

WOREC's position paper on CHILD MARRIAGE

Nepal has experienced decline in rates of child marriage during the last two decades, though it is on the 16th position in the world with 662,000 number of child brides. Accordingly, it has now the second highest rate of child marriage in South Asia after Bangladesh. The NDHS, 2016 shows that 40% of Nepalese girls are married before 18 and 7% are married before the age of 15. The median age at first marriage of women is 17.9 years and men is 21.7 years. Also, Nepal is one of the top 10 countries where there is a high prevalence of child marriage among boys.

The form of child marriages are changing while there is an increasing trend of marriage of own choice. For instance, according to one study of PLAN International 25 % of marriages across 15 districts in 2012 were of their own choice. Likewise, in 2017, a study across 5 districts revealed that 35 % marriages were of own-choice marriages. However, the criminal law of Nepal has criminalized all kinds of child marriage as a blanket approach to prevent and punish it. Yet, in Nepal, various studies shows child marriage are taking place with sheer cases of impunity. For instance, though the number of child marriage is high in Nepal, the media monitoring report of Central Child Welfare Board (CCWB) illustrates that a 137 cases of child marriage are reported in Fiscal Year 2075/76, in which 196 children (137 girls and 59 boys) were affected. Among them only 24 incidents of child marriage are stopped by child club and police as well. In matters of FIR registration in same year, a total of 88 cases of child marriage have been registered in Nepal Police.



WOREC's position:

- 1) WOREC strongly condemns the practice of forced child marriage and recognizes that various forms of child marriage are evolving. WOREC thus believes, there are forced child marriage, arranged child marriage, self-initiative child marriage, elopements, etc.
- 2) There are various underlying root causes and consequences related to child marriage but barely the voices of adolescents are reflected in research or policy making. The policy makers should work with adolescents while developing the policies concerning them.
- 3) In lack of proper responding mechanisms the survivors of child marriage are going through continuum of harm after child marriage. So, there is strong need of consolidated effort from concerned agencies with multi-sectoral approach to protect the rights of survivor of child marriage ranging from immediate rescue to referral to safe house, providing legal counselling, legal representation, psycho-social counselling to filing of case and such.
- 4) The existing legislations against child marriage, illustrates that the state has hampered adolescents agency on his or her decision related to marriage by placing prohibitions and mainly through absolute criminalization. However, due to weak enforcement of laws there are many cases of impunity and some cases of inter-caste child marriage are only being punished as they are reported by the family members as a part of revenge or retaliation to the adolescents. The laws and policies should be reformed from a rights based approach.
- 5) For Nepal the "cost of inaction" on child marriage for girls aged 15-19 over the next 36 years may cost the country 3.87%

of its Gross Domestic Product (UNICEF Nepal, 2014). So, rather than relying on criminal law to prevent child marriage, the State should adopt preventing measures keeping child as rights holder acknowledging their capacity and agencies.

Recommendations for ending child marriage:

- 1) The government shall launch program on creating awareness and advocacy to address the root causes of child marriages such as (poverty, lack of guardianship - orphan, adolescents escaping from violence (physical, mental, sexual) at their home, supporting the economic condition, problem of dowry, social stigma on talking to boys or having relationship, (discouraging love marriage or inter caste marriage) and conduct investigation on ensuring equal implementation of law irrespective of caste, class or social status of person.
- 2) The government shall develop adolescent targeted programs relating to the continuity of education, or reducing the school drop rate of girl child, promoting the reproductive and sexual health education among adolescents, providing income generating skills and activities enhancing the employability of adolescents in the existing market, etc. They shall also include boys to understand and build peer support on the idea of preventing all forms of child marriage in community.
- 3) A new comprehensive law on child marriage is to be enacted with conditional criminalization of child marriage, with their conditional validity- making them "void" and "voidable" according to the choice of adolescents. Further, law should define the interrelationship of child marriage with other crime such as statutory rape, domestic violence, dowry related violence, etc. and promote the positive obligation of state on dealing with the case of child marriage.

- 4) The existing civil laws are to be amended to protect the victims of child marriage by recognizing the marital status of couple, the legal status of their children, marriage or dissolution, divorce. Further, the issue relating to their property, citizenship should be specifically determined in the civil law of the country.
- 5) The legal policies should ensure equality within marriage, ensure prevention from domestic violence, child labor as such. There should be surveillance from national child rights council on such case of violence in child marriage.
- 6) There shall be development of statistics to record the nature and changing trends of child marriage among population. More research is to be done to unpack the subject of honor in marriage and on why youth are opting for marriage at an early age, and such.
- 7) The government shall ensure the protection of the rights of survivor of child marriage in case of violence in their house. Ensuring the adolescent friendly rehabilitation service, law enforcement, promoting reintegration in society, etc.
- 8) The law enforcement agencies shall be updated on the existing laws on child marriage and shall develop sensitivity on dealing with the case of child marriage through various refreshers and human rights training providing the knowledge on the international human rights, women rights and child rights instruments and mechanisms.



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