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Down To Earth

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FORTNIGHTLY ON POLITICS OF DEVELOPMENT, ENVIRONMENT AND HEALTH

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UNTANGLE THE KNOT

Assam's crackdown on child marriage
is only a half-baked strategy to fight
high maternal deaths in the state



COASTAL EROSION

Odisha needs foolproof ways
to protect its shoreline

P38

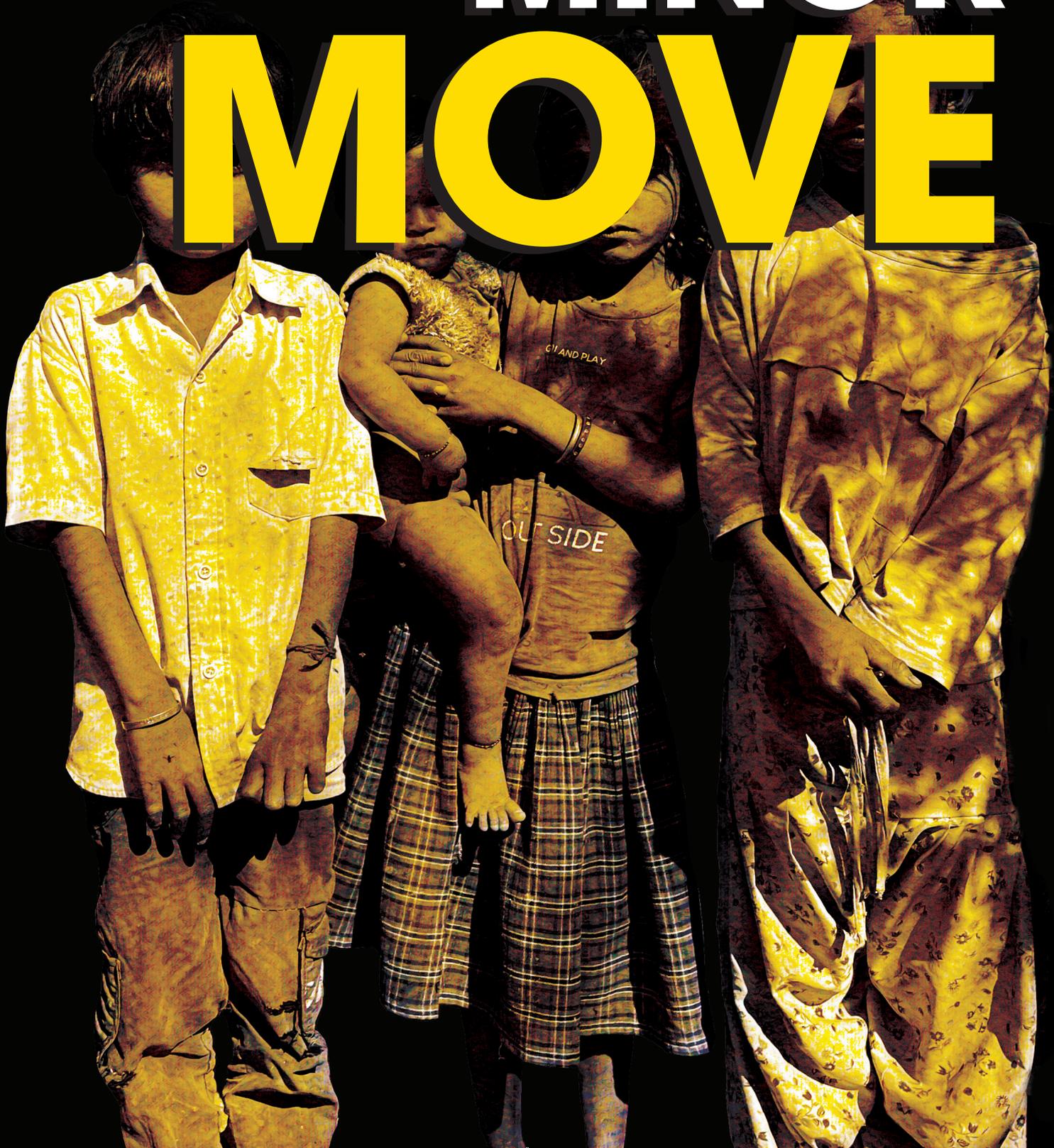
PATENT SYSTEM

How US pharma companies
keep drug prices sky high

P44

COVER STORY / CHILD MARRIAGE

MINOR MOVE



Assam's evangelical crackdown on child marriage to curb high maternal mortality is an imperfect solution to a problem with multiple triggers

MONOJ GOGOI from Dhemaji, Assam,
TARAN DEOL from New Delhi and
HIMANSHU NITNAWARE from Barmer, Jaisalmer,
Tonk and Bhilwara, Rajasthan

THE JOY of being pregnant with her first child lasted just a few hours for Menaka Doley Patir (*name changed*), a 17-year-old resident of a remote village (*all the village names in the article have been withheld to protect identities*) in Assam's Dhemaji district. The news of her pregnancy came after the state government launched a crackdown on child marriage on January 23, 2023, using the Prohibition of Child Marriage Act, 2006 (PCMA) along with the Protection of Children from Sexual Offences Act, 2012 (POCSO). In just a month, the Assam police had arrested over 3,000 people, mostly husbands and male family members of underage brides, from across the state. Menaka is a year younger than the official marriageable age of 18 years. If caught, her husband would face imminent arrest and imprisonment of up to 20 years under POCSO for committing sexual assault. Her family has taken the painful decision to undergo an abortion.

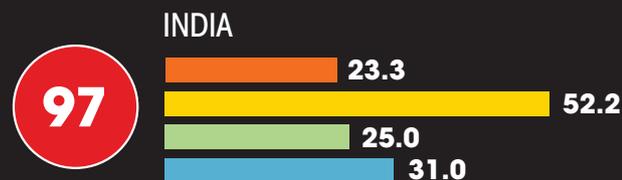
They are too terrified to go ahead with the pregnancy, as they know they will not be able to hide Menaka's age. As part of the crackdown, the government has directed hospitals and local health workers to record age-related details for each pregnancy and childbirth. Officials are using the document to identify underage marriages.

Fear grips the state as the crackdown widens. Families are sending underage brides to their parents' homes or to other places to give the raiding officials a slip. Many expectant mothers are opting for home deliveries to evade the authorities. Underage mothers have also stopped taking their children to hospitals over fears of getting identified. Pranita Phukan (*name changed*) from another village in Dhemaji district waited for four long days before taking her ailing infant to the nearby healthcare centre. By then, the infant had become so weak that he had to be referred to the district civil hospital.

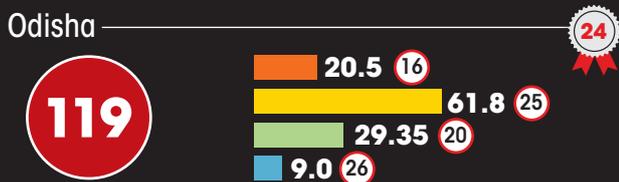
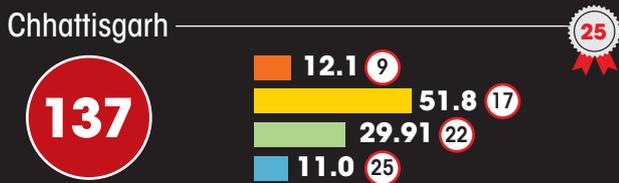
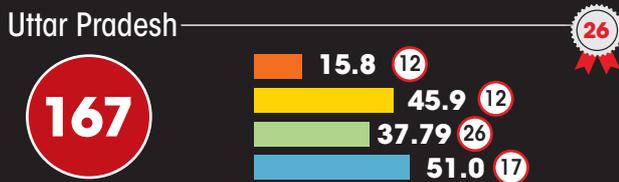
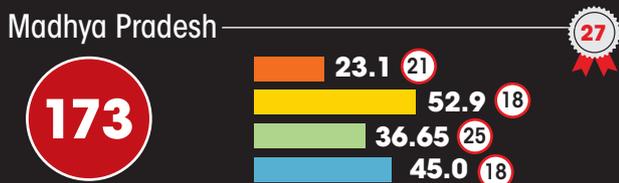
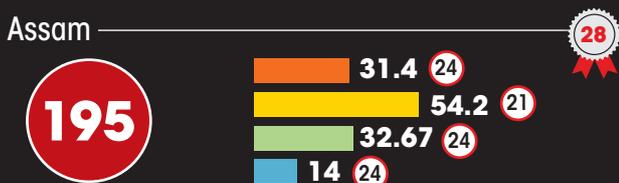
◀ A family in a village on the outskirts of Barmer town in Rajasthan married off their two daughters, aged 10 and 12, in October 2022 because of poverty

MANY REASONS FOR MATERNAL MORTALITY

States with high maternal mortality are struggling with a mix of poverty, lack of health centres, anaemia and child marriage



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“More than four married girls from the village have returned to their families. They are all underage. Panic is prevalent in all the families,” says Japan Doley (*name changed*) of another village in Dhemaji. His wife is an *anganwadi* worker responsible for monitoring women’s health and childbirth in the village. “My daughters-in-law are now adults. But they were underage at the time of marriage. So, I and my sons might still be arrested,” Doley says.

EXTREME MEASURE

Child marriage remains a chronic problem throughout India, even though it has been banned since 1929. In 2019-21, almost one out of every four—23.3 per cent—women between the age of 20 and 24 years was married before turning 18, suggests the latest fifth round of the National Family and Health Survey (NFHS-5), released by the Union Ministry of Health and Family Welfare. Child marriage is most prevalent in West Bengal (41.6 per cent), followed by Bihar (40.8 per cent), Tripura (40.1 per cent) and Jharkhand (32.2 per cent). In Assam, the share is 31.8 per cent.

Despite the high incidence, the current crackdown in Assam, the most audacious attempt to arrest child marriage, has come as a rude surprise. For the first time in the country, the state government is arresting people involved in child marriage under POCSO, a law to check sexual harassment, prostitution, trafficking and pornography against underage girls, along with PCMA.

“The content and the spirit of PCMA have not been about policing and cracking down, but rescuing the victims and punishing the offenders only through the laid-down procedures. The actions by the police, therefore, violate the provisions of the Act,” says Akhil Ranjan Dutta, former head of the political science department at the Gauhati University in Assam (see ‘Misguided treatment’, p33).

PCMA draws a fine distinction between different kinds of child marriages. It says that in cases where the child was “forced, compelled” into marriage through “deceitful

means” or “sold” for the purpose of marriage, such marriages are void by default. In all other cases, the marriage is voidable only if the child moves court within two years of becoming an adult. The law also has several mechanisms to avoid child marriages and provisions to ensure the well-being of the underage bride and any children born out of such marriages. Besides purpose, the other major difference between the two laws is in the quantum of punishment. Under PCMA, a person can be imprisoned for up to two years and fined ₹1 lakh. Under POCSO, a person can be imprisoned for up to 20 years for “penetrative sexual assault”.

Assam Chief Minister Himanta Biswa Sarma has justified the move to use the two laws in tandem by saying that all child marriages are illegal. But this has not gone down well even with the Gauhati High Court. “What is the POCSO (charge) here? Merely because POCSO is added, does it mean judges will not see what is there?” said Justice Suman Shyam of the Gauhati High Court on February 14, while granting pre-arrest bails to nine petitioners booked under the crackdown. “This is causing havoc in the private life of people. There are children, family members and old people. Obviously it (child marriage) is (a) bad idea. We will give our views but at the moment the issue is whether they should be all arrested and put in jail,” the court observed in a related case.

The crackdown, though, continues. As of February 22, the state police had registered 4,249 cases of child marriage. In contrast, only 155 cases were registered under PCMA in 2021, as per National Crime Records Bureau. The national figure in 2021 was 1,050. That year, the state had filed 1,926 cases under POCSO, but they were for sexual assaults committed on minors, not for child marriage.

MISPLACED LOGIC

Sarma has told the media that through the crackdown, his government plans to arrest maternal and infant deaths in the state. Assam has the highest maternal mortality

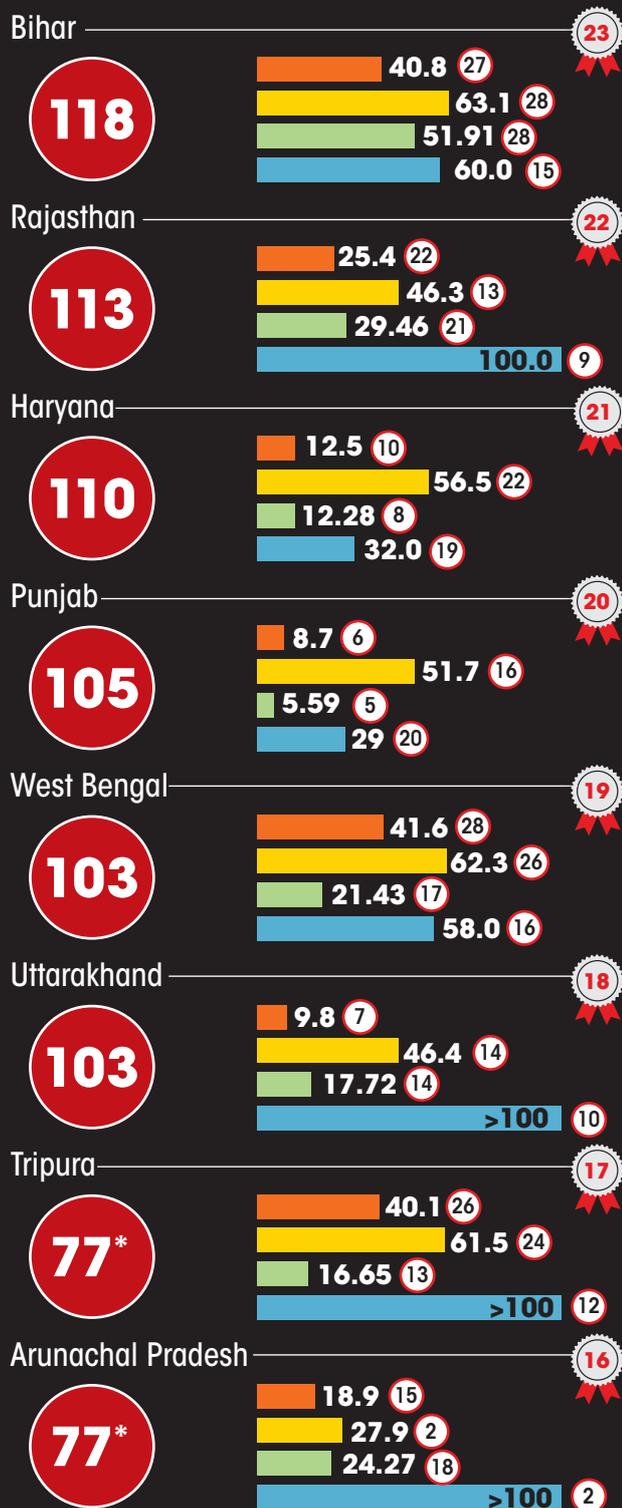


▲ The underage mother in Assam’s Dhemaji district waited for four long days before taking her ailing infant to a healthcare centre. By then, the infant had become so weak that he had to be referred to the district civil hospital

rate (MMR) in the country, at 195 deaths per 100,000 live births, as per the 2018-20 Sample Registration System report by the Registrar General of India. The national average is 97. India has the second highest burden of maternal deaths, only after Nigeria, as per the UN’s “Trends in Maternal Mortality” report released on February 23, 2023.

Child marriage increases the risk of maternal mortality as minors are not mentally or physically prepared for childbirth. A research paper published in *ScienceDirect* in December 2019 finds that 23.3 per cent of maternal deaths in Assam were among adolescents. The paper, “Epidemiological study of maternal death

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* Tripura, Arunachal Pradesh, Meghalaya, Manipur, Sikkim, Mizoram and Nagaland have been classified as "others" with maternal mortality rate of 77

in Assam", also establishes that adolescent pregnancy is higher in districts with high MMR, compared to those with low MMR.

Experts, however, warn that the idea that Assam can arrest MMR by cracking down on child marriage alone is too simplistic and farfetched. The triggers for it go much beyond child marriage.

"High blood pressure and anaemia are the main causes of maternal mortality in India," says Hiranmoyee Gogoi, gynaecologist and in-vitro fertilisation expert with the Aditya Hospital in Dibrugarh, Assam. More than half of the pregnant women in India are anaemic, suggests NFHS-5.

Lack of awareness and poor access to health infrastructure aggravate the problem. "Women should regularly visit the healthcare centre during their pregnancy. But hospital visits take place only when there are complications," says Jayanta Bor Gohain, a paediatrician in Dhemaji district. Expectant mothers should, as per the World Health Organization, make at least four antenatal visits to healthcare centres to monitor their pregnancy. In reality, only 58.1 per cent women in India undertake the four visits, as per NFHS-5. At the same time, 74 per cent of expectant mothers do not consume iron-folic acid medicines for at least 180 days, which can substantially reduce the chances of anaemia in mothers, as per NFHS-5. In Assam, the share of expectant mothers who do not consume iron-folic acid medicines for at least 180 days is alarmingly high at 82 per cent.

Assam also has another challenge. "The state has a low population density of 398 people per square km. As a result, people have to travel long distances, over difficult terrain, to access health centres," says Sunil Kaul, doctor and co-founder of the Action Northeast Trust, a rural development organisation.

In India, a sub-centre, the point of most peripheral contact between residents and government health institutions, should cater to a population of 3,000-5,000. In Assam, each sub-centre caters to 5,000-7,000 people, suggests the "Rural Health

MISGUIDED TREATMENT

Maternal and infant mortality cannot be sole grounds for waging a war on child marriage

AKHIL RANJAN DUTTA

ASSAM HAS alarming maternal and infant mortality rates. The rising incidence of child marriage worsens the situation. Against this background, the Assam government carried out a state-wide crackdown on child marriage, booking thousands of people under the Protection of Children from Sexual Offences Act, 2012 (POCSO) and the Prohibition of Child Marriage Act, 2016 (PCMA).

However, two larger questions need to be addressed to cross-examine the assertions made by the government in dealing with the issues of maternal mortality rate (MMR) and infant mortality rate (IMR).

The first is the assertion that MMR and IMR are legitimate grounds to wage war on people associated with child marriage. Besides child marriage, it is poor healthcare, nutrition deficit and a failure to temper scientific knowledge about birth control that have led to high MMR and IMR rates. The Population and Women Empowerment Policy of Assam, 2017, took note of the entirety of the challenges confronted by the population—from poverty and illiteracy to flood, erosion and climate change, which contribute towards the declining quality of human life in Assam, apart from contributing to the recent population explosion. The prevalence of higher IMR and MMR was attributed to demographic and development complications, highlighting issues like constraints on livelihood sources, unemployment and illiteracy, along with child marriage. A series of reports published by different government agencies, including the NITI Aayog, has exposed the poor state of human security and sustainable development in Assam. The state has also performed poorly in health and wellbeing.

The second is the misinterpretation of the provisions of PCMA and POCSO in cracking down on child marriage. Neither of the Acts empowers the police to engage in a mass crackdown or punish those who have supposedly indulged in

child sexual abuse. POCSO is almost non-applicable in the present cases. PCMA lays down legal-judicial procedures, both for annulling such marriages through petitions by the contracting parties within the stipulated timeframe and also assigns definite responsibilities to the authorities constituted under the Act to create awareness and undertake measures so as to prevent the practice of child marriage. The content and spirit of the Act have not been about policing and cracking down, but rescuing the victims and punishing the offenders only through the procedures. The actions of the police, therefore, violate the provisions and the spirit of the Act.

The Act has three important dimensions: (a) procedure and stipulated timeframe for filing petitions by contracting parties against child marriage; (b) provision for maintenance and residence to female contracting party to child marriage; custody and maintenance of children of child marriages, and legitimacy of children born of child marriages; and (c) role and responsibilities of Child Marriage Prohibition Officers towards creating awareness, collecting evidences and undertaking initiatives against the child marriages in collaboration with the stakeholders in the society. Interestingly, Assam's Chief Minister emphasised creating an ecosystem against child marriage only after the strong observations by the Gauhati High Court against the police crackdown. In a review meeting with state officials on February 17, the Chief Minister said "the Government functionaries, law enforcement agencies, *gaon burhas*, *gaon panchayat* secretaries, self-help groups, village defence parties will be the stakeholder of the ecosystem."

(Akhil Ranjan Dutta is the former head of the political science department at the Gauhati University in Assam.

He is the author of Hindutva Regime in Assam: Saffron in the Rainbow 2021)

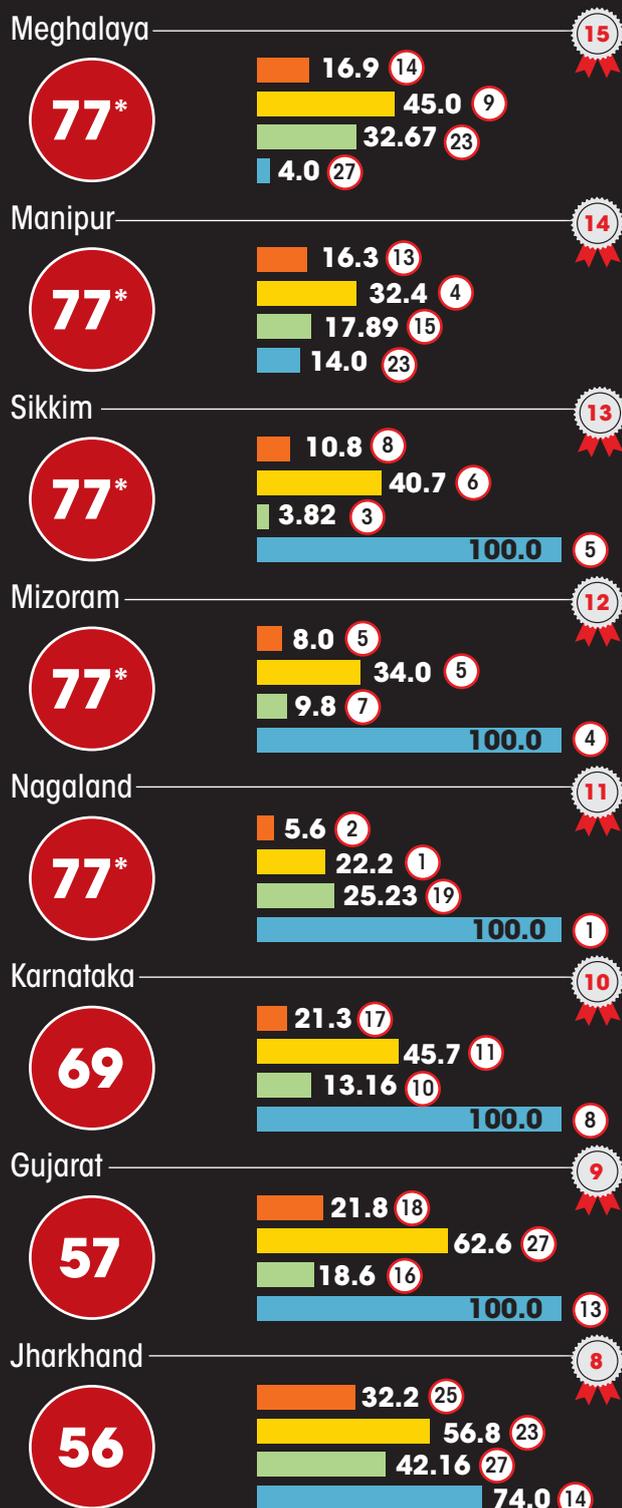
Statistics 2021-2022", released by the Union Ministry of Health and Family Welfare. A sub-centre is usually managed by a female and a male health worker.

A similar gap exists in access to primary health centres, which are usually the referral units for six sub-centres and have four to six beds that are managed by a medical officer and allied staff. A primary health centre should ideally cater to a population of 20,000-30,000, but in Assam,

each one caters to 30,000-40,000 people. Community health centres, which have specialist doctors such as gynaecologists, are also overburdened in Assam, as they cater to 100,000-200,000 people, as opposed to the recommended population of 80,000-120,000 people.

Poor infrastructure at health centres makes matters worse. Of the 4,667 functioning sub-centres in Assam, 37.6 per cent do not have electricity. Of the 920 functio-

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ning primary health centres, 17 per cent do not have electricity and 59 per cent lack all-weather motorable approach roads, says Rural Health Statistics 2021-22.

"The issue extends beyond infrastructure to the availability of well-trained personnel to handle emergencies," says Kaul, adding that in most rural areas, emergency services are not available after dark. Postpartum haemorrhage—a condition of excessive blood loss within 24 hours of delivery—is a common reason for maternal deaths in the state. "In my experience, half of the doctors in government hospitals are generalists and not trained to handle the situation," says Kaul. According to him, a common mistake that untrained doctors commit is putting haemorrhaging patients on a drip, which causes heart failure. "Assam is in desperate need of good emergency care at the peripheral level," he says.

Based on the interactions with doctors and women rights experts, *Down To Earth* (DTE) identified four parameters—child marriage, multidimensional poverty (that looks at poverty across health, education and standard of living), shortfalls in primary health centres, and the prevalence of anaemia among expectant mothers—to understand their correlation with maternal mortality. The analysis was done for all the 28 states in the country. The findings show that the states that perform the worst in terms of MMR also perform poorly in all or most of the other four parameters. In contrast, the states with the lowest MMR levels are performing poorly in one or two parameters (see 'Many reasons for maternal mortality', p30).

Assam, for instance, ranks 24th among the 28 Indian states in child marriage, poverty and shortfalls in primary health centres. It ranks 21st in the share of pregnant women with anaemia.

Madhya Pradesh, which has the second highest MMR in the country, also fares poorly in child marriage (rank 20), poverty (25), anaemia and primary health centre shortfalls (18). The next three states—

Uttar Pradesh, Chhattisgarh and Odisha—have a lower prevalence of child marriage than the India average, but are struggling in the other three indicators.

In contrast, the five states with the lowest MMR perform better than the rest of India in most of the parameters. Kerala, which has the lowest MMR, ranks among the top three in all four indicators. Maharashtra, despite a high prevalence of child marriage and lack of primary health centres, has the country's second-lowest MMR rate. In terms of anaemia and poverty, Maharashtra is better placed than the majority of Indian states. West Bengal, which has the highest child marriage numbers in the country, ranks 11 in MMR levels. The state ranks poorly in multidimensional poverty (17) and shortage of primary healthcare centres (16).

In addition to the four factors, state-specific difficulties also contribute to maternal mortality. Assam has a diverse population and some of the communities, particularly tribal, do not have access to healthcare facilities. According to the 2011 Census, tribal communities comprise 12.45 per cent of the state's population. "Assam has been a conflict zone with a long history of insurgency. This directly impacts the health of the people," says Nandita Saikia, professor of public health and mortality studies at the Mumbai-based International Institute for Population Studies.

"To reduce maternal mortality and morbidity, the main thrust should be on implementing basic and comprehensive emergency obstetrics care. Analysis of every maternal death through a maternal death audit, either at the community level (verbal autopsy) or at the institutional level, should be carried out. It will help in identifying the actual cause of maternal deaths and deficiencies in (the) healthcare delivery system that might contribute to formulating preventive measures to reduce pregnancy-related deaths," reads a study published in 2013 by the doctors at the Department of Obstetrics & Gynaecology at Fakhruddin Ali Ahmed Medical College in Barpeta, Assam.

DIVORCED FROM REALITY

Assam's crackdown will not bring sustainable change as child marriage is rooted in culture, social norms

GHASIRAM PANDA

THE PROHIBITION of Child Marriages Act, 2006, rolled out in 2007, fixes the minimum age for marriage to 18 years for girls and 21 years for boys. Under it, male adults who contract, perform, conduct, direct or abet child marriages shall be punished and even imprisoned. The emphasis of the law is on prevention and protection. Prosecution is an option only when necessary, particularly if the child is taken away from their lawful guardian by enticement, force or use of deceitful means or, is sold or trafficked for the purpose of marriage.

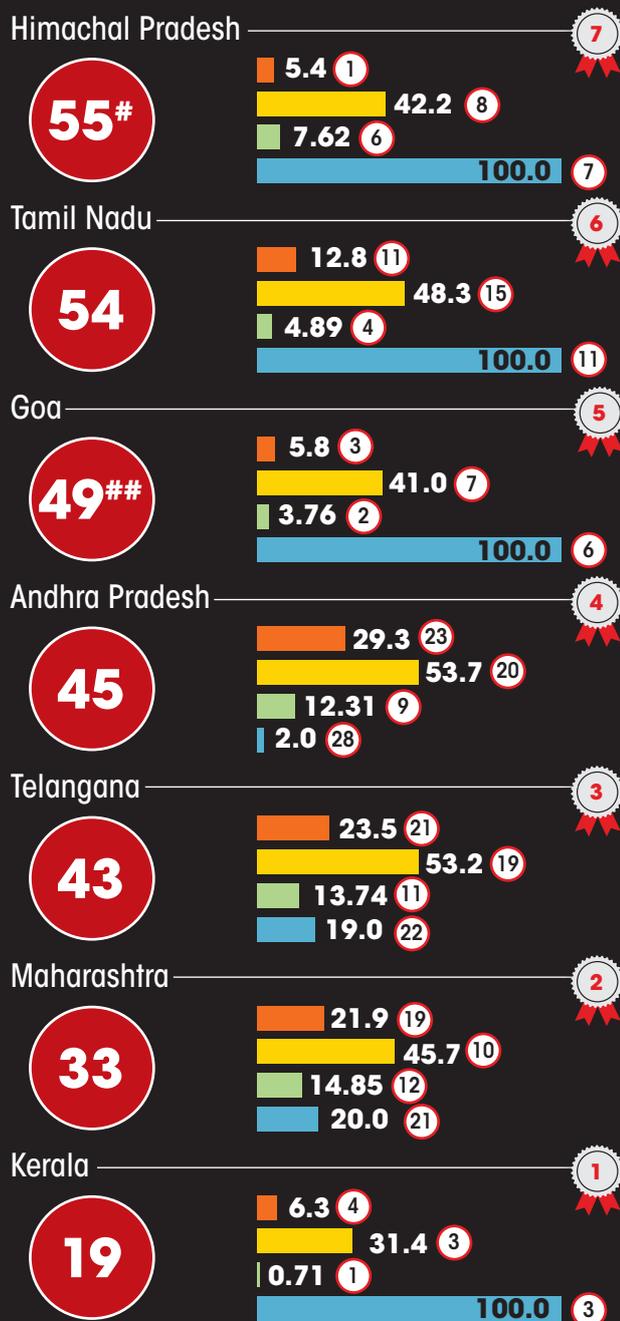
This makes sense as child marriage takes place for a variety of reasons such as poverty, traditions and values based on patriarchal norms. It is an established fact that economics related to raising girl children have often pushed poor families to consider child marriage as a viable solution.

The law calls for the appointment of child marriage prohibition officers (CMPOs) in every state for sensitisation and awareness creation in the community, prevent child marriages and to protect the victims. It makes child marriages voidable by giving choice to the children in the marriage to seek annulment of marriage. It provides for the maintenance and residence of the underage bride. It gives a legal status to all children born from child marriages and makes provisions for their custody and maintenance. The law provides all support and aid including medical aid, legal aid, counselling and rehabilitation support to children once they are rescued. The child marriage prohibition officer has been empowered to provide necessary aid to victims of child marriage and to produce children in need of care and protection before the Child Welfare Committee.

Under the law, the state should appoint a chief CMPO who is responsible for developing a state strategy to end child marriage, producing an annual report on child marriage and monitoring the effective implementation of the law. Ensuring prevention and protection makes the state accountable to establish a responsive system, build collective consensus and increase public investment. Whereas prosecution shifts the burden onto the public. Assam has adopted the shortcut by focusing on prosecution.

(Ghasiram Panda is the programme manager of the Ending Child Marriage Programme of non-profit Action Aid India)

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Sources: National Family Health Survey 5 (2019-21), the Union Ministry of Health and Family Welfare; National Multidimensional Poverty Index 2021, Niti Aayog and Sample Registration System report 2018-20 by the Registrar General of India; *Comptroller and Auditor General Report as on March 31, 2020, tabled in the Goa Assembly on July 22 2022; **Himachal Pradesh government website, April 2021

NOT A MINOR PROBLEM

The triggers that impact MMR also influence child marriage. The age-old practice is closely linked to social customs, poverty and illiteracy. “We are still living in a patriarchal society where girls are thought to be a burden on the family. For poor families, the priority is to get the girl child married,” says Hema Das, women and child activist working in Assam’s Sonitpur and Morigaon districts.

In tribal communities, child marriage is socially accepted and has been in practice since time immemorial, says Jibakanta Kutum, president of Dhunaguri-Bahgarha panchayat in Lakhimpur district of Assam.

“Many tribal areas are without schools. Under the Right of Children to Free and Compulsory Education Act, 2009, children should be taught in their native language up to class 8, which is not happening. This results in high dropout rates and underage marriage,” says Wilfred Topno, president of the Adivasi Sahitya Sabha, a non-profit that works with tribal communities in the state’s tea gardens. The problem can only be solved through sensitisation and awareness, he says.

“Over the decade of 2001-2011, girls, especially in their early adolescence, have become much more vulnerable to child marriage,” as per the “Status and Decadal Trends of Child Marriage in India” report released by non-profit Child Rights and You (CRY) in 2020. Recognising child marriage as a “complex socio-cultural phenomenon” with multiple interlinked drivers, the study says half of the underage marriages in India involve girls who are in the age group of 15 and 19 years and are living in rural areas. It adds that the practice is on the rise in urban areas.

DTE travelled to four Rajasthan districts—Barmer, Jaisalmer, Tonk and Bhilwara—that are among the poorest regions in the country and found that child marriage is rampant. In a village on the outskirts of Barmer city, a family has married off their daughters, who were 10 and 12 years old, together in October 2022



▲
A 16-year-old girl from a village about 13 km from Barmer, Rajasthan, married when she was 14 and is now a mother

due to poverty. Their mother told DTE that relatives were visiting the family after her mother-in-law passed away. “So we thought marrying off the girls around the occasion would save us money,” she says. Anuprerna Kuntal, commissioner and principal secretary, commissionerate, child rights department in Jaipur, says that farm losses in recent years has also spiked child marriage in the state. “There is an old tradition called *chari* among certain communities, where the girl’s father receives money during marriage, which they use to pay off their debt,” Kuntal says.

The COVID-19 pandemic has added to the problem. According to the UN Children’s Fund (UNICEF), 10 million girls worldwide are at risk of becoming brides over the next decade, as the pandemic has caused poverty and forced children to drop out of school. These reasons also exist in India and have led to forced child marriages in the country, says Kriti Bharti, an activist who works on children’s and women’s rights in Rajasthan. “I have no official or documented data to prove it. I am making the claim from direct field observations and experiences,” she says. Many poor families were concerned about the safety

and security of their daughters. As a result, they married a large number of adolescents aged 14 and up.

On February 17, Assam Chief Minister Sarma wrote on a microblogging site, “Reports are coming from various parts of Assam that several families have cancelled pre-scheduled marriages between underage children after our drive against such illegal practices. This is definitely a positive impact of our two-week long crackdown against child marriage.”

During a visit to a village in Dhemaji district, DTE came across a group of mothers returning home with their children. Life is difficult in the village inhabited by the Mishing community, which battles floods almost every year. Still, the people are thriving. The women admit that child marriage happens in the community, but they quickly add that the change has already started. Many girls and boys from the village now study in private colleges and are positively influencing the community. “What we require is improved access to opportunities. Instead, the government is conducting police raids,” says one of the mothers. **DTE**

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