

Bill No. 163 of 2021

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

A

BILL

further to amend the Prohibition of Child Marriage Act, 2006.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Child Marriage (Amendment) Act, 2021. Short title and commencement.

5 (2) This section and section 2, clause (ii) of section 3, section 5 and the amendment to the enactment mentioned against serial number 5 of the Schedule shall come into force on the date this Act receives the assent of the President; and the other provisions shall come into force on the date of completion of two years from the date of assent and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.
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6 of 2007. **2.** In section 1 of the Prohibition of Child Marriage Act, 2006 (hereinafter referred to as the principal Act), in sub-section (2), after the words “citizens of India without and beyond India”, the words, figures and brackets “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 (*Shariat*) Application Act, 1937; Amendment of section 1.

15 of 1872.
3 of 1936. 15
26 of 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” shall be inserted. 43 of 1954.
25 of 1955.
33 of 1969.

Amendment
of section 2.

3. In section 2 of the principal Act,—

(i) for clause (a), the following clause shall be substituted, namely:— 5

‘(a) “child” means a male or female who has not completed twenty-one years of age;’;

(ii) in clause (b), after the words “is a child”, the words “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” shall be inserted. 10

Amendment
of section 3.

4. In section 3 of the principal Act, in sub-section (3), for the words "two years", the words "five years" shall be substituted.

Insertion of
new section
14A.

5. After section 14 of the principal Act, the following section shall be inserted, namely:— 15

Act to have
overriding
effect.

“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.”.

Amendments
of certain
enactments.

6. The enactments specified in the Schedule shall be amended in the manner mentioned therein. 20

THE SCHEDULE
(See section 6)

Sl. No.	Year	Act No.	Short title	Amendments
(1)	(2)	(3)	(4)	(5)
1.	1872	15	The Indian Christian Marriage Act, 1872.	In section 60, for clause (I), the following clause shall be substituted, namely:— "(I) the age of the man and woman intending to be married shall not be under twenty-one years;"
2.	1936	3	The Parsi Marriage and Divorce Act, 1936.	(a) in section 3, in sub-section (I), in clause (c), for the words "female, has not completed eighteen years of age", the words "female, has not completed twenty-one years of age" shall be substituted; (b) in Schedule II, the expression "Signatures of the fathers or guardians of the contracting parties under 21 years of age" shall be omitted.
3.	1954	43	The Special Marriage Act, 1954.	In section 4, in clause (c), for the words "eighteen years", the words "twenty-one years" shall be substituted.
4.	1955	25	The Hindu Marriage Act, 1955.	(a) in section 5, in clause (iii), for the words "eighteen years", the words "twenty-one years" shall be substituted; (b) in section 13, in sub-section (2), in clause (iv), for the words "eighteen years", the words "twenty-one years" shall be substituted.
5.	1956	32	The Hindu Minority and Guardianship Act, 1956.	(i) in section 6,— (I) in clause (a), for the words "a boy or an unmarried girl", the words "a legitimate boy or a legitimate girl" shall be substituted; (II) in clause (b), for the words "an illegitimate boy or an illegitimate unmarried girl", the words "an illegitimate boy or an illegitimate girl" shall be substituted; (III) clause (c) shall be omitted; (ii) in section 9, sub-section (6) shall be omitted.
6.	1956	78	The Hindu Adoptions and Maintenance Act, 1956.	In sections 7 and 8, for the words "not a minor", the words "not below the age of twenty-one years" shall respectively be substituted.
7.	1969	33	The Foreign Marriage Act, 1969.	In section 4, in clause (c), for the words "eighteen years", the words "twenty-one years" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Child Marriage Restraint Act, 1929, was replaced by the Prohibition of Child Marriage Act, 2006, to prohibit solemnisation of child marriages, but this highly pernicious practice is still not completely eradicated from our society. Hence, there is an urgent need to tackle this societal issue and to bring in reforms. We cannot claim progress unless women progress on all fronts including their physical, mental and reproductive health. The enactments, *inter alia*, relating to age of marriage of parties, such as 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.

2. The Constitution guarantees gender equality as part of the fundamental rights and also guarantees prohibition of discrimination on the grounds of sex. The existing laws do not adequately secure the Constitutional mandate of gender equality in marriageable age among men and women. Women are often put to disadvantageous position in regard to higher education, vocational instruction, attainment of psychological maturity and skill-sets, etc. Entering into employment sphere and being part of the work force to make themselves self-dependent before girls getting married is a critical area. These disadvantages perpetuate dependence of women on men. There are also imperatives for lowering maternal mortality rate and infant mortality rate, as well as improvement of nutrition levels and sex ratio at birth, as these would promote possibilities of responsible parenthood for both father and mother, making them more capable of taking better care of their children. It is also important to bring down the incidence of teenage pregnancies, which are not only harmful for women's overall health but also result in more miscarriages and stillbirths. Discrimination against women also comes in the way of achieving sustainable development goals, and goes against the principles enunciated under the Convention on the Elimination of All Forms of Discrimination against Women, to which India is a signatory. It is imperative to tackle gender inequality and gender discrimination and to put in place adequate measures to secure health, welfare and empowerment of our women and girls and to ensure status and opportunity for them at par with men.

3. In order to address the issues of women in a holistic manner, as a measure for empowerment of women, gender equality, increasing the female labour force participation, make them self-reliant and to enable them to take decisions themselves, the Bill, *inter alia*, proposes to—

(i) amend the Prohibition of Child Marriage Act, 2006, to reinforce its application overriding all other existing laws, including any custom, usage or practice governing the parties in relation to marriage;

(ii) bring women at par with men in terms of marriageable age;

(iii) prohibit child marriage irrespective of any law, custom, usage or practice governing the parties;

(iv) declare that provisions of the Act shall have overriding effect over every other law, custom, usage or practice governing the parties;

(v) make consequential amendments to the other laws relating to marriage; and

(vi) make the amendments effective, in relation to marriageable age, two years from the date the Bill receives in assent of the President, so as to provide sufficient

opportunity to one and all in our collective efforts and inclusive growth, and to make effective other provisions immediately.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 20th December, 2021.

SMRITI ZUBIN IRANI.

ANNEXURE

EXTRACTS FROM THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

(6 OF 2007)

Short title, extent and commencement. **1. (1)** * * * * *

(2) It extends to the whole of India except the State of Jammu and Kashmir; and it applies also to all citizens of India without and beyond India:

Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry.

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Definitions. **2.** In this Act, unless the context otherwise requires,—

(a) “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;

(b) "child marriage" means a marriage to which either of the contracting parties is a child;

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EXTRACT FROM THE INDIAN CHRISTIAN MARRIAGE ACT, 1872

(15 OF 1872)

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PART VI

MARRIAGE OF INDIAN CHRISTIANS

On what conditions marriages of Indian Christians may be certified. **60.** Every marriage between Indian Christians applying for a certificate, shall, without the preliminary notice required under Part III, be certified under this Part, if the following conditions be fulfilled, and not otherwise:—

(1) the age of the man intending to be a married shall not be under twenty-one years, and the age of the woman intending to be married shall not be under eighteen years;

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EXTRACTS FROM THE PARSI MARRIAGE AND DIVORCE ACT, 1936

(3 OF 1936)

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II.—MARRIAGES BETWEEN PARSIS

Requisites to validity of Parsi marriages. **3. (1)** No marriage shall be valid if—

(c) in the case of any Parsi (whether such Parsi has changed his or her religion or domicile or not) who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age.

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SCHEDULE II
(See section 6)

Certificate of Marriage

Date and Place of Marriage
Names of the husband and wife.
Condition at the time of marriage.
Rank or profession.
Age.
Residence.
Names of the fathers or guardians.
Rank or profession.
Signature of the officiating priest.
Signatures of the contracting parties.
Signatures of the fathers or guardians of the contracting parties under 21 years of age.
Signatures of Witnesses.

EXTRACT FROM THE SPECIAL MARRIAGE ACT, 1954

(43 OF 1954)

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CHAPTER II

SOLEMNIZATION OF SPECIAL MARRIAGES

4. Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two persons may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled, namely:—

Conditions relating to solemnization of special marriages.

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(c) the male has completed the age of twenty-one years and the female, the age of eighteen years;

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EXTRACTS FROM THE HINDU MARRIAGE ACT, 1955

(25 OF 1955)

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HINDU MARRIAGES

5. A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:—

Conditions for a Hindu marriage.

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(iii) the bridegroom has completed the age of twenty-one years and the bride, the age of eighteen years at the time of the marriage;

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Divorce.

13. (1) * * * * *

(2) A wife may also present a petition for the dissolution of her marriage by a decree of divorce on the ground,—

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(iv) that her marriage (whether consummated or not) was solemnized before she attained the age of fifteen years and she has repudiated the marriage after attaining that age but before attaining the age of eighteen years.

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EXTRACTS FROM THE HINDU MINORITY AND GUARDIANSHIP ACT, 1956

(32 OF 1956)

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Natural guardians of a Hindu minor.

6. The natural guardians of a Hindu minor; in respect of the minor's person as well as in respect of the minor's property (excluding his or her undivided interest in joint family property), are—

(a) in the case of a boy or an unmarried girl—the father, and after him, the mother:

Provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother;

(b) in the case of an illegitimate boy or an illegitimate unmarried girl—the mother, and after her, the father;

(c) in the case of a married girl—the husband:

Provided that no person shall be entitled to act as the natural guardian of a minor under the provisions of this section—

(a) if he has ceased to be a Hindu, or

(b) if he has completely and finally renounced the world by becoming a hermit (vanaprastha) or an ascetic (yati or sanyasi).

Explanation.—In this section, the expressions "father" and "mother" do not include a step-father and a step-mother.

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Testamentary guardians and their powers.

9. (1) * * * * *

(6) The right of the guardian so appointed by will shall, where the minor is a girl, cease on her marriage.

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EXTRACTS FROM THE HINDU ADOPTIONS AND MAINTENANCE ACT, 1956

(78 OF 1956)

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Capacity of a male Hindu to take in adoption.

7. Any male Hindu who is of sound mind and is not a minor has the capacity to take a son or a daughter in adoption:

Provided that, if he has a wife living, he shall not adopt except with the consent of his wife unless the wife has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.

Explanation.—If a person has more than one wife living at the time of adoption, the consent of all the wives is necessary unless the consent of any one of them is unnecessary for any of the reasons specified in the preceding proviso.

8. Any female Hindu who is of sound mind and is not a minor has the capacity to take a son or daughter in adoption:

Capacity of a female Hindu to take in adoption.

Provided that, if she has a husband living, she shall not adopt a son or daughter except with the consent of her husband unless the husband has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.

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EXTRACT FROM THE FOREIGN MARRIAGE ACT, 1969
(33 OF 1969)

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CHAPTER II

SOLEMNIZATION OF FOREIGN MARRIAGES

4. A marriage between parties one of whom at least is a citizen of India may be solemnized under this Act by or before a Marriage Officer in a foreign country, if, at the time of the marriage, the following conditions are fulfilled, namely:—

Conditions relating to solemnization of foreign marriages.

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(c) the bridegroom has completed the age of twenty-one years and the bride the age of eighteen years at the time of the marriage, and

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LOK SABHA

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BILL

further to amend the Prohibition of Child Marriage Act, 2006.

(Smt. Smriti Zubin Irani, Minister of Women and Child Development)

MGIPMRND—1653LS(S3)—20-12-2021.

LOK SABHA

CORRIGENDA

to

THE PROHIBITION OF CHILD MARRIAGE (AMENDMENT) BILL, 2021

[To be/As introduced in Lok Sabha]

Sl. No.	Page No.	Line(s) No.	For	Read
1.	4	13	the grounds of	the ground of
2.	4	line 1 from the bottom	receives in assent	receives assent

NEW DELHI;

December 21, 2021

Agrahayana 30, 1943 (Saka)