

Why Govt Move Of Raising Legal Age of Marriage For Women May Harm Instead of Benefiting Them

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A government bill to raise the legal age of marriage for women from 18 to 21—the product of a report with several recommendations that have been ignored—will not prevent early or forced weddings, will deem many marriages of those between 18-21 illegal, and criminalise elopement by girls dodging domestic abuse, confinement, forced marriage.



A representative image of a marriage ceremony/CREATIVE COMMONS

New Delhi: Toilets and sanitary napkins so girls do not drop out of school. Safe transport to improve access to education. Sex education. Vocational training and livelihood options. A campaign to reform India's patriarchal mindset. Raise the age of marriage.

These were some of the main recommendations made by a 10-member panel that submitted a report—not yet made public—to the [Prime Minister's Office](#) and the [ministry of women and child development](#) in December 2020 on improving the condition of India's women.

The chairperson of the panel, former Samata Party chief, Jaya Jaitly, said the government cherry picked the recommendation about raising the age of marriage and ignored the others.

“Unless all of the recommendations go with it, there is no justification to raise the age of marriage,” Jaitly [told The Hindu](#). “It is like making traffic rules without providing good roads or traffic lights.”

Indeed, experts and activists concurred, telling **Article 14** that unless the proposal was not accompanied by other reforms, it would harm the interests of girls and women because:

- Existing laws to stop child marriages are overwhelmingly used by parents against children who elope or marry against their wishes, rarely by girls forced into marriage.
- The current amendment will not prevent early and forced marriages but will instead deem many marriages between 18-21 illegal.
- The law will criminalise and hurt an already vulnerable group: teenage girls and boys who elope, start working early in low-paid jobs.

The new bill, said experts, will not have a discernible effect on child marriage and does not address the main reasons for it: poverty, school dropouts and patriarchal mindsets.

The move to raise the age of marriage has not come from a demand from civil society or women’s organisations but finds its root in Prime Minister Narendra Independence day [speech](#) in 2020, when he said that the government would increase the age of marriage, so that “women are no longer suffering from malnutrition and get married at the right age”.

That prime ministerial contention, too, is disputed because it is not accompanied by policies that ensure better health and nutrition of girls and women.

Quality Of Education Vs Marriage

“We are trying to increase the age of marriage of women to 21 years so that they can have time to study and progress. The country is taking this decision for its daughters”—Prime Minister Narendra Modi, in December 2021 [rally](#) in Prayagraj, Uttar Pradesh

Getting married is not the top reason why girls drop out of education, according to government data.

The most common reasons that women cited for discontinuing education were: ‘not interested in studies’ (24.8%), ‘costs too much’ (19.3%), ‘required for household work’ (14.5%) and ‘school too far away’ (8.3%), according to 2015-16 National Family Health Survey or [NFHS-4](#), the latest available disaggregated data.

By comparison, the ‘got-married’ reason was cited by 7.9% of girls.

Almost one fourth (23.3%) of women between 20 and 24 were married before, according to the [latest](#) National Family Health Survey (NFHS-5 2019-21), marginally down from 26.8% in 2015-16.

While the [Right to Education Act](#), 2009, ensures free and compulsory education for students aged six to 14, poor families struggle with higher education, especially for daughters. This is why the [enrollment](#) of girls falls from 103.6% in primary to 77.8% in secondary and to 27.3% in higher education.

The economic condition and caste of the family also play an important role in early marriages. Those in the lowest wealth quintile and those belonging to scheduled caste and scheduled tribes had a higher likelihood of getting daughters married early.

For families suffering poverty and marginalisation, early marriage was seen as a way out of problems, said experts.

“Unless we change this mindset, where people believe that getting their daughters married early is the primary way to secure their future and to ensure their safety, even at the expense of not letting them pursue their education or take up employment opportunities, we cannot prevent early marriages,” said Sanghamitra Singh, a senior manager at the [Population Foundation of India](#), a non-profit.

Singh pointed out that even though the legal age for marriage among women has been 18 since 1978, it has not deterred child marriages. India has the [highest number](#) of child brides in the world--accounting for one in every three child brides in the world.

The current amendment will not prevent early and forced marriages but instead would deem a large number of marriages between 18-21 illegal, Singh said.

Current Law Used Mainly By Parents Against Children

The [Prohibition of Child Marriage Act](#) (PCMA) 2006 fixes the minimum age of marriage for girls to be 18 and boys 21. Under this law, underage marriages are legally valid but can be nullified within two years of the minor involved attaining majority.

Punishment for adults involved (for marrying an underage child, arranging the marriage or solemnising such a marriage) includes imprisonment up to two years and a fine.

An [analysis](#) of implementation of the PCMA between 2008 and 2017 by [Partners for Law in Development](#), an advocacy, showed that the law has been overwhelmingly used by parents against their children who eloped or married against their wishes, and rarely by girls against parents forcing them into marriage.

Social workers and NGOs said they did not encourage prosecution of the family for the fear of a backlash against girls or from the larger community, so they usually used the fear of the law to negotiate with the family.

A boy who she elopes with is usually charged with the stricter [Protection Against Child Sexual Offences \(POSCO\) Act](#) 2012 (POCSO) alongside the PCMA, as sexual contact with a girl under 18 is statutory rape, with no exceptions for consensual activity. The minimum punishment for repeated rape, in the case of child marriage, is 20 years imprisonment.

Girls who elope, [research](#) has found, often fled domestic abuse, confinement, burdensome household work, forced marriage and fear of retribution by parents who might discover romantic relationships.

Girls and boys who elope usually start working at an early age and are in low-paying jobs with limited opportunities, said experts.

Girls who are the subject of legal prosecution after elopement often end up in shelter homes because they refuse to return to parents, and boys end up in jail or juvenile homes, their research found.

“The experience of girls living in shelter is one of complete stigma, criminalization, erosion of their dignity, their sense of self and even development, because their education has come to a complete halt,” said co-head of restorative practices at the advocacy [Enfold India](#), Swagata Raha, who will soon publish a study on girls living in shelters.

Raha said the girls had no contact with partners or families and only waited to turn 18, so they could be reunited with partners. “They remain neglected and forgotten”, she said.



A representative image of Indian women/JORGE ROYAN, CREATIVE COMMONS

The Real Reasons For The Status Of Women

While early marriage increases risk for intimate partner violence, sexually transmitted infections, depression, and contributes to maternal morbidity and mortality, it isn't the only or indeed the leading factor.

The biggest social determinants of maternal health in India were [found](#) to be poverty, caste, maternal education, husband's education, mother's status in the family and religion.

While gender equality in legal age and delaying marriage makes sense for many reasons, a legal act that is not accompanied by efforts to tackle root causes in a context-specific manner is not going to help deliver the change that is necessary, said Purnima Menon, senior research fellow, [International Food Policy Research Institute](#).

“If the goal is to delay pregnancy for instance, work on family planning to delay first births is crucial,” said Menon. “If the goal is to help women achieve educational or professional goals then creating opportunities for those that are close to where girls and women live is crucial.”

One of the critical factors for maternal health was uptake of antenatal care, which was initially poor but has been improving



removed barriers to maternal health services and improved institutional deliveries.

Similarly state-run programmes, such as 'One Full Meal', which bundles hot cooked meals provided in anganwadis or creches with other nutrition and health services to pregnant women, currently implemented in six states (Andhra Pradesh, Chhattisgarh, Gujarat, Karnataka, Maharashtra and Telangana) have [shown](#) potential to be effective platforms to deliver health services essential for foetal growth and maternal health.

What Kind Of Policies Are Needed To Empower Girls?

One of the most powerful strategies that the government can undertake to empower girls is to invest in secondary education. Experts said there was a [correlation](#) between the number of years women spent in school and the number of children they had or their fertility.

“The longer a girl stays in school, the later she gets married, the later she gets pregnant and greater is her chance for contributing productively to the workforce,” said Singh of the Population Foundation of India.

Expanding the Right to Education Act to cover secondary and higher education, improving the quality of education, increasing access to technical and professional courses that leads to employment, reproductive health information and services for adolescents are some of the recommendations to improve lives of adolescent girls in the 2020 [submissions](#) by [National Coalition Advocating for Adolescent Concerns](#).

The Coalition, which represents 21 organisations working on adolescent issues from across the country, submitted its reflections on underage marriage, and its intersections with maternal health outcomes, education and the law to the government-appointed task force headed by Jaitly last year.

“The coalition presented its written submissions to the task force and also presented at the meeting convened by the law ministry on its behalf,” said Madhu Mehra of the Coalition. “We hope the report of the task force is made public.”

(Swagata Yadavar is an award-winning health reporter based in New Delhi.)

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