- Legal action such as getting interim orders issued by a Judicial Magistrate of the First Class or a Metropolitan Magistrate, as per section 13 of the PCMA like injunction, prohibitory orders, custody orders, maintenance orders and other suitable orders as to the residence of female contracting party to the child marriage
- Collect evidence and assist the Court/magistrate in effective prosecution of the cases
- Stringent follow-up on court case to ensure conviction that would act as deterrent for others
- Wide publicity on the issue and awareness programs to prevent child marriages from taking place
- Periodic reporting and documentation in place including statistics to enable assessment of progress and impact
- Institutionalised review and monitoring system at all levels

CMPOs of nodal departments shall be held responsible for failure to prevent or stop child marriage/s from happening. If officers of other departments do not

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<sup>38</sup> Suggested Roles of C.M.P.Os is enclosed as Annexure 22.



provide the necessary assistance or coordination required and sought, then the CMPO will report to the concerned district head of the department.

➤ **Strengthening Implementation**

- Stringent measures for dereliction of duty by the enforcement officials, such as adverse recording in their confidential record, service registers of the officer and also disciplinary action by the department. Further continued neglect of duty would lead to imposition of major penalties.
- It is equally important and necessary to lodge FIRs and ensure that the cases booked are effectively prosecuted and tried in courts, in order to create deterrence.
- Awards and appreciation for committed performance and motivated officers.
- Necessary Police Protection along with at least one Women Police Constable to be provided as to the CMPOs when preventing a child marriage from happening. This is required especially at the event of mass marriages as the crowd could turn uncontrollable.
- ID cards to be issued to the Child Marriage Prohibition Officers. The format and content will be prepared by the DWCD while the cards will be issued by the respective departments.

➤ **Preventive and Promotive Strategies**

- **The Department of Education has a greater role** in the eradication of child marriage as if all children are motivated to pursue secondary education the age of marriage gets pushed up. Strengthening Back-to-school programs of department of Education to ensure drop-outs and non school going children, especially girls and children of migrant families are brought into

mainstream education to prevent them from becoming victims of child marriage.

- **Access to high school** and provision of functional toilets in all schools to prevent girl child drop out. This has to be done through micro planning and mapping of school resource vis-à-vis the need assessment, and mobilizing resources under schemes and services of other departments.
- **Addressing gender inequality and promotion of status of girl child** are core issues that need to be dealt with for a sustained and progressive change, including prevention of child marriage. Promotion of girl child education, promotion of opportunities for higher education for girl child, life skill education and access to opportunities/avenues for career and economic development for young women would inevitably delay marriage. The departments of Primary, Secondary and Collegiate Education, DWCD, Social Welfare have to ensure more benefits for girls such as residential facilities, scholarships and subsidized transportation etc to prevent drop-out, especially in educationally backward regions. It is equally important that adolescent girls who are out of school have access to forum/platforms such as Kishore or Balika Sanghas to share their experiences, concerns and learn through a collective process. If education and economic independence has to result in empowerment of women, then there should be a positive change in men's attitude and perception of women. It is therefore imperative that the state ensures that boys and youths also have access to life skill education and provide forums such as Kishora Sanghas for articulation on various issues including child marriage. This can be facilitated by organisations and

individuals with expertise on gender issues and child participation.

- **Promotion of Child Participation** through opportunity for children's forums and access to knowledge and information – dealt in detail in the latter part of this section. However it is important to state here that the departments of Education and WCD have the responsibility of setting up space for children such as Child Rights Clubs, Kishore and Kishora sanghas for out of school and adolescents, Meena Clubs. Child Rights clubs are to be set up in all government schools as per the circular No. SSA/OOSC/child rights/2009-10 dt 23.5.2009<sup>39</sup>.
- The RDPR shall also **strengthen the Makkala Grama Sabha** a panchayth forum for discussion of issues related to children along with the community. It is imperative that the support of NGOs and individuals with expertise in child participation are enlisted for effective action<sup>40</sup>.
- **Strengthening the Role of Police** – The Karnataka State Police has taken proactive measures to build the relationship of the police and the community through a series of community outreach programs. The primary objective of this initiative is aimed at reducing crime against women and children. The Government Order<sup>41</sup> of 2010 directs the officer in charge at the Police stations to organise Open House or Therada Manne a weekly program for school and college children, bi-monthly

<sup>39</sup> The Circular from Sarva Shiksha Abhiyan SSA/BBSP/ Child Rights/2009-10 dated 23.05. 2009 for formation of Child Rights Club is enclosed as Annexure 23.

<sup>40</sup> The Circular from RDPR no. Gra Ah Pa 638 Gra Pam Ah 2007 that contains guidelines for formation of Makala Grama Sabha dated 30.10.2007 is enclosed as Annexure 24.

<sup>41</sup> Government Order dated April 29, 2010 on community outreach by Department of Police is enclosed as Annexure 25.

Samudhaya Samparka Sabha or Mohalla meetings, Beat documentation to cover all villages and issues, village adoption etc. It is therefore recommended that these programs are strengthened by the department so as to address issues related to children including child marriage as is done systematically in the districts of Koppal and Raichur.

- **The Role of the Health department** is very crucial in prevention of child marriages. Following due process of age verification to issue birth certificate will prevent children from being victimized. Paramedical staff like the ANMs and health outreach workers such as ASHA workers can orient mothers and adolescents groups on the extreme harm of child marriage on health of the girl child and influence change in attitude.
- **Strengthening role of members of statutory bodies** such as panchayat and SDMCs – decentralized governance promoted by the 73<sup>rd</sup> Amendment to the Constitution and ownership at community level of the school system promoted under the Sarva Shikshana Abhyan are hallmarks of a democratic participator process. The primary responsibility of the duty bearers is towards their constituency – the children. The elected and nominated leaders/members have a commitment towards protection of children and their rights. Hence it is recommended that sensitisation and participation of panchayat and SDMC members be strengthened and their roles clearly defined with regard to prevention of violence and crime against children such as child marriage, forced labour, trafficking etc and promotion of their constituency as 'child friendly'. Violators need to be

severely dealt with as they are the role models for the community.

- **Strengthening monitoring and coordinated action at the village and ward level** by strengthening the role of Anganawadi workers, ANMs and Village Accountant. With better coordination these three key field level functionaries representing the 3 main departments of WCD, Health and Revenue, could bring in a sea change as their jurisdiction is limited and keeping a close vigilance on a smaller population and reporting immediately of a child marriage happening would result in timely prevention.
- **Strengthening role of community based organisations** – such as Stree Shakthi Groups, Self Help Groups, Nehru Yuvaka Kendras have to be brought into the ambit of child protection and hence every member need to be sensitized on the issue of child marriage and it is their responsibility to ensure that no child marriage happens in their jurisdiction. Peer counseling, pressure from co-members, conditional membership can be some of the tactics adopted to create a conducive environment for children and youngsters.
- **Promotion of sponsorship and scholarship programs** to provide for the additional financial support for education, nutrition and health. This is being provided by WCD as sponsorship and by SSA and Social Welfare as scholarship. The support provided is of varying slab and hence it is proposed that the amount per child be increased to a minimum of Rs. 500/child/month under any scheme.
  - **Childhelp Line** is one of the most effective response mechanisms for children in situation of emergency and distress as has been the experience in the state. Presently Karnataka has 11 Childlines functional in 11 districts and it is suggested that in a period of

two years this service be extended to cover all 30 districts of the state with sub-centers at Taluk levels as per the Integrated Child Protection Scheme. The easy access enables any person wishing to reach out to a child in distress, connect to the service and provide timely intervention. The network of Childline service across the country has also enabled interstate repatriation of children.

- **Linkage of vulnerable families to economic development programs** is strongly recommended as an effective preventive strategy as has been highlighted in all state and district consultations. The process of mapping vulnerable families such as migrant labourers, families that are socially and economically placed in disadvantageous position, single, woman headed families or those where either of the parent is not in a position to take care of the children owing to economic constraints or illness of the main bread winner and other such families should be prioritized for receiving benefits of the various economic development or income generation programs and other cash transfers such as MGNREGS, other income generation programs under the RDPR, Health insurance and benefits, etc. The convergent action at Panchayat and Taluk is essential for identification and linkage of such families with conditional cash transfers that ensures prevention of child marriage. This also calls for coordination between key departments at state level and an implementation mechanism that ensures timely and red tape free access for the needy families. More schemes and services are discussed in the Annexure 16 on Causes for Child Marriage and Linkage with Schemes and Programmes to prevent it.

- **Region and community specific intervention** again based on vulnerability mapping to be planned and implemented by the government such that communities that practice child marriage as a norm or in areas that have high prevalence of child marriage owing to socio-cultural practices are given focused attention. Awareness within the communities, close monitoring of families and children, effective enforcement, coordinated action by the CMPOs can gradually lead to reduction of child marriage in these areas and communities. Incentives and conditional support mechanisms need to be set in place to reduce vulnerability. Regions that still practice devadasi system should come under the scanner of the implementers as such communities are prone to early marriage of girls and vulnerable to trafficking in the guise of marriage.
- **Cash incentives** of Rs. 500/- per person may be given as an incentive to the person who provides authentic information about a child marriage to take place. The incentive may be given to the informer on first come first served basis or a lottery may be drawn if there are more than one person who informs about a single case of marriage.
- **Creating awareness regarding prevention** of child marriages and stopping more number child marriages from taking place can be one of the criteria while considering awards to individuals and institutions working in the field of child welfare and also while conferring awards to best stree shakthi groups.
- **Cash awards to be given to those Panchayat** that have nil child marriages, where such practice was existing earlier. This system may be for a period of three Years. The cash award of Rs.

10,000/- is suggested such that the amount is used for the welfare of children in the Panchayat. The award will be given in a public function organised by the Zilla Panhayath on Children's Day.

- **The management of marriage halls, temples and other venues** need to be made responsible to ensure child marriages do not take place, all marriages are registered and there is regular reporting of the marriages taking place to the concerned authorities. Notice boards are to be compulsorily displayed that provides information about the punitive provisions of the PCMA. Content has been developed by DWCD.
- **Conditions to be imposed** while providing benefits under the Government schemes. A declaration should be given by an applicant, while applying for a Government Job or while availing benefits from the government such as ration card, houses, sites, Adarsha scheme etc. that he/she will not perform child marriage or be a party to child marriage, failing which the benefit given shall be withdrawn.
- **Promoting Media responsibility** – TV serials and films that encourage or promote child marriages in a positive manner need to be banned. The Kannada film Cheluvena Chithara eulogized child marriage. Such films or serials need to be censored by the appropriate censor Board/authority
- All affirmative actions by the state to be made public, through announcement on the DWCD website [www.dwcdkar.gov.in](http://www.dwcdkar.gov.in) and other means
- **Life skill education** – both livelihood skills and life coping skills – lack of viable alternatives for the adolescents has also led to



children succumbing to child marriage. The state presently does not have a well focused policy for the adolescents. Youth programs and services are far and few and often do not provide the right educational and career opportunity or training. Under the Rashtriya Madhyama Sikshana Abhyas, DWCD (Sabala) and Labour Department (Skill Development Program) innovative programs that equip youngsters with earning and coping skills should be taken up, prioritizing adolescents who are most vulnerable to child marriage and other forms of child abuse.

Recent trends show an increase in elopement of teenagers that adversely affect their lives. It is therefore recommended that schools, colleges and other agencies organise life skill education that would equip youngsters with soft skills to deal with life situations.

#### **Budgetary and resource allocation**

Budgets under the ICPS need to be effectively utilized and proposals for budgetary allocation to enable the establishment of Village Level Child Protection Committees under Karnataka JJ Rule 86 (2) (f) to be made to Central Government.

#### **3.3 Mandatory Procedure for Mass Marriages to Prevent Child Marriage**

The practice of child marriages in Karnataka, as observed in few other states occur as either individual incidence or guised in Mass Marriages. Mass marriages are social events encouraged to prevent people from wasting hard earned money in the form of ostentatious spending. One reason for the emergence of this practice is the heavy expense involved in performing a wedding, so these collective or group events such as Adarsh Vivaha,

subsidized by the authorities, were conceived as a way out to minimise expenses, especially for people from the economically weaker sections of society. Poor people are therefore afforded with an opportunity to perform marriages for their son or daughter in mass marriages.

Mass marriages are organised by all communities and conducted by individuals, temple authorities, trusts, charities, societies be they social, political or religious. They are generally held to coincide with important religious festivities and social events, and commonly involve hundreds of people.

While mass marriages are meant to help couples from economically weaker sections, in recent years they have come under the scanner in some cases for providing a safe platform for regressive practice of child marriage. Though the mass marriages are conducted in the name of social service, they have taken the form of profitable business. Often it is found that the organizers collect donations from donors and philanthropists, and fees from the participating families. Hence, they try to enroll maximum number of couples without conforming to norms and verification of age of couples, thereby victimizing minors.

Media stories, NGO reports and government data reveal that a significant number of child marriages take place at mass marriages, especially in the north Karnataka region, for various reasons including economic and social backwardness. In order to prevent the social evil of child marriage, there is a need to issue mandatory procedures in respect of conducting Mass Marriages<sup>42</sup>.

The mandatory procedure is in accordance with the Rule 4 of Prohibition of Child Marriage (Karnataka) Rules 2008, which states that the Child Marriage Prohibition Officer shall ensure that the organizers of mass marriage shall

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<sup>42</sup> Mandatory procedures for Mass marriages are enclosed in Annexure 26

maintain a register and a list of the proposed eligible couples to be married, and record details after verifying their photographs, birth certificate/school certificate/medical certificate in proof of age from a registered Medical Practitioner.

The comprehensive guidelines for mass marriages to prevent child marriage recommended by the Core Committee and to be issued as an order by the Department of Women and Child Development and by the Department of Revenue under the 'Adarsha Vivaha Scheme<sup>43</sup>' is developed with utmost care to address every implementation problem in the present system as shared by the field functionaries and children. The procedures deal with procedural issues, mandating registration of organizations that conduct mass marriages, application verification process, monitoring role of Child Marriage Prohibition Officers and other enforcement officials, etc. Importantly, guidelines for age verification process, and format for age certificate and format for application for age certificate have been developed to have a standardized system across the state.

A major issue plaguing the child marriage scenario across the state and elsewhere is that of age certification. In the absence of official birth certificate or school certificates, where children have dropped out of school or never been to school, the families approach medical authorities for age certificates. The pressure by parents/guardians, pressure from organisers of mass marriages and failure to follow the required medical examination procedures have led to many children being issued certificates that falsify the age. The Core Committee recommends specific process for age verification and issuance of certificates only by authorized personnel.

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<sup>43</sup> Government Order dated May 02, 2007 on Adarsh Vivaha by Department of Revenue is enclosed as Annexure 27

In case of default by doctors in issuing false age certificates the department of Health will initiate disciplinary action and this will be communicated to the Karnataka Medical Council for further action.

The detailed mandatory procedures for Age Verification<sup>44</sup>, standard application form for Age Certificate<sup>45</sup> and standardized format for age certificate from medical authority<sup>46</sup> are provided in Annexures.

### **3. 4. Rehabilitation Process**

Rehabilitation is a process that enables a person to recover from a disabling event, trauma or infliction and resume a normal or near normal life with dignity. The process of support involves external professional or expert intervention that would provide skills to live appropriately and in a healthy way.

In the context of child marriage, pre or post, the rehabilitation process is a challenge as it is multi-dimensional and deals with the emotional and psychological state of the child on one hand while addressing the family, economic and social security issues on the other.

The rehabilitation of children need to be holistic and comprehensive be they victims or survivors of child marriage, or whose marriage has been prevented but require support to deal with their future. The support system ranges from immediate measures to long term plan to see that every aspect is addressed.

A holistic rehabilitation approach for child marriage can be drawn based on the state's experience in the last decade, in dealing with children in need of care and protection under the purview of the Juvenile Justice System. The state, in collaboration with non-governmental organizations, UN and other international agencies and medical institutions like National Institute for

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<sup>44</sup> Mandatory norms for age verification process are enclosed as Annexure 28.

<sup>45</sup> Format for application for Age Verification is enclosed in Annexure 29.

<sup>46</sup> Standardized format for age certificate from medical authority is enclosed as Annexure 30.

Mental health and Neuro Sciences (NIMHANS) has been addressing the rehabilitation requirements of children who are victims/survivors of child labour, trafficking and abuse.

The components of a holistic rehabilitation shall address the medical, counseling, legal, educational and vocational requirements of the child. Certain instances such as trafficking in the guise of child marriage, also necessitates repatriation and restoration of the victim to her family. It is recommended that the state also coordinates with Police and Railway Police, nodal department implementing the PCMA and Child Welfare Committees of other states regarding repatriation and restoration of children trafficked or duped into marriage.

The provisions of the PCMA also provide for specific rehabilitation including maintenance, access to residence for not only the girl who is married as a minor, but also to the child born to her, including property rights as the Act recognizes the legitimacy of the child.

Central to a successful rehabilitation is the space provided for the child victim/survivor to express her/his opinion, enable her/him to take decisions through a process of informed choice and participate actively in the entire process. The Consultations at the districts organized by the Core Committee ensured such space was provided; and immediate and timely intervention was offered to more than 5 girls who participated in the various public meetings. Encouraged by the Chairperson, the girls opened up and with confidence expressed their desire to continue their education, either continuing to live in their parental residence or seeking temporary shelter from the state. The Department of Women and Child Development, Police, the Government of Karnataka and UNICEF District Child Protection Project at Raichur and Mahila Samhaya came forward to provide the required support in the form of residential facilities, sponsorship for education, vocational training and later

job placement, and importantly protection from harassment from the husband's family. This convergent action also throws open more avenues for rehabilitation with minimal cost involved as it primarily entails dovetailing of existing benefits and facilities.

The process of rehabilitation is also being streamlined in Karnataka in the last few years further to setting up of and strengthening the Child Welfare Committees. All victims/survivors of child marriage are considered children in need of care and protection and hence with the support of the CWCs where ever necessary, the rehabilitation is taken up in a systematic manner. The CWCs across the state especially in Bangalore, Mysore, Dharwad, Raichur and Koppal, have in the last year successfully dealt with over 40 child marriage cases and this proves that with increased awareness and timely intervention, the support of the state and protection mechanism for children can effectively be tapped.

### **3. 5. Curriculum on Child Protection issues in school/college syllabus – a preventive strategy**

Knowledge and information are powerful tools for bringing about social change which play a critical role in empowerment of communities and thereby prevention of social malice such as child marriage. As the popular adage goes catching them young is an effective intervention, towards empowerment of children. When the right information is given at the right time i.e. formative, schooling years children and youngsters grow up with self-confidence, assertiveness and above all capable of taking decisions regarding their lives either individually or collectively.

In the light of the above and based on the experience of the state and district consultations the Core Committee strongly recommends inclusion of child

rights and protection issues, specifically child marriage in the school and college syllabus from class 5 onwards up to college level. This interestingly was a recommendation that emerged in every single discussion and consultation that the Committee had with stakeholders, including children, as a powerful strategy that would prevent child marriage and violation of other rights of children.

One of the primary objectives of the Prohibition of the Child Marriage Act as earlier discussed is that of Prevention of the event from occurring. Experiences globally reiterate the fact that empowered children are responsible individuals and citizens and are able to act for themselves. Sustained generational change can be observed when youngsters are provided the required and rights orientation. Hence sensitization on protection issues such as child marriage through inclusion in school and college syllabus would bring about sea change in social behavior.

The Committee therefore recommends that the Departments of Primary and Secondary Education, SSA, RMSA and Collegiate Education develop course content for mandatory inclusion in the syllabus on child rights and protection issues such as child marriage, child trafficking child abuse etc in keeping with the National Curriculum and State Curriculum Framework. Utmost care needs to be given to the development of the content that is age appropriate, in simple Kannada and English wherever necessary, that is easily comprehensible by the children. The content will be integral to the regular school syllabus and dealt through subjects such as social science, languages, economic and political science and history.

The content shall also cover the following topics – child rights, UN Convention on the Rights of the Child, national commitments, provisions of Right to

Education, PCMA and other legislations for children, reasons for children being vulnerable, gender discrimination and disparity, mechanisms by state and other agencies for addressing violations, redressal and support mechanisms and structures like CWC, Childline, makkla grama sabhas, NGO facilitation etc, role of SDMC, KSCPCR, role of teachers, members of SDMC and panchayats, Child Rights Clubs, Meena Thandas and other forums for children. Sarva Sikshana Abhyas of Karnataka, keeping in line with the State Curriculum Framework and in coordination with DWCD and other agencies has already initiated the process and developed a model content framework at the request of the Core Committee, as per Annexure 18.

### **3. 6. Child Participation**

Central to the district consultations has been the safe and comfortable space provided for interaction with children and adolescents, some of whom have been victims or survivors of child marriage while many are the brave ambassadors taking up the cause for their peers and friends. This stems out of the firm belief and conviction of the Core Committee in the role of children, their contribution and participation as agents of change – for their individual destiny as well as that of their community. Some such cases have come to light as stated in the cases studies in this report.

The UN CRC guarantees children the right to express their views freely in all matters affecting them - to exercise freedom of expression and the right to determine the quality and nature of services, programs and policies and action plans for their development. They are critical observers of their own condition and should be participants in decisions concerning themselves and their lives. These young people need to participate in finding solutions to the problems they face. They need to relate to society in an organised way and yet feel the protection and security needed by children. Be it urban or rural areas, space



and opportunity for representation of children's view point should be encouraged. This is a challenge, more so in urban context and therefore facilitation by non-governmental organisations with the expertise and experience need to be garnered.

However in reality children are frequently denied the opportunity to participate in decision-making processes and activities that effect their lives and futures. The right to participation also depends on the realisation of other primary rights such as access to information, the freedom of association and the right to formulate opinions free from influence and coercion.

The participation of children in order to address the issue of child marriages should be seen within this framework of child's rights, and they should be enabled to participate effectively through -

**a. Access to appropriate information**

- i. Inclusion of age appropriate information in the school syllabus on child marriage such as consequences of child marriage, the provisions of the Act, other protection issues, mechanisms for support and redressal,
- ii. Similar information in appropriate form for those adolescents who are out of school
- iii. Information to include
  - schemes such as Adarsh Vivaha and other mass marriages that provide opportunity so that they can present it to their guardians as an alternative to inexpensive wedding and an incentive for delaying marriage
  - The advantage of 'birth registration' so that they can monitor the birth registration of their siblings and children in their communities.

- Anti-dowry laws and encouraging children to take a stand against the practice of dowry and to appreciate them when they refuse to take dowry. This will strengthen the anti-child marriage programmes.
- Pre-marriage counseling to potential groom and bride as this will benefit the young couple, and an opportunity to gauge if it is a marriage that is voluntary or forced.
- Legal provisions of key child legislations and specifically that of PCMA such as annulment of child marriages. They will also need awareness about how to proceed in this matter and equally importantly, what support they are entitled to, from the State by way of support and alternatives. Their views is crucial as it takes a lot from children to take a stand, in all likelihood against the family and nurturing support is a must for them to proceed towards legal annulment of marriage. They need to know that if they do not wish to annul their marriage, once it has been done, since child marriage is illegal, they can demand for not being sent away from their maternal home until they turn 18, or can go to court to annul such marriages within 2 years after attaining age of majority.
- The Open House (Tereda Mane) programme of the police also has the potential for providing information and a safe space for children to share their immediate concerns. Likewise the Makkala Grama sabhas.
- Information related to the functioning of child-help lines and such other services and these need to function efficiently.

- Information related to the different schemes available to provide them educational, vocational, residential alternatives and such other support – that can be viable alternatives to children.
- Most importantly children require counseling services. It must be taken note that special attitudes, skills and knowledge will be required to provide counseling to children.

b. **Access to the strength of collective action and solidarity** through enabling children to set up collectives such as Child Rights Clubs in schools, as per circular issued by the Department of Education..... and children's sanghas and kishore/kishora groups for adolescents and out of school children etc. Children are not a single homogenous group and therefore while facilitating their participation attention should be paid the varying needs based on age and gender. Representation for children from marginalized sections of society such as Sc/ST, minorities, migrant families etc should be adequate. Vulnerable groups of children have to be specially focused, such as children from the 'Uppara Community' in which children below 18 years are very often married off as a long standing cultural practice.

It is recommended that Makkal Grama Sabhas (children's Grama Sabhas) have to be carried out without fail. In places where these are effectively held, they have been an excellent mainstream mechanism that makes local governments accountable to children. They have also been a platform for children to raise issues related to various rights violations, including child marriages.

- c. **Access to appropriate structures and mechanisms** for children to voice their concerns and suggestions. Information about Child Welfare Committees, SJPUs and Child Protection Committees, child protection officers and the KSCPCR should be provided to children.

Children are likely to have access to information about impending marriages in the community. However, when they share such information, there should be no compulsion on them to disclose their names/identities

- d. **Representation for Monitoring and Review:** Representatives of children should be ensured as part of the Village Child Rights Protection Committees. The Head master will facilitate the process of selection of 2 children, one being a girl.

Children should be provided inputs and opportunities to express their observations and experiences in as many ways as possible, including as child reporters at their villages and communities. Media institutions should make it a part of their agenda to provide support and space for children.

In addition to sharing best practices of children who have countered child marriages, either their own or that of their friends', it will be useful to also analyse them to identify what made it possible for them to respond the way they did, so that children can not only see them as role models but also recognise that they too can play a similar role with the appropriate support.

### **3. 7. Convergence**

*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 NGO to assist the Child Marriage Prohibition Officer and such members*

**- Section 16(2) of the Prohibition of Child Marriage Act, 2006**

Social transformation in a complex, multi-cultural society with staring economic disparities is a challenge. The cost of developing and implementing reformatory measures by any one agency is very high, especially in a large country like India. The corner stone therefore for effecting social and economic change is through a Convergent Approach - convergence of policies, agencies, measures and services directed at the specific population.

Convergence promotes efficiency, creative approach and coordination for better delivery of services thereby promoting cost effectiveness. Convergence is required at two levels, firstly at the state/government level between departments and allied agencies; and secondly between government and civil society organisations and community, including elected leadership, statutory bodies and other mechanisms that work for children.

Therefore, as mentioned in Chapter 4, there is an urgent need to bring together all those who have a role to play for preventing and prohibiting child marriages in Karnataka under one umbrella to make it possible.

### **3.8 Monitoring and Review**

The hall mark of a good and effective implementation of social policy and action plan is the monitoring system/mechanism for management of the program. Monitoring of programs for social change is integral to the program and a continuous process through the program life cycle, and requires the

following 4 key elements in place a) institutional mechanism and arrangement including personnel and resource b) strategic focus with program improvement and accountability as central commitments c) good governance and political will d) regular qualitative data from the field for assessment of impact of program. Effective monitoring ensures that the right data collected is used to improve the management of the program, effect necessary course correction if needed and improve implementation standards. This will ensure efficient utilization of resources vis-à-vis outcome expected.

The effective implementation of the prohibition of child marriage policy and action plan to abolish a deeply entrenched complex system requires an efficient and transparent monitoring system in place, as recommended by the Core Committee. A pre-requisite therefore is the setting up of village/ward to state level structures that is democratic and participatory, including participation of children and youth. The Committees as mandated by the state Rules of the Juvenile Justice Act, rule 82 (2f) have to be set up for monitoring of protection of rights of children including child marriage. In keeping with this agenda the Core Committee strongly recommends the setting up of the below mentioned committees for monitoring progress, review of data and suggesting appropriate measures

- a. Village and Ward level Child Rights Protection Committee
- b. Taluk Level Review Committee
- c. District Level Review Committee
- d. State Level Coordination and Review Committee

The composition of the members at all levels is such that the key implementing departments of WCD, Health, Revenue, elected representatives, civil society members and children's representatives are all judiciously represented. The tasks and functions of the members include key

responsibilities such as vulnerability mapping, data on children, watch dogs for prohibiting child marriages from occurring in their jurisdictional area, creating awareness amongst the people, response-action including legal action, referral to rehabilitation and other services, and reporting on incidences of child marriages, wide publicity on enforcement, sharing of success stories.

All the above mentioned committee members and duty bearers are to be lineally connected in order to enable bottom up information sharing as well as monitoring. Recommendations for a detailed local level Action Plan and Mission Statement to be adopted by each committee at each level and action plan evolved based on the short term, medium and long term plan recommended by the Core Committee. A customized Monitoring Tool Kit developed with support of subject experts is to be used by each committee.

The Goal setting strategy which would include the following elements - identifying the change to be seen, time frame within which such change is to be demonstrated, the specific action to be undertaken, identifying information from members and reporting on the status of achievement of each goal. There also has to be facilitation for empowering children to be actively involved in the process of monitoring child marriage

The detailed roles, functions and responsibilities of the members of the various committees are provided in detail in the Annexure<sup>47</sup>.

**The State shall also pass an Order for setting up a Monitoring Cell at the Directorate of Women and Child Development** comprising of the Director,

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<sup>47</sup> The detailed roles, functions and responsibilities of the members of the various committees are provided in detail in the Annexure 31, 32, 33, 34.

Joint Director/Project Director of ICPS, Deputy Director of the concerned Section, Assistant director, and 2 first divisional clerks and 2 computer operators to provide operational support<sup>48</sup>. The Cell shall have a landline and a mobile number dedicated for the sole purpose of receiving complaints or information on child marriage issues round the clock from any corner of the state. The Cell shall coordinate with the Karnataka State Integrated Child Protection Society on the issue of child marriage and other related protection issues.

The Committee specifically recommends the **appointment of an independent rapporteur** to facilitate and coordinate the implementation of the Action Plan recommended by the Committee. The consultant shall be a senior person competent and with the required experience and commitment of working on child rights and protection issues, facilitation skills, balanced coordination between government and other agencies, civil society and community collectives. Such a person may, on completion of the assignment on implementation of the action plan on child marriage may be entrusted by the state to address other child protection issues under ICPS, if so desired.

The monitoring process other than specific action by the Committees shall also ensure that

- Child marriage issues are reviewed in the monthly Crime Review by Superintendent of Police (SP) at all Districts as part of review of crime against women and children

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<sup>48</sup> State Level Monitoring Cell At Directorate of Women and child Development is enclosed in Annexure 35



- Based on reviews by Police step up vigilance in such areas where incidences of child marriage appear high based on cases registered and incidences prevented/stopped.
- Important to review periodically the data on missing children as many missing incidences could be related to trafficking and child marriage – jointly by WCD, Police, NGOs.
- Joint reviews of Childlines, CWCs, NGOs, SJPU at district level by DD/Deputy SP on Child Protection issues including child marriage – link to the setting up of District Child Protection Unit (DCPU) at district level under the Integrated Child Protection Scheme (ICPS).
- Setting up of Mahila Sanchari Jagruthi Dala as done in Bijapur district, as per the circular from Police Department<sup>49</sup>.
- Strengthening of Police Beat system to prevent violence against women and children.
- Coordination with KSCPCR for compliance and monitoring support
- Social audit and public hearing – facilitation of a social audit on Child Marriage on an annual basis by the State Cell in coordination with external expertise. Guidelines for such a social audit may be developed by the state. This could include recommendations to develop simple soft ware and other user friendly tools that could be used by the Revenue Department.
- Commitment from WCD to demonstrate a willingness to constructively engage with efforts by any Human Rights institution/organisations or Legal Services Authority to conduct Public Hearings on Child Marriage.

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<sup>49</sup> Circular on Mahila Sanchari Jagruthi Dala dated September 23, 2005 from the Office of the DG & IGP is enclosed as Annexure 36.

- Transparent monitoring system by WCD, key departments and local governance Government of Karnataka for information sharing on the process and outcomes of monitoring or reviews. This could include details related to the action taken to address child marriage, and impact on the local community (including success stories), in order to build community's ownership of and faith in the community monitoring process.
- Effective community based monitoring could be done through Grama Sabhas, Makkala Grama sabhas. Also Child Rights forums and youth collectives for children in school and out of it would also be important mechanisms for community based, local level monitoring. Sarva Sikahana Abhayan has started Meena Thandas in schools across the state and kishori (forum for girls) groups for out of school adolescents.
- Develop a simple but effective, user friendly Monitoring Tool Kit to enable monitoring by each and every department concerned with Child Marriage, by the community, by concerned statutory/judicial authorities such as the Child Welfare Committees, and by Human Rights Institutions such as the Karnataka State Commission for Protection of Child Rights, and other such Commissions. A simple Participatory Rural and Urban Appraisal kit to collect information from children, families, community members and government officials in each village/ward on an annual basis could be recommended so as to collect data from the village about the following and develop a situational analysis -
  - Children/communities vulnerable to child marriage
  - Status of child rights in that village, specifically related to child marriage

- Institutional or infra-structural barriers that come in the way of realizing these rights in the village
- Suggestions for addressing child marriage in the village
- Availability, access and impact of laws and schemes in that village which contribute to prevention of child marriage

### **3. 9 Data and MIS for Prevention of Child Marriage**

*It shall be the duty of the Child Marriage Prohibition Officer to furnish such periodical returns and statistics as the State Government may direct"*

*Section 16 (3 f) of the Prohibition of Child Marriages Act 2006*

*Read with Rule 4 of the Prohibition of Child marriage (Karnataka) Rules 2008.*

The prerequisite for measure of performance or impact of any social policy or development program is a base line data on the issue that is region, gender and community specific. Quantitative assessment against goals/targets set, and measure of achievement require a baseline on one hand and periodic reporting and data up-dating from the field on the other.

However complex socio-economic and cultural issues such as child marriage, child labour and trafficking in women and children that are often invisible, disguised and unacknowledged pose challenge to the state and other agencies for data mobilization, yet certain steps can be taken as indicated in the latter part of this section. .

The current available data on child marriage, reflected in the Karnataka Human Development Report 2005 and other studies are by and large extrapolated from the data from the Department of Health and Family Welfare – National Family Health Survey III (NFHS), District Level Household and Facility Survey-Reproductive and Child Health (DLHS-RCH) based on pregnant girls and women accessing reproductive health care services and pertaining to maternal and infant mortality and morbidity in both rural and urban areas. Data from National AIDS Control Organisation also correlates data on high prevalence and spread of HIV & AIDS in the context of child and early marriage. In the absence of other reliable source of data on child marriage as

a social-cultural-economic issue, the state has depended heavily on the health angle.

Scientific and reliable data on child marriage is the need of the hour for planned and systematic implementation for prevention by the state and other stakeholders. The response of the state to child marriage has been one of 'reactive' response, to individual cases of child marriages or child marriages as part of mass marriages, often reported by NGOs, media and in some cases children themselves. While the gravity of the situation is acknowledged the magnitude, rate of incidence and spread remain elusive.

The Core Committee recognizes that there is presently an acute shortage of reliable data and information available with the state on child marriage issues owing to which there is gap in understanding the dimensions of the problem – region and community specific, and consequently assessment and need based planning. The Committee therefore recommends that the state evolve a comprehensive data management system to mobilise data from village to panchayath to taluk and district levels and systematic reporting, as an effective tool for monitoring the implementation of the action plan, as discussed in detail in the earlier part of this section.

This is an arduous task and needs to be done in phased manner adopting a combination of strategies a) Community based Participatory Rural/Urban Appraisal including children and youth to identify those out of school, migrant families and other vulnerable groups at village and ward levels b) Vulnerability mapping that is gender, community and area specific through Focused Group Discussions and as a collaborative effort of key departments like WCD, Police, District administration, Panchayath and NGOs to identify

families and children especially girls susceptible to child marriage and other forms of abuse c) Data from SSA and education department of out of school children and drop-outs d) in the long term data of all children in the 0-18 yrs at village level monitored. e) Specific review of quarterly up date from the department of Revenue on mass marriages, from department of Registration of Births and Deaths on marriage registration etc

An automated child tracking system that is an extension of the Bhagyalakshmi Scheme, that presently covers only girl children of BPL families, should be in place to track all children, with emphasis on the 12 to 18 to prevent child rights violation such as child marriage, child labour, trafficking and other forms of abuse. Such a tracking system should specifically take into consideration children who live in institutional care as well as those without parental care.

The data on Data from the Child Welfare Committees and Police stations across the state should also be collated and monitored through periodic review to assess the quality of enforcement and rehabilitation. In Raichur and Koppal efforts have been made to ensure separate registers for issues related to women and children and this is being taken up in a phased manner by the Special Juvenile Police Units. Likewise the state is also responsible to set in place a system to record information about the cases regarding child marriage pending in courts and review the progress of such cases for speedy disposal.

The role of the CMPOs in data mobilization is clearly delineated in the state rules and the proposed amendments further spell out their role for coordination with the monitoring committees to be set up from the village to state level. The data information system pertaining to child marriage should

necessarily register complaints relating to child marriage that are being addressed by all concerned authorities at district and state level to and analyzed and reported. This could include a decision and plan to enable use of all available and appropriate means of collecting primary and secondary data on child marriage on an ongoing basis, such as proposals for sponsoring research by academic institutions, research fellowships, and Participatory Rural/Urban Appraisal Tool Kits, specifically designed to collect data through involvement of the community.

The State Cell should coordinate with the State Child Protection Unit and District Child Protection Units that have a responsibility with regard to data management on issues related to children.

## **PART II – ACTION PLAN**

The road map for the effective implementation of the legislation, policies and measures for prevention of child marriages in Karnataka, is presented in this Section in the form of pragmatic and realistic Action Plan. While evolving the Action Plan attention has been given to ensure that the measures laid down/proposed are cost effective dovetailing the existing benefits, services and facilitates of the government and strengthening the existing process and mechanisms such that minimal additional budget is required.

The Action Plan taking in to consideration the current status of implementation of the legislation, urgency in the field and the ground realities is presented as Short Term Measures that have to be taken up immediately and operational within six months; Mid Term Measures that will require around 18 months; and Long Term Measures that are continuous process and would require to be implemented over a period of years to prohibit child marriage, create a conducive environment for protection of rights of children and sustain the progress such that the practice of child marriage is totally eradicated.

The implementation of the Action Plan as shared earlier in the Report, will become a reality only through a convergent approach where the expertise, experience and skill of the civil society organisations, community based collectives, children & youth, elected leader and other agencies are enlisted by the Nodal department of the government. Simultaneously it is imperative to promote intra-departmental coordination and an integrated approach to link various schemes available under the Central and State programs for families and children.



## Part 2: Action Plan

A. Awareness for Prevention of Child Marriage			
Sl. No	Short Term Measures	Responsible Agency	Remarks
1	Content for Wall paintings, hoardings and posters to be developed and widely disseminated	Department of Women and Child Development (DWCD)	Messages regarding harmful consequences of child marriage and punitive provisions need to be displayed in vantage places like railway and bus stations, santhe ground (shandi maidan), panchayat offices and other public places where people will be able to see it regularly.
2	Develop content on child marriage and trained troupes to perform street plays and other forms of Folk art and organise shows	Department of Kannada and Culture	The Department must create awareness on the child marriage issue through folk arts shows in villages in the state for a period of one year from November 14 <sup>th</sup> , 2011. Such shows will attract interest of all age groups of people and lead to discussion regarding the same. This may be done in coordination with Janapada Academy
3	Painting, essay writing, elocution competitions, rallies and jathas	Department of Education	This is to create awareness about child marriage issues among school children. When children have information and are sensitized they take collective action and oppose pressure from elders and resist marriage. They also approach the authorities with information and prevent marriage of their classmates or friends.
4	Discussion in Mothers Meetings	DWCD	DWCD organises mothers meetings regularly and this would serve as an ideal forum for creating awareness about impact of child marriage on the health of the girl, other negative effects, punitive provisions of the Act, and the positive changes that take place when a girl child is educated.

5	Preparation of Hand Book on Child Marriage	DWCD	This hand book in Kannada will be an easy reference on the issue of child marriage giving information on the impact on children, violation of rights, punitive measures, response mechanisms, details of contacts etc, and will be widely distributed among Special Juvenile Police Units, Panchayats, Anganwadi Workers Training Centers, Mid Level Training Centers, etc.
6	Preparation of Frequently Asked Questions and Answers	DWCD	Booklet on Frequently Asked Questions and Answers regarding child marriage, legal provisions, rights of child victims, right of child born of child marriage, rehabilitation support services, government schemes and contact details of officers to be prepared in Kannada and widely distributed among NGOs, supervisors of anganwadis, teachers and Head Masters, Panchayaths, school and kishore clubs, Police stations etc
7	Awareness to women and men groups/youth groups/organizers of mass marriage, social/religious, political leader, temple committee	DWCD Dept of Education and Karnataka State Legal Services Authority (KSLSA)	The Department of Women and Child Development/Education Department should organize awareness camps, legal literacy camps at village level regularly and the issue of child marriage should be discussed in these awareness programs. Screening of films and documentaries through mobile vans would be crowd pullers.
8	Ensure Makkala Grama Sabhas are held regularly, and issues of child marriage and child rights discussed	Department of Rural Development and Panchayat Raj (RDPR)	The Department of Rural Development and Panchayat Raj has issued circular No. Grahapa/638 grapamha/2007 dtd 30-10-2007 regarding guidelines for conducting Makkala Grama Sabha as forums that discuss issues related to children in the villages, involving children and adults. The objective is to bring to fore problems and issues faced by children. The department should ensure this program is implemented in all villages. Details as per Annexure 24

Sl. No	Mid Term Measures	Responsible Agency	Remarks
9	TV Spots	DWCD / Doordarshan	In view of the "Year Long Campaign Against Child Marriage" DWCD and Doordarshan should develop TV Spots by media experts on child marriage issues, and Doordarshan should relay the same to create awareness among general public.
10	Radio jingles/ Interviews and Talk shows	DWCD/ AIR	In view of the "Year Long Campaign against Child Marriage" DWCD in co-ordination with All India Radio to prepare jingles/ and radio series about child marriage issues and broadcast the same from prime channel of AIR across the state and FM Rainbow that are popularly listened to.
11	Phone in programme and Interviews on child marriage issues	AIR/ Doordarshan/DWCD	All India Radio should organise phone in programme on the issue of child marriages along with prominent persons, departmental officials/ NGO's working in the area of child rights. In this programme the public are provided with opportunity to ask questions related to child marriages and obtain response from the panel. This creates awareness among general public, students, children & women's groups etc.
12	Documentaries	DWCD/ Doordarshan/ Department of Information	DWCD to prepare short documentary film in coordination with Doordarshan to create awareness on child marriage by highlighting the adverse effects on the overall development of child. This film should be screened at public functions and programs for children and community.
13	Screening of Documentaries in Theatres	Films Division/DWCD	To create awareness on child marriages and its adverse effects on the overall development of child, DWCD in coordination with Films Division, Govt. of India to prepare a documentary film. This film will be screened before commencement of main films in theatres.
14	Messages from Celebrities	DWCD/Kannada and Culture	Kannada and Culture Department should record messages in the voice of celebrities and prominent personalities condemning child marriages and these messages are to be relayed or published in the media. The

			content of messages should be given by DWCD.
15	Notice Boards in temples	Endowment Department	Notice board to be displayed in all temples providing information on prohibition of child marriage. The content of the board to be provided by DWCD. Content developed by DWCD as per Annexure .....
16	Formation of Meena clubs/child rights clubs wherever not formed. Discussion on child marriage issues in these clubs.	Education Department	Sarva Shikshan Aayan has issued Circular No. sashiha/oosc/child right/2009-10 dated 23.05.2009 to form child rights clubs in all schools. Detail s as per Annexure ....The circular delineates the purpose and activities of this club. Hence, Education Department should ensure that child rights clubs are formed in all schools where not yet formed, and should take up activities listed in the circular. These clubs should create awareness about child rights, child marriage issues and status of girl child
17	Formation of Kishori /Kishora groups and discussion on child marriage issues in these groups	DWCD/SSA	DWCD to form Kishori/Kishora groups wherever not formed, for children who are out of school or drop outs, and Kishore Samuha for adolescents under SABLA scheme. One of the components of the scheme is to create awareness on the rights of the child, girl child and entitlements, protection issues including child marriage issues. Support of NGOs with expertise in child participation to be enlisted.
18	Inclusion in school syllabus about child rights issues, including child marriage	Education Department	In all district level meetings a strong recommendation that emerged was inclusion of child marriage issues in school syllabus to create awareness among children. The content for the syllabus is prepared and annexed to this report. Details as per Annexure .....

19	Awareness for members of SDMCs about child marriage issues, and their roles and responsibilities	Education Department.	It is mandatory to establish School Development Monitoring Committees for each school to look after the welfare of the school, requirements of children etc. The SDMC consists of local leaders, teachers, parents and local people. Hence, to prevent child marriage within the community, it is necessary to create awareness on child marriage issues among SDMC members, as one of their primary roles is to ensure all children are in school and no child drops out of school, especially the girl child.
<b>B. Sensitisation Program</b>			
Sl. No	Short Term Measures	Responsible Agency	Remarks
1	Preparation of Training Manuals	DWCD	<p>In order to impart training on the various aspects on child marriage issues it is essential to prepare training manuals, with inputs from those with expertise and field knowledge. The DWCD will facilitate development of the manuals which maybe sent to Administrative Training Institute (ATI), Mysore, District Training Institutes (DTI), S Institute for Rural Development (SIRD), Karnataka Police Academy (KPA), National Institute for Public Cooperation and Child Development (NIPCCD), Mid Level Training Centers (MLTC) for mid level functionaries, Anganawadi Workers Training Centers (AWTC) etc. for the purpose of inclusion in their course syllabus and sensitisation of officials.</p> <p>The content of the manuals will include inputs on child rights, legislative provisions of PCMA and other key legislations, strategies for prevention of child marriage , procedures in rescue, rehabilitation etc.</p>

Sl. No	Mid Term Measures	Responsible Agency	Remarks
1	Sensitisation of Judiciary/ Public Prosecutors	Judicial Academy/ Department of Public Prosecution	An important suggestion that emerged in the district level consultations was the need for speedy and sensitive disposal of cases relating to child marriage. Hence, it is necessary to sensitize judiciary and govt. advocates, public prosecutors about key laws pertaining to children and child marriage specifically the provisions for punishment, rehabilitation, rights of the girl and child born to her to maintenance, property, residence etc.
2	Capacity building of Child Marriage Prohibition Officers (CMPOs)	DTI/Deputy Commissioners and DDs of respective districts	Effective enforcement of any legislation requires trained and efficient personnel. Proper knowledge of the legislation, understanding of the provisions of the law, skills in application and timely response to cases of violation are important for CMPOs. DDs of DWCD will coordinate with DTIs for organizing training of CMPOs of the district.
3	Capacity building of Field Functionaries - ANM, AWW, school teacher, G.P. member, police constable	Karnataka Legal Services Authority/DWCD, NIPCCD	The role of field functionaries in prevention and prohibition of child marriage is very critical. CMPOs cannot work in isolation and sensitization for enhancing the capacity of the field functionaries on various aspects such as the punitive provisions, roles and responsibilities of CMPOs, support services, role in coordination etc are much needed. This sensitization programme can be taken up in coordination with District Legal Services Authority at district/taluk level and National Institute for Public Cooperation and Child Development (NIPCCD)
4	Sensitisation of members of Zilla Panchayat & Gram Panchayath	Rural Development and Panchayat Raj Department/ SIRD	The 73 <sup>rd</sup> Amendment to the Constitution upholds local self governance and one of the responsibilities of elected representatives is the protection of rights of children. It is therefore imperative that panchayat members are sensitized on their roles and functions in prevention of child marriage, stopping child marriage from taking

			place, ensuring safety of children, monitoring situation of children in their constituency etc. This sensitization programme can be organised periodically by RDPR in coordination with SIRD.
5	Capacity building of Police Personnel	Karnataka Police Academy & Police Training Colleges	The police personnel play an important role in prevention of child marriages and also in enforcement of the Act. Police personnel are part of the team and assist the Child Marriage Prohibition Officers to prevent child marriage from taking place, monitor mass marriages, get injunction order from Magistrates. Hence, it is important to sensitise police personnel about provisions of Prohibition of Child Marriage Act and state rules and other child related legislations such as Juvenile Justice (Care and Protection of Children) Act. This sensitization programme can be taken up by Police Academy/Training Colleges. The training manual will be prepared with support of experts and in coordination with DWCD.
6	Sensitisation of Officers of all depts. and other departmental personnel	ATI, Mysore, DTIs and Institute for Training of Secretariat Personnel	The objective of the sensitization of officers of all departments is to impart knowledge and skill about child marriage issues at one level, and the main purpose is to bring about attitudinal change in the personnel such as empathy towards the issue, addressing issues of gender disparity, status of girl child, sensitivity towards the child victims etc. The officials also need to know the legislation, the roles and functions as CMPOs. ATI should include child marriage issue in their training module and the same is to be provided by DWCD. Likewise the training of all departmental officers at District Training Institute.
7	Capacity building of members of Statutory bodies like Child Welfare Committees/	NIPCCD/ATI	The state has set up structures such as the CWC, SPU and JJB that are child friendly mechanisms to deal with children who need care and protection. They play important role in the process of rescue, support and rehabilitation of children who are victims of or those who resist

	Juvenile Justice Boards/ Special Juvenile Police Units		child marriage. It is therefore important to sensitise the members of Child Welfare Committees and other statutory bodies on topics such as child legislations, child rights, role and procedures in rescue and rehabilitation, convergent action etc. This can be done through the nodal training agencies like NIPCCD/ATI.  The training module will be developed by DWCD with inputs from experts and those with ground experience.
8	Training of members of Childline and NGOs	DWCD, NIPCCD	Childline is one of the most effective emergency services for children in distress or requiring urgent help. Many child marriages have been prevented and girls rescued and rehabilitated through Childline Service in districts where they are operational. Likewise NGOs through their vigilance have played a vital role in child marriage prevention. In this context it is necessary to train the personnel of childline and NGOs on the rights of children, legal processes and provisions under the Act, role of CMPOs, coordinated action for effective service.
<b>C. Law Reformation and Amendment to the Existing Act and Rules</b>			
Sl. No	Mid Term Measures	Responsible Agency	Remarks
1	Proposed Amendments to the central legislation to be submitted to the Ministry of Women and Child Development, Government of India.	DWCD	Recommendation for amendments to the provisions of the Prohibition of Child Marriage Act, 2006 as proposed. Details as per Annexure....



2	Proposed amendments to the Prohibition of Child Marriage (Karnataka) Rules 2008	DWCD	It is recommended that proposed amendments to state rules be made to include roles and responsibilities of CMPOs, mandatory procedures for mass marriages and registration of organizations, age verification process, setting up of monitoring committees etc.
3	Revise Notification of Child Marriage Prohibition Officers based on need and responsibilities of line departments	DWCD	The Government Notification of CMPOs of 2008 does not include field level functionaries of other Departments viz., Police, Health, Social Welfare etc. Hence, revised list of Child Marriage Prohibition Officers should be notified immediately as recommended in the report and as per Annexure 20.
4	Amendment to the State Rules of the Karnataka Marriages (Registration And Miscellaneous Provisions) Act, 1976	DWCD	The Karnataka Marriages (Registration and Miscellaneous Provisions) Act, 1976 mandates registration of all marriages with the Department of Registrar of Births and Deaths. The rules however do not provide for comprehensive procedures to be followed including time frame for registration. Amendment to the state rules is therefore recommended.
<b>D. Enforcement and Implementation of the Act</b>			
<b>Sl. No</b>	<b>Short Term Measures</b>	<b>Responsible Agency</b>	<b>Remarks</b>
1	Identity cards to be issued for Child Marriage Prohibition Officers	DWCD	Child Marriage Prohibition Officers play a key role in the implementation of the Act and the Karnataka rules framed there under. It is therefore necessary to issue ID cards as it helps them to discharge their duties effectively, without hindrance. Format and content of the ID card will be prepared by DWCD and cards issued by the respective departments.

2	Strengthening the periodic reporting of number of marriages and the registration of marriages by managers of wedding halls temples or any place of worship by the Registration department	Revenue, Dept. of Registration of Births & Deaths, District Administration, BBMP, Urban Development Department & Department of Municipal Administration	As per the Rule 5(1&2) of the Karnataka Marriage (Registration and Miscellaneous Provisions) Rules 2006, all weddings halls/choultries managers are required to report the details of marriages performed for the reporting period. Registration of marriages should also be done within a time frame of one month from the date of marriage. Reporting the details of marriages performed will ensure timely and compulsory registration of marriages, and thereby prevent child marriages.
3	Display of notice boards regarding prevention of child marriage in wedding halls, temples and other places of marriage	DWCD, BBMP, Urban Devpt. Endowment Department and Wakf Board	Compulsory display of notice boards regarding prohibition of child marriage in venues where marriages are performed will increase awareness amongst public on child marriage being an offence. The content for the notice board will be given by DWCD as given in Annexure 37 and will include information on definition of child marriage, prohibition & punishment under the Act, specifically emphasizing "in the best interest of the child" A circular has to be issued in this regard by the Revenue Department/Endowment Department /Wakf Board/ Urban Development Department/ Department of Municipal Administration to their respective Jurisdiction authority and ensure that the boards are displayed.
4	Registration of births to be made compulsory and appropriate measures taken up	Revenue Department, Health Department & DWCD	Registration of birth is a right of every child under the UNCRC & India being a signatory birth registration is compulsory. Since birth certificate is a reliable document to determine the age of a person, registration of births shall be made compulsory and measures for ensuring this to be taken up. This will help to prevent child marriage based on the age of the person as registered in birth certificate.

5	Vulnerability mapping of children, especially girls at risk/vulnerable to getting married below age, and communities that practice child marriage to be taken up	DWCD, District Administration, Police, SSA, Health, Panchayat CMPOs and NGOs	<p>The vulnerability mapping of at risk children and communities in Raichur and Koppal as part of the District Child Protection of Govt. of Karnataka and UNICEF has enabled focused intervention such as school enrolment, monitoring, linkage to development services, awareness programs in these communities by the Police. The process of Focused Group Discussions at community level both in villages and wards help in generating awareness and gradual reduction of the practice, through plan of action involving the community.</p> <p>It is observed that significant number of child marriages takes place at mass marriages for varied reasons. This is more so where the number of couples participating are higher. Mass marriages are conducted by individuals, trusts, religious, cultural and political organisation etc. One of the recommendations that emerged in all consultations is to enforce stringent procedures during mass marriages to prevent child marriages.</p> <p>DWCD will be responsible for implementation of the procedures for mass marriages in general, while Revenue Department will be responsible for issuing mandatory procedures under the Adarsh Vivaha scheme. The procedures are as per Annexure 33.</p>
6	Government Order for implementation of mandatory procedures for mass marriages, in order to prevent child marriages to be issued	DWCD and Revenue Department	
7	Direction for use of standardized age certificate format, and guidelines for age verification process to be issued	Health and Family Welfare Services Department.	<p>A major issue in child marriage is lack of proper document for proof of age. In the absence of official birth certificate or school certificate parents/organisers of mass marriage obtain age certificates from government doctors. Sometime these certificates are issued without proper medical examination and under external pressure, victimizing children. In order to avoid lapses a standardised format for issuing age certificate has been developed in consultation with government</p>

			medical experts. The age verification process has also been developed by the Committee based on expert medical guidance. DHFS will have to issue direction to all doctors regarding the use of the same.
8	Notification regarding revised list of Child Marriage Prohibition Officers to be issued.	DWCD	The Government Notification No. WCD\377/SWW/2004 dated 2.05.2008 has only 11 officers of 4 Departments designated from State to Grama Panchayat level with Director Department of Woman and Child Development being the only official at State Level. It is felt that officials of other key departments namely Health, Police, Social Welfare need to be included as CMPOs at all levels, for effective implementation of the Child Marriage Prohibition Act. The revised list of Child Marriage Prohibition Officers is as per Annexure 20
9	Issue of direction to all departments regarding the specific roles of Child Marriage Prohibition Officers commensurate with their department role	DWCD	Even though officers from different Departments are appointed as Child Marriage Prohibition Officers only few are found to be actively involved. It is therefore recommended that direction be given by the state to all concerned departments specifying the roles of child marriage prohibition officers of each department, commensurate with their department functions, as per Annexure 22
10	Constitution of Coordination and Review Committees at state, district & taluk levels and Child Rights Protection Committee at the village level	DWCD	Effective implementation of the PCMA necessitates setting up of monitoring mechanisms to guide and periodically review the functioning of the CMPOs, the progress achieved and the data regarding child marriage. Therefore it is recommended to constitute coordination and review committees at state, district and taluk level. Further, a village level child protection committee also needs to be constituted, for effective prevention of child marriages at the village level, in both individual marriage and mass marriages. The composition and function of the said committees are as per Annexure 28, 29, 30, 31

11	Creation of Monitoring Cell at the Directorate of Women and Child Development	DWCD	<p>The grave issue of child marriage requires dedicated personnel at the state level for planning, implementation and monitoring of the action plan and other programs of the department for prevention of child marriage. Creation of a Monitoring Cell with the required officers, as part of the Karnataka State Integrated Child Protection Society will ensure sustained and strengthened implementation, and protection of rights of children.</p>
12	Appointment of an Independent Rapporteur to coordinate implementation of the Action Plan and be attached to the Monitoring Cell, directly reporting to the Director.	DWCD	<p>The awareness generated across the state further to the district level consultations has led to coordinated action in various districts to prevent child marriage, of both individual cases as well as in mass marriages. To sustain the momentum and ensure strengthened implementation it is recommended that an independent rapporteur with experience, commitment and expertise be appointed for a period of one year to begin with.</p>
13	The role of individuals, institutions and Stree Shakthi groups in creating awareness on prevention of child marriages, and stopping child marriages from taking place will be one of the criteria while considering awards	DWCD	<p>This will encourage and motivate NGOs, Stree Shakthi groups and individuals to take up focused action to prevent of child marriages in the community they work with.</p>

Sl. No	Mid Term Measures	Responsible Agency	Remarks
1	Measures for compulsory registration of marriages	Revenue and DWCD	Effective steps to be taken by all concerned authorities for compulsory registration of marriages within the stipulated time frame of one month, as proposed in view of the Karnataka Marriages (Registration & Miscellaneous Provisions)
2	Cash awards to be given to child marriage free Gram Panchayats for a period of 3 years	RDPR	A cash award of Rs. 10,000/- to be given by the Zilla Panchayat to all those Panchayats where such practices were existing earlier and no child marriage has taken place during the current calendar year. The said award is to be conferred on the occasion of Children's Day. The cash should be utilized for the purpose of welfare of children in the village of respective Panchayats.
3	Distribution of hand books in Kannada regarding child marriage & related issues to schools, Meena Clubs, Kishore Sangha, Police station, Post office, & such other places	DWCD, Education Department, RDPR	The Department of Women & Child Development will develop a hand book that provides information in simple Kannada language about the causes and consequences of child marriage, the provisions of the Act specifically the punitive provisions, and also the rehabilitation measures, services for families and children etc, and in coordination with the Education Department & RDPR ensure distribution to all concerned
4	School curriculum to include information on child marriage and other child protection issues.	Education Department	In all the consultations held at the state and district levels it was recommended that school curriculum should include a section on child marriage and child protection issues, with information on the response and support systems. Age appropriate information in simple Kannada or English wherever required will help to create awareness among children and provide peer support.

5	Increase residential facilities and other services for girls to ensure higher education	Secondary and Collegiate Education, DWCD	Girls drop out after elementary education owing to the distance to high school or college and this is more pronounced in certain areas and regions. Hence, providing residential facilities, scholarships, subsidized safe transportation would enable families to send girls for higher education thereby pushing up the age at marriage
6	Life skill education to children between the age group of 14 to 18 years	Education Department, Rashtriya Madhyama Shikshana Abhiyan, (RMSA) DWCD and Labour Department	Life skill education to be given to children by the Education Department through RMSA for empowering them. Likewise life skill and vocational education to be given to girl children who are out of school, through Kishori Shakthi and Kishore Samuha under the SABALA program of DWCD and similar programs for adolescent boys and girls under Skill Development Programme of the Labour Department.
7	Setting up of Childline service in all districts. In addition one mobile number and one land line number to be made available at the state level to receive the complaints and information about child marriage.	DWCD	At present childlines are functioning in 11 districts. This has to be extended to cover all districts of the state with budget from state and under the ICPS. One land line number should be made available to receive the information and complaints about child marriage during the office hours. In addition one mobile number should also be made available at the State Cell to receive complaints at any time for use in case of emergency /urgency as it helps to take appropriate action without delay. On receiving such information/complaints the state shall direct the local officer/CMPO to take action immediately.
8	Setting up of Mahila Sanchari Jagruthi Dala	Karnataka State Police	Mahila Sanchari Jagruthi Dala are to be established in all districts as per the guidelines given vide circular No. CRM/128/Misc-2/2005 dt 23.09.2005, in view of the experience gained in Bijapur district where it is functioning effectively. The MSJD comprising of officers from various departments and headed by the senior police personnel of the district, visit the excluded and marginalized communities and specific areas

			that have vulnerable population and orient them about government schemes, services, legal aid support etc. Crimes against women and children including child marriage, trafficking is taken up for discussion by the team.
9	Strengthen police systems like Beat documentation , Open house, Samudaya Samparka Sabha (Mohalla meetings) and Village Adoption	Karnataka State Police	Beat documentation, Open House (Therada Mane), village adoption and Samudhaya Samparka Sabha are programmes taken up all police stations based on the G.O No.Aparada/Mishra-2/42/2009, dated 29.04.2010 issued by the Police Department for building relationship with community on social crimes. This system is functioning efficiently in Koppal and Raichur districts and has to be strengthened in other districts. The issue of child marriage has to be discussed in such forums and appropriate action need to be taken.
10	Censor board to ban film/T.V. serials & take action against the producers, for producing film/serials that promote child marriage	Concerned censor board/ authorities	An issue that came up for discussion in all district level consultations was that of the adverse impact of films and serials on adolescents and children. Films like 'Cheluvina Chittara' have adverse effect on children with regard to child marriage. It is therefore recommended that films and serials be screened by concerned censor authorities. The incidence of teenagers eloping and getting married is increasing, with adverse effect on their future and lives.
11	Increase the amount under sponsorship Programme of DWCD, Social Welfare, SSA for children	DWCD, Social welfare and Sarva Shiksha Abhiyan	In the district level consultations one of the recommendations was to enhance the sponsorship amount/ scholarship amount as presently it varies, from scheme to scheme. Hence a minimum of Rs 500/- per month under any scheme is recommended. A child is entitled to avail benefit under only one of the schemes.
12	Child Rights Clubs to be set up in Government	Education Department	During district level consultation at Raichur it was informed that child rights clubs have been formed in 32 schools with the intervention of



	/Aided and Private wherever not set up, and strengthened		Raichur Child Protection Unit of UNICEF-Govt of Karnataka that has provided space for child participation and involvement of children in action for protection of their rights. Similar clubs/sanghas have been formed in other places by NGOs. Education Department has issued circular for setting up of Child Rights Clubs as per the circular No. SSA/OOSC/Child rights /2009-10 dt 23.5.2009. This has to be extended to cover aided and private schools and NGO run bridge schools. The department should also ensure setting up child rights clubs in schools wherever not formed.
13	Formation of Meena club, Kishori groups and Kishora groups	Education, Women and Child Development Department Mahila Samakya and NGOs,	Meena clubs by Education Department, Kishori groups by Women and Child Development and Kishore and Kishora sanghas by Mahila Samakya and other NGOs are formed to ensure the coverage of out of school adolescents. Child marriage related issues are to be discussed by these groups and their active participation to be enlisted in spreading the message and taking action for prevention of child marriages.
14	Disciplinary action to be taken for non-performance and dereliction of duty by child marriage prohibition officers.	Respective Departments of the CMPOs	Punitive measures such as recording in confidential reports and service registers. Continued neglect of duty would lead to imposition of major penalties.
<b>Sl. No</b>	<b>Long Term Measures</b>	<b>Responsible Agency</b>	<b>Remarks</b>
1	Strengthen enforcement of the Right to Education Act to ensure all children have access to elementary education.	Education Department/SSA	Education Department to ensure that sufficient number of schools with required facilities is sanctioned to prevent drop out, especially that of girl child. School Development Monitoring Committees and village level child protection committees, self help groups to ensure that all children are enrolled to school

2	All middle schools to be upgraded to High Schools in places where there are no High Schools within a radius of 10 kms.	Education Department - Primary and Secondary Education	The issue of increase in drop out of girl children owing to lack of access to high schools emerged in the district level consultations. Girl children who dropout from school are more susceptible to child marriage. So appropriate measures need to be taken to encourage girl child education.
3	Ensure functional toilets in all schools & villages especially for girls	Education Department, Zilla Panchayath,, Rural Water and Sanitation Department, Nirmal Gram Yojana, Dept of Municipal Administration	It is observed that girls dropout from schools due to lack of functional toilets. Once out of school they are vulnerable to child marriage. Zilla Panchayat, Education Department, Rural Water and sanitation department and other concerned departments to ensure functional toilets in all schools under low cost sanitation scheme
4	Strengthen enforcement of Dowry Prohibition Act.	Department of Women and Child Development & Police Department	The government has appointed Dowry Prohibition Officers for effective implementation of the Act. Stringent enforcement and regular review of performance would ensure that the dowry menace is curbed. This will lead to reducing pressure on families to get their girl child married early fearing economic burden.
5	Provide incentive to informers of child marriages, while keeping the identity of the informer confidential	Department of Women and Child Development	An amount of Rs. 500 may be given as an incentive to a person who provides authentic information about a child marriage which is going to take place. The incentive may be given on first come first serve basis or a lottery may be drawn, if there is more than one person informing about a single case of marriage. This reward system may be for a period of three years.
6	Applications issued by various government schemes should have information about prohibition of child	All Government Departments	Direction from Additional Chief Secretary to all departments regarding inclusion of information on prohibition of child marriage on application forms for creating awareness, and introduction of declaration by all persons availing benefits under various schemes of the government, of not being party to child marriage.

	marriage and any person making an application for availing government benefits and facilities, after November 2012 should provide a declaration stating that he/she is not party to child marriage.		
<b>E. Data and MIS on Child Marriage Issues</b>			
<b>SL. No.</b>	<b>Short Term Measures</b>	<b>Responsible Agency</b>	<b>Remarks</b>
1	Set in place data system on child marriages	DWCD	To address the gap in data and information on child marriage issues it is suggested that the department develop a monthly reporting format for data from all taluks/districts. This will capture data from key departments and specifically from WCD on mass marriages - number of mass marriages performed, number of child marriages prevented, complaints received regarding child marriage, number of individual cases of child marriages prevented, cases filed at Police stations against violators, status of cases etc The data management will be taken up the State Child Protection Unit and District Child Protection Units set up by DWCD under the ICPS.
2	Data on all organizations and individuals who conduct mass marriages	DWCD, Revenue and District Administration	Registration of all organizations and individuals who conduct mass marriages is being made mandatory under the proposed amendment to the state rules. This data will help in focused monitoring and action to

			prevent child marriage from taking place.
3	Issue directions to all Child Welfare Committees, Childlines, Special Juvenile Police Units for monthly reporting of cases of child marriage	DWCD, Police/Special Juvenile Police Unit	Cases of violation are reported to the police and action is taken at Police station level. Children who are victims/survivors of child marriage or rescued from a marriage situation, are produced before the Child Welfare Committees. Reporting from Police stations and CWCs would enable monitoring and follow-up of individual cases as well as ensure timely legal support and other rehabilitation services are made available. Cases from police can also help in vigilance in such areas that report high incidences.
4	Issue directions to Anganwadi workers, ANMs and ASHA workers for reporting and monitoring of expectant mothers who are minors	DWCD, Health and NRHM	Monitoring the health status of minor girls already married and pregnant will ensure institutional delivery, help to reduce maternal and infant mortality, immunisation and nutrition follow-up
SL. No.	Mid Term Measures	Responsible Agency	Remarks
1	Data on children at risk of getting married, families that require economic and other support – at Gram Panchayath level through vulnerability	RDPR, WCD, Education and Police, supported by NGOs	This is an important preventive measure to ensure children and families do not become victims of this harmful practice owing to reasons of poverty or lack of required economic and other support. Through focused group discussions with participation of youth, children, women, community leaders, local level functionaries such as Anganwadi workers, ASHA workers and ANMs, Police constable, panchayat members the vulnerable families and areas can be mapped

	mapping		and support provided.
2	Data on regions/localities where practice of child marriage is high and communities that practice child marriage through mapping	DWCD, Police, RDPR, Education supported by NGOs and youth/women's groups	This mapping will be taken up at gram panchayat and taluk level. Child marriage is a way of life in communities like the Upparas and Beta tribes, where girls below 18 are considered unfit for marriage. Focused intervention through awareness programs, meetings with community leaders, parents and youths, opportunities for girls for higher education, incentives and disincentives to prevent child marriage, regular monitoring by CMPOs and panchayath leaders will gradually lead to decrease in child marriage.
<b>SL. No.</b>	<b>Long Term Measures</b>	<b>Responsible Agency</b>	<b>Remarks</b>
1	Develop web enabled software for on-line registration of marriages	Revenue, NIC/E - Governance	The process of registration becomes more accessible with on line registration. The work load for Village Accountants and Revenue Officers/Revenue Inspectors get streamlined and relatively reduced. This also helps in data management and monitoring.
2	Develop MIS for data of all children in the 0-18 yrs with data flow from village/ward level	DWCD, NIC, RDPR, Education	A Child Tracking System for data on all children in the 0-18 yrs is a vision under the ICPS and the Karnataka State Integrated Child Protection Society will be initiating this process in coordination with the Ministry of Women and Child Development in order to prevent children from abuse and exploitation such as child labour, trafficking for various purposes, child marriage etc. The tracking would enable need assessment, service support, and monitor development and other protection indicators.

## **SPECIFIC RECOMMENDATIONS FROM THE CORE COMMITTEE**

1. A Special Rapporteur who has expertise/experience in the field of child rights issues particularly child marriages shall be appointed immediately, on contract basis for a period up to November 14, 2012 for coordinating and follow-up of the implementation of the Recommendations and Action Plan. His/her service may be extended if required. The Rapporteur would be attached to the Department of Women and Child Development and report directly to the Director.
2. Necessary Government Orders shall be issued by the concerned departments of the government to give effect to the recommendations made and Action Plan drawn in this Report.
3. Intensive and continuous multi-pronged year-long campaign from 14<sup>th</sup> November 2011 to 14<sup>th</sup> November 2012 against child marriage shall be taken up across the state.
4. The Committee suggested in the Action Plan in the Report and the existing committees dealing with the issue of child marriage must be made really active and functional.
5. This Report must be translated into Kannada and published within two months, for circulation within the state and furnish copies to the concerned authorities, departments, UNICEF and NGOs who are actively working on the issue.

6. Copies of this Report may also be sent to National Human Rights Commission, National Commission for Women, National Commission for the Protection of the Rights of the Child, National Commission for Schedule Caste and Schedule Tribes as well as the State Human Rights Commission, State Commission for Women, State Commission for the Protection of Child Rights and State Commission for Schedule Caste and Schedule Tribes of all states.
7. Copies of the Report shall also be sent to the Ministry of Women and Child Development, Ministry of Human Resources Development, Government of India and the nodal departments implementing the Prohibition of Child Marriages Act of all states.
8. The Report shall be uploaded immediately, on the web-site of the Department of Women and Child Development.
9. The Department of Women and Child Development shall also provide and supply formats, contents and materials for creating awareness as stated in the Report.
10. Having due regard to the serious consequences and the cascading effect of the practice of child marriage as brought out in the Report, the Action Plan prepared needs to be implemented on priority within the specified time, bearing in mind that it is not a matter of charity but the rights and lives of children.

11. Failure, negligence and dereliction of duty by the officials/officers in relation to the issue of child marriages as recommended in the Report shall be seriously viewed and appropriate action, including departmental disciplinary action, shall be taken. This is necessary for effective implementation of the Action Plan.

12. System is important and equally important, if not more, are the officers working under the system. Such officers with concern and commitment for the rights of the children and their importance may be put in place for effective, meaningful and purposeful implementation of the Action Plan contained in the Report.

13. In relation to the prevention and eradication of child marriages, the Department of Women and Child Development being the nodal department should take overall responsibility of implementing the recommendation made and action plan drawn, and this department shall effectively co-ordinate with other concerned departments for the purpose.