India ranks 13th among all countries in the world in terms of number of girls reported married before the age of 18 years¹; in spite of a struggle since last two centuries to end the practice of child marriage. There have been significant changes but more perceived in urban areas of the country while the rural areas continue to remain largely affected.

WomenPowerConnect (WPC), supported by Ford Foundation, implemented a three year project to analyze the conditions and influence of efforts, particularly legislation and implementation of policies across the states. The following brief presents a snapshot on the status of efforts in implementing the Prohibition of Child Marriage Act 2006 in the various states of the country; along with key recommendations. It is expected that the legislature, the government and the civil society would use the information to take decisions and influence policies to curtail the practice that leaves the nation vulnerable to poverty, violence and poor health.

Impact of Child Marriage in India

Child marriage has devastating impact on children, particularly girls because of the intense physical, intellectual, psychological and emotional impediments it creates. Children are not only prevented from accessing their basic rights and empowerment opportunities like education; the girl child becomes especially susceptible to severe health and other problems due to early pregnancy, early parenthood, domestic violence, early widowhood, trafficking and many forms of gender based violence. Studies have indicated that India surpasses other countries by a wide margin: about 40 percent of all child marriages take place in India.² Since the medieval ages religious bindings, increasing patriarchal influence and emergence of archaic practices and customs like Sati, Dowry and female infanticide have slowly and steadily led to a downfall in the status of women in India, including reduction in the scope to exercise right to self-determination³. In India- illiteracy, poverty, patriarchy, cultural and social malpractices, increasing the violence against women, and feudalism are seen as some of the perceptible causes of child marriage. All these have resulted in parents dispensing the responsibility of taking care of their daughters by getting them married at an early age; in many instances, even before they reach puberty and a marriageable age.

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¹http://www.icrw.org/child-marriage-facts-and-figures
²UNICEF Statistics and Monitoring Section, Division of Policy and Strategy (2013)
Legislative Response

The reformist movements since the early 19th century, such as the Brahmo Samaj and Arya Samaj, played a critical role towards educating the masses to challenge the antiquated practice.⁴ In the 1920s, the women’s movement campaigned and petitioned for raising the age for marriage and consent before the Joshi Committee, which was set up to review the Hindu Child Marriage Bill.⁵ As a result, the Child Marriage Restraint Act (CMRA) 1929, popularly known as the Sharda Act, was brought into force with the objective of eliminating child marriage. The Act was first amended in 1940 to raise the marriageable age from 14 to 15 years and in 1978, it was further amended to raise the minimum age of marriage by three years i.e. from 15 to 18 years in case of girls and from 18 to 21 years in case of boys. However, the CMR Act had its shortcomings- the procedures laid down under the Act were cumbersome, nor did it identity authorities responsible for preventing child marriages and most importantly, the Act did not focus on prevention or prohibition of child marriages. The Child Marriage Restraint Act was repealed and replaced by the Prohibition of Child Marriage Act, 2006.

The Constitution of India empowers the state to adopt measures of positive discrimination in favour of women and children for removing the cumulative socio-economic, educational and political disadvantages faced by them. Article 15 of the Constitution guarantees special attention to children through necessary and special laws and policies that safeguard their rights. The right to equality, protection of life and personal liberty and the right against exploitation enshrined in Articles 14, 15, 16, 17, 18, 21, 23 and 24 further reiterate India’s commitment to the protection, safety, security and well-being of all its people, including children.

Gaps in Attaining Goals of Abolition of Child Marriage

- Section 19 of the Prevention of Child Marriage (PCM) 2006 Act, gives authority to state governments to formulate rules for implementation of this legislation and carrying out its provisions. Only 14 States/UTs have framed rules as envisaged under the Act. However the translation of the Act and accompanied awareness, sensitization and empowerment of the officials, various stakeholders, civil society and the community at large is a logical step that cannot be denied; but these have not much been practically engaged with.

- Child Marriage Prohibition Officers (CMPOs)⁶ are responsible for the implementation of the Child Marriage Prohibition Act, 2006 in every state to prevent child marriages, ensure protection of the victims as well as prosecution of the offenders. It is the responsibility of the state government to appoint CMPOs following Section 16 of the PCM Act. As per the data available under the study with the exception of Sikkim; all states have appointed CMPOs for carrying the responsibilities laid down within the Act. However the appointment of CMPOs have varied and not adequate as per the data available. The data elucidates that all CMPOs appointed, hold additional charge apart from their regular responsibilities. In most states, Child Development Project Officers (CDPOs) have been given additional charge of CMPOs. Madhya Pradesh, Nagaland, West Bengal, Meghalaya, Uttar Pradesh, Haryana and Puducherry have appointed CMPOs at the district level. It is only in Puducherry the government is considering appointing a cadre of independent charge as CMPOs. In Haryana, a cadre of protection cum prohibition officers has been appointed to look into the implementation of both the PWDV Act and CMP Act.

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• Since almost all CMPOs have been appointed on additional charge, they have been provided with facilities under their pre-existing posts. It may be assumed that no additional resources have been provided under the PCM Act to the CMPOs for infrastructural setup. In most states, no support staff has been recruited specifically for assisting the CMPOs.

• Capacity building of CMPOs on the PCM Act has been reported only from the following States/UT: Daman and Diu, Puducherry, Chandigarh, Himachal Pradesh, Tripura, Uttarakhand, Maharashtra, Dadar and Nagar Haveli, Madhya Pradesh, Gujarat, Goa and Nagaland. The other states like Haryana, Bihar, Uttar Pradesh, Andhra Pradesh, Odisha and Jharkhand trainings have done least training.

• Most states have taken limited and ad hoc initiatives to generate awareness on PCM Act using multi-diversified platforms e.g. electronic, print and other media at the district, sub division and block levels. A detailed analysis reveals that the efforts have been not part of well-designed and sustained campaigns with equal intensity and based on a mapping of most vulnerable pockets.

• In order to standardize procedures for all agencies to ensure that the decisions they make are aligned to the principles laid down under the Act, some states have prepared guidelines or Standard Operating Procedures (SOPs). The SOPs identify and provide the agencies with a better understanding of the Act and its effective implementation to address the specific and individualized needs of children.

• There exists a range of programmes and schemes addressing the issue of child welfare in our country but there are very few programs specifically focussed on child marriage. Bihar has initiated schemes like the Mukhya Mantri Kanya Vivaha Yojana⁶, Mukhya Mantri Kanya Suraksha Yojana⁷, Mukhya Mantri Balak & Balika Cycle Yojana⁸ to curb marriages of adolescent girls. Bihar is also in the process of developing a State Plan of Action on Child Marriage

Under the present law, the authorities that have been identified for prohibiting child marriage are:
1). Child Marriage Prohibition Officer; 2). District Magistrate; 3). First Class Judicial Magistrate or Metropolitan Magistrate; 4). Police; 5). Family Courts and 6). Any person(s) may be called upon by the state government to assist the Child Marriage Prohibition Officer. In most states, other than designated CMPOs, District Magistrate is the only agency that has been authorized under the state rules to specifically look into the implementation of the PCM Act, 2006. States and UTs like Rajasthan, Daman and Diu and Puducherry also recognize the role of the First Class Judicial Magistrate or Metropolitan Magistrate in implementing the law.

1. In Madhya Pradesh and Jharkhand awareness on child marriage as an illegal practice was found to be higher, up to 71% where as in Bihar awareness on the same was found to be as low as 21%.

2. In Bihar, Madhya Pradesh and Jharkhand, more than 50% of the respondents were found to know the right age of marriage for males, where as 90% of respondents were found to be not aware of the right age of marriage for females.

3. Almost every Panchayat member within the project states, interviewed knew about the PCM Act but at the same time 77% of PRIs accepted that child marriage is a menace in their respective Panchayat jurisdiction.

4. As much as 75% of all married respondents were found to have no knowledge on registration of marriages; only 8% of respondents were found to have registered their marriages.

(Source: WPC Baseline Research Study, 2013)

⁶ Under the Mukhya Mantri Kanya Vivaha Yojana, the Bihar government will issue a bond of Rs.2,000/- at the time of the girl child’s birth. The bond will mature when the girl attains 18 years of age and will be of help for her wedding.

⁷ The major objectives of this scheme are: to prevent female foeticides, to encourage birth of girl child, to improve sex ratio and to encourage birth registration. Benefits under this scheme are provided to those girls of BPL families who were born after November 22, 2007. Benefits are given to only for two girls per family. Under this scheme, an amount of Rs 2,000 is invested in Child Carrier Balanced Plan of UTI Mutual Fund in the name of girl. (Source: http://socialwelfare.icdsbih.gov.in/Schemes_Programmes/Schemes_Programmes.php?grpID=2&SubGroupId=2)

⁸ By this scheme students enlisted in Class IX under Government/ Government aided and other category schools get a bicycle valued upto Rs 2,500 so that she/ he can go to school every day. (Source: http://www.educationbihar.gov.in/PSchemesPdf/03Apr201325719.pdf)
and Dowry Prohibition. “The Department of School Education and Literacy has supported the Ministry of Women and Child Development for roll out of “Beti Bachao Be Padhao” campaign in 100 districts of the country to enhance the sex ratio and the status of the girl child. An award is being instituted from the “Beti Bachao Be Padhao” Abhiyan for School Management Committees which achieve 100% transition of girls at different levels of education.”

Uttarakhand has also launched a scheme ‘Nandadevi Kanya Yojana’ to stop gender inequality and girl foeticide, to discourage child marriage and to give financial security to girl child. Under this scheme, a girl child born after 01.01.2009 in the families living below poverty line is given an amount of Rs.5000, in the form of a fixed deposit with the bank. This benefit is payable to the maximum two girl child of a family. At present the MoU has been signed with LIC under this scheme.

- In most states, no separate budget has been allocated for the implementation of the PCMA. Initiation of a separate budget head for this purpose would go a long way in committing resources for this crucial legislation.

Key Recommendations

Governance and Implementation

1. **Entrenching clear duty bearers and responsibility for implementation of the PCM Act by states** - Under federal governance structure, the states and UTs are responsible for implementation of the PCM Act and ensuring systems and processes to address the issue. Designated officials need to be employed as full time duty bearers to coordinate and ensure implementation of the PCM Act supported by relevant departments and stakeholders at every level. By assigning CMPOs from existing duty bearers with additional charge, there runs a risk of under-qualified and under-supported officials being overburdened with responsibilities under multiple government programmes, making it further difficult for them to fulfil any of their duties in a satisfactory manner.

   Under section 13 (4) of the PCM Act, the District Magistrates are the de facto/deemed prohibition officers when grave instances such as mass child marriages are taking place. In some states like Andhra Pradesh and Madhya Pradesh, District Collectors/ District Magistrates have also been notified as CMPOs. District Collectors, as a whole, are responsible for the enforcement of the legislation. By appointing District Collectors as CMPOs, the state ensued accountability on the district magistrates/district collectors to carry out their role in a more efficient manner.

2. **Capacity Building of Stakeholders**: Child marriage continues to pose a threat to the country and cannot be addressed through legislation, prohibition and punitive action only. Empowerment of communities and stakeholders is required to ensure that there is an overall understanding and responsibility towards

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In Madhya Pradesh, since 2007-622 cases of child marriages have been reported by the government. Out of this, 256 cases of child marriage were reported in the year 2013 alone.

In Gujarat in the year 2013, 23 complaints were registered by the CMPO (Child Marriage Prohibition Officers or CMPOs are nodal agencies responsible for the implementation of the Child Marriage Prohibition Act, 2006). In 20 cases, CMPOs intervened and stopped the child marriage. In one case, wrong information was provided to the CMPO and in two cases, girls were above the age of 18 years. In 2014, 14 complaints were registered. Out of the 14 cases, in 10 cases the CMPOs intervened and stopped the child marriage; in 2 cases—girls were found to be above the age of 18 years; wrong information was furnished in one case; whereas the other case has been filed in court and is still pending for final order.

As per the data provided for Andhra Pradesh, 577 cases of child marriages were prevented from taking place in 13 districts during October 2012 to May 2014.

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10 [http://wecd.uk.gov.in/files/Women%20Schemes/W_Scheme06.pdf](http://wecd.uk.gov.in/files/Women%20Schemes/W_Scheme06.pdf)

11 Accredited Social Health Activists under National Rural Health Mission (NRHM)
addressing the menace. All stakeholders from Panchayat members to school teachers, from Anganwadi Workers to ASHA¹¹, from police to the judiciary; have to be included on a regular basis to understand the issues, the Act and work in cohesion towards addressing the issues. The Education Departments needs to empower adolescents and youth at the school and college levels to mobilize response favouring prohibition of the practice and respecting girls and women's rights. CMPOs need a specific sensitization and training design to involve stakeholders on a regular basis and also identify resources as part of a continuous planned intervention from state plans to continue the efforts. Regular and periodic sensitization programmes for elected representatives should be organized at all levels including parliamentarians, legislators and Panchayat members.

3. **Lack of coordination**: Vulnerability conditions like specific Communities, pockets, poverty, low literacy, etc need to be addressed while addressing incidents of child marriage through rescue, police action and judicial intervention. Girls at risk of child marriage and married young women need different services and support. CMPOs and concerned stakeholders need to identify prevention, rescue and post—marriage issues and challenges; and develops synergy between all government and civil society efforts to integrate of child marriage prevention and support programmes in order to bring about effective and sustainable solutions. Therefore, states must set up Coordination Committees comprising of representatives from all departments and stakeholders including civil society at all levels.

4. **Improve Data and Monitoring Systems**: The central and state governments must standardize monitoring mechanisms to enable periodical review of the PCMA and its functionaries to help assess progress.

5. **Rehabilitation and support services**: States need to provide a clear planned agenda to address vulnerability of women and girls with comprehensive support for the violations perpetrated against them. There is need for strong and supportive rehabilitative measures such as the Victim Compensation Schemes under the aegis of the State and District Legal Services Authorities.

6. **Need for Specific State Plans and Budgetary Allocations**: State governments particularly states like Uttar Pradesh, Madhya Pradesh, Bihar, etc which as the DLHS-3¹² data reveals, demonstrate higher vulnerability towards child marriages, need to have long term state action plans and justified budgetary allocations to support sustained campaigns and accountability guided intervention plans. States and UTs need to identify implementation of the PCM Act and address child marriage as a serious development agenda and accordingly allocate sufficient resources within the state’s long term developmental goals and

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### Relevant Statistics

The National Family Health Survey of 2005-2006 (NFHS-3) confirmed that 45% of women aged 20-24 years were married before the age of eighteen years. Of these 58.5% were in rural areas and 27.9% in urban areas. As per the District Level Household and Facility Survey (DLHS) 3, the states with the highest incidence of child marriage in the country are Bihar, Rajasthan, Jharkhand, Uttar Pradesh, West Bengal, Madhya Pradesh, Andhra Pradesh and Karnataka (DLHS-3, 2007-08). Among currently married women of age 20-24 years who were married before the age of 18, Bihar reported the highest incidence at 68.2% while Himachal Pradesh has the lowest incidence at around 9%. The analysis also reveals an east-west corridor spanning six states—including Rajasthan, Madhya Pradesh, Uttar Pradesh, Bihar, Jharkhand and West Bengal—that have the highest incidence of child marriage ranging from 51.9% to 68.2%. In each of these states, at least one in two currently married women in age group 20-24 years happens to be a child bride.

The National Crime Record Bureau (NCRB 2013) documented an increase of 52.5% in cases of crime against children in 2013 over 2012. The highest charge-sheet rate was reported in cases under rape (98.3%) closely followed by Prohibition of Child Marriage Act (95.1%). However, the conviction rate at the national level for these crimes stood at meager 30.9%.


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¹¹ District Level Household and Facility Survey (2007-08)
annual action plans through various departments like women and child development, home affairs, law, education and health.

7 Empowering adolescents and youth on Child Marriage, Women’s Rights and Life Skills - This could be an effective strategy where right from the school level, the adolescents and youth of the country could be empowered on child marriage, women’s rights, gender sensitivity and life skills to address and prevent not only child marriage but address other relevant issues like dowry, gender based violence, etc.

Policies and Legislative Interventions

1. Need for strong political will: To address the slow response and serious vulnerability of girls towards child marriage, first there has to be the recognition of child marriage as a major developmental challenge by the state governments. The state governments has to demonstrate strong political will whereby state planning holds strong commitments vide long term plans, accountability mechanisms and there is allocation of sufficient resources to address the challenges.

2. Framing of rules and appointment of implementing agencies: Few states, like Sikkim have still not framed rules as prescribed within the PCMA. Central Government must ensure that all states appoint Child Marriage Prohibition Officers and notify the state rules.

3. Working towards creating evidence-based policies: Policy planning in the absence of reliable data is always a serious challenge. Data procured from stakeholders by the state departments should be up-to-date, reliable and further analysed and need to be disseminated at all levels in order to support future policy and programme developments.

4. Compulsory Registration of Marriages: The Protection cum Prohibition officers in Haryana have reported that the absence of any specific method for age determination is one of the challenges that they face in preventing child marriages. Central Government has made it mandatory for all states to make registration of marriages compulsory. By registering all marriages, states are in a better position to monitor, thereby simplifying access to those subjected to child marriages.

5. Amendments regarding the 'Age of Consent': As per the Protection of Children from Sexual Offences Act, 2012, any sexual act with a child below the age of 18 years is treated as an offence. The Indian Penal Code, 1860 has recognized penetrative sexual assault as statutory rape if the wife is below the age of 15 years. The clause of ‘consent’ does not arise in case the child is below the age of 15. At the same time, marriageable age as prescribed under the Prohibition of Child Marriage Act 2006 is 18 years. This leads to a conflict between laws. The PCM Act does not declare an under-age marriage that has been already solemnized as illegal; it is merely voidable. In other words, unless the parties involved choose to ask for an annulment, such a marriage would be treated as a valid marriage. Hence the PCM Act remains weak in enforcing other acts for protection of a ‘minor’ girl against sexual violence, if such violence occurs after marriage is solemnised. The clause around ‘the age of consent’ needs to be addressed urgently as it has the potential to be misused.
With inputs from Radhika Khajuria and Shilpi Singh, WPC