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Raising the Minimum Age of Marriage: Breaking the Golden Birdcage

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ABSTRACT

The Indian society is exceptionally concerned with the marriage of their daughters. Even today the masses of India are less concerned about the education of the girl child but for a suitable bridegroom for her, because there is a conception that a woman can only be secured with her husband. This is the reason behind the marriage of girls at a very young age. The present Union Government has tabled a bill in the Lok Sabha to increase the minimum age of marriage for women from 18 years to 21 years, which will apply to women of all religions. This article will look into the impact of raising the minimum age of marriage for women and its consequences on the different important factors which are essential for the overall development of a human being, such as education, health, social security and economic stability. It has taken the studies of different highly reliable data, government news sources and research papers. Increasing the minimum age of marriage will lead to the holistic development of a girl child with better chances to pursue higher education, capable of making her own decisions and this also impacts on the population growth. The increase in the minimum age of marriage will provide different opportunities for a young girl to become self-reliant and become a strong pillar of the society to contribute to the development of the nation.

Keywords: *Minimum age of marriage; Girl Child; Women's Rights; Gender Equality*

I. INTRODUCTION

The Union government of India has proposed to raise the age of legal marriage of women. The bill has introduced by Union Minister Mrs Smriti Irani before the Lok Sabha (Lower House of Parliament) which aims to raise the age of marriage for every female irrespective of their religion. With the introduction of the Prohibition of Child Marriage (Amendment) Bill, 2021. This Bill will make amendments across the personal laws of different communities such as Hindu, Muslim, Christian, Parsi and even in the matter of Special Marriages. This indicates that the structure of the different personal laws will be eradicated in India and the composite law for marriage will be formed in near future. India has a very large population which results

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in undesired stress on the resources of the country and which acts as a catalyst in factors like poverty, unemployment, underemployment and other socio-economic problems. It makes India, far behind in the comparison with large economies like the USA which are front runners in every dimension of human development.

This bill shows a gender-neutral approach of the government and a progressive vision in the context of women. It gives immense pleasure and joy to women throughout India. Earlier in the year 1978, the age of women had raised from 16 to 18 years. This move of the union government is a step for women's empowerment. Which will be very helpful for the improvement of Maternal Mortality Rate, Infant Mortality Rate and Total Fertility Rate.

II. REQUIREMENT FOR THE RAISING THE MINIMUM AGE OF MARRIAGE

In India, different communities are governed by their laws. Hindus, are governed by The Hindu Marriage Act,1955² which mentions the age of bride and bridegroom as 18 and 21 respectively. The Muslim community are governed by their personal laws which recommend puberty as the minimum age for marriage which is assumed to be 15 years. The Special Marriage Act,1954 and Christian Marriage Act,1872 also has the same criteria as Hindus.

Section 18 (a) of The Hindu Marriage Act,1955 provides for rigorous punishment of two years or one lakh fine. The Prohibition of Child Marriage Act,2006 is a particular Act that deals with this social evil.

With having all this, the rate of child marriage is increasing in India. According to data released by the National Crime Records Bureau (NCRB), there is a 50% increase in child marriages with a total of 785 cases.

III. THE COMMITTEE BEHIND THIS RECOMMENDATION

The recommendation for increasing the legal age for women was made by the former head of Samta Party Mrs Jaya Jaitley also with Dr V.K Paul member of NITI Aayog and secretaries of different ministries. The committee gets the recommendation from 16 universities and 15 NGOs across India. These NGOs are working for the upliftment of the marginalized community in India. The committee has collected feedback from the youth across different communities of India irrespective of their rural or urban background.

It also recommends skill development and Sex-education for girl students at the school level.

² Section 5(iii) Hindu Marriage Act,1955

IV. SOCIAL REFORMS ASSOCIATED WITH THIS STEP

This proposed bill will open new doors into the lives of women. This will bring holistic development to the life of a woman, which will lead to physical, mental, social and psychological wellbeing in the lives of women of India. Following are some benefits-

- More chances to pursue Higher Education
- Population Control
- Impact on Health
- Women Empowerment

(A) Education

This Bill will help girl children to devote more years to education and pursue a career of their own choice. When a woman will get some extra years to study, then a family will be educated and this continues to the whole nation. A well-educated woman will be a potential human resource asset to the country, which helps in the development of the nation. An educated woman is very well informed about the nutrition and healthcare of her child. A girl will empower her family as well as a society when the government and civil society pays their attention to uplift the condition of girl education.

Article 21A Right to education of the Fundamental Rights put the responsibility on the state to provide free education to children of age between 6 to 14 years. This will be a step towards achieving the Directive Principles of State Policy which is mentioned under Articles 41, 45 and 46. In the landmark judgment of *Bandhua Mukti Morch v. Union of India*³, the apex court stated that the

As per the 2011 Census, the literacy rate of women is 65.5 per cent whereas the literacy rate of males is 82.1 per cent.⁴ This proposed bill will surely improve the literacy rate of women in India. To increase the footprints of girl children in schools or to enrol them into higher education. The government has to make schools with separate toilets for girls, appoint female teaching staff, which will give confidence to the families of rural India to send their children to schools.

This bill will help India to achieve the United Nation's Sustainable Development Goals, 2030 which includes Quality Education and Gender Equality with ease.

³ *Bandhua Mukti Morcha v. Union of India*, (1997), 10 S.S.C. 549 (India)

⁴ Census of India, 2011

(B) Population Control

India is the second-most populous nation in the world with a 1.366 Billion⁵ population. When a girl gets married at an early age then the fertility rate will be on the higher side. This has a direct effect on the total birth rate of the country. When a girl gets a good education and when she spends more years in a college/university, It will give her self-pride and confidence to draw her future with the colours of her aspirations. Then the individual will become self-sufficient to think about her future and make decisions to get married at an appropriate age. According to recent studies, India's fertility rate is 2.20 birth per woman and the United States has only 1.70 birth per woman.⁶ If India wants to achieve the spot of developed countries, then it has to reduce its birth rate which leads to equal distribution of wealth and resources of this country.

Some societies in this country have an orthodox belief to having more children is a pious thing. These beliefs lead to more population explosion and unequal distribution of resources. It also leads to an extra burden on state funds. India has an abundance of natural resources and a unique geographical location which has enough capability to give food and good opportunity to live a life with dignity. The uncontrolled population growth resulted in stress on the resources and policymakers to fulfil the requirements of the citizens. This bill will be a millstone in the population control of India.

(C) Impact On Health

India's health sector doesn't have pan country coverage which can cure the average citizens. Well-equipped hospitals and medical staffs are available in the cities only. The government is trying to reach every corner of India with the opening of new AIIMSs and rural health units. But even today the Child Mortality Rate (deaths per 1,000 live births) is 34 which is dropped in the last 30 years.⁷ The Maternal Mortality Rate in the last years is 113 per 100,000 live births in 2016-18.⁸

If this Bill passes then it will affect the population growth of India, which may result in the gradual reduction of population. Due to the low literacy rate and indigence families are under restriction to marry their daughters at a very young age. This social evil exists due to the non-implementation of the welfare policies which are made in the guidance of Directive Principles of State Policy.⁹

⁵ World Bank Data, 2019

⁶ *Ibide.*

⁷ United Nations Report

⁸ Ministry of Health and Family Welfare. Maternal Mortality Rate (Mar. 2, 2022,10:30AM) <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1697441>

⁹ Part IV of the Indian Constitution

V. SUGGESTIONS

The proposed bill which aims to increase the age of marriage is a step to treat every woman as equal. Just increasing the minimum age of marriage can't correct the societal problems which are associated with child marriage. It should have strict implementation and there should be a procedure of heavy fines on the parties who are marrying their children at a minor age. As the present laws also provide fines for marrying under the age of eighteen and twenty-one for bride and bridegroom respectively.¹⁰ But the cases of child marriage is still coming from the different pockets of the country because the law enforcement agencies are pursuing their duty according to law and people are not aware of the unfortunate consequences of marrying a child at a tender age.

This bill is also a step towards the fulfilment of Article 44 which aims to form the Uniform Civil Code. The Uniform Civil Code is a common law for all communities or religions in respect of their personal issues such as marriage, divorce, succession, will and adoption. Before passing this Bill the government should properly discuss it with the opposition parties and ask for suggestions on this bill from the citizens of the country. So it doesn't create any unrest in the country as it happened at the time of Farmer's Bill and NRC. A democratic country like India needs discourse and discussion on every subject which is related to the lives of common people.

¹⁰ Section 18(a), Hindu Marriage Act, 1955