



RESEARCH PAPER

Child Matrimony in South Asia: A Comparative Study of Marriage Legislation in India and Pakistan

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ABSTRACT

This study examines the legal approaches to child marriage in India and Pakistan, focusing on India's consolidated Prohibition of Child Marriage Act, 2006, and Pakistan's fragmented provincial laws post-18th Amendment. Employing qualitative methods, including document analysis and case law examination, the study compares legal provisions, enforcement practices, and judicial interpretations. Findings reveal that India's unified framework is more effective in reducing child marriage rates, providing consistent protections and enforcement mechanisms. In contrast, Pakistan's decentralized approach leads to legal inconsistencies, outdated provisions, and weaker enforcement, varying significantly across provinces. The study underscores the need for Pakistan to adopt a cohesive legal framework, proposing reforms such as raising the legal marriage age, nullifying child marriages, imposing stricter penalties, and enhancing enforcement. It concludes that a unified legal strategy is critical for Pakistan to eradicate child marriage, safeguard children's rights, and align with global child protection standards.

KEYWORDS Child Marriage, India, Marriage Legislation, Pakistan

Introduction

Child marriage remains a critical issue across South Asia, with countries like India and Pakistan facing severe impacts on children's physical and mental health. In 2006, India enacted the Prohibition of Child Marriage Act, providing a unified legal framework to counter child marriage across the nation. In contrast, following Pakistan's 18th Amendment in 2010, regulatory power over child marriage was devolved to provincial legislatures, resulting in fragmented approaches. Given the shared socioeconomic and historical backgrounds of both countries, this study aims to explore the potential benefits of a unified legal approach to child marriage across Pakistan. Using a comparative analysis of Pakistan's decentralized framework and India's consolidated legal structure, the study assesses the effectiveness of India's approach in light of Pakistan's notable cases, such as Dua Zehra's case in 2023, which highlighted challenges in the current fragmented legal landscape. By examining India's consolidated approach versus Pakistan's province-specific laws, this research aims to offer insights into the efficacy of comprehensive legal frameworks in addressing child marriage, contributing to global discourse on child rights and proposing recommendations for legal reforms in Pakistan.

In India, the Child Marriage Restraint Act of 1929 was updated to align more closely with international standards, establishing the legal marriage age at 18 for girls

and 21 for boys. In contrast, Pakistan retains an older version of the act, which has proven less effective in curbing child marriage. Despite ratifying the UN Convention on the Rights of the Child (UNCRC) in 1990, Pakistan has yet to harmonize its marriage laws to reflect the UNCRC's recommendations, which call for a minimum marriage age of 18 for both genders (Naveed and Butt 2015). Child marriage in India and Pakistan is primarily fueled by factors such as poverty, low educational attainment, and deep-rooted gender inequality. Commonly observed characteristics include rural living, limited economic resources, and minimal access to mass media, all of which contribute to the continuation of this practice. Furthermore, cultural and religious traditions significantly influence and sustain child marriage in these societies (Subramanee et al. 2022; Naveed and Butt 2015). The significances of child marriage are profound and multifaceted. Girls who marry before the age of 18 face a heightened risk of physical, emotional, and sexual violence. They are frequently forced to leave school, which restricts their educational and employment prospects. From a health perspective, child marriage correlates with reduced access to antenatal care, increased rates of unintended pregnancies, and insufficient use of maternal health services. These issues lead to poor reproductive health outcomes, including elevated rates of rapid repeat childbirth and the need for pregnancy termination (Kamal & Ulas 2020; Godha et al. 2013). This research draws inspiration from the study by Chandio et al. (2024), which provides a comparative analysis of federalism in India and Pakistan, highlighting the role of legislative structures in shaping federal dynamics. The study is noted for its articulate examination of the legislative frameworks governing federalism in both countries.

Child marriage in Pakistan and India results in serious challenges, such as early divorce, elevated fertility rates, health issues for young women, financial instability, and broader social and economic repercussions. In Pakistan, the decentralized provincial laws on child marriage contrast with India's centralized legal framework, leading to inconsistencies not only in statutory provisions but also in judicial interpretations. This inconsistency creates enforcement challenges for law enforcement agencies. Therefore, it is essential to conduct a comparative analysis of both legal systems to identify the underlying socio-cultural issues contributing to child marriage in these countries.

The study's objectives include analyzing child marriage laws in both Pakistan and India, examining legal variations across Pakistan's provinces, comparing Pakistan's framework with India's consolidated legislation, and assessing the impact of India's unified approach on curtailing child marriage. Additionally, it seeks to identify legislative gaps in Pakistan's child marriage laws and the impact of these omissions on the overall effectiveness of these laws. The research questions guide the investigation into key legal provisions addressing child marriage in Pakistan and India, variations in provincial laws within Pakistan, differences in legislative approaches between the two countries, lessons from India's 2006 Act, and the legislative gaps in Pakistan's child marriage framework.

This study holds significant value by illuminating the strengths and limitations of current legal structures, providing crucial insights for policymakers, legislators, and advocacy groups. The findings ultimately advocate for the establishment of a unified, comprehensive framework to effectively address child marriage in Pakistan, underscoring an urgent need for cohesive legal reform.

Article is structured into five sections: the first section provides a literature review, while the second section continues with an additional literature review. The third section outlines the methodology employed in the study, followed by the fourth section, which presents the results and discussion, including a comparative analysis of the legal

frameworks in Pakistan and India. The final section concludes with insights and policy recommendations.

Literature Review

Despite existing dozens of academic literatures exploring the phenomenon of early marriage within social, cultural, and religious frameworks, along with proposed solutions to mitigate its causes and consequences, there appears to be absence of articles addressing the discrepancies within existing laws and judicial rulings. This gap emphasizes the necessity for a unified legal framework governing Child Marriage in Pakistan. In order to achieve its purpose, this study aims to compare the Child Marriage laws of Pakistan with the successful case study of India wherein single consolidated law for Child Marriage has been enacted to effectively tackle and curb the Child Marriage issue in India.

The authors had gone through several books, scholarly & research articles, and journals, in order to find the gap in current existing scholarly articles regarding Child Marriage, which are as following: Shugufta et al., (2018) analyzed the focus was on investigating the experiences of women who married at a young age. The study aimed to understand the reasons behind early marriage, its impact on physical and mental well-being, and the level of contentment in their marital life. The research utilized a mixed methodology, employing purposive sampling and conducting interviews with 100 female participants who married between the ages of 12-17. The interviews included a mix of open and closed-ended questions. The results revealed a shift in perceptions regarding early/child marriage among those who were married as a child. Their encounters influenced their perspectives, leading them to adopt different viewpoints compared to previous generations.

Awan and Ali (2021), Tunio (2024) This qualitative study sought to understand Pakistani legislation at the federal and provincial levels, as well as the issue of child marriages, their causes, and their effects. This study has shown that child marriage has extremely negative effects on children and known as crime. The effects are universal despite differences in the underlying causes or motivators. It causes uniform havoc. Child marriage has a direct negative impact on children's health and education. Muzaffar et al. (2018) The purpose of this qualitative study was to identify the sociological and historical factors that have contributed to child marriage in Pakistan and its effects. This study revealed a considerable correlation between delaying marriage till later in life and having better reproductive health as well as a greater level of education. Furthermore, child marriage is a persistent and chronic problem. It may not be reasonable to expect laws or bans alone to stop this trend, both literally and intellectually. Its causes are deeply ingrained in both personal and societal thinking. A broad public awareness campaign, support for ongoing education, and encouragement of good health can serve as a springboard for achieving the desired ends.

Khan et al, (2020) explained that the goal of this study was to examine several significant international human rights treaties that have been adopted by all states. The descriptive analytical qualitative method was used for this investigation. Conclusions ranged from the idea that international law should be respected and that states that have ratified or signed international human rights treaties must uphold their commitments, because the mere existence of a law does not matter as long as it is observed and the rule of law is upheld. Razi et al (2021), study examined child marriage in Pakistan, aiming to address it as a violation of children's fundamental rights, per UN standards. They contextualized the issue within Pakistan's cultural and religious backdrop, highlighting

a lack of comprehensive understanding of Quranic and Sunnah provisions as hindrances to child development. Using academic and empirical methods, they concluded that child marriage exacerbated socioeconomic problems in Pakistan, including illiteracy, population growth, poverty, and psychological distress. They further contended that Islam permits jurisdiction to an Islamic state to legislate and to resolve the contemporary issues in the light of the changed socio-legal context.

Ackerman and Rehman (2018) reported, the author used a qualitative approach to identify the factors that lead to forcible conversion in Pakistan, particularly in Sindh. Pakistan has ratified the convention on the elimination of discrimination against women and authorized and signed the international covenant on political and civil rights. Article 16 of the CEDAW states that every woman has the right to marry only if she gives her free will and permission. Pakistan ratifies the Convention on the Rights of the Child. Evidence from numerous academics, non-governmental organizations, and journalists indicates that forced conversions and kidnappings rank among the grave problems that young girls and women in Pakistan must deal with. Johansson (2015) examined the objective of the thesis was to gain a better understanding of child marriage, the reasons behind this issue, and ways to enhance the lives of girls. Therefore, the goal was to comprehend child marriage as a phenomenon in general. For girls, the consequences of child marriage are typically more severe. The influence on girls was the main focus of this study. In order to better grasp the situation, the author of this study employed a qualitative research approach to go deeper into the subject. Due to the delicate nature of the subject matter, as well as the fact that circumstances appear to change depending on the unique circumstances in every location. Because it happens so frequently and has such negative consequences, attention has been focused on girls under the age of eighteen who get married.

UNDP (2018) analyzed and utilized an empirical approach to investigate the factors influencing child marriage in specific South Asian nations. Rather than solely attributing child marriage decisions to socio-cultural or micro-level factors, the analysis explored the potential link between macro-level advancements and child marriages in South Asia. The research findings indicated a negative correlation between economic progress in a region and the prevalence of child marriage. Kumar (2014) The term "child marriage" in this study refers to a traditional or unofficial partnership between two people, one or both of whom are under the age of eighteen. The example of our three focal nations demonstrates that this is not necessarily reflected in national legislation, where the legal age of marriage can vary. In Pakistan, for example, girls can legally marry at age 16, whereas in Bangladesh and Nepal, it is 18 and 20. With the exception of Nepal, boys are legally allowed to marry at a younger age than girls. It is eighteen in Bangladesh, twenty in Nepal, and eighteen in Pakistan. Although stringent enforcement of the legislation is absent, marriages consummated before the corresponding legal age of marriage in each of the three countries are illegal and subject to penalties.

Islam et al., (2016) demonstrated that a child's birth order can also influence decisions about their marriage. Because children at the top of the birth order may be able to contribute to the family's income by marrying first, financially struggling families may choose to marry their grown children. Al-Moushahidi (2015) aimed to comprehend how child marriage is perceived, interpreted, and valued in Pakistan, utilizing media as a tool to assess the prevailing discourse within the country. Employing Carol Bacchi's theoretical framework, the study conducted a qualitative media-framing analysis. Al-Moushahidi analyzed articles from five prominent Pakistani newspapers to achieve this objective. The findings indicated that none of the articles portrayed child marriage in a positive light; rather, they presented it either negatively or neutrally. Furthermore, the

study highlighted the significant influence of strong cultural norms, the negative impact of the Council of Islamic Ideology on legislative processes, and religious factors as prevalent contributors to the perpetuation of child marriage. Shahbbar and Manzoor (2002) aimed to investigate the factors and impacts of child marriage on girls' education and health in Pakistan, focusing on Karachi. Utilizing a mixed-method approach with structured interviews, the research explored cultural practices like Vanni, Swara, Watta Satta, and Pait Lekhi. Findings revealed societal pressures and family traditions were primary reasons for early marriages, with some citing religious justifications. Despite the rationales, the study concluded that child marriage significantly jeopardizes girls' physical and mental health, education, and future offspring's well-being.

Ullah et al., (2019) research was to uncover the factors and motivations driving child marriage in the Khyber Pakhtunkhwa region and to identify effective legislative policies and frameworks at the community level. Employing qualitative methods, the study explored the manifestations and underlying motivations of child marriage, utilizing semi-structured questionnaires to interview various stakeholders across specific districts in KPK. Finally, the results showed that while traditional customs like Walwar have an impact on child marriage, the main cause of child marriage socioeconomic disadvantages and poverty. Addressing this issue requires comprehensive interventions that address poverty, patriarchal norms, governance deficiencies, and prioritize the empowerment of girls through education and socio-economic opportunities. Nasrullah et al., (2014) research was to investigate the perspectives and understanding of women who had been married as children. This qualitative study, which featured twenty married women, was carried out in the Lahore slums. 19 out of 20 participants indicated happiness with their parents' decision to marry them before the age of 18, though they were unaware of the detrimental health implications of child marriage, according to the findings. In fact, a few participants were against the idea of making child marriage illegal in Pakistan. To effectively prevent child weddings in Pakistan, the authors suggested enforcing severe laws against the practice, promoting women's civil, sexual, and reproductive health rights, and increasing public knowledge of the detrimental effects of child marriage on one's health.

UNWP (2021) aimed to emphasize the importance of evidence-based research in stimulating policy discussions against child marriage at the governmental level. It sought to address the gap in understanding regarding the detrimental effects of child marriage in Pakistan and proposed strategies for effective intervention. Utilizing a mixed-method approach, with qualitative data in the initial phase and quantitative data in the subsequent phase, the research concluded that while the adverse consequences of child marriage are primarily felt at the individual level, they also extend to national and global levels. This included significant economic repercussions such as lost earnings and the perpetuation of poverty across generations. Ultimately, the study highlighted the substantial economic costs associated with child marriage for the affected girls, their children, families, communities, and society as a whole.

Daraz et al., (2014) adopted a qualitative approach. Its objectives were to look at the root causes of early marriages in Pakhtun society and to clarify the effects that these unions have on people as individuals, as families, and as a society. Early marriage is associated with low levels of education, higher rates of violence and abuse, social isolation, serious health concerns, and unfavourable power dynamics, according to study that used a qualitative methodology and structured interviews. In a nutshell, the issue of child marriage is aggravated by the enduring practice of antiquated traditions, customs, and religious misperceptions. The author suggested that parents be given incentives to

send their daughters to school for as long as possible – for instance, by exempting school fees since this will have a number of beneficial social and economic effects.

Based on the light of literature review, this comparative analysis proposes that a consolidated legal framework, like India's Child Marriage Act of 2006, offers greater potential for effective enforcement and combating child marriage compared to a decentralized provincial law like Pakistan's. Because Pakistan's child marriage laws differ from province to province, which creates further problems.

Research Methodology

We analyzed the research strategy employed to investigate the effectiveness of consolidated versus decentralized legal framework in combating child marriage. The analysis compares India's Child Marriage Act of 2006 with Pakistan's current, province-specific laws.

Type of Legal Research

This research employs a comparative analysis methodology, involving a detailed comparison of child marriage laws in India and Pakistan. Additionally, the research will incorporate doctrinal analysis of relevant legal texts and principles. Data analysis will employ techniques such as comparative analysis between the provincial statutes, doctrinal analysis, case laws analysis for each province to understand the discrepancies in each provincial legal framework and comparative analysis between the Pakistan's legal framework with India with regards to Child Marriage laws.

The comparative approach allows for a nuanced understanding of the strengths and weaknesses of each country's legal framework. By comparing a consolidated system (India) and in Pakistan have a decentralized legislative structure (Tunio et al, 2021) we can assess the similarities and dis-similarities between both the statutes. Additionally, elements of doctrinal legal research will be integrated. This involves analyzing relevant statutes, court decisions, and legal commentaries from both India and Pakistan. Doctrinal research is crucial for understanding the specific legal provisions and judicial interpretations related to child marriage in each country.

Results and Discussion

Child Marriage Law Perspectives in Pakistan

The 18th Amendment to Pakistan's Constitution (1973) marked a pivotal shift in the country's governance by devolving legislative authority over matters such as child marriage to the provincial level. As a result, the enactment and implementation of laws to curb child marriage now rest with provincial governments, leading to a fragmented legal framework with considerable variability across provinces. Several laws in Pakistan directly or indirectly address child marriage, highlighting the legal complexity in efforts to prevent this practice:

Constitution of Pakistan (1973): The Constitution enshrines fundamental rights for all citizens, pledging protection from exploitation and mandating specific provisions for women and children where necessary. Article 25 underscores equality for citizens and mandates free, compulsory education for children aged 5 to 16, although this provision is non-enforceable for marriage. Article 35 requires the state to protect the family, mother, and child, underscoring the importance of women and children's roles in national life, although these protections remain aspirational in marriage contexts.

Muslim Family Law Ordinance (MFLO, 1961): This Ordinance stipulates the minimum marriage age as 16 for girls and assigns the Union Council (UC) the role of preventing child marriages. Under Section 5, all marriages must be registered by a Nikkah Registrar, with fines or penalties imposed for non-compliance. However, enforcement remains inconsistent, impacting the effectiveness of this provision in preventing child marriage.

Pakistan Family Courts Act (PFCA, 1964): The PFCA establishes family courts to adjudicate family and matrimonial matters, though its application to child marriage cases was limited until recent amendments. In 2015, the Punjab Family Courts Amendment Act gave exclusive jurisdiction to family courts over child marriage cases in Punjab, whereas in other provinces, these cases continue to be heard in Magistrate Courts. This variance reflects the inconsistency across provinces in how child marriage is treated within the judicial framework

The Majority Act (1875): Although the Majority Act regulates the legal age of adulthood, marriage is specifically excluded from its jurisdiction under Section 2, meaning it does not establish a minimum marriageable age.

Pakistan Penal Code (PPC, 1860): The PPC criminalizes various aspects of child marriage, particularly concerning consent and coercion. Under Section 375(d), sexual intercourse with a girl under 16, with or without her consent, is classified as rape. Section 498-B criminalizes forced marriage, with severe penalties for coercing women or girls into marriage. Amendments in 2017 intensified penalties, especially where the child is defined under the Child Marriage Restraint Act of 1929, highlighting serious punitive measures in cases involving coercion.

Provincial Variations in Child Marriage Legislation

Since child marriage is a devolved subject, each province operates under distinct legal frameworks, leading to notable differences in enforcement and legal outcomes. For instance, the **Sindh Marriage Restraint Act (2013)** in Sindh sets the minimum marriage age at 18, with strict penalties, while the **Punjab Marriage Restraint (Amendment) Act (2015)** establishes specific provisions for addressing child marriage complaints within family courts. However, in the Islamabad Capital Territory, Baluchistan, and Khyber Pakhtunkhwa (KPK), the 1929 Act is still in force, reflecting outdated standards that are less aligned with contemporary protections.

This provincial divergence has led to significant disparities in judicial outcomes related to child marriage, influenced by the specific provisions or limitations of each provincial law. While some provinces impose higher minimum marriage ages and authorize dedicated family courts for child marriage cases, others rely on general courts with limited statutory guidance, weakening enforcement. As a result, Pakistan's legal landscape on child marriage lacks coherence, with each province addressing similar issues in unique, often inconsistent ways.

Addressing these discrepancies and aligning provincial laws with international standards could significantly strengthen Pakistan's ability to combat child marriage effectively.

Table 1
Legislative Dis-similarities at Provincial Level in Pakistan

Legislative Dis-similarities			
Features	Islamabad Capital Territory (ICT), Baluchistan & Khyber Pakhtunkhwa (KPK)	Sindh	Punjab (2015 Amendment)
Child Definition	Male: 18 years, Female: 16 years	Male or Female: Under 18 years	Male: 18 years, Female: 16 years
Definition of Child Marriage	Marriage with at least one child party	Marriage with at least one child party	Marriage with at least one child party
Punishment for Adult Male	Up to 1-month imprisonment or fine up to Rs. 1,000/-	2-3 years imprisonment and fine	6 months' imprisonment and Rs. 50,000/- fine
Punishment for Solemnizing Marriage	Up to 1-month imprisonment or fine up to Rs. 1,000/-	2-3 years imprisonment and fine	6 months' imprisonment and Rs. 50,000/- fine
Punishment for Parents/Guardian	Up to 1-month imprisonment or fine up to Rs. 1,000/-	2-3 years imprisonment and fine	6 months imprisonment and Rs. 50,000/- fine
Offences	Non-cognizable and bailable, compoundable	Cognizable, non-bailable, & non-compoundable	Non-cognizable, bailable, compoundable
Cognizance of Complaint	Judicial Magistrate 1st Class	Court of Judicial Magistrate	Family court having judicial magistrate power
Injunction Issuance	Yes	Yes	Yes
Protection & Rehabilitation Mechanism	No	No	No
Dissolution of Marriage Provision	Family Court Act, 1964; Dissolution of Muslim Marriage Act, 1939	Family Court Act, 1964; Dissolution of Muslim Marriage Act, 1939	Family Court Act, 1964; Dissolution of Muslim Marriage Act, 1939

Comparative analysis of Indo-Pak Child Marriage Laws

India, being a neighboring country to Pakistan, despite sharing same cultural, social and historical background, operates and enacts same single law with regards to Child Marriage at national level unlike Pakistan where each province is subject to different laws.

The comparison of Child Marriage laws of both the countries highlights that Indian law is way more advanced, comprehensive and suitable for curbing the Child Marriage issues whereas Pakistan's law has more gaps and inconsistencies. Though, there are still few elements, of Child Marriage Laws prevailing in both the countries, which are similar to each other.

Table 2
Legislative Similarity in Child Marriage Law in India and Pakistan

Aspect	Prohibition of Child Marriage Act, 2006 (India)	Child Marriage Restraint Act, 1929 (Pakistan)
Minimum age for Girls (Nationally)	18	To the extent of Sindh province which is 18
Amendment and Repeal	Repealed the Child Marriage Restraint Act of 1929	Province of Sindh repealed the Child Marriage Restraint Act of 1929 and Punjab amended the Child Marriage Restraint Act of 1929 in the year 2015
Injunction	Enables judges to issue orders to stop child marriage	Allows judges to grant orders to stop child marriage

Punishment for Disobeying Injunctions	Provides punishment of imprisonment and fine for disobeying injunction	Provides punishment of imprisonment and fine for disobeying injunction
Jurisdiction and Cognizance	Courts are specified in Act for taking cognizance	Courts are specified in Act for taking cognizance
Punishment for Offenses	Provides punishment of imprisonment and fine for committing offence	Provides punishment of imprisonment and fine for committing offence
Penalty for Marrying a Child	Provides penalty of fine and imprisonment for marrying a child	Stipulates that contracting marriage with a child carries a fine and imprisonment term.
Penal consequences for solemnizing a child marriage	Provides penalty of fine and imprisonment for solemnizing a Child Marriage	Provides penalty of fine and imprisonment for solemnizing a Child Marriage
Penalty for Permitting Child Marriages	Provides penalty of fine and imprisonment for permitting Child Marriages	Provides penalty of fine and imprisonment for permitting Child Marriages

Though, there are certain similarities between the laws of both the countries, but what makes the Indian law stand out against Pakistan is that it is single consolidated law operating to whole of India while aiming to address whole aspects of Child Marriage issues keeping in view the new era unlike Pakistan where Islamabad Capital Territory along with Baluchistan and Khyber Pakhtunkhwa (KPK) are still subject to old outdated laws which were enacted during the era of colonization. There are key dis-similarities between the Child Marriage law of Indian and Pakistan (at national level) which makes the Indian law a better compendium addressing Child Marriage issues prevailing in the country.

Table 3
Legislative Dis-similarity in Child Marriage Law in India and Pakistan

Aspect	Prohibition of Child Marriage Act, 2006 (India)	Child Marriage Restraint Act, 1929 (Pakistan)
Definition of Child	<ul style="list-style-type: none"> • Male: Under 21 years • Female: Under 18 years 	<ul style="list-style-type: none"> • Male: Under 18 years • Female: Under 16 years
Applicability	Whole of India	De-centralized law
Voidable Union	The contractual party who was a child may choose to nullify a child marriage.	No explicit provision regarding the voidability of child marriages
Void / Invalid Marriages	<ul style="list-style-type: none"> • Abducted or lured away from the custody of a legitimate guardian. • Compelled by force or deceitful means. • Sold for marriage and subjected to immoral purposes All are void marriage	No such specified circumstances for voidability of marriage of a minor child
Punishment for Offenses	Maximum two years in prison; Maximum fine of Rs. one lakh	Penalties: Maximum 6 months in jail, Maximum fine of Rs. 50,000
Jurisdiction and Cognizance	Courts specified for taking cognizance, including Family Courts	Courts specified for taking cognizance, only Magistrates of 1st class (except Punjab)
Protection of Action Taken	Provides protection to officers or persons acting in good faith	No provision of such nature
Amendment	Repealed the Child Marriage Restraint Act of 1929	No province of Pakistan (other than Sindh) has repealed the Child Marriage Restraint Act of 1929
Custody & Maintenance	Comprises clauses pertaining to child marriages' maintenance and maintenance of offspring	Nothing expressly said about maintenance and custody

Legitimacy of offspring(s) from a Child Marriages	Legal status is granted to offspring of dissolved child marriages.	Nothing mentioned about the legality of children produced out of child marriages
Penalty for Marrying a Child	Two years in prison, a fine, or both	A fine of up to six months' imprisonment, or both
Penalty for Solemnizing	A maximum of 2 years imprisonment, a fine, or both	A maximum of 6 months in prison, a fine, or both
Penalty for Permitting Child Marriages	Up to 2 years imprisonment or fine or both	Up to 6 months imprisonment or fine or both
Nature of offence	Cognizable and non-bailable	Not specified in the Act, 1929
Power of Child Marriage Prohibition Officers	Empowers officers to prevent child marriages, collect evidence, etc.	No provision of such nature
Punishment for Disobeying Injunctions	Up to 2 years imprisonment or fine up to 1 lakh or both	Up to 3 months imprisonment or fine or both
Violation of injunction	Marriage will be void	No provision of such nature.

Case Law Analysis

Judgments by Islamabad High Court:

Mumtaz Bibi v. Qasim & others (2022 PLD 228) Islamabad:

In a judgment authored by Justice Babar Sattar of the Islamabad High Court, an in-depth analysis of various Pakistani statutes concluded that marriage for females under the age of 18 is unequivocally illegal. The judgment noted that the Child Marriage Restraint Act of 1929, the Majority Act of 1975, and the Dissolution of Muslim Marriages Act of 1939 date back to colonial times. When these provisions are read in isolation, they may lead to interpretations that conflict with sections 375 and 377A of the Pakistan Penal Code (PPC), particularly when considered alongside the Islamabad Capital Territory Child Protection Act of 2018 and the United Nations Convention on the Rights of the Child.

Abdul Razaq v. The State (2022 PCrLJ 953) Islamabad:

In this bail case, Justice Aamer Farooq granted bail to the petitioner. The respondent, who was 16 and a half years old, had married the petitioner, an adult. One of the grounds for granting bail was that the respondent was 16, and according to the Child Marriage Act of 1929, the penal provisions did not apply to her. In short, she was deemed competent to contract marriage. In light of the two aforementioned judgments from the same year, it is *prima facie* evident that the judicial decisions in Islamabad are contradictory to each other. Justice Babar Sattar adopted a modern statutory approach, emphasizing that 18 is the legal minimum age for marriage, aligning with contemporary laws and international standards. On the contrary, Justice Aamer Farooq followed a more traditional approach, considering a girl of sixteen (16) and a half as competent to marry, based on the Child Marriage Restraint Act, 1929, and the concept of puberty. These differing interpretations reflect a significant judicial inconsistency within the Islamabad High Court regarding the legal age and competency for marriage, with one judge upholding strict statutory age limits and the other permitting marriage based on traditional criteria.

Judgments by Lahore High Court

Muhammad Khalid v. Magistrate 1st Class (2021 PLD 21) Lahore:

Upon the husband's plea, Justice Tariq Saleem directed the release of the wife from Dar-ul-Aman. The rationale provided was that a girl who has reached puberty (14-15 years old, as determined by the Medical Board) is eligible to marry a man of her choosing without requiring her guardian's consent. This observation was made notwithstanding the argument put forth by Respondent No. 3, the guardian, stating that his daughter, Respondent No. 2, was only 13 years old according to Form-B, thus classifying her as a minor and rendering the marriage invalid under the Child Marriage Restraint Act of 1929.

Shahida Parveen v. Union Council Jaswal (2021 PLD 783) Lahore:

In a similar case, where Petitioner No. 2 as per "birth certificate issued by NADRA was stated to be less than sixteen, while and entry on Nikahnama stated 'almost' sixteen years". Justice Mirza Viqas Rauf, on such findings on age of the minor, directed Respondent No. 1 (Union Council) to proceed under Section 9 of the Act, 1929 – to lodge a complaint against offender.

Allah Nawaz v. Station House Officer, Mahmood Kot (2013 PLD 243) Lahore:

Justice Muhammad Qasim Khan dismissed the Habeas Corpus petition for the recovery of the alleged detainee, determining that the marriage was valid under Islamic law due to her attainment of puberty and consent notwithstanding the fact that she was under sixteen. Consequently, the relationship between the accused and the alleged detainee was not considered rape, and the girl was allowed to remain with the accused. The judges of Lahore High Court are not on the same page regarding the interpretation of age and puberty in the context of marriage laws. Justice Tariq Saleem & Justice Qasim Khan's decision was based on the biological milestone of puberty, regardless of the official age documents (which was declaring the girl as a child), aligning more with traditional interpretations that prioritize physical maturity. Whereas Justice Mirza Viqas Rauf's decision is grounded in the legal age requirements stipulated by official documents, showing a stricter adherence to the statutory provisions of the Child Marriage Restraint Act, 1929.

Judgments by Federal Shariat Court (FSC)

Farooq Omar Bhoja v. Federation of Pakistan (2022 PLD 1) FSC

The full bench led by Dr. Muhammad Anwer issued a significant ruling affirming that it is permissible in Islam for the legislature to set a minimum marriage age of 16 under the Act of 1929. The court clarified that instituting such an age limit does not contradict Islamic provisions or the Quran. Emphasizing the state's responsibility, the court stressed that it has an obligation to regulate or prevent any actions that could result in harmful consequences for society or any of its components, regardless of their scale. In light of FSC decision, it would be easier for the Parliament of Pakistan or provincial legislatures to set a minimum marriage age of 18 for females and 21 for males uniformly. This would benefit society at large. However, one shortcoming that persists is that, despite the Federal Shariat Court's (FSC) judgment, previous court rulings that validated marriages *under the age of sixteen*, contrary to the Act of 1929, were not invalidated by FSC. Consequently, these prior judgments, as evidenced by the aforementioned *supra* of the Lahore and Islamabad High Courts, remain binding on the courts. This diminishes

the overall effectiveness of the FSC's judgment and allows contradictions to continue despite similarity in the facts of the cases. These contradictions in subjective interpretation even at provincial level highlights the need for simple consolidated law which can easily be interpreted and implemented conveniently throughout the country.

Conclusion

The comparative analysis of child marriage laws in India and Pakistan underscores significant legislative and enforcement gaps in Pakistan's approach. Unlike India's consolidated and comprehensive *Prohibition of Child Marriage Act of 2006*, Pakistan's fragmented, decentralized framework lacks cohesive enforceability, which limits its effectiveness. Provincial inconsistencies, absence of voidability clauses, and contentious issues such as marital rape and the legal consequences of unwanted pregnancies further undermine efforts to combat child marriage in Pakistan. Additionally, socio-economic and cultural mindsets that associate child marriage with family honor continue to hinder enforcement.

Recommendations

To strengthen Pakistan's approach to curbing child marriage, the following consolidated recommendations are made:

Legal Protections and Maintenance Rights: Ensure maintenance and inheritance rights for individuals affected by child marriages and secure the legitimacy of children born from such marriages. Provide financial, legal, and psychological support for victims.

Strengthen Enforcement and Penalties: Impose stringent penalties for all parties involved in child marriage, including facilitators, law enforcement officials, and religious figures who neglect their duty to prevent or report child marriages. Designate child marriage as a cognizable and non-bailable offense.

Empower Child Marriage Prohibition Officers: Authorize these officers to intervene in suspected cases of child marriage, conduct age verification, and take preemptive action with the court's support.

Confidentiality and Victim Safeguards: Mandate protective measures to ensure the victim's privacy throughout legal proceedings and waive the requirement of physical presence where it could lead to harm or re-traumatization.

Implementing these recommendations through a cohesive national framework would align Pakistan's child marriage laws with international standards, significantly improve enforcement, and support long-term cultural change to protect minors from early marriage.

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