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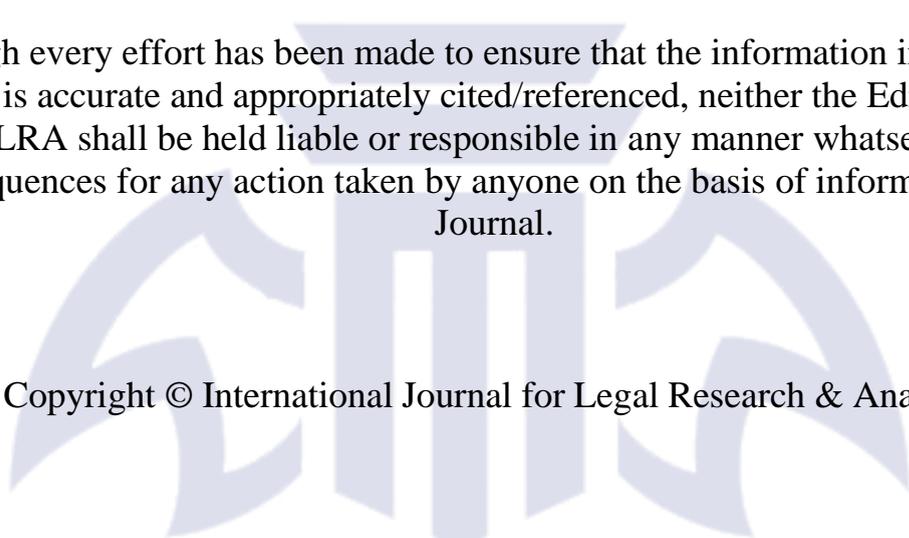
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# **Child Marriage in India and the Need for Tackling it at the Earliest: Factors and Concerns**

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## **Abstract**

The concern associated with child marriages in the country has always remained constant concerning a complex matrix associated with religious traditions and social practices as well as economic factors followed by deep-rooted prejudice. Irrespective of its roots and reasons, child marriages have continued to cause a growth violation concerning human rights. Despite the deliberate attempt of the international and national as well as state bodies in relation to the elimination of child marriage from the country, the issue seems to be in existence in multiple states in India. A social concern such as Child Marriage is not being capable of being curbed without any kind of support from the society coupled with the legislative body of the country. A significant level of work is required from the governing authorities to remove the issue from its roots. It has also been analysed that the governing authorities are doing a significant amount of work for making child marriage void ab initio under the governance of the “*Prohibition of Child Marriages Act, 2006*”; however, Indian society is recognised to be significantly complicated as well as complex that the government is believing that considering child marriages to be void will only help in the case of jeopardising the rights of women who are recognised to be the victims of child marriage.

## **Introduction**

Child marriages can be identified as one of the biggest and burning problems in the country. In India, despite multiple legislations and policies aiming at the advocacy of a legal age of marriage for both men and women, there are multiple instances of child marriages around the country. It is also to be taken into consideration that child marriages have long been practiced in India. The concern associated with child marriages in the country has always remained constant concerning a complex matrix associated with religious traditions and social practices as well as economic factors followed by deep-rooted prejudice. Irrespective of its roots and reasons, child marriages have continued to cause a growth violation concerning human rights. Despite the deliberate attempt of the international and national as well as state bodies in relation to the elimination of child marriage from the country, the issue seems to be in existence in multiple states in India. Hence, it could be assumed that the only reason behind the inability or failure of India in the course of eliminating child marriages, is only the ineffective nature of its legislatures and judiciary while dealing with the issue under consideration.

## **Indian Scenario Of Child Marriages**

During the mediaeval ages, laws as well as orders were not yet considered to be a universal phenomenon. On the other hand, arbitrary powers used to be concentrated concerning the hands of the higher key that was led by a despotic monarch or leader. In India, in this situation, the Sultans of Delhi used to hold the place concerning the despotic monarch, coming from a different culture. The acceptance of child marriages in the eyes of law could be traced back to that era. The number of child marriages continued to be the same and were accepted in the eyes of law even during the British ruling period (Brahmapurkar, 2017). However, with the independence of India, the government took a deeper look on the concern; hence, came up with legislations declaring child marriages to be voidable. There were multiple laws and policies introduced aiming at the elimination and management of child marriages in India. Surveys have suggested that most of the child marriages in the present time, are conducted in the rural areas. There are multiple variations of child marriages across different cultures of the country specifically focusing on different castes and tribes. However, it could be suggested that since according to article 14 of the Indian Constitution the laws made for the benefit of the Indian citizens will be equally governing all the citizens of the country, child marriages under different acts introduced by the government will also be binding on every culture and caste as well as tribes promoting child marriages (Chahal and Kumar, 2017). Now, the question remains why despite the introduction of multiple legislations and policies, the Indian government is failing to tackle and eliminate the same (Jejeebhoy, 2021).

Different researchers have suggested multiple reasons behind the continuous occurrences of child marriages followed by the problems accompanied by the same. However, irrespective of the nature of reasons behind child marriages and problems associated with the same, it is to be specified that child marriages will continue to be a social evil, derogatory to societal development.

## **What Are The Factors Motivating Child Marriages?**

In this society, especially in the developing countries, women stand by the connection of roads of production and reproduction, economic development and the development of human beings and the society at large. Contribution of women in both spheres is unavoidable. However, despite the direct contribution of women in the development of the society in every sphere of the same, women have long been the victims of discrimination (Watson, 2021). They are considered to be the vulnerable group of the society based on multiple factors including their unavoidable contribution in the development of the society and the discrimination as confronted by them. The system of child labour can be identified to be one of the critical problems concentrate by the female group of this society and which needs to be taken care of at the earliest in order to secure the rights of women and their development. The factors motivating the practices of child marriages in India are as follows:

- Women have long been neglected in Indian society and so has their education. Families did not consider it to be important to contribute to the expenditure of the education of women. For a long time, women were not even allowed to go to school as they were kept behind the closed doors and four walls of their houses. Even after the independence of the country, women were yet to get their own independence. Based on no significant future in the domain of education and profession, families wanted them to marry off at the earliest even before they hit puberty (Modak, 2019). This is how the practice of child marriages started. It is also to be taken into consideration that child marriages also included minor boys. In many cases and groups or tribes, the practice of marriage of minor boys and girls still persists. However, the reason behind the same faces back to the lack of focus towards education, profession and future of the victims.
- In most cases minor girls were married off to older men, with more wives or widowed. The prime reason behind the same used to be the minimisation of marriage expenditure. Back in those days, if a man could get married to a minor girl, he had to pay an amount of money to the family of the girl. Hence, for these economic reasons child marriages continued growing (Duran and Tepehan Eraslan, 2019). However, at present, the economic situation of the family of the girl would force them to marry off their daughter. Hence, poverty of the

family remains to be one of the greatest reasons behind child marriages in most areas of India. This particular reason is considered to be one of the primary reasons at present given the economic situation of most rural areas of the country.

- Lack of education of families can also be considered to be another reason behind child marriages. Due to lack of knowledge regarding the consequences of child marriages and also the laws associated with the same, the families enter into child marriages practices. Due to lack of education among most people, they also wrongly believe that if the girl is not married off at an early age, she will not be capable of reproducing. Hence, given the insecurities as mentioned and persistence of the same even at present and modern society, child marriages have continued to persist.

### **Problems Coupled With Child Marriages**

There are endless reasons why child marriages were banned and how the same effect the psychological and physical health of the children. However, there are certain mentionable problems associated with child marriages such as follows:

- Children below the age of 18 do not have sufficient knowledge concerning reproduction and conjugal relations. People with lack of sufficient education and in the rural areas are wrongly informed that since the girl has hit the age of puberty, they become capable of reproducing (Modak, 2019). However, it is certainly not true and as a result of which, many girls die while giving birth to children due to lack of capability of reproduction and malnutrition as well as complications related to young age. Furthermore, many young children are also forced to reproduce multiple times even before they hit the age of majority. As a result of the same, they fail to survive and lead towards death.
- Domestic violence is another issue associated with child marriages. Children who are physically, are also immature and are not capable of defending themselves either verbally or physically. Due to their immature physical and mental situation, they often have to survive domestic violence which affects their psychological and physical well-being.
- In most families of rural areas, women are burdened with all the heavy household activities. Minor children with minimum physical health are forced to do such household activities immediately after they are married off to the family. This not only affects their psychological growth; it also affects their physical health. Women also play a major role in the course of cultivation. As a female member of the family, they are expected to do all the household activities irrespective of the physical situation.

- Given the minor age and immaturity of physical health, young children are not capable of planning and managing families. This not only results in unhappy families; it also results in violence in the conjugal life of the couples. On the other hand, a high difference in the age of the bridegroom and the bride, also result in problems in their conjugal life.

## **International And National Laws Governing The Issue**

**Prohibition of Child Marriage Act, 2006:** As suggested by the Prohibition of Child Marriage Act, 2006, the permitted legal age for marriage for women is 18 years and for men, it is 21 years. A decree concerning the nullity of the marriage can be obtained by any girl entering into a child marriage within 2 years of the attainment of the age of 18. It has also been recognised that a new legislation was particularly enacted with the intention of replacing the Child Marriage Restraint Act, 1929, which was specifically enacted in the form of Prohibition of Child Marriage Act, 2006. This particular act was aimed at preventing child marriages followed by enhanced punishments concerning rigorous imprisonment for nearly two years or fine of rupees 1 lakh or both in some cases. It was further suggested that, if the consent of the parties is obtained illegally through any form of fraud and deceit or in any case, if the child is enticed away from their lawful guardians, and the primary purpose is to utilise the child for trafficking or any other kind of immoral purposes, the marriage would be recognised to be automatically void. The act further has the power for appointing a Child Marriage Prohibition officer with a duty of preventing child marriages as well as spreading awareness concerning the same.

**Hindu Marriage Act, 1956:** According to the given act under consideration, only the parties involved in a child marriage will be held liable and punishable even if they were not in favour of the same and did not give consent therein. In this particular act, no specific provisions are there concerning the punishment of the parents as well as people solemnising the marriage. It has also been assessed that a girl possesses right of getting the marriage annulled based on the fact that she was married off before she attained the age of 15 and she thereby challenges the marriage before she turns 18; however, there is no express provision to prohibit child marriage per se.

**Government strategy and action:** “*The national Ministry of Women and Child Development*” has developed a national strategy, whereby, it is presently drafting a particular plan of action concerning child marriage with the intention of guiding all the states with regard to the implementation of those given strategies for the prevention of the problem. Certain key components concerning the strategy as well as the draft action plan are considered to be the law enforcement

and quality education followed by other opportunities and changing mindsets as well as empowering adolescents, social norms, producing followed by sharing knowledge and data, and monitoring.

## **Conclusion**

A social concern such as Child Marriage is not being capable of being curbed without any kind of support from the society coupled with the legislative body of the country. A significant level of work is required from the governing authorities to remove the issue from its roots. It has also been analysed that the governing authorities are doing a significant amount of work for making child marriage void ab initio under the governance of the “*Prohibition of Child Marriages Act, 2006*”; however, Indian society is recognised to be significantly complicated as well as complex that the government is believing that considering child marriages to be void will only help in the case of jeopardising the rights of women who are recognised to be the victims of child marriage. The legislation as well as laws alone will never be capable of serving the purpose behind prohibiting child marriage practices unless and until a mere support as well as backing from the society is there. The Uniform Civil Code or UCC in this case would be directly and actively contributing in the case of preventing child marriage to a certain extent.

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