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## Analysis of the Prohibition of Child Marriage (Amendment) Bill, 2021

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*The consistent effort of bringing equality to the table in the ongoing process of going through contemporary challenges will definitely bring a better society to live in. People are raising their voice to eliminate all the existing laws which are unjust to them and are not in line with the constitutional laws which were granted to each person of the society to live a life of dignity. But all the laws which we bring to the table should be properly scrutinized before reforming them. Here, in this, I have analyzed the bill which has been introduced before the Lok Sabha recently. The basis of bringing that bill before the Lok Sabha was to show how it is discriminating people on the basis of gender and it requires a change. But here in this article, I have analyzed the bill in three broad propositions which include whether the bill actually brings equality by raising the competent age of marriage for girls. Secondly, whether the bill will help in reducing child marriages that happen in India, same goes with the infant mortality rate. Whether it will improve the health of women which the bill promises. Thirdly, whether the bill will deny the girl's right to marry. I have analyzed it by the above-mentioned parameters and finally, I have given my conclusion in the end as to how feasible the bill is and how much it will impact the country.*

**Keywords:** *equality, child marriage, infant mortality rate, bill.*

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## INTRODUCTION

A bill called ' *The Prohibition of Child Marriage (Amendment) Bill, 2021*' regarding amendment of raising the age of marriage for girls from 18 yrs. to 21 yrs. which has been introduced before the Lok Sabha in the month of December 2021 under the act called ' *The Prohibition of Child Marriage Act, 2005*'. The bill is still pending and has been sent to the standing committee for further scrutiny. Under this act, it prohibits all child marriages that happen in India. There were mainly two contentions of the bill, first was to raise the competent age of marriage for women from 18 to 21 yrs. and second, was to provide the 3 years more for filing a petition to annul the marriage.<sup>3</sup> In support of the first contention, they further said that how the age difference creates gender discrimination and further proposed to raise the competent age of marriage from 18 to 21 yrs.

In the Lok Sabha session, the Women and Child Development Minister, Smriti Irani strengthen her argument concerning 1<sup>st</sup> contention by stating the low child mortality rate and the miscarriages that happen usually with those mothers who get pregnant at an early age. She presented the data and explained it further in concern of the health of both mother and child. Also, she expressed her grief regarding how still we have not been able to remove the gender discrimination, as she said there is no reason as to why men and women have different ages to marry. And lastly, she concluded by saying that there should be an equally competent age for marriage for both men and women which should be 21 yrs.<sup>4</sup> Whereas if we see the second contention, it says that, before completion of 2yrs of child marriage, a child, either of the partners is eligible to annul their marriage. And if the bill gets passed it will provide them 3

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<sup>1</sup> The Prohibition of Child Marriage (Amendment) Bill, 2021

<sup>2</sup> The Prohibition of Child Marriage Act, 2005

<sup>3</sup> Sangeeta Nair, 'Bill to raise marriage age for women to 21years sent to Standing committee' (*Jagran Josh*, 23 December 2021) <<https://www.jagranjosh.com/current-affairs/prohibition-of-child-marriage-amendment-bill-2021-1640239535-1#:~:text=Sangeeta%20Nair&text=The%20Prohibition%20of%20Child%20Marriage,after%20protests%20from%20opposition%20parties.>> accessed 17 January 2022

<sup>4</sup> 'Smriti Irani tables bill to raise women's marital age to 21 amid opposition uproar' (*The Economic Times*, 21 December, 2021) <<https://economictimes.indiatimes.com/news/politics-and-nation/smriti-irani-tables-bill-to-raise-womens-marital-age-to-21-amid-opposition-uproar/videoshow/88413476.cms?from=mdr>> accessed 17 January 2022

more years that will have a 5 yrs. opportunity to annul their marriages before the respective district court.

## BACKGROUND

If we go by the history and the evolution of laws by the time that happened in India, then we can witness various amendments and laws that have been made in the past to bring equality and equity among the people. Laws have also been made concerning this subject, taking into consideration the health of women and children. The first step that has been taken to prohibit child marriages in India was 'The Child Marriage Restraint Act, 1929<sup>5</sup>'. Earlier, according to Sharda Act, the competent age used to be 14 yrs. for girls and 18 yrs. for boys. Later, it got revised in 1955 in the Hindu Law and the new competent age to marry then became 15yrs for girls and 18yrs for boys. Parsi and Christian law and special marriage also have the same age for marriage for both girls and boys as to that of Hindu laws. If we then see the Muslim Law, the valid age to be married is when the party to the marriage attain its puberty.

As we see the scenario of India regarding child marriages then we see those child marriages are not void in India rather it is avoidable. Since it is avoidable law, it is at the option of the parties to nullify the marriage to declare it void. And since the parties to these marriages are minors, they have very little say in these matters. It is so because they still depend on their parents for all their due care. So, they are no more than a puppet of their parents and they have to abide by the decision of their parents. UNICEF says about the situation all over the world that the one who is worst affected in these child marriages are girls.<sup>6</sup> Also, in other reports of UNICEF, it shows how the prevalence of child marriage among boys is 1/6<sup>th</sup> to that of the girls<sup>7</sup> which shows the disparity between these two genders and the real victims of the practices of child marriages.

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<sup>5</sup> Child Marriage Restraint Act, 1929

<sup>6</sup> 'Child Marriage: Child marriage threatens the lives, well-being and futures of girls around the world' (UNICEF) <<https://www.unicef.org/protection/child-marriage>> accessed 17 January 2022

<sup>7</sup> '115 million boys and men around the world married as children' (UNICEF, 06 June 2019)

<<https://www.unicef.org/press-releases/115-million-boys-and-men-around-world-married-children-unicef>> accessed 07 January 2022

This is said to happen because of the huge gender inequality and illiteracy among the people. Also, at the same time the financial dependency of women over men. Girls at such practices of child marriage have more likely to suffer domestic violence as well as severe medical issues as one might easily get through early pregnancy which results in them severe bodily changes which sometimes result in severe illness and pain for which the body is not ready for. This shows how they have to suffer in and out at such a young age. Parents consider their daughters as a liability to them and want to get rid of them as soon as possible. So, getting them married off is the best option available according to them.

## ANALYSIS

**1<sup>st</sup> Proposition:** This bill will bring gender equality.

Our 'Women and Child Development Minister' Smriti Irani while presenting this bill to the Lok Sabha has itself addressed the issue of the age difference between a girl and a boy as to how the man is competent to get married at 21 while the girl only requires a minimum age of 18 yrs. But will equalise two nos. will serve equality is the real question here. In the proposed bill they said that the competent age should be made equal for both men and women i.e., 21 yrs. Research has also been made as to how women become mature as compared to men. A 2013 study has also been done regarding this which shows how women's brain cognitively women are ahead in the curve of maturity as compared to men.<sup>8</sup> So, these are the biological differences that exist despite people of the same age. So, we cannot equalize two genders only on the basis of numbers. There are more factors other than numbers that exist and cannot be neglected. So, in my point of view, it will not bring a major change.

**2<sup>nd</sup> Proposition:** This will help in reducing child marriages so will the infant mortality rate and will improve the health of the women.

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<sup>8</sup> Krystnell Storr, 'Science explains why women are faster to mature than men' (MIC, 24 February 2015) <<https://www.mic.com/articles/111226/science-explains-why-women-are-faster-to-mature-than-men#.sV5QgWJIn>> accessed 09 January 2022

Yes, the risk of early pregnancies among women who marry before the legal age of marriage is more than the women who marry at 2-3 yrs. later to that of the legal age of marriage. But the question is whether the already mentioned legal age is troubling or the real cause behind these cases is something else. Laws have been made earlier also to prevent child marriages by raising the legal age of it. It is effective but was it just raising the age of the awareness which led them to think about that. Women by the time become more educated and independent which does play an important role in changing the dimensions of society. Yes, laws also play an important role but the effectiveness of any laws lies with the people of the society to which it is subjected. It is so because earlier also, many laws and practices have been made but the practice of child marriage was still there. As soon as people started realizing the misfortunes which child marriages bring with them then they start avoiding them.

So, my contention here is that the government should focus more upon the root of the problem and not just shallow rules which allure the people sitting on the sofa. As marriage still will happen in those rural areas which nobody is going to witness. Government should realize the main factor due to which it is happening on a large scale is illiteracy among women. It should focus more upon the education of the children with some sort of additional subjects like sex education which will help them make decisions about their own body. Further, the government should focus more on how to make women more financially independent. Any sort of independence, be it a small-scale business, start-ups, or any other sort of things that make women financially independent will help them a lot in strengthening their position as compared to their male better halves and will make them capable of deciding in various phases of their life.

**3<sup>rd</sup> Proposition:** This bill will deny a girl's right to marry.

Daughters have often been considered as a liability in Indian households that's why the popularity of practices such as child marriage exists here. Whenever a girl child is born in an Indian household, they are either being killed or considered a misfortune to the family. It is so because if parents spend their money on the education and health of their daughter, the money won't be repaid by their daughter in any form be it services and care that one requires

at an old age as she will get married and have their new family to take care of. This is also one of the reasons why parents are reluctant to have a girl child. So, considering the above-proposed bill which will raise the age of marriage from 18 to 21 yrs. will impact the lives of women a lot. When the age of the will increases, it is going to restrict her right to marry in a way as mostly in every law the competent age of a major person is 18 yrs. when a person is competent enough for all the laws, why not in the case of marriage.

## CONCLUSION

The above-mentioned bill called 'The Prohibition of Child Marriage (Amendment) Bill, 2021'<sup>9</sup> in my point of is just a sham which is being used for alluring the public. It will bring some change but it will not be as effective as it is expected to be. The more effective way would be strengthening the education system of India and they should try to minimize the gender difference by educating them and sensitizing children about this from the very start of their education. The positive effect could be that some people might change their minds and will agree to marry their daughter at a later stage. but the no. to such a group would be small because child marriages usually happen in the rural areas where the children are mostly deprived of education. And 70% of India's population live in the rural areas of India.

So, the outcome would be very minimal. Whereas if we see the other part, the pressure on the female child to be a burden on their family will increase to 3 more years under which she has to suffer a lot more from their families as according to them they are nothing more than a burden on them. Not only uneducated but the families of such who often indulge in such practices are from poor backgrounds. They cannot afford their daughter to take care of her for 3 more years, so as a result of that, the practices of child marriages can also happen on a large scale. Also, as already mentioned above child marriages are voidable in India. So, the havoc of filing cases will be less due to the dependency of the children on their parents. So, ultimately raising the legal age won't be helpful in any sort. Instead of that, the government should provide some effective schemes as there are some already there to provide financial aid to the

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<sup>9</sup> Prohibition of Child Marriage (Amendment) Bill, 2021

families of the bride. Government should focus more on their implementation. Also, child marriages should be held void and should be made punishable by law.