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When to wed: Raising the minimum age of marriage

The government has proposed increasing the age of marriage for girls to 21, but there are fears that this will circumvent more pressing issues relating to the welfare of girls and young women.

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A 12-year-old child bride who was rescued by the District Child Protection Officer and the police in Hyderabad, a file photograph. Child marriages in India, however, are on the decline.

Indian society's preoccupation with marriage has gripped its government of late. On Independence Day, Prime Minister Narendra Modi announced that his government was contemplating raising the minimum age of marriage for girls from 18 to 21 years. Currently, it is 18 for girls and 21 for boys. "We have formed a committee to ensure that

the daughters are no longer suffering from malnutrition and they are married off at the right age,” Modi said. In order to circumvent the issue of malnutrition among girls, the government has hit upon the solution of raising their age of marriage.

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This is in keeping with Finance Minister Nirmala Seetharaman’s announcement made earlier. In her 2020 Budget speech she had said that a task force would be set up to look into the age at which a girl entered motherhood in order to address issues of maternal mortality and nutrition levels. On June 4, the Women and Child Development Ministry constituted a task force under the chairpersonship of Jaya Jaitly.

Child marriage as a menace must be tackled. But it has, at best, a circuitous connection with malnutrition. The primary causes of child marriage in India, experts agree, are illiteracy, ignorance and poverty, coupled with patriarchy, lack of opportunities in education and employment, lack of agency, fear of sexual assault, blind beliefs, the family’s need to save or retain property, issues of marriage-related expenditure and the haste to fulfil a parental responsibility. Besides, data show that while child marriages still take place, they are in gradual decline.

In 2000, 9.5 per cent of boys and 35.7 per cent of girls aged between 15 and 19 were married, according to the United Nations Population Division. In 2001, 300,000 girls under the age of 15 had given birth, some for the second time, according to the Census. In 2005-06, 45 per cent of girls married before the age of 18 years, according to the National Family Health Survey (NFHS III). In 2009, the corresponding figure rose to 47 per cent. Fifty-six per cent of these girls were in rural areas, according to UNICEF’s “State of the World’s Children 2009” report, which also stated that 52 per cent of girls had their first pregnancy between 15 and 19 years.

More recent data point to a decline in the trend. According to NFHS-4, 2015-16, there has been a decline in child marriage in the last decade to 27 per cent for women, and 20

per cent for men, and an increase in the median age of marriage from 17.2 years to 19 years for women, and from 22.6 to 24.5 years for men.

Given a gradual but sustained increase in age at marriage, the National Coalition Advocating for Adolescent Concerns (NCAAC) questioned the need for increasing the legal age at marriage for girls or declaring underage marriages void. Child marriage was more a consequence of girls dropping out of school rather than the cause, they said.

Using the same data, a list of 42 individuals from organisations such as the Nirantar Trust, Oxfam, the HAQ Centre for Child Rights, Action Aid and Save the Children and Shantha Sinha, former Chairperson of the NCPDR, explained how child marriage had already given way to adolescent marriage in India. They urged the task force to not take the legal route to raise the age of marriage for women and, instead, take measures to strengthen the positive changes that are already under way.

They said: “Child marriage is no longer a significant phenomenon in India—what we now see is late adolescent marriage, and even here the age at marriage has been improving. Prior to the onset of the pandemic, on the ground information has led us to expect further improvements. Should the legal age of marriage be raised to 21 years, no less than 56 per cent of the women (in the 20-24 year age group of NFHS-4) who married below this age—and their families—would be turned into criminals overnight. Moreover, this proportion is as high as 75 per cent amongst the poorest 20 per cent of the population. Even in a progressive state like Kerala (with excellent health coverage and high levels of education) one third of all women in the 20-24 age group marry below 21 years. Note further that these estimates suffer from what is called the truncation effect: Many women in the age group 18-20 years at the time of the survey and who were unmarried would be marrying before the age of 21 years. In other words, the vast majority of Indian women across the country marry before 21, and would now become criminalisable.”

The Saheli Women’s Resource Centre believes that the government’s push behind delaying the age of marriage for girls might in part stem from the agenda of population control. In a submission to the task force, the centre said: “The push for increasing the age of marriage of women is nothing more than population control by another name. And let us not fool ourselves, the push to control birth rates and population will have a

direct impact on Child Sex Ratios, increasing sex selective abortions once again; in the bargain, undoing years of campaign and struggle to get the PC-PNDT Act [Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994] in place, and to get it amended –an Act that is in any case under threat with the latest notification of the central government suspending several of its provisions under the guise of the lockdown.” On April 4, the Department of Health and Family Welfare temporarily suspended some rules under the Act. Sabu George, who petitioned the Supreme Court against the notification, felt it might lead to “rampant sex determination tests”.,.

The Health Ministry feels that raising the age of marriage for girls will give girls more time to complete their education. It will “prepare them physiologically and psychologically to shoulder the responsibility of marriage and children”, the ministry said in its submission to the task force. It added that this had the potential to positively impact the health of the girl’s progeny. It would also empower girls to take informed autonomous decisions regarding their fertility preferences and care during ante-natal, childbirth and post-natal period, felt the ministry.

“This will lead to better chances of joining workforce. Increasing the legal age of marriage will thus give women independence, greater freedom of marital choices and given the positive correlation between educational qualification and lower fertility rates, more reproductive freedom. Further, the access to education resulting from both maternal and child health and a collateral dividend for socio economic upliftment of women at large,” said the ministry.

Views of young people

On July 17, Jaya Jaitly consulted adolescent and youth groups to get their perspectives on the issue. Their views reflect the complexity of the issue at hand. While there is no categorical acceptance or rejection of the proposed change, there is a clear view against any fixation with the age of marriage for girls as a means of empowerment.

Himadri Priya Duwara, 16, from Assam, indicated that increasing the age of marriage would not make a difference until structural inequalities were addressed. She explained that the centrality of marriage was very strong in a girl’s life. She further said that while education for girls from low-income backgrounds was free in Assam until class XII, government schools were not in good condition, This compelled parents to send them

to unaffordable private schools and ultimately resulted in girls dropping out. She recommended that incentives should be provided to cover expenses such as books and uniforms. Awareness generation among parents and girls through women's collectives such as Mahila Samitis and Kishori Samitis would be an important move. Livelihood opportunities through short courses and training in stitching and so on would allow girls to become independent and consequently delay their marriage.

Poorva Prabha Patil, 21, from Maharashtra, the first woman president of the Medical Students Association of India, said that increasing the age of marriage for girls to 21 years would only give rise to further challenges. She said the move would lead to more home deliveries because people would be apprehensive about reporting pregnancies. It would increase cases of criminalisation and harassment, especially for couples who wished to marry partners of their choice. She further flagged the issue of age of sexual consent and the need for sensitisation of society and health workers to the sexual needs of young girls.

Anjali Suryavanshi, 19, from Gujarat and a youth volunteer with Sahaj, said that increasing the age of marriage to 21 years would enable girls to complete their higher education and make it more likely for girls to be employed and financially independent and consequently able to make informed decisions. She, however, emphasised the importance of free and consensual marriage. She explained that among the factors contributing to child marriage was the fear of parents that adolescent daughters might get into sexual relationships. Other factors were poverty and lack of resources to invest in the education of daughters. She said there was a need to address these issues.

Venkata Nandini, 18, from Madanapalle, Andhra Pradesh, is a youth volunteer for the People's Organization for Rural Development. She said that increasing the age of marriage might help girls to complete their education, get job opportunities and be physically and mentally healthier. She said that these factors could provide cushion support in times of unforeseen situations like divorces. She emphasised that legal reforms might not be sufficient and said that structural support in terms of schools and colleges and assured access to them was important. Further, parents and children should be counselled on the importance of girls' education, skill training, health and employment opportunities. She emphasised the need to strengthen the Child Marriage

Prohibition Officer's post for better implementation of the Prohibition of Child Marriage Act (PCMA).

Beauty Kumari Paswan, 20, from Bihar felt that as the Constitution provided equal rights to girls and boys, the principle of equality should be extended to marriage as well. She felt that increasing the age of marriage would enable girls to finish their education, get exposed to new ideas, have occupational aspirations, and ultimately push back child-bearing age. However, she expressed concern about the possibility of couples who are in consensual relationships being exposed to harassment by the police following this reform. She also emphasised the importance of making accessible sexual and reproductive health knowledge and services among young girls. Youth medical centres have opened, but these services are not extended to unmarried couples because of biases among nurses stationed there. There is a need for massive awareness campaigns against child marriage and on sexual and reproductive health among adolescents, similar to the awareness drives on family planning. Thus, increasing the age of marriage would not be relevant if it is not supplemented by these efforts, she said.

There are fears of misuse of the PCMA. Analysing 83 High Court and District Court judgments and orders from 2008-2017, in which the PCMA was either invoked or discussed, Partners for Law in Development (PLD) tried to determine who used the law the most and why. The finding was that the parties involved in such litigation were predominantly drawn from poor, peri-rural and working-class backgrounds with little or no means to secure quality education, white-collar jobs, or professional careers.

The PLD found that an unintended effect of the law was to reinforce parental control over daughters' lives and marriage choices and punish independently chosen husbands rather than prosecute arranged customary marriages. "Any deliberation on amending the PCMA must be informed by the data on how the law is used, and its impact on young people whose interests the law seeks to protect. This data indicates that law is predominantly used to retaliate against elopements or self-arranged marriages, which incarcerates boys and forces girls into shelter homes, even in cases that end in acquittal. Any law reform undertaken in relation to the PCMA must seek to strengthen the life chances of girls most vulnerable to early marriage, through linkages with government schemes that offer educational and vocational opportunities; and in the

event of marriage, must invest girls with support services and decision making in relation to opting in or repudiating the marriage,” the PLD said.

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