

Forced Marriage in India: Legal Recourse and Other Remedies

Parvathy Poornima*

There has been considerable recognition of the issue of forced marriage in contemporary societies and several countries opted for significant legislative measures to combat forced marriages. In Britain and many other European countries forced marriage is perceived as a problem among South Asian Diaspora. Forced marriage is identified as a form of human rights violation as the requirement for free and informed consent of both the parties to marriage is realized at international and national levels. As article 16 of the Universal Declaration of Human Rights states, “marriage shall be entered into only with the free and full consent of the intending spouses”¹. UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages underlines that “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.

According to the definitions of UN Women’s End Violence Against Women, forced marriage includes at a minimum, the absence of free and full consent of one or both parties. International definitions also recognize child marriages as forced marriages. “As a child under the age of 18 is not capable of giving her valid consent to enter into marriage, child marriages are considered to be forced marriages”³.

Forced marriage is irrefutably a gender issue as majority of the affected party constitute women and girls. UNICEF data indicates that about 15 million girls are married every year before they reach 18 and one in four girls alive today globally was married by age 18, and one in 12 was married by age 15, some as young as eight or nine⁴. Hence ending child, early and forced marriage is critical to attain gender equality and women’s empowerment. Convention for Elimination of all forms of Discrimination against Women (CEDAW) condemns forced marriage by declaring that “State parties shall ensure on a basis of equality men and women...the same right freely to choose a spouse to enter into marriage only with their free and full consent (CEDAW Article 16(1), (b))

There is also growing awareness about the difference between arranged and forced marriages. “In forced marriages, one or more parties lose their right to choose their partner. In arranged marriages, the parents and families play a leading role in arranging the marriage, but the ultimate decision on whether to marry lies with the individuals getting married”⁵. Individual right to choose is the central focus of global concern over arranged and forced marriages.

This paper explores the issue of forced marriage in Indian context and analyzes viable legal and other remedies to protect people falling prey to forced marriages in India. The paper uses available

**Parvathi Poornima is Visiting Faculty, School of Liberal Studies, Pandit Deendayal Petroleum University, Gandhinagar, Gujarat*

secondary data produced by international and national bodies and civil society organizations to comprehend the issue of forced marriage.

Forced Marriage in India

Forced marriage is increasingly identified as human rights violation and violence against women in India. Scholars underline that several cases of forced marriages are reported by media and the cases where interventions are possible are resolved mostly through NGOs and women's groups. Forced marriage involves violation of fundamental human rights enshrined in Indian constitution including right to life and dignity. It also entails the violation of the freedom of movement and liberty and the right to equality (Hossain and Welchman 2005).

Conceptually early Marriage and forced Marriage are yet to find definitions in Indian jurisprudence or child rights jurisprudence in India⁶. Forced marriage is not specific criminal or civil offence under Indian law hence it is highly unlikely to find accurate data on instances of forced marriages. Child marriages are considered to be forced marriages by international definitions and child marriages are widespread in India. Girls not Brides⁷ reports that India has the highest number of child brides in the world and is estimated that 47% of girls in India are married before their 18th birthday. Child marriages registered under Prohibition of Child Marriages Act (PCMA) in India in 2014 is 280 (169 in the year 2012 and 222 in the year 2013) NCRB 2014. Studies also point out variation of rates of child marriage among states. States such as Bihar (69%) and Rajasthan (65%) have high rates of forced child marriage. Newspapers report that India has about 24 million child brides which form 60% of the 60 million world's child marriages. ICRW studies point out that states like Kerala has lower rate so child marriages (ICRW 2010)⁸. UNICEF studies identify that the median age (16.8 years) at marriage for females in India is well below the legal age of marriage whereas that of the males is 22.6 years, higher than the legal age. (UNICEF 2012)

Forced and child marriage is rooted in unequal gender status and power relations that can result in the perpetual subjugation of girls and women⁹. It has been argued by many that child marriage in India has been practiced for centuries, with children married off before attaining physical and mental maturity. Irrespective of its roots, child marriage involves severe violation of human rights, which has physical, psychological and economic impact on women and girls. Gender biased views on women's role in family and society and patriarchal control over women are among the structural causes of child and forced marriages. Regardless of the fact that half of the world's child brides are in India, government of India did not co-sponsor **the UN Human Rights Council Resolution on Early, Child and Forced Marriage**¹⁰¹⁰ **The resolution recognizes** child, early and forced marriage as a human rights violation that 'prevents individuals from living their lives free from all forms of violence' and negatively impacts the 'right to education, and the highest attainable standard of health, including sexual and reproductive health'.

It is to specify a) a minimum age for marriage (b) prohibit legal acceptance of any marriage without the full and free consent of both parties (c) register all marriages (Refer, <http://www.wunrn.com/2014/08/india-not-co-sponsor-to-un-resolution-against-child-marriage-though-some-12-of-worlds-child-brides-are-in-india/>) and **adopted in 2014. India's refusal to sign the resolution on the grounds of** lack of clarity on the definition of early marriage invited world-wide criticism. Child Marriage Restraint Act (CMRA) was amended in 1978 to raise the minimum age of marriage to 18 years for girls and 21 years for boys and this position remains the same in Prohibition of Child Marriages Act (PCMA), 2006, that replaced the CMRA. However the implementation of the law remains a challenge due to the existence the customary practices and religious personal laws of different communities in India.

Identifying the gravity of the issue of forced marriages in India it is required to recognize the causes and impact of the issue along with existing remedies to tackle the issue.

Understanding Forced Marriage: Causes Consequences and Remedies

Significant NGO studies identify economic and cultural reasons behind instances of forced marriages.

Economic causes include poverty, lack of education and career opportunities.

Cultural reasons include force of custom and tradition and cultural codes of shame and honour

In Indian context, lack of resources and resultant lack of education and job opportunities push poor families to marry away their daughters at early age. Burden of paying dowry is the key social factor that underpins gender bias and discrimination in India and paves way to early and forced marriages. Not only dowry but lack of alternatives for their daughters also makes parents of poor households resort to early and forced marriages. Due to existing gendered norms and economic constraints education and career of girl children is considered to be a burden and consequently early and forced marriage is widespread (ICRW 2007).

Reinforcing patriarchal traditional values through control of women's sexuality is often manifested in instances of forced marriages (UNFPA 2012)¹¹ Refusal of women to adhere to the norms of culture is often cured by coercion and violence by gender biased societies. Notion of honour is central to Indian values. In the process of retaining honour, women's human rights are compromised constantly. The codes of shame and honour are differently attributed to male and female sexes and are largely gender-linked. The ownership and control of female body and sexuality by family and community, legitimized by patriarchal structures, defends gendered notions of shame and honour.¹² Parents will be more concerned about regulating the behaviours of their daughters than sons and refusal of women to adhere to the norms of culture is often dealt with coercion and violence. The supremacy of honour over human rights becomes a crucial feminist concern. Modern human rights discourse endorses a critical acclamation to the notion of honour, particularly in its relationship with gender identities. Political instability including insecurity in the face of war and conflict is another significant reason identified by ICRW study behind occurrence of early and forced marriages.

In Britain and in other European countries the vital cause behind forced marriage is intergenerational conflicts among immigrant South Asian communities. Conflicts generally occur when the second generation refuses to adhere to traditional values that they find restrictive. Scholars identify the role of cultural codes; shame and honour in underpinning oppressive gender relationships among cultural groups¹³.

Impact of forced marriages on women and girls can be enlisted as follows

Indisputably forced marriage is human rights violation that denies girls their right to life and dignity, right to health, education and equality. It also denies girls life free from exploitation, gender discrimination and violence. It also undermines the agency and autonomy of girls and young women by denying them any decision making power.

Women victims of forced marriage often face physical, psychological, economic and sexual violence.

Refusal to submit to traditional patriarchal values by women often leads to coercion exercised in the name of honour and instances of forced marriages at times end up in honour killings.

Forced marriage is also associated with several health risks.

Early marriages increase the risk of early and frequent pregnancies, high maternal mortality and child mortality rates, exposure to sexual violence and poor sexual and reproductive health.

Child brides are deprived of education, employment and other economic opportunities. Some studies draw correlation between child marriage and education in terms of cause and consequences. Lack of education enhances the risk of child marriage whereas child marriage forced children to drop out of school (UNICEF 2012)¹⁴.

Addressing Forced Marriage

As discussed earlier, fear of honour is one of the significant reasons behind instances of forced marriages happening in India apart from economic reasons. Cultural codes of shame and honour reinforced by patriarchal norms invariably leads to instances of early and forced marriages. India is a multicultural society that gives equal recognition to cultural minorities in public sphere. Diverse communities in India have different religious personal laws and these laws have generated debates regarding gender equality in the context of constitutional provisions for rights and equalities. The history of religious personal laws in India has shown that they have been selectively used as a tool for governance and often to the disadvantage of women (Parashar 2008). Rights related to marriage are ruled by personal laws with respect to specific communities and the linkage between religious laws and forced marriage becomes significant.

While reconciling the conflicts between cherishing cultural diversity and ensuring women's equality in the context of forced marriage debates in the UK, Anne Phillips and Moira Dustin present three broad approaches that have appeared in the practices of contemporary states; regulation, dialogue and exit (Phillips A, and Dustin, M. 2004). The approaches broadly include regulation through legislations, dialogic encounter between majority and minority communities to arrive at widely acceptable norms of conduct and the right of individuals to exit from their groups if they are dissatisfied. This section of the paper examines the possibilities and risks involved in three approaches mentioned above to combat forced marriages. As regulation through legislative measures is considered to be the most viable option to combat human rights violations, it is necessary to understand available legal options in India to fight forced marriages.

Legal Recourse

Indian constitution guarantees range of fundamental rights for obtaining redress for victims of forced marriages. As forced marriage is grave violation of right to life and personal liberty, Right to life (Article 21) has been interpreted by courts for a person to lead a meaningful life with dignity. Article 14 guarantees right to equality and equal protection of law and Article 15 prohibiting discrimination against any person on the grounds of religion, race, caste, sex or place of birth etc. These rights are supplemented by freedoms guaranteed under Article 19 of including freedom of movement, speech and expression, association, and to reside in any part of the territory of India. Forced marriages violate these fundamental human rights. Writ petitions under Article 32 and 226 prove to be useful in cases of such violations. The writ of *habeas corpus* has proved to be an effective remedy in relation to forced custody illegal confinement (including choice marriages) and other related matters (Hossain and Welchman 2005).

Civil laws applicable for various communities that are relevant in the context of forced marriage include Prohibition of Child Marriage Act (PCMA) 2006, the Majority Act 1875, Family Courts Act (FCA) 1984 and the Family Courts Rules as laid down in various states and Protection of Women from Domestic Violence Act (PWDVA), 2005 (Hossain and Welchman 2005)¹⁵. Prohibition of Child Marriage Act (PCMA) 2006 includes provisions for the prohibition of solemnisation of child marriages. Under this Act 'child marriage' means a marriage to which either of the contracting parties is a child and 'child' means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age¹⁶. Child Marriage Prohibition officers (CMPOs) have been appointed to deal with the case of child marriages under the Act. As per the Majority Act 1875, every person domiciled in India shall attain the age of majority on his completing the age of eighteen years and not before¹⁷. The Act also specifies the capacity of any person to act in the following matters (namely), marriage, dower, divorce and adoption¹⁸.

Family Courts Act (FCA) 1984 is meant for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for connected matters¹⁹. Protection of Women from Domestic Violence Act (PWDVA) is

a civil law aimed at providing relief to women affected by domestic violence. Activists in Rajasthan and other states have used this law to prevent forced marriages as the comprehensive definition of domestic violence under this law also includes forcing a woman to marry against her will²⁰. Sections 366 (kidnapping/abduction of a woman to compel her marriage or for illicit intercourse), 496 (marriage ceremony with fraudulent intention), 370 (human trafficking for purposes of sexual exploitation, slavery and servitude) etc of the Indian Penal Code (IPC) also contains certain provisions that can be brought to use to book a case of child marriage or forced marriage.

Rights relating to marriage (dissolution of marriage, guardianship and custody of children etc) are governed by various religious personal laws depending on various religious communities including Hindus, Muslims, Christians, Sikhs, Jewish and Parsi. They include the Hindu Marriage Act 1956 (HMA) laws applicable to Muslims (Muslim Personal Law (Shariat Application) Act, 1937, the Dissolution of Muslim Marriages Act, 1939 and Muslim Women (Protection of Rights on Divorce) Act, 1986), laws applicable to Christians (Indian Christian Marriage Act, 1872 (CMA), Divorce Act 1869 (as amended 2001) and Special Marriage Act, 1956 (SMA) (for civil marriages, particularly between persons belonging to different religions) (Hossain and Welchman 2005)

Legal feminists point out that the marked feature of most religious personal laws is that women have fewer rights than men as the goal of gender equality is often subordinated to other political considerations in India. Hence they argue for a common family law to recognize the constitutional principles of gender equality. The pertinent problem here is reconciling with demand for gender-sensitive laws and respect for cultural identity of minority communities. Whether law should be gender neutral or gender specific is a pertinent feminist concern since the emergence of idea of difference that deconstructed homogeneity during second wave feminism in European countries. However the developments of western feminism did not have exact parallels for women in India as the political and social context for women in India was very different from the world of European women (Parashar 2008) Considering the case of gender inequality in India, Susan Muller Okin's critique of multicultural values becomes significant (Okin 1999). As Okin observes, most cultures are suffused with practices and ideologies concerning gender. Group rights are antifeminist as the disparities in power between the sexes, gives male members authority to determine and articulate the group's beliefs, practices, and interests. The discrimination against and control of the freedom of females is practiced, to a greater or lesser extent, by all cultures, but especially by religious ones. While cultural rights of minority groups are recognized in the public sphere, ignoring intra community inequalities, special group rights and privileges granted to cultural minorities as per the multicultural principles could be offensive to cultures suffering gender biased practices and ideologies. On the other hand several feminist scholars underline fundamental logical flaws of posing multiculturalism and feminism as oppositional. As Leti Volpp points out it is due to the assumption that non-Western women are located within cultural contexts that require their subordination, achieved by a discursive strategy that constructs gender subordination as integral to their culture (Volpp 2001).

PWDVA is cited as arena of feminist interventions with Indian state for gender specific laws. The effort of women's groups in India to seek legal redress for the issue of domestic violence led to enactment of PWDVA. Religious personal laws fail to ensure women legal equality in personal sphere and the issue of domestic violence was unrecognized. The law identifies domestic violence as a human rights violation and makes a strong case for redress. Though the law recognizes right of women to get out of violent marriages, it is not capable of eliminating the social, economic and cultural constraints of women getting out or exiting families. Similarly laws alone have limited role in combating social issue of forced marriage unless they are accompanied by crucial social awareness and empowerment measures. The regulation approach presumes that particular principles of behaviour are right, discarding the possibility that universal principles of rectitude may be parochial

and limited to a particular history. Hence it finds no reason to consider the power relations involved in making all cultural groups abide by the similar norms of conduct. Communitarians argue that imposing norms of behaviour is rather considered in practical and ethical terms and consequently interventions against what are considered to be unacceptable practice of a minority group can reinforce cultural stereotype. For feminists regulation underpins the debates on law as a site of struggle for gender justice.

Dialogue and Exit Options

Phillips and Dustin underlines that the dialogue approach stands for dialogic encounter between majority and minority communities to agree upon commonly acceptable norms of conduct, as it agrees that values are formed within particular cultural contexts. But the danger of representing communities as homogenous still remains. 'Whose voice in the community' becomes crucial as powerful members take control over decision making usually.

Curbing forced marriage requires a change in social norms through influential persons in the community such as religious leaders and teachers as they play strong roles in governing community lives. There are many projects being implemented by civil society groups including Plan International, Child line etc around the issue. The major strategy is working with girls and community members through the health, education and livelihood programmes. Most of them directly or indirectly also engage with governance. Dismantling gender hierarchies within communities is crucial to engage with the issue of forced marriages. Active women participation in dialogical encounters makes decision making inclusive and participatory.

The exit approach is almost non-interventionist. Instead of regulating or criminalizing cultural practices, the approach emphasizes on individuals right to exit from the communities. Psychological costs of exit including ostracism by family, prolonged estrangement, identity crisis etc restricts the choice of exit. Phillips and Dustin warn that exit solution is inadequate mainly because of its disregard towards the pressures on women to remain in forced or unwanted marriages. In Indian context exit from communities leave women, especially women belonging to underprivileged sections of the society with no socio economic opportunities destitute. The fundamental assumption behind exit option say women are independent is routed in western concept of liberal individualism and is incompatible with ground realities of community life in India.

Considering forced marriage as a gender issue, one understands that right to choice of woman is violated during instances of forced marriage. How far women are capable of exercising right to choose regarding marriage and other matters in countries like India where right to life itself is denied as heinous forms of gender injustice is manifested in practices like selective abortions. Therefore liberating prospects of choice argument becomes problematic in Indian context. In countries where legislations are enacted to prevent forced marriages, woman's right to choose when, if, and whom she will marry must be protected and enforced at law. Choice became a feminist issue with the onset of second wave feminism during 1960s that promulgated the ideas related to abortion and reproductive rights. For choice feminists²¹, the sole criteria for evaluating woman's freedom are her capacity to make choices. As far as marriages in India are concerned, there is no dispute regarding its nature as a community affair, rather than a matter of individual choice which makes choice argument a serious feminist concern.

Dilemma of Consent and Coercion

While considering legal and other remedies to tackle with the issue of forced marriage, one understands the centrality of arguments for consent. Crucial debates related to forced marriage centres around consent and coercion. Fundamental distinction between arranged marriages and forced marriages is made by international bodies on the basis of consent and coercion. European

countries that provide civil and criminal legal options to combat forced marriage also makes distinction between forced and arranged marriages at last to prove their anti racist stance.

Studies conducted on the issue of forced marriage in UK suggest that among South Asian immigrant families, marriage is more a family and community affair rather than an individual affair. The notion of consent is ambiguous cross culturally and criminal law may fail to recognize it many times. Defiance with family matters is not considered legitimate either by children or by parents and in this context. Moreover force that is exerted can take forms like physical, emotional and psychological but if it is social pressure exerted over along period of time, and doesn't take the one-off act of extreme violence, then the criminal law fails to find out what the harmful act is in particular cases. While considering this observation seriously, the perpetrators of forced marriage, the parents may not believe that they induce violence by forcing their daughters to marry men chosen by them. Disagreement with parental decisions may be illegitimate for daughters too.

Consent is central to significant religious personal laws pertaining to marriages in India. Under Hindu Marriage Act, to contract a valid marriage the parties must have capacity to marry, they must be Hindus (or Buddhists, Jains and Sikhs, who are also governed by Hindu personal law) and the minimum age of marriage is 21 years for men and 18 years for women. A marriage entered into without valid consent (free and voluntary consent) may be voidable under the HMA, if it can be proved that the consent of either party was obtained by fraud or force. Under Muslim law, any Muslim male or female of sound mind, who has reached puberty, may enter into a contract of marriage. Two adult parties to a marriage must consent, or the marriage will be invalid and If the bride is a minor, and is represented by her guardian, the latter's consent is enough. Christian law allows for solemnization of marriages either in church or before a Marriage Registrar. Consent is essential, as the parties to the marriage have to make a written declaration of consent before the marriage can be solemnized and registered.

However implementation of laws guiding minimum age of consent for marriage is challenging in Indian context. Only the Hindu Marriage Act, 1955 changed with time to bring the age criteria in consonance with the Child Marriage Restraint Act (CMRA), 1929 that prohibited marriage of girls below the age of 15 years and boys below the age of 18. The Prohibition of Child Marriage Act, 2006, does not consider consent in case of minors and treats child marriage as a punishable offence. Nevertheless, it creates confusion by declaring marriages including marriage of minors solemnized by use of force, trafficking etc void and some others voidable at the option of the parties to the marriage until they are nullified by the court. The dilemma is law does not consider the fact that all the child marriages have taken place through exerting coercion, fraud, trafficking or without seeking the consent of the child.

The international and European distinctions between arranged and forced marriages on the basis of consent and coercion may not have exact parallels for women in India as majority of the marriages happen in India are arranged marriages and there is considerable social recognition for the concept of arranged marriage. Thus understanding the compliance of international definition of forced marriage based on free will and consent based on individualism in India and other South Asian countries where communitarian values dominate becomes problematic.

Policies and Empowerment Measures

Analyzing the causes impact and remedies of forced marriage, one recognizes the unfeasibility of proposing for a specific legislation on forced marriages in India similar to that of several European countries. For European countries forced marriage is a civil offense related to marriage migration whereas forced marriage is still an unrecognized human rights and gender

issue in India. Moreover legal empowerment in the absence of multi agency strategies to generate awareness proves to be half baked. For instance PWDVA had limited prospects to deal with the socio cultural and economic aspects of women opting to exit from families and communities. As perpetrators of child and forced marriages are parents and immediate relatives Criminalization of forced marriage essentially means criminalization of parents and it makes the potential victims rethink about reporting the authorities or calling the helpline provided by women's organizations. Hence generating strategies for empowerment and awareness generation measures is essential to deal with early and forced marriages in India.

Studies conducted by various voluntary agencies indicate the need of strengthening national coordination among government bodies, civil society organizations, and international bodies and on the development of multidisciplinary action plans to tackle the issue

Government of India has adopted several policy measures to curb the issue at various junctures. National Population Policy, 2000 (aiming 100 per cent registration of births, deaths, marriage and pregnancy by 2010) National Policy for Empowerment of Women, 2001 (for intervention and special programmes should impact on delaying the age of marriage so that by 2010 child marriage is eliminated) National Plan of Action for Children, 2005 (aiming at 100% registration of births, deaths, marriages and pregnancies by 2010 eliminate child marriages by 2010 , stop sale of children and all forms of child trafficking, including for marriage etc) However instances of child marriages reported shows an increasing trend.

Ministry of Women and Child Development adopted National Policy for Children, 2013, objective to strengthen the overall child protection framework including rescue and rehabilitation of married children, MCWD has also proposed National Strategy on Child Marriage 2013 National Plan of Action on Prevention of Child Marriage 2013 to curb child marriages. UNICEF recommendations highlight critical need to ensure the empowerment of women and girls through education and access to resources as the best preventive measures against forced marriage and child marriage and for the full realization of the human rights of women and girls²²²² Suggested measures include direct financial support to families to encourage girls to continue their education, and efforts to increase the enrolment and retention rate of girls in school such as lower cut-off re-entry points, scholarships for girls, vocational training, livelihood skills and life skills education. Many of these measures have adopted by countries and women 's organizations worldwide. International bodies also promote the use of technology by using text messages and mobile telephones to stimulate national debate on child marriage along with engaging girls and boys to become agents of change in their communities. Preventing and eliminating child, early and forced marriage Report of the Office of the United Nations High Commissioner for Human Rights, 2014. Programmes like The Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (nutrition provision), Dhanalakshmi (conditional cash transfer scheme) Poorna Shakti Kendras (convergence of programmes and schemes for the purpose of empowering women) *Bal Vivah Virodh Abhiyan* (Campaign against Child Marriage by NCW) etc also are meant for overall empowerment of girl children. However, inadequacy of laws and poor implementation of policy measures makes elimination of early and child marriages nearly impossible.

Conclusion

Despite the existence of legal recourse, policy measures and civil society interventions, forced marriage continues to remain an unrecognized socio cultural issue in Indian context. The need of immediate interventions and strategies required to prevent the issue can be enlisted as follows.

There is urgent need of research initiatives to understand the prevalence and extent of the issue of forced marriages in India to unsilence the issue.

Legal and socio economic empowerment must go hand in hand. There is urgent need of fresh strategies and implementation of existing ones to ensure awareness generation measures and rescue and rehabilitation measures for survivors of child and forced marriages.

There is need for meaningful dialogical encounter with active women participation to deal with cultural identity and gender justice. Awareness generation through sensitization programmes through multi agency strategies is required to deal with feminist concerns of cultural recognition.

There is need of debate on conflicting laws. For instance efficacy of the Prohibition of Child Marriage Act, 2006 cannot be ensured when child marriages continue to be legally valid unless either of the parties to the marriage wishes to nullify it. On the other hand criminalization of child marriages eventually leads to prosecution of family and subsequent social costs.

There is need to re-evaluate cultural costs of exit option from a gender perspective. As there is no socio cultural acceptance for child and adolescent brides who walk out of their marriages and wish to live normal lives, linking them with the education system and providing them with resources remains the fundamental challenge.

While considering the impact of forced marriages on women and girls, it is required to understand the homogeneity among Indian women belonging to different class and caste identities. Tackling hindrances related to accessibility of legal aid and other options for women belonging to underprivileged sections of the society are crucial to deal with the issue.

Need of coordinated approaches to promote male and community engagement in awareness generation measures to understand the socio-cultural aspects of forced marriage.

Need of dialogues with community leaders and mediators to devise and implement sensitization strategies.

Ensuring proper funding for civil society organizational and voluntary bodies working for the rescue and rehabilitation of survivors of forced marriages

- Promotion of women's socio-economic and cultural empowerment by addressing gender discriminatory norms and practices and ensuring women's access to resources.
- Ensuring a policy strategy to check the viability of legislative protection in line with existing international legal and human rights framework

Notes:

¹ http://www.claiminghumanrights.org/udhr_article_16.html#at17

² Opened for signature and ratification by General Assembly resolution 1763 A (XVII) of 7 November 1962 Entry into force: 9 December 1964, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/MinimumAgeForMarriage.aspx>

³ UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages

⁴ UNICEF, Ending Child, early and forced marriage: Progress and Prospects, 2014

⁵ http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20_Cheryl%20Thomas%20revised_.pdf

⁶ Child Marriage in India: Achievements, Gaps and Challenges

Response to Questions for OHCHR Report on Preventing Child, Early and Forced Marriages for Twenty-sixth Session of the Human Rights Council, HAQ: Centre for Child Rights

⁷ Girls Not Brides is a global partnership of more than 500 organisations committed to ending child marriage and enabling girls to fulfil their potential

⁸ ICRW, 2010, The Causes, Consequences and Solutions to Forced Child Marriage in the Developing World

⁹ <http://www.ohchr.org/EN/NewsEvents/Pages/Childandforcedmarriageamanifestationofgenderdiscrimination.aspx#sthash.jDZT6Dz5.dpuf>

¹⁰ **The resolution recognizes** child, early and forced marriage as a human rights violation that 'prevents individuals from living their lives free from all forms of violence' and negatively impacts the 'right to education, and the highest attainable standard of health, including sexual and reproductive health'. It is

to specify a) a minimum age for marriage (b) prohibit legal acceptance of any marriage without the full and free consent of both parties (c) register all marriages

Refer, <http://www.wunrn.com/2014/08/india-not-co-sponsor-to-un-resolution-against-child-marriage-though-some-12-of-worlds-child-brides-are-in-india/> and Child Marriage in India: Achievements, Gaps and Challenges by Haq Centre for Child Rights

¹¹ UNFPA 2012, Marrying too Young End Child Marriage

¹² Aylin Akpinar suggests that the control of women's sexuality through honour/shame complex takes different forms in different societies (Akpinar 2003). Women's sexuality is controlled collectively; parents and in-laws, to protect honour in Middle Eastern, Mediterranean, Latin American, Southwest Asian, various Indian and Chinese cultures whereas the control responsibility is individualistic in Western nations, mainly due to nuclear family households and the ideology of individualism.

¹³ Honour comprised both an individual's sense of self worth and this person's reputation in the surrounding society. Shame by contrast, arose from the failure to act according to social values and it entailed public disgrace (Stewart 2013). Stewart traces the introduction of gender-linked concepts of honour and shame in the works of Social anthropologists of Mediterranean societies in 1960s. He believes that similar features can be found in many societies including Middle East; from Morocco to India.

¹⁴ UNICEF 2012, Child Marriage in India

¹⁵ Prohibition of Child Marriage Act (PCMA), 2006 came into force in October 2007 repealing the Child Marriage Restraint Act 1929 (CMRA). Regarding Family Courts Rules as laid down in various states, states have their own rules regarding the application of family law including Kerala Family Court Rules 1989, Hindu Marriage Act (Calcutta High Court) Rules 1957, Bombay High Court Hindu Marriage and Divorce Rules 1955 etc. Regarding PWDVA, the Domestic Incident Report, framed under Sections 9(b) and 37(2)c of the Act, refers to 'forcing you to get married against your will, preventing you from marrying a person of choice and forcing you to marry a person of his/their own choice'.

¹⁶ <http://ncw.nic.in/acts/pcma2006.pdf>

¹⁷ <http://indiankanoon.org/doc/1124939/>

¹⁸ <http://admis.hp.nic.in/himpol/Citizen/LawLib/C141.HTM>

¹⁹ http://ncw.nic.in/acts/The_Family_Courts_Act_1984.pdf

²⁰ http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20_Asmita%20Basu_.pdf

²¹ Three important features of choice feminism identified by Michael L. Ferguson include; a) it understands freedom as the capacity to make individual choices, and oppression as the inability to choose b) since the only criterion for evaluating women's freedom is individual choice, we should abstain from judging the content of the choices women make c) this view of freedom is undergirded by a particular historical narrative: it is the women's movement in the past that has made it possible for women to make free choices in the present (Ferguson 2010).

²² Suggested measures include direct financial support to families to encourage girls to continue their education, and efforts to increase the enrolment and retention rate of girls in school such as lower cut-off re-entry points, scholarships for girls, vocational training, livelihood skills and life skills education. Many of these measures have adopted by countries and women's organizations worldwide. International bodies also promote the use of technology by using text messages and mobile telephones to stimulate national debate on child marriage along with engaging girls and boys to become agents of change in their communities. Preventing and eliminating child, early and forced marriage Report of the Office of the United Nations High Commissioner for Human Rights, 2014

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