



## Child Marriage and Rajasthan State Reform Efforts from 1951 to 2011

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### Abstract

The present paper highlights the issue of child marriage in the State of Rajasthan. According to *Annual Health Survey of 2011-12*, Rajasthan ranks number one among the eight Empowered Action Group states with the highest prevalence of child marriage. It is a common practice to marry children on various auspicious days such as *Akha Teej*, *Peepal Purnima* and *Mrityu Bhoj*. Most of the children get married before procuring legal age of 18 years for the girls and 21 for boys before gaining the physical and mental maturity. The plethora of reasons were assigned for the prevalence of child marriages such as lack of awareness of legal laws, societal pressure of customs or norms, poverty, illiteracy and gender discrimination etc. In the second half of the nineteenth century, efforts were made by various social reformers, women organizations and the British to restraint the evil but still this is an unsorted problem. The paper focuses on the reform efforts of the Rajasthan State level such as Integrated Child Development Services Schemes of 1975, The Child Marriage Restraint Amendment Act of 1978, State Plan of Action for Children of 1995-2000, State Child Policy of 2003, The Prohibition of Child Marriage Act of 2006, Rajasthan State Adolescent and Youth Policy of 2007, State Girl Child Policy 2013 and Sanjha Abhiyan Baal Vivah Mukt Rajasthan, Mukhya Mantari Rajshree Yojana, Aapki Beti Yojna etc. It will analyzes the state and lower level initiatives, its implementation and impact on society. It will culminates the gap between policy making and its actual implementation.

According to UNICEF report entitled as *Country Profile 2021* published that there are 226.3 million child brides in India which accounts for a third of the global total.<sup>1</sup> In February 2019, United Nations Children's Fund declared that India ranks fourth among the eight South Asian Countries in terms of child marriage prevalence.<sup>2</sup> The *Census of 2011* indicates that Rajasthan has 31.6% girls married under the age of 18 years in comparison to the national average of 17%.<sup>3</sup> It indicates that Rajasthan reported the highest percentage in child marriages among girls that was 2.5% and 4.69% among the boys before attaining the legal age of marriage.<sup>4</sup> There are various practices of child marriages prevalent in Rajasthan such as *Atta Satta*, *Mirtu Bhoj*, *Peepal Purnima* and *Akha Teej* or *Akshiya Tiritiya* etc.<sup>5</sup> *Annual Report of 2006 of National Human Rights Commission*

highlights that hundreds of child marriages are openly performed on the day of *Akha Teej* by the people of Rajasthan.<sup>6</sup> The statistical data shows that the issue of child marriage is unsorted until 21<sup>st</sup> century.

There were certain laws passed by the British to curb the menace of child marriage. *The Indian Penal Code of 1860, The Civil Marriage Act of 1872, The Age of Consent Act of 1891* and *The Child Marriage Restraint Act of 1929* were passed. *The Indian Penal Code of 1860* declared that consummation of marriage under 10 years old equivalent to rape. *The Civil Marriage Act of 1872* increased the marriageable age to 14 years and *The Age of Consent Act of 1891* raised the age of consent for sexual intercourse for all the girls, married or unmarried from 10 to 12 year. *The Child Marriage Restraint Act of 1929* increased the legal age of marriage 14 years for the girls and 18 years for the boys.<sup>7</sup> From 1860 to 1929, the legal age of marriage increased from 10 to 14 years for girls and 18 years for the boys.

After 1947, first step had been taken by the Indian Government against the issue of child marriage as the *Child Marriage Restraint Amendment Act of 1948*. The Act defined the minimum age of marriage for the females from 14 to 15 years and the position in regard to the males continued to remain the same namely 18 years.<sup>8</sup> The second attempt made in this direction as passed the *Child Marriage Restraint Amendment Act of 1978* in which redefined the age of marriage of 18 years for the girl and 21 years for the boy.<sup>9</sup> The next significant step taken to passed *The Prohibition of Child Marriage Act of 2006*. The Act states that the child marriage shall be voidable\* at the option of the contracting party who was a child at the time of the marriage. It allows for a petition to be filed to declare the marriage void\* within two years of the child attaining maturity. All the punishments for contracting a child marriage have been enhanced. The punishment for a male over 18 years of age has been enhanced to rigorous imprisonment of up to 2 years or with fine up to 1 lakh rupees or both. The Act declared child marriages below the legal age as a cognizable offence.\*<sup>10</sup> *The Prohibition of Child Marriage Act of 2006* did not increased the legal age of marriage but enhanced the rigorous imprisonment with heavy fine, appoint Child Marriage Prohibition Officers to curb the menace of child marriage.

Instead of making legal laws, at national level in order to translate policies into action, the Government of India and NGOs have attempted effective intervention that were likely to delay the age of marriage for girls. There were various schemes such as The Rajiv Gandhi Scheme for Empowerment of Adolescent Girls, Kishori Shakti Yojna, Nutrition Programme for Adolescent girls, Dhanalakshmi, Poorna Shakti Kendra, Integrated Child Protection Scheme, Bal Vivah Virudh Abhiyan, The National Bravery Award, The Sukanya Smridhi Account Yojana, Mukhya Mantari Kanya Vivah Yojana, Mukhyamantari Kanya Surakhsha Yojana, Rashtriya Kishor Swasthya Karyakram and Conditional Cash Transfers implemented.<sup>11</sup> At national level, there were lot of efforts taken by the British with the support of social reformers and the Indian Government for the prohibition of the child marriage.

According to the *Census of 2011*, approximately 7.2 lakh girls in Rajasthan were married before the age of 18 years. The Report of *State Strategy and Action Plan for Prevention of child marriage* divided Rajasthan State into three parts on the issue of girl child marriages that was high prevalent, medium prevalent and low prevalent districts. There were fourteen high prevalence districts of child marriages such as Bhilwara 54.1%, Chittaurgarh 52.8%, Tonk 48.4%, Rajasmand 45.7%, Jhalwar 45.6%, Bundi 43.1%, Ajmer 39.1%,

Dausa 38.3%, Karaul'i 37.7%, Alwar 37%, Sawai Madhopur 36.8%, Bikaner 36%, Nagaur 34.2% and Churu 33.4%.<sup>12</sup> It highlights among the high prevalence districts of Rajasthan, Bhilwara stand first on the issue of girl child marriages.

The State of Rajasthan took various initiatives through passed different laws, made social, economic policies, programmes at state, district, block and local level to stop child marriages. On 2<sup>nd</sup> October 1975, Integrated Child Development Services Scheme was launched in Rajasthan in pursuance of the National Policy for Children. The objectives was to improve nutritional and health status of children in the age group of 0-6 years, reduce incidence of morality, morbidity, malnutrition and school drop-outs and psychological, physical and social development of the child.<sup>13</sup> In 2000-01, The Kishori Shakti Yojana was launched as part of Integrated Child Development Services. The scheme implemented through Anganwadi Centres in both rural and urban areas.<sup>14</sup> The Kishori Shakti Yojana provides vocational training, literacy and numeracy skills, health and nutrition awareness and through these aim at postponing age of marriage. A review of Kishori Shakti Yojna in Rajasthan concluded that the implementation was weak, leaving a lot to be desired and therefore the impact was also limited.<sup>15</sup> Through various schemes and policies like Integrated Child Development Service Scheme and Kishori Shakti Yojana, the State of Rajasthan made efforts to curb the menace of child marriage and unliftment of the status of girl child.

In 2003, A State Child Policy was prepared by the Department of Women and Child Development of Rajasthan. With a focus on the girl child, the policy aims to create a safe, secure and conducive environment with equal opportunity for growth and survival of all children. In 2007, the Rajasthan State Adolescent and Youth Policy was formulated. It primarily focused on the need to facilitate access to information, livelihood, education, life skills, employment, nutrition and health services as well as various opportunities for growth and development for adolescents and youth.<sup>16</sup> In 2007, Rajasthan Prohibition of Child Marriage Rules was accepted under sub section 1 of section 19 of the Prohibition of Child Marriage Act, 2006 in which the State government has a right to appoint Child Marriage Prohibition Officer.<sup>17</sup> The State of Rajasthan focused on to give education, generate employment opportunities and provide health services for the improvement of the condition of women.

In 2008, State Policy of Rajasthan was introduced. The objectives of the scheme are to provide quality education for all children of all categories up to secondary level, legal and social protection from all kinds of abuse, exploitation and neglect with special focus on girls, provide essential healthcare to all children from birth to adulthood, ensuring facilities of sanitation and safe drinking water and create a safe, secure and conducive environment to ensure that each child has a right to be born, survive, grow and develop without prejudice or discrimination and live a dignified life. Under the scheme, one of the main objective is to ensure right of age at marriage to girl child. The scheme ensures that child marriage laws to be implemented strictly and local vigilance committees are empowered and strengthened.<sup>18</sup>

On 23<sup>rd</sup> February 2010, The Rajasthan State Commission for Protection of Child Rights was established as an independent statutory mechanism for reviewing and monitoring the implementation of laws and policies relating to children.<sup>19</sup>

In 2011, The Rajiv Gandhi Scheme for Empowerment of Adolescent Girls also known as SABLA scheme introduced and it replaces Kishori Shakti Yojana. It covers the various districts of Rajasthan like Bhilwara, Jodhpur, Banswara Udaipur, Jhalwar, Dungunpur, Bikaner, Jaipur, Barmer and Ganganagar. The purpose of this scheme is to improve the nutritional and health status of girls aged 11 to 18 years.<sup>20</sup>

On the other side, *Annual Health Survey of 2011-12* published that nearly 58% currently married women aged 20-24 in the state of Rajasthan married before the age of 18, about 22% married before 15 years and 36% married between the ages of 15 and 17 years. Rajasthan ranks number one in the country with the highest prevalence of child marriage.<sup>21</sup> The data shows the big number of child marriage is exist in Rajasthan.

In 2013, the Girl Child Policy was drafted. It envisioned that the girl child shall have an enabling environment for her survival, growth, development, protection, empowerment and participation for exercising her right of life with dignity and without discrimination. The policy starts with introducing some of the problems which the girl children from 0 to 18 years of age are facing in the State.<sup>22</sup>

The training under the titled as *Orientation of members of Panchayati Raj Institutions on Child marriage* organized by the Child Resource Centre which was a joint initiative of Department for Child Rights, Government of Rajasthan and Harish Chandra Mathur Rajasthan Institute of Public Administration with support from UNICEF and Antakshari Foundation. The focus was on capacity building of all stakeholders in the child protection system and creation of a knowledge hub. To prevent child marriages, given training to the members of the Panchayat Raj Institutions to assist the Child Marriage prohibition Officer or the police, create awareness within the community about the law and educate the community about the implication of child marriages and set up a Child Protection Committee within the Panchayat to stop the child marriages.<sup>23</sup> The Rajasthan State had been taken four initiatives to reduce child marriage through bicycle transfers, conditional cash transfer (educational subsidy) to secondary school attendance, female toilet construction and repair, vocational education to create income generating opportunities. The result of the initiatives is the rate of child marriage declines at the outset.<sup>24</sup> To curb the issue of child marriage, the state of Rajasthan took initiative to give training to members of panchayati raj institutions to assist the Child Protection officers and provide economic benefits to girl child to reduce the drop-out rate in schools.

In March 2017, the Rajasthan State Government in partnership with UNFPA and UNICEF was the first State to launch a strategic district level action plan as *Sanjha Abhiyan- Bal Vivaah Mukta Rajasthan* for the prevention of child marriage. The objectives of the scheme are changing the legal and policy environment, increasing access to safe and quality health services, empowering adolescent girls and boys with life skills and developing a data management system to track child marriage.<sup>25</sup>

**Conclusion-** To curb the menace of child marriage, state of Rajasthan made different efforts through different schemes, policies and programmes to generate employment opportunities, provide financial assistance to reduce drop-out rate in schools, give vocational education and create friendly environment without any discrimination based on gender, caste and class. But there is long way to go to curb the menace of child marriage. There is wide gap present in the formation and implementation of laws because only laws would not be alternative towards social reforms. Societal support, raising awareness about laws, positive role of media, economic and social empowerment can be played significant role to curb the menace of child marriage.

- <sup>1</sup> *Country Profile 2021: UNFPA-UNICEF Global Programme to end Child Marriage*, India, p. 2.
- <sup>2</sup> *Ending Child Marriage A Profile of Progress in India*, Published by UNICEF, Feb. 2019, p. 8. Percentage of women aged 20 to 24 years who were first married or in union before the age of 18 in the region of South Asia. The data of child marriages in South Asian countries following as Bangladesh 59%, Nepal 40 %, Afghanistan 35 %, India 27%, Bhutan 26%, Pakistan 21%, Srilanka 10% and Maldives 8 %. Bangladesh stands on first rank in South Asian countries.
- <sup>3</sup> *State Strategy and Action Plan for Prevention of child Marriage*, Towards creating a child marriage free Rajasthan, Government of Rajasthan, 2017, p. 4.
- <sup>4</sup> *A Statistical Analysis of Child Marriage in India Based on Census 2011*, Published by Young Lives and National Commission for Protection of Child Rights, June 2017, New Delhi, p. 39.
- <sup>5</sup> Nitu Kumari, *Rights of the Girl Child in India Struggle for existence and Well-being*, Sage Publications, 20 July 2020.
- <sup>6</sup> *Annual Report*, Published by National Human Rights Commission, India, 2006, Digitized on 2017, p. 116.
- <sup>7</sup> *The Indian Penal Code Act No. 45 of 1860*, 6 October 1860, p. 85; *Towards Equality, Report of the Committee on the Status of Women in India*, Government of India, Ministry of Education & Social Welfare, Department of Social Welfare, New Delhi, December 1974, p. 111; Ishita Pande, *Sex, Law and Politics of Age*, Cambridge University Press, 2020, p. 35; *Legislative Assembly Debates*, S. N., 37, 1929, p. 104.
- <sup>8</sup> *Child Marriage Restraint (Amendment) Bill, 1978*, p. 132.
- <sup>9</sup> *Child Marriage Restraint Amendment Bill, 1978*, 13 March 1978, p. 4.
- \*Voidable in law is a transaction or action that is valid but may be annulled by one of the parties to the transaction. Voidable is usually used in distinction to void *ab initio* (or void from the outset) and unenforceable.
- \*The meaning of void is null, nugatory, ineffectual when it has no legal force or efficacy. It confers no rights nor can it be the basis of any action. <https://legaldictionary.lawin.org>, The difference between void and voidable contracts is that a void contract is illegal and unenforceable while a voidable contract is legal and the parties can enforce it. <https://www.upcouncil.com>.
- \* Cognizable offence means an offence for which and 'cognizable case' means a case in which a police officer may in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant. *India Code*, Digital Repository of all Central and State Acts, <https://www.indiacode.nic.in>
- <sup>10</sup> Law Commission Report, *205<sup>th</sup> Report on Proposal to amend The prohibition of Child Marriage Act, 2006 and other allied Laws*, Government of India, Law Commission of India, Feb. 2008, pp. 7-8.
- <sup>11</sup> *A Statistical Analysis of Child Marriage In India Based on Census 2011*, Published by Young Lives and National Commission for Protection of Child Rights, New Delhi, June 2017, p. 23-28, 30.
- <sup>12</sup> *State Strategy and Action Plan for Prevention of child Marriage*, Towards creating a child marriage free Rajasthan, Government of Rajasthan, 2017, p. 4-8.
- <sup>13</sup> Hem Lata Joshi, *Health Status Index, Rajasthan*, Concept Publishing Company for institute of Development Studies, Jaipur, 2007, p. 39; 'Evaluation of Integrated child development services program in Rajasthan, India', *International Journal of Advanced Medical and Health Research*, January 2015, p. 95.
- <sup>14</sup> *Kishori Shakti Yojana under the Ambit of ICDS in Uttar Pradesh an Rajasthan*, Final Report. Adolescent Girls Scheme in UP and Rajasthan, Ministry of Women and Child Development, Government of India, Formative Research and Development Services, New Delhi, 2006, p. 9.
- <sup>15</sup> *A Statistical Analysis of Child Marriage In India Based on Census 2011*, Published by Young Lives and National Commission for Protection of Child Rights, New Delhi, June 2017, p. 105.
- <sup>16</sup> *State Strategy and Action Plan for Prevention of child Marriage*, Towards creating a child marriage free Rajasthan, Government of Rajasthan, 2017, p. 11.
- <sup>17</sup> *Rajasthan Prohibition of Child Marriage Rules, 2007*, Retrieved from <https://home.rajasthan.gov.in>; <https://bareactlive.com>.
- <sup>18</sup> *Child Policy Commitment and Accountability towards Children*, Department of Women and Child Development, Government of Rajasthan, p. 6-7, 17-18
- <sup>19</sup> Enakshi Ganguly Thukral, Parul Thukral, *India Child Rights Index*, Centre for Child Rights, 2011, p. 41.
- <sup>20</sup> Ministry of Women and Child Development, No. 6-12/2010-RGSEAG, Government of India, Shastri Bhavan, New Delhi, 2010; <https://homesciencejournal.com>
- <sup>21</sup> *District-level Study on Child Marriage in India*, Published by International Centre for Research on Women & Unicef, New Delhi, October 2015, p. 32.
- <sup>22</sup> Nesar Ahmad, *Rajasthan State Girl Child Policy 2013: A brief analysis from GRB perspective*, <https://www.academia.edu>.
- <sup>23</sup> *Orientation of Members of Panchayati Raj Institutions on Child Marriage*, Published by Child Resource Centre HCM RIPA, Jaipur, p. 2, 12.
- <sup>24</sup> Reena Mithal, *Benefit-Cost Analysis Child Marriage, Analysis of education interventions to address child marriage in Rajasthan*, Rajasthan Priorities An India Consensus Prioritization Project, 2017, p. 24, 42.
- <sup>25</sup> Reena Mithal, *Benefit-Cost Analysis Child Marriage, Analysis of education interventions to address child marriage in Rajasthan*, Rajasthan Priorities An India Consensus Prioritization Project, 2017, pp. 4-5.