
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

RAISING THE LEGAL AGE FOR WOMEN: PROHIBITION OF CHILD MARRIAGE (AMENDMENT) BILL 2021- Jayashre E¹**ABSTRACT**

The Indian Prime Minister Honorable Sri Narendra Modi announced the revision of the marital age for women under the Prohibition of Child Marriage (Amendment) Bill 2021. This bill increases the marital age of women from 18 to 21 on par with the marital age of men. This paper presents the following: 1. the history of the legal age for both men and women, 2. the background of the bill, 3. the pros and cons of the bill, and 4. if the bill has to be successfully implemented, what are the necessary measures to be taken along with them. The sources for this study are newspapers, articles, websites, and surveys. The analysis reveals both pros and cons attached to the law. For successful implementation of the bill, accompanied financial and economic support is necessary. Support for women's higher education is also required to empower them, which is the bill's sole purpose. The study suggests that the bill can succeed when some pre-conditions are attached.

Keywords: Prohibition of Child Marriage, Legal Age, Implementation, Empower, Educate, Pre-conditions.

HISTORY AND BACKGROUND

According to UNICEF, in India, an alarming rate of 1.5 million girls get married before 18, making it the largest country with child brides. 16% of adolescent girls aged between 15 to 19

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are currently married. Though it has decreased in recent years, it is still relatively high². The Child Marriage Restraint Act in 1929 set the legal age as 14 for girls and 18 for boys. This act was amended twice. In 1949 the legal age was changed to 15 for girls but retained at 18 for boys. In 1978 the legal age was increased to 18 for women and 21 for men³. Also, the Special Marriage Act of 1954 and The Prohibition of Child Marriage Act of 2006 prescribed the same age. The minimum age for marriage was established to prevent child marriages and the exploitation of minors. Also, the minimum age for marriage is defined differently for various religions. The Hindu Marriage Act of 1955 aligns with the acts mentioned above. However, it is legal for people following Islam to get married as soon as they attain puberty⁴.

On December 21st, 2021, the Government of India recommended revising the legal age for marriage from 18 to 21 for women. The government suggested forming a committee under the Union Ministry for Women and Child Development to draft the proposed bill. This committee was headed by Smt. Jaya Jaitley, Former President of Samata Party, Dr. V. K. Paul, Member of Niti Ayog, and Secretaries of several other departments. The committee's task was to look into the implications of raising the age, suggest a schedule for the government to adopt the new policy and the required changes that needed to be bought in the current legislation. The committee, after thorough deliberations, recommended raising the legal age for marriage for women. They also advised the government to provide necessary facilities for their education⁵.

PROS

The Bill of Prohibition of Child Marriage Amendment Bill of 2021, if bought into existence, will also seek to amend the following personal laws to bring uniformity in the age of marriage:

- Indian Christian Marriage Act of 1872,
- Parsi Marriage and Divorce Act of 1936,

²Ending child marriage and adolescent empowerment, available at: <https://www.unicef.org/india/what-we-do/end-child-marriage#:~:text=Estimates%20suggest%20that%20each%20year,15%2D19%20are%20currently%20married.> (Last visited on 4th March 14, 2022)

³The history of legal marriage age for women in India, available at: <https://www.siasat.com/history-of-legal-marriage-age-for-women-in-india-2242449/> (last visited on 4th March 14, 2022)

⁴Esha Roy, "Raising legal age of marriage for women: the law, the reasons and the criticisms" *The Indian Express*, Dec. 16, 2021.

⁵*id*

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- Special Marriages Act of 1954,
- Foreign Marriage Act of 1969,
- Hindu Marriages Act of 1955 and
- Muslim Personal Law Application act of 1937 (Sharia)⁶

One of the main reasons for introducing this policy is to reduce the number of girls dropping out of school due to early marriage and help women pursue their higher education and increase their job opportunities. In the 21st century, there are many forms of discrimination against women in society. A different legal age for men and women is considered discrimination against women. This policy can be viewed as an effort to bring equality among the genders by fixing the legal marital age as 21, which reduces child marriages. Also, the government is willing to implement this bill to all sections of society irrespective of religion. That is why there would be amendments in the personal laws and the implication of this policy. This policy also aims to protect young girls from early pregnancies, which are harmful to their health. Smt. Smriti Irani, Minister of Women and Child Development of India, mentioned that 23% of women get married before 18 even though there is a law preventing child marriages. In addition, according to National Family Health Survey (NFHS) revealed that 7% of women between 15 to 18 years were pregnant, which is harmful to their health.⁷ There is also an increase in chances for high infant mortality and maternal mortality since early pregnancies arise due to the low minimum age of marriage. Therefore, increasing the minimum age of marriage can enable women to get pregnant when they are physically and mentally fit, thus reducing infant mortality and maternal mortality.⁸ This delay also spreads awareness regarding contraception, Sexually Transmitted Diseases (STDs), the responsibility that comes with child-rearing, and the change in family dynamics. Increasing the age helps the women make these decisions correctly as they are psychologically more mature and understand as they grow.

CONS

⁶Ambika Pandit, "Bill to up girls' marriage age in Lok Sabha, to be sent to Parliament committee." The Times of India, Dec. 22, 2021

⁷*id*

⁸Roy, *supra*, 2.

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The downsides of the policy as expressed by the critics include an argument that a similar act was initiated for the welfare of women- The Child Marriage Restraint Act, 1929- which was later amended into the Prohibition of Child Marriage Act in 2006. They pointed out that this act did little to no help eradicating child marriage, which is still intensely practiced in rural India and a considerable amount in other parts too⁹. Also, a similar policy was proposed in 2008, which aimed to bring down the legal marital age of both men and women to 18.¹⁰ Moreover, child marriage has only aggravated during this period of the COVID 19 pandemic. It can be understood that this can only be controlled with the proper implementation of the existing laws. It can also be observed that it is essential that society changes its mindset and attitude more than legislation. One way is by spreading awareness by educating the girls and their families, especially those belonging to the weaker sections of the society, as they are more vulnerable to the child or forced marriages. It is advised that providing education and financial help will automatically raise the marital age for women¹¹. Some experts have also stated that increasing the age will lead to an increase in the number of illegal marriages being conducted and condemn weaker sections such as scheduled caste and tribes as lawbreakers¹².

SUGGESTIONS

The author's opinion is that this act of increasing the marital age for women can be implemented with some measures so that it does not fail like the Child Marriage Restraint Act of 1929 and the amendment of the same act, which was the Prohibition of Child Marriage Act of 2006. The additional measures can include educational and economic assistance to the girls, especially to the weaker sections like scheduled castes and scheduled tribes, as generally girl children are seen as a burden and marry them off early to get rid of it. Therefore, providing them with scholarships, reservations and higher education can extend the age of marriage. Along with the

⁹Minimum legal age of marriage for women being raised to 21 years: pros and cons, available at <https://www.theleaflet.in/minimum-legal-age-of-marriage-for-women-being-raised-to-21-years-pros-and-cons/#:~:text=THE%20government%20of%20India,Lok%20Sabha%20on%20December%2021>. (Last visited on 5th March 14, 2022)

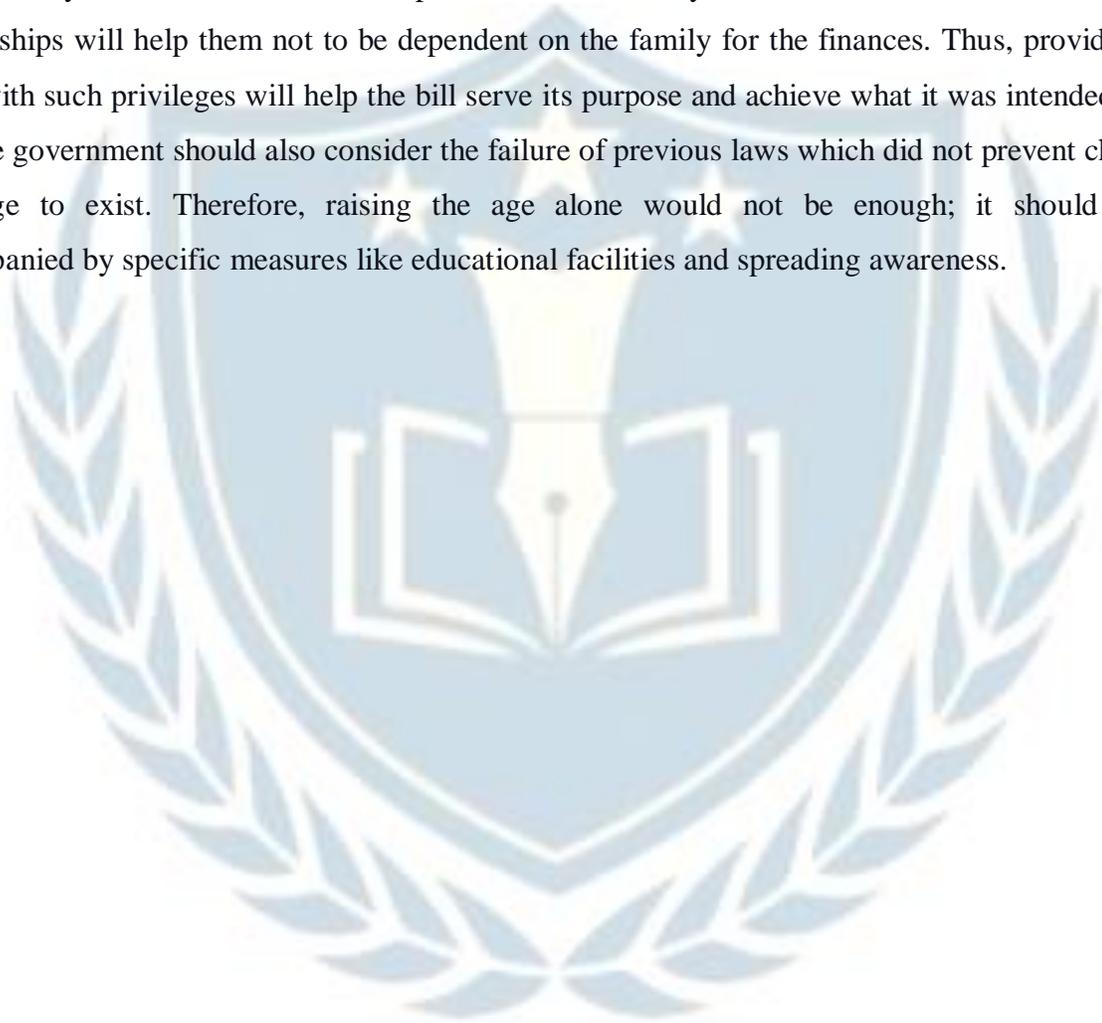
¹⁰India Proposes to Raise Legal Marriage Age for Women, available at <https://thediplomat.com/2021/12/india-proposes-to-raise-legal-marriage-age-for-women/#:~:text=On%20December%2016%2C%20the%20Narendra,2006%2C%20was%20introduced%20in%20Parliament>. (Last visited on 5th March 14, 2022)

¹¹*supra*, 8

¹²Roy *supra*, 2

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establishment of the bill, the government should also take other barriers present in the society such as dowry, poverty and a mentality among the people of receiving education until the girl reaches the age for marriage. These measures are necessary to be taken along with the implementation of the law since sometimes the financially weaker section of the society would not be able to provide them with education and in case if there is a boy present in the family then automatically the education will be presented to the boy. With these situations in mind scholarships will help them not to be dependent on the family for the finances. Thus, providing them with such privileges will help the bill serve its purpose and achieve what it was intended to do. The government should also consider the failure of previous laws which did not prevent child marriage to exist. Therefore, raising the age alone would not be enough; it should be accompanied by specific measures like educational facilities and spreading awareness.



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