



## 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>

