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**THE PROHIBITION OF CHILD MARRIAGE
(AMENDMENT) BILL, 2021**

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I. Introduction

The Prohibition of Child Marriage (Amendment) Bill, 2021¹ was introduced in Lok Sabha on 21 December, 2021 by the Union Minister of Women and Child Development.

The Bill seeks to increase the marriage age of women from existing 18 years to 21 years, by amending the Prohibition of Child Marriage (Amendment) Act, 2006*. This is because early marriages often put women to disadvantageous position, affects their education, skills development, employment, maturity and also have repercussions on nutrition levels and affects maternal mortality and infant mortality.

Besides this, the various enactments in the country on marriage viz. the Indian Christian Marriage Act, 1872, the Parsi Marriage and Divorce Act, 1936, the Muslim Personal Law (*Shariat*) Application Act, 1937, the Special Marriage Act, 1954, the Hindu Marriage Act, 1955 and the Foreign Marriage Act, 1969 do not provide for uniform minimum age of marriage for men and women.

One more amendment in the Bill seeks to increase the time period of petition to make the child marriage voidable from the existing 'two years of attaining majority' to 'five years of attaining majority'.

II. Statement by the Minister:

Introducing the Prohibition of Child Marriage (Amendment) Bill, 2021 in Lok Sabha on 21.12.2021, the Union Minister of Women and Child Development Smt. Smriti Zubin Irani made the following statement:

2“... that the age of marriage should uniformly be applicable across all religions, all castes, and all creeds overriding any custom or any law which seeks to discriminate against women...

* The Prohibition of Child Marriage (Amendment) Act, 2006 available at <https://legislative.gov.in/sites/default/files/A2007-06.pdf>

¹ http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/160_2021_ls_Eng.pdf

² LS Debates dated 21.12.2021

She further added that *enactments like the Indian Christian Marriage Act, 1872, the Parsi Marriage and Divorce Act, 1936, the Muslim Personal Law (Shariat) Application Act, 1937, the Special Marriage Act, 1954, the Hindu Marriage Act, 1955 and the Foreign Marriage Act, 1969 do not have concurrence relating to age of marriage...*"

III. Highlights of the debates

During the debate in the House on 21.12.2021, Members demanded that the Prohibition of Child Marriage (Amendment) Bill, 2021 needed to be scrutinized and all the stakeholders should be consulted. In view of this, the Bill was referred for examination to the Departmentally Related Standing Committee on Education, Women, Children, Youth and Sports under the Chairmanship of Dr. Vinay P. Sahasrabuddhe on 25 December, 2021. The Committee has met thrice till date (on 13th April, 9th May and 17th May, 2022) to deliberate on the Bill. The Report of the Standing Committee is awaited.

IV. Need for the Bill

The 2021 Amendment Bill has been introduced, keeping in view the following points:

- Gender equality and prohibition of discrimination on the grounds of sex are guaranteed by the Constitution as part of the Fundamental Rights (Articles 14 and 15).
- Existing laws do not adequately secure the Constitutional mandate of gender equality in marriageable age among men and women.
- Progress of women in a holistic manner, encompasses progress on all fronts including their physical, mental and reproductive health.
- Taking measures to stop discrimination against women helps in achieving sustainable development goals and is in line with the principles enunciated under the 'Convention on the Elimination of All Forms of Discrimination against Women', to which India is a signatory.

V. Objectives of the Bill

The 2021 Bill is meant to be a step forward in ensuring empowerment of women, making them self-reliant and enabling them to take decisions themselves for their betterment.

The Bill, *inter alia*, seeks to achieve the following objectives:

- To raise the minimum age of marriage for women to 21 years (from the present 18 years), thereby bringing women at par with men in terms of marriageable age.
- To prohibit child marriage irrespective of any law, custom, usage or practice governing the parties.
- To amend the Prohibition of Child Marriage Act, 2006 by reinforcing its application, overriding all other existing laws, including any custom, usage or practice in relation to marriage;

VI. Key Proposed Amendments

The 2021 Amendment Bill proposes to carry out amendments in Section 1 (by insertion of text and figures); Clauses (a) and (b) of Section 2 (by substitution and insertion of text); and Section 3 (by substitution of text) of the Prohibition of Child Marriage (Amendment) Act, 2006 (the Principal Act). Further, a new Section 14A titled 'Act to have overriding effect' is to be inserted after Section 14 of the Principal Act. Section 6 of the 2021 Bill provides the manner in which certain enactments shall be amended, as specified in the Schedule of the Bill.

Section/Clause etc. of the Principal Act of 2006 (The Prohibition of Child Marriage Act, 2006)	Provisions in the Principal Act of 2006	Provisions proposed (Amendments) in the 'Prohibition of Child Marriage (Amendment) Bill, 2021'

1.	2.	3.
<p>Section 1 (Short title, extent and commencement)</p> <p>Sub-section (2)</p>	<p>It extends to the whole of India and it applies also to all citizens of India without and beyond India</p>	<p>Following text shall be inserted after text in Column 2:</p> <p>“notwithstanding anything contrary or inconsistent therewith contained in the Indian Christian Marriage Act, 1872; the Parsi Marriage and Divorce Act, 1936; the Muslim Personal Law (<i>Shariat</i>) Application Act, 1937; the Special Marriage Act, 1954; the Hindu Marriage Act, 1955; and the Foreign Marriage Act, 1969, or any other custom or usage or practice in relation to marriage, under any other law for the time being in force”</p>
<p>Section 2 (Definitions)</p> <p>Clause (a)</p> <p>Clause (b)</p>	<p>“child” means a person who, if a male, has not completed twenty – one years of age, and if a female, has not completed eighteen years of age</p> <p>“child marriage” means a marriage to which either of the contracting parties is a child</p>	<p>Following clause shall be substituted as Clause (a):</p> <p>“child” means a male or female who has not completed twenty-one years of age’</p> <p>After the words “is a child” in Clause (b), the following words shall be inserted:</p>

		“notwithstanding anything to the contrary or inconsistent therewith contained in any other law for the time being in force, including any custom or usage or practice governing the parties”
<p>Section 3 (Child marriages to be voidable at the option of contracting parties being a child)</p> <p>Sub-section (3)</p>	<p>The petition under this section may be filed at any time but before the child filing the petition completes two years of attaining majority.</p>	<p>For the words "two years" in Column (2),</p> <p>the words "five years" shall be substituted.</p>
<p>Insertion of new Section 14A (Act to have overriding effect)</p>		<p>After Section 14 of the Principal Act, the following Section shall be inserted:</p> <p>“14A. The provisions of this Act shall have effect, notwithstanding anything contrary or inconsistent therewith contained in any other law for the time being in force, including any custom or usage or practice governing the parties.”</p>

**List of Enactments proposed to be amended, as per
Section 6 of the 2021 Amendment Bill**

(to raise the minimum age of marriage for women to 21 years of age)

Sl. No.	Short title of Enactment
1.	The Indian Christian Marriage Act, 1872
2.	The Parsi Marriage and Divorce Act, 1936
3.	The Special Marriage Act, 1954
4.	The Hindu Marriage Act, 1955
5.	The Hindu Minority and Guardianship Act, 1956
6.	The Hindu Adoptions and Maintenance Act, 1956
7.	The Foreign Marriage Act, 1969
