

Commission on the Status of Women
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PANEL II

1. “Today, the devastating impact of child marriage continues to be ignored in the developing world. Millions of child brides, some just past puberty, are denied access to health, education and economic opportunities. The majority of them are burdened with the roles and responsibilities of wives and mothers... This is despite the existence of numerous international and regional human rights laws and conventions against the practice. It is clear that international human rights instruments relating to child marriage remain, at best, rhetoric, or general declarations of principles, without

- (i) The first element that needs to be addressed and for which capacity building is needed is to set the standards for State action. In relation to child marriage the standards are to be found in the following human rights instruments .

1948 Universal Declaration of Human Rights provides that men and women are entitled to equal rights in marriage and marriage breakdown, and that both potential spouses should freely and fully consent to the marriage [Article 16]

1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery considers any marriage that is forced upon a girl or woman by her family or guardians a practice similar to slavery [Article 1 (c)]

1964 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages indicates that marriage requires the consent of both parties [Article 1]; calls upon parties to eliminate the marriage of girls under the age of puberty and requires that states stipulate a minimum age of marriage

1966 International Covenant on Civil and Political Rights [Article 23] and the **1966 International Covenant on Economic, Social and Cultural Rights [Article 10]** reinforce that marriage shall be entered into with the free and full consent of both parties

1979 Convention on the Elimination of Discrimination Against Women (Article 16 (1) Article 16 (2) provides that the betrothal and marriage of a child shall have no legal effect. It further requires that states set a minimum age of marriage and that they require the official registration of marriages.

1989. The Convention on the Rights of the Child (CRC)

1990 African Charter on the Rights and Welfare of the Child provides that shall child betrothal and marriage shall be prohibited and that effective action shall be taken to ensure that the minimum age of marriage is 18. Article 21

2000. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Article 6, clauses (a), (b), (d)

5. All the above instruments provide for (1) the right to enter into marriage after free and full consent; (2) the right to freely choose a spouse; and (3) the right not be discriminated in the enjoyment/exercise of the right to enter freely into marriage. All efforts to end child marriage must meet these standards.

6. As part of capacity building, there is a need to create conceptual clarity as well as a uniform understanding of the problem. Child marriage has to be understood as an extreme form of discrimination against the girl child from the perspective of the definition of discrimination provided in article 1¹ of the Convention on the Elimination of

¹ Article 1

communities or communities in rural areas.⁴

10. So the social de valuation of the female child as well as denial of decision making rights to mothers which contribute to child marriage even though poverty or other causes may be a trigger, indicates that this practice cannot be ended unless there are long term concerted efforts to eliminate discrimination against women and the girl child in all its forms.

(iii) The next step in mainstreaming is to draw up a comprehensive, and holistic plan for ending child marriage based on an anti discrimination approach taking into consideration causes and consequences of child marriage and involving all relevant ministries in a mainstreaming exercise.

(iv) This plan will ensure an adequate legal framework that comprises constitutional guarantees for equality and non discrimination that bind both the public and private sectors including individuals and families and there is a law restricting child marriage. The law must make no exceptions on the basis of culture, religion, ethnicity

(v) Research and analyses has to be undertaken in situ to pin pint the causes and consequences of child marriage, why the law is so poorly enforced or implemented, the nature of societal attitudes and resistance etc.

(v) The research and analyses must inform further action which aims to deter and prevent child marriage, ensure the law is enforced, give girls the right of choice in marriage and mitigate the consequences of child marriage. While the research could be undertaken by the National Machinery for Women, all further actions must be mainstreamed and an inter ministerial agency set up..

Some elements of State action that needs to be mainstreamed and questions that need to be asked are:

Information dissemination

Is there adequate publicity given to the rights of girls to have choice in marriage to life choices and about the consequences of child marriage. Is the information disseminated to all sectors of the community on a constant basis gender sensitive, culturally appropriate information that motivates (men and women)

Who is this done by? (Ministry of information/ Education)

Is there provision of information about women's right to equality to all state agencies vertically and horizontally: How much information do state agents (including judges) have on the obligation of the State under the treaties. Who should do this education of state agents.

Relevant infrastructure

Are provision for infrastructure for birth and marriage registration: available

Measures to identify ongoing and emerging obstacles (internal) and resolving them

Are there programmes to resolve society/community resistance, changing culture, conducted in partnership with community based organizations

Ensuring levels of capacity, safe conditions and freedoms to access the means

Long Term

Are there are measures to promote women's ability to exercise inter-related rights such as education, employment, asset ownership, mobility, safety. Access to economic resources, land rights, labour rights, freedom from violence, guarantees for livelihood systems, housing, health, support services for child rearing are all areas for legislative and policy attention. This helps set standards, identifies the actors who have obligations and provides an irreducible framework for the fulfillment of rights as non-fulfillment can be challenged.

Are there provision of enabling conditions, affirmative action (temporary special measures)

Are there are plans for the progressive realization of women's rights in all fields and in particular for the elimination of child marriage, through National Plans of Action for the Advancement of Women with indicators and benchmarks that is mainstreamed into National Development Plans.

Identifying obstacles (external) and resolving them

Is there budgetary analysis to identify state priority for spending
Are additional resources are mobilized.

Measures to sustain protection of rights

Are there accountability systems for monitoring, data gathering and utilization, identifying emerging issues and developing new indicators

Are there community level consultations to ensure people's participation in identifying needs and evolving rights

Are girls mobilized to spread awareness that they are rights holders and that the State and their parents have duties to fulfill their right to equality and non discrimination and to the fullest development of their potential is an essential ingredient to bring about change. The Education Ministry has a critical role to play in developing such peer educators and making heard the views of girls on their aspirations. There are examples in South Asia of such efforts.

Is data gathered to show that there is no regression in incidence of child marriages. **(results)**

Measures and mechanisms to ensure, protect and redress based on international standards

Is there monitoring and documentation of violations, perpetrators (state or non state actors) impact, contributory factors

Is there support services, le

give this responsibility to this central agency. I say this because ending child marriage is not only about legal measures but requires attention to socio economic rights of the girl as well as transformation of the society.

Furthermore as matters stand there are no consequences for any department or individual that does not carry out their responsibilities towards women's rights. The central planning agency has to work out a methodology for assessing performance in this regard and include it as a criteria in the review of performance with specified consequences.

In order to maintain a universal minimum core set of standards for women's rights generally and to end child marriage in particular and to benefit from the progress made through the development of jurisprudence through the