



Strengthening Response to Violence Against Women and Girls

Handout: session – Prohibition of Child Marriage Act, 2006

***Handout Developed by
Ujwala kadrekar,
Adv High Court
UNFPA Consultant***

What is child marriage?

- Child/early marriage: any marriage where at least one of the parties is under 18 years of age.
- Forced marriage: a marriage in which one and/or both parties have not personally expressed their full and free consent to the union.
- Child marriage is considered to be a form of forced marriage given that one or both parties have not expressed full, free and informed consent.
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Reasons for Child Marriage:

Due to poverty, many poor parents wished to marry off their daughters at early years. Further, poor families also found it cheaper to conduct child marriages. Also, in some communities it is a tradition while illiteracy and social pressures are some of the reasons. Also for some parents for safety concerns like protecting them from abuse, controlling girls and women's sexuality is an influential factor, girl child is more fertile and reproductive, patriarchy and gender discrimination inadequate implementation of the Law are also some of the reasons

Implications of Child marriage:

Exploitation of child bride both mental and sexual, high dropout rates, face health issues like early pregnancies, miscarriage, anemia, sexual disease, isolation and depression. They are prone to domestic violence, higher infant mortality rate, low weight babies, premature birth, etc.

Rationale behind the Prohibition of Child Marriages Act, 2006

Child Marriage in India is a centuries old tradition. Census 2011 saw 15.3 million girls (20%) were married before they reached the age of 18 years. India ranks 4th among the eight South Asian countries in terms of Child marriage

prevalence. One in third of the world's child brides live in India while one in four young women were married before they turned 18. Some states having incidences of child marriage higher than national average are: Jharkhand, Uttar Pradesh, West Bengal, Madhya Pradesh, Andhra Pradesh and Karnataka. It is observed that child brides have larger families compared to women who marry latter and child marriage is less common among boys than girls.

The first step taken against child marriage in India was by introducing the Sarda Act or the Child Marriage Restraint Act in 1929. It fixed the age of marriage for girls at 14 years and boys at 18 years. This Act was repealed, and the Prohibition of Child Marriage Act 2006 was introduced, and it fixed the age of marriage for girls at 18 years and boys at 21 years.

This Act was enacted to prevent and prohibit for Child Marriage, protect and provide relief to the girl child, enhance punishment for those who abet, promote or solemnize such marriage and also made provisions for injunctions or stop child marriages. The **Child Marriage Prohibition Officer** appointed to implement the provisions of the Act.

Important definitions under the Prohibition of Child Marriage Act, 2006:

Child marriage is a marriage to which either of the contracting parties is a child. The Act defines 'Child' as a person who, if a male, has not completed 21 years of age and if a female, has not completed 18 years of age. The Contracting party (in relation to a marriage) means either of the parties whose marriage is or is about to be solemnised is a child. The Act treats child marriages as valid but voidable. In order to make the marriage voidable, the aggrieved contracting party can approach the court for annulling the marriage within two years of attaining majority, otherwise it will stand valid.

Who can file the complaint and where

- The contracting party (girl/boy) can petition the District Court to declare the marriage null and void within two years of reaching the legal age of consent – the girl can file a petition till she becomes 20 years of age and a boy till he turns 23 years of age.

- The petition to nullify the marriage can be made in court only by the girl or boy who was a child at the time of marriage.
- A guardian/friend along with the Child Marriage Prohibition Officer can file the annulment petition on behalf of the child if they are still minor.
- Trafficking, enticement of the child away from the guardian and use of force or deceit are valid legal grounds for nullifying marriage.

Powers of District Court and Rights of female Contracting parties

- The District Court while granting a decree of nullity, shall make an order directing both the parties to the marriage/ their parents to return the money, valuables, ornaments and other gifts received on the occasion of the marriage by them from the other side, or an amount equal to the value of such valuables.
- The court can order for the girl to be provided a safe home to reside in and an amount in lieu of maintenance from the time of the annulment of marriage till her remarriage.
- A child born out of a child marriage whether annulled or not, is considered legitimate and granted all the due rights to maintenance.

Powers of the Magistrates to pass Injunction Orders:

- On an application of CMPO or information through a complaint or from any person/ NGO, a JMFC or MM is satisfied that a child marriage has been arranged or is about to be solemnized, shall issue an injunction against any person including a member of an organisation or an association of persons prohibiting such marriage.
- The Court may also take suo motu cognizance on the basis of any reliable report or information.
- For the purposes of preventing solemnisation of mass child marriages on certain days such as Akshaya Trutiya, the District Magistrate shall be deemed to be the CMPO
- In the case of any urgency, the Court shall have the power to issue an interim injunction without giving any notice.

Who can be penalized under the Act:

- If the groom is over 21 years of age at the time of marriage, he will be treated as an offender and can be punished.
- The guardians/parents of the child, including any member of any organisation/association that associates with child marriage or is negligent about preventing it can be punished.
- Those performing, participating or abetting child marriage can be prosecuted. A woman, however, cannot be imprisoned under this Act.

- Offenders can be punished for up to two years imprisonment and/or a fine of up to Rs 1 lakh for violations.

Powers of the Child Marriage Prohibition Officers (CMPOs):

The government shall appoint CMPOs. Their duties will include the following:

- To prevent Child Marriage by initiating necessary action
- To collect evidence for effective prosecution
- To advise the locals not to indulge in promoting or helping or allowing solemnization of child marriage
- To create awareness of the evil of such child marriage
- To sensitize the community on the issue
- To furnish periodical returns and statistics
- Such other duties as assigned by government.