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Can a law to raise marriage age for women work?

By Abhishek Jha, Hindustan Times, New Delhi

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New Delhi: There is no rational reason why the minimum age of marriage for women should be lower than men

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There is no rational reason why the minimum age of marriage for women should be lower than men. However, that is exactly the case under the current law that makes child marriages illegal in India: the Prevention of Child Marriage Act, 2006 (PCMA).

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A bill to amend this law and make the minimum age for both genders 21 years – it is 18 years for women and 21 years for men currently – was introduced in the Lok Sabha on December 21.

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As with every bill, this one also comes with a “Statement of Objects and Reasons” for enacting it. This statement cites the equality of genders guaranteed by the Constitution of India as one of the reasons for enacting the bill.

However, an HT analysis shows that the amendment is unlikely to achieve its other objectives and its reasons are divorced from what the government’s own data says. Here are four charts that explain this.

Decline in child marriages sped up slightly after the 2006 law

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The first reason cited in the bill for amending the PCMA is that the 2006 law has not completely ended child marriages.

“The Child Marriage Restraint Act, 1929, was replaced by the Prohibition of Child Marriage Act, 2006, to prohibit solemnisation of child marriages, but this highly pernicious practice is still not completely eradicated from our society. Hence, there is an urgent need to tackle this societal issue and to bring in reforms,” the statement citing the reasons for the amendment says.

The National Family Health Surveys (NFHS) support this. A decade after the 2006 law was passed, over a third of women of age 20-49 years reported being married before turning 18. This proves that the practice exists, and that reforms are needed. What the statement does not explain is how increasing the minimum age will end it.

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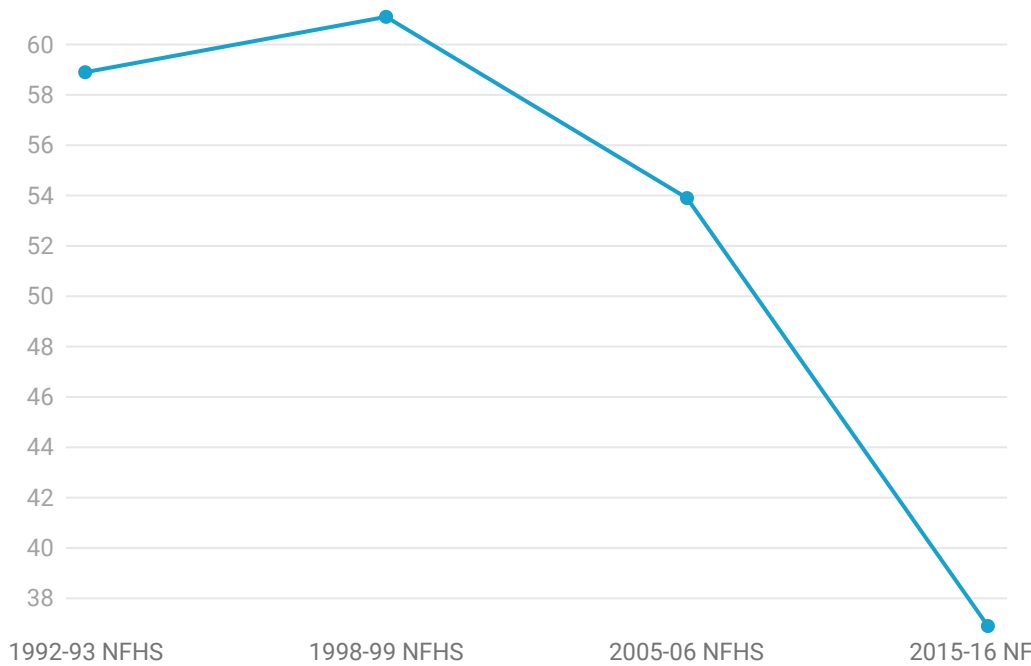
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The share of 20-47 years old women married before adulthood declined at the rate of 1.03 percentage points per year from 1998-99 to 2005-06. It decreased at the rate of 1.7 percentage points per year after that.

The drop in share of women married before adulthood is bigger after 2005-06

Share of 20-49 years old women married before turning 18 (%)



Source: STATcompiler • [Get the data](#) • Created with [Datawrapper](#)

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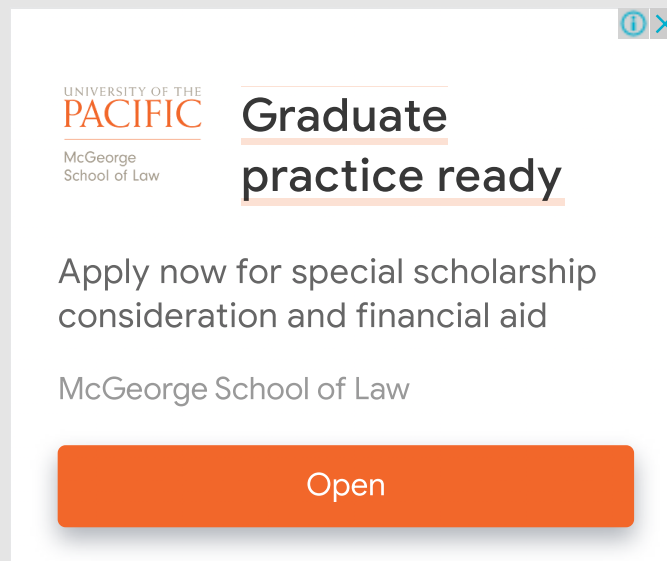
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Differences in personal laws don't impact child marriages

Most personal laws have the same age bar as the PCMA. The difference with PCMA is only in the Muslim personal law, where the age of puberty – considered to be 15 years – is the minimum age.

NFHS data shows that these personal laws have little correlation with the prevalence of child marriages in different communities.

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Child marriages are 1.6 times more likely among Hindus than among Christians although their personal laws have the same minimum age criteria.

Muslims and Hindus are almost equally likely to participate in a child marriage even with different age criteria.

Child marriages are 1.6 times more likely among Hindus and Muslims compared to Christians

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Share of 18-49 years old women married before turning 18 (%)

Christian	22.1
Others	22.9
Hindu	36.3
Muslim	36.4

Source: Unit-level NFHS 2015-16 • [Get the data](#) • Created with [Datawrapper](#)

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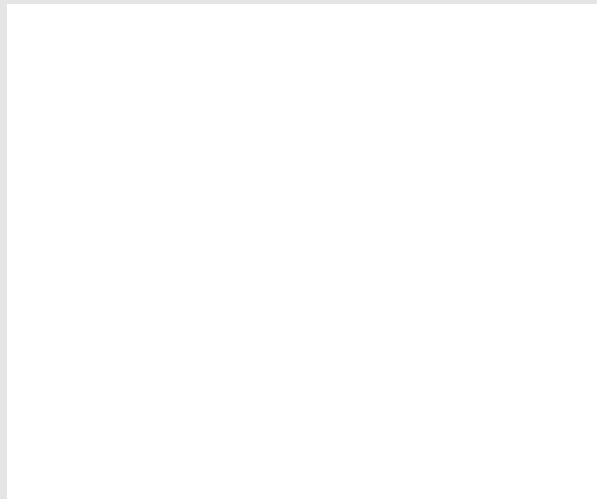
Nutritional status and employment can be affected by marriage at any age

Two other reasons cited for bringing the amendment are that it will help in improving nutritional status and employment prospects of women. HT analysed the impact of child marriage on these indicators in a [story published on August 23, 2020](#).

Young or breastfeeding women indeed have worse nutritional status than older or women who are not breastfeeding. However, nutritional status is also correlated with wealth of the household. 36% women in the bottom 20% of households by wealth were underweight, according to the 2015-16 NFHS, compared to 12% women in the top 20%.

Similarly, the Periodic Labour Force Survey (PLFS) conducted in 2018-19 shows that up to 20 years of age, labour force participation of married women is similar if not higher than unmarried women.

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In the 21-25 age group and the 26-30 age group, unmarried women are twice as likely to participate in the labour force as married women. This suggests that increasing the age of marriage will not change women's employment prospects until marital norms are decoupled from work participation.

Since it does not explain how job prospects will change, in effect, the law may make the poorest people most vulnerable to its prosecution provisions since child marriages are most prevalent in the lowest wealth category, according to NFHS data.

Wealth, education, and residence is correlated with

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Richest	20
Richer	31.3
Middle	38.7
Poorer	43.9
Poorest	47.1

Highest education level


Higher	4.8
Secondary	29.7
Primary	48.6
No Education	52.6

Residence

Urban	27.1
Rural	40.1

Source: Unit-level NFHS 2015-16 • [Get the data](#) • Created with [Datawrapper](#)

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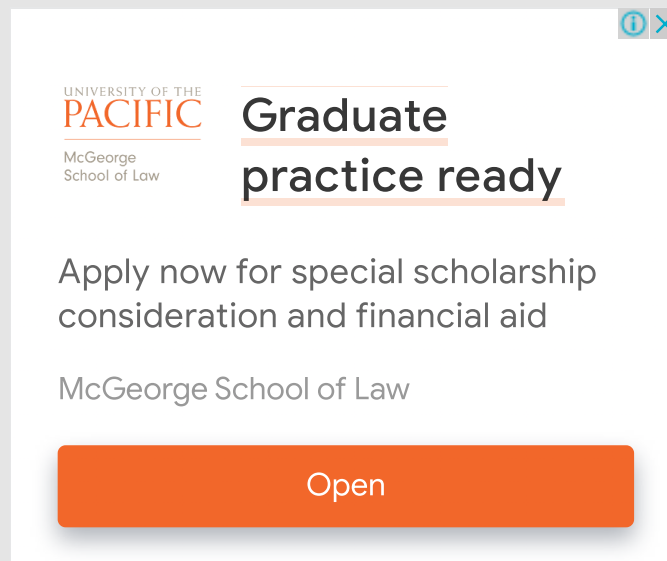
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law was passed, according to March 2016 population projections for the age group.

National Crime Records Bureau data, however, shows only 1,666 cases filed under PCMA from 2007 to 2016. Why is this the case? One reason is that the Child Marriage Prohibition Officer provided under the PCMA is a government servant at the district level carrying additional charge, who is neither proximate to the site of such marriages, nor has the time and training to perform the role, said Madhu Mehra, head of research and training at Partners for Law and Development (PLD).

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Child marriages are often stopped by social activists, who are few and far between, and they prefer to mediate as shaming the family results in backlash, making matters worse for the child, she added.

Even when child marriage cases are brought to courts, they may not be against child marriage per se. PLD analysed 83 cases of child marriage – not all filed under PCMA but all concerning annulment – that were decided between 2008 and 2017. 54 of them were ones of elopement, where parents were prosecuting the husband or seeking custody of their daughter or also cases where the couple sought protection from their parents. 25 other cases were of an arranged child marriage. They were related to the marriage breaking down because of domestic abuse or the partners being incompatible.

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The reforms the amendment bill talks about could well begin by hiring trained officers, increasing fund allocation for nutrition, increasing the right to education up to the minimum age of marriage, or simply put, spending some money on the objectives the bill seeks to achieve.

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