

**Report on Provincial Awareness Dialogue
Sindh Child Marriages Restraint Act 2013**

**Conducted by
Legal Rights Forum Karachi**

Sponsored by Action Aid

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PROVINCIAL AWARENESS DIALOGUE
**SINDH CHILD MARRIAGES
RESTRAINT ACT 2013**

DECEMBER 09, 2014, KARACHI



Report Written by Muhammad Saghir
Consultant Legal Rights Forum Karachi



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1. Introduction

The Sindh Assembly passed the Sindh Child Marriage Restraint Act 2013 and declared marriage below the age of 18 years is punishable by law. The assembly is the first provincial legislature in the country to approve a bill to curb child marriages. According to the bill, anyone who violates the rule and marries someone under 18 will be sentenced for 3 years in jail and can be fined.

2. Organization of Dialogue

The Legal Rights Forum (LRF) organized a Provincial Awareness Dialogue at Karachi on December 09, 2014 and it was sponsored by Action Aid. Honorable (R) Justice, Majida Rizvi was the chief guest for the event and the participants were from Law Department Government of Sindh, Social Welfare Department Government of Sindh, INGOs, NGOs and Legal Firms. **List of participants is attached as annex 1.**

3. Sessions and Speeches

As per agenda two sessions of the dialogue were held. In first session the guest speakers delivered speeches and Honorable Justice (R) Ms. Majida Rizvi chaired the session and made concluding remarks. In the second session LRF fellows presented a Mock Court Session and highlighted the aspects of new legislation while execution. **Agenda is attached as annex-2.**

3.1. Welcome and Objectives of Provincial Awareness Dialogue:

Mr. Malik Muhammad Tahir Iqbal, Executive Director LRF, welcomed all the participants for attending the dialogue. Gave brief objectives of dialogue and on Sindh Child Marriage Restraint Act 2013; declaring marriage below the age of 18 years punishable by law. **Copy of the Child Marriage Restraint Bill is attached as annex-3.**



 	 
<p>سندھ میں بچوں کی شادیوں کی روک تھام کا قانون ۲۰۱۳ء کی سیکشن 4 کے مطابق</p>	<p>سندھ میں بچوں کی شادیوں کی روک تھام کا قانون ۲۰۱۳ء کی سیکشن 5 کے مطابق</p>
<p>18 سال سے کم عمر بچوں کی شادی کرانے والے یا اس میں کسی طرح مدد دینے والے شخص کو زیادہ سے زیادہ 3 سال کی اور کم سے کم 2 سال کی قید با مشقت ہو سکتی ہے اور جرمانہ بھی ہوگا۔</p>	<p>والدین یا سرپرست یا کوئی دوسرا شخص قانونی یا غیر قانونی حیثیت میں بچپن کی شادی کے فروغ کے لئے کوئی بھی کام کرتا ہے، یا ایسی شادی کی اجازت دیتا ہے یا ایسی شادی کو روکنے میں غفلت کرتا ہے اسے کم سے کم 2 سال کی اور زیادہ سے زیادہ 3 سال کی قید با مشقت ہوگی اور جرمانہ بھی ہوگا۔</p>
	

3.2. Key Research Findings by Dr. Tabinda, Shirkat Gah

There are many problems those are related to early age marriages of girls such as; physical, emotional, psychological social and economic. The early age pregnancy leads to high Maternal Motility Rate and Infant Mortality Rate. In Pakistan following are major drivers of early age marriages:

- ✚ Customary traditions and practices
- ✚ Watta satta, pait likhi, chatty, engagements at birth
- ✚ Honor and fear of promiscuity
- ✚ Patriarchal norms and gender stereotypes
- ✚ Poverty and Trafficking of girls
- ✚ Lack of educational facilities for girls (dual relationship)
- ✚ Shortage of workforce
- ✚ Sexual desire of adolescent boys and lack of positive energy outlets





✚ Religious reasons (misinterpretations/ misconceptions)

Shared the major findings of a study, which was conducted in seven areas/villages of Sindh. Key findings indicate that discrimination against girls starts from the moment of birth. The principal traditional and customary celebrations are associated with the birth of a male child. Male child is viewed as a future insurance and support in the old age of the parents. If a girl is not married soon after puberty then she becomes a threat to the family's honor. Adolescent girls shared that they had sense of deprivation, worthlessness, powerlessness and being unloved.

3.3. Challenges and Gaps to Implement CMRA by Ms. Uroosa Khatti, Action Aid

People are not aware of the Sindh Child Marriage Restraint Act 2014, therefore it is a challenge to raise awareness among them. The advocacy plans should be developed for awareness raising at all levels including government, civil societies and communities at gross root level.

Action Aid is making all the possible efforts for stopping the early age marriages and passing information to communities about the disadvantage of early age marriages including the reproductive health issues. The law has been translated into Urdu.

There is no network for knowledge information sharing and learning. There is the great need to prepare the rules of the business for this newly passed act to implement it properly. Efforts are needed for promoting girls' education and empowering economic status. The birth registration is the first step in this connection.



3.4. Advocacy Challenges and Successes in Legislation by Ms. Bilquis Rehman, Hands

Early child marriages need to be stopped, for this purpose the awareness of community about the law is very much important. Without awareness of law, the law cannot be implemented; this requires more efforts in rural areas as compared to urban areas.

The rules of business of this act 2014 needs to be framed on immediate basis. A study on knowledge, attitude and practices was conducted with the collaboration of UNICEF and Aurat Foundation; as per the study in rural areas awareness is needed for implementation of this law.





3.5. Steps for Making the Legislation Functional by Ms. Mahnaz Rahman, Aurat Foundation.

Appreciated the role and efforts of Provincial Assembly Sindh for passing the Child Marriage Restraint Bill. The law needs to be understood in detail for its implementation. The matter regarding misinterpretation of age proof may be read in its right sense in order to avoid any misuse of the law.

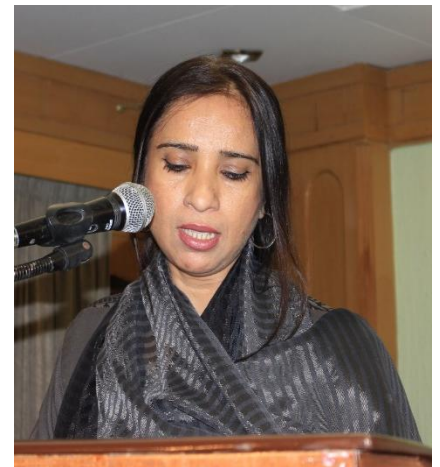
It should be made clear that Islam allows for the marriage of Aqil and Baligh, but most of the time the interpretation is made without understanding the meaning of Aqil. The awareness about the importance of birth registration needs to be raised at grass community level especially in rural areas. Action against such nikah khwan/registrars should be taken by government in case they register child marriages.



3.6. Role of Social Welfare Department by Ms. Seema Nazli, Social Welfare Department

Gave an overview of human rights by referring different Articles of the Constitution of Pakistan that guarantees fundamental rights of every citizen including children. Article 25: promises equality for citizens. In the constitution of Pakistan there are sections those provide equal protection to women and children. In addition, the Constitution obliges the state to protect the institution of marriage, the family, the mother and the child.

Pakistan has got international commitments such as Convention on the Rights of the Child (CRC) Article 19 claims for Protection from all forms of violence. The Children have the right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect.



The Social Welfare Department of Sindh has established initially three Regional Child Protection Units at Karachi, Hyderabad and Sukkur and now there are 12 Child Protection Units. This indicates the commitment to child protection as per The National Child Protection Policy. These CPUs are also working against child marriages, some of the achievements in this regard are:

- ✚ CPUs made successful intervention in child marriage cases.
- ✚ Highlight the cases of child marriages and bring into the notice of media and court of law.
- ✚ CPUs also called for the implementation of the Sindh Child Marriage Restraint Act 2013.
- ✚ Invited the stakeholders and generated dialogue on the implementation of the Sindh Child Marriage Restraint Act 2013.



3.7. Community Concepts, Mr. Saleem Baloch, Idara Taleemo Agahi

Briefed about the activities of Idara Taleemo Agahi in context of early child marriages in Mityari. At the community level the reference of Islam is misquoted and misinterpreted for justifying the early marriages. This is related to the marriage of Baligh where the work “Aqil” is not considered in its real meaning. The rules are not defined for the CMRA and the legal aspect are yet to be elaborated for its implementation. In most of the cases the early marriages of girls are done for personal interest rather denial of right of inheritance to girls.

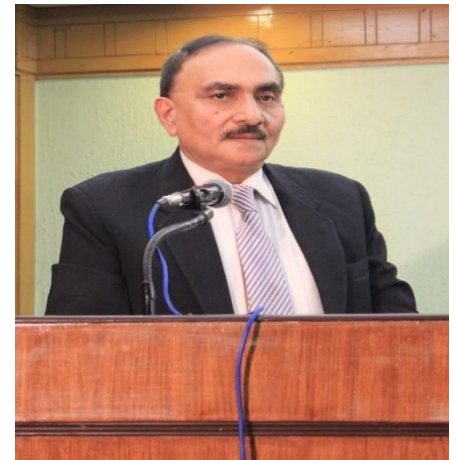


3.8. Status of Implementation by Mr. Muhammad Aslam Sheikh, Law Department Sindh

The implementation of CMRA needs the support of civil society for its implementation. There are many organizations working on this issue but the efforts of Aurat Foundation and HAND are very much appreciable. The Act of 1929 exists which does not permit the marriage below the age of 16 years. For marriage maturity is very much required but is ignored for many personal reasons.

Recommendations:

- ✚ Birth registration should be must.
- ✚ There should be proper plans for poverty reduction.
- ✚ Income opportunities should be generated.
- ✚ Economic empowerment of women needs to be strengthened.
- ✚ Social Welfare Department should promote programs at community level.
- ✚ The age of boys and girls to be included in Nikah Nama.



3.9. Concluding Remarks by Honorable (R) Justice, Ms. Majida Rizvi

Emphasized on awareness raising program for understanding this law in detail for all of the relevant government departments, civil societies and communities at gross root level. Especially the NGOs should organize the awareness programs at different levels for the community. The nikah registrars, molvies and pesh imams of the mosques should be involved during awareness campaigns. The awareness campaigns can be carried out at schools and factories. There has to be literacy programs for working children.



Media should be engaged to launch the advocacy and campaigning program for highlighting the key issues related with the noncompliance of this Act. At the same time there should be parameters for the media for coverage of such issues, without humiliating the bride and groom.

The police department should also be communicated at all levels for dealing such cases. In recent example the bride and groom were brought to police station and detained and humiliated unnecessarily. The culprits for arranging such marriages should be given punishments as per law. The bride and groom are not responsible for their marriages.

There should be strict policy that without holding the CNIC and satisfying the proof of the age, the marriage should not be contracted and the nikah registrar should not register below age marriages.

Database should be maintained to document the early marriages so the effective response can be given through holistic advocacy plan to minimize or reduce the early child marriages.



4. Mock Court Session

Noor Naz Agha, Chairperson Bar Council participated in the mock court session. The purpose of the mock court session was to highlight the key aspects of new legislation at the time of execution. A case of 11 years girl was presented in the court, who was to be married by her relatives. After series of court sessions the case was decided in favor of girl and she was not married.





**Annex - 1****List of Participants**

S.No	Name	Organization	Designation	Contact No/Email
1	Muhammad Saghir	LRF	Consultant	saghir.muhammad@gmail.com
2	Mubashir Hussain	DevCon	Program Officer	mubashir.hyd@gmail.com
3	Shafique Kandhro	DevCon	CPO	shafique.kandhro@devconpk.org
4	Tanseera Yaqoob	LRF	Coordinator	tanseera.Yaqoob@yahoo.com
5	Saira Bano	LRF	Advocate	saira.sidique@yahoo.com
6	Naheed Haider	LRF	Legal Aid Coordinator	simple.fehmi@gmail
7	Saleem Baloch	ITA	P.C	3337818913
8	Faiza Mubarak	ITA		3332404698
10	Seema Nazli	SWD	A.D	3332321221
11	Shoaib Ahmed	Rahnuma FPDP	Youth Officer	shoaib.ahmed@FPDPpk.org
12	Ghulam Madni	CRM/DevCon	Manager	3343126131
13	Saima Tahir	LRF	Research Officer	3062493314
14	Gul Muhammad Khushik	LRF Thatta	Coordinator	3363574480
15	Aziz H. Shah	LRF Thatta	Legal Staff	3323023353
16	Sajjad Memon	NCHD	PCE Sindh	3022120721
17	Farhan Shams	SHR & Legal Aid	President	3213204580
18	Tabinda	Shirkat Gah		
19	M. Irfan	SCD	Program Manager	3212326638
20	M. Shakar	RDF	Field Officer	3212682259
21	Amir Murtaza	CPO/SWD	Coordinator	3343620589
22	Uroosa Khatti	Action Aid	P.O	3462483769
23	S. Gul. Munir	SHRC	Member SHRC	3002819248
24	Shabana Khatti	LRF	P.C	3326861731
25	Sadia Saman	LRF		3322456102
26	Ishaq Soomro	TCO	E.D	ishaksoomro@yahoo.com
27	Farida Tahir	AF	P.M	3232395239
28	Mehnaz Rehman	AF		
29	Sana Saleem	LRF		3433656962
30	Muhammad Aslam Shaikh	Law Dept.	Ad. Secretary	3103610800
31	Mehmood Ahmed	LRF/GEO	Advocate	345960100
32	Mehmood ur Rehman	SWD		3332435948



33	Tabassum Rani	LRF	Advocate	3453245039
34	Salah Uddin Arain	HRCP	Advocate	3003286775
35	Safa Hisbani	LRF	Advocate	3003031597
36	Mehwish Hina	LRF Hyderabad	P.C	3337055042
37	Sheeza Ahmed			2135867041
38	Amrat	Legal Firm	Advocate	3332691981
39	Afzal Hyder	Legal Firm	Advocate	3322375002
40	Muhammad Rahib Lakho	LRF	Advocate	3332308054
41	Anila Malik	LRF	Advocate	3314304029
42	Riaz Bano	Habani Welfare	Advocate	3002762822
43	Huma Farooq	LRF	Advocate	3462635882
44	Bilqis Rehman	HANDS	Advocacy Manager	-----



Annex – 2.

Agenda

S. No	Activity	Timeline	Responsibility
01	Registration and Introduction of participants	10:30-11:00	Participants
02	Welcome and Objective Sharing of the Provincial Dialogue	11:00-11:10	Malik Tahir-LRF
03	Sharing key research findings regarding (The Child Marriages Restraint Act 2013, CMRA) conducted by Shirkat Gah	11:10-11:30	Dr. Tabinda -Shirkat Gah
04	Current Challenges and Gaps to implement (The Child Marriages Restraint Act 2013)	11:30-11:50	Uroosa Khati - Action Aid
05	Advocacy Challenges and Successes during legislation of CMRA 2013 passed by Sindh Assembly	11:50-12:10	Bilqis Rahman-HANDS
	What has been achieved and what to be achieved further to make this legislation functional?	12:10-12:20	Mahnaz Rahman Aurat Foundation
08	The Role of Social Welfare Department for implementation of this legislation	12:30-12:50	Seema Nazli- Assistant Director SWD
09			Saleem Baloch, ITA
	Concluding Remarks	12:50-01:00	Justice Majda Rizvi
	Lunch Break		
	Mock Session (highlighting the key aspects of new legislation while execution)	02:20-3:00	LRF Fellows
10	Vote of Thanks	05:00	



Annex – 3

Child Marriage Restraint Bill

(AS PASSED BY THE PROVINCIAL ASSEMBLY OF SINDH)

**A
BILL**

to restrain the solemnization of child marriages.

WHEREAS it is expedient to restrain the solemnization of child marriages. **Preamble.**

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Child Marriages Restraint Act, 2013. **Short title and commencement.**

(2) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context – **Definitions.**

- (a) "child" means a person male or female who is under eighteen years of age;
- (b) "child marriage" means a marriage to which either of the contracting party is a child;
- (c) "Code" means the Code of Criminal Procedure, 1898 (No. V of 1898);
- (d) "contracting party" to marriage means either of the party whose marriage is, or is about to be solemnized;
- (e) "Court" means the Court of a Judicial Magistrate of First Class;
- (f) "Government" means the Government of Sindh.

3. Whoever, being a male above eighteen years of age, contracts a child marriage shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall be liable to fine. **Punishment for male contracting party.**

4. Whoever performs, conducts, directs, brings about or in any way facilitates any child marriage shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall also be liable to fine, unless he proves that he had reason to believe that the marriage was not a child marriage. **Punishment for solemnizing a child marriage.**



5. (1) Where a parent or guardian or any other person in any capacity, lawful or unlawful, does any act to promote the child marriage or permits it to be solemnized, or fails to prevent it negligently, from being solemnized, shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall also be liable to fine.

Punishment for parent or guardian concerned in a child marriage.

(2) For the purposes of this section, it shall be presumed, until contrary is proved, that where a child has been contracted into a marriage, a person having charge of such child failed to prevent the marriage from being solemnized.

6. Notwithstanding anything contained in section 190 of the Code, no court other than the Court of a Judicial Magistrate of First Class shall take cognizance of or try any offence under this Act.

Jurisdiction under this Act.

7. (1) Notwithstanding anything to the contrary contained in any other law, the court may, if satisfied from information laid before it through an application that a child marriage in contravention of this Act is going to be arranged or is about to be solemnized, issue an injunction prohibiting such marriage.

Power to issue injunction prohibiting marriage in contravention of this Act.

(2) No injunction under sub-section (1), shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction. The Court may dispense with notice if deemed necessary.

(3) The Court may, either on its own motion or on an application of any person, rescind or alter any order made under sub-section (1).

(4) Where an application is received, the Court shall afford an opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(5) Whoever, knowing that an injunction has been issued against him under sub-section (1) of this section, disobeys such injunction, shall be punished with imprisonment of either description for a term which may extend to one year or fine or with both.

8. Notwithstanding anything contained in the Code, an offence punishable under this Act shall be cognizable, non-bailable and non-compoundable.

Offence to be punishable and triable.

9. The Court shall on taking cognizance of a case proceed with the trial and conclude the case within ninety days.

Cognizance, trial and conclusion of the case. Rules.

10. Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

11. No suit, prosecution or other legal proceedings shall lie, against any person in respect of anything which is in good faith done or intended to be done under this Act.

Indemnity.

12. If any difficulty arises in giving effect to any of the provisions of this Act, Government may make such order, not inconsistent with the provisions of this Act, as may appear to Government to be necessary for the purpose of removing the difficulty.

Removal of difficulty.



13. (1) The provisions of the Child Marriage Restraint Act, 1929, **Repeal and saving.** relating to the Province of Sindh are hereby repealed.

(2) Notwithstanding the repeal of the Child Marriages Restraint Act, 1929, all orders made, decisions taken, judgment passed by any Court, shall be deemed to have been validly made, taken and passed under this Act.

The Bill was passed by the Provincial Assembly of Sindh in its sitting held on Monday, the 28th April, 2014.

Karachi, the
May, 2014.

SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

I assent to this Bill

Karachi, the
May, 2014.

GOVERNOR OF SINDH



Annex – 4

Selected Photographs



