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# Legal Age for Marriage in India

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## ABSTRACT

*Most of the times married girls lack the ability to negotiate freely about the sexual activity, contraceptive uses, birth spacing with their husbands sometimes about using protections also. A woman's forced silence on issues pertaining to childrearing affects the lives of her children before they are even born, because of her lack of voice and agency in reproductive decisions, including the timing, spacing, and number of children. The impacts carry through her children's upbringing and into their adult lives, family formation, and the generation they, in turn, raise. In this way child marriage reinforces inequitable gender norms among the next generation, which can result in reduced community investments in social services and programs that might increase her children's chances of success in the future. In addition to the individual and intergenerational effects of reduced voice and agency, constraining women's and girls' voice and agency contributes to losses in productivity and has long-term effects for development goals. The lack of voice and agency in household decision-making and civic participation that typically accompanies child marriage also limits girls' input into community and national decision-making. Research suggests that women's greater involvement in political decision-making increases the likelihood of greater investment in social services, including those directly related to economic growth, such as education*

A marriage is a sacred union between two people but in a country like India most of the time the union is between families first. We can also say that Marriage has always been a parental control tool to punish girls who try to live their life the way they want, if girls don't listen to their parents or fails to do something or does something which will bring shame to her parents (in the eyes of society) then they will get threats of getting married to any boy even if they don't want to be married to that boy. Almost every girl is being hammered by her parents by the thought that daughters have only one soul goal in life and that is to get married and get settled and give birth within a year and live upto others' expectations. In arrange marriage a girl should have all the rights to say yes or no to the man she'll get married to, her parents should ask if she wants to get married to that boy or not before things even start but most of the times girls are just told to do what others will tell them to do. Parents should ask the girl

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cause they are not the one who have to spend the rest of her life with one person, they are not the one who will leave their home where they grew up and go to another person home with all new responsibilities, she is the one who will leave her house, she's the one who will sacrifice almost everything just for the sake of others and the traditions. If time comes she's the one who will even forget who she's anymore, what she wants. This is 21st century its high time people really need to understand that both the genders can also take care of themselves and their parents only if they are given some time to have some experience in their life. Girls are not burden to get rid of as soon as possible they are blessing, a blessing which can make them proud one day, love them and respect them till the end. In 1978 an Amendment was made in SARDA ACT in this act the age groups were as 18 for women and 21 for male. In 2006 Prohibition of Child Marriage Act was enacted according to that child marriage is cognizable and non-bailable offence and it punishes parents of the minor and the priest who solemnised such union. In 2017, the Karnataka Government passed the Prohibition of Child Marriage (Karnataka Amendment) Act 2016, declaring all marriages between minors Void 'ab initio' (starting from the beginning), but in 2019, the print reported that the WOMEN AND CHILD DEPARTMENT ministry was exploring a proposal to standardise the minimum age of marriage as 18 years for both male and female under Prohibition of Child Marriage Act, 2016. But 18 is an age where both girls and boys are just teenage kids who are supposed to enjoy, make memories, have good quality education in life it's just an age where they are confused most of the time before taking even small decisions. We all know girls get matured early as compared to boys and it's completely fine if they get matured early, but it doesn't mean that they should be asked or forced to leave everything behind and get married because every girl has her own dreams to fulfil rather than getting married at such a young age. Some needs time to understand the responsibilities. They don't even have any idea about what they want or how to take stand for whatever they want and that's why most of them just simply agrees to what others say and when they get mature and starts to understand how things works the most of the time it's too late cause they use to just listen to others or others are used to having them follow their orders and then they have to listen otherwise it'll lead to abuse, violence and not everyone know how to take stand or fight for something cause CHILD MARRIAGE RESTRICTION ACT is not well known among girls/women in our country specially the ones from rural areas most of them are just taught to keep quiet or to follow what's being told. In most of the cases girls are forced by the family member to stop getting education after having 10+2 and get married according to the NHFC, study there are almost 59%-60% of the marriage women from the age group of 15-20 years are illiterate cause majority of the girls are willingly or forcefully

dropped out of the school till they reach class 10<sup>th</sup> not every girl wants to leave education and get married some girls beg their family to let them get proper education but not everyone listens or agrees or support them. Back in 1960's people use to get married younger and it use to work out because very less was expected from women back at that time as they were just allowed to do house hold works and adjust to her husband's wishes and his family. As they use to get married at 18 they hardly use to get education like 10+ 2 and were just expected to be house wives and as it was male dominating society women were not even allowed to earn so they had no other choice than being dependent on their husband and keep compromising and silently go through violence and suffer depression and what not. Back then even if the marriage is not going as it was expected and just having problems in it and making both the spouse unhappy still most of them use to continue with their marriage cause of kids, society and most important because they were dependent on each other not all girls are financially stable or have strong financial background and that's the main reason why their parents force them to get married as soon as possible. But from last few years since women are standing for their rights and freedom, marriage is coming with much higher expectations. Few years back according to old people marriage was the way for a person to grow up, but now marriage is only going to work if both the individuals are grownups. Both male and Female are allowed to live their life, enjoy it, if they have created any mess then clear it and learns from the mistakes they made before they get married. They should be allowed to get good, quality education so that one day they can stand on their feet and be self-dependent so that they won't get to beg to anyone for anything they want and also they will get chance for their personal development, and we all know there are many reasons for a marriage to break but compatibility is one of them not all 18 years old girls are compatible physically or mentally to fulfil hers or the needs of her partner. Child marriage is a violence against children and it takes away their rights to health, right to education, etc. Children marrying at early age can face growing problems related to violence and abuse. Most of them even experience trauma, depression, toxic stress and adverse childhood experience. According to Adverse Childhood Experience Study, a major American epidemiological research paper "A powerful relationship has been established between maltreatment and violence in childhood and adverse health issues in adult life. Underage marriage puts children at risk of long-term adverse health effects that may not manifest until adulthood. Medically speaking child marriage comes with some major health complications for teenage mothers and their children. They are at the risk of reproductive health challenges, damaged mental health, malnutrition, and also exposure to STD (Sexually Transmitted Diseases). The children of underage mother are mostly at the risk of prematurity, growth

retardation, etc.” according to the NFHS study the data indicates that 11.08% of the girls are married at the age of 13 years, 26.01% by 15 years, 54.2% by 18 years and 71.4% by the age of 20 years. In villages child marriage is way to common but usually no one use the law to formally prosecute as the repercussion at the village level are very sever for those who try to – stop it or takes action against it. The same happened with **BHANWARI DEVI’S CASE** – Bhanwari Devi an illiterate, lower caste women from Western states of Rajasthan, she was raped in front of her husband by some higher caste neighbours who were Gujjars on 22nd September 1992 at that time she was 56 years old. One day she and her husband were working in their field when some 5 people entered in their field and started to beat her husband and the moment she tried to help him and started beg for some mercy and leave her husband the two of them were holding him and the other three turned and they rape her in front of him, all this happened because she tried to stop the wedding of a 9 years old Gujjar girl. She did it because she was also a child bride herself and she knew how her childhood was taken away cause of all the responsibilities. And also, even today Rajasthan still have this tradition of child marriage even after all the laws against it and strict punishments. Many women worker in Rajasthan worked so hard for years to help and give justice to Bhanwari Devi.

In the judgment of **Ravi Kumar v. The State and Anr. and Phoola Devi v. The State and Ors. (supra)**, we followed the existing legal position as noted in the preceding paras as the marriages solemnized in contravention of the age prescribed under section 5(iii) of the Hindu Marriage Act i.e., 21 years for male and 18 years for female were neither void nor voidable under sections 11 and 12 of the Hindu Marriage Act. Such under age marriages were only punishable under Section 18 of the Hindu Marriage Act with imprisonment of 15 days and a fine of Rs. 1000/- as also under the provisions of Child Marriage Restraint Act.

There are many case studies showing that child marriage really never turned out good for any girl **CASE STUDY 2**- This case study is about a 20 years old Mrs. Sumantha when she was a kid she was told that her life will be all settled and all she will have to do is the household works. Every sing day from the moment she wakes up till the moment she sleeps she is busy doing house works, looking after her kids and other family member, cooking, cleaning, washing and after those goes to field there she performs harvesting, cultivating, etc. she keeps on doing this every morning, every night. She shared that girl like her have a short childhood the moment they can lift a pot of water on their head their fun is over right there it’s the end of their childhood and are forced to get married after that. She also shared that she is totally against the male dominant society and also said that male have fewer household responsibilities and also do light work in fields still they are always appreciated and no one even recognizes what

women do even if they are not paid and do remarkable work they are still invisible. In general there are 54% of the women still out there who are in the age group of 20-24 and get married early unfortunately this percent is higher in rural areas by 63% than in urban areas by 33%.

In 2020 the Finance Minister of India Nirmala Sitharaman during her budget speech 2020-21, announced to revise the legal age of marriage for women from 18 years to 21 years. Even the task force said that the age of women at the time of her first child birth should be 21 years also the report says that delay in marriage has positive impact on economic, social, and health effects for women and society. The author also thinks that the marriage age of women should be 21 and 24 for male. The four years age gap is necessary because study says that 4-5 years age gap provides the most stable relationship. Girls' marriage age is less than males because after a certain age, women tend to have a higher level of emotional maturity. They even get a wider range of experience till then to evaluate a potential mate. They get more independent, less clingy, and emotionally resilient. They will get time to enjoy, make memories, make mistakes, to fall, to get up, to learn which is also important in everyone's life.

According to Marriage Counsellors "Marriage is not rosy when there is no financial maturity. It becomes destructive when there is no spiritual maturity, unless when there is no physical maturity and direct source of sin when there is no emotional maturity"

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