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The Persistence of Child Marriage: A Critical Analysis of Legal Loopholes and Socio-Legal Determinants

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*Child marriage emerges as an entrenched human rights violation that disproportionately compromises the physical, psychological, and socio-economic well-being of young individuals, particularly adolescent girls.¹ Despite wide-scale legislative reforms being made throughout the country spanning over a century, the practice remains embedded across various regions of India, especially prevalent in Northern States. This research article provides a comprehensive legal and socio-legal analysis of the persistence of child marriage in India. It examines the structural tension between statutory prohibitions such as the Prohibition of Child Marriage Act, 2006 (PCMA) and the Protection of Children from Sexual Offences Act, 2012 (POCSO) and Hindu personal law regimes that continue to recognise the validity of underage unions. By synthesising empirical data from the National Family Health Surveys (NFHS-4 and NFHS-5) alongside recent field studies, this paper explores the primary socio-legal determinants of child marriage, including poverty, deep-seated patriarchal norms, perceived threats to family 'honour', and infrastructural deficits in secondary education. Furthermore, the article delves into the judicial reliance on traditional doctrines like *factum valet*, the legislative anomalies rendering child marriages 'illegal yet valid' (voidable rather than void *ab initio*), and the severe infringement upon young women's reproductive autonomy and constitutional guarantees under Articles 14, 15(3), 21, and 21A. Finally, the paper offers strategic recommendations for harmonising conflicting statutory frameworks, enforcing mandatory registration, operationalising village-level child protection mechanisms, and implementing uniform civil standards to eliminate this institutional social evil. Furthermore, India's international*

¹ Early Marriage: A Traditional Harmful Practice – A Statistical Exploration (UNICEF 2015)

commitments under CEDAW and the UNCRC remain compromised by domestic legal ambiguities that fail to declare these marriages strictly void. The physiological toll on young brides is devastating, with early spousal cohabitation leading directly to high-risk teenage pregnancies, maternal mortality, and intergenerational cycles of malnutrition. This practice persists despite the enactment of the POCSO Act, 2012, which criminalises underage sexual acts but historically clashed with marital rape exceptions under the Indian Penal Code (Now BNS) also inclusion of minimum age criteria to be followed for marriage. Ultimately, eradicating this entrenched social evil requires not only stringent legal harmonisation but also comprehensive community mobilisation to empower adolescent girls as agents of change rather than passive subjects of traditions.

Keywords: *child marriage, socio-legal determinants, reproductive autonomy.*

INTRODUCTION

Marriage contracted before attaining the legal age of majority remains a poignant socio-legal challenge across the developing world as well as developed countries.² While child marriage is often perceived as a challenge exclusive to developing nations, it remains a global issue; for instance, underage marriage remains legally permissible under specific conditions in a majority of jurisdictions within the United States. In India, despite more than seven decades of post-independence legislative development and economic expansion, the practice of marrying children before they possess the physical, emotional, or cognitive maturity for matrimonial cohabitation persists at alarming rates. Child marriage acts as both a primary cause and a severe consequence of systemic gender-based violence, generating self-perpetuating cycles of inequality, educational deprivation, and health crises.³

The centuries-old mindset of rulers wanting to have as many children as possible so that they can have future soldiers and workers, and for that to make children, especially young girls, be married, still prevails in our society, but with a different but similar perspective. The institutional practice of child marriage directly infringes upon fundamental child rights articulated in international instruments including the Universal Declaration of Human Rights (UDHR, 1948), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979), and the United Nations Convention on the Rights of the Child (UNCRC, 1989), as well as domestic guarantees enshrined in the Constitution of India.⁴

² Jaya Sagade, *Child Marriage In India: Socio-legal And Human Rights Dimensions* (OUP 2005)

³ Vandana, *Sexual Violence Against Women: Penal Law and Human Rights Perspectives* (Lexis Nexis 2010)

⁴ Philip Alston et al., *Children, Rights and the Law* (OUP 1995)

Article 15(3) empowers the State to enact special affirmative provisions for women and children, while Article 21 guarantees the fundamental right to life and personal liberty, which the judiciary has repeatedly interpreted to encompass the right to bodily autonomy, health, and living with dignity. Additionally, Article 21A mandates free and compulsory education for children, and Article 39(f) instructs the State to direct its policy toward ensuring children are given opportunities to develop in a healthy manner and in conditions of freedom and dignity.

Despite these constitutional directives, the legal architecture governing child marriage in India suffers from severe internal contradictions. The primary statutory mechanism, the Prohibition of Child Marriage Act, 2006 (PCMA), designates child marriage as a penal offence, yet generally classifies such unions as voidable at the option of the minor contracting party rather than declaring them void ab initio. This legal compromise creates a system where child marriages are treated as illegal and criminalised, yet remain civilly valid until formally annulled.

This legal ambiguity is further complicated by uncodified and codified personal laws, which prioritise customary norms and religious scriptures over secular child-protection legislation.⁵ Consequently, judicial forums have frequently vacillated between strict child-rights enforcement and traditional adherence to the civil doctrine of *factum valet*, which posits that an act done cannot be undone by legal prohibitions. This research article provides a critical analysis of the legal loopholes, statutory conflicts, and socio-economic determinants that sustain child marriage, offering concrete legal strategies to align domestic family law with constitutional and international child-rights paradigms.

SOCIO-LEGAL DETERMINANTS AND EMPIRICAL REALITIES

Statistical Landscape and Regional Disparities: National demographic surveys illustrate both progress and persistent vulnerabilities in the fight against child marriage. Data from the National Family Health Survey-4 (NFHS-4, 2015–16) indicated that 26.8% of women aged 20–24 years were married before the legal age of 18, representing a substantial decline from 47.4% in NFHS-3 (2005–06). The subsequent NFHS-5 (2019–21) national report recorded a

⁵ Mohammed Hidayatullah and Arshad Hidayatullah, *Mulla's Principles of Mahomedan Law* (19th edn, NM Tripathi Pvt Ltd 1990)

further reduction to 23.3% nationwide. However, national averages conceal significant interstate and rural-urban variations. In rural India, the prevalence of child marriage among women aged 20–24 stands at 27%, compared to 14.7% in urban centres. State-level data from NFHS-5 reveals that several states exceed the national baseline, including West Bengal (41.6%), Bihar (40.8%), Tripura (40.1%), Jharkhand (32.2%), Assam (31.8%), Andhra Pradesh (29.3%), and Rajasthan (25.4%). Furthermore, specific district-level evaluations such as Parbhani in Maharashtra demonstrate localised prevalence rates as high as 48%, reflecting localised concentrations where traditional practices persist despite overall national declines.

NFHS-3 to NFHS-5 National Trend (Women Aged 20-24 Married Before 18 Years)

NFHS- 3	2005-06	47.4%
NFHS-4	2015-16	26.8%
NFHS -5	2019-21	23.3%

Core Socio-Economic Drivers: The persistence of child marriage is driven by an interconnected set of socio-economic factors:

Poverty and Economic Strain: Empirical field studies, including research conducted by Child Rights and You (CRY, 2021), demonstrate that child marriage is overwhelmingly concentrated within lower socio-economic strata, particularly among Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backwards Classes (OBC). For economically distressed households, a daughter is frequently perceived as a financial liability (*paraya dhan*). Marrying a girl child at a younger age reduces household consumption burdens and often commands lower financial demands regarding dowry payments.⁶

Patriarchal Control, Virginity, and Family 'Honour': Indian social structures place a significant premium on female chastity and pre-marital virginity, linking a young woman's

⁶ Jennifer Parsons et al., 'Economic Impacts of Child Marriage: A Review of the Literature' (2015) 13(3) The Review of Faith & International Affairs <<https://doi.org/10.1080/15570274.2015.1075757>> accessed 15 July 2026

sexual conduct directly to family and community honour.⁷ Fearing elopement, pre-marital romantic relationships, or sexual assault, parents often arrange early marriages shortly after puberty (typically between ages 15 and 17) to enforce moral control, preserve caste endogamy, and transfer guardianship to the groom's family.⁸

Educational Deficits and School Dropouts: Educational attainment serves as an inverse determinant of child marriage.⁹ While secondary education significantly reduces the likelihood of early marriage, infrastructural barriers such as the absence of nearby secondary schools, unsafe transport, and lack of sanitation facilities frequently force young girls out of the formal schooling system.¹⁰ Once a girl drops out, parental pressure to solemnise marriage increases substantially.

Exacerbation During Public Crises (COVID-19 Impact): Public health emergencies and economic shocks exacerbate household vulnerabilities. During the COVID-19 pandemic, widespread school closures, economic hardship, and reduced administrative oversight led to an increase in clandestine child marriages. Families capitalised on low-cost, small-scale wedding ceremonies allowed under pandemic lockdown restrictions to marry off underage daughters with minimal community scrutiny.

HISTORICAL EVOLUTION OF ANTI-CHILD MARRIAGE LEGISLATION

Pre-Independence Reforms and the Colonial Era: Under uncoded classical Hindu law, age capacity for marriage was governed by textual interpretations of the Smritis. According to Mitakshara commentaries, marriage capacity was recognised upon completing sixteen years, while Dayabhaga texts placed capacity at fifteen years. Infant and pre-pubertal marriages were sanctioned under late scriptural traditions, where giving a maiden in

⁷ Geraldine H Forbes, 'Women and modernity: The issue of child marriage in India' (1979) 2(4) Women's Studies International Quarterly

<<https://www.sciencedirect.com/science/article/abs/pii/S014806857990455X>> accessed 15 July 2026

⁸ Biswajit Ghosh, 'Child Marriage, Society and the Law: A Study in a Rural Context in West Bengal, India' (2011) 25(2) International Journal of Law, Policy and the Family

<https://www.researchgate.net/publication/235605902_Child_Marriage_Society_and_the_Law_A_Study_in_a_Rural_Context_in_West_Bengal_India> accessed 15 July 2026

⁹ SM Mostafa Kamal et al., 'Child marriage in Bangladesh: trends and determinants' (2015) 47(1) Journal of Biosocial Science <<https://www.cambridge.org/core/journals/journal-of-biosocial-science/article/abs/child-marriage-in-bangladesh-trends-and-determinants/9DEF413D9383C907D00F4ABB97F4CBCE>> accessed 15 July 2026

¹⁰ JB Tilak, *Universal Secondary Education in India: Issues, Challenges and Prospects* (Springer Nature 2020)

marriage before puberty (Kanyadan) was considered an auspicious religious duty for fathers.¹¹

The legislative push against child marriage emerged during the nineteenth-century social reform movements. A major turning point occurred in 1890 following the death of Phulmonee Dasi, an eleven-year-old girl who died from injuries sustained during forced marital intercourse with her thirty-five-year-old husband. This tragedy led to the passage of the Criminal Law (Amendment) Act, 1891, which raised the age of consent for sexual intercourse from ten to twelve years. Subsequent amendments in 1929 further increased the age of consent to thirteen years for married females. In 1927, Rai Sahib Harbilas Sarda introduced a legislative bill to restrain child marriages among Hindus, which culminated in the landmark Child Marriage Restraint Act, 1929 (popularly termed the Sarda Act). Although initially intended for Hindus, the Select Committee expanded its scope to all citizens across British India. The CMRA established minimum marriage ages of 14 years for females and 18 years for males, which were later amended in 1949 (raising the female minimum age to 15) and in 1978 (raising minimum ages to 18 for females and 21 for males).

Deficiencies of the Child Marriage Restraint Act 1929: Despite its progressive intent, the CMRA was widely regarded as an ineffective piece of legislation. Its primary deficiencies included:

Non-Affectation of Validity: The CMRA penalised adult males and guardians who solemnised child marriages but did not invalidate or void the underlying marriage ceremony.

Procedural Obstacles: Offences were non-cognizable for arrest purposes, meaning law enforcement could not make arrests without judicial warrants. Furthermore, Section 9 imposed a strict one-year statute of limitations for courts to take cognisance of offences from the date of commission, enabling perpetrators to easily avoid prosecution.

¹¹ J D Mayne and A Kuppaswami, *Mayne's Treatise on Hindu Law & Usage* (14th edn, Bharat Law House Pvt Ltd 1996)

Injunction Procedural Fetters: Section 12 required courts to issue show-cause notices prior to granting injunctions against impending child marriages, providing organisers ample time to complete ceremonies before judicial orders were finalised.

The Prohibition of Child Marriage Act 2006 (PCMA): To address the procedural and substantive flaws of the 1929 Act, Parliament enacted the Prohibition of Child Marriage Act, 2006 (PCMA), which came into force on January 10, 2007. The PCMA introduced several structural changes:

Voidable Status (Section 3): Under Section 3(1), every child marriage is voidable at the option of the contracting party who was a child at the time of solemnization. The petition for nullity can be filed in the District Court at any time before the child completes two years of attaining majority (i.e., up to age 20 for females and age 23 for males).

Enhanced Penal Sanctions (Sections 9, 10, & 11): Section 9 imposes rigorous imprisonment for up to two years, a fine of up to ₹1,00,000, or both, on any adult male above eighteen years of age who contracts a child marriage. Sections 10 and 11 apply identical penalties to solemnizers, promoters, abettors, and guardians who fail to prevent child marriages.

Void Under Specific Aggravated Circumstances (Section 12): A child marriage is declared null and void ab initio if the minor is enticed out of lawful guardianship, compelled by force or deceit, sold for marriage, or trafficked for immoral purposes.

Injunctions and Injunction Violations (Section 13): District Courts are empowered to issue ex-parte injunctions against pending child marriages. Crucially, any child marriage solemnised in direct violation of an injunction order is rendered void ab initio under Section 13(1).

Cognizable and Non-Bailable Status (Section 15): All offences under the PCMA are declared cognizable and non-bailable, eliminating the enforcement barriers of the 1929 Act.

Child Marriage Prohibition Officers (Section 16): The Act establishes statutory Child Marriage Prohibition Officers (CMPOs) tasked with preventing child marriages, gathering actionable evidence, and assisting minors with annulment petitions.¹²

STATUTORY CONFLICTS AND LEGISLATIVE LOOPHOLES

Despite the structural enhancements of the PCMA 2006, the legislative regime governing child marriage in India remains fragmented by conflicting statutory definitions and personal law exemptions.

Fragmented Statutory Definitions of 'Child': Indian jurisprudence lacks a single, uniform definition of childhood across its regulatory statutes.

Conflicting Personal Laws and Statutory Marriage Laws: The Hindu Marriage Act, 1955 (HMA): Section 5(iii)¹³ of the HMA specifies that the bridegroom must have completed 21 years and the bride 18 years at the time of marriage. However, the statutory consequences for breaching Section 5(iii) reveal a major legislative omission: Section 11 of the HMA enumerates grounds that render a marriage void *ab initio* (e.g., bigamy, sapinda relationships, prohibited degrees of relationship). Section 5(iii) is omitted from this provision. Section 12 of the HMA enumerates grounds rendering a marriage voidable (e.g., impotence, fraud, force). Section 5(iii) is omitted here as well. Consequently, under a textual reading of the HMA, a child marriage in breach of Section 5(iii) is neither void nor voidable; it remains legally valid. The statute merely imposes penal consequences under Section 18(a) (simple imprisonment up to two years, a fine up to ₹1,00,000, or both) on the contracting parties or those who solemnise it. Furthermore, Section 13(2)(iv) of the HMA establishes a statutory ground for divorce, allowing a girl married before age 15 to repudiate the marriage before reaching 18 years. The existence of this divorce provision demonstrates that the legislature acknowledged the underlying validity of child marriages under Hindu personal law. Also, to claim divorce after marriage solemnised after 15 years of age and before 18 years, she needs to prove other grounds for divorce, or we need to understand provisions under POCSO OR PCMA.

¹² *Ending Impunity for Child Marriage in India: Normative and Implementation Gaps* (Centre for Law and Research Policy 2018)

¹³ Hindu Marriage Act 1955

Muslim Personal Law: Under uncodified Islamic jurisprudence as applied in India, marital capacity is determined by mental soundness and attainment of puberty. In the absence of proof to the contrary, puberty is legally presumed upon completing fifteen years of age. A Muslim girl who has attained puberty is considered competent to contract marriage independently without parental consent. Under the Dissolution of Muslim Marriages Act, 1939 (Section 2(vii)), a female given in marriage by her father or guardian before attaining fifteen years possesses the right to repudiate the marriage (Khiyar-ul-Bulugh or 'option of puberty') upon reaching fifteen years, provided the marriage was not consummated, and the repudiation occurs before she turns eighteen.¹⁴ This framework directly conflicts with the PCMA's female age threshold of 18 years, leading to competing judicial decisions regarding whether personal law permissions override secular prohibitions.

In *P. Venkataramana v State of Andhra Pradesh* (1977), a Full Bench of the Andhra Pradesh High Court held that a marriage contracted in violation of Section 5(iii) of the HMA was neither void nor voidable, but valid.¹⁵ The court reasoned that declaring child marriages void ab initio would illegitimize offspring born of such unions, as Section 16 of the HMA historically conferred statutory legitimacy only upon children born of marriages formally annulled under Sections 11 or 12.

High Court Divergences and Judicial Uncertainty –

While the mainstream judicial position upheld child marriages as valid yet punishable, several decisions attempted to depart from this trend:¹⁶

In *P.A. Saramma v G. Ganpatalu* (1975), the Andhra Pradesh High Court held that a child marriage solemnised in violation of statutory age criteria was void ab initio. However, this ruling was subsequently overruled by the Full Bench in *P. Venkataramana* (1977).¹⁷

In *Katari Subba Rao v Katari Seetha Mahalakshmi* (1994), the Andhra Pradesh High Court held that the marriage of a girl below twelve years of age was a nullity in law and could not be recognised as a valid marriage. In Supreme Court jurisprudence, *Lila Gupta v Laxmi* (1978) addressed statutory marriage restrictions in an obiter dictum. The Supreme Court

¹⁴ A A Fyzee, *Outlines of Muhammadan Law* (4th edn, OUP 1976)

¹⁵ *Pinninti Venkataramana v State of Andhra Pradesh* AIR 1977 AP 43 (FB)

¹⁶ Kusum, *Family Law Lectures, Family Law 1* (4th edn, LexisNexis 2015)

¹⁷ *Panchireddi Appala Suramma v Gadela Ganapatlu* AIR 1975 AP 193

noted that under the scheme of the HMA, certain marriages solemnised in violation of statutory preconditions are penalised without being rendered void ab initio. Minor age was characterised as a temporary personal incapacity that resolves as the individual ages.

In *Lajja Devi v State* (2012), a Full Bench of the Delhi High Court examined the interaction between personal laws and the PCMA, 2006. The High Court held that the PCMA is a secular enactment intended to override personal laws to the extent of any inconsistency.¹⁸ However, the court clarified that because Section 3 of the PCMA designates child marriages as voidable rather than void, judicial forums cannot declare a child marriage void ab initio unless it falls under the specific exceptions in Sections 12 or 13.¹⁹ The court noted that this creates an anomalous situation where child marriage is simultaneously treated as a criminal offence and recognised as a civilly valid union until annulled.²⁰ This secular override was further supported in *Jitender Kumar Sharma v State* (2010) and the Madras High Court Full Bench decision in *T. Sivakumar v Inspector of Police* (2011), which affirmed the special, overriding character of the PCMA over personal law statutes.

Re-evaluating Marital Rape and Minority: The Landmark Independent Thought Decision:

The clash between penal protection and personal law exceptions reached the Supreme Court in *Independent Thought v Union of India* (2017).²¹ Before this decision, Exception 2 to Section 375 of the Indian Penal Code (IPC) stipulated that sexual intercourse by a man with his wife was not rape, provided the wife was not under fifteen years of age. This created a severe legal issue.

The Supreme Court harmonised this conflict by reading down Exception 2 to Section 375 of the IPC. The Court held that sexual intercourse by an adult male with his minor wife below 18 years of age constitutes statutory rape. Justices Madan B. Lokur and Deepak Gupta emphasised that a married girl child cannot be denied bodily integrity, reproductive autonomy, or constitutional protection under Article 21 merely due to her marital status. The Court affirmed that the PCMA is a secular statute dealing with children that overrides contradictory personal laws and penal exceptions.

¹⁸ *Court On Its Own Motion (Lajja Devi) v State* (2013) Cri LJ 3458

¹⁹ Sarasu Esther Thomas, *Law for Christians in Contemporary India* (BTESSC 2017)

²⁰ J Derrett and M Duncan, 'Essays in Classical and Modern Hindu Law – Current Problems and Legacy of the Past' (1979) 42(2) Bulletin of SOAS <<https://doi.org/10.1017/S0041977X00146087>> accessed 15 July 2026

²¹ *Independent Thought v Union of India* (2017) 10 SCC 800

CONSTITUTIONAL COMMITMENTS, REPRODUCTIVE AUTONOMY, AND INTERNATIONAL HUMAN RIGHTS

Health Impact and Reproductive Rights Violations: Child marriage severely infringes upon the reproductive rights and bodily autonomy of young women. As defined at the 1994 International Conference on Population and Development (ICPD, Cairo) and reaffirmed at the 1995 Fourth World Conference on Women (Beijing), reproductive rights encompass the fundamental right of individuals to decide freely and responsibly on the number and timing of their children, free from coercion, discrimination, and violence. Early marriage forces adolescent girls into premature sexual cohabitation and unintended pregnancies before their bodies are fully developed. Empirical findings from the CRY (2021) national evaluation highlight the severe reproductive health consequences of child marriage:²²

Teenage Pregnancies: At least 59% of surveyed child brides experienced teenage pregnancies, with 51% of mothers carrying a second child within a closed birth-spacing interval of less than two years. **Low Birth Weight and Malnutrition:** 17% of first-born infants delivered by child brides were recorded as low birth weight (<2.5 kg), initiating an intergenerational cycle of malnutrition, stunting, and developmental delays. **Restricted Healthcare Access:** 47% of child mothers failed to complete the mandatory four Antenatal Care (ANC) visits, and 42% were not permitted by spouses or in-laws to visit healthcare facilities alone.²³ **Infringement on Contraceptive Autonomy:** 72% of child brides had no decision-making input regarding contraceptive use, and 51% lacked basic awareness of permanent family planning methods. These factors contribute directly to heightened rates of maternal mortality, obstetric fistula, and infant mortality, violating the fundamental right to health and bodily integrity under Article 21 of the Constitution.²⁴

International Treaties and Obligations: India's domestic retention of the 'voidable' marriage framework presents ongoing challenges under its international treaty commitments: CEDAW (1979): Article 16(2) explicitly mandates that the betrothal and marriage of a child shall have no legal effect, requiring state parties to take all necessary action to specify a

²² Deepali Godha et al., 'Association between child marriage and reproductive health outcomes and service utilization: a multi-country study from South Asia' (2013) 52(5) Journal of Adolescent Health <<https://pubmed.ncbi.nlm.nih.gov/23608719/>> accessed 15 July 2026

²³ Aparna Bhat et al., *Child Marriages and the Law in India* (Human Rights Law Network 2005)

²⁴ Shireen J Jejeebhoy and Saumya Rama Rao, *Unsafe Motherhood: A review of Reproductive Health in India* in Monica Das Gupta et al., *Women's Health in India: Risk and Vulnerability* (OUP 1995)

minimum age for marriage and make marriage registration compulsory. India ratified CEDAW in 1993, but entered declarations regarding non-interference in community personal affairs and practical difficulties in implementing universal registration. UN Convention on the Rights of the Child (UNCRC, 1989): Ratified by India in 1992, Article 19 obligates the State to protect children from all forms of physical or mental violence, sexual abuse, and exploitation. Article 24(3) instructs states to abolish traditional practices prejudicial to children's health.

1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages: Requires state parties to enact statutory minimum ages for marriage and ensure no legal status is accorded to non-compliant marriages. India has neither signed nor ratified this instrument. In 2013, joint recommendations from the UN Committees on CEDAW and CRC urged India to declare all child marriages void ab initio, withdraw its reservations to Article 16(2) of CEDAW, and establish compulsory marriage registration mechanisms.

STRATEGIC RECOMMENDATIONS

Strategic Policy and Legislative Recommendations: To resolve the socio-legal contradictions surrounding child marriage in India, comprehensive reforms across legislative, administrative, and social domains are required:

Statutory Harmonisation and Universal Voidability: Parliament should amend Section 3 of the PCMA, 2006 to declare every child marriage solemnised in violation of statutory age criteria void ab initio, following the progressive model adopted by the Karnataka State Amendment (Act 26 of 2017).²⁵ To prevent hardship to minor females, the PCMA must explicitly preserve statutory savings provisions. The PCMA must ensure that declaring a child marriage void ab initio does not affect the statutory legitimacy of children born from such unions (under HMA Section 16 principles) or diminish the child bride's rights to maintenance, interim relief, and residential protection against the groom or his family under Sections 4 and 5 of the PCMA.

Adoption of a Uniform Civil Standard: Personal laws governing all religious communities must be aligned with secular child-protection standards. No customary or personal law

²⁵ Vasudha Dhagamwar, 'Common Tale of Aameena, Chhotu and Countless Other Children' (1993) 31(50) *Mainstream* <https://archives.ashoka.edu.in/visit_details/83294> accessed 16 July 2026

provisions such as the presumption of marriageability upon reaching puberty under uncodified Muslim law should exempt individuals from secular age requirements. The Prohibition of Child Marriage (Amendment) Bill, 2021 (currently under parliamentary committee review) proposes establishing a uniform marriage age of 21 years for both females and males, while extending the annulment petition window under Section 3(3) from two to five years post-majority. This proposal offers a key opportunity to enact explicit statutory overrides over conflicting personal laws.

Mandatory Marriage Registration Infrastructure: Parliament should enact a comprehensive central statute mandating compulsory registration of all solemnised marriages, as recommended by the Law Commission of India in its 211th Report (2008). Marriage registrars must be legally required to verify age credentials through official municipal birth certificates or school leaving records before issuing marriage certificates. Unregistered marriages should carry rebuttable statutory presumptions of invalidity in contested proceedings.

Strengthening Village-Level Enforcement and Witness Protection: Statutory Village Child Protection Committees (VCPCs) must be operationalised across all Gram Panchayats to serve as local monitoring and reporting bodies²⁶. State governments should establish formal protection mechanisms and anonymous reporting helplines for informants, witnesses, and whistleblowers who report impending child marriages, mitigating fears of social ostracisation or retaliation. Informant incentive models such as the Mukhbir Yojana can be scaled nationally to encourage timely community reporting.

Educational and Economic Support Systems: Free and compulsory secondary education under Article 21A must be extended up to age 18, ensuring functional transport and safe secondary school infrastructure in rural communities²⁷. Self-Help Groups (SHGs), Anganwadi networks, and civil society organisations should be integrated into community education initiatives focused on reproductive health, gender equity, and the legal consequences of child marriage.

²⁶ *Marriage Can Wait, Our Rights Can't* – A Study Exploring Causes, Impacts And Resistance in the Context of Early Marriage In Bihar And Jharkhand (Praxis and Breakthrough 2012)

²⁷ Pinta Paul, 'Effects of education and poverty on the prevalence of girl child marriage in India: A district-level analysis' (2019) 100 *Children and Youth Services Review*

<<https://www.sciencedirect.com/science/article/abs/pii/S0190740919300581>> accessed 16 July 2026

CONCLUSION

The persistence of child marriage in India highlights a major gap between progressive legislative intent and practical social enforcement. While penal statutes like the PCMA, 2006 and the POCSO Act, 2012 reflect a statutory commitment to child rights, the civil validity retained by child marriages under traditional personal law doctrines undermines these protections. Treating child marriages as illegal and punishable yet civilly binding forces young women into coercive cohabitation, compromising their health, education, bodily autonomy, and constitutional rights²⁸.

Recent judicial developments have significantly bolstered this shift toward statutory harmonisation. In its landmark ruling in *Society for Enlightenment and Voluntary Action v Union of India* (2024), a Supreme Court bench led by Chief Justice D.Y. Chandrachud unequivocally held that the PCMA, 2006 operates as a secular, child-centric enactment that personal law exemptions or religious customs cannot subjugate. The apex court affirmed that elevating customary norms above statutory age safeguards infringes upon a child's constitutional right to bodily autonomy and free choice of life partner. Furthermore, with India transitioning from the Indian Penal Code to the Bharatiya Nyaya Sanhita (BNS), 2023, and the pending status of the Prohibition of Child Marriage (Amendment) Bill, 2021 before Parliament, codifying a uniform standard that overrides personal laws and unifies the age of marriage has become an immediate constitutional necessity.

Eliminating child marriage requires closing these legal loopholes. Parliament and the judiciary must adopt a coherent, uniform standard that declares all child marriages void ab initio while preserving critical maintenance and legitimacy protections for affected women and children. Securing these statutory protections, alongside mandatory registration systems and dedicated socio-economic support for girls' education, is essential to fulfilling India's constitutional promises and protecting the human rights of every child.

²⁸ KG Santhya et al., *She knew only when the garland was put around her neck': Findings from an exploratory study on early marriage in Rajasthan* (Population Council 2006)