



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Child Marriage Law Vs Reality: A Study of Maharashtra

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Abstract

Over the years marriage has been developed as one of the most important social institutions, marriage forms the basis of the family system and is indeed combined as one of the important foundation stones in the development of society, culture, economics, and politics. For affluence and powerful sections of society marital union are utilized for securing economic and political benefits. Undoubtedly, marriage throughout civilization has always been used as one of the important tools of partnerships. For the rich privileged and ruling classes partnership as a means of marriage served to promote their economic and political interest for the poorer and weaker sections, marriage serves social and economic purposes. The age of marriage is preferred to change over time and depends on the prevalent social norms. Though puberty is always seen as a biological indicator for determining marital age. Religious sanctions and societal norms always had an upper hand in deciding at which age the girl and boy should form a union of marriage. Thus, there is no uniformity related to the age of marriage across the times of civilization and the continents. In the modern era due to the development of secular humanistic jurisprudence and through international understandings such as the 'convention of the right of child', Any human being below 18 is considered a child.

Internationally this convention found wide acceptance to the extent that around 194 countries ratified these conventions and converted these international norms into domestic policy. Therefore, now it is internationally understood that any individual below the age of 18 years of age is a child and if any such individual gets engaged into a marital union before the age of 18 then such marriage will be called child marriage.

However, these modern norms though scientifically established, people find difficult to follow because of several historical, cultural, and religious research. especially putting a girl child into marriage before the age of 18 is one of the most prevalent instances we see in several Asia, Southeast Asia, the Middle- East, South America, and even in some countries of Europe. However, governments across the globe are more or less autonomous and committed to changing the old practice of marrying children before the age of 18. In India, any marriage that is done between a girl below 18 years and a boy below 21 years of age is considered void and people to promote such marriage including parents are liable for criminal action.

Prevalence of the Child Marriage and Prevention Act puts responsibility on the government to discourage and stop child marriages.

Needless to say, the practice of child marriage is prevalent more in the rural, backward, and socially and economically vulnerable sections. However, even some socially prominent and economically well-off people in the name of customs and traditions, are seen encouraging the

The practice of child marriage, early marriage, especially the marriage conducted during childhood puts a great physical, psychological, and financial burden on girls and boys both. The position of a girl especially becomes vulnerable because of the aided physical and psychological pressure, especially during the birth of a child.

High instances of maternal mortality, low birth fetus, infant mortality, and other medical complications put life-threatening consequences on the mother, who is herself a child, and also the financial burden of dealing with a medical complication on already empowering her parents. This paper attempts to analyze the reason for marriage and its wide negative impact on participating children and families also it attempts to illuminate various measures taken by the state government and the success stories related to it.

When India is at creating a volume of 5 trillion economy, such a gigantic task cannot be fulfilled without the participation of a healthy and gender-inclusive workforce. This paper also discusses long-term social and economic benefits that couldn't be harnessed by the country by preventing child marriage.

Keywords: Marriage, Socio-economic, Global, Cultural and Religion

Introduction

India is a land of many religions, customs, and traditions. Marriage is a social institute; the concept of institution differs from this common usage. In sociology, an institution is a system of organizing social relationships that embodies certain common values and procedures and meets certain basic needs of society. They are the structured processes through which people carry on their activities. (Horton and Hunt, 2004) According to Horton and Hunt, an institution is a system of norms to achieve some goal or activity that people feel is important, or, more formally, an organized cluster of folkways and mores centered on a major human activity. Sumner (1906) defines an institution as something that consists of a concept (idea, notion, doctrine, or interest) and a structure (Unkule, 2018).

The custom of child marriages, with the 'bride' and 'groom' still in their cradles, was a culmination of this intention. In addition, it was also felt, that this would reduce the danger to a growing girl's virginity. Till the 1860s, girls were getting married below the ages of eight or nine years. Socio-reform religious movements, such as the Brahma Samaj and the Arya Samaj, pioneered work against child marriage. The contribution of Raja Ram Mohan Roy in curbing the ill practices of marriage cannot be neglected. Late in the 1860s, some success was achieved when the Indian Penal Code made provision against child marriage (Bhat, Sen, & Pradhan, 2005).

Child marriage has been considered a traditional practice in India for many years. The problem of child marriage in India is a complex one because of religious traditions, social practices, economic factors, and blind beliefs. Since there are no references available for child marriage in ancient India, it is difficult to trace the origins of the practice (Juvadi, 2022). The *dharmasutra* and *dharmashastra* literature includes several rules on the age of marriage, according to which a girl should be married a few months after puberty begins or even before (Lingat R., 1973: 3-14). Hence in mainstream Hinduism, early marriage was perceived as a duty. Child marriages is considered to have a positive effect on the maintenance of cosmic order, the preservation of society, and the spiritual merits of those involved (Lina, 2023).

Child marriage is closely associated with poverty and is likely to increase girls' vulnerabilities. Girls married at an early age are often socially isolated and cut off from family, friends, and other support groups. Despite the Prohibition of Child Marriage Act (2006), the practice of child marriage remains pervasive due to factors spread across the socio-ecological spectrum, including structural inequalities and regressive social norms (UNFPA, 2022). Over 40 countries, mostly in Sub-Saharan Africa and South and Southeast Asia, including India, Pakistan, and Bangladesh, regularly practice the early marriage of children, especially of girl children. Child marriage occurs below the age of 18 years. It not only affects the health of a child but also their education. If child marriage occurs, the girls should be physically and mentally prepared for childbearing. In 2011, UNICEF highlighted that "child marriage is a major social concern and violation of children's rights--- whether it happens to a girl or a girl--- as it denies the basic rights to health, nutrition, education, freedom from violence, abuse, and exploitation and deprives the child of his/her childhood (Mahota, 2016).

Research Objective

- To explore the reasons for child marriage in Maharashtra.
- To Find out the reasons why can be child marriage reduced especially.

Reasons for Child Marriage

There is no single cause of child marriage. The reasons behind this continuing practice are manifold. Child marriages are deeply entrenched in the socio-economic context of backwardness, poverty, illiteracy, patriarchy, feudalism, falling sex ratio, the backward status of women in general, characterized by social malpractices like dowry, female foeticide and infanticide, and certain traditional/ cultural/ religious practices in each region.

• Economic Reason

There are many economic reasons for child marriage. In Indian society, there are some communities where families see their daughters as an economic burden, family in poverty may choose to marry off daughters to avoid paying for their education and taking care of the children.

Child marriage rates tend to be higher among households in low- and middle-income countries who have fewer resources and to invest in alternative options for girls (education, and vocational training to name a few). This tends to create a double burden on the girls where the inaccessibility to adequate resources adds to the household making decisions regarding their marriage. Poverty and the burden of marriage-related expenses are commonly reported reasons for the practice of early marriage (Santhya, Haberland, and Singh 2006:9). Parents may assess the costs and benefits of marriage and decide to marry their daughters early if they are seen as an economic burden. Financial transactions around marriage contribute to this practice as well. In some cases, families may obtain a greater financial amount for the younger brides. This tends to act as a motivator for families to take the decision to marry their daughters before the legal age of 18 years. In circumstances where dowry is practiced (the bride's family provides assets to the groom's family), a younger and less educated bride may require a lower dowry, which would incentivise parents to marry daughters at a younger age (Parsons, Edmeades, Kes, Petroni, Sexton and Quentin 2015:13) (Kumar, Goel, & Jithu, 2021).

• Poverty

Poverty is one of the major factors underpinning child marriage. Poverty-stricken parents are often persuaded to marry their daughters in the hope of receiving money and sometimes with the prospect of saving money by getting several daughters married at the same time (Bhat, Sen, & Pradhan, 2005).

• Patriarchy

Child marriage stems from a complex set of power imbalances between women and men, reflected in widespread social norms. The practice of patriarchy places women in a position where they are unable to exercise a choice about their own sexual and reproductive health, in addition, they have less freedom to move around, they are isolated from familiar social networks, and are not permitted to make decisions regarding their life (Bhat, Sen, & Pradhan, 2005).

• Dowry

Dowry is one of the reasons for child marriage. Dowry is paid by the bride's family to the groom's family, in cash or kind, at the time when the bride is 'given away' (Kanyadaan). The customary practice of dowry, which amounts to a huge amount of money, also forces the parents to marry their daughters as soon as possible. The equation for the parent is, that the lesser the age of a daughter during marriage the lesser the amount of dowry to be given.

• Sexuality and Virginity

Sexuality of the girl is perceived a threat to social norms. Values like family honor and placing a premium on virginity play a strong role in fostering this practice. The overvalued importance of virginity increases the insecurity about the grown-up girl. The parents may feel that marrying a daughter at a young age, saves them from unwanted social humiliation.

• Cultural Reasons

Additionally, there are many different cultures in the Indian society. There are many different. In Indian, child marriage occurs often in societies where elderly have a large role to playing choosing spouses for their children.¹

¹ Child marriage in India, regent university.

• The Negative Effects

Child marriage has a lot of negative effects on girls and violets the rights of children. Societies that practice child marriage need to be aware of the detrimental effects and must consider letting go of this practice.

Laws Relating to Child Marriage in India

Child marriage is regarded a grave violation of children's and human rights for the reasons stated. It creates lasting physical, psychological, and emotional scars on the youngster. This practise also contradicts United Nations accords adopted since 1948 on the minimum age for marriage and the protection of children from sexual exploitation. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) and the Convention on the Rights of the Child (CRC, 1989) are two examples. The CRC confers many rights including freedom of expression (seeking and receiving information and ideas Article 13), the right is not separated from their parents against their will (Article 9), the right to education (Articles 28 and 29), the right to rest and leisure and to engage in play and recreational activities (Article 31) and the right to protection from sexual exploitation and abuse (Article 34). India is one of the signatories to this important convention.

There are three main laws dealing with the issues of child marriage in India.

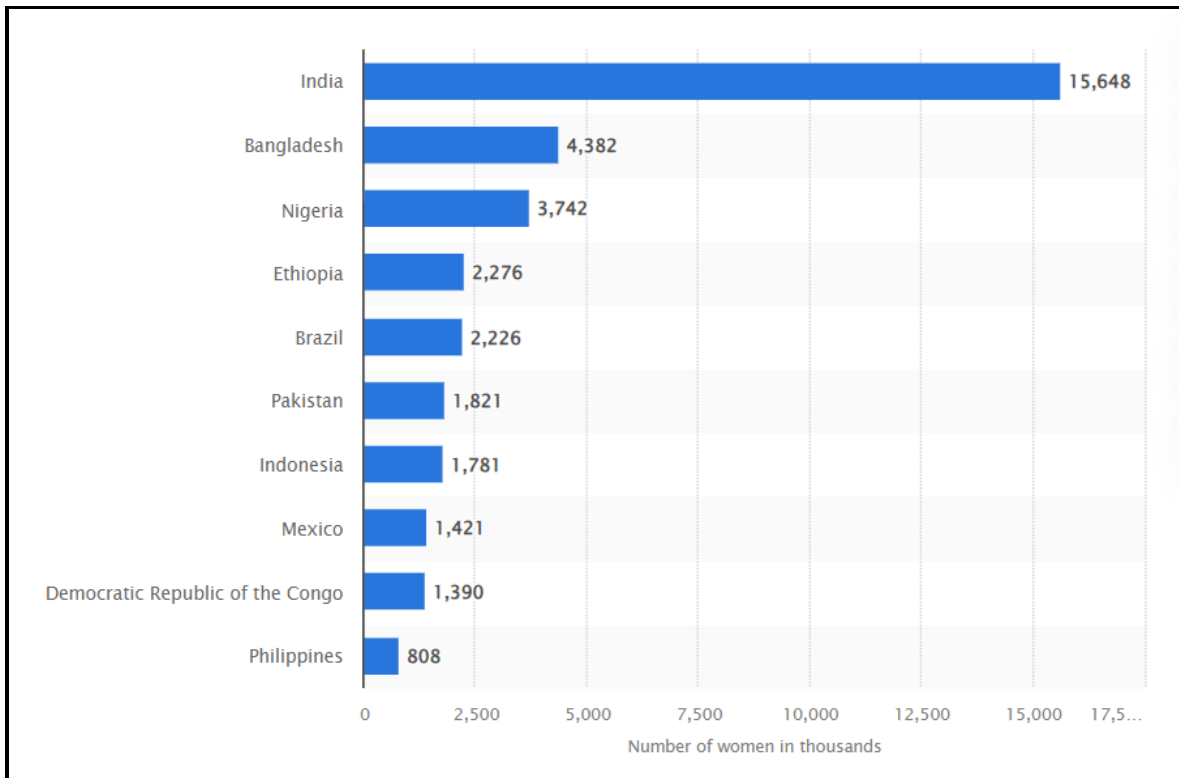
The Child Marriage (Restraint) Act, 1929; The Prevention of Child Marriage Act, 2004; and the Prohibition of Child Marriage Act, 2006. According to the acts, a 'child' means a person who, if male, has not completed 21, and if female, has not completed 18 years. According to the Child Marriage (Restraint) Act, 1929, any person who performs, conducts, or directs a child marriage commits an offence under the law. The offender can include the parents, relatives or even the pandit who performs the marriage. The offender can be punished for up to three months imprisonment and fine, and the magistrate, on being informed can stop the marriage. A close relative or a friend of the minor can get a report lodged at the police station to provide information of a child marriage taking place.

Compulsory Registration of Marriages Act, 2006 and State Initiatives

From the year 2006, all marriages need to be registered in India under the Compulsory Registration of Marriages Act, 2006. It states that every Indian citizen must register his or her marriage within ten days of their marriage, irrespective of religion. Such compulsory registration would be of critical importance to prevent child marriages in the country. The state government ts in Madhya Pradesh, Uttar Pradesh, Haryana, and Bihar, where child marriages are so rampant, have not taken any initiative to make registration of marriages compulsory. The Central Government has made it mandatory for all states to make registration of marriages compulsory as the states are in a better position to be aware of the social structure and local conditions of their respective states. There are gaps in this law as it has been left to state governments to take the initiative. Secondly, nonregistration of a minor's marriage does not render it automatically void.

Bal Vivah Virodh Abhiyan: In April 2005, the National Commission for Women (NCW) launched the Bal Vivah Virodh Abhiyan (Child Marriage Protest Programme), a nationwide awareness programme against child marriages with particular focus on the states of Rajasthan, Bihar, Chhattisgarh, Madhya Pradesh, Jharkhand, and Uttar Pradesh. The NCW even published an advertisement in regional newspapers to generate awareness in the rural areas known for child marriages in these states.

Chart 1 Countries with the highest absolute numbers of child marriages as of 2020(in 1,000s)



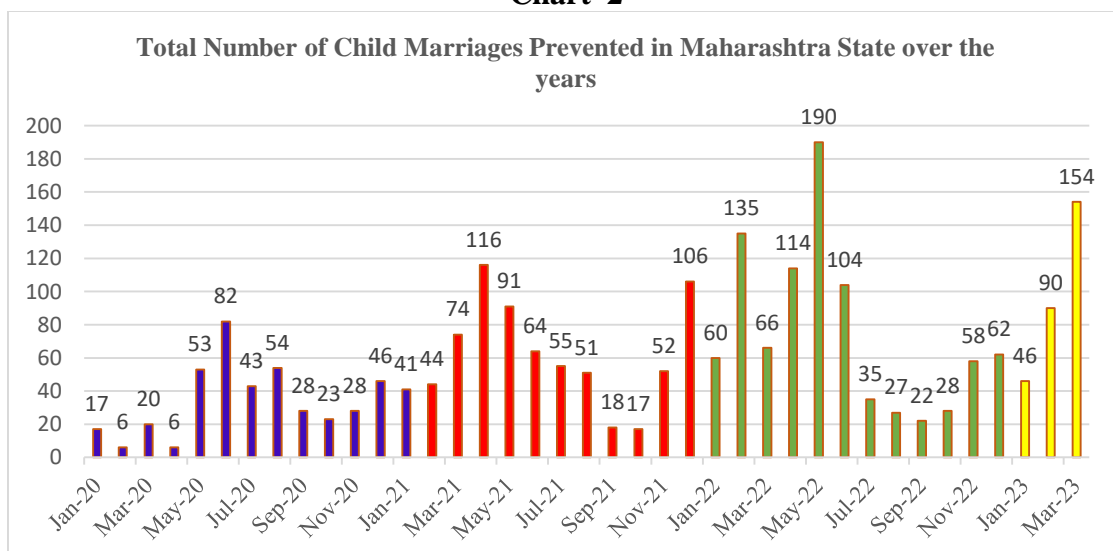
<https://www.statista.com/statistics/1228332/highest-absolute-number-of-girl-brides-by-country>

Child Marriage in Maharashtra

To control child marriage in the state, Maharashtra Government enacted the “Maharashtra Regulation of Marriage Bureau and Registration of Marriage Act 1998” with effect from 15 April 1999, wherein there is a provision for compulsory registration of marriage in the state. The state Government has appointed Gram Sevaks who is the marriage registrar as “Child Marriage Prevention Officer” in 2003.

Maharashtra's Department of Women and Child Development is working hard to reduce the state's rate of child marriages. Maharashtra appears to include the greatest concentration of districts with a rising rate of girl child marriage. A rising trend in child marriage has been observed in all 16 districts of Maharashtra within the 70 districts classified as high-incidence areas during the 2001 and 2011 censuses. While Kolhapur, Sindhudurg, and Satara record increases of more than three times, the district of Bhandara in Maharashtra leads with more than a five-fold increase in child marriage among girls. According to Lives (2017), there is a higher rate of child marriage in districts with high HDI values, such as Thane (2.8 fold), Pune (2.4 fold), Mumbai (2.2 fold), and Mumbai Suburban (2.3 fold).

Chart 2



Data collected from the Department

Conclusion: Bridging the Gap Between Law and Reality

While the Prohibition of Child Marriage Act outlines a robust legal framework, the reality on the ground in Maharashtra reveals a glaring gap between legislation and its implementation. Statistics lay bare the prevalence of child marriage, particularly in rural and economically disadvantaged communities, underscoring the urgent need for a multi-pronged approach to address this deep-rooted issue.

Firstly, efforts must focus on empowering communities through awareness campaigns that highlight the detrimental consequences of child marriage and promote girls' education as a powerful tool for social change. By fostering a culture that values the rights and potential of young girls, societal norms can be reshaped from within.

Secondly, stricter enforcement of the existing laws is paramount. This involves strengthening reporting mechanisms, ensuring swift action against violators, and holding accountable those who enable or perpetuate child marriages. Collaboration between authorities, civil society organizations, and local stakeholders is crucial in identifying and addressing cases effectively.

Thirdly, addressing the root causes that drive child marriage is imperative. Initiatives that tackle poverty, gender inequality, and traditional harmful practices are essential to breaking the vicious cycle. Empowering girls and their families economically, promoting education, and challenging deep-seated patriarchal norms can dismantle the structural barriers that contribute to this practice.

By implementing a comprehensive strategy that combines legal enforcement, community empowerment, and targeted interventions to address socio-economic factors, Maharashtra can pave the way for a future where every girl's childhood is safeguarded, and her right to choose her destiny is protected. It is through collective efforts and a sustained commitment that the legal protections enshrined in the Prohibition of Child Marriage Act can translate into a lived reality for every child in the state.

Bibliography

Bhat, A., Sen, A., & Pradhan, U. (2005). *Child Marriages and the Law in India*. New Delhi: Human Right Law Network.

Juvadi, S. (2022). Child Marriage Law VS. The Reality. *Indian Journal of Law and Legal Research*, 5(2), 1-17.

Kumar, P., Goel, R., & Jithu, P. (2021). *Child Marriage in India: A Research Study*. New Delhi: DevInsights Private Limited.

Lina, M. (2023). *Child Marriage in India*. Research Gate.

Lives, Y. (2017). *Incidence of Child Marriage: New Findings from 2011 Census of India*. Policy Brief.

Mahota, K. S. (2016). Causes and Consequences of Child Marriage: A perspective. *International Journal Of Scientific & Engineering Research*, Volume 7, Issue 7, July-2016 698, 7(7), 1-5.

UNFPA. (2022). Child Marriage in India: Key Highlight from NFHS-5 (2019-2020). *UNFPA*, 1-2.

Unkule, S. (2018). Marriage as a Social Institution – Changing Nature and Emerging Trends. In A. C. Wagh, *Sociology of India* (pp. 50-60). New Delhi: Inlibnet Centre.