



Raising Legal Age for Marriage

This editorial is based on [“Minding The Gender Gap”](#) which was published in Indian Express on 06/01/2022. It talks about arguments in favour of and against raising the legal age for marriage to 21.

For Prelims: Raising Legal Age of Marriage for Women, Child Marriage, Women’s Empowerment, Gender Parity, Convention on the Elimination of All Forms of Discrimination Against Women in 1993, Universal Declaration of Human Rights, 1948.

For Mains: Pros and Cons of Increasing Marriageable Age for Women, Prohibition of Child Marriage Act, 2006.

The Union Cabinet's Proposal for bringing [uniformity in the marriageable age of men and women](#) is certainly a progressive step to realise [Goal 5 of the SDGs](#) which asks nation-states to formulate policies to achieve gender equality.

However, good intent does not guarantee favourable outcomes. Coercive laws without wide societal support often fail to deliver even when their statement of objects and reasons aims for the larger public good.

India and Minimum Marriageable Age

- **The Current Laws:** For Hindus, [The Hindu Marriage Act, 1955](#), sets 18 years as the minimum age of marriage for the bride and 21 years as the minimum age for the groom.
 - In Islam, the marriage of a minor who has attained puberty is considered valid.
 - The [Special Marriage Act, 1954](#) and the **Prohibition of Child Marriage Act, 2006** also prescribe 18 and 21 years as the minimum age of consent for marriage for women and men respectively.
- **India’s Efforts for Reducing Gender Gap:** India had ratified the [Convention on the Elimination of All Forms of Discrimination Against Women in 1993](#).
 - Article 16 of this Convention strictly forbids child marriage and asks governments to identify and enforce the minimum marriage age for women.
 - Since 1998, India has had **national legislation exclusively on human rights protections** drafted in consonance with international instruments such as the [Universal Declaration of Human Rights, 1948](#).
- **Reasons behind the Minimum Age:** The law prescribes a minimum age of marriage to essentially **outlaw child marriages and prevent the abuse of minors**.
 - Child marriages **expose women to early pregnancy, malnutrition, and violence** (mental, emotional, and physical).
 - Early pregnancy is associated with **increased child mortality rates** and affects the health of the mother.

Arguments for Increasing Legal Marriageable Age

- **Protection of Basic Rights:** Protection of women against early and child marriage is a protection of their basic rights and this monumental step will lead to changes in related legislative frameworks to provide a **comprehensive rights-based framework for the aadhi aabadi**.
- **Bringing Gender Parity:** Section 2(a) of the Special Marriage Act declares legal marriageable age women as 18 while for men this age is 21, the **difference seems to have no justifiable logic**.
 - The age of voting can be equal for men and women, the age to consensually, wilfully, and validly enter into a contract is the same for men and women, then why not instill equality in the age requirements for marriage.
- **Equal Laws Emanate Equality:** Equality emanates from equal laws and social transformations are both the precursors of laws and a consequence of them.
 - **A change in law is also more likely to bring changes in social perceptions** in progressive societies.
- **Facilitating Women Empowerment:** There are various indicators of growth in women specially in enrolment of female students in higher education.
 - Moreover, schemes like [UJJAWALA](#), [Mudra Yojana](#) and [Pradhan Mantri Jan-Dhan Yojana](#) have shown women as the largest section of beneficiaries of government schemes.
 - **Women's empowerment will get a further fillip with equality in marriage age.**

Arguments Against Increasing Legal Marriageable Age

- **Unlikely to Benefit Financially Dependent Women:** Though the objective looks good on paper, merely raising the age of marriage without creating social awareness and improving access to health care is **unlikely to benefit the community it wants to serve: young women not yet financially independent**, who are unable to exercise their rights and freedoms while still under the yoke of familial and societal pressures.
- **High Prevalence of Child Marriage Despite Stringent Laws:** The law prohibiting marriage below the age of 18 has been in effect in some form since the 1900s, yet child marriage has persisted virtually undeterred until 2005 when almost half of all women aged 20-24 had married below the legal minimum age.
- **No Criminal Records for Early Marriages:** Even though more than one in five marriages took place below age 18, **hardly any violations of the Act appear in the criminal records of the country**.
- **No Assurance for Eliminating Child Marriages:** The magnitude of the population of women of marriageable age who will be affected is immense, with **over 60% marrying before 21**.
 - Incapability to eliminate marriages of women before 18 **provides no evidence that it would be eliminated by increasing this age to 21**.
- **Misuse of Laws by Parents:** Women's rights activists point out that **parents often use this Act to punish their daughters who marry against their wishes** or elope to evade forced marriages, domestic abuse, and lack of education facilities.
 - Hence, within a patriarchal setting, it is more likely that the change in the age limit **will increase parents' authority over young adults**.

Way Forward

- **Ensuring Objective Equality:** Any justification — biological, social, or data and research-based — cannot justify the inequality in age between men and women to enter into a valid marriage.
 - India decided in 1954 with the Special Marriage Act that age must be one of the basic requisites of a valid marriage. The only flaw was not having equality in this regard which is now being corrected by amending the Prohibition of Child Marriage Act (PCMA), 2006.
- **Empowering Disadvantaged Women:** What is required to empower disadvantaged women is to **respect their reproductive rights** and in **ensuring more investments in reversing the fundamental structural disadvantages** that women who marry early face.
 - The government must **invest far more in addressing issues of equity** — measures that will enable the disadvantaged to complete their **education, provide career counselling** and **encourage skilling and job placement**.

- The **safety issues** also need to be addressed in public places including public transportation.
- **Behavioural change in parents** is also necessary as they ultimately make marriage related decisions for a majority of women.
- **Increasing Awareness among Women:** A good, but not easy, way to achieve the stated objective is to take steps to **counsel girls on early pregnancies**, and provide them the network to improve their health.
 - The focus must be on **creating social awareness about women's sexual and reproductive health and rights**, and ensuring girls are not forced to drop out of school or college.

Drishti Mains Question

“Although increasing the legal age for marriage of women is a progressive step in achieving gender equality, it is more important to focus on the effective implementation of the existing policy frameworks and laws”. Discuss.

PDF Reference URL: <https://www.drishtias.com/printpdf/raising-legal-age-for-marriage>