



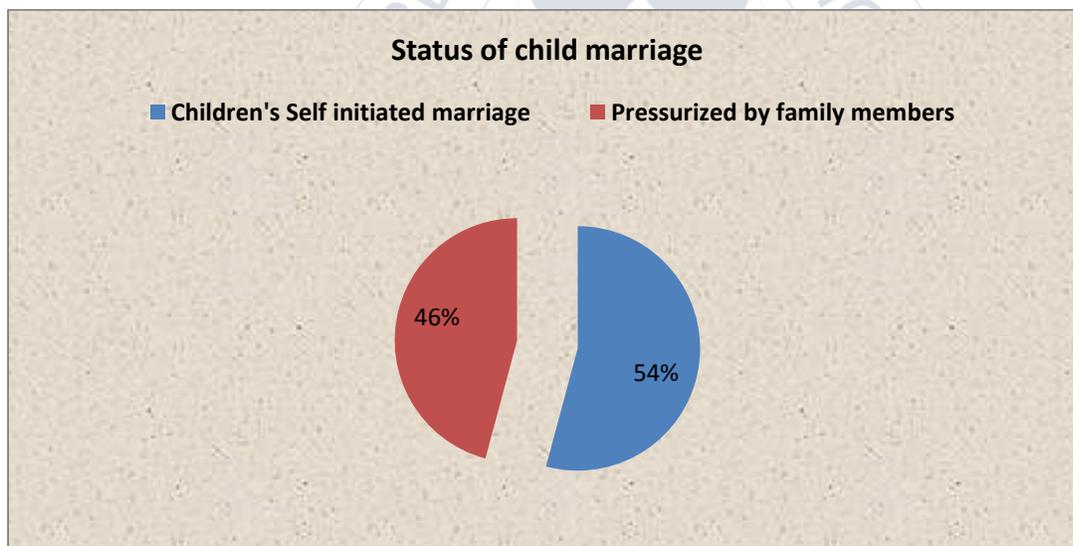
महिला पुनर्स्थापना केन्द्र (ओरेक)

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Nepal Government's goal to end Child Marriage under threat, 50 cases documented within 6 month

Nepal is in third position for having highest rate of child marriage in Asia along with which six sustainable development goals are directly hindered by the issue of child marriage. Despite the fact that child marriage has always been an issue of debate and concern of the government with relation to its minimization, the incidents of child marriage seems to be increasing day by day having various reasons behind the curtain whereby studies indicate that many factors including poverty, dowry, physical security, deep rooted social norms and values including family honor, culture and religion contribute to child marriage. The data collected by WOREC along with its fact finding report in last six month shows that it has a progressive nature which is portrayed in table below:



Total of 50 cases of child marriage were documented by WOREC out of which 26 of them were love marriage and self-initiated by the children and 24 of them were arranged by their family members because of society's perception towards girl child and their taboo towards sex. These are plain thoughts and blames tagged for the girl children who are involved in marriage because the fact finding report of WOREC has shown that the lack of love, discrimination between daughter and son within the family member also provokes them to get married expecting to live a happy life.

Apart from the issue of child marriage, WOREC documented total 240 cases of VAW from all over the country in the month of Jestha. Among all the documented cases, 49 cases have been documented from various national dailies newspaper.

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महिला अधिकार तथा सामाजिक न्यायमा आधारित दिगो विकासको प्रवर्द्धनका लागि जुटौं ।

Child marriage itself is one of the major gateway of domestic violence. Having this situation, Constitution of Nepal, 2015 (the Constitution), for the first time explicitly prohibits child marriage under article 39 (5). However, Child marriage has emerged as a serious challenge in Nepal because of mal-practices that exist in some communities on lack of awareness and growing trend of love marriage among children in recent years. South Asia Initiative to End Violence against Children (SAIEVAC) has been implementing a 'Regional Plan of Action to end Child Marriage (2015- 2018) in SAARC countries including Nepal. Question of ending child marriage has been included with priority by SDGs (2016-2030). Although this issue affects boys as well as girls, given that the tradition of child marriage has a disproportionately negative impact on the girl child.

There are several instances where WOREC district coordinators have come across with the situations and cases of child marriage conducted by their parents themselves to avoid the large amount of Dowry that has to be provided to groom.

Likewise, it is also found out that the fear of stigmatization and character assassination, the child marriage is practiced irrespective of their age if any of the family members finds about the involvement of their children being in relationship.

So, all these problems have to be addressed by our laws and it is hard to bring change in the mind of people. But Nepal is party to various international instruments and the minimum age of marriage has been prescribed by the CEDAW Committee as being 18 years of age whereby it provides for the prohibition of Child Marriage in Article 16.¹ While child marriage per se is not referred to in the 1989 Convention on the Rights of the Child (CRC), the Convention contains a provision containing that states Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.² Whereas the legal minimum age for marriage is 20 years after the amendment of existing provision of 'Muluki Ain (Civil Code)' through Some Nepal Acts Amendment and Abolishment Act, 2015 in Nepal.

Further, there are plenty of laws which directly and indirectly discourage the practice of child marriage. For example:

Muluki Ain, chapter on rape has the provision of punishment to those who involves themselves in sexual activities with the girls under the age of 16 with or without consent. Living in a situation where male members consider 'marriage as a license to sex', it has taken a progressive step incorporating the provision for marital rape. Thus, if someone gets married with the girl who is under the age of 16 and involves in sexual activities will be the act against this law and is punishable.

Similarly, Muluki Ain, Chapter on husband and wife, If anyone gets married having age beyond the standard set by the laws, then it can be considered as the basis for divorce.

¹ Article 16, states: " The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory."

² Article 24(3) of the Convention on the Rights of the Child, 1989

Analysis part:

The “best interests of the child” principle in the CRC provides a basis for evaluating the laws and practices of States with respect to the protection of children. However, the issues that has not been able to incorporate or deal by the Nepalese law with relation to child marriage is growing trend of love marriage among children who have not reached the legal age of marriage. The law is silent about the punishment in these kinds of situations and has not been able to give any proper direction and guideline. The empirical evidence reveals that girls who marry early are often exposed to violence, divorce, abandonment, and poverty, and in light of the best interest of the child principle, States must take legal action to reduce child marriages.³ If Child/Early marriage has not been control on time, the situation of violence against women will be same in next decades too.

Further, the law when does not validate Child marriage (love) among children leads to other legal barriers in the following conditions:

- when husband denies to provide citizenship to wife
- If they gave birth to child before registering their marriage
- If they are to separate from one another or get divorced after the marriage within the age of 16.

These complexities have been hindrance to implement basic and fundamental rights of the girls provided by various laws and Nepal's constitution consequently creating even more problems in days to come. Thus, the issue of child marriage must be dug deeply in order to cut its root and create conducive environment for adolescents to learn.



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³ Article 3 (1) of the CRC guarantees that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” Article 19.1 of the CRC also requires States to take all appropriate measures to protect the child from all forms of abuse, neglect, or maltreatment while in the care of parents.