



June 30, 2013

Dear Committee Members:

The Center for Reproductive Rights (the Center) and the Human Rights Law Network (HRLN) have prepared this letter to assist the Pre-sessional Working Group of the Committee on the Rights of the Child (Committee) in its review of India's compliance with the Convention on the Rights of the Child (Convention) and formulation of the list of issues during the 66<sup>th</sup> session. This letter focuses on child marriage, which is an issue of urgent concern for girls in India. This letter discusses the continuum of violations experienced by Indian girls as a result of this practice, including the denial of reproductive rights and exposure to gender-based violence.

Several of the Committee's previous Concluding Observations to India from its 2000 and 2004 reviews remain unaddressed. In both years, the Committee specifically expressed its concern about the high percentage of marriages of girls as well as about the incidence of maternal mortality in India.<sup>1</sup> In 2004, the Committee also recommended that India strengthen sexual and reproductive health education in response to persistent high rates of child marriage, ensure registration of all births, and address traditional practices and attitudes that discriminate against girls.<sup>2</sup> India's Third and Fourth Combined Periodic Report (India's Periodic Report) to the Committee discuss several steps taken to address these concerns;<sup>3</sup> however, these efforts have been insufficient to prevent the practice and protect girls from violations of their rights. As Section I of this letter will discuss, despite introducing new legislation in 2006 concerning child marriage, **India continues to account for the most child marriages worldwide as a result of gaps in the law and poor implementation.**<sup>4</sup> The second and third parts of this letter present evidence that married adolescent girls continue to face **significant risks of maternal mortality**, despite the Committee's recommendation in 2004, as well as broader violations of their reproductive rights and right to be free from violence. The letter concludes with a list of suggested questions to be posed to the state party for the Committee's consideration.

## **I. Right to Freedom from Child Marriage (Arts. 2, 3, 7, 12, 19, 24)**

Under the Convention, states parties are obligated to ensure girls' freedom from child marriage through effective legal prohibition of the practice and legal remedies.<sup>5</sup> Child marriage is recognized as a form of gender-based violence prohibited under Article 19.<sup>6</sup> Girls who are given away in marriage as children would often prefer to delay marriage, yet they are married without consideration of their preference,<sup>7</sup> violating their right to be heard under Article 12.<sup>8</sup> Girls who are married as children are denied educational opportunities, face barriers to developing income-generational skills, and are isolated from society, resulting in complete dependence on their husbands and perpetuating their low status in society.<sup>9</sup> As such, a state party's failure to eliminate the practice violates the best interest of the child principle established in Article 3, which General Comment 14 affirms includes ensuring children's well-being, education, and freedom from violence.<sup>10</sup> Child marriage also may result in separation of a child from her parents without consideration of her best interests in violation of Article 9.<sup>11</sup> In Concluding Observations, the Committee has recognized that the practice derives from discriminatory social

attitudes,<sup>12</sup> and causes suffering and marginalization of women.<sup>13</sup> The role of child marriage in perpetuating gender inequality constitutes a discriminatory interference with girls' enjoyment of their human rights.<sup>14</sup> Due to the multiple violations of a child's rights stemming from child marriage, the Committee has stated that states parties must take steps to eliminate child marriage, including by enforcing a legal age of marriage of 18.<sup>15</sup>

Child marriage occurs on a staggering scale in India,<sup>16</sup> despite commitments in law and policy to eliminate the practice. Notably, as discussed in India's Periodic Report, India pledged to eliminate child marriage by 2010 in its 2005 National Plan of Action for the Girl Child and adopted the Prohibition of Child Marriage Act (PCMA) in 2006.<sup>17</sup> The PCMA establishes penalties for the marriage of girls below 18 and boys below 21 and renders such marriages voidable.<sup>18</sup> The PCMA also increases the penalty for participating in the practice.<sup>19</sup> Despite the PCMA, the United Nations Population Fund (UNFPA) reported that **in 2010 almost 26 million women in India aged 20-24 were married or in a union before the age of 18.**<sup>20</sup> If current rates of child marriage persist, UNFPA estimates that **over 28 million girls will be married before the age of 18 by 2030.**<sup>21</sup> Unfortunately, India has not conducted a national health and demographic survey since its 2005-2006 National Family Health Survey-3 (NFHS-3); this study, cited in India's Periodic Report, states that **46% of all marriages in India are child marriages.**<sup>22</sup> The lack of updated national data is a barrier to monitoring India's progress in eliminating child marriage. However, recent government state-level studies clearly indicate that widespread child marriage practices continue to persist around the country.<sup>23</sup> For example, a 2010 government study of six states indicates that of women between the ages of 20 and 24, 19% were married before the age of 15 and **49% were married before the age of 18.**<sup>24</sup>

Within India, there are significant disparities in vulnerability to child marriage. Girls exposed to multiple forms of discrimination—including rural, poor, and uneducated girls—are at the greatest risk of child marriage.<sup>25</sup> Government statistics indicate that “[f]or rural women age[s] 15-17, the odds of being married are twice those for urban women.”<sup>26</sup> The disparate vulnerability of rural girls in India has remained essentially unchanged for decades.<sup>27</sup> Government data also indicates that 78% of child marriages involve girls from the lowest wealth quintile<sup>28</sup> and 82% involve girls who have received no formal schooling.<sup>29</sup> States parties have a specific obligation to protect all children without discrimination,<sup>30</sup> including based on geographic, economic, or educational status.

As noted above, the Committee has specifically criticized India for failing to address the persistence of child marriage in both of its reviews, and for its poor enforcement of legislation prohibiting child marriage.<sup>31</sup> The following two subsections will discuss gaps in the law and barriers to enforcement that result in the persistence of child marriage.

#### **a. Gaps in the PCMA and Failure to Properly Enforce Legal Protections against Child Marriage**

Several shortcomings in the national law allow child marriage to persist with impunity, including lack of clarity concerning the legal status of child marriage due to inconsistencies between personal status laws and the PCMA, discriminatory age standards for marriage, and inadequate birth registration. Further, implementation of the law and accountability of officers responsible for preventing these marriages remain extremely weak, reflecting a lack of political will to eliminate the practice.

**Inconsistencies between Personal Status Laws and the PCMA.** Child marriage in India is legitimized through discriminatory, religiously-based personal status laws that establish conflicting minimum ages of marriage and regard child marriages as valid rather than voidable. Although the PCMA states that all marriages of girls below 18 are voidable and penalizes involvement in child marriage, personal status laws in India (e.g., Muslim Personal Law, Hindu Marriage Act, Christian Marriage Act, Parsi Marriage and Divorce Act) also establish their own ages of marriage, legal status for marriages conducted before the age of 18, and penalties for child marriage.<sup>32</sup> Passage of the PCMA did not clarify which law should be followed. This has led to significant ambiguity about which law is applicable, as indicated by several recent court cases seeking judicial clarification about which laws apply to different communities.<sup>33</sup> While a few state-level High Court decisions have held that the PCMA supersedes certain personal laws, the Supreme Court has not rendered a decision on the issue.<sup>34</sup> Ambiguity concerning the minimum age of marriage, punishments for child marriage, and legal status of girls married under the age of 18 persists, and can constitute a significant barrier for girls who may be seeking to claim legal protection against child marriage. The Committee has expressed concern under Article 1 where the existence of multiple legal systems, including religiously-based laws, leads to inconsistent regulation of child marriage, including conflicting minimum ages of marriage.<sup>35</sup>

**Discriminatory Ages for Girls and Boys.** The PCMA provides a different definition of “child” based on gender: for males, the age of majority is 21; for females, 18.<sup>36</sup> Further, in practice, the median age of marriage for girls is more than 6 years younger than for boys.<sup>37</sup> **Only 9.5% of boys ages 20-24 were married as children, compared to 47% of girls ages 20-24.**<sup>38</sup> The Committee has repeatedly criticized such disparity as discriminatory and emphasized the need for the same age of marriage for girls and boys.<sup>39</sup> Different ages of majority reflect and perpetuate discriminatory gender stereotypes.<sup>40</sup> The higher incidence of child marriage among girls perpetuates education inequality, stymies women’s autonomy, and exposes them to higher risk of violence.<sup>41</sup>

**Failure to Properly Implement Legal Protections against Child Marriage.** Effective PCMA implementation is premised on the appointment of district-level Child Marriage Prohibition Officers (CMPOs), which all states are required to appoint.<sup>42</sup> In 2011, 21 out of 28 states had developed rules for CMPOs, but only 15 had appointed any officers.<sup>43</sup> India’s Periodic Report indicates that two states have appointed CMPOs in all of their districts, but contains no information about compliance of other states.<sup>44</sup> Recent data is needed to indicate whether all states have appointed and trained CMPOs and to measure their effectiveness in preventing and penalizing child marriage practices. Additionally, the National Crime Records Bureau reported that the total number of people arrested for violating the PCMA in 2012 was 1,843.<sup>45</sup> **Out of 162 trials completed, only 40 people were convicted.**<sup>46</sup> Considering the scope of child marriage in India, these statistics indicate that there are significant barriers to enforcement of the PCMA. As noted above, the Committee has specifically criticized India for failure to implement legislation prohibiting child marriage.

**Birth Registration.** The Committee has emphasized that birth registration is an essential step in eliminating child marriage.<sup>47</sup> Article 7 explicitly requires registration immediately after birth.<sup>48</sup> General Comment 7 noted that the lack of a functional registration system can lead to a child being denied health care, social services, and education that can negatively impact a child’s development.<sup>49</sup> The Committee recommended that states parties develop a thorough management system for ensuring that registration is accessible and free of charge.<sup>50</sup> In its 2004 Concluding Observations, the Committee expressed its concern that approximately 46% of all births in India were still not registered.<sup>51</sup> While birth registration

is required by law under the Registration of Births and Deaths Act,<sup>52</sup> the 2005-2006 NFHS-3 found that **this number has increased, with 59% of children under five years old not having had their births registered, with similar numbers for children under two.**<sup>53</sup>

**Marriage Registration.** Marriage registration is crucial to ensure proper age at marriage.<sup>54</sup> As discussed in India's Periodic Report, a 2006 Supreme Court decision established that marriage registration was compulsory regardless of religion.<sup>55</sup> Reporting each spouse's age was included in this mandate.<sup>56</sup> However, there is **no publicly available data to indicate whether registration is actually occurring** as ordered.<sup>57</sup> While registration of marriage is required under certain personal laws, as noted in India's Periodic Report, this registration is typically with religious institutions, not with the government.<sup>58</sup>

## **II. Continuum of Violations of Girls' Rights under the Convention Resulting from Child Marriage (Arts. 2, 3, 6, 19, 24)**

The marriage of a young girl sets in motion a continuum of violations that impacts her future and well-being, including forced initiation into sex, marital rape, and early and frequent pregnancy resulting in maternal mortality and morbidity. Recognizing that each of these outcomes individually constitutes violations of the Convention, the Committee has repeatedly affirmed the need to protect girls from early pregnancy, maternal mortality and morbidity, and violence.<sup>59</sup> The Committee has stated that where child marriage persists, states parties are obligated to ensure that married girls continue to receive protection of their human rights.<sup>60</sup> The Law Commission of India, a governmental body, has recognized the reproductive health risks and vulnerability to violence resulting from child marriage, yet the state party has failed to protect married girls from these harms.<sup>61</sup> The following two sections will discuss two particularly acute violations of girls' rights stemming from child marriage: denial of reproductive rights and exposure to gender-based violence.

### **a. Violations of Girls' Reproductive Rights**

States parties to the Convention are obligated to ensure girls' reproductive rights, including protection from negative reproductive health outcomes and access to reproductive health services. Article 6 provides that each child has an inherent right to life<sup>62</sup> and requires states parties to take all possible measures to guarantee the survival and development of the child.<sup>63</sup> Article 24 further recognizes the right of children to enjoy the highest attainable standard of health and requires states parties to "take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children."<sup>64</sup> General Comment 4 concerning adolescents' right to health recognizes that "early marriage and pregnancy are significant factors in health problems related to sexual and reproductive health, including HIV/AIDS."<sup>65</sup> The Committee has repeatedly expressed concern that the persistence of child marriage undermines girls' dignity;<sup>66</sup> has a negative impact on girls' health, development, and full enjoyment of their rights; and exposes girls to adolescent pregnancy.<sup>67</sup> Under the Convention, India must eradicate harmful traditional practices like child marriage that negatively affect the health of children.<sup>68</sup>

#### **i. Early Pregnancy and Adolescent Maternal Mortality and Morbidity**

Early pregnancy is correlated to child marriage in India, leading to violations of a girl's right to life and health.<sup>69</sup> General Comment 4 affirms that states parties must address adolescent maternal mortality and morbidity that stems from early pregnancy.<sup>70</sup> The Committee has specifically expressed its concern

about “worsening maternal mortality rates, due in part to the high increase of unattended home deliveries” in India in its 2004 Concluding Observations.<sup>71</sup> The Committee has recognized the harm that early pregnancy causes and has stated that adolescents who become pregnant must “have access to health services that are sensitive to their rights and particular needs.”<sup>72</sup>

**Complications arising from early pregnancy and childbirth are the main causes of death among adolescent girls between the ages of 15 and 19 in developing countries.**<sup>73</sup> Adolescents who experience early pregnancy are twice as likely to die in pregnancy or childbirth as women over the age of 20.<sup>74</sup> Adolescents under 15 “are five times more likely to die during pregnancy or childbirth.”<sup>75</sup> Early pregnancy also exposes young girls, who are physically not fully developed, to complications such as obstetric fistula, which leads to infection, incontinence, and in significant pain.<sup>76</sup> The World Health Organization has explicitly recommended a standard marriage age of 18 and delaying pregnancy until 20 due to the particularly harmful effects of early pregnancy.<sup>77</sup>

Despite these health risks, in India, **one in five women aged 20-24 report having had their first child by the age of 18.**<sup>78</sup> In some states, over 25% of women have had their first child before 18.<sup>79</sup> Adolescent fertility stems from child marriage and is particularly problematic considering the significant danger of early pregnancy in India.<sup>80</sup> Pregnancy for all women is dangerous in India, which accounts for 19% of the world’s total maternal deaths and where 1 out every 170 women will die from pregnancy-related causes.<sup>81</sup> **Pregnancy is particularly dangerous for adolescent girls in India, due to the fact that they are less likely to receive proper antenatal care and to have pregnancies timed too closely together and too frequently.**<sup>82</sup> Adolescent maternal mortality and morbidity are entirely preventable but persist because of a systemic lack of care.<sup>83</sup> Despite the increased risk of early pregnancy, only 40% of adolescent births were delivered in a health facility and only about 50% were delivered with the assistance of a skilled provider.<sup>84</sup> Further, government studies show that only 43% of adolescent girls aged 15-19 had an antenatal care visit in the first trimester of pregnancy, and only about half (53%) had three or more antenatal care visits throughout pregnancy.<sup>85</sup>

**Adolescents who are most likely to have given birth before 18 are also least likely to have been able to avail of antenatal care.** Rural women are twice as likely as urban women to have had their first child before 18. However, access to antenatal care is significantly worse in rural areas, with less than half of women aged 15-24 receiving proper care.<sup>86</sup> Similarly, although 39% of women with no formal education have had a child before 18, access to antenatal care services is lower among adolescents in this group.<sup>87</sup>

## **ii. Lack of Access to Sexuality Education and Contraceptive Information and Services**

The Committee has established that states parties must ensure that adolescents have access to reproductive health information and services in order to prevent child marriage, early pregnancy, and adolescent maternal mortality.<sup>88</sup> In General Comment 4, the Committee has called on states parties to reduce adolescent maternal mortality and morbidity by providing sexual and reproductive health services, including contraception, safe abortion services, and obstetric health care and counseling.<sup>89</sup> The Committee has stated that states parties are obligated to “ensure that health systems and services are able to meet the specific sexual and reproductive health needs of adolescents, including family planning and safe abortion services.”<sup>90</sup> General Comment 15 states that “[s]hort-term contraceptive methods . . . should be made easily and readily available to sexually active adolescents.”<sup>91</sup>

Despite these obligations, adolescent women in India face significant barriers to reproductive health-related information and services. A 2010 government study conducted in six states indicates that nearly half of young women did not receive any information on sexual matters before marriage,<sup>92</sup> and most of those who did received this information from informal sources such as friends, neighbors, and the media.<sup>93</sup> According to government data, **only 24.6% of married women aged 15-24 were aware of any contraceptive method before marriage.**<sup>94</sup> The percentage of modern contraceptive use was particularly low among young married women aged 15-19, at 12.5%.<sup>95</sup> **Further, 28.3% of young married women between 15 and 19 have an unmet need for family planning.**<sup>96</sup> The most widely used form of modern contraception was female sterilization.<sup>97</sup> The predominance of sterilization often does not meet the reproductive needs of young married women who are trying to postpone pregnancy, not limit births.<sup>98</sup> For girls married as children, the lack of reproductive health-related information compounds existing difficulties in negotiating sex and contraceptive use arising from the age and power differential in child marriages.<sup>99</sup> Without reproductive health-related information, girls are left vulnerable to increased risk of unwanted pregnancy and maternal mortality and morbidity from early, frequent, and closely-timed pregnancies.<sup>100</sup>

In 2004, the Committee recommended that India strengthen efforts to increase adolescent awareness of HIV/AIDS, particularly among those in vulnerable groups.<sup>101</sup> Young girls who are married are recognized as more susceptible to STIs.<sup>102</sup> However, government data indicates that young girls who marry before 18 continue to lack important reproductive health knowledge that would prevent early pregnancy and STIs. **According to government data, only 26% of women aged 15-19 reported awareness of STIs in 2007-2008, constituting the lowest awareness rate among the age groups.**<sup>103</sup> STI awareness was lower among vulnerable subgroups of women, including “women with low age at consummation of marriage, non-literate women, women from Scheduled Tribes, and women from households with a low standard of living.”<sup>104</sup> Knowledge of HIV/AIDS was similarly low among vulnerable subgroups of women.<sup>105</sup>

### iii. Lack of Access to Safe Abortion

General Comment 15 affirms that states parties must “ensure access to safe abortion and post-abortion care services, irrespective of whether abortion itself is legal.”<sup>106</sup> General Comment 4 recognizes that unsafe abortion contributes to adolescent maternal mortality.<sup>107</sup> The Committee has repeatedly expressed concern where adolescent girls face barriers to legal, safe abortions,<sup>108</sup> and has recommended that terminations be performed with “all due attention to minimum standards of health safety.”<sup>109</sup>

In India, the Medical Termination of Pregnancy Act of 1971 (MTP Act) legalized abortion on several grounds before twenty weeks.<sup>110</sup> Access to abortion is particularly crucial for married adolescents, who are at significant risk of unplanned pregnancy because they often lack both capacity to refuse their husband’s demand for sex and knowledge of contraceptive services. According to the NFHS-3, nationally, **almost 1 in 5 (17%) of births to married young women ages 15-24 in the five years prior to the study were unplanned.**<sup>111</sup> In some states, this number is as high as 49%.<sup>112</sup> However, government data indicates that **only 23.2% of married women aged 15-24 were aware that it was legal for a married woman to have an abortion.**<sup>113</sup> In addition, recent cases before the Supreme Court and state-level High Courts have sought judicial authorization for terminations for adolescent girls, despite the fact that judicial authorization is not required under the law.<sup>114</sup> Courts have failed to dismiss these cases, perpetuating the incorrect understanding that judicial authorization is required by law.<sup>115</sup> The Committee has recognized that third party authorization for abortion is a significant barrier to

adolescent access to safe abortion services, and violates girls' rights.<sup>116</sup> In addition to judicial authorization, adolescents generally face particular barriers to safe abortion services; for example, studies show that girls are also likely to be unaware of which health professionals can provide safe and legal abortion services.<sup>117</sup>

Adolescents' barriers to access to safe abortion are compounded by the state party's general failure to implement the MTP Act. Impediments to legal abortion in India create a situation in which women access clandestine procedures that endanger their lives.<sup>118</sup> It is estimated that **for every two safe abortions, three unsafe abortions are performed in India.**<sup>119</sup> Unsafe abortions are widely prevalent because they are more readily accessible, cheaper, and ensure greater confidentiality than government-approved abortion services.<sup>120</sup>

### **b. Violations of Girls' Right to be Free from Violence**

Article 19 prohibits all forms of violence against children.<sup>121</sup> The Committee has recognized that states parties must regard girls who were married as children as in a potentially vulnerable situation because of the likelihood that they will be exposed to gender-based violence.<sup>122</sup> Under Article 19, states parties must "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse."<sup>123</sup> Despite the obligation to prevent violence against children, India continues to be complicit in physical and sexual violence through its failure to protect married girls.

**Physical violence.** A publication cosponsored by the government describes child marriage as "open[ing] the door to an endless and vicious cycle of domestic violence and abuse."<sup>124</sup> Young women married as children experience domestic violence at higher rates than those married later.<sup>125</sup> The NFHS-3 indicates that **70% of 15-19 years old experienced violence over the past year.**<sup>126</sup> In 2005, UNICEF reported that **India had the "highest levels of domestic violence among women married by 18 with a rate of 67 per cent."**<sup>127</sup> However, India's Periodic Report fails to discuss domestic violence against adolescents within marriage.<sup>128</sup>

**Sexual Violence.** Article 34 of the Convention obliges states to protect children from all forms of sexual exploitation and abuse.<sup>129</sup> However, statistics indicate that young married girls in India are not being protected from sexual abuse: **32% of married women aged 15-24 have experienced forced sex. One in four reported that their first marital sexual experience was forced.**<sup>131</sup> While the government recognizes that children are more vulnerable to sexual violence, the Indian Penal Code (IPC) has historically set 16 years as the age below which sex with a girl is criminalized, but established a lower age—15 years—where the girl is one's wife.<sup>132</sup> A lower age for married girls allows child marriage to legitimize sexual abuse. A law passed in 2012, the Protection of Children from Sexual Offences Act, defined sex with a minor below 18 years as a crime and eliminated the marriage exception, which was a positive step towards protecting girls within marriage.<sup>133</sup> However, **the Criminal Law (Amendment) Ordinance passed in March 2013 retrogressively reaffirms the IPC standard and does not recognize rape within marriage once a girl is above 16:** "[s]exual intercourse or sexual acts by a man with his own wife, the wife not being under sixteen years of age, is not sexual assault."<sup>134</sup> Such legislation perpetuates sexual abuse within marriage and forced sex of adolescents.

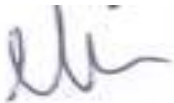
**c. Suggested Questions to be Posed to the State Party**

**The Center and HRLN respectfully request that this Committee pose the following questions to the delegation representing the government of India during its 66<sup>th</sup> Session.**

1. What specific steps are being taken to effectively prevent child marriage as envisioned by the PCMA, including by ensuring the appointment of CMPOs and the prosecution of perpetrators of child marriage?
2. What specific measures has the state party taken to ensure access to effective legal remedies for victims of child marriage in accordance with the law?
3. What steps has the state party taken to clarify the minimum legal age of marriage and status of child marriage and to ensure uniformity in the legal regulation of child marriage?
4. What steps are being taken to ensure the registration of births and marriages nationwide?
5. What measures are being taken to enable young married girls to postpone pregnancy and access quality reproductive health-related information and services, including contraceptive information and services, maternal health care, and safe abortion services?
6. What specific steps are being taken by the state party to protect girls from sexual violence both within and outside of marriage, including by establishing a uniform legal age of marriage and recognizing marital rape as a crime?

**We hope that this information is useful to the Committee as it prepares to review the Indian government's compliance with the provisions of the Convention. If you have any questions or would like further information, please do not hesitate to contact us.**

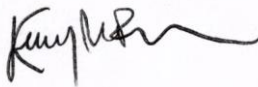
Sincerely,



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<sup>1</sup> Committee on the Rights of the Child (CRC Committee), *Concluding Observations: India*, paras. 32, 48, U.N. Doc. CRC/C/15/Add.115 (2000); *India*, paras. 52, 60, U.N. Doc. CRC/C/15/Add.228 (2004).

<sup>2</sup> CRC Committee, *Concluding Observations: India*, paras. 30, 39, 60, 61(b)-(c), U.N. Doc. CRC/C/15/Add.228 (2004).



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<sup>3</sup> Government of India, Ministry of Women and Child Development, *India: Third and Fourth Combined Periodic Report on the Convention on the Rights of the Child*, ch. 1, paras. 10, 12-13, 29, 61, 92-94; ch. 3, paras. 69, 71; ch. 4, para. 30, U.N. Doc. CRC/C/IND/1 (2011) [hereinafter India Government Report (2011)].

<sup>4</sup> Press Release, World Health Organization (WHO), Child Marriages: 39,000 every day (Mar. 7, 2013), available at [http://www.who.int/mediacentre/news/releases/2013/child\\_marriage\\_20130307/en/](http://www.who.int/mediacentre/news/releases/2013/child_marriage_20130307/en/) [hereinafter WHO, Child Marriages: 39,000 every day].

<sup>5</sup> Convention on the Rights of the Child, *adopted* Nov. 20, 1989, art. 3, para. 2; art. 19, G.A. Res. 44/25, annex, U.N. GAOR, 44<sup>th</sup> Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990) [hereinafter CRC]; CRC Committee, *General Comment No. 12: The right of the child to be heard*, para. 120, U.N. Doc. CRC/C/GC/12 (2009).

<sup>6</sup> CRC, *supra* note 5, art. 19.

<sup>7</sup> GOVERNMENT OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, POPULATION COUNCIL, YOUTH IN INDIA: SITUATION AND NEEDS 2006-2007, 222 (2010) [hereinafter GOVERNMENT OF INDIA, YOUTH IN INDIA: SITUATION AND NEEDS]; ANN M. MOORE ET. AL, ADOLESCENT MARRIAGE AND CHILDBEARING IN INDIA: CURRENT SITUATION AND RECENT TRENDS 9 (Guttmacher Institute, 2009) [hereinafter ANN M. MOORE ET. AL, ADOLESCENT MARRIAGE AND CHILDBEARING IN INDIA].

<sup>8</sup> CRC, *supra* note 5, art. 12.

<sup>9</sup> UNITED NATIONS POPULATION FUND (UNFPA), MARRYING TOO YOUNG: END CHILD MARRIAGE 11 (2012) [hereinafter UNFPA, MARRYING TOO YOUNG]; INTERNATIONAL PLANNED PARENTHOOD FEDERATION, UNFPA, THE GLOBAL COALITION FOR HIV/AIDS, ENDING CHILD MARRIAGE: A GUIDE FOR GLOBAL POLICY ACTION 14-15 (2006).

<sup>10</sup> CRC, *supra* note 5, art. 3; CRC Committee, *General Comment No. 14: The right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, paras. 71-74, U.N. Doc. CRC/C/GC/14 (2013).

<sup>11</sup> CRC, *supra* note 5, art. 9.

<sup>12</sup> CRC Committee, *Concluding Observations: India*, para. 32, U.N. Doc. CRC/C/15/Add.115 (2000); *India*, para. 29, U.N. Doc. CRC/C/15/Add.228 (2004).

<sup>13</sup> CRC Committee, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, (33<sup>rd</sup> Sess., 2003), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 410, para. 16, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter CRC Committee, *Gen. Comment No. 4*].

<sup>14</sup> CRC Committee, *Concluding Observations: India*, para. 32, U.N. Doc. CRC/C/15/Add.115 (2000); *Bangladesh*, paras. 32-33, U.N. Doc. CRC/C/BGD/CO/4 (2009); *Sri Lanka*, para. 57, U.N. Doc. CRC/C/LKA/CO/3-4 (2010); CRC, *supra* note 5, art. 2.

<sup>15</sup> CRC Committee, *Concluding Observations: Afghanistan*, para. 24, U.N. Doc. CRC/C/AFG/CO/1 (2011); *Angola*, para. 27, U.N. Doc. CRC/C/AGO/CO/2-4 (2010); *Bangladesh*, paras. 32-33, U.N. Doc. CRC/C/BGD/CO/4 (2009); *Sri Lanka*, para. 57, U.N. Doc. CRC/C/LKA/CO/3-4 (2010).

<sup>16</sup> WHO, Child Marriages: 39,000 every day, *supra* note 4.

<sup>17</sup> GOVERNMENT OF INDIA, MINISTRY OF HUMAN RESOURCE DEVELOPMENT, DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT, NATIONAL PLAN OF ACTION FOR CHILDREN 2005, 18 (2005); Prohibition of Child Marriage Act, No. 6 of 2007, INDIA CODE (2007) [hereinafter Prohibition of Child Marriage Act]; India Government Report (2011), *supra* note 3, ch. 1, para. 29; ch. 3, para. 71.

<sup>18</sup> Prohibition of Child Marriage Act, *supra* note 17, arts. 2(a), 3.

<sup>19</sup> *Id.* arts. 9-11 (extending punishment for participating in, solemnizing, or promoting child marriage to a term of imprisonment of up to two years and a fine up to one lakh rupees).

<sup>20</sup> UNFPA, Child Marriage Profiles: India, [http://www.devinfo.info/mdg5b/profiles/files/profiles/en/4/Child\\_Marriage\\_Country\\_Profile\\_ASIIND\\_India.pdf](http://www.devinfo.info/mdg5b/profiles/files/profiles/en/4/Child_Marriage_Country_Profile_ASIIND_India.pdf) [hereinafter UNFPA, Child Marriage Profiles: India].

<sup>21</sup> *Id.*

<sup>22</sup> GOVERNMENT OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, NATIONAL FAMILY HEALTH SURVEY (NFHS-3) 2005-06, INDIA, VOLUME I, 166 (2007) [hereinafter NFHS-3].

<sup>23</sup> GOVERNMENT OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, DISTRICT LEVEL HOUSEHOLD AND FACILITY SURVEY 2007-08, INDIA 18 (2010) [hereinafter DLHS].

<sup>24</sup> GOVERNMENT OF INDIA, YOUTH IN INDIA: SITUATION AND NEEDS, *supra* note 7, at 226.

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- <sup>25</sup> GOVERNMENT OF INDIA, MINISTRY OF HEALTH AND FAMILY WELFARE, INTERNATIONAL INSTITUTE FOR POPULATION SCIENCES, A PROFILE OF YOUTH IN INDIA: NATIONAL FAMILY HEALTH SURVEY (NFHS-3), INDIA, 2005-06, 24-25 (2009) [hereinafter GOVERNMENT OF INDIA, A PROFILE OF YOUTH IN INDIA]; UNFPA, MARRYING TOO YOUNG, *supra* note 9, at 35.
- <sup>26</sup> GOVERNMENT OF INDIA, A PROFILE OF YOUTH IN INDIA, *supra* note 25, at 25; GOVERNMENT OF INDIA, YOUTH IN INDIA: SITUATION AND NEEDS, *supra* note 7, at 227.
- <sup>27</sup> UNFPA, Child Marriage Profiles: India, *supra* note 20.
- <sup>28</sup> GOVERNMENT OF INDIA, YOUTH IN INDIA: SITUATION AND NEEDS, *supra* note 7, at 228.
- <sup>29</sup> *Id.*
- <sup>30</sup> CRC, *supra* note 5, art. 2, para. 2.
- <sup>31</sup> CRC Committee, *Concluding Observations: India*, para. 32, U.N. Doc. CRC/C/15/Add.115 (2000); *India*, paras. 29, 60-61, U.N. Doc. CRC/C/15/Add.228 (2004).
- <sup>32</sup> Prohibition of Child Marriage Act, *supra* note 17, arts. 2(a), 3; The Hindu Marriage Act, No. 25 of 1955, INDIA CODE (1978) [hereinafter Hindu Marriage Act] (providing the minimum age for marriage for girls is 18 and for boys, 21); The Muslim Personal Law (Shariat) Application Act, No. 26 of 1937, INDIA CODE (1937) [hereinafter Muslim Personal Law (Shariat) Application Act] (though not codified, the personal law gives Muslims the authority to determine when marriage is acceptable; common practice indicates that this is typically understood to be the age of puberty. See Charles Haviland, *Battle over India's Marriage Age*, BBC NEWS, Sept. 5, 2002, [http://news.bbc.co.uk/2/hi/south\\_asia/2238321.stm](http://news.bbc.co.uk/2/hi/south_asia/2238321.stm)); The Parsi Marriage and Divorce Act, No. 3 of 1936, INDIA CODE (1993) [hereinafter Parsi Marriage and Divorce Act]; The Indian Christian Marriage Act, No. 15 of 1872, INDIA CODE (1993) [hereinafter Indian Christian Marriage Act].
- <sup>33</sup> T. Sivakumar v. The Inspector Of Police, H.C.P. No. 907 of 2011, Madras H.C. (2011); Court On Its Own Motion (Lajja Devi) v. State, W.P. (Crl.) No. 338/2008, Delhi H.C. (2012). For example, under the PCMA, marriages of girls below 18 and boys below 21 are voidable at the request of either party who was a minor at the time that the marriage occurred within 2 years of attaining majority. However, child marriages are not void or voidable under the Hindu Marriage Act. Rather, a girl may leave a child marriage through a divorce, which can be granted if the girl was married before 15 and she repudiates the marriage after 15 and before 18. Hindu Marriage Act, *supra* note 32, art. 13(2)(iv). The Muslim personal laws are also distinct from the PCMA and the Hindu Marriage Act. Under Muslim personal laws, a girl who was married as a child can “avoid” the marriage if she repudiates it within 3 years of turning 15 years of age so long as the marriage has not been consummated. Further, a marriage involving a party who has reached puberty requires the consent of that party; without consent, such marriages are void under the law. These legal standards are conflicting, and lead to confusion about the minimum age of marriage, status of child marriages, and rights of girls who are seeking to dissolve a child marriage.
- <sup>34</sup> T. Sivakumar v. The Inspector Of Police, H.C.P. No. 907 of 2011, Madras H.C. (2011); Court On Its Own Motion (Lajja Devi) v. State, W.P. (Crl.) No. 338/2008, Delhi H.C. (2012).
- <sup>35</sup> CRC Committee, *Concluding Observations: Bangladesh*, paras. 13, 26, U.N. Doc. CRC/C/15/Add.221 (2003); *Bangladesh*, paras. 30-31, U.N. Doc. CRC/C/BGD/CO/4 (2009); *Pakistan*, para. 27, U.N. Doc. CRC/C/PAK/CO/3-4 (2009).
- <sup>36</sup> Prohibition of Child Marriage Act, *supra* note 17, art. 2(a).
- <sup>37</sup> NFHS-3, *supra* note 22, at 165.
- <sup>38</sup> *Id.* at 163.
- <sup>39</sup> CRC Committee, *Concluding Observations: Afghanistan*, paras. 23-24, U.N. Doc. CRC/C/AFG/CO/1 (2011); *Bahrain*, paras. 28-29, U.N. Doc. CRC/C/BHR/CO/2-3 (2011); *Ukraine*, paras. 25-26, U.N. Doc. CRC/C/UKR/CO/3-4 (2011).
- <sup>40</sup> The recent Special Rapporteur report on servile marriage noted that establishing unequal consent ages for girls and boys “reinforce[s] and legalize[s] the idea that marriage is suitable for girls early than for boys.” Special Rapporteur on contemporary forms of slavery, including its causes and consequences, *Rep. of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian – *Thematic report on servile marriage*, para. 44, U.N. Doc. A/HRC/21/41 (July 10, 2012).
- <sup>41</sup> *Id.* paras. 82-83.
- <sup>42</sup> Prohibition of Child Marriage Act, *supra* note 17, art. 16(1).
- <sup>43</sup> United Nations Children’s Fund (UNICEF), UNICEF Information Sheet: Child Marriage, 3 (2011) (referencing a 2011 e-mail exchange with the Ministry of Women and Child Development from December 14, 2011).
- <sup>44</sup> India Government Report (2011), *supra* note 3, ch. 1, para. 30 (reporting that the states of Chhattisgarh and Karnataka have appointed Child Marriage Prohibition Officers in every district).
- <sup>45</sup> MINISTRY OF HOME AFFAIRS, NATIONAL CRIME RECORDS BUREAU, CRIME IN INDIA, 2012 STATISTICS 419, tbl. 6.11 (2012).
- <sup>46</sup> *Id.* Ninety-two cases pending investigation at the end of 2012. *Id.* at 411, tbl. 6.3.
- <sup>47</sup> CRC Committee, *Concluding Observations: Afghanistan*, para. 34, U.N. Doc. CRC/C/AFG/CO/1 (2011).

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- <sup>48</sup> CRC, *supra* note 5, art. 7, para. 1.
- <sup>49</sup> CRC Committee, *General Comment No. 7: Implementing child rights in early childhood*, (40<sup>th</sup> Sess., 2006), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 466, para. 25, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- <sup>50</sup> *Id.*
- <sup>51</sup> CRC Committee, *Concluding Observations: India*, para. 38, U.N. Doc. CRC/C/15/Add.228 (2004).
- <sup>52</sup> The Registration of Births and Deaths Act, No. 18 of 1969, art. 8, INDIA CODE (1969).
- <sup>53</sup> NFHS-3, *supra* note 22, at 45-46.
- <sup>54</sup> The Supreme Court of India recognized the importance of compulsory marriage registration in combatting child marriage in its *Seema v. Ashwani Kumar* judgment in 2006. *Seema v. Ashwani Kumar*, Transfer Petition (civil) No. 291 of 2005, S.C. of India (2006).
- <sup>55</sup> *Id.*
- <sup>56</sup> *Id.*
- <sup>57</sup> There are some states that have compulsory marriage registration, but readily available information is unclear regarding widespread adherence. A few of the state laws that have made marriage registration compulsory are: Bombay Registration of Marriages Act, No. V of 1954, Replacement Series No. LXV (1954) (amended 1977); Karnataka Marriages (Registration and Miscellaneous Provisions) Act, No. 2 of 1984 (1984); The Himachal Pradesh Registration of Marriages Act, No. 21 of 1997 (1997); The Andhra Pradesh Compulsory Registration of Marriages Act, No. 15 of 2002 (2002).
- <sup>58</sup> *See, e.g.*, Hindu Marriage Act, *supra* note 32, art. 8. *See* Muslim Personal Law (Shariat) Application Act, *supra* note 32; Hindu Marriage Act, *supra* note 32; Parsi Marriage and Divorce Act, *supra* note 32; Indian Christian Marriage Act, *supra* note 32.
- <sup>59</sup> CRC Committee, *Gen. Comment No. 4*, *supra* note 13, para. 6; CRC Committee, *General Comment No. 13: The right of the child to freedom from all forms of violence*, para. 5, U.N. Doc. CRC/C/CG/13 (2011) [hereinafter CRC Committee, *Gen. Comment No. 13*]; CRC Committee, *General Comment No. 15: The right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, para. 56, U.N. Doc. CRC/C/GC/15 (2013) [hereinafter CRC Committee, *Gen. Comment No. 15*].
- <sup>60</sup> CRC Committee, *Concluding Observations: Turkmenistan*, para. 26, U.N. Doc. CRC/C/TKM/CO/1 (2006).
- <sup>61</sup> GOVERNMENT OF INDIA, LAW COMMISSION OF INDIA, PROPOSAL TO AMEND THE PROHIBITION OF CHILD MARRIAGE ACT, 2006 AND OTHER ALLIED LAWS, REPORT NO. 205, 18-22 (2008).
- <sup>62</sup> CRC, *supra* note 5, art. 6, para. 1.
- <sup>63</sup> *Id.* art. 6, para. 2.
- <sup>64</sup> *Id.* art. 24, para. 3.
- <sup>65</sup> CRC Committee, *Gen. Comment No. 4*, *supra* note 13, para. 16.
- <sup>66</sup> CRC Committee, *Concluding Observations: Cameroon*, para. 59, U.N. Doc. CRC/C/CMR/CO/2 (2010).
- <sup>67</sup> CRC Committee, *Concluding Observations: Afghanistan*, para. 53, U.N. Doc. CRC/C/AFG/CO/1 (2011); *Togo*, para. 55, U.N. Doc. CRC/C/TGO/CO/3-4 (2012).
- <sup>68</sup> CRC, *supra* note 5, art. 24, para. 3.
- <sup>69</sup> CRC Committee, *Gen. Comment No. 4*, *supra* note 13, para. 16; NFHS-3, *supra* note 22, at 93-94.
- <sup>70</sup> The Committee specifically provided that “[s]tates parties should take measures to reduce maternal morbidity and mortality in adolescent girls, particularly caused by early pregnancy and unsafe abortion practices, and to support adolescent parents.” CRC Committee, *Gen. Comment No. 4*, *supra* note 13, para. 27.
- <sup>71</sup> CRC Committee, *Concluding Observations: India*, para. 52, U.N. Doc. CRC/C/15/Add.228 (2004).
- <sup>72</sup> CRC Committee, *Gen. Comment No. 4*, *supra* note 13, para. 27.
- <sup>73</sup> UNFPA, MARRYING TOO YOUNG, *supra* note 9, at 11.
- <sup>74</sup> WHO, WHO GUIDELINES ON PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES AMONG ADOLESCENTS IN DEVELOPING COUNTRIES 2 (2011) [hereinafter WHO, PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES].
- <sup>75</sup> *Id.*
- <sup>76</sup> UNFPA, MARRYING TOO YOUNG, *supra* note 9, at 11. “Obstetric fistula is a hole in the birth canal caused by obstructed labour. It is estimated that more than 2 million young women live with untreated obstetric fistula in Asia and sub-Saharan Africa.” *Fact File: 10 Facts on Obstetric Fistula*, WHO, [http://www.who.int/features/factfiles/obstetric\\_fistula/facts/en/index1.html](http://www.who.int/features/factfiles/obstetric_fistula/facts/en/index1.html).
- <sup>77</sup> WHO, PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES, *supra* note 74, at 3-4.

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- <sup>78</sup> NFHS-3, *supra* note 22, at 91.
- <sup>79</sup> POPULATION COUNCIL, SEXUAL AND REPRODUCTIVE HEALTH OF YOUNG PEOPLE IN INDIA: A REVIEW OF POLICIES, LAWS AND PROGRAMMES 5 (2011) [hereinafter POPULATION COUNCIL, SEXUAL AND REPRODUCTIVE HEALTH OF YOUNG PEOPLE IN INDIA].
- <sup>80</sup> UNICEF, THE SITUATION OF CHILDREN IN INDIA: A PROFILE 9 (2011).
- <sup>81</sup> WHO, UNICEF, UNFPA AND THE WORLD BANK, TRENDS IN MATERNAL MORTALITY: 1990 to 2010, 1, 33 (2012).
- <sup>82</sup> Anita Raj, *When the mother is a child: the impact of child marriage on the health and human rights of girls*, 95 ARCH. DIS. CHILD 932 (2010) [hereinafter Anita Raj, *When the mother is a child*].
- <sup>83</sup> GOVERNMENT OF INDIA, A PROFILE OF YOUTH IN INDIA, *supra* note 25, at viii; WHO, WOMEN AND HEALTH: TODAY'S EVIDENCE, TOMORROW'S AGENDA 42 (2009).
- <sup>84</sup> GOVERNMENT OF INDIA, A PROFILE OF YOUTH IN INDIA, *supra* note 25, at viii.
- <sup>85</sup> *Id.* at 72, tbl. 6.1.
- <sup>86</sup> *Id.* at 72.
- <sup>87</sup> "About one-third or fewer youth with no education and youth in the lowest wealth quintile received at least three ANC visits and received the first ANC check in the first trimester." *Id.* at 73; POPULATION COUNCIL, SEXUAL AND REPRODUCTIVE HEALTH OF YOUNG PEOPLE IN INDIA, *supra* note 79, at 5.
- <sup>88</sup> CRC Committee, *Gen. Comment No. 4*, *supra* note 13, para. 27.
- <sup>89</sup> *Id.*; CRC Committee, *Concluding Observations: Pakistan*, para. 65, U.N. Doc. CRC/C/PAK/CO/3-4 (2009).
- <sup>90</sup> CRC Committee, *Gen. Comment No. 15*, *supra* note 59, para. 56; CRC Committee, *Gen. Comment No. 4*, *supra* note 13, para. 27.
- <sup>91</sup> CRC Committee, *Gen. Comment No. 15*, *supra* note 59, para. 70.
- <sup>92</sup> Approximately 47% of married women indicated that they did not receive any information about sexual matters prior to marriage, compared to only 16% of men. GOVERNMENT OF INDIA, YOUTH IN INDIA: SITUATION AND NEEDS, *supra* note 7, at 165, 169, tbl. 8.13.
- <sup>93</sup> A mere 10% of young women and men reported getting information from schools and teachers, and 3 to 7% reported receiving information from health care providers. *Id.* at 166, 169, tbl. 8.13.
- <sup>94</sup> *Id.* at 155, tbl. 8.6.
- <sup>95</sup> DLHS, *supra* note 23, at 114, tbl. 6.4.
- <sup>96</sup> *Id.* at 135, tbl. 6.15.
- <sup>97</sup> Of married women using some form of contraception, 36% used the female sterilization method, while only 1.1% reported male sterilization. *Id.* at 116-117.
- <sup>98</sup> ANN M. MOORE ET. AL, ADOLESCENT MARRIAGE AND CHILDBEARING IN INDIA, *supra* note 7, at 16.
- <sup>99</sup> UNFPA, MARRYING TOO YOUNG, *supra* note 9, at 11-12.
- <sup>100</sup> CRC Committee, *Concluding Observations: Angola*, paras. 51-52, U.N. Doc. CRC/C/AGO/CO/2-4 (2010); *Bulgaria*, paras. 47-48, U.N. Doc. CRC/C/BGR/CO/2 (2008); *Ukraine*, para. 57, U.N. Doc. CRC/C/UKR/CO/3-4 (2011); UNFPA, MARRYING TOO YOUNG, *supra* note 9, at 11; Anita Raj, *When the mother is a child*, *supra* note 82, at 931-932.
- <sup>101</sup> CRC Committee, *Concluding Observations: India*, para. 55(c), U.N. Doc. CRC/C/15/Add.228 (2004).
- <sup>102</sup> UNFPA, MARRYING TOO YOUNG, *supra* note 9, at 11.
- <sup>103</sup> DLHS, *supra* note 23, at 142.
- <sup>104</sup> *Id.* Fewer than 20% of women in states such as Madhya Pradesh, Assam, and Jharkand are aware of STIs. *Id.* at 150.
- <sup>105</sup> *Id.* at 152.
- <sup>106</sup> CRC Committee, *Gen. Comment No. 15*, *supra* note 59, para. 70.
- <sup>107</sup> CRC Committee, *Gen. Comment No. 4*, *supra* note 13, para. 27.
- <sup>108</sup> *See, e.g.*, CRC Committee, *Concluding Observations: Kyrgyzstan*, para. 45, U.N. Doc. CRC/C/15/Add.127 (2000) (expressing concern that limited availability of contraceptives, poor reproductive health education, and the requirement of parental consent have led to an increased number of illegal abortions among adolescents); *Venezuela*, paras. 60-61, U.N. Doc. CRC/C/VEN/CO/2 (2007) (expressing concern about maternal mortality due to high rates of unsafe abortion).
- <sup>109</sup> CRC Committee, *Concluding Observations: Mozambique*, para. 47(b), U.N. Doc. CRC/C/15/Add.172 (2002).
- <sup>110</sup> The Medical Termination of Pregnancy Act, No. 34 of 1971, INDIA CODE (1971) [hereinafter Medical Termination of Pregnancy Act].
- <sup>111</sup> POPULATION COUNCIL, THE SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS OF YOUNG PEOPLE IN INDIA: A REVIEW OF THE SITUATION 14 (2012).
- <sup>112</sup> *Id.*
- <sup>113</sup> GOVERNMENT OF INDIA, YOUTH IN INDIA: SITUATION AND NEEDS, *supra* note 7, at 166, tbl. 8.11.

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<sup>114</sup> Bhupinder Kumar v. Angrej Singh, No. 5845 of 2009, S.C. of India (2009); Priyanka Girishkumar Patel v. Principal, No. 93 of 2013, Gujarat H.C. (2013); Bhagiben v. State, No. 116 of 2011, Gujarat H.C. (2011); Janak Ramsang Kanzariya v. State, No. 707 of 2010, Gujarat H.C. (2010).

<sup>115</sup> The Medical Termination of Pregnancy Act of 1971 does not include a provision requiring judicial authorization for terminations. For minors, the law merely requires written consent by a guardian. Medical Termination of Pregnancy Act, *supra* note 110, art. 3(4).

<sup>116</sup> CRC Committee, *Concluding Observations: Bulgaria*, para. 47, U.N. Doc. CRC/C/BGR/CO/2 (2008); *Georgia*, para. 47, U.N. Doc. CRC/C/GEO/CO/3 (2008).

<sup>117</sup> SUSHEELA SINGH ET AL., ABORTION WORLDWIDE: A DECADE OF UNEVEN PROGRESS 40 (Guttmacher Institute, 2009) [hereinafter SUSHEELA SINGH ET AL., ABORTION WORLDWIDE].

<sup>118</sup> SUSHEELA SINGH ET AL., BARRIERS TO SAFE MOTHERHOOD IN INDIA 10-11 (Guttmacher Institute, 2009). A 2006 interview study conducted in select districts revealed that unsafe abortion was one of the most immediate causes of maternal mortality. UNICEF, MATERNAL AND PERINATAL DEATH INQUIRY AND RESPONSE: EMPOWERING COMMUNITIES TO AVERT MATERNAL DEATHS IN INDIA 17 (2008).

<sup>119</sup> SUSHEELA SINGH ET AL., ABORTION WORLDWIDE, *supra* note 117, at 24. Many unsafe abortions take place in unclean, uncertified facilities. *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> CRC, *supra* note 5, art. 19.

<sup>122</sup> CRC Committee, *Gen. Comment No. 13*, *supra* note 59, para. 72(g); CRC Committee, *Concluding Observations, Bangladesh*, para. 67, U.N. Doc. CRC/C/BGD/CO/4 (2009); *India*, para. 60, U.N. Doc. CRC/C/15/Add.228 (2004).

<sup>123</sup> CRC, *supra* note 5, art. 19(1).

<sup>124</sup> GOVERNMENT OF INDIA, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, HAQ: CENTRE FOR CHILD RIGHTS, UNICEF, HANDBOOK ON THE PROHIBITION OF MARRIAGE ACT, 2006, 6 (2009).

<sup>125</sup> UNICEF, EARLY MARRIAGE: A HARMFUL TRADITIONAL PRACTICE, A STATISTICAL EXPLORATION 22 (2005) [hereinafter UNICEF, EARLY MARRIAGE].

<sup>126</sup> NFHS-3, *supra* note 22, at 499.

<sup>127</sup> UNICEF, EARLY MARRIAGE, *supra* note 125, at 22.

<sup>128</sup> India Government Report (2011), *supra* note 3, ch. 1, para. 27; ch. 3, para. 68.

<sup>129</sup> CRC, *supra* note 5, art. 34.

<sup>130</sup> GOVERNMENT OF INDIA, YOUTH IN INDIA: SITUATION AND NEEDS, *supra* note 7, at 236.

<sup>131</sup> *Id.* at xxxiii, 236.

<sup>132</sup> PEN. CODE, para. 375 (1860) (India).

<sup>133</sup> The Protection of Children From Sexual Offences Act, No. 32 of 2012, art. 2(d), INDIA CODE (2012).

<sup>134</sup> The Criminal Law (Amendment) Ordinance, No. 13 of 2013, art. 8, INDIA CODE (2013).