



# “Prevalence of Legislation on Child Marriages in India”

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## Abstract

In India, child marriage is not a recent development. However, the practice continues to flourish in economically underprivileged areas, particularly in those where early girl marriage is encouraged by cultural and customary practices and viewpoints. This project will provide a thorough breakdown of data on child marriage in India, including its prevalence, effects, and relevant legal provisions.

**Key Words: Frequency and Effects, Law and policy**

## Introduction

Child marriage refers to the marriage of a child younger than 18 years old, in accordance to Article 1 of the Convention on the Right of the Child. In simple terms, child marriage is the marriage of a person aged before majority. As a derivative interpretation of several international documents, it is a violation of human rights. Although both genders are impacted by child marriage, girls are disproportionately harmed because they make up the majority of the victims. Child marriage and child betrothal are frequently customs influenced by religious and cultural beliefs as well as many pertinent economic factors. Children, especially girls, are frequently married off in planned marriages before reaching puberty or even before, in order to provide the family with some financial support. It makes no difference that these girls may be too young to get married or that the guy she is married off to is easily twice, three times, or even four times her age—in many communities, a young girl brings in a lot of dowry. Significant economic activity for the family. In some Indian societies young girls are considered to be properties of their parents who can attain greater wealth and are married in early years.

## Child Marriage: Its Frequency and Effects in India

In India, child marriage still happens a lot more frequently in rural areas than in other parts of the nation. Poverty, illiteracy, the continuation of patriarchal interactions that promote and facilitate gender inequality, as well as cultural viewpoints that support the phenomenon's survival are typically the causes that foster it.

*Economically*, When a girl is born, her family is allowed to receive a sizable dowry that will be paid to them when she marries. Since they are perceived as additional mouths to feed and unemployed hands, girls are frequently seen as liabilities rather than assets in the families into which they are born. From an economic standpoint, poor families prefer child marriages in an effort to cut expenditures for the family and enable the family's economic power by making money accessible for food, health care, and even the education of the family's men.

From this standpoint, therefore, it is not wrong to conclude that girls are deemed chattels or property in the hands of their families as they are all set to be married off at the earliest. The younger a bride, the higher her “value”, as the chastity of a young bride remains preserved. In their pursuit to marry off the girls, education remains compromised – consequently culminating in the harsh reality that Indian girls without education are six times more likely to be married off early than those that have about ten years or more of education. There is also the prevailing threat that holds girls back from fighting the yoke of child marriage – honor killings. Girls that are married against their will are not allowed to fight back – for that would induce their families to kill them to preserve the “honor” of their family names and reputations.

Another major factor that contributes to the prevalence of child marriage is the declining sex-ratio. While many clinics have and do retain and ensure that the ban imposed on sex-selection and prenatal sex determination remains steadfast, the law is not enforced enough to combat unsafe abortions of the female and to deal with the abandonment of the girl child after birth. Owing to this, in rural parts of northern India, particularly in Rajasthan, the declining sex-ratio has allowed the festering of a practice known as where a daughter is exchanged for a daughter-in-law, irrespective of her age.

## Law and policy targeting Child Marriage in India

The Prohibition of Child Marriage Act was passed in 2006 following the high number of child marriages and disappointment of the already existing Child Marriage Restraint Act of 1929 to provide an adequate solution to this social menace.

The core provisions of the Prohibition of Child Marriage Act, 2006 are as follows:

- The legal age for marriage in India is eighteen for girls and twenty-one for boys, on the lines of what was mentioned in the Child Marriage Restraint Act of 1929.
- By Section 16, full-time “Child Marriage Prohibition Officers” are appointed in every state and are supposed to police instances of child marriage. These officers are vested with the authority to prevent child marriages, make documented reports of violations, charge offenders that can also include the child’s parents and even remove children from dangerous and potentially dangerous situations.
- Child marriages are not considered illegal but merely voidable. The grounds for the declaration as void are laid down in the act itself. This is done at the option of the child that has been married off – allowing her to declare her marriage void at anytime up to two years after reaching adulthood.
- The only exception where a child marriage can be declared as void even before the child reaches the age of 18, is when the child has been abducted, kidnapped, trafficked or been compelled to marry under force, deceit, coercion or misrepresentation.
- The legislation also penalizes the arrangement, performance or participation in child marriages. By Section 9, any man who is aged above eighteen who contracts for a child marriage is punishable by imprisonment of up to two years, or may be charged with a fine of up to one Lakh rupees, or both.
- By Section 10, these penalties are extended to anyone who performs, conducts, directs or abets a child marriage unless he can prove that he had reason to believe that the marriage was no child marriage.
- If the child herself contracts for a child marriage, under Section 11, any parent or guardian who actively supports the marriage or negligently fails to prevent it is punishable by way of imprisonment and or a fine. The same provision has a clause, namely section 11(2), which speaks of a rebuttable presumption that the child’s parent or guardian negligently failed to prevent the marriage.

Overall, it would be reasonable to infer that the law hasn't been as effective as is ideal given that it is quite segmented in its response to child marriage and its many forms and that there have been a great number of child marriages but very few of them have been reported. The few examples that have been documented have all resulted in criminal charges, and the majority of them involve the adult spouse or the minor's family.

In many instances where such cases are brought to fore, judges have ordered the minor or both spouses as the case may require, to seek counseling while they deliberate on the custody rights based on the best interests of the minor. As much as the legislation is centric to the interests of the minor, there are very few instances where the minors themselves in their capacity as the victims of child marriage, have successfully approached the court and filed for a declaration testifying to the effect that their marriage is void under the Prohibition of Child Marriages Act. Under the law, there are no legal exceptions to the prohibition on child marriages, nor for the rule imposing a minimum age for marriage.

## Conclusion

While regulations and a state of economic deprivation play a big role in the incidence of child weddings, there are also instances where child marriages have taken place despite the availability of both laws and a very affluent economic background of the family in question. In the majority of these cases, child weddings continue to occur because of a cultural tradition, or what is thought to be a cultural practice. This is not to say that cultural factors do not influence attitudes that lead to child marriages even in places where there are no laws or where there is little wealth, however. Cultural mindsets and social norms are one of the many variables that support the survival of the practice in these situations.

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