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# Under-Age and Forced Marriages: An Anathema of the Pakistani Society

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## Abstract

Child marriage as a social norm has been in practice in most societies around the world. Socio-political and scientific development in the last few decades popularized the harmful consequences of this practice on victims' emotional and physical health, their educational attainment, impairment of their employment opportunities, and gender parity. The global conscience under United Nations (UN) acknowledged the right to enter into marriage with *free and full* consent as a basic human right, thus appreciating the ramification of this practice at individual level. Pakistan is signatory to various international treaties that aim to curb the practice of child marriage. Moreover, meeting the commitments under these instruments also introduced some reforms in the legal framework that deals with this practice. There are, however, issues of socio-cultural traditions along with religious beliefs and economic compulsions that contribute in the continuation of this practice in Pakistan. The current paper attempts to contribute in the appraisal of the existing legal framework on the subject, analyzes the determinants of this practice, and explores their causal relationship in the context of Pakistan's socio-cultural norms. Data analysis from various reports of Pakistan Demographic and Health Survey shows that the economic determinants of poverty and education attainment predominantly influence the age at which girls are married. Afterwards, owing to their limited social exposure and level of education, the parents of poor and rural household are more likely to be influenced by orthodox socio-cultural traditions and religious dogmas. Relying on an evidence-based analysis, the current study derives that any meaningful policy initiative to curb this practice must primarily focus on educational attainment and poverty alleviation of vulnerable population. Besides, a well-knit awareness campaign needs to be carried out in order to clarify the misinterpretation of Islamic teachings related to girl's maturity and the

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preferred age for marriage along with highlighting the harmful consequences of child marriage.

**Keywords:** child marriage, early marriage, legal framework , religious beliefs, socio-cultural practices

## Introduction

Underage or forced marriages are the substitute terms used for ‘child marriage’. A ‘child marriage’ is one in which either or both the spouses are children (United Nations Human Rights Council, [2014](#)). The United Nation’s (UN) vide “Convention on the Rights of Child” (CRC) considers that a child is one who has not attained the age of 18 years (United Nations International Children's Emergency Fund [UNICEF], [1989](#)). The term ‘early marriage’ or ‘under-age marriage’ refers to marriage of a person below 18 years in countries which by law provide age of majority earlier than 18 years or upon contracting marriage (General Assembly, 1989). Whereas, ‘forced marriages’ refer to those marriages in which ‘free and full’ consent of either or both spouses is not obtained and they include exchange or trade off marriages (United Nations Human Treaty Bodies, [2014](#)). The right of ‘free and full’ consent in contracting marriage has been acknowledged by UN’s vide “Universal Declaration of Human Rights” (UDHR) which maintains that no consent could be considered free and full if any of the party involved is immature due to young age or otherwise to take an informed decision (United Nations, [1948](#)). Considering the framework of these definitions and to maintain compatibility with the relevant international literature on the subject, this research uses the term ‘child marriage’ in order to encompass both underage and forced marriages.

Child marriages occur around the world, however, girls get more affected from this practice as compared to boys (UNICEF, [2020a](#)). Globally, as per the latest data of UNICEF, around 21% of women got married at the age less than 18 years. Moreover, almost 650 million girls get married every year before attaining the age of 18 years whereas, the highest prevalence of 37% is observed in sub-Saharan Africa (UNICEF, [2020b](#)). In terms of numbers , South Asia carries 40% of the global burden of child brides, wherein 30% of women between the age bracket of 20-24 are married below 18 years of age and 4.3% men are married before turning 18 years of age (Gupta & Fletcher, 2019). In Pakistan, 29% of women in the age bracket of 25-49 got married at less than 18 years of age, whereas

the percentage of women in the age bracket of 20-24 who got married by the age of 18 years declined from 21% in year 2012-13 to 18.3% in year 2017-18 (National Institute of Population Studies, [2018](#)).

Pakistan is signatory to a number of international treaties and conventions that aim to curb this practice of child marriage. To meet the international commitments under these conventions, some attempts are made in order to reform the legal framework dealing with this practice. There are, however, issues of socio-cultural traditions, religious beliefs and economic compulsions that contribute to the continuation of child marriages in Pakistan. Understanding the underpinnings of this practice and their causality is vital for any policy intervention to eliminate this anathema from Pakistani society.

### **Statement of the Problem**

Child marriage is a pernicious practice carried out in the name of socio-cultural customs and religious traditions. In Pakistan, the federal and provincial governments tried to curb this practice by introducing certain reforms in the relevant legal framework, however, no significant reduction in the cases was observed. To better understand the reasons of inefficacy of the present legal framework and analyze the determinants leading to the continuation of this practice, the current study would:

- a) Analyze the discordance and inadequacies of the concerned legal framework and the impediments hampering reforms in it,
- b) Explore the causal relationship of various socio-cultural and economic factors impacting this retrogressive practice in Pakistan.

### **Significance and Scope of the Study**

Child marriage violates the rights of child. This practice is harmful and carries life-long consequences for the victim. Its repercussions on the emotional and physical health, scuttling of education and employment opportunities, loss of self-confidence and decision-making capacity do not remain confined to the life of individual victim. However, these repercussions carry intergenerational consequences because the victims tend to internalize these outcomes as part of their lives and transmit them as fait accompli to succeeding generation. The detrimental outcomes of this practice are widely studied by international agencies, such as UNICEF, UNFPA, and World Bank. Transnational NGOs working for children and women rights also sponsored various policy interventions to reduce this



practice in a number of countries. However, Pakistan is far less included in these international studies as compared to other regional countries, such as Bangladesh and India. Very limited indigenous research is available on the subject as compared to other issues affecting child and women protection, such as child abuse and honor killings in case of women.

Girls and boys both fall victim to this practice of child marriage, however, girls are the primary victims. Since this practice essentially affects girls more, the contemporary literature on the subject almost entirely deals it with girls' perspective. The consequences of this practice on boys could be of interest for future research. The current research, however, studies the issue with girls' perspective. Furthermore, the present literature on the subject has generally focused on the consequences of this practice, while the causes leading to this practice and relevant legal framework have been the subject of interest in a few studies only. This research instead of deliberating on the consequences of this practice, attempts to contribute in understanding the adequacy of the existing legal framework on the subject and identify determinants of this practice and their causal relationship in context of Pakistan's socio-cultural norms.

### **Review of the Literature**

Traditionally, child marriage is considered as an issue of human rights, however, now it is also considered an issue of development. UN has contributed in recognition of child's rights and marriage of a child is considered a violation of those rights. The international agencies under UN and transnational NGOs working on the rights of children and women advocated reforms in national laws of the countries to prevent child marriages by declaring minimum age for marriage to be 18 years. Calimoutou et al. (2016) provided a survey of key international and regional legal instruments in this regard. Moreover, they also reviewed national laws prescribing the minimum age of marriage along with the extent to which these comply with the international commitments. A similar report, reviewing laws of 37 countries of Asia-Pacific region was compiled by Inter-Parliamentary Union and World Health Organization (WHO) (2016). The effectiveness of setting the threshold of 18 years of age for marriage in national laws to lower the incidences of child marriage is though contested in relevant literature. Arthur et al. (2018) established that legal provisions prohibiting marriage below 18 years contributed to reduce the frequency of child marriage in countries of sub-Saharan Africa. Whereas, Collin and

Talbot (2017) contended that despite raising the required age to get legally married, the frequency of this practice remained high in developing countries. They further held that the compliance of these laws is related to the general status of rule of law and development in respective countries. There is paucity of literature that discusses what relationship laws are carried with the incidence of child marriage in various countries. No such research in Pakistan could be found pertaining to for this area. Nevertheless, Malkani et al. (2018) reviewed legal framework of Pakistan related to child marriage and observed systematic discrimination in law and practice in the country. The utility of reforms in relevant laws in the countries having plural legal system, such as Pakistan where Islamic law holds supremacy in comparison to the codified law is intriguing. Furthermore, the enforcement of laws which are deemed to be at variance with the socio-cultural norms and religious traditions of the society is another aspect that needs to be explored.

International literature on child marriage highlighted the issue by describing the harmful effects of this practice. International agencies and transnational NGOs, for instance UNICEF, UNFPA, Save the Children, PLAN, and Girls not Brides published several reports highlighting harmful effects of this practice. The outcomes of child marriage generally remain same globally; however, the predominant drivers that lead to this practice vary not only among countries but also among communities or regions within the countries. Literature on this issue in Pakistan mainly highlights the harmful effects of this practice. Nasrullah (2015) discusses the impact of this practice on maternal and child health. Naveed and Butt (2015) held that there are gross effects of child marriage on girls. They held that this practice not only affects them physically, socially, and psychologically, however, it also impacts their economic wellbeing. They also identified socio-cultural and religious factors that lead to this practice. Similarly, Ahmad et al. (2019) determined the linkage of religious traditionalists and cultural doctrines expressed through *jirgas* in continuation of this practice in Pakistan. Lately, the researchers started to examine this practice of child marriage with economics' perspective. Wodon et al. (2017) analyzed the economic impact of this practice on fertility and population growth, health and nutrition, education attainment, labor force participation, along with decision-making and estimated that the economic costs for countries affected by this practice are very high. The long-term economic and development benefits of ending this practice of child marriage have been



established; however, the economic factors that lead to this practice in Pakistan need to be explored.

### **Method**

The current study used mix method approach. Analytic method was employed in section I to study the legal framework related to child marriage in Pakistan. Qualitative analysis method was used to study the determinants of child marriage in section II and quantitative method was utilized to determine the causality of economic factors with child marriage.

The study utilized both primary and secondary sources. Various international legal instruments and national laws were consulted as primary sources to analyze the consistency and adequacy of laws in section I. The secondary sources in form of reports published by international agencies, research papers, and database of UN agencies were used to analyze the trends and reasons for pervasiveness of child marriage in section II of this research.

### **Organization of the Paper**

Section I of this study analyzed the existing legal framework dealing with child marriage in Pakistan. Identification of relevant international and regional legal instruments along with the analysis of relevant national laws was conducted to gauge their adequacy. The constraints hampering the reforms in relevant laws, problems of implementation, and the efficacy of laws to curb this practice of child marriage was examined under discussion part of section I.

Section II explored various socio-cultural and religious factors that contribute in prevalence of the anathema of child marriage in Pakistani society. The causal relationship of economic factors, such as poverty and level of education attainment with incidences of child marriages in Pakistan was also examined in this section. While studying the existing legal framework and determinants of child marriages in Pakistan, the study aimed to find out whether it is the inefficacy of laws and their implementation that hinders the progress to curb this practice or there are other underlying factors that contribute in prevalence of this menace. In the context of peculiar socio-cultural practices, religious beliefs, and politico-economic constraints of the country, the current research suggested a pragmatic course of action for policy making in this respect.

## Legal Framework

### International Instruments

Starting with UDHR (1948), Pakistan is signatory to various conventions demanding marriage to “be entered into with the *free and full* consent of intending spouses”. This postulate was further affirmed in “Supplementary Convention on Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery” (United Nations [UN], [1956](#)), “International Covenant on Civil and Political Rights” (United Nations, [1966a](#)), “International Covenant on Economic, Social and Cultural Rights” (United Nations, [1966b](#)), and “Convention on the Elimination of All Forms of Discrimination against Women” (United Nations, [1979](#)). This convention further provides that “marriage of child shall have no legal effect”. The CRC (1989) requires the States to take measures for “abolishing traditional practices prejudicial to health of children”. The UN General Assembly passed three resolutions in current decade, calling upon States to prevent and end early child and forced marriage. Similarly, “Human Rights Council” (HRC) of UN in last few years passed several resolutions, urging world community for *strengthening efforts to prevent and eliminate early child and forced marriage*. Moreover, Pakistan also adopted UN’s “Sustainable Development Agenda” (SDA) 2030, under which goal 5.3 requires States to “eliminate all harmful practices, such as early child and forced marriage”.

Regionally, on platform of “South Asian Association for Regional Cooperation” (SAARC), Pakistan has signed “Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia”, 2002. It demands effective implementation of national laws concerning minimum age for marriage (South Asian Association of Regional Cooperation, [2002](#)). Pakistan with other countries in South Asia agreed to a “Regional Action Plan to End Child Marriage in South Asia” in 2014. Moreover, in the same year it adopted “Kathmandu Call for Action to End Child Marriage” under the aegis of “South Asia Initiative for Ending Violence against Children” (SAIEVAC) (Center for Reproductive Rights, [2014](#)).

### National Instruments

Before independence, the principal law that dealt with child marriage in subcontinent was “Child Marriage Restraint Act”, 1929 (CMRA) ([1929](#)). This law was completely overhauled and replaced with new laws in India





and Bangladesh by “The Prohibition of Child Marriage Act”, 2006 (2006) in India and by “The Child Marriage Restraint Act”, 2017 (2017) in Bangladesh. Whereas, in Pakistan the same law, with minor amendments, is still applicable in federal territories, including Balochistan and Khyber Pakhtunkhwa. After the passage of 18<sup>th</sup> amendment in the Constitution in 2010, Sindh was the first province which brought in new law, that is, “Sindh Child Marriage Restraint Act”, 2013 (SCMRA) and Punjab brought its amendments in CMRA in 2015 (PMRA). Grave violations related to child abuse and forced child marriages are dealt under Pakistan Penal Code 1860 (PPC) (1860). For minorities, marriage and its ancillary matters, such as registration, divorce, and maintenance are dealt by their respective religious personal laws including “Hindu Marriage Act”, 2017 (HMA) (2017), “Christian Marriage Act”, 1872 (CMA) (1872), “Divorce Act”, 1869 (DA), “Parsi Marriage and Divorce Act”, 1936 (PMDA), “Special Marriage Act”, 1872 (SMA). The ancillary matters of marriage for Muslims are regulated under “Muslim Family Law Ordinance”, 1961(MFLO) (1961) and “Dissolution of Muslim Marriage Act”, 1939 (DMMA) (1939).

### **Discordance in Existing Laws**

There is no standard cut off age that defines a child in Pakistan. Different legal statutes prescribe variant age limits for a child. For instance, 18 years in “Juvenile Justice System Act”, (Juvenile Justice System, 2018) 15 years for award of sentence and 16 years for grant of bail in “Code of Criminal Procedure”, (Code of Criminal Procedure, 1898, 399) 18 years for males and 16 years for females under “Hudood Ordinance (1979)”, 14 year in PPC as it declares an act of a child of immature understanding not an offence (Code of Criminal Procedure, 1898, 83). As regards, legislations related to marriage, 18 years for males and 16 years for females is prescribed in CMRA and PMRA, (Child Marriage Restraint Act, 1929) 18 years for both males and females in SCMRA, (Sindh Child Marriage Restraint, 2013) and HMA, (Hindu Marriage Act, 2017) 21 years under CMA, (Christian Marriage Act, 1872) SMA, (Special Marriage Act, 1872) and PMDA (Parsi Marriage and Divorce Act, 1936). The CMA and PMDA do not specify the minimum age to contract marriage, however, it authorizes marriage of those under 21 years of age provided the parent or guardian according to their consent (Christian Marriage Act, 1872”, Section 19). The SMA stipulates minimum age of 14 years for females and 18 years for males with parental consent for marriages if one of the spouses is less than 21

years (Special Marriage Act, [1872](#)”, Section 2). In spite of the threshold of minimum age set in CMRA, Courts in Pakistan have validated under-age marriages upon the principles of Islamic jurisprudence which holds puberty as the criteria for attaining majority. It may be pertinent to note that Pakistani Courts or Council of Islamic Ideology have not formally declared the provision of minimum age in CMRA as repugnant to Islam.

The punishments prescribed for violation of provisions of relevant laws are not only nominal but are also inconsistent. The punishments for adult male who enters into child marriage, male parent or guardian allowing the marriage of a child to happen, and the *nikah* registrar who solemnizes the marriage of a child as prescribed under CMRA include a simple imprisonment of 1 month with a fine of Rs. 1000, (National Assembly, CMRA, 1929) under PMRA imprisonment of up to 6 months and fine of Rs. 50,000. Moreover, under SCMRA imprisonment up to 3 years is prescribed but not less than 2 years with unspecified sum of fine, under HMA imprisonment up to 6 months and fine up to Rs 5000, under CMA imprisonment up to 5 years and fine, while under PMDA and SMA no punishments are prescribed to contract child marriage. The PPC while referring to child as one defined under CMRA prescribes higher punishment of imprisonment of up to 10 years but not less than 5 years and fine up to Rs 01 million, provided that the child is forced into marriage (Pakistan Penal Code, 1860, Section 498). Severe punishment of up to 7 years but not less than 3 years and fine of Rs 500,000 for marrying of a female in *badla-e-sulh, wanni or sawara*, in consideration to settle a civil dispute or criminal liability and marrying a girl with Holy Quran, to deny her share in inheritance are provided in PPC (Pakistan Penal Code, [1860](#)” Section 310).

The time bar to file a complaint for violation under CMRA is up to 1 year from the date of occurrence of child marriage, whereas there is no such restriction for taking cognizance of other crimes under criminal law in Pakistan. This time bar has been removed in the PMRA and there is no such limitation in SCMRA. A female child if married before the age of 16 is, however, entitled to dissolve her marriage under DMMA provided she has not turned 18 and marriage has not been consummated (Dissolution of Muslim Marriage Act, [1939](#)). Except SCMRA which declares offence punishable under the Act as cognizable, non-bailable and non-compoundable, whereas other Acts regard the offences under them as non-cognizable.



## Inadequacy of Existing Laws

Unlike India, where child marriages are either void or voidable, Pakistani laws do not contain provisions to declare such marriages as void or voidable (Prohibition of Child Marriage Act, [2006](#), Section 3). This is a glaring gap as it leaves the child victim with no option other than to suffer or resort to dissolution of marriage under relevant personal laws; however, DMMA in case of Muslims, HMA in case of Hindus, PMDA in case of Parsi, and DA in case of Christians and the rest. The court procedures for dissolution of marriage under these laws are lengthy and time consuming which make it difficult for child victims to follow.

Unlike Bangladesh, where the law requires documentary proof for age at the time of marriage, no such condition is provided in Pakistani laws (Child Marriage Restraint Act, [2017](#)). The *nikah* registrars who are authorized to solemnize marriage under MFLO commonly rely on the verbal declaration of age by the intending spouses or their parents. Under the MFLO *nikah* registrars or any person other than him who solemnizes the marriage is required to register the marriages in the Union Council, contravention of which entails imprisonment of 03 months and fine of Rs 1000 (Muslim Family Law Ordinance, [1961](#)). Still many marriages in rural areas go unregistered where village clergymen verbally solemnize marriages commonly called *sharai-nikah*.

Unlike India, where dedicated child marriage prohibition officers with powers similar to a police officer are appointed to avert solemnizing of child marriages, to gather evidentiary material for prosecuting the cases, to advise, sensitize, and create awareness in the community on the issues and harmful effects of child marriage (Prohibition of Child Marriage Act, [2006](#), Section 16). No such authority or office has been established for the implementation of child marriage law in Pakistan except in Sindh, where provincial and district monitoring bodies are supposed to perform such functions, however, the same are not yet fully functional (Malkani, [2018](#)). Even the Union Council assigned to initiate a complaint in case of violation under CMRA and PMRA are least inclined to report the violation lest they lose favor with the violators who are their voters.

Another inconspicuous gap is that the courts in Pakistan have consistently ignored the codified provision of minimum age of marriage while deciding the cases of underage marriages on the basis of attainment

of puberty as enshrined in Islamic jurisprudence. Then there is lack of clarity in law regarding distinction between child marriage and forced marriage of a child as alarmingly variant amount of punishment is prescribed for Child marriage under CMRA and for forced marriage of child under section 498B PPC. On the premise that a child is incapable of exercising free and full consent to marriage, any form of child marriage could potentially be regarded as a forced marriage. In such a case lack of clarity in the law is likely to affect adjudication of such cases in the courts.

## Discussion

Pakistan's legal framework regarding child marriages is neither in accordance with the non-discriminatory provisions of international instruments nor the provisions of the Constitution. The above analysis shows that the relevant laws are not only inconsistent but are also inadequate with the consequence that the purpose of their enactment becomes elusive. The CMRA which is the primary law in this respect was enacted in 1929 by the colonial rulers. This dated law which carries nominal punishment of 01month imprisonment and fine of Rs 1000 ideally needs to be replaced by a new comprehensive law. Though Sindh substituted it with a new law and Punjab increased the quantum of punishments, yet the efforts of Federal Government to even reform the existing law met with failure twice in National Assembly in year 2016 (Usman, [2016](#)) and year 2019 (Anis, [2019](#)) and by Senate in year 2017 (Junaidi, [2017](#)) along with Khyber Pakhtunkhwa Assembly in year 2013 (Zia, [2013](#)). The reform intended in these attempts was only to the extent of raising minimum age of marriage from 16 years to 18 years for girls and enhancement of punishments for violations under the law. Opposition to these reforms comes mainly from religious parties and Council of Islamic Ideology which ruled that fixing of any age for marriage of girls other than puberty is against the Islamic law (Ali, [2019](#)). This opposition from religious sections of the society and parliamentarians with a religious bent of mind is despite the fact that even the present minimum ages mentioned in the existing law would be deemed un-Islamic if their premise is accepted. It is interesting to note that almost all Muslim countries, barring Iran where there is *Sharia* Law, have fixed certain age for marriages instead of relying on the stage of attainment of puberty. Opposition by religion right towards progressive legislation is not limited to child marriage laws in Pakistan; however, stiffer resistance has



been witnessed in cases of family planning campaigns, polio drops, and in reformation of blasphemy laws.

Pakistani society is not known as a law abiding society. Voluntary compliance to law and rules along with sans effective enforcement mechanism, is generally low all-around the world but in Pakistani society it is particularly rare. For instance, disregard to traffic rules is a common sight on roads in Pakistan. This general tendency in Pakistani society for giving least regard to the state laws gets impetus when laws are perceived as un-Islamic. Similarly, like the issue of undocumented economy in Pakistan, the documentation of civil obligations, such as birth, marriage, and death registrations are either delayed or completely ignored, especially in rural areas. Unless the laws are backed by effective enforcement, mechanism compliance remains a challenge. In Sindh where new law to curb child marriage is in place since 2014, no significant reduction in incidences of child marriage has been observed due to slack implementation.

The revision of statutory provisions alone is not sufficient to address the issue of child marriage. Despite increasing the minimum age required for marriage of girls to 18 years and enhancement of punishments, child marriage is still pervasive in Sindh. Similarly, in Bangladesh where the law has ordained minimum age for marriage at the highest among Muslim countries, that is, 21 years for males and 18 for females, (Child Marriage Restraint Act, [2017](#), Section 2) the incidence of child marriage should have been the lowest. However, with 59% girls marrying before age 18, it is the highest in Asia and third highest in the world (World Health Organization, [2019](#)). On the other hand, in Iran where in accordance with the *sharia* law the minimum age required for marriage has been prescribed as 8 years 9 months for girls, 14 years 7 months for boys (9 lunar years for girls and 15 lunar year for boys; age of puberty as per *Shia Sharia* law), only 17% of girls marry before age 18 (IPU and WHO ). Success to reduce the percentage of child marriage through a meaningful law, backed with elaborate implementation mechanism could, however, be attributed to India which progressed the most in South Asia by reducing the incidence of child marriage from 47% to 27% in a decade since enactment of new law (Srivastava, [2018](#)).

Given the peculiar constraints of Pakistani legislatures in form of religious opposition, a substantial reform in laws is unlikely to happen in near future. A recent comprehensive study by World Bank, spanning over

60 countries, established that many countries despite revising the legal marriage age upward are still facing high incidence of child marriage. Moreover, it was also determined that in most countries enforcement of laws is poor and the outcome is related to the prevalent enforcement of laws and government's writ. Child marriage is driven by multiple socio-cultural norms and religious beliefs. The economic and social standing of the families also influence their decision towards timing of marriage of their children. In any society where adherence to cultural or religious traditions is cherished, enactment of laws and their enforcement remains a challenge. In order to devise any effective policy intervention to reduce the incidences of child marriage in the country, it is essential that the determinants which lead to this practice be explored and analyzed.

### **Determinants of Child Marriage in Pakistan**

#### **Socio-Cultural Norms**

Socio-cultural norms are the shared values and standards held by a particular society that defines what are, and what not are, the appropriate social behaviors and practices (Durlauf & Blume, [2008](#)). Since the normal age of marriage has increased over a period of time, child marriage is now viewed as a 'deviant behavior' in the western world and considered as a human rights issue. Nevertheless, historically marrying before reaching the age of 18 years was quite normal as compared to marrying at older age (Horii, [2019](#)). The circumstances in which child marriage occur in the western world were and are different than those of Asia or Africa.

In subcontinent, adherence to tribal or *baradari* traditions and holding on to the customary practices of forefathers is valued more than the compliance of law. The loyalty towards primitive tribal traditions sometimes even surpasses the religious sanctions or law of the land. For instance, despite the enactment of laws carrying severe punishments for inhuman practices of *Karo-kari*, *vani*, *sawara*, and honor killing, the incidents of child marriage are still reported. Similarly, child marriages still continue because it has been the practice since generations. The girls who stay away from traditional legacies, such as wearing western dresses, riding motorcycle, taking jobs traditionally performed by males or even delaying marriages are frowned upon. Child marriage is considered as a family/personal matter in Pakistani society. In Pakistan, where parents and family elders are regarded as the best judges for the welfare of even grown



up men and women, the issue of when and with whom to marry a girl child becomes a trivial concern. Complying with the decision of parents is considered a virtue and arguing with elders is a vice in Pakistani society. The western notions of individual personality, personal discretion, and human rights are, to a large extent, still alien in Pakistani society.

Patriarchal norms and gender disparity are prevalent in developing countries. Pakistani society is the one where patriarchal prejudices and gender discrimination are not only widespread, however, are also deep rooted in social, cultural, and religious customs. Globally, out of 153 countries Pakistan ranks at 151 in the “Global Gender Gap Index”, 2020 rankings (World Economic Forum, [2020](#)). Notions, such as husband having ‘degree above’ than wife in marital relations get sanction from religious scriptures. Gender-based assignment of role for women as housekeepers and caregivers, both at parents’ and in-laws’ house is fixated since generations. Pakistani electronic media, through plays and advertisements, have further accentuated the stereotypes for women. Education curricula is still not free of gender stereotypes’ representation of man and woman (Ullah & Skelton, [2019](#)). Female involvement in activities or professions outside the ‘four walls of house’ that carries risk of violating the respected tradition of ‘*chadar aur char diwari*’ is despised. In rural areas generally and tribal particularly, men who depend on earnings of their female family members are ridiculed and ostracized. Since childhood, a girl child is trained to remain submissive to their male siblings, father and, uncles. Advises ranging from what to wear, how to sit and behave, what to play, and what not to do, keep pouring on her throughout her childhood. This continuous scrutiny and control, tend to rob the girls of their self-confidence in matters of vital importance, such as marriage. Decision towards child’s marriage, or of adults for that matter, are usually taken by fathers. The subtle patriarchal control in this respect may be gauged from the fact that 37% of the marriages in Pakistan occur with the cousin from father’s side compared to 26.8% on mother’s side (National Institute of Population Studies, [2018](#)).

The cultural concept of family honor being linked with chastity and virginity of girl before marriage is another driver for child marriage in Pakistan. Female child’s involvement in sexual relationship before marriage is a critical social taboo responsible for withholding girls’ secondary or higher education and early marriage. Pakistan is a society where strong family ties, not only to the immediate family, but also to the extended

*baradari* are cherished and valued. Any scar on girl child's chastity or her elopement is regarded as failure of parent's responsibility towards their child and considered as the worst stigma to the dearly held family honor. This notion of family honor is sacredly guarded to an extent that even brutal murder of loved ones in the name of honor is not hesitated. Parents treat girl child as guest and *amanat* of her future husband and in-laws. An unmarried daughter sitting in parents' house is a social stigma that no parent likes to bear. Till her marriage she is considered a moral liability (*bojh*) and the earlier the parents relieve themselves of this liability the better. For most orthodox parents, this sense of liability starts ticking right from the day the girl child is born and marrying her off is the milestone they race up for.

Religious beliefs of any community influence the construction of its socio-cultural norms and customs. Religious discourse in Pakistan is almost entirely dominated by male clergy. Council of Islamic Ideology, the constitutional body for advising the State on matters relating to Islamic interpretations can have only one female member out of maximum twenty (Constitution of Pakistan 1973, Article 228, 1973). In Pakistan, varying interpretations of religious scriptures led some to believe that Islam ordains to marry girls early after attainment of puberty. The condition of maturity is narrowly interpreted with the onset of menarche and psychological while physical maturities are ignored. In 2017, female clerics from various Muslim countries including Pakistan, held a conference in Indonesia and signed a fatwa calling government to revise the law for minimum legal age of marriage for females to 18 from 16 (Female Islamic clerics in Indonesia, [2017](#)). Pakistani society is oblivious of such initiative where women clerics raised concern on matters inimical to women welfare under the pretext of Islamic teachings. The orthodox clerics in rural areas commonly quote marriage of the Prophet (PBUH) with Ayesha (RA) in support of early marriage of girls. In fact, the pre-Islamic tradition of Arab society where child marriage was common has been mixed up with religious teachings. Since fornication is a major sin under Islamic jurisprudence, parents feel themselves obliged to ward off such risk by marrying girls while they are young. Many religious clerics keep on admonishing their followers to dispense with the obligation of marrying their daughters in order to ward off moral corruption in society and gain divine blessings.





## Economic Factors

The recognition of child marriage as an issue of development and its impact on economy, elimination of this practice by 2030 has been set as a target in the Sustainable Development Goals.<sup>1</sup> The World Bank and others, through the data of selected 15 crore countries and extrapolating it globally while studying the economic impacts of this practice on five domains, that is, fertility and population growth, health, education attainment, labor force participation, and decision-making found that the estimated cumulative welfare gain from eliminating the child marriage by 2030 could be around US \$ 4 trillion. The gains in earning /productivity for Pakistan estimated by the same study are around US \$ 6.3 billion (Wodon et al., [2017](#)).

### *Poverty*

Globally, poverty is cited as one of the root causes of child marriage. The poorest countries experience higher frequency of this practice and the poor populations having fewer resources to invest on girls, marry them early (Parsons et al., [2015](#)) Poverty is cited as a major underlying factor in child marriages in Asia as girls are considered financial burden in low-income families. Marrying daughters early is considered as a major economic relief in families across Pakistan. The socio-cultural norms in Pakistan thwart girls from realizing their full potential in income generating activities outside their homes. Barring few sectors, for instance education and medicine, women in Pakistan generally face an uncongenial work environment which scuttles their economic potential. In rural communities, women are mostly engaged in seasonal works in the agricultural sector, such as cotton picking and sowing or home based works including embroidery and stitching having negligible to low economic value and contribution in family income. Poor parents with limited resources while making a choice between spending on education of son or daughter mostly opt to spend on sons' education rather than girls'. They believe that the benefits of her education and employment are transient as she has to reside with her in-laws after marriage. For poor households, the financial transaction linked to marriage in the form of dowry or *vulver* (bride price received by girl's parents from groom's family; practice common in number of tribes in Balochistan, rural Sindh and Khyber Pakhtunkhwa) is a critical factor in

<sup>1</sup><https://www.theguardian.com/global-development-professionals-network/2015/apr/10/sustainable-development-goals-ending-child-marriage-target>

marrying the girls at younger age as the expenses on dowry are supposed to be less and income from *vulver* is supposed to be higher for younger girls. Afterwards, the customary tradition to hold various events during wedding ceremonies entails a substantial amount of financial costs. To lessen the burden, combining of two or more weddings of relatives or of older sibling with the younger one sometimes results in marrying off a child.

### ***Causal Relationship of Poverty with Child Marriage***

Factors having causal effect on child marriage vary across countries and could be diverse in different communities within a country. Poverty is one of the few factors observed around the world that has a relationship with child marriage. Nonetheless, its causality is believed to run both ways. While, women from poor socio-economic stratum face greater risk that they would be married young. Their early marriage also puts them on higher risk that they become poorer later in life (Wodon et al., [2017](#)). In order to examine the causality to link poverty and child marriage in Pakistan, the only reliable data that could be utilized is PDHS. For this purpose, the last three PDHS of 2006-07, 2012-13, and 2017-18 were selected. Following table shows the median age at the time of first marriage of women in age bracket 25-49 as per the wealth quintile witnessed in the three surveys.

**Table 1**

*Median age at First Marriage by Wealth Quintile and Residence among Women age 25-49*

Wealth Quintile	2006-7	2012-13	2017-18
Lowest	17.7	17.8	18.3
Primary	18.7	18.6	19.1
Middle	18.9	19.2	19.8
Secondary	19.2	20.2	21.4
Highest	20.7	22.1	22.9
Residence			
Urban	19.7	20.7	21.3
Rural	18.8	18.8	19.8

**Note.** Source: PDHS 2006-7, 2012-13, 2017-18

The data depicts that the median age at the time of first marriage in the household of lowest wealth quintile was 17.7 in 2006-07 which increased to 18.3 in 2017-18, a percentage increase of 3% only. Whereas, the median age at the time of first marriage in the household of highest quintile was

20.7 in 2006-07 which increased to 22.9 in 2017-18, a percentage increase of 10%. It means that over the years the wealthier households started to delay the marriage of girls as compared to previous decade, however, the trend to marry girls at early age remains almost same in households of lowest quintile.

The table further depicts that the median age at the time of first marriage in households of lowest quintile was 17.7 in 2006-07 and in households of highest quintile was 20.7 in 2006-07, a percentage difference of 14%. This percentage difference among the household of lowest and highest quintile increased to 19% in 2012-13 and to 20% in 2017-18. It means that over the years gap between the median age at which household in lowest and highest quintile marry their girls increased.

The population living in rural areas having low economic opportunities is usually poorer than those living in urban areas. Another way to determine the causality of poverty and child marriage could be the median age of marriage in rural areas as compared to urban. The table above shows that the median age at the time of first marriage in rural areas was 18.8 in 2006-07 and 19.8 in 2017-18, an increase of 1 year. While during the same period the median age at the time of first marriage in urban households increased from 19.8 to 21.3, a difference of 1.5 years. This means that the trend to marry late in urban household carries more upward curve than those of rural households.

### ***Education***

Besides household wealth, the level of education attainment also influences the age of marriage. Completion or termination of formal education is a tripping point at which impending decision of marriage is taken particularly for girls. The smoother the transitions from primary to secondary to higher education, the lesser are the prospects of early marriage. Girls attaining education up to primary level face two fold risk of early marriage as compared to those attaining secondary or higher education, while the girls having no education at all carry three fold risk of early marriage as compared to those attaining secondary or higher education (United Nations Population Fund, [2012](#)). In a recent study spanning over 67 countries, it was estimated that only 4% of the married girls of age group 15-18 are in school and 87% of all married girls in this group are out of school. The study further estimated that between 2018-2030 globally 51

million child marriages; out of which 15.4 million in South Asia, could be averted by achieving universal secondary education for girls (Save the Children, [2018](#)). Universally desirable goals of women empowerment and gender parity largely depends on the enabling environment and affirmative policies for female education. Lack of education not only deprives the girls of acquiring requisite skills and knowledge to realize their full potential, however, also robs them of their self-confidence and agency to take important decisions of life, such as when and whom to marry with. The negative implication of lack of education attainment doesn't remain confined to the girl alone, however, it carries intergenerational effect, ranging from the level of education the child obtains along with quality of nutrition and health he or she receives (Parsons et al., [2015](#)). The female child whose mother was deprived of education is not only at the increased risk of early marriage but is also more likely to compound the poverty related issues in successive generation (Parsons et al., [2015](#)). Like other developing countries, Pakistan also faces the challenge to provide universal, free, and quality education. Inaccessibility of schools, especially of secondary level, lack of female teaching staff, and absence of sanitation facilities could be cited as few impediments in female education in Pakistan. The quality of education in public sector schools, especially in rural areas, also affect the sustenance of struggling students and their parents. Poor parents in both rural and urban areas in Pakistan prefer to marry their girls instead of continuing their education whenever the financial costs become unbearable, the risk of social delinquency is suspected or maintaining chastity of their girl child is threatened. Moreover, the socio-cultural norms associated with women employment in formal sectors also disincentivizes the parents from investing in girl education.

### ***Causal Relationship of Education with Child Marriage***

The causal relationship between education attainment level and age of marriage runs both ways. Early marriage diminishes the chances of pursuing further education, while attaining higher education not only increases the prospects for better employment, however, also lowers the risk of being married early (Wodon et al., [2017](#)). Child marriage is one of the major factors responsible for girls' opting out of school at secondary level, whereas it is estimated that the likelihood of child marriage diminishes by six percentage points with every year of secondary school education (Wodon et al., [2017](#)). A substantial reduction of 64% in cases of child



marriage could be achieved by ensuring 12 years of schooling for girls globally (Malala Fund, [n.d.](#)). In Pakistan, the causal relationship of education with child marriage could be studied from the analysis of PDHS data. The last three surveys depict the median age at the time of first marriage of women in the age bracket of 25-49 with respect to their education status as follows.

**Table 2**

*Median Age at First Marriage by Education among Women Age 25-49*

Education	2006-7	2012-13	2017-18
No Education	18.2	18.3	18.7
Primary	19.1	19.3	19.8
Middle	19.8	20.4	20.9
Secondary	21.1	22.3	22.2
Higher	24.5	a	24.9

**Note.** a -omitted because less than 50% of the respondents of the sample married before beginning of the age group.

Source. PDHS 2006-07, 2012-13, 2017-18

Table shows that the median age at the time of first marriage among women in the age bracket of 25-49 as per their respective level of education consistently remained almost same throughout the period 2006-7 to 2017-18. However, a marked difference in median age of marriage could be witnessed with transition of each level of education. Women with no education tend to marry early and with every increase in their education level the median age at first marriage among women rises substantially. The latest data of 2017-18 shows that with each level of education attainment, the median age of marriage rises by at least one year. A percentage increase of 25% is witnessed from 18.7 for those having no education to 24.9 for those having higher education. The above data substantiates that the age at which women marry in Pakistan is causally related to their education attainment level.

## Discussion

Child marriage in Pakistan or elsewhere is not a new phenomenon. Marrying early rather than late has remained a norm throughout the world. The unprecedented progress of science and technology in last century has

profoundly influenced the understanding of life and world around people. The inventions and discoveries in the field of health and medicine not only provided protection and treatment against various infections and diseases, however, these inventions also significantly prolonged life expectancy. The socio-political development and economic interdependence challenged the various age-old traditions of socio-cultural norms. The notions of individual human rights and collective wellbeing are professed and practiced more than ever in human history. With an improvement in literacy rate and awareness through electronic and social media, traditional socio-cultural norms are reshaping at fast pace in Pakistan. An increasing number of women is now becoming part of formal economy which is due to the affirmative legislation and policies of successive governments for empowerment of women. Increasing awareness regarding practices detrimental to women, such as *vani*, *sawara*, and honor killing is changing the thinking patterns of the society. The abhorrent practice of child marriage also witnessed a declining trend during past two decades. The following table shows a substantial progress in reduction of this practice in Pakistan.

**Table 3**  
*Percentage First Married by Exact Age*

PDHS	Age group 20-24		Age group 25-49	
	15	18	15	18
2006-07	6.7	24.0	13.4	39.5
2012-13	2.8	21.0	7.2	35.2
2017-18	3.6	18.3	7.5	28.3

*Note.* Source. PDHS 2006-07, 2012-13, 2017-18

The data shows that this practice to marry girls of age 15 or under declined by almost half, from 6.7% in 2006-07 to 3.6% in 2017-18. A similar decline is witnessed in age group 25-49 from 13.4% in 2006-07 to 7.5% in 2017-18. The decrease in the percentage of girls marrying by age 18 or under is comparatively less than the percentage decrease in those of age 15 or under. As compared to 24% of girls marrying before age 18 in 2006-07, around 18% girls are still marrying before age 18. It means that almost every fifth girl in Pakistan today is marrying before age 18. Similarly, the overall percentage of married women in age group 25-49 decreased from around 40% in 2006-07 to around 28% in 2017-18. The current data estimates of around 18% girls marrying before age 18 in Pakistan is though lower than the global average of 21% and even lesser

than the South Asian average of around 30%, which becomes quite alarming when this percentage is converted into absolute numbers. Owing to the size of population, Pakistan stands at the sixth highest in the world with respect to incidences of child marriage (Girls not Brides, n.d.). While acknowledging the declining trend of this practice, the quantum of girls still being married before reaching 18 years of age, and more particularly of age 15 and under, depicts that a large proportion of Pakistani population is continuing with this practice of child marriage either under influence of traditional socio-cultural norms or due to economic constraints. Quantitative assessment of the extent to which socio-cultural norms or economic constraints influence the parents' decision to marry their girls early is hard to estimate. However, the above data analysis shows that the economic determinants of poverty and education attainment predominantly influence parents' decision. Moreover, given their limited social exposure and level of education, the parents of poor and rural household are also more likely to be influenced by orthodox socio-cultural traditions.

### **Conclusion**

The importance of an effective legal framework to curb child marriage is undeniable. Voluntary compliance to any law, however, depends on the fact that to what extent these are in congruence with socio-cultural norms and religious traditions of the community. Globally, child marriage is a customary practice; that is, the socio-cultural compulsions leading to this practice vary according to the geographical, ethnic, and religious affiliations of respective communities. Due to this reason, there is no universal conformity on the minimum age for marriage in national laws around the world. On the recommendations of various international bodies under UN and human rights organizations, a great number of countries revised the relevant legal framework and prescribed 18 years as the minimum age for marriage of girls. In fact, presently out of 191 countries, 168 prescribe 18 years as minimum age for marriage, however, when exceptions, such as parental or court permission, customary traditions, and religious dictums are taken into account, marriage of girl under 18 is permitted in 104 countries around the world (Megan, n.d.). In countries having plural legal system, such as Pakistan, where religious law runs parallel to the codified national law, implementation remains a challenge. Codified legislation regarding minimum age of marriage, for instance, holds no ground when cases of marriage below the prescribed age are contested in the courts. Conferring

validation to such marriages under Islamic law is a routine affair in Pakistani courts. The constitutional provision to bring existing laws in accordance with the teachings of Islam and bar on enacting laws repugnant to Islamic injunctions is often cited by members of legislatures while opposing amendments in laws related to minimum age of marriage for girls. While interpreting the Islamic teachings, the religious clergy in Pakistan professed that Islam permits, rather encourages early marriage, especially of girls. The misinterpretation of Islamic teachings insulated parents from appreciating the harmful effects of this practice and generated apathy towards laws barring child marriage. This religious sanction led this practice to internalize in the society as a social norm on one hand, and on the other, it thwarted the attempts to reform the law. Though the religious constraint to bring reforms in the legal framework is conspicuous, the effort of the legislature to overcome this constraint is also obscure. Unless the religious sanction underlying this practice is exercised, enactment and enforcement of any law in this respect would remain a pipe dream, as witnessed in Sindh where in spite of new and improved law child marriage is being practiced unabated.

The underpinning on which this practice of child marriage rests is a complex mixture of deep-seated socio-cultural norms and prevailing economic state of affairs. Like any other developing society, Pakistan faces the challenge to adapt to the contemporary progressive ideals of individual rights at the expense of age-old tribal/communal social traditions duly supported by religious beliefs. Afterwards, sacrificing short term financial or economic relief against the prospective long-term benefits could hardly be expected when poor parents have to decide for early or delayed marriage of their girl child. Socio-cultural customs to follow the tribal traditions and communal legacy, patriarchal norms that assign certain stereotype roles for women, notions considering girl child as a liability/burden and others' property, get favorable reception among poor and uneducated segments of the society. With improvement in one's economic conditions and level of education, understanding of life problems and approach to deal with them transforms. The aforesaid determinants of child marriage and the causal relationship this practice has with poverty and level of education as observed in the analysis of the last three PDHS establishes that child marriage is more of an economic problem which gets impetus from deep-rooted socio-cultural norms. Any meaningful policy initiative to curb this practice, therefore, must primarily focus on education attainment and





poverty alleviation of vulnerable population. Secondly, well-knit awareness programs need to be carried out in order to clarify the misinterpretation of Islamic teachings related to girl's maturity and preferred age for marriage along with highlighting the harmful consequences of child marriage.

## **Recommendations**

### ***Supporting the Poor for Education Continuance***

Policy intervention from the government must primarily focus on those vulnerable segments of population which are constrained to marry their child owing to poverty. Education is the most potent enabler for sustainable poverty alleviation. Two pertinent initiatives, where objectives of education and poverty alleviations merge are; Waseela-e-Taleem (WeT) program under the Benazir Income Support Program (BISP) by the Federal Government. Through this program Rs 750 per quarter are provided to children age 4 to 12 years to continue their primary education (Benazir Income Support Program, n.d.). The other program is Zewar-e-Taleem (ZeT) under Punjab Social Protection Authority by Punjab government, wherein Rs 3000 per quarter are provided to girls for continuing their education from grade VI-X in selected districts having low literacy rate. These both programs are steps in right direction. However, for further improvement following measures are suggested:

- Poverty alleviation programs may be dovetailed with continuing education attainment and vocational training.
- The amounts of monthly stipend may be raised with each year of education attainment.
- The monthly stipend for girls' education and vocational training may be kept higher than for boys.

### ***Awareness Generating Measures***

Following measures are proposed to generate awareness about the harmful effects of child marriage and to transform socio-cultural traditions contributing in continuation of this practice:

#### **Federal Ministry for Religious Affairs**

- To engage religious leaders by holding seminars inviting health professionals, academicians, and international religious scholars to raise awareness regarding harmful consequences of child marriage and

clarifying misconceptions attached with interpretation of Islamic teachings regarding girls' puberty and age for marriage.

- Engage women religious scholars for awareness programs on electronic and social media.

### **Provincial Women Development Departments**

- Identify the geographical and communal hotspots where this practice is persisting and engage local respectable personalities to generate awareness about the negative consequences of this practice.
- Sponsor media campaigns and engaging celebrities to highlight the harmful effects of this practice.
- Engage NGOs working for child and women protection to generate awareness in susceptible communities.

### **Provincial Education Department**

- Incorporate lessons in curricula of secondary schools describing adverse outcomes of this practice. Interpretation of Islamic teachings that attaining maturity doesn't mean puberty alone; rather the concept of maturity in Islam encompasses mental and physical maturity to understand and sustain responsibilities in order to start a family after marriage.
- Review curricula of primary and secondary schools to remove innuendos of gender stereotypes and include affirmative content in support of female participation and productivity in the society.

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