

Harmful Traditional Practices



Every year millions of children around the world become victims of culturally instituted harmful traditional practices (HTPs). These practices are often violent and have adverse consequences for children in terms of health, education and overall well being. Like many parts of the developing world, Pakistan has its share of strongly entrenched cultural traditions which undermine a child's physical and emotional development; sometimes resulting in the victim's death.

Harmful Traditional Practices in Pakistan

In Pakistan, women and girl children bear the brunt of HTPs which further exacerbates their vulnerable status in a patriarchal society. Practices such as early or child marriages along with other traditions such as marriages to settle a blood feud (vani/swara); marriage with the Holy Quran; honor killings (karo kari) and exchange marriages (watta satta) are all HTPs that exacerbate the already dismal state of child rights and child protection in the country.

It is very difficult to ascertain the actual prevalence of HTPs in Pakistan as there is no reliable database to report on such issues. There is a strong or tacit cultural approval regarding such practices which keeps incidents of HTPs from being reported to the media or police. Hence, the reported number of cases of HTPs in Pakistan is only a small fraction of the actual prevalence of such practices in the country.

Early or Child Marriages

A number of social and economic factors result in the prevalence of child marriages in Pakistan. The close relationship between female chastity and family honor forces family members to marry girls at an early age to prevent sexual transgressions and consequent damage to family reputation. Moreover, the conceptualization of the girl child as 'other's property' who has to eventually move to her husband's home prevents parents from investing in their daughter's education. Hence, daughters are married off at an early age to relieve parents of their 'burden'.

Child brides are at the highest risk of physical and sexual abuse, pregnancy related complications, HIV Aids and other sexually transmitted diseases. The limited statistics available on child marriages in Pakistan present a bleak picture. 24% of women in the country were

married before the age of 18 years in the country between 2000 and 2010 with seven percent married before they reached the age of 15 years. Other estimates quote that around 30% of the marriages in Pakistan fall under the child marriage category with the highest prevalence in the Sindh province.

Legal Framework

Child Marriage Restraint Act 1929

Child or underage marriage in Pakistan is banned under the Child Marriage Restraint Act 1929. Under the Act, the minimum age for marriage is 18 years for a male and 16 years for a female (section 2). Child marriage is punishable with a fine of Rs.1000 and an imprisonment of one month or both for

- An adult male (above 18 years of age) who contracts marriage with a child (section 4)
- A person who solemnizes a child marriage (section 5)
- A parent or guardian who does not act to prevent a child marriage (section 6).

Other Harmful Traditional Practices

Marriage to Settle a Feud

This custom is practiced in different parts of the country under different names. It is called *vani* in Punjab, *swara* in Khyber Pakhtunkhwa and the tribal areas and *dand* or *bada* in Sindh. In this practice an accused family gives its girl or girls in marriage to an aggrieved family to settle a blood feud between the two parties. Women and girl children who are victims of *vani* or *swara* arrangements live in a hostile environment where they are treated as daughters or relatives of the enemy.

Marriage with the Holy Quran

Women and girl children are deprived of their property rights by symbolically marrying them to the Holy Quran. This ensures that the girl child or woman will not bear children in the future and will not

demand her rightful share in the family property. Sometimes poor parents who cannot afford to marry their daughters resort to this symbolic arrangement.

Honor Killing

Honor killing (known as karo kari in Sindh) is prevalent throughout Pakistan. Although both males and females can be victims of honor killing; young girls and women are most often the victims. This crime is mostly committed against a woman or girl who has dishonored her family by having sexual relations with a man; is accused of infidelity; has refused to be married against her will; is looking for a divorce or is a victim of rape (a cause of dishonor to her family).

Exchange Marriages

Exchange marriage or Watta Satta is practiced in many parts of Pakistan. In a watta satta arrangement both families trade brides. Both families must have a daughter and a son and must be willing to betroth them to the daughter and son of the other family. Watta satta marriages put females in a precarious position as a divorce between one of the couples may trigger a divorce between the other couple because of strong sibling ties. Watta satta marriages are a crime if child marriages are involved in the arrangement.

Legal Framework

The Prevention of Anti Women Practices (Criminal Law Amendment) Act 2011

The Prevention of Anti Women Practices (Criminal Law Amendment) Act 2011 calls for the abolition of a number of HTPs affecting women and girl children in Pakistan.

- The Act substitutes section 310-A of the PPC whereby a person accused of compelling a woman or girl to enter into marriage as badl-e-sulh, vani or swara or any other custom practiced under any name (dealing with the settlement of a civil or criminal dispute) will be imprisoned for a term not extending seven years but not less than three years and be liable to a fine of Rs 500,000.

- Section 498A prohibits the act of depriving women from property. A person accused of deceitfully preventing a woman from inheriting property will be punished with an imprisonment which may extend to ten years but will not be less than five years and a fine of rupees one million or both.
- Section 498B of the Act prohibits forced marriages. Any person who is found guilty of compelling or forcing a woman to enter into marriage will be punished with an imprisonment extending to seven years but not less than three years and will be liable to a fine of five hundred thousand rupees.
- Section 498C prohibits marriage with the Holy Quran. A person found guilty of arranging, facilitating or compelling marriage of a female with the Holy Quran will be imprisoned for a period extending to seven years but not less than three years and a fine of five hundred thousand rupees.

Pakistan Penal Code (PPC) 1869

There is no special legislation on honor killings in Pakistan. Cases of honor killings are dealt with under the provisions of the Pakistan Penal Code (PPC) 1869.

- Section 299 of the PPC 1869 defines honor killing as a crime committed in the pretext of karo kari, Siyah Kari or similar customs or practices.
- Under section 302 of the PPC, a person causing the death of another person can be punished with death as qisas (section 302 (a)); punished with death or imprisonment for life as ta'zir (with regards to the circumstances of the case) or may be imprisoned for a period extending to 25 years in prison (where Islamic injunctions with regards to punishment as qisas are not applicable).

SPARC's Recommendations

- The prevalence of HTPs in the country can only be addressed if stringent legislation is complimented by strong implementation. Majority of the cases of HTPs are reported from remote areas of the country where the administrative setup lacks the capacity or political will to tackle such issues.
- Strong policy level initiatives should be followed by educational campaigns to apprise people of the adverse psychological and physical impacts of HTPs. Community awareness and mobilization can go a long way in enhancing the effectiveness of laws at the grassroots.
- The Child Marriage Restraint Act 1929 should be reviewed to abolish an inherent bias against the girl child. For instance, the legal age for contracting a marriage for a girl should be raised from 16 to 18 years.
- The punishment for contracting, soliciting or failing to prevent a child marriage should be made more severe to discourage the practice. In this regard, steps should be taken to pass the Child Marriage Restraint (Amendment) Act 1929 which calls for a punishment of two years rigorous imprisonment and a fine of Rs.100,000 for contracting or solemnizing a child marriage.
- Steps should be taken to ensure the effective implementation of the Prevention of Anti Women Practices (Criminal Law Amendment) Act 2011.
- A reliable database enumerating the reported cases of HTPs should be established for policy makers and human rights activists to accurately judge the magnitude of the problem in Pakistan.



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