

Legal Bindings

Pakistan has signed and ratified the International Covenant on Civil and Political Rights and ratified the Convention on the Elimination of Discrimination Against Women (CEDAW). Article 16 (2) of CEDAW expressly prohibits child marriage, stating that *“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.”*¹

Pakistan has also ratified the Convention on the Rights of the Child (CRC) where a child is defined as anyone under 18 years of age. Article 9 of the CRC protects the right of the child to not be separated from their parents against their will. Article 14 (1) of the CRC also states that state parties need to respect the right of children to freedom of thought, conscience, and religion.² Article 20 of the Constitution of Pakistan also guarantees freedom of religion.

Early and forced marriage, coupled with forced conversions and sexual assault places girls from minority communities at high risk of violence and abuse and deprives them of their fundamental right to education, health and freedom of religion. The minor girls need the protection of the law and the care of their families. The government of Pakistan should take all necessary steps to end the forced marriage and conversion of these girls.

A few **recommendations** we propose for the protection and safeguard of minority girls and women.

- Ensure the rule of law and protection of at-risk girls from religious minorities;
- Set up helplines for easy and safe reporting, and immediate assistance, including legal help for the minor girls and their families;
- Police reform to improve response times where abduction is alleged to have occurred to ensure registration of First Information reports or criminal complaints;
- Train police about issues faced by religious minority communities including the identification of fraudulent marriage and conversion certificates
- The police all over the country must investigate all pending and future cases of forced marriages under Section 498-B of the Pakistan Penal Code.
- Ensure in-camera proceedings where the statement of the minor girls is recorded not in open court but the chamber of the judge, without the presence of the press or the public to mitigate coercive efforts by abductors
- Review the Anti-Forced Conversion Bill that was rejected by the Parliamentary Committee on October 13, 2021.

¹ <http://www.hrcr.org/docs/CEDAW/cedaw6.html>

² <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

- Criminalise Forced Conversion. The legislation was attempted in November 2016 in Sindh Assembly but succumbed due to right-wing parties' pressure, also the definition of 'forced conversion' should be added in the legal framework of the state and legislation must be made on the said issue.
- Set the legally valid age for marriage at 18 years across Pakistan for both boys and girls. Senior Civil Judge should ascertain the presence of a free will, consent, the factual accuracy of age and marital status of the parties.
- Consider and ensure the validity of CRC during the proceedings of such cases as "The Child Registration Certificate" (CRC) is a document used to register minors under the age of 18 years.
- Ensure the protection of minors by mandating that the custody of an abducted and converted minor be returned to her family or legal guardian.
- Amendment in the Majority Act to bring it into conformity with NADRA ACT.
- The option of dissolution of marriage or divorce or annulment of marriage should practically be included in the laws of religious minorities. These legislations should be drafted and amended in a way that incorporates consensual divorce or divorce by free choice.
- The Child Marriage Restrained Act, 1929 must be amended to set a minimum age of marriage to 18 years for all belonging to all religions. This standardization in the age of marriage will protect women against forced marriage and might be a stepping-stone to reduce forcible conversions.
- Endorse and implement the recommendation made at the 3rd Universal Periodic Review (UPR) that called for the adoption of measures aimed at protecting religious minorities and the right to freedom of religion or belief.

Prepared by

Merab Arif
NCJP