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**INCREASED MARRIAGEABLE AGE OF WOMEN: PROGRESS OR
REGRESS IN THE SOCIETY**- Durba Chowdhury¹**ABSTRACT**

Marriage is an important social institution, an essential avenue to establish a family through which society sustains. This process of social union is carried through various customs and rituals. In India, almost 45% of the girls are married off before they attain 18 years of age even though the legal age of marriage for girls is 18 years. Niger is the leading country for child marriage below 18 years of age (74.5%), which is followed by Chad (71.5), Bangladesh (66.62%), and Guinea (63.1%). India has the 14th highest rate of child marriage in the World. In 2021, the government of India has proposed to raise the minimum legal age from 18 to 21 years, at par with that of men. Most of the girls who become prey to child marriage belong to poor families or are below the poverty line. As per the studies, most of the girls who get married below 18 years of age are likely to get health issues especially pregnancy problems and death cases are also reported. Girls below 18 years are more likely to succumb at their childbirth than women in their 20s. Child brides often show signs typical of sexual exploitation, and post-traumatic stress such as feelings of hopelessness, helplessness and despair. Child marriage in India provides inescapable indications of widespread gender inequality and discrimination in women's journey to her adulthood.

KEYWORDS

Atrocity, child bride, despair, health issues, poverty.

INTRODUCTION

Child marriage is one of the blazing issues in Indian society. Despite the amended laws that advocate the minimum legal age for marriage of girls to be 18 years, a significant proportion of the population (almost 2 in every 5 girls) is married at the age group of 15- 19. In India,

¹ Student of KIIT School of Law

approximately, 1.5 million girls are married under 18 every year, making it the largest home for child brides in the World. According to the reports, Karnataka is the leading state in child marriage, followed by West Bengal, Tamil Nadu, and Telangana. According to Article 1 of the Convention on the Right of the Child, child marriage is defined as the marriage of a girl below 18 years of age. In simpler language, it is the marriage of a girl before attaining the age of majority. Consequentially, both the boys and girls are affected, girls being affected disproportionately as they become the victim of such a crime. These practices were related to customs and usage along with economic considerations. The prevalence of this practice in Hinduism is perhaps due to the sanction that the religion has provided, suggesting that the girls should be married before puberty, immediately after their first menstruation. The caste hierarchy also perpetuates this practice of child marriage. Caste is based on birth and inter-caste marriages were not allowed. To preserve the purity of their race, the family members would get their daughters married off to someone of their choice without considering their preference.

Since child marriage is in practice in India for ages, one would expect a lower average age of marriage, especially among females. Girls were married off even before they were physically developed and mentally matured enough to understand the sanctity of such a union. In most cases, boys and girls were excluded from the decisions that determined their lives. As soon as they attain the age of adolescence, girls specifically are deprived of their right to move freely and to take a decision regarding their education, work, and social relationships. They were forced to discontinue their education and were supposed to do all the household chores. In many communities, the young girls bring in a lump-sum amount of dowry. In such cases, it is not taken into consideration whether the man to whom she is getting married is double or triple her age. Such communities emphasize that women are deemed to be incapable to work or being educated. Also, there is a blind belief that women should reproduce at an early age as their fertility loses with ageing. Most families have a warm welcome to the boy child as they are considered to be the assets of their family. Girls are viewed as redundant except when they are married off and bring in dowry. In such communities, child marriage is a transaction, that signifies an economic activity for the family.

CONCEPTUALIZATION

The government of India has proposed to raise the minimum legal age of marriage for women from 18 to 21, for which the corresponding age of men is 21. To recognise a legal age for

women, the Child Marriage Amendment Bill (2021) has been submitted to the Lok Sabha in December 2021 by the Union Minister of Women and Child Development, Smriti Irani. According to this bill, the proposed minimum legal age of marriage shall prevail over all the personal laws, superseding the existing marriage regulating laws. This ensured the increase in the marriageable age of the women irrespective of their religion. However, this bill has been subjected to various criticisms from the opposition party and has been sent to a parliamentary panel for further evaluation. In 1978, the Indian Government has increased the minimum legal marital age from 15 to 18 for women and from 18 to 21 for men. The Government has manifested that the proposed bill aims to amend the Prohibition of Child Marriage Act 2006. It also incorporated amendments to the personal laws of various communities to attain uniformity in this regard. In 2008 the Law Commission proposed that the legal marital age for both men and women should be 18 years. This has been recommended by the United Nations General Assembly much before 1989. After many controversies over the disparity in the marital age of men and women, the Law Commission in 2018 suggested that the minimum legal marital age for men should be reduced to 18 from 21.

Elevating the minimum marital age of women, the Government states is a step toward attaining gender equity and justice. However, applying the marital age equally over all the communities sets the issue of the debate. The main concern is regarding the fact that law plays out among the poor and the marginalized groups of Indians. The Statement of Objects and Reasons in the Bill states: "In order to address the issues of women in a holistic manner, as a measure for empowerment of women, gender equality, increasing the female labour force participation, make them self-reliant and to enable them to take decisions themselves, the Bill, inter alia, proposes to- (i) amend the Prohibition of Child Marriage Act, 2006, to reinforce its application overriding all other existing laws, including any custom, usage or practice governing the parties in relation to marriage; (ii) bring women at par with men in terms of marriageable age; (iii) prohibit child marriage irrespective of any law, custom, usage or practice governing the parties; (iv) declare that provisions of the Act shall have overriding effect over every other law, custom, usage or practice governing the parties; (v) make consequential amendments to the other laws relating to marriage; and (vi) make the amendments effective, in relation to marriageable age, two years from the date the Bill receives in assent of the President, so as to provide sufficient opportunity to one and all in our collective efforts and inclusive growth, and to make effective other provisions immediately." Taking into consideration, the social, cultural, familial and sentimental issues relating to the

decision taken, Smriti Irani, has proposed this bill to be discussed in the Standing Committee. We are indeed lagging in providing equal matrimonial rights to men and women. In the 19th century, the girls were married off at the age of only 10 years. By 1940, this was raised to 14 years. Consequently, girls used to get married once they attained 15 years of age. Statistics show that between 2015- 2020, nearly 20 lakh child marriages could be stopped. However, almost 23% of girls are married before they could attain the minimum legal age, despite the practise being illegal.

Such a step to bring equity in gender has been subjected to criticism also. This decision has been remarked as a “hasty” decision by the opposition parties. Opposing the bill, the leaders warned the government against making mistakes by taking such hasty decisions and therefore this bill should be referred to the Standing Committee. Many others considered it to be a violation of Article 19 and Article 25 and the Indian Constitution and an attack on personal laws. It is very ironic to see that many women’s organizations across the World protested against increasing the legal age of marriage for women. Several organizations from Gujarat submitted memorandums in opposition to this bill. It has been observed that child marriages are constant in India despite a law barring the practice. The Covid-19 scenario has also worsened the condition. Thus, it is evident that the problem lies in the implementation of the laws. It is therefore argued that instead of legally increasing the age of marriage, the root cause of such a practise should be addressed to bring a reformative change in society.

SUMMARY OF RELEVANT LITERATURE

The government’s effort to raise the minimum legal marital age for women has been critically viewed by many opposition parties. According to some politicians, this decision has a political undertone, while others rejected the decision stating that it impinges on the autonomy of the women. Muslim leaders viewed this decision as a blow to the Muslim Personal Laws. The criticism of this is hard to ignore. Previously, many legal efforts in form of legislation, and amendments have been made to raise the marital age. Even after making the legal age to be 18years, studies show that the instances of child marriage remain constant. The Covid situation made the scenario even worse. Almost 23% of girls are married off under 18years of age. According to the Nation Family Health Survey, 7% of girls within the age group of 15-18 years became pregnant. Laws prohibiting child marriage below 18 years have been in force in India since 1900, yet the practice continues. In a survey, it was found that almost half of the women inthe age group 24-25 years were married off when they were

below 18 years of age. Taking such conditions into consideration, now, the question arises as to why the government took steps to further increase the marital age.

The Government of India said that such an attempt has been taken with an aim of holistic and healthy development of young women. Raising the minimum legal age of women to 18 years aims to prevent early pregnancy among young women and thereby protect their health. The government also tries to bring equality in the marital age of both men and women and consequently protect women's rights. Criticizing this point the opposition asked the Government whether they would be able to protect the rights of the women only by legislating laws without much technological and infrastructural support. The critiques have pointed out that the Government is reducing the fund for public health instead of increasing it, and then it wants to curb the rights of the women in the name of reproductive health. All India Majlis-e-Ittehadul Muslimeen (AIMIM) President Asaduddin Owaisi, suggested that both men and women should be given matrimonial rights at the age of 18 as they are legally considered to be adults at this age. He has also criticized the Government for its "paternalism". However, it should be kept in mind that making 21, the legal age of marriage for men provides them with the opportunity to be established and then think of setting up a family. Similarly, the increased age for the girls would also help the girls to complete their higher level of study and then think about a settlement. She would be exposed to a better world and this would help her decide her future. She would come to know about the legal measures and legal aid available in case they are forced to marry against her free will.

Proponents of increasing the marital age for women support the opinion that even now, many girls are forced to drop their studies for marriage and thus increased age would help them to pursue their studies. Another contention put forward is that pregnancies in the teenage may lead to high possibilities of blood pressure, anaemia, and complicated pregnancy issues, that may even cause death to the women. Thus, increasing the age will also help to reduce the maternal mortality rate and also increase the fertility rate. Early marriages also have a huge impact on the mental health of the girls. Therefore, raising the marital age may help in overcoming such possibilities. Despite such positive consequences, the oppositions argue that in the case of early marriages, the girls, especially those from a conservative, regressive, patriarchal family background, can escape from the clutches of their families by choosing to marry soon after attaining 18 years of age. The Government should focus on the flaws in the implementation of the existing laws instead of further increasing the age. Thus, such a bill

being passed in the Parliament has brought to the limelight the controversies regarding the age of marriage both for men and women.

OBJECTIVE OF STUDY

To identify the factors that influence child marriages in India and to analyze its implications in society. This study also aims to examine the legal measures against child marriages, their implementation, compliance and consequences in society.

METHODOLOGY

The qualitative research for this paper has been based on secondary data which has been collected from journals, websites, and online resources.

FINDINGS

With the decision of raising the legal minimum age of marriage for girls from 18 to 21, the Government will be bringing the age of marriage for both men and women to par. The law prescribes a minimum age essentially to outlaw the existing practice of child marriages and prevents child abuse. The Personal Laws of various communities deal with marriage according to various customs. The purpose of the recent legislation is to bring uniformity in the age of marriage irrespective of religion and community. According to the Hindu Marriage Act, the minimum age for marriage is 18 for girls and 21 for boys. According to Islamic laws, girls can be married off after they attain puberty. Thus, the bill proposes to amend such customs and establish a Uniform Civil Code for all communities. Due to differences in customs and practices, many criticisms have been made. This action of the Government is seen to have a communal connotation. Many non-governmental organizations and many women's organizations have also protested against this action of the Government.

The present Government of India has decided to re-examine the age of marriage, keeping in mind several issues like the Maternal Mortality Rate, Infant Mortality Rate, and even gender equality. Early marriages can bring dark consequences to young women like their mental problems, complicated pregnancies and other health issues. Such a stride would also help in women's empowerment as the girls would get opportunities to achieve higher education. According to a study, child marriages have reduced by nearly 4% in the last 5 years. The Government tries to further reduce such malpractice in India. In 2020, a special task force, Ministry for Women and Child Development was established to scrutinize the relationship between age of marriage and other women related issues like the physical as well as the

mental health, Maternal Mortality Rate, Infant Mortality Rate and so on. This committee also looked into the benefits of increasing the age of marriage and its impact on the health of the women as well as the child, along with the access of women to education. Over 15 Non-Governmental Organizations reached the remote areas to take into consideration the prevailing condition among the marginalized communities. They had taken the opinion of the youth from all religions belonging to the urban as well as the rural areas. The committee came up with the timeline, of when the Government should implement such policies along with the amendments that were required in the existing laws. Along with this, the committee suggested the Government to have a look into increasing access to education among the women.

The committee recommended that women's access to schools, colleges and transportation to these institutions should be increased and also suggested promoting sex education at the school level. Unless these prerequisites are achieved, the law would not be effective. It has been recommended that the new law would likely be implemented from 2023 and all these years should be used to generate awareness campaigns on a large scale to educate the people about its benefits and to encourage social acceptance of the new legislation. However, this decision has been opposed by an activist and of course other political parties. They think that such a law may increase the number of illegal marriages in India. They contend that despite 18 years being the legal age of marriage for girls, there are several child marriages taking place and no considerable reduction in its numbers has been noticed due to the existing laws. Therefore, the Government should concentrate to generate for opportunities of education and employment for girls, which may improve the miserable condition existing in our country.

SUGGESTIONS

According to the Law of Manu, "where women are honoured, there the Gods are pleased; but where they are not, nor sacred rites yield rewards". Elimination of child marriage should be regarded as a stride toward the empowerment and admiration of women. To achieve the desired goals of the new law, the deep-rooted causes should be eradicated and then the new law should be implemented. The existing traditions should be challenged and the communities, families and specific parents should be wellaware of the negative consequences of early marriage. A strong supportive network consisting of religious leaders should be created to empower the girls to consult with their parents. Community networks and partnerships involving the girls club, NGOs, women and youth groups, and local government

officials should work together to end the practice of child marriage. Girls should be provided scholarships, and a strong support system to attend school and the teachers should be encouraged to support girls. Professional women must communicate with the young girls and act as a source of inspiration. The ultimate aim of all efforts should be at changing the gender-biased attitudes of the parents and the society by imparting education and eradicating poverty simultaneously. Focused programmes and budgetary allocations are necessary to ensure that the girls, even in the marginalized areas can receive basic education. Infrastructure for easy access to education and health care imposes a huge financial burden on the Government, which the Government should handle successfully. Otherwise, this may open the ground for criticism that the Government has paid only lip service to the cause of women's empowerment by increasing the marital age.

CONCLUSION

The risks of child marriage are not only confined to the child who is married at an early age but also the child who is born to her as a result of early pregnancy. Girls belonging to socioeconomically backward families are forced to enter into marital relationships. So providing education to them can be the only possible way to increase the age of marriage. The solution to the problems that the Government aim to resolve lies in enhancing education, making people aware of the importance of education, and sensitizing the youth of both genders to the essence of financial stability and the dangers of teenage pregnancy. The law prescribes a minimum age of marriage to essentially outlaw child marriages and prevents the abuse of minors. The initiative of “Beti Bachao, Beti Padhao” has been much appreciated. Apart from the Prohibition of Child Marriage Act, the International Centre for Research of Women initiated the programme, “Apni Beti, Apni Dhan” which means Our Daughters, Our Wealth, in 1994, to study the consequences of child marriage. This was the first effort taken to do away with the practice of child marriage. Under this programme, the mother of a girl child received a sum of Rs. 500 to meet the post-delivery expenses.

In a reply to all the criticisms, Prime Minister Modi stated that “The government is constantly concerned about the health of daughters and sisters and to save the daughters from malnutrition, they must be married at the right age”. According to the Government, this stride will not only increase women’s access to education and empower them but also reduce the Maternal Mortality Rate as well as the Infant Mortality Rate. It is noteworthy that the new law would be unfolding within a society which is deep-seated in patriarchy. The problem of

child marriage has its foundation in the complex matrix of traditions, customs and prejudices. Nevertheless, child marriage is a gross violation of human rights, which leaves physical, and psychological scars for the entire life of the girls. Sexual activities are forced soon after marriage which leads to pregnancy at a very early age. Moreover, those who get married at an early age are more likely to face domestic violence that remains unreported. Hence, to bring progress to society, the Government should also look into the matter that these laws are well-implemented and well-accepted in society so that the laws do not lose their effectiveness as before.

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