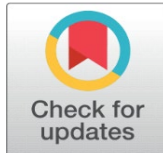


# VIOLATION OF CHILD HUMAN RIGHTS IN CHILD MARRIAGE IN INDIA

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DOI

[10.29121/shodhkosh.v5.i6.2024.3157](https://doi.org/10.29121/shodhkosh.v5.i6.2024.3157)

**Funding:** This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

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## ABSTRACT

Child marriage has been practiced in India and other countries since ancient times. Before the physical and mental maturity of the children they get married, without their consent which is not only harmful for their overall development but also is harmful for the development of the country at large. Child marriage is a heinous and serious violation of Child Human Rights and is a punishable offence. Still this social evil is practiced in several parts of India and the entire world. Indian Government is striving hard to eradicate this evil, which is a serious factor for degradation of the society. The future generation gets adversely affected by this evil. Several steps have been taken by the government of India to stop this evil. This paper discusses child marriage in detail the reason behind, the consequences and the probable solutions that will help India to fight against this social evil and stop child marriage. This paper specially emphasised the ill effects of child marriage on girls, who are more affected by this evil and which can even be life threatening for them.

**Keywords:** Child Marriage, Human Rights, Offence, Social Evil



## 1. INTRODUCTION

Child marriage is a violation of human rights. It compromises the development of girls and boys. Moreover, it often results in early pregnancy, poor health, little education, and social isolation. All these factors make it impossible to break the vicious circle of poverty - particularly for girls. (Osama Khogali, UNICEF Representative to Montenegro).

Living in this twenty-first century, an age of liberal beliefs and modern ideas, most of us consider ourselves to be progressive. Residing in cities, talking about human rights, gender equalities, gay-lesbian marriage legalization etc. progressive ideas some of us are totally oblivious about a burning problem eroding the Indian society at its centre. A heinous violation of Child Human Rights, adversely affecting the future generation of our country, Child Marriage. Many must be wondering about the facts that still today around 45 percent of girls are wedded below 18 years of age in India (Lal, 2015). Raja Rammohan Roy was the legendary social reformer in West Bengal, who fought against child marriage and 'sati pratha' during 1830s. Since then, until now number of rules, laws, regulations, articles etc has been formulated by the government against child marriage. But still child marriage remains one of the major concerns that not only bother India but the entire world scenario.

### What is Child Marriage

In a union (marriage), if one or both the spouses are below the age of 18 then it will be considered as child marriage. It is a human rights abuse, violating Article 16 of the Universal Declaration of Human Rights which states that "marriage

should be entered into only with the free and full consent of the intending spouses”. In case of child marriage, the intending spouses who are immature, generally, are not able to express their consent about the marriage.

### **Government policies related to child marriage**

Time and again, Government has adopted several measures to check child marriage but still it has continued to be a threat to human rights. In 1891 Consent Act, the marriageable age of girls was increased to 12 years from 10 years. In 1929, Sharda Act the age was further increased to 14 years for girls and 18 years for boys. (Forbes, 1979). In 1955, the Hindu Marriage Act determined 18 and 21 to be the marriageable age for girls and boys respectively. (Mahmood, 1980). In 2006, PCMR (Prohibition of the Child Marriage Act) provided imprisonment up to two years and fine for those who violate this rule. Finally in 21st December, 21 PCMA was amended which intends to increase the marriageable age of girls to 21 from 18, in order to equalise the law for men and women. Though this decision has not been finalised as yet.

### **Child marriage scenario in India**

Indian Government, time and again has implemented several rules against child marriage. It has also been considered an offence to be punished and fined. Despite such legal restrictions and steps, the NCB (The National Crime Reports Bureau) reported an increase of about seven times in number of cases of child marriage in the last decade (Pavitra, 2022). While in 2011 the number of cases recorded under PCM Act numbered 113, it showed a significant increase of 782 in 2020 (Crime in India, 2020). Referring to the report of child marriage in India by CRY (Child Rights and You), submitted in 2021, “nine states/ UTs have figures that are higher than the national average. West Bengal tops the list, with 41.6 percent of women aged 20-24 years marrying before the age of 18. Bihar came close with 40.8 percent, followed by Tripura (40.1 percent), Jharkhand (32.2 percent), Assam (31.8 percent), Andhra Pradesh (29.3), Dadra and Nagar Haveli & Daman and Diu (26.4 percent), Rajasthan (25.4 percent) and Telangana (23.5 percent)”. (CRY, 2021, p. 4).

While states like Goa, Himachal Pradesh and Kerala has low rates of child marriage of 6-7 percent approx. The National Family Health survey estimates there are around 24 million child brides in India, which results to almost 40 percent of the total 60 million child marriages occurring worldwide. According to the International Centre of Research on Women, India ranks 14th in the list of child marriage in the world.

### **Reasons responsible for child marriages in India:**

An individual below 18 years of age forced into a marriage union not only has an adverse effect on the individual but also on the society at large. Both the sexes are subjected to this social evil, but females are more vulnerable to Child Marriage. It affects them in larger numbers and they face sombre consequences in comparison to male children.

Female stand at the intersection points of production and reproduction, striving for economic development working outside to earn money on one hand and on the other they act as primary care giver in the family and is responsible for human development. So, it is safe to say that they are prevalent everywhere managing both home and outside. Still the discrimination against women is all pervasive. Since they are born till, they die, women are always considered as the second priority in the society. Be it education, health or property, a girl always stands as a second option, the boy being the primary priority. Child marriage is also a reflection of that. In a country like India there are several factors responsible for child marriages:

**1. Lack of education and poverty among the people:** In a developing country like India almost half of the population or more live in utter poverty and suffer from lack of education. Most of the people in India strive hard to attain the daily meals of the day. In such cases women are considered as a liability to the family. Poor families find it difficult to provide for everyone in the household and the easiest way to reduce the burden is to send off the daughter to another family after getting them married (Lal, 2015).

Moreover, the patriarchal mindset of the Indian society prefers to choose boys over girls, while spending money for education is concerned. Even the health of the boys is taken more seriously than that of girls. Girls are regarded as ‘paraya dhan’ or another’s property from the day they are born and are treated accordingly. Spending too much money after a girl’s education is considered to be an utter wastage of money, as once the girl gets married she will be ‘par gotra’ or different lineage.

Governments of different states have launched several programmes and schemes like ‘Kanyashree’ and ‘Rupashree’ in West Bengal, ‘Apki beti hamari beti’ in Haryana, ‘Bhagyalaxmi’ scheme in Karnataka, ‘Girl child protection scheme’ in Andhra Pradesh, ‘Ladli Laxmi Yojana’ in MP, ‘MAMTA scheme’ in Goa, ‘Saraswati Bicycle Scheme’ in Chhattisgarh,

'Sivgami Ammaiyyar Memorial girl child protection scheme' in Tamil Nadu etc. with an objective to change the attitude of the society towards girl child. Central Government has also launched certain schemes with the same objective like 'Sukanya Samriddhi Yojana', 'Beti Bachao Beti Padhao' etc. But lack of parental literacy and ignorance about the government schemes is also a major factor about child marriage. Parents with little or no education are oblivious about the harmful consequences of child marriage on their daughters. Not only that, the parents are also unaware of the fact that they are committing a serious crime by violating child's basic human rights by promoting child marriage and that they can be charged against and punished by law.

**2. Social insecurity & control over Girl's sexuality:** A general perception runs among Indian people that a married woman is safer against crimes like assaults, teasing, sexual harassments etc. than an unmarried woman. A married woman is viewed with more respect and regards in the society so in order to protect their daughters from such crimes they are married early.

Moreover, the patriarchal society likes to have a control over the sexual and reproductive life of the girls. It is a social stigma in a conservative society to get sexually involved to anyone other than the husband. Parents also fear their daughter getting pregnant out of wedlock. So, in order to safeguard their family, honour some families tend to marry off their daughters before they attain the age to get attracted by the opposite sex (Girls Not Brides, 2015) or mature enough to choose her life partner.

Girls do not even have the right to choose their life partners by themselves. Love marriages, especially when the bride and groom are from different cast or religion are considered vulnerable to the honour and family reputation. In some remote areas families suffer boycotts from neighbors, if their child happens to commit love marriage from a different cast.

**3. Dowry:** In some of the conservative Indian societies, the practice of dowry persists where the bride's family must pay cash or gifts or in some cases both to the groom's family. It is a huge burden for the bride's family to fulfil the demand of the groom's family. States like Uttar Pradesh, Bihar, Karnataka, Jharkhand etc places are still facing this social evil. The more the age of the girl is the more is the demand for dowry. So, in order to save themselves from excessive burden, families tend to marry their daughters early.

Generally, in a patriarchal society husband enjoys higher status than wives in a family. Society expects the husband to be more capable and qualified than the wife. So, if a girl is highly qualified and the expectation is to arrange for a husband who is of higher qualification than the girl, the demand for dowry will be more. It can be said that dowry is directly proportional to the age and qualification of the girl. The less the better. (Lal, 2015).

**4. Ineffective Law:** Government has formulated several laws under PCMA but they proved to be ineffective and weak. The officers are less in number, overburdened with work and clueless about their roles and responsibilities. Defaulters even escape legal punishments by providing bribes to authorities. Social and political influences also stop laws to work in an unbiased manner.

**5. Avoiding share in ancestral property:** Hindu Succession (Amendment) Act, 2005 states that daughters hold an equal share as the son in the ancestral property. But stringent patriarchal societies, in some families still consider sons as their heirs and deny property to their daughters. Marrying the daughters young is a way to curtail them from the property.

**6. Social, religious & cultural practices:** Customs like 'Gauna', 'Mooklava', etc indirectly promotes child marriage. Gauna is a northern Indian ceremony prevalent in states of Bihar, Uttar Pradesh, and Rajasthan. The ritual takes place after both the spouses attain maturity. Before that the bride stays at her own house. So technically, the bride and the groom got bound into a relationship before they could give consent for it.

**7. Covid 19:** The pandemic COVID 19 has been a huge disaster for human race in several ways. It affected the life of women in number of ways. Among many others, child marriage is one. With the closure of schools and the shift of education from offline classroom mode to online mode affected almost 247 million children. (Sharma, 2021) In a developing country like India, everyone is not blessed enough with digital literacy and availability. Not every place has internet access and everyone has smart phones or computers. This increased the dropout rates in girls as girls are always in the second priority list when education comes into consideration. This brought about an upsurge in child marriage.

Due to covid lockdown, health system totally crumbled. Girls who got pregnant outside wedlock found it easier to get married rather than getting access to a clinic for getting an abortion done. Early marriage at least saved them from social stigma.

Due to the pandemic and the resulting lockdown, there had been a steep decline in the income of certain families. As a result, girls were pulled out of schools. Some were married off and others sent as sex workers in order to lower the burden of the family. Due to lockdown, incidents of domestic violence also increased.

Poor parents spend most of their life's savings on marrying off their daughters. During Covid the government restricted public gatherings (only 50 people were allowed in any gathering) which were an opportunity for the poor parents to marry off their daughters in low budget. They could arrange a private marriage ceremony with less people which was affordable for them. During Covid many families suffered life losses where both parents died leaving the child behind all alone. The relatives of such orphans, in most cases thought it better to get them married in order to free themselves from responsibilities. Moreover, exploitation and domestic violence over such children are very common, which according to some can be escaped through marriage.

### Consequences of Child Marriage:

**1. Burden of work at home or family responsibility:** In Indian society, women are the primary care giver in every family. The basic household work of cooking, cleaning, and looking after children; elders and patients etc. are mainly done by women of the house. When a girl is married early, she is expected to fulfil the care-giver role like a matured woman. But this becomes strenuous for an underaged girl. This burden is both physically and mentally harmful for the child bride.

**2. Early pregnancy:** Child Marriage often leads to unwanted and early pregnancy. The child bride, in most cases remains unaware about contraceptives and precautions to be taken which leads to multiple pregnancies. This has an adverse effect on the health of the underaged mother. In most cases she is not physically as well as mentally ready to carry the responsibility of the child which again leads to unhappy and disturbed childhood of the children. In some cases, the mother loses control over the child because of her inability to manage family.

**3. Desire for male child:** No matter how much we talk about female empowerment, gender biasness, equality of gender etc. for some people it remains limited to theories. Some houses, especially in rural areas desire for a male child which is considered as the 'waarish' or one who will continue with the family lineage.

In order to fulfill that desire, women are forced to give birth as many times until they give birth to a boy. This happens more in the case of child mother as her productive years are more.

**4. Adverse effect on the child bride:** in normal cases, the age differences between the bride and the groom are high in case of child marriage. As a result, the bride lacks any freedom in the family. She is always dominated and has no freedom to express her opinions and must follow the orders of her husband and in-laws.

### 5. Child marriage among boys:

According to District Level Household and Facility Survey (dlhs-3), around 23.2 percent of boys among the surveyed population had been married within the age of 10-20 years, while the legal minimum age for marriage for boys is 21 years. Though this percentage is less than that of women who are affected by child marriage, still boys who are married early face certain adverse consequences in their life. Husbands are expected to take the responsibility of the family, for which they may be unfit due to under age and lack of maturity. Moreover, early fatherhood puts on financial burden on the husband which restricts educational and career opportunities of the boy. Early burden of the family cut short their childhood.

With a deeper analysis of unit-level data, the paper also estimates the prevalence of child marriage among a younger cohort of women (aged 18- 19 years), which is about 1-2 years prior to NFHS-5 and hence more recent.

## 2. TRENDS

The age at marriage in India is increasing over time. The median age of first marriage (among women 20–49 years of age) has increased by 2.0 years during the last decade and a half, from a level of 17.2 years in 2005–06 to 19.2 years in 2019–21. For men (age 25-29), this increased from 22.6 to 24.9 during the same period.

- Child marriage reduced from 47.4% in 2005–06 to 26.8% in 2015–16, registering a decline of 21% points during the decade (Fig 1). In the last five years, it declined by 3.5% points to reach 23.3%.
- 43% women aged 20-24 years are married by age 20, and 61% are married by age 21.

- Child marriage, when computed for the younger cohort of women (18–19 years), showed a decline from 37.7% in 2005- 06 to 16.3% in 2019-21, indicating a growing trend for decline in the overall prevalence of child marriage in the years to come.

### 3. CONCLUSION

Prevention of child marriage has become extremely important in today's scenario. It is not only a serious violation of child's human rights but also is highly derogatory for the advancement of the society. In order to stop this evil, certain step should be taken like educating the parents on the first hand about the adverse effects of child marriage. For this, purpose certain leaders (political and religious), teachers, gram panchayats etc can come forward. Community workers, NGOs, government appointed officials can also sensitise people about the ill effects of child marriage. Media can also play an important role in this regard. Educating the illiterate people through different popular media like movies, theatres, social Medias etc can also be helpful. Teachings through entertainment are always more accepted by the people.

The judiciary system needs to be strict about the defaulters, who violate the child marriage rules. The rules and regulations should be more transparent and stricter. Severe punishments should be implemented for defaulters. No political or social manipulation or influence should be entertained in this regard.

Government has already introduced several scholarships for the education of girl child. But still biasness exists. Special steps should be taken towards eradicating gender biasness by providing financial help to families who are educating their girl child. More schemes to protect child should be formulated by the government. Increasing job opportunities can be a way of lessening child marriage.

Registration of marriage should be made compulsory. Under Hindu Marriage Act, 1955 or Special Marriage Act, 1954 marriages in India are to be registered. In 2006, Honorable Supreme Court declared it mandatory for every marriage to get registered in order to get legalised. Marriage should be registered within 1month of getting married otherwise the marriage should be considered invalid.

To stop child marriage is the need of the hour. While we dream of a better, developed India, such social evils are constant breaks for such advancement. Eradication of child marriage will no doubt accelerate Indian development.

### CONFLICT OF INTEREST

None

### ACKNOWLEDGEMENTS

None

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