Child marriage legislation in 37 Asia-Pacific countries

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Collaboration WHO/IPU

- WHO provides technical support on health related matters, with a particular focus on sexual and reproductive health
- WHO is member of the IPU Advisory Group on HIV/MNCH
- WHO supports IPU and member States in the preparation and negotiation of health related documents and resolution
- Policy research, in particular in the area of impact of legislation
Pan African Parliament 2013 Women Conference

Parliamentarians responding to Violence Against Women and Girls in Africa
"From Legislation to Effective Enforcement"
Recommendations by the Conference
Johannesburg, 2 November 2013
Child marriage is still very widespread.
One in three girls (34%) in the developing world enters marriage by the age of 18
Current status and trends in the Asia-Pacific region
Child marriage in the Asia-Pacific region
Positive trends

- According to latest UNFPA report considerable decline has been registered in some countries of the region.

- The practice of child marriage is slowly declining.

- Dramatic progress when it comes to marriage of girls under 15 years of age.

- In South Asia, for instance, the decline has been especially marked, dropping from 32% to 17%.
Causes and consequences
Causes of child marriage are complex

- Gender inequality, poverty, social exclusion, marginalization and insecurity are some of the factors that drive and underpin the practice of early marriage.

- **Poverty** is a major factor underlying child marriage. Girls are viewed as an economic burden, and early marriage is perceived as a solution.

- **Parents may force young girls** into marriage with the ultimate aim of preserving their pre-marital virginity and to protect them from any kind of sexual behavior considered inappropriate before or outside marriage.

- This can happen especially in particular circumstances such as in times of conflicts and emergency situations.
Harmful consequences on children

- Poorer **health** outcomes
- Lower level of **education**
- Higher risk of **violence** and abuse
- Persistent **poverty**
- Missed opportunity for **empowerment**
Complications of pregnancy and childbirth are the main causes of death among adolescent girls 15-19 years old in developing countries.
Being married early normally precludes the possibility to continue education whereas additional years of education delays marriage.
International agreements suggest that **child marriage is a violation of interconnected rights** including:

the right to equality on grounds of sex and age,
the right to marry and establish a family,
the right to life,
the right to the education,
the right to development and
**to the highest attainable standard of health**
Strategies for ending child marriage

- supporting and enforcing **legislation** to increase the minimum age of marriage for girls to 18 years;
- providing equal access to quality primary and secondary **education** for both girls and boys;
- mobilizing girls, boys, parents and leaders to change practices that discriminate against girls and to create social, economic, and civic **opportunities for girls** and young women;
- providing **girls who are already married** with options for schooling, employment and livelihood skills, sexual and reproductive health information and services (including HIV prevention), and offering recourse from violence in the home;
- addressing the **root causes** of child marriage, including poverty, gender inequality and discrimination, the low value placed on girls and violence against girls.
Child marriage legislation in 37 Asia-Pacific countries
Objective

- This draft working paper is intended to serve as a resource for the parliamentarians attending the regional Inter-Parliamentary Union (IPU) and the Parliament of Bangladesh seminar for the Asia-Pacific parliaments entitled “Ending the cycle of violence against girls in Asia-Pacific”
- It aims at informing the discussion on child marriage and underlining the importance of legislation in fighting this practice
- The draft paper provides an overview picture of how the legal systems of 37 countries in the Asia-Pacific region address the issue of child marriage.
- It aims at identifying best practices and successful approaches to reduce child marriage, as well as gaps and contradictions within the different legislative tools adopted.
What is the structure of the study?
Background information
Different levels of legislation
Five levels of review:

International treaties
Constitution
Statuary law
Customary law
Provisions and Sanctions
### International treaties

#### Legal framework

**1. Relevant International Treaties**

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Constitutional level

- definition, recognition or protection of marriage
- definition, recognition or protection of family
- right to life
- right to health
- equality between man and woman/no discrimination on the basis of sex, including special protection for women and/or children
- assertion of primacy of constitutional law over other forms of law
- assertion of primacy of religious law over other forms of law
- and any other fundamental right relevant to child marriage practise
Statuary law

- age of marriage
- exception upon parental or court consent
- spousal consent
- age of consent to sex
- ad hoc authorities or mechanisms for child protection
- marital rape
- mandatory marriage registration
- mandatory birth registration
Customary law

- age of marriage
- exception upon parental or court consent
- spousal consent
- age of consent to sex
- ad hoc authorities or mechanisms for child protection
- marital rape
- mandatory marriage registration
- mandatory birth registration
Provisions and Sanctions

- Criminal and penal codes in the 37 countries have been analyzed in order to gather information to provide an overview of how key provisions related to child marriage are actually implemented in the country, from both an administrative and penal point of view and of the major barriers to enforcement.

- Criminal procedure codes, penal and civil codes, family law, common law and/or supreme court rules, as well as civil and religious marriage acts and/or administrative registration rules have been analyzed in order to gather sanctions and legal provisions that penalize the act, performance or registration of child marriage or the endeavor of parents or guardians to ensure the growth and development of the child under their custody.

- Under this section, the authors also analyzed whether ad hoc authorities and/or ad hoc mechanisms exist for a child to access justice.
Contextual factors
and
Child marriage related policy
## Final checklist

### 8. Key elements of the legislation

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Key questions
Key questions include:

- What are good practices in the region?
- What did you do in your country to address the issue of child marriage from a legislative point of view?
- Are there any innovative approaches?
- What was the role of Parliamentarians in addressing the issue?
- What are the key elements for a good legislation?
- What are the key elements for effective enforcement?
- Are different systems of laws harmonized in the country?