



State-wide Crackdown on Child Marriages

For Prelims: Raising Legal Age of Marriage for Women, Child Marriage, Jaya Jaitly Committee, Protection of Children From Sexual Offences (POCSO) Act, Prohibition of Child Marriage Act (PCMA), 2006, International Conventions Related to Child Marriage.

For Mains: Issues with Minimum Marriage Ages.

Why in News?

Over the last few days, the Assam government **has arrested over 2,000 men in a campaign against child marriages** that have taken place in the state.

- The police **will retrospectively book people who participated in child marriage in the last seven years** and the focus will especially be on “mullahs, kazis, and pujaris” conducting these marriages. The arrests **come in the backdrop of growing debate on the [minimum age of marriage of Muslim women](#).**

Under What Law are the Arrests Being Made?

- The men who married girls below 14 years of age would be booked under the [Protection of Children From Sexual Offences \(POCSO\) Act](#) and those marrying girls between the age of 14 and 18 years would be booked under the [Prohibition of Child Marriage Act \(PCMA\), 2006](#).
 - **POCSO Act:**
 - The POCSO Act, of 2012 **criminalises sex between a minor and an adult**. The law **does not recognize a minor’s consent as valid**.
 - Sexual assault under POCSO is a **non-bailable, cognisable offence**. This means that the **police can make an arrest without warrant**.
 - So, a **presumption of sexual assault is being made** in cases of child marriage involving minor girls below the age of 14.
 - Sexual assault, that is not penetrative, **carries a minimum imprisonment of three years** that may extend to five years with a fine.
 - **Under Section 19**, the Act imposes a **“mandatory reporting obligation”** which requires every person who suspects or has knowledge of a sexual offence being committed against a child **must report it to the police or the [Special Juvenile Police Unit](#)**. Failure to do so will result in imprisonment, a fine, or both.
 - **PCMA, 2006:**
 - It says that child marriages **are illegal but not void**. They are voidable at the minor's choice **if he/she petitions the court to declare the marriage null and void**.
 - The Act stipulates **18 years as the minimum marriageable age for women, while for men it is 21 years**.
 - The Act punishes child marriage with **rigorous imprisonment which may extend to two years or with a fine** which may extend to one lakh rupees or both.

- The punishment also **extends to anyone who performs, conducts, directs, or abets any child marriage.**

What is the Debate on Muslim Age of Marriage?

- Under Muslim personal laws, the marriage of a bride **who has attained puberty is considered.**
 - Puberty is presumed, in the absence of evidence, **on completion of the age of fifteen years.**
- This **gap between [Muslim personal law](#) and special legislation prohibiting child marriages or sexual activity of minors** puts a shadow on criminality in such marriages.

What are the Personal Laws of Other Religions?

- The [Hindu Succession Act of 1956](#) lays out guidelines for property inheritance among Hindus, Buddhists, Jains and Sikhs.
- The **Parsi Marriage and Divorce Act of 1936** lays out rules to be followed by the Parsis according to their religious traditions.
- The [Hindu Marriage Act of 1955](#) codified laws related to marriage among Hindus.

What is the Central Government's Stand?

- At the time of India's independence, **the minimum marriageable age stood at 15 years for females and 18 years for men.**
 - In 1978, the government **increased it to 18 for girls and 21 for men.**
- In 2008, the report of the [Law Commission](#) **the minimum marriageable age for both men and women should be 18 years of age.**
- In 2020, the **Jaya Jaitly Committee** was established by the [Ministry of Women & Child Development](#) which also **recommended the same in light of factors like [reproductive health](#), [education](#), etc.**
- In 2021, the Central government sought to introduce the [Prevention of Child Marriage \(Amendment\) Bill 2021](#), **to raise the manageable age for women across all religions, from 18 to 21 years.**
 - As per the Union Minister for Women and Child Development this Amendment will apply to all communities in the country and **once enacted, will supersede existing marriage and personal laws.**

Note

- Along with the **Indian laws and constitutional provisions** modern international laws and conventions do mandate countries **to stipulate a minimum legal age for marriage.** But child marriages **continue to have religious sanctions in large parts of India.**
- **Some of the conventions are:**
 - The United Nations (UN) Convention on Consent to Marriage (1962)
 - Minimum Age for Marriage and Registration of Marriages (1962)
 - The UN Convention on the Elimination of All Forms of Discrimination against Women (1979)
 - The Beijing Declaration (1995)

UPSC Civil Services Examination Previous Year Question (PYQ)

Q. Examine the main provisions of the National Child Policy and throw light on the status of its implementation. **(2016).**

Source: IE

PDF Refernece URL: <https://www.drishtias.com/printpdf/state-wide-crackdown-on-child-marriage>

