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21- the new 18!

The other question is when it has been proved that poor access to education and poor quality of education, both are contributory factors to reducing the age of marriage, then will it not be a better idea to concentrate on providing better education for girls rather than making laws for the same.



December 16, 2021 marked a new dawn in India as the Narendra Modi Government decided to raise the legal age of marriage for women from 18 to 21 years. A bill to amend the Prohibition of Child Marriage Act (PCMA), 2006 was introduced in the parliament and the same is likely to be passed in the 1st quarter of the coming year.

The question that is assailing everyone however is whether this change is a step towards gender parity or is it another political move? The proposed legislation that is yet to be passed contains various amendments that effect the personal laws of different communities and seems to be a step in the right direction in order to achieve uniformity in the different personal laws in India. While the Law Commission had suggested way back in 2008 that the marriageable age for both men and women should be 18 as that is also the age when a person reaches adulthood, the United Nations had recommended the same in 1989.

Smriti Irani, Minister for Women and Child Development reportedly said: "I would like to present that women equality in our country needs to be seen in [terms of] age of marriage. Invoking different marriage laws of different faiths, I rise to introduce the amendment bill."

She also said that 23 percent of girls below the age of 18 were married despite a law forbidding it and around 2 million cases of child marriage were stopped in the 2015-2020 period only. The National Family Health Survey reveals that 7% of women in the 15-18 years of age group were pregnant despite the legal marriageable age for women in India being 18 years.

The government on its front is pleading that this step would prove to be fruitful as it will ostensibly delay the age of motherhood, improve nutritional levels among young girls and also aid in decreasing maternal mortality rates. While this seems to be a great initiative on the face of it, there are various cons to this step.

Marriage in India is considered to be a sacrament by most and is also the result of several deep-rooted social norms and regulations. It is also considered by most people that marriage is an important means of protecting the honour of women and of safeguarding them against sexual offences. Some also think that early marriage reduces the pressure on a girl's parents as it assures a lower dowry and prevents elopement.

Raising the marriageable age of women from 18 to 21 will not change the mindset of the people overnight. Niaz Ahmad Farooqui, general secretary, Jamiat-Ulama-i-Hind, and AIMPLB member says that-

"This is not just about personal laws, but also looking at what actually benefits women. The biggest requirement in India is the safety and security of women. And when a girl has to be kept at home, her safety becomes the responsibility of the parents, which is why she is often married off. When women and men are given the right to vote at 18 years, they can take any decision independently when they reach adulthood. How can the Government stop them from getting married?" The All India Muslim Personal Law Board (AIMPLB) while speaking out against the proposed law has termed it as -"very Irrational".

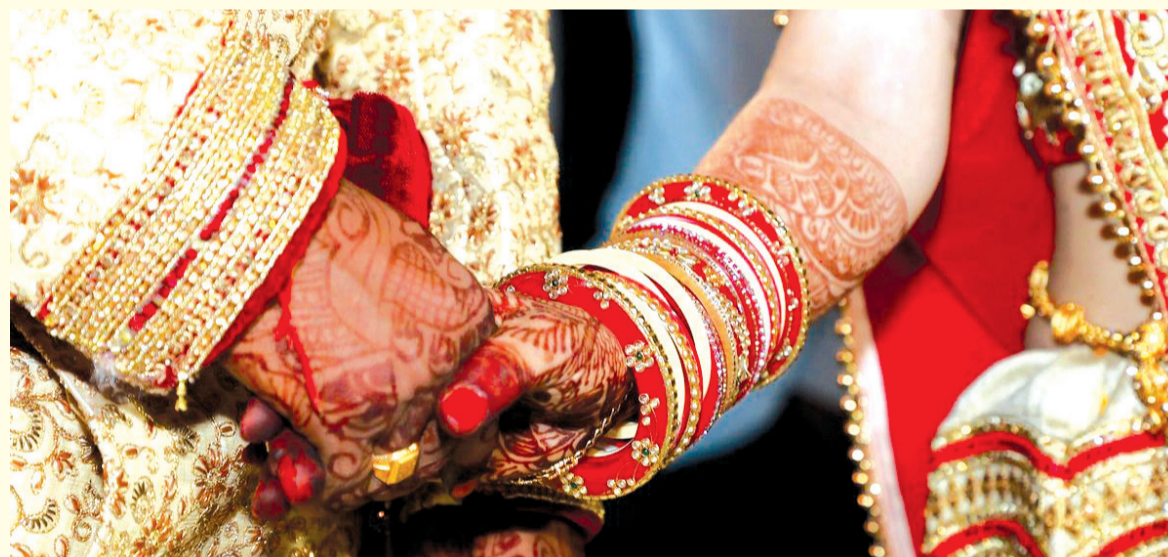
Then there are various communities where women don't generally get married early as a rule. "Women in the Parsi community do not get married under the age of 28-30 years, and men don't usually marry under 35 years. This is much more than the national mean age of 22-24 years... (But) personal laws are protected under the Constitution. This must be studied by the standing committee, which must predominantly have women members," said Cama, who is also director of UNESCO's Parsi-Zoroastrian project PARZOR. She also very categorically said that she does not personally think that anyone has the right to interfere on the issue of when an individual can or cannot get married if that individual has reached adulthood. This argument also goes in favour of those who say that if an 18-year-old is mature enough to

decide which government should come in power then why can't they decide as to when they want to get married?

The Christian community on the other hand says that while in the catholic community, girls are getting married later; the same can only be said for the urban areas as the situation is still grave in the rural areas. The marginalized communities such as the Scheduled Castes and the Scheduled Tribes are even today getting their girls married off before the age of 18. It is also feared that the situation will continue to be the same in the rural and marginalized segments even after the passing of this law and that furthermore, the new law may be used to harass these communities and the young people. All these grave issues must be looked into and sorted before the government converts the bill into a law.

Going into the question as to whether we actually need this law or not-

As per NFHS Data, rates of early marriage in India fell from 47% in 2005-06 to 27% in 2015-16. Further, the median age of marriage in India increased from



16.7 years in 1998-99 to 17.2 years in 2005-06 to 19 years in 2014-15. This change has been brought about due to various factors that include an increased access to education, better healthcare, increased job opportunities and a change in the mindset of people. When all these factors have been shown to increase the age of marriage then is there really a need to introduce this law?

The other question is when it has been proved that poor access to education and poor quality of education, both are contributory factors to reducing the age of marriage, then will it not be a better idea to concentrate on providing better education for girls rather than making laws for the same. Research has also shown that villages with high schools have a much lower rate of early marriage. According to NFHS-4 data, the median age at first marriage for women increases from 17.2 years for women with no schooling to 22.7 years for women with 12 or more years of schooling.

Coming now to the efficacy of the existing law governing child marriage in India i.e. Prohibition of Child Marriage Act (PCMA), 2006, it has been found that this has also not proven to be very effective. Even though there has been a steady decline in the rate of child marriages in India, our country still boasts of having the highest absolute number of child brides in the world. In 2018, only 501 cases were booked under the PCMA Act, even though data suggests that one in four women in India is still getting married under the age of 18. This clearly shows that the law is not being effectively implemented.

Imposing penalties and further increasing the legal

age of marriage in India will not by itself succeed in reducing such marriages, in fact, this will further lead to making such marriages go under-ground. In 2015-16, 63% of young women were married before the age of 21. Among the poorest 20% of the population, the percentage of women marrying below the age of 21 is as high as 75%. Raising the minimum age of marriage would turn the families of these women into criminals - and disproportionately affect the poorer sections of society, mainly comprising of Dalit, Bahujan and Adivasi women.

Research has shown that it is poverty and not the age of marriage that is the most important factor that governs the poor health of young mothers. Until and unless the issue of poverty is addressed, the issue of failing health of young mothers will continue to exist even beyond the age of 21 years.

While supporting the proposal to raise the legal age of marriage for women from 18 to 21 years, senior Congress leader P. Chidambaram has suggested that the law be put into force only in 2023. The coming year, he says, should be used by the government to

educate people on the benefits of marrying only after a person turns 21.

While the Prohibition of Child Marriage (Amendment) Bill, 2021 will apply to all communities in India, it will also supersede the existing marriage and personal laws like the Indian Christian Marriage Act, 1872, Parsi Marriage and Divorce Act, 1936, Special Marriage Act, 1954, Hindu Marriage Act, 1955, Foreign Marriage Act, 1969 barring the Muslim Personal Law (Shariat) Application Act, 1937 under which the marriage of a minor who has attained puberty (assumed at 15 years) is valid. The amendment proposed to define a child states: '(a) "child" means a male or female who has not completed twenty-one years of age'.

While it is true that the bill aims at bringing about gender neutrality and to bring equal rights to both men and women, it will also be a good tool to combat and bring down teenage pregnancies thereby lowering both the maternal and the infant mortality rate. The new proposed law also aims at giving better opportunities to women in the field of education and a right to livelihood along with improving the nutritional levels, mental well-being and the sex ratio at birth.

The most important requirement today apart from framing new laws is to seek ways of enabling adherence to the current law. Strategies that are inclusive and bring the unreached and disadvantaged out of poverty are much needed. Such policies and programs are far more respectful of human rights than legislation, and will undoubtedly help achieve the desired delays in marriage underlined in high-level pronouncements.



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