



Ban on Child Betrothals

For Prelims: [Supreme Court](#), [Juvenile Justice Act](#), [Prohibition of Child Marriage Act \(PCMA\) of 2006](#), [United Nations](#), [UN General Assembly](#), [Protection of Children from Sexual Offences \(POCSO\) Act 2012](#), [‘Open Defecation Free Village’ initiative](#), [National Family Health Survey \(NFHS-5\)](#).

For Mains: Impacts and shortcomings of Prohibition of Child Marriage Act (PCMA) 2006, Issue of Child Marriage in India.

[Source: IE](#)

Why in News?

[The Supreme Court](#) highlighted that marriages arranged during a **child's minority infringe upon their "free choice" and "childhood,"** and urged the Parliament to outlaw child betrothals.

- According to the court, India had yet to fully address the issue of minor betrothals, despite the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** recognizing the problem in 1977.
- The [Prohibition of Child Marriage Act \(PCMA\) of 2006](#) criminalised **child marriage** but the practice of betrothal is not **explicitly prohibited under the Act**.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

- It is an **international treaty** that **aims to achieve gender equality** and protect women's rights.
- It is **considered an international bill of rights for women** and is one of the core human rights treaties of **the United Nations**.
- CEDAW was adopted by the [UN General Assembly](#) in 1979 and came into effect in 1981 after 20 countries ratified it.
- **India signed CEDAW in 1980 and ratified it in 1993.**

What is the Status of Child Marriage in India?

- **History:**
 - Historical texts suggest that early marriages were prevalent, particularly for girls, often for socio-economic reasons or to ensure family alliances.
 - During the medieval era, the practice became more entrenched due to the **influence of certain religious and cultural norms**. The age of marriage for girls decreased significantly, with marriages often **arranged soon after puberty**.
 - The British colonial government, **influenced by socio-religious reformers like Raja**

[Ram Mohan Roy and Ishwar Chandra Vidyasagar](#), recognized the harm of child marriage and began addressing the issue.

- The British government introduced legislative measures to curb the practice, notably the **Age of Consent Act of 1891**, which raised the age of consent for marriage to 12 years.
- The **Child Marriage Restraint Act (1929)**, also known as **the Sarda Act**, set the minimum age for marriage at 14 for girls and 18 for boys, marking the first legal intervention to control child marriages.

▪ **Status of Child Marriage in India:**

- Girl child marriages declined from **49% in 1993 to 22% in 2021**. Boy child marriages reduced from **7% in 2006 to 2% in 2021**, indicating an overall national decline.
- However, between **2016 and 2021**, the progress plateaued, with certain states experiencing a troubling rise in child marriages.
 - Notably, six states witnessed an **increase in girl-child marriages**, including **Manipur, Punjab, Tripura, and West Bengal**.
 - Eight states observed a rise in boy-child marriages, encompassing **Chhattisgarh, Goa, Manipur, and Punjab**.

▪ **Legal Measures to Prevent Child Marriage:**

- [Prohibition of Child Marriage Act \(PCMA\) in 2006](#).
- In the case of **Independent Thought v. Union of India, 2017**, the Supreme Court of India held that **sexual intercourse between a man and his wife**, if she is aged between 15 and 18 years, **constitutes rape**.
 - The above judgement **narrowed the scope of exception 2 to Section 375** of the [Indian Penal Code \(BNS\)](#) and raised the age of consent to 18 years for marital sexual intercourse.

▪ **Government Initiatives:**

- [Beti Bachao Beti Padhao scheme](#)
- [Dhanalakshmi Scheme](#): It is a conditional cash transfer scheme for a girl child with insurance coverage.
 - It also aims to **eliminate child marriage by offering parents insurance coverage** of medical expenses and encouraging the education of the girl child.

What is the Prohibition of Child Marriage Act (PCMA) 2006?

- **Objective:** The Act **prohibits the solemnisation of child marriages** and aims to protect children from being married before the legal age.
- **Legal Age for Marriage:** Under the Act, the **legal age for marriage** is set at **18 for women and 21 for men**.
- **Voidable Marriages:** Marriages involving minors can be declared voidable at the option of either party, and they may seek **annulment within two years** of attaining adulthood.
- **Punishments:** The Act **prescribes penalties**, including **imprisonment and fines**, for those who solemnise, conduct, or abet child marriages, as well as for parents or guardians involved.
- **Child Marriage Prohibition Officers:** The Act empowers states to appoint **Child Marriage Prohibition Officers** to prevent child marriages and ensure the law is enforced.
- **Protection and Maintenance:** It provides for the protection of minors involved in such marriages, including the **right to maintenance for the child bride until her remarriage**.
- **Applicability:** The Act **overrides any customs, laws**, or personal religious laws that allow for child marriages, ensuring universal protection across India.

What did the Court Judgement say?

- **Equal Right to Childhood:** The court pointed out that **patriarchal ideas of masculinity and sexual dominance**, along with misinformation from peers, **often lead young boys to commit violence** against their child brides.
 - While girls are disproportionately affected, the judgement emphasised that the **right to childhood belongs to all sexes**.
 - The court **declared a child** whose marriage was fixed as “**a minor** in need of care and protection” under [the Juvenile Justice Act](#).
- **Child Marriage Threatening Modern Laws:** The Court noted that the centuries-old practice of

child marriage undermines modern laws like the [POCSO Act, 2012](#), as it exposes **minor girls to sexual abuse** despite legal protections.

- **Objectification in Child Marriages:** The Court held that child marriages **objectify children and impose adult responsibilities**, including expectations of compulsory heterosexuality and fertility.
- **Disruption of Natural Sexuality:** The Court noted that child marriage systematically **dismantles a person's ability to organically experience sexual desire and navigate intimacy**, all under the guise of tradition.

What are the Guidelines Issued By the Court?

- **Guidelines for Sexuality Education:** The Court directed the government to implement age-appropriate and **culturally sensitive sexuality education** for children in schools.
- **Child Marriage Free Village Initiative:** It proposed a **drive to create 'Child Marriage Free Villages,'** akin to the '[Open Defecation Free Village](#)' initiative, engaging local and community leaders in the effort.
- **Online Reporting Portal:** The court recommended the Home Ministry to establish a designated **portal for the online reporting of child marriages.**
- **Compensation Scheme:** The Court urged the Ministry of Women and Child Development to initiate a **compensation scheme for girls who choose to exit child marriages.**
- **Annual Budget Allocation:** It also called for the **allocation of an annual budget dedicated to preventing child marriages** and providing support to affected individuals.

Protection of Children from Sexual Offences Act (POCSO) 2012

- **Purpose:**
 - The POCSO Act **aims to protect children from sexual assault, sexual harassment, and pornography.** It also aims to punish offenders based on the severity of the crime.
- **Features:**
 - It is **gender neutral** as it applies to both boys and girls. It also includes provisions for special courts to try cases, compensation for victims, and medical examinations in the presence of a trusted adult.
- **Amendments:**
 - It was **amended in 2019** to introduce more **stringent punishments**, including the death penalty.
- **Reporting:**
 - The **Union Ministry of Women and Child Development** launched the **POCSO e-box** to facilitate reporting of sexual offenses against children.
- **Compensation:**
 - **Victims** may receive **interim compensation for immediate needs**, and final compensation for any loss or injury. Compensation is given regardless of whether the accused is found guilty.

What are the Challenges to Implement PCMA?

- **Cultural Norms and Societal Attitudes:** Deep-rooted **cultural beliefs and practices continue to support child marriage** in many communities, making it difficult to change attitudes.
 - Certain cultural and religious laws, such as **Muslim personal law and tribal customs in the Northeast, permit child marriage**, making the Prohibition of Child Marriage Act (PCMA) inapplicable in these cases.
 - According to the [National Family Health Survey \(NFHS-5\)](#) 2019-21, nearly **23% of women aged 20-24 were married before the age of 18**, indicating persistent acceptance of the practice.
- **Inadequate Enforcement of Laws:** Despite the existence of the PCMA 2006 enforcement remains weak. **Local authorities may lack the resources or commitment to take action**

against child marriages, resulting in low conviction rates.

- **Gender Inequality: Gender-based discrimination** perpetuates child marriage, as **girls are often viewed as economic burdens**.
- **Influence of Peer Pressure: Misinformation and peer pressure** among children can lead to acceptance of child marriage. Community engagement and peer education programs are necessary to counter these influences.
- **Lack of Awareness and Education:** Many communities **lack awareness of the legal provisions against child marriage** and its negative impacts.
 - Educational campaigns are needed to inform families about the **benefits of delaying marriage and the rights of children**.

Way Forward

- **Strengthen Legal Framework and Enforcement:** Enhance the enforcement of the Prohibition of Child Marriage Act by **increasing the accountability of local authorities and law enforcement**.
 - Establish specialised training programs for officials to effectively address and prevent child marriages.
- **Expand Educational and Economic Opportunities for Girls:** Invest in initiatives that **promote girls' education** and provide scholarships or financial support to families to keep girls in school. Eg. **Nijut Moina Scheme of Assam** to provide **monthly financial aid to girl students from higher secondary to postgraduate levels** in government and aided institutions.
 - Develop **vocational training programs to empower girls economically**, making early marriage less appealing.
- **Strengthen Support Systems and Health Services:** Establish **support networks for girls at risk of child marriage**, including counseling and healthcare services.
 - Provide **training for healthcare providers to address the unique needs of girl child** and ensure access to reproductive health services.
- **Implement Comprehensive Awareness Campaigns:** Launch **nationwide awareness campaigns** focusing on the negative impacts of child marriage and the **benefits of education for girls**.
 - Engage community leaders, parents, and youth to promote cultural shifts and encourage the abandonment of harmful practices.

Drishti Mains Question:

Q. Discuss the implications of child marriage on the rights of children in India. Analyze the effectiveness of the Prohibition of Child Marriage Act, 2006.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

Q. With reference to the United Nations Convention on the Rights of the Child, consider the following: (2010)

1. The Right to Development
2. The Right to Expression
3. The Right to Recreation

Which of the above is/are the Rights of the child?

- (a) 1 only
- (b) 1 and 3 only
- (c) 2 and 3 only

(d) 1, 2 and 3

Ans: (d)

Mains:

Q. "Empowering women is the key to control the population growth." Discuss. (2019)

PDF Refernece URL: <https://www.drishtias.com/printpdf/ban-on-child-betrothals>

