“There is a long road from the ideal set out in international human rights documents to the actual realization of the human rights of young girls especially in the context of child marriage. Achieving this goal would require fundamental changes in ideas and patterns of behaviour, as well as the establishment of mechanisms to monitor and enforce the relevant laws.” Writes Jaya Sagade, Vice-Principal of ILS Law College in Pune, India. She has written a useful legal presentation of early marriage in India and the ways this practice runs counter to UN conventions which India has ratified. Various existing UN standards which appear to be largely ignored would have a preventive effect if they were respected. These include the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 1962 followed by Recommendations on the Convention of 1965.

As Jaya Sagade notes “The world community has been slow to address the problem of injustice to women, because it has lacked a consensus on sex-based inequality as an urgent issue of political justice. The outrages suffered every day by millions of women — domestic violence, child sexual abuse and child marriage, inequality before law, poverty, lack of dignity — are not uniformly regarded as ignominious, and the international community has been slow to decide that they are human rights abuses.”

There is a growing concern about the elimination of the cultural practices of female infanticide and child marriages as well as of girl child labor, trafficking and forced prostitution of young girls. There are inter-linkages of these issues which need to be highlighted. The consequences of female foeticide and the resulting sexual gap are already unfolding. Girls are being trafficked from poorer countries such as Bangladesh and Nepal or from poor and tribal areas of India and sold into marriage. The same pattern with the same results exists in China with an increasing number of Vietnamese women being taken to China. As Sagade points out, “More than 34 percent of girls in the age group 15-19 years are already married. Such statistics indicates that a large number of girls are married off at an early age. But it does not give the true figures because many marriages are unregistered and not counted as part of any standard data collection system.

“It is difficult to ascertain and determine the origin of the custom of child marriage. But it can be certainly attributed to a patriarchal structure of society…Patriarchy has a strong hold on Indian society. It operates at all levels on the basis of sex, age and caste and contributes in lowering the status of women in every possible manner. Stratification and differentiation on the basis of gender are an integral feature of patriarchy in India…The rigid system of physical segregation by sex, by restricting women’s mobility and activities, effectively prevents their engaging in extra-familial forms of economic activity and income generation outside of the home…

“Another significant implication of patriarchy lies in its control of female sexuality and reproduction, which is at the heart of unequal gender relations and is central to the denial of equality. Through culturally embedded concepts of virginity and chastity, women’s sexuality is not only controlled by men but is often symbol of the honour and status of a family, clan, caste, ethnic group or race. Since marriage represents an alliance between two families and patrilineages, the honour, reputation, and consequently, power of men is measured in terms of ‘purity’ of their women. Consequently, there are marked pressures
towards performing marriages at early ages of girls in order to minimize the risks of, and attendant dishonour associated with improper sexual conduct by females.” Therefore, marriages are arranged either immediately after or sometimes even before she attains puberty.

There are both physical and social consequences of child marriages. “Early marriage and early childbirth are linked to high rates of pregnancy-related complications including risk to life, miscarriage, anaemia, obstructed labour, vesico-or recto-vaginal fistulas, incontinence, still birth or risk to the life of the newborn.”

Jaya Sagade lists some of the social consequences of child marriage for girls:

a) takes away their autonomy in respect of the choice of a life partner and the right to decide the timing of the marriage;

b) may expose them to violence and abuse which may result in emotional and psychological problems and sometimes even in desertion and divorce;

b) reaffirms stereotypes of women in child-bearing roles;

c) takes away their right to education which undermines their self-confidence, decision-making power and denies them the opportunity to become economically independent.”

To limit child marriage, there is a need  for the Indian government and for non-governmental organizations to stress the international norms set by the United Nations and accepted by the Indian government. International human rights law depends for its effective application on an international consensus and on implementation at the national level. As Jaya Sagade writes “Creating awareness about international human rights jurisprudence through publicity at the National level is one of the most important strategies that needs to be adopted for holding the state accountable for its negligence or inaction in enforcing the rights of young girls. Unless people are made aware about the rights and corresponding obligations of the state, they might not demand concrete actions from the state to remedy injustice done to them. This is particularly true in case of young girls who are vulnerable due to their age, sex and gender.

“Civil society has a critical role to play in the process. The partnership between the government and voluntary organizations is essential for formulation, implementation, and evaluation of policies and development objectives and activities. Voluntary organizations are important voices of people. Their association and networks provide an effective means of focussing local and national initiatives and addressing social, legal, political, and economic developmental concerns. People’s participation in the whole process is also extremely significant. All of us, including academicians, researchers, representatives at the national, international, intergovernmental, and non-governmental levels, and activist in various fields, need to work together relentlessly, utilizing an interdisciplinary approach to the rights construct, to ensure justice for young girls.”

Rene Wadlow