



ANALYSIS

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WOMEN'S RIGHTS

## Will raising the marriageable age for women set her free or rob her freedom further?

REVATHI SIVA KUMAR · DECEMBER 6, 2020



*The plan to push the marriageable age limit of women from 18 years to 21 was greeted enthusiastically at first, but a closer look reveals that it is just another worrying addition to the series of ordinances and rules that attack a woman's right to freedom and choice. The upward revision of this age will widen the net of law-breakers and create more problems than solutions. The woman will become another pawn in the bigger battle that is raging for India's soul says **REVATHI SIVA KUMAR**.*

The recent “love jihad” rules that are being designed by BJP-ruled states have given a new angle to a “progressive” policy suggestion—hiking the marriageable age of women from 18 to 21 years. There are worries that the plan, ironically announced on Independence Day, would further rob women of independence. The policy suggestion extolled by Prime Minister Narendra Modi on August 15 has, surprisingly, not won many feminist fans, even as the love jihad laws raise outrage.

Historic evidence has shown the advantages of upward revision of marriageable age for the fairer sex. They include improvement in women's living standards, education, empowerment, nutrition and maternal mortality rates. Supporters are enthused that raising the age limit will also draw more women into the labour force and boost the economy and health of the nation.

So why is there outrage over this issue? Currently, the policy is being explored by a task force headed by Jaya Jaitley. A closer look reveals what lies behind the curtain. The framework of the law is expected to rest on the populist paradox of seeming status upgradation over actual degradation.

## The current law



women was fixed at 16 years. It viewed underage marriages as having no legal validity and therefore “void” only if the minors challenged it. A valuable aspect of the law was the right of the minor to repudiate or annul the marriage for a couple of years even after she turned major.

**“ In its attempt to upgrade women’s status, has the revision of the marriageable age limit to 18 years, through the Prohibition of Child Marriage Act really succeeded? Statistics show that India is home to every third child bride in the world and that though the age of marriage in India is above 21 years, about 35% of women get married before that.**

On the other hand, if a minor wanted the marriage to remain valid, it would not get challenged unless such a marriage involved “trafficking, enticement, fraud and deceit”. The law currently allows women who elope with their partners to demand that their marriages be protected, which is a right that should “never be taken away”, according to Madhu Mehra, Executive Director of Partners for Law in Development India, and co-founder of the National Coalition for Advocating for Adolescent Concerns.

In its attempt to upgrade women’s status, has the revision of the marriageable age limit to 18 years, through PCMA, really succeeded? Statistics show some interesting contradictions in the national narrative:

- Although the current legal limit stands at 18 years, India is home to every third child bride in the world, according to an Action Aid report of 2017.
- The mean female age of marriage in India is above 21 years, yet about 35% of women get married before that, according to a State Bank of India survey.
- More than 100 million have got married before they turned 15, reports the United Nations Children’s Fund.

So by raising the marriageable age of women, can the law completely stop underage marriages? If it did not earlier, why would it suddenly do so now? Moreover, the decline in child marriages has also been documented. A Global Childhood Report released by UK-based Save the Children showed that India has cut teen births by 63% since 2000 and 75% since 1990. When the decline has already been set in motion, why introduce a new law that will anyway not affect those who don’t abide by it?

## Limits of the laws

How does the law really aim to cancel the number of minor marriages? By upward revision of the marriageable age of women, the government is actually widening the net of law-breakers and creating



economies in the issue, the legal age may not matter. By pushing up the age limit, will the law-breakers suddenly experience a change of heart? What penalties or stringent regulations can be practically included in the new law to ensure that they do not get violated?

**“ Marriage is no longer about just a clash of two families, religions, castes or regions, but has taken on a completely new hue. It is about the battle between two political ideologies that have been locking horns for the past six years. Letting a woman choose to marry whoever she wishes is mired in controversy, decimating her right to love and live out her life in the religion, caste and lifestyle she opts for.**

Even if the policy suggestion becomes a law, it would not shock anyone into suddenly filing cases against early marriages. If the parents do force their daughters into such a marriage, neither she nor anyone else will break the norm and file FIRs against it. On the contrary, most of the marriages that are reported are those that have violated parental rules and are used by parents as tools to control the couples. Delhi-based NGO Partners for Law in Development reports that:

- in 65% of the cases, PCMA was used to punish underage adolescents for eloping
- in 35% of the cases, PCMA was used not to oppose parental pressure, but to dissolve marriages that were not working for other reasons.

By pushing up the age, the law is increasing the control limit, as was exemplified by the Hadiya case where the decision to marry was challenged by her parents in the courts. Hence, the proposed law is actually doing a disservice. The new plan, claiming to be about the “economic liberation” of the woman, actually does just the opposite.

## Control over women

Hence, the woman does not seem to be at the centre of the current debate. Marital laws do not offer solutions to challenges faced by her, but are only levers to gain control over her life and her choices in order to nail and deepen political and social divisions.

The worrying love jihad ordinances, honour killings, khap panchayat and sharia laws have already made marriage and women's choices explosive and emotive topics. The personal, social issue of marriage has



even more complex, marriage separates type minimal status.

**“ By upward revision of the marriageable age of women, the government is actually widening the net of law-breakers. To those parents and guardians who are interested in exploiting the economics in the issue, the legal age anyway did not matter. By pushing up the age limit, will the law-breakers suddenly experience a change of heart?**

Marriage, then, is no longer about just a clash of two families, religions, castes or regions, but has taken on a completely new hue. It is about the battle between two political ideologies that have been locking horns for the past six years. Letting a woman choose to marry whoever she wishes is mired in controversy, decimating her right to love and live out her life in the religion, caste and lifestyle she opts for.

Hence, the new policy plan actually forces another challenge upon women: Lack of choice. Far from improving her independence and status, it seems to be robbing her of it. The woman's right to be in charge of her life is getting further eroded. She is becoming another pawn in the bigger battle that is raging for India's soul. In effect, the law would effectively push the woman aside and propel her muscular political and social guardians centre-stage.

*(Revathi Siva Kumar is a Bengaluru-based independent journalist, interested in exploring developmental issues. The views are personal.)*