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Supporting Child Marriage is nothing but Supporting Child Abuse

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ABSTRACT

Child marriage is the practise of marriage with a young child. In the earlier time child marriage is a worldwide issue. It has spread throughout India. It is not only a serious violation of human rights under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, but it also inhibits progress towards developmental goals. Child marriage also means the end of their childhood. It has a harmful impact on children's rights such as an education, health, protection and also their future. These effects affect not just the girl but also her family and community. Significant progress in the reduction of child marriages has contributed significantly to the global drop in the prevalence of the practise. The drop might be attributed to a variety of causes, including higher maternal literacy, improved access to education for girls, stringent regulation, and migration from rural to urban regions. To increase the girl's education rates government take an aggressive step.

Though Child marriage is strictly forbidden in our society but in some rural place it will be happened on the presence of her parents and relatives. The Prohibition of Child Marriage Act of 2006 contains enabling provisions that will make child marriage unlawful, safeguard victims' rights, and get stiffen punishments for anyone who help, abet, promote, or solemnise such marriages. there are many laws regarding child marriage in our society but firstly take a suitable step by those families who have girl child and they should send their girls to schools to take education. According to the legislation male must be 21 years old and woman must be 18 years old to marry. Any marriage between two people under these years is considered child marriage, which is illegal and punishable by law.

Keywords: Prohibition, Child Marriage, Women, Literacy, UNICEF.

I. INTRODUCTION

Child marriage is the practice of marrying a young child, usually a girl under the age of 18, to an older man or boy. Child marriage is a global problem that has spread throughout India. Child

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marriage is not only a significant violation of human rights under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, but it also impedes progress towards developmental goals. Child marriage is also associated with lower educational attainment for females, limiting their employment opportunities, economic stability, and productive capability in society. Child marriage is still a widely ignored violation of girls' and young women's health and development rights. Governments are frequently unable to execute existing standards or resolve gaps between national marriage age legislation and established customary and religious practices. This is due to the government's endorsement of cultural, sociological, and customary norms that shape and manage marriage and family life.³

The marriage of children is known as child marriage. Sometimes a marriage between a minor boy and a minor girl is celebrated, while other times an adult contract a marriage with a young girl. These are both child marriages. It is legally defined as a marriage in which one of the contractual parties has a kid. It is a socially established tradition passed down from generation to generation, with the blessings of religion in particular. Even if the globe is evolving at a rapid pace, many areas seem to be falling behind, and child marriage remains a regular practice in many parts of the world. The country with the highest absolute number of child marriages is India and it is estimated that one-third of all child brides live in India.⁴

Child marriage is one of the most often addressed topics by the CRC and CEDAW Committees in consultation with States parties and in Concluding Observations. Both the CRC and CEDAW Committees have emphasised the two Conventions' complementary and mutually reinforcing aspects. The appeal for gender equality applies to all ages, including the girl child. While the CRC does not expressly ban child marriage, interpreting the CRC in light of the CEDAW gives a compelling reason to end early marriage. UNICEF and UNFPA have announced the UNFPA/UNICEF Global Programme to Accelerate Action to stop Child Marriage, a multi-country initiative to speed up efforts to stop child marriage.⁵

II. MEANING AND DEFINITION

According to the principles of the Convention on the Rights of the Child (CRC), a 'Child' is someone who has not reached the age of eighteen, as defined in Section 2 (k) of the Juvenile

³ DR. G.B. Reddy's, *Women & The Law including Law Relating to Children* (Lex Worth, Gogia Law Publication, 10th ed., 2021).

⁴ UNFPA – UNICEF Global Programme to End Child Marriage, Country Profile India, 2020, *available at*: <https://www.unicef.org/media/111381/file/Child-marriage-country-profile-India-2021.pdf> (Last Modified January 29,2024).

⁵ UNFPA, New Multi-country Initiative will Protect Millions of Girls from Child Marriage – UNICEF/UNFPA (Last visited on January 30,2024).

Justice (Care and Protection of Children) Act, 2000.

A 'Child' is defined as someone under the age of 14 under Section 2 (ii) of The Child Labour (Prohibition and Regulation) Act, 1986.

The Child Marriage Restraint Act, 1929, Section 2 (a), stated that a 'Child' is defined as a person who has not reached the age of twenty-one for a man and eighteen for a female.

In Section 2 (a) of The Immoral Traffic (Prevention) Act, 1956, the term "Child" refers to anybody under the age of sixteen.

According to the Motor Transport Workers Act of 1961, a "child" is someone who has not reached the age of fifteen.

According to the Beedi and Cigar Workers (Conditions of Employment) Act 1966, a 'Child' is defined as someone under the age of fourteen.

The Child Marriage Prohibition Act of 2006, A child is defined as a person who has not reached the age of twenty-one for a man and eighteen for a female.

According to the Juvenile Justice (Care and Protection of Children) Act of 2015, a 'Child' is a person who has not reached the age of eighteen.

A 'Child' is defined in international law as a human being under the age of 18 years, and this is a globally accepted definition of a child, as recognised by the United Nations Convention on the Rights of the Child (UNCRC). Different age groups in India are defined differently, generating misunderstanding.

III. REASONS FOR CHILD MARRIAGE IN INDIA

- Patriarchal ideals: The key reason for early marriage is a strong desire to keep a girl's virginity in order to preserve the family's dignity. The most valued possessions of a girl are her virginity and chastity. Because of the high importance put on virginity, society has devised a number of methods and preventive measures to safeguard girls from potential sexual assault, such as early marriage and social isolation.
- Regressive customs and religious norms: Governments are usually unable to execute existing legislation or rectify conflicts between national law and engrained traditions and religious norms regarding marriage age. The basis for this is the governmental endorsement of cultural, social, and customary norms that shape and drive the institution of marriage and family life. Due to the cultural shame attached to marriage

beyond puberty, girls are married off before they reach puberty in certain Indian communities where child marriage is frequent.

- **Marriage's growing cost:** Due to the rising prices of wedding ceremonies and accompanying dowry payments, many families are obliged to marry their daughters off early in order to save money.
- **Poverty:** Because poor families struggle to provide for everyone in the home, they would like to 'send-off' their daughter to another family as soon as feasible.
- **Disparities in caste:** Encouraged by the landed castes, the oppressed classes and castes emulate this feudal social norm since it provides them with low-cost family work. As a result, preserving this structure benefits the dominant classes.
- **Lack of education:** Inadequate educational opportunities for females, particularly in rural areas, enhance a girl child's vulnerability to early marriage. Girls' capacity to refuse marriage and seek alternative goals is also hampered by a lack of education.
- **The Prohibition of Child Marriage Act:** This Act provides a loophole that allows child marriages to continue when the girl reaches the age of 18, even if they are not illegal. In many cases, authorities do not take action against those responsible for marrying off children since there is a window of opportunity for the girl's permission.
- **False birth certificates:** False birth certificates are routinely produced through manipulation. Furthermore, panchayats might play a dubious role in child marriage by issuing Panchamas with fake birth dates.

IV. CONSEQUENCES OF CHILD MARRIAGE

(A) Violation of Rights of the Child

The Convention on the Rights of the Child is intended to protect specific individual rights that early marriage denies. The following rights are undermined or lost when children are forced to marry young: the right to an education, the right to be protected from physical and mental violence, injury, or abuse, including sexual abuse, rape, and sexual exploitation, the right to the highest attainable standard of health, the right to rest and leisure, the right to freely participate in cultural life, the right not to be separated from parents against the child's will, the right to protection against all forms of violence, and the right to protection against all forms of violence.⁶

⁶ "Unicef India - UNICEF", available at: http://www.unicef.org/india/Child_Marriage_handbook.pdf (Last

(B) Premature Pregnancy

The majority of young brides lack awareness about and access to contraception and reproductive health care. They are subjected to early and repeated sexual encounters, as well as many pregnancies and births, before they are physically and psychologically mature.⁷

(C) Maternal Mortality

Girls under the age of 15 are five times more likely than tiny elderly women to die during childbirth or pregnancy. Pregnancy-related fatalities are the top cause of death for girls aged 15 to 19, and girls aged 15 to 19 are five times more likely to die than those over 20.⁸

(D) Infant Mortality

Babies born to women under the age of 20 have a nearly 75% greater mortality risk than infants born to older mothers. Children who survive are more likely to be preterm, have a low birth weight, and are more vulnerable to HIV/AIDS transmission.⁹

(E) Health Problems

Premature delivery can cause a number of health issues for moms, including vaginal rips, fistula, and overall health degradation. Girls who have fistulas are frequently abandoned by their spouses and shunned by society. There are around 2 million girls living with fistula, with 100,000 new cases added each year.

(F) STD/STI

Married females are more prone than unmarried girls to get sexually transmitted diseases such as HIV/AIDS. Young girls are more physically vulnerable to STIs, have less access to reproductive information and health services, and are sometimes unable to demand the use of contraception.

(G) Illiteracy

Child brides are frequently yanked out of school and refused further education. Their offspring are likewise more likely to be illiterate. According to human rights studies, the most significant barriers to girls' education, as mentioned in numerous official submissions to human rights monitoring authorities, are child marriage, pregnancy, and domestic responsibilities.

visited on January 31, 2024).

⁷ 'Child Marriage and Its Consequences' by Ajit Kumar Singh & Nomita P. Kumar, published by Mittal publication

⁸ *Ibid* 6

⁹ *Ibid* 6

(H) Abuse and Violence

Child brides are more likely to face spousal abuse and violence than their peers who marry later, and they are less likely to report this abuse. Girls who marry young are also more prone to feel that a guy is justified in abusing his wife and that it is his right.

(I) Teen Widows

In a society that tolerates child weddings, it is not unusual to discover widows and divorcees before the age of eighteen.

(J) Mental Health

Violence and abuse can result in post-traumatic stress disorder and despair.

(K) Isolation and Abandonment

Child brides are frequently segregated from their classmates and abandoned if they acquire health concerns such as fistula.

V. CHILD MARRIAGE PROHIBITION OFFICER

According to section 16 of the current Act empowers the state government to employ Child Marriage Prohibition Officers to prevent child marriages. This is the legislature's preventative measure. This officer is charged with the following duties¹⁰:

- To prevent solemnisation of child marriages by taking such action as he may deem fit;
- To collect evidence for the effective prosecution of persons contravening the provisions of this Act;
- To advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages;
- To create awareness of the evil which results from child marriages;
- To sensitize the community on the issue of child marriages;
- To furnish such periodical returns and statistics as the State Government may direct; and
- To discharge such other functions and duties as may be assigned to him by the State Government.

¹⁰ Ministry of Women & Child Development, *available at*: <https://wcd.nic>cma2006.PDF> (Last Modified January 22,2024).

VI. RECENT DEVELOPMENTS

- The Prohibition of Child Marriage Act, 2006, superseded the Child Marriage Restraint Act, 1929, to prevent the solemnization of child weddings in India. However, child marriages continue to be common in the nation. According to research released by Australian Aid in partnership with the International Centre for Research on Women and the United Nations Population Fund (UNFPA), child marriages continue to be widespread in India at a rate of 50%. India is one of the most underdeveloped countries in terms of preventing child marriages. Rural India is in far worse shape than metropolitan India.

To address this issue, the legislature has drafted the Prohibition of Child Marriage (Amendment) Bill, 2021. The Bill intends to raise the minimum age of marriage for a female kid to 21 years, matching that of a male child. In addition, the Bill wants to extend the time restriction for declaring a marriage null and invalid. The current limitation period under Section 3(3) of the Act is two years after reaching the legal marriage age, which is 21 years for males and 18 years for females. The Bill proposes that this term be extended to five years.

The Bill's statement of purposes and reasons declares that the amendment is required to equalise the position of men and women, referencing Article 14 of the Indian Constitution. If passed, the Bill will also revise all personal laws to make the minimum age for marriage 21 for both men and women.¹¹

- The Rajasthan government enacted a new law on Friday, which the opposition claims would legalise child marriage. The Rajasthan Compulsory Registration of Marriages (Amendment) Bill, 2021 was passed by voice vote by CM Ashok Gehlot's administration to change a 2009 Act, despite the opposition staging a walkout from the legislature.

According to Rajasthan's new marriage statute, the bride and groom can file for marriage registration to the marriage registration officer in the place where they have been residing for more than 30 days. The marriage of a bridegroom under the age of 21 and a bride under the age of 18 might be registered by the parents or guardians within 30 days of the marriage, according to the bill.¹²

¹¹ Prohibition of Child Marriage (Amendment) Bill, 2021, *available at*: <https://blog.ipleaders.in/all-about-the-prohibition-of-child-marriage-act-in-india> (Last visited on January 13,2024).

¹² Rajasthan Register Marriage Bill Under Scrutiny, *available at*: [https:// timeofindia.indiatime.com](https://timeofindia.indiatime.com) (Last visited on January 14,2024).

- In a state-wide campaign against underage weddings, the Assam government has detained nearly 2,000 males. Chief Minister Himanta Biswa Sarma has stated that the police will charge anybody who has involved in child marriage in the recent seven years. According to the National Family Health Survey (NFHS), Assam has a high prevalence of maternal and newborn death, with child marriage being the leading reason.¹³

VII. JUDICIAL DECISIONS

Independent Thought v. Union of India,¹⁴ In this case, the Supreme Court examined the provisions of the Prohibition of Child Marriage Act of 2006, as well as Section 375 of the Indian Penal Code of 1860, and questioned the law's contradictions. Sexual intercourse between a man and his wife, if the wife is not under the age of 15, does not constitute rape, according to Exception II of Section 375 of the Indian Penal Code. On the other side, the Prohibition of Child Marriage Act of 2006 states that marriages in which the girl is under the age of 18 are voidable, and those who encourage such weddings face criminal charges. When these laws are read together, they produce a group of female minors aged 15 to 18 whose marriages are voidable but whose husbands are not accountable for the horrible crime of rape. According to the Supreme Court, the exception to Section 375 of the Indian Penal Code should be interpreted as follows: "Sexual intercourse or sexual acts by a man with his own wife, the wife not being under the age of 18 years, is not rape.

In the case of *Association For Social Justice v. Union of India*,¹⁵ the Delhi High Court stated that child marriage is a breach of children's human rights. It has an impact on the development of children, particularly young females, and leads to social isolation. Child marriage frequently results in early pregnancy, and children wedded at a young age receive limited schooling and occupational training. Little married girls are obliged to carry children and care for little children while they are still young. The Court recognised that, while young married males endure the negative consequences of child marriage, the degree of harm inflicted to young girls is higher than that given to boys, since child marriage creates an unbreakable cycle of gendered poverty and disease.

Lajja Devi v. State,¹⁶ In this case, Mrs. Lajja Devi wrote to the Hon'ble Chief Justice of the

¹³ State-wide crackdown on child marriages, available at: <https://www.drishtiiias.com/printpdf/state-wide-crackdown-on-child-marriage> (Last visited on January 04, 2024).

¹⁴ *Independent Thought v. Union of India* (2017) 10 SCC 800.

¹⁵ *Association For Social Justice v. Union of India*, W.P. (CRL) 535 of 2010.

¹⁶ *Lajja Devi v. State* (2012) Cri, LJ 3458.

Delhi High Court to tell him of the kidnapping of her young daughter, Ms. Meera. The High Court accepted the letter as a writ petition and began proceedings in the case. The Court determined that Meera was not abducted; rather, she escaped her parents in order to marry one Charan Singh. Meera stated under Section 164 of the Criminal Procedure Code of 1973 that she eloped against her parents' wishes and married Charan because her parents were forcing her to marry someone else. The question before the Delhi High Court was whether Charan and Meera's marriage would be invalid under the Hindu Marriage Act of 1955 since Meera was a minor at the time of the marriage. The Court examined the terms of the Prohibition of Child Marriage Act and determined that the Act would take precedence over personal laws, rendering a child marriage contracted by an underage girl voidable. The Court also ruled that while the Prohibition of Child Marriage Act of 2006 states that a child marriage is voidable, it cannot be declared void in any circumstance.

*T. Sivakumar v. The Inspector of Police, Thiruvallur*¹⁷, In this case, the Madras High Court considered whether an application under Section 3 of the Prohibition of Child Marriage Act, 2006, was required for the marriage to be declared voidable. The petitioner heavily relied on the decision of a division bench of the High Court of Madras in *G. Sravanan v. The Commissioner of Police*, which held that child marriage is neither void nor voidable, but rather a valid marriage in which the husband is free to seek custody of his wife. The High Court overruled the division bench's decision, holding that Section 3 of the Prohibition of Child Marriage Act shall be invoked and the marriage shall be voidable until the parties accept the marriage or seek annulment under the said provision, subject to the limitation period. Thus, an application under Section 3 is not required for child marriage to be voidable, as the provision affects it by virtue of the Act.

VIII. CONCLUSION

Child marriage is one of the most heinous traditions that have a negative impact on society. To prohibit child marriage, the Indian government has implemented a number of constitutional and legal initiatives. Partnerships between government and civil society are critical components of these initiatives, but there is much more that can be done. Under the Prohibition of Child Marriage Act of 2006, any marriage between minors is illegal and punished in India. As a result, child marriage is still common in India, with disastrous consequences for the lives and futures of young people. Today, a high proportion of females marry before reaching the age of 18. They violate their fundamental rights to health, nourishment, education, and freedom, and

¹⁷ *T. Sivakumar v. The Inspector of Police, Thiruvallur*, H.C.P. No. 907 of 2011.

subject them to various forms of violence and abuse. As a result, major measures by civil society and non-governmental organisations (NGOs) are required to end child marriage in India. If there is no reduction in child marriage, the global population of child brides would reach 1.2 billion girls by 2050, with disastrous consequences for children, families, and governments.

Finally, meticulous and methodical planning is critical for the prevention and elimination of child marriage. The primary goal should be to raise a future generation that is fully aware of the negative consequences of child marriage. Educational institutions can also contribute significantly to raising awareness. Every person should be aware of the damaging impacts of deep-rooted customs and the critical function of law in preventing them in order to play an effective part in eradicating them. The most effective method to accomplish this is to incorporate the subject into our educational system.
