**Civil Society input to: the Report of the Secretary-General on child, early and forced marriage, pursuant to the resolution 71/175 of the United Nations General Assembly**

Submission by:[*Youth Association for Development (YAD) Pakistan*](http://www.yad-pk.org/)*, and* [*Swasti*](http://www.swasti.org/)*, India are members of the* [*Asia Pacific Alliance for Sexual and Reproductive Health and Rights*](http://www.asiapacificalliance.org/index.php?option=com_k2&view=item&id=515:cs-intervention-at-the-2017-asia-pacific-ministerial-summit-on-the-environment&Itemid=238) *(APA), a civil society network that mobilizes civil society advocacy across the region to hold governments and other stakeholders accountable for their obligations and commitments to realize the SRHR of all persons*

1. What are the measures taken to implement the recommendations of the last report on Preventing and eliminating child, early and forced marriage (A/HRC/26/22)?

1. **Youth Association for Development (YAD) Pakistan**

is implementing a project on Ending Early and Forced marriages in Pakistan, to pursuant to the resolution 71/175 of the United Nations General Assembly.

**B Swasti, India**

The last report on Preventing and eliminating child, early and forced marriage (A/HR/26/22) Para 54(d) includes measures promoting women’s economic empowerment and access to productive resources, including by addressing discriminatory norms and practices.

In the recent judgment of *Independent Thought vs Union of India*, delivered on October 11, 2017 the Supreme Court of India read down Exception 2 to Section 375 of the Indian Penal Code (IPC) to hold that sexual intercourse by a man with his own wife if she is below 18 years of age would amount to rape. The provision contradicted the age of consent in both the Prevention of Child Marriage Act, 2006 and the Protection of Children from Sexual Offences Act (POCSO), 2012.This landmark judgement has raised the age of consent for all women to 18 years and has strengthened the legal enforcement process to now take punitive actions against those who promote or engage in early and or forced child marriage.

Swasti has directly and indirectly attempted to contribution in elimination and prevention of child, early and forced marriage through its various thematic interventions works in sexual and reproductive health rights, prevention of gender based violence and life skill education for all. Apart from ground level interventions, Swasti has conducted studies on effectiveness of social protection schemes by state agencies concerning to the trafficking of women and girls.

*The key highlights of Swasti’s ground level intervention is shared below*:

Among key thematic interventions, Life skill for All is one of the key approach through which Swasti had taken measures to impact lives of more more than 1.84 Lakh factory workers across 130 factories in India, out of which 86,624 were direct women workforce hailing from rural and urban parts across India. Swasti’s work in the area of Life Skills for All (LSA) focuses on empowering workers, especially women, to facilitate their professional and personal growth through life skills training. It involves deepening Swasti’s efforts to contribute to worker well being to address the gamut of workers’ issues such as health, gender, financial inclusion and life skills with empowerment.

Apart from imparting foundational life skills (as per WHO definition) gender, safety & security, legal and financial literacy has been cross cutting subjects that has integrated in most of the life skill based modules. The primary beneficiaries has been women workforce and the secondary beneficiaries or stakeholders has been the factory management, male workforce and the human resource.

The several programmes that Swasti has been associated for designing, and implementing are Gap Inc.’s P.A.C.E (Personal Advancement and Career Enhancement), Women in Factories (WiF), HER Projects (Health, Finance, Respect, Health Family, Flex), LIFE, My LIFE, WWB, SHW, etc., in partnership with more than 130 brands and factories. Swasti also conducts capacity building workshops for prevention of sexual harassment committee members or commonly know as ICC / Internal Complaint Committee at workplace as per Indian law for brands, corporates, institutes and factories.

With such reach, Swasti has set a target of 1 Million people who would be impacted through its initiatives and capacity building programmes in the next five years (2022). Swasti has also reached to 14 countries indirectly through its technical support in LSI and gender work.

2. What are the measures adopted to address the root causes, systematic and underlying factors, such as poverty, insecurity, lack education, of child, early and forced marriage, including in humanitarian settings?

**Swasti, India** *reports the following measures have been taken:*

 Swasti has built capacities of community organisations as part of our work on Gender, Safety, Security and Justice in different communities. One of the key communities are female sex workers and sexual minority groups of gay men and transgender persons. Through one of Swasti’s programs with women in sex work, we have developed a customised crisis response mechanisms that will allow the hidden and most vulnerable women in sex work to seek help and support in times of crisis - be it intimate partner violence or violence from other stakeholders including judiciaries.

Through its programme, Swasti has reached 87 community organisations (COs) that work with women in sex work as well as gay men and transgender persons across 5 states of India. Swasti has developed a safety, security and justice strategy and framework and built capacities of the all the CO team on a GBV survivor response. We have used a mobile app to support field based reporting and tracking of incidents of violence faced, which provide a more accurate understanding of incidence, response and resolution.

As a part of safety city initiative, Swasti has developed a comprehensive ecosystem based response framework and a strategic plan, in collaboration with UNDP and state agencies such as Department of Women and Child Welfare and launched a webpage with information on state level services, by different agencies working on Gender Based Violence in Bangalore, Karnataka.

Swasti has also designed modules on various life skills elements for building and empowering communities with effective communication, negotiation, Problem solving and decision making, stress management skills as well as information on general Health, sexual, reproductive health, and Mental health, WASH (water, sanitation and hygiene), time management, resilience building, financial literacy, Gender (root causes of VAWG and GBV, gender equality and equity) and Leadership skills especially for women to facilitate removal of gender gaps and disparity at workplace, and at the community

3. What progress have been made in the enforcement of laws and policies to promote gender equality, prohibit violence against women and girls, repeal discriminatory provisions, and eradicate harmful practices? What concrete actions have been taken to monitor the implementation of all measures?

1. **Youth Association for Development (YAD) Pakistan** *reports the following progress and action in Pakistan:*

**Punjab Province Child Marriage Restraint (Amendment) Act 2015**

In March 2015, The Punjab Assembly enacted the Punjab Child Marriage Restraint (Amendment) Act, 2015 which amended the original Child Marriage Restraint Act by introducing harsher punishment (of a maximum of six months of imprisonment and fines of up to 50, 000 rupees) for parties contracting and /or solemnizing child marriage. While the amending law stipulates harsher punishment for parents and /or guardian of the minor who is married, the act retains the minimum age of marriage of 16 years for girls and 18 years for boys. While this legislation is a step toward better protection against early marriages of women and girls. The minimum age of girls must be increased to 18 years in order to ensure better protection. The Govt of Punjab also introduced the Women Empowerment Packages, through which birth registration for girls was made free and compulsory across the province, with an aim to prevent early marriages.

**The** **Muslim Family Law Amendment Act** was also enacted in 2015 by the Punjab Assembly to accord greater protection from child marriage. The law protects the rights of the bride by mandating that the person solemnizing the Nikkah accurately fill the columns of Nikkah nama with specific answer of bride and groom.

**KPK Province Child Marriage Restraint Act, 1929**

A draft Khyber Pakhtunkhwa Child Marriage Restraint Bill of 2016 is pending approval of the KPK Provincial Assembly. The Bill introduces the requirements of presenting ID cards of bride and groom at the time of nikkah. Furthermore, the Bill raises penalties to be borne by offenders under the Bill, including those who convene or solemnize child marriage.

 **Balochistan Province Child Marriage Restraint Act, 1929**

The Balochistan Assembly is currently reviewing the draft Balochistan Child Marriage Restraint Bill of 2016.This Bill introduces the requirement of presenting national ID cards of bride and groom, and raises penalties for offences prescribed under the bill, including solemnizing a child marriage and conducting the ceremony.

**Azad and Jamu and Kashmir Province Child Marriage Restraint Act, 1929**

Currently, a bill to restraint occurrence of early age marriages in AJK is pending approval of AJK Assembly.

**B Swasti,** *reports the following progress and action in India:*

Swasti in partnership with several global brands and organization like Inditex (Zara), BSR, C&A, M&S directly and indirectly, have worked to develop gender sensitivity and equity intervention model in India as well as to enforce law on prevention of sexual harassment through several mechanisms like capacity building, strengthening grievance systems and workplace policies, within the vendor factories to provide space and time for women workers to share their opinion so that the gender equity is achieved across the factories. As part of this initiative Swasti has already trained 318 higher level and mid management representatives across 224 factories across north, west and south of India.

Through its programmes in 5 States, Swasti has supported community organisations (COs) to work closely with District and State Legal Services Authorities to improve legal literacy amongst marginalized populations, create cadres of Para Legal Volunteers and set up Legal Aid Clinics to facilitate access to justice.

4. What measures have been undertaken to promote girls and women’s autonomy and build the capacity of other stakeholders to promote social norms that support gender equality?

**Swasti,** *reports the following measures in India*

Several models of women workforce empowerment for factory and community level has been designed and piloted for scale by Swasti. Some of them are

* Life Skills For Empowering Women (LIFE) is based on worker well being model designed by Swasti with the support of Debenhams. The project was launched in 2015 in four factories in India aiming to empower workers, particularly women, by strengthening their life skills so that they are better equipped to handle challenges in their personal as well as professional spheres, leading to an enhancement in their quality of life. It also aims to create suitable linkages for workers to access the required services and products, to aid in improving their wellbeing. Another important objective of the project is to create sustainability for the intervention. This is to be done by institutionalising capacity building systems within the factory to reinforce the efforts of life skills education program on a regular basis.
* Another promising initiative by Swasti, GenY, is designed to provide the support and care for gender nonconforming, gender transitioning and gender inquiring youth.With an astonishing population of over 365 million 10 to 24 years olds, India has the largest youth population in the world. Having supportive parents and a safe environment is key to ensuring that young people grow up happy and healthy. However, LGBTQAI+, gender nonconforming and gender inquiring children face much more challenges growing up as opposed to their heterosexual peers. They are exposed to discrimination, violence, sexual abuse, harassment, suicidal thoughts and much more. In an effort to reduce the numerous risks and vulnerabilities, support will be provided through counseling services, life skill services, capacity building workshops for professional counselors, peer counselors and life skill trainers, and various social media campaigns. The intervention is being initially piloted in two states of India, Tamil Nadu and Karnataka. The initiative aims to create a movement that will empower young people to be comfortable in their own skin by providing them knowledge and awareness that will increase the positive attitude and acceptance towards their sexual and gender identities. Though at this point, it does not directly responds to child marriage, but is certainly a peer model of change agents that can promote prevention and elimination of gendered violence and discriminatory practices across communities and age groups.

5. What concrete actions have been taken to provide adequate protection and accountability mechanisms for women and girls at risk and the survivors, including in insecure contexts?

**A. Youth Association for Development (YAD) Pakistan** *has taken the following actions*:

Tackling, reducing and ending early/child and forced marriages in Baluchistan Pakistan through involvement and engagement of caretakers, gatekeepers, INGOs youth, girls, boys, parents, teachers, political/ religious persons, community elders, marriage registrars, govt. officials elected representatives, legislatures, community, media, civil society, Nikahkhawains, and parliamentarians.

Young girls and boys directly benefit from the project through proper legislation for ending early/child and forced marriages, girls are not brides and boys are not grooms.

The project interventions are awareness raisings, mobilizations, sensitizations, capacity buildings, policy level advocacy, legislations, collaboration and liaison development, action based networks, active participation, development strategies, consultations, uplifting voices for the prevention, referral and rehabilitation of the victims of early marriages, institutionalization of reporting and referral mechanisms to respond effectively for the prevention, referral and rehabilitation of the victims of early marriages. All the stakeholders and beneficiaries are kept in the loop for the broader impact of the intervention.

**B. Swasti,** *reports the following measures in India*:

* A comprehensive ecosystem response plan to prevent, mitigate and redress violence against women and girls was developed and shared with UNDP India and local stakeholders including state and non state actors in Bangalore, Karnataka. The framework proposed multi stakeholder response at the individual, family, community, society, program, and policy level.
* A legal literacy capacity building framework on laws that protect women and children has been developed and shared by Swasti with Gap Inc., as a part of the global programme. India specific modules were developed on legal literacy.
* A safety planning tool for GBV survivors and a screening tool for VAWG/GBV in workplace has been developed and piloted by Swasti.
* Swasti has also mapped various prevention and response initiatives and technological solutions within India. As a result of that, good practices as case studies has been documented and disseminated with key stakeholders.
* Swasti also plans to start a community based primary health education and care programme for the urban poor focussing on prevention of gender based violence within urban poor communities.
* Most importantly, as to strengthen rights and voices of vulnerable women mainly women at sex work, Swasti has worked on strengthening the safety security and justice mechanisms across 87 community based organisations across 5 states in India. Swasti reached out to the following number of CO members to build their capacities on safety planning and response mechanisms Tamil Nadu – 93 Members Trained (12 COs) Karnataka – 156 Members Trained (9 COs), Andhra Pradesh – 143 Members Trained (9 COs) Telangana – 42 Members (3 COs)

However, with more than one billion population and existing social norms driven by stringent patriarchal culture and behavior, and weak implementation of laws, more and specific efforts are required from multiple actors and agencies. Education, literacy, livelihood and technological solutions along with strong health and legal response system as well as awareness about basic human rights and gender equity for all are critical determinants in elimination of early and forced child marriages.

6. What kinds of data have been collected and what kinds of research have been conducted?

**Youth Association for Development (YAD) Pakistan** *reports the following*:

An analyses of the different legal frameworks and human rights dimensions of child marriage within a feminist perspective in the ‘Pakistan National Strategy to End Early/Forced and Child Marriages’, undertaken by YAD-Pakistan. It is available [here](http://www.asiapacificalliance.org/images/stories/resources/Pakistan_Strat_endEFCmarriage.pdf).

 The value of a rights based approach as a powerful advocacy tool to monitor child marriage. Further, research highlights the interconnectivity between international human rights law, constitutional guarantees of gender equality, and other gender friendly laws in combating child marriage. Early marriage is a violation of fundamental human rights and that both state and non- state actors must be held accountable under international treaty obligations to combat early child marriage. Locating child marriage as a human rights violation also helps to raise it as a grave public concern rather than a private matter between families.

**Child marriage in Pakistan**

Child Marriage is one of the most wide-spread human rights violations that exists in the country. Girls from poor households are more likely to be married as children, being forced into marriage before one is able to give consent violates the basic human rights of boys and girls. Child Marriage is often associated with multiple health risks. 18% of Pakistani girls have had their first birth by age 18; 9% have begun child bearing between 15-19 years. In Pakistan, legally Child Marriages are prohibited under the Child Marriages Restraint Act, 1929 (CMRA), although CMRA makes child marriages illegal.

24 per cent of girls married under the age of 18 worldwide last year were from rural Pakistan, whereas 18 per cent were from the country’s urban areas. The issue of child marriage raises several health concerns for young girls, some of which include pregnancy complications, health risks for babies born to young mothers and the risk of death. The report said that girls pregnant under the age of 15 have a five times greater chance of dying compared with girls pregnant in their 20s. Early marriage can also thwart personal development and growth as a child constantly undergoes physical, mental and emotional changes before reaching adulthood. In Pakistan, young girls are sometimes married off to older a man, which poses the risk that the girls might become conditioned to acting submissive towards their older male counterparts. This can also stunt their personality development.

One obvious thing that girls married young miss out on is education. At a on the issue, it was reported that girls married young have more chances of remaining poor than those who marry later. Moreover, girls should first be equipped with at least basic education so that they have something to rely on should a spouse end the marriage or pass away.

While the Child Marriage Restraint Act of 1929 says that the police cannot intervene directly in underage marriage, implying that Sharia law is to be consulted, the government needs to intervene. Child marriage should be prohibited and the legal age of marriage should be raised from 16 to 18. Pakistan is signatory to the UN Convention on the Rights of the Children which defines child marriage below the age of 18; yet, the country allows marriages at age 16. Civil society needs to work towards eradicating certain false assumptions in our culture, such as that religion sanctions child marriage.

**Additional information:**

In Pakistan almost 21% of girls are married before the age of 18 years (UNICEF, 2015) and 13.9% of girls get married between the ages of 15 and 19 years (PDHS, 2012-2013). Despites laws restricting child marriage, this practice is common in rural and urban areas across the country. According to the National Commission on the Status of Women (NCSW). Child marriage is directly attributable to poverty, gender inequality, cultural and social norms and stereotypes, customs and harmful and discriminatory traditional practices. In 2013 death from pregnancy-related complications stood at 276 per 100,000 live births across Pakistan, and early marriages was a major cause (HRCP, 2014).

Early marriages often result in maternal and child mortality, early and unsafe pregnancies, deteriorating mother and child health, and HIV and other sexually transmitted diseases (NCSW, 2014). From 2012-2013, the under 5 mortality rate in Baluchistan stood at 111 deaths per 1000 live births, the highest in Pakistan (PDHS,2014). According to Pakistan Health Survey, maternal mortality was the highest in Balochistan in 2014-2015, with 785 deaths per 100,000 live births.

7. What are the persisting challenges and gaps in the eliminating of the practice? How could such challenges and gaps be overcome?

**Youth Association for Development (YAD) Pakistan** *makes the following recommendations*:

Due to the harsh consequences on health and education of girls, child marriages are a violation to the fundamental right to life, dignity, security and education, guaranteed to all men and women without discrimination, under the constitution of Islamic Republic of Pakistan. The rights mentioned are also protected by Pakistan’s international human rights obligation under the convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the Convention of the Rights of Child (CRC).

In this regard, child marriage needs to be addressed effectively in order to achieve Pakistan’s international obligation of taking measures that ensure compliance with Family Planning -2020, and achievement of Sustainable Development Goals (SDGs), including gender equality through elimination of harmful practices such as child marriage, reduced maternal mortality and morbidity rates. For the goal 5 (gender equality) and improved maternal mortality ratio and rates, infant, neonatal and under 5 mortality rates for goal 3 (good health).

**Proposed Legal Reforms:**

**PUNJAB CHILD MARRIAGE RESTRAINT (Amendment) ACT 2015**

* To increase the maximum age of marriage from 16 to 18 years for girls in Punjab Child Marriage Restraint amendment Act 2015
* Furthermore, To ensure that the act of 2015 is implemented in its entirety so that the state of child marriages in Punjab improves and mother and child health is not endangered.

**SINDH CHILD MARRIAGE RESTRAINT ACT 213**

It is imperative to ensure that Sindh child marriage Act of 2013 is implemented in its entirety, and:

* Local Government and law enforcement agencies are actively working to punish perpetrators of early and Child marriages.
* Punishments prescribed in the Act are applied by the court and all parties are held responsible for the early or child marriages.
* Rules of Business of the Act are notified at the earliest so that law enforcement agencies can hold perpetrators liable as per the punishments prescribed in the Act.

**KPK CHILD MARRIAGE RESTRAINT ACT, 1929**

* Rising the maximum age of marriage for girls to 18 years by introducing the requirement to present National ID cards at the time of nikkah.
* Introducing effective punitive provision for conducting, or otherwise being a part of a marriage ceremony between parties under the age of 18 years.
* Holding nikkah khwaans, nikkah Registrar, Parents and other elders responsible.
* Making birth and marriage registration mandatory across Khyber Pakhtoon khawa.

**BALOCHISTAN CHILD MARRIAGE RESTRAINT ACT, 1929**

* Rising the maximum age of marriage for girls to 18 years by introducing the requirement to present National ID cards at the time of nikkah.
* Introducing effective punitive provisions for conducting, or otherwise being a part of a marriage ceremony between parties under the age of 18 years.
* Holding the nikkah khwaans, nikkah registrars, parents and other elders responsible.
* Making birth and marriage registration mandatory across Balochistan.

**AZAD JAMMU AND KASHMIR CHILD MARRIAGE RESTRAINT ACT, 1929**

* Raising the maximum age of marriage for girls to 18 years by introducing the requirement to present National ID cards at the time of nikkah.
* Introducing effective punitive provisions for conducting, or otherwise being a part of a marriage ceremony between parties under the age of 18 yearsHolding the nikkah khwaans , nikkah registrars, parents and other elders responsible.
* Making birth and marriage registration mandatory across Azad Jammu and Kashmir.