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Minimum Age of Marriage for Girls

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Why in News

The Prime Minister, during his address to the nation on the **74th Independence Day**, announced that the **central government has set up a committee to reconsider the minimum age of marriage for women**, which is **currently 18**.

Key Points

- **About the Committee:**

- On 2nd June 2020, the **Union Ministry for Women and Child Development** set up a committee to examine matters pertaining to age of motherhood, imperatives of lowering **Maternal Mortality Ratio** and the improvement of nutritional levels among women. The Committee is **headed by Jaya Jaitely**.

The Committee was **proposed in the Union Budget 2020-21**.

- It will examine the **correlation of age of marriage and motherhood with health, medical well-being**, and nutritional status of the mother and neonate, infant or child, during pregnancy, birth and thereafter.
- It will also look at key parameters like **Infant Mortality Rate (IMR)**, **Maternal Mortality Rate (MMR)**, **Total Fertility Rate (TFR)**, **Sex Ratio at Birth (SRB)** and **Child Sex Ratio (CSR)**, and will **examine the possibility of increasing the age of marriage for women from the present 18 years to 21 years**.

- **Link Between Age of Marriage and Nutrition:**
 - A study conducted by the **International Food Policy Research Institute (IFPRI)**, which was published in 2019, showed that **children born to adolescent mothers (10-19 years) were 5 percentage points more likely to be stunted** (shorter for their age) than those born to young adults (20-24 years), and 11 percentage points more stunted than children born to adult mothers (25 years or older).
 - Children born to adolescent mothers also had **10 percentage points higher prevalence of low weight** as adult mothers.
 - It also highlighted other factors, such as **lower education** among teenage mothers and their **poor economic status**, which had the strongest links with a child's height and weight measurements.
 - It **recommended that increasing age at first marriage, age at first birth, and girl's education** are a promising approach to improve maternal and child nutrition.
- **Arguments Against Increasing the Minimum Age of Marriage of Women:**
 - The **National Coalition Advocating for Adolescent Concerns** asserts that increasing the legal age of marriage for girls will only “**artificially expand the numbers of married persons deemed underage** and criminalise them and render underage married girls without legal protection”.
 - **Instead**, transformative, well resourced measures that increase girls' access to education and health, create enabling opportunities and place girl's empowerment at the centre will not just delay marriage but lead to long term, positive health and education outcomes.
 - It recommended **bringing education for three-to-five year-olds and 15-to-18 years under the Right to Education**, instead of confining the law to children between 6 years to 14 years.

Present Age for Marriage

- The **Special Marriage Act, 1954** and the **Prohibition of Child Marriage Act, 2006** prescribe **18** and **21** years as the minimum age of consent for marriage for **women** and **men** respectively.

It needs to be noted that the **minimum age of marriage is distinct from the age of majority** which is gender-neutral. An individual attains the age of majority at **18** as per the **Indian Majority Act, 1875**.

- The laws prescribe a minimum age of marriage to essentially **outlaw child marriages** and **prevent the abuse of minors**. Personal laws of various religions that deal with marriage have their own standards, often reflecting custom.
 - For Hindus, **Section 5(iii) of The Hindu Marriage Act, 1955**, sets 18 years as the minimum age for the bride and 21 years as the minimum age for the groom. However, **child marriages are not illegal** — even though they can be declared void at the request of the minor in the marriage.
 - In **Islam**, the marriage of a minor who has attained puberty is considered valid.
- Additionally, **sexual intercourse with a minor is rape**, and the ‘consent’ of a minor is regarded as invalid since she is deemed incapable of giving consent at that age.

History

- The **Indian Penal Code enacted in 1860** criminalised sexual intercourse with a **girl** below the age of **10**. The provision of rape was amended in 1927 through **the Age of Consent Bill, 1927**, which declared that marriage with a girl under **12** would be invalid.
- In **1929**, **the Child Marriage Restraint Act** set **16** and **18** years as the minimum age of marriage for girls and boys respectively.

This law, popularly **known as the Sarda Act** after its sponsor Harbilas Sarda, a judge and a member of Arya Samaj, was eventually **amended in 1978** to prescribe **18** and **21** years as the age of marriage for a woman and a man respectively.

Different Legal Age of Marriage for Men and Women

- There is **no reasoning in the law for having different legal standards of age** for men and women to marry. The laws are a codification of custom and religious practices.
- However, the law has been challenged on the grounds of **discrimination**. Such a law **violates Articles 14 and 21 of the Constitution**, which guarantee the right to equality and the right to live with dignity.

- **Against the Supreme Courts' Following Judgements:**
 - In **2014**, in the '***National Legal Services Authority of India v Union of India***' case, the Supreme Court, while **recognising transgenders as the third gender**, said that justice is delivered with the “assumption that **humans have equal value** and should, therefore, be treated as equal, as well as by equal laws”.
 - In **2019**, in '***Joseph Shine v Union of India***', the Supreme Court **decriminalised adultery**, and said that “**a law that treats women differently based on gender stereotypes is an affront to women's dignity**”.
- Further **India is a state party to the Convention on the Elimination of All Forms of Discrimination against Women, 1979**.
The **Committee on the Elimination of Discrimination against Women (CEDAW)**, which monitors the implementation of the Convention, calls for the abolition of laws that assume women have a different physical or intellectual rate of growth than men.
- It needs to be noted that despite laws mandating minimum age and criminalising sexual intercourse with a minor, **child marriages are very prevalent in the country**.
UNICEF estimates suggest that each year, at least **1.5 million girls under the age of 18 are married in India**, which makes the country **home to the largest number of child brides in the world** — accounting for a third of the global total.

Way Forward

- Early pregnancy is associated with increased child mortality rates and affects the health of the mother. Thus, there is a need to focus on a mother's health and readiness to carry a child.
- The government needs to emphasize upon economic and social empowerment of women and girls, as well as targeted social and behaviour change communication (SBCC) campaigns. Increasing the minimum age of marriage of women will also lead to gender-neutrality.

Source: IE