



## Himachal Pradesh's Bill to Raise Women's Minimum Marriage Age to 21

**For Prelims:** [Governor's Power over State Bills](#), [Minimum Marriageable age](#), [7th Schedule of the Constitution of India](#), [Article 200](#), [Article 254](#), [National Human Rights Commission](#), [Odisha's child marriage-free village](#)

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

[Source: TH](#)

### Why in News?

Recently, the Himachal Pradesh (HP) Assembly passed the **Prohibition of Child Marriage (Himachal Pradesh Amendment) Bill, 2024**, which aims to [raise the minimum marriageable age](#) for women from 18 to 21 years.

- It seeks to amend the [Prohibition of Child Marriage Act, 2006 \(PCMA 2006\)](#) to advance gender equality and encourage higher education among women.
- This has sparked significant discussion due to its implications for gender equality and its **potential need for [presidential assent](#)**.

### What does HP's Bill on Women's Minimum Marriage Age Entail?

- **Redefinition of 'Child':** Section 2(a) of the 2006 Act defines a “child” as a male under 21 years of age or a female under 18 years of age.
  - The Bill removes this gender-based distinction, defining a “child” as anyone under 21 years of age, irrespective of gender.
- **Extension of Petition Period:** The Bill also extends the time period for filing a petition to **annul a marriage** (to declare a marriage invalid and legally void).
  - Under Section 3 of the 2006 Act, an individual **who was a minor at the time of marriage can file for annulment within two years** of attaining majority (before turning 20 for women and 23 for men).
  - The Bill extends this period to five years, allowing both women and men to file petitions before they turn 23, in accordance with the **new minimum marriageable age of 21 years**.
- **Precedence Over Other Laws:** A new provision, Section 18A, ensures that the Bill's provisions take precedence over existing laws and cultural practices, establishing a **uniform minimum marriageable age across Himachal Pradesh**.

### Why is the Assent of the President Required?

- **Governor's Options:** Under [Article 200 of the Constitution](#), after a Bill is passed by a State Legislative Assembly, the Governor can either grant assent, withhold assent, **return the Bill for**

**reconsideration**, or reserve it for the President's consideration.

- A Bill is reserved for the President's consideration if the Governor believes it could **undermine the authority of the High Court or conflict with central laws**.
- **Inconsistency with Central Law:** The Himachal Pradesh Bill proposes a different minimum marriageable age for women, potentially conflicting with the **central PCMA, 2006**.
- **Constitutional Considerations:** According to the [Seventh Schedule of the Indian Constitution](#), marriage and divorce fall under the Entry 5 of this [Concurrent List](#), allowing both central and state governments to regulate child marriages.
  - However, **if a state law conflicts with a central law**, it may be deemed "void" unless it receives the President's assent.
  - [Article 254 of the Constitution](#) establishes the **doctrine of repugnancy**, which deals with the conflict between central and state laws.
    - **The Parliament has exclusive powers to make laws for matters in the Union List, while the state legislature has powers for matters in the State List. Both have powers for matters in the Concurrent List.**
- Repugnancy arises when two laws are inconsistent, and if a state law is repugnant to a central law on a matter in the Concurrent List, the central law prevails, and the state law is void to the extent of the inconsistency.
  - If the state law is reserved for the President and **receives assent, it can prevail within the state**, overriding the central law's provisions in that state.

## What are the Concerns Regarding the HP's Women's Minimum Marriage Age Bill?

- **Legal Ambiguities:** The proposed legal framework could create inconsistencies, such as [permitting consensual sex from 18](#) but **restricting marriage until 21**.
  - This discrepancy might lead to new issues, such as **complications related to reproductive rights and legal status**.
  - [Juvenile Justice Care and Protection and Integrated Child Protection Scheme](#) provide support only up to age 18, leaving **no space to support child brides/grooms aged 19-21**.
  - Critics raised concerns that it might also limit legal protections for women who **marry before the age of 21** and could potentially lead to increased policing of affected communities.
- **Opposition from Activists:** Child and women's rights activists argue that increasing the **marriage age might inadvertently strengthen parental control** and hinder the autonomy of young adults.
  - They point out that the current law is sometimes misused to penalise daughters who choose partners against their families' wishes.

## Why is there a Minimum Age for Marriage?

- **Preventing Child Marriages:** The minimum age of marriage is set to prevent the abuse of minors and [outlaw child marriages](#).
- **Legal Standards:**
  - **Hindu Marriage Act, 1955:** Sets 18 years as the minimum age for brides and 21 for grooms.
  - **Islamic Law:** Considers the marriage of a minor who has attained puberty as valid.
  - **Special Marriage Act, 1954 & Prohibition of Child Marriage Act (PCMA), 2006:** Prescribe 18 years for women and 21 for men. PCMA 2006 also considers marriages below this **age as "voidable"** (something legal, but which can be annulled later by one party of a contract) **only if contested**.
- **Alternative Recommendations:** The [2008 Law Commission Report](#) and the [National Human Rights Commission's 2018](#) proposal both recommended setting a **uniform marriage**

- age of 18 for both men and women**, which some argue could be a more equitable solution.
- Various **United Nations** bodies, including **the Committee on the Elimination of Discrimination Against Women**, advocate for a minimum marriage age of 18 years for both men and women, as they should have attained full maturity and capacity to act before assuming the important responsibilities of marriage.

## Evolving Marriage Age Laws

Child marriages have deep roots in Indian society, even before **colonisation**. The **Child Marriage Restraint Act of 1929** set the **age limit at 14 for girls and 18 for boys**, but was ineffective due to low age limits.

- The Act was amended in 1978 to increase the **age limit to 18 for girls and 21 for boys**, but still failed to restrain child marriages.
- The **PCMA of 2006** aims to completely remove child marriage from society. The Act makes **child marriage illegal, offers victims' rights protection, and strengthens penalties** for those who aid, abet, promote, or solemnise such weddings. The legal age for marriage remained the same.
- The **Prohibition of Child Marriage (Amendment) Bill, 2021** was introduced in the Lok Sabha in December 2021 and referred to a Standing Committee, which received multiple extensions.
  - However, with the dissolution of the 17th Lok Sabha, the Bill has now lapsed. **The Bill aimed to increase the minimum age of marriage for females to 21 years and override any other law, custom, or practice.**

## Why is the Government Re-examining the Age of Marriage?

- **Gender Neutrality:** One of the primary reasons for **re-examining the marriage age** is to **ensure gender parity**. By raising the minimum marriage age for women to 21, the government aims to align it with the existing age requirement for men, **thereby promoting equality**.
- **Health Impacts:** Addressing issues like early pregnancies which affect nutritional levels, **maternal and infant mortality rates (MMR & IMR)**, and overall health.
- **Educational and Economic Impact:** Reducing the **drop-off in education** and livelihood opportunities due to early marriages.
  - The **Jaya Jaitly Committee was established in June 2020** by the Ministry for Women and Child Development to assess the implications of increasing the marriage age.
    - The committee recommended increasing the **marriage age to 21, enhancing access to education, skill training, and sex education.**
- **Social and Economic Development:** The re-examination aligns with broader goals of social and economic development. By addressing early marriage, the government aims to **tackle associated issues like poverty and social stigma**, which often pressure families into early marriages.

## Does Raising the Marriage Age Address Systemic Inequalities?

- **Superficial Equality:** Raising the marriage age to 21 aligns with the age for men, but this **alone does not guarantee gender equality or empowerment**. In a deeply **patriarchal society**, mere numerical parity does not address the systemic inequalities women face.
  - True empowerment involves **more than equal marriage ages**. It requires addressing broader issues such as **economic opportunities, education access, and societal attitudes towards women**.
  - Gender parity involves more than just age laws; it includes addressing issues like pay gaps, workplace discrimination, and access to healthcare.
- **Unaddressed Problems:** **Increasing the marriage age does not tackle the root causes of early marriages, such as dowry pressures, social stigma, and familial control.**

- These issues are driven by societal and economic factors that cannot be resolved by legal changes alone.
- **Health Concerns:** The amendment's proponents **suggest that raising the marriage** age will improve maternal and infant health.
  - However, existing data shows that average marriage ages are already higher in some states (Kerala women get married at 21.4 years on average), and **health outcomes are more closely linked to overall socio-economic conditions.**
- **Cultural Resistance:** In many tribal communities, **traditional norms and practices** may continue to drive early marriages despite legal changes. Addressing cultural resistance and changing mindsets are vital for the policy's success.

## Way Forward

- **Socio-Behavioral Changes:** The effectiveness of the amendment relies heavily on broader societal changes.
  - Successful examples, such as [Odisha's child marriage-free villages](#), highlight the need for **community-driven initiatives and support systems.**
- **Voidability of Child Marriages:** Current laws make child marriages voidable rather than **void ab initio**, which can potentially undermine the effectiveness of legal reforms.
- **Address Root Causes:** Focusing on **educational access, vocational training, and economic opportunities for women is crucial.**
  - Policies should aim to provide safe, flexible education and job opportunities, which **can help delay marriage and improve overall well-being.**
- **Comprehensive Reforms:** Instead of legal tweaks, a broader approach involving **societal transformation and enforcement of existing** laws is necessary.
  - This includes addressing social pressures, ensuring safe reproductive health access, implementing comprehensive sex education and combating harmful practices.
- **Economic Fallout of the Pandemic:** Address the economic impacts of the Covid pandemic, which **has exacerbated job losses and triggered early marriages** in economically stressed families.
- **Lessons from History:** Historical attempts to change marriage laws have shown mixed results. Successful gender parity initiatives often involve a **combination of legal changes, social reforms, and educational efforts.**
  - Comparing with other countries and examining these practices can provide valuable insights.

### Drishti Mains Question:

Q. Evaluate the potential impact of increasing the minimum marriageable age from 18 to 21 on gender equality and societal norms. What challenges might arise from this legal change?

## UPSC Civil Services Examination, Previous Year Question (PYQ)

### Prelims:

Q. Which Article of the Constitution of India safeguards one's right to marry the person of one's choice? (2019)

- (a) Article 19
- (b) Article 21
- (c) Article 25
- (d) Article 29

**Ans: (b)**

**Mains:**

**Q.** Explain the constitutional perspectives of Gender Justice with the help of relevant Constitutional Provisions and case laws. **(2023)**

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