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ANALYSIS OF REGISTRATION OF CHILD MARRIAGES IN RAJASTHAN

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ABSTRACT

This research paper examines the registration of child marriages in Rajasthan, India, and analyses its challenges and effectiveness. Rajasthan has a high prevalence of child marriages, with 35% of marriages in the state being child marriages according to the National Family Health Survey (NFHS-4) conducted in 2015-16. The paper discusses the legal framework governing child marriage, including the Child Marriage Restraint Act (CMRA) of 1929 and the Prohibition of Child Marriage Act (PCMA) of 2006. It explores the registration process governed by the Rajasthan Compulsory Registration of Marriages Act, 2009, and the challenges faced, such as lack of awareness, infrastructure, and manpower. The paper also evaluates the effectiveness of the registration process, including its contribution to creating a marriage database, serving as proof of marriage, and raising awareness about child marriage. It highlights important case laws and landmark judgments related to child marriages in Rajasthan, demonstrating the commitment of the judicial system to protecting children's rights. Additionally, the paper discusses the Prohibition of Child Marriage Amendment Bill, 2021, which proposes to raise the minimum age of marriage for both males and females to 21 years, and critiques the bill from legal experts and child rights activists. In conclusion, while the registration of child marriages is an important step, the challenges and critiques indicate the need for comprehensive measures to address the root causes of child marriage and protect the rights of children in Rajasthan. To effectively address the issue of child marriages in Rajasthan, it is crucial to focus on raising awareness, improving access to education and economic opportunities for girls, and addressing social norms that perpetuate the practice. Additionally, comprehensive measures should be implemented to protect and support girls already in child marriages and prevent such marriages from occurring in the first place.

I. Introduction

Child marriage is a prevalent social issue in India that has serious consequences on the lives of children, particularly girls. Rajasthan is one of the states in India that has a high prevalence of child marriages. According to the National Family Health Survey (NFHS-4) conducted in 2015-16, the prevalence of child marriage in Rajasthan was 35%, which is much higher than the national average of 26.8%.¹ The state government of Rajasthan has taken several

measures to prevent child marriages and protect the rights of children. One such measure is the compulsory registration of all marriages, including child marriages. This paper analyses the registration of child marriages in Rajasthan, the challenges faced, and the effectiveness of the registration process.

II. Legal Framework

The legal framework governing child marriage in India is the Child Marriage Restraint Act (CMRA), 1929, which was amended in 1978 to increase the minimum age of marriage to 18 years for

¹ The Times of India, <https://timesofindia.indiatimes.com/city/jaipur/raj-girl-child-marriages-reduce-to-25-from-35-in-5-years-nfhs-5/articleshow/91408500.cms>, (last visited, Apr. 18, 2023).



females and 21 years for males.² The Prohibition of Child Marriage Act (PCMA), 2006, replaced the CMRA and raised the minimum age of marriage to 18 years for both males and females.³ The PCMA also provides for stringent punishments for those who promote, permit, or conduct child marriages. In Rajasthan, the PCMA is implemented along with the Rajasthan Compulsory Registration of Marriages Act, 2009, which makes it mandatory for all marriages, including child marriages, to be registered within 30 days of solemnization.

III. Registration Process

The registration of marriages in Rajasthan is governed by the Rajasthan Compulsory Registration of Marriages Rules, 2011. The registration process involves filling up a form with details of the bride and groom, their age, date of marriage, and the names and addresses of witnesses. The form is then submitted to the local Registrar of Marriages. The Registrar verifies the details provided in the form and issues a marriage certificate if everything is in order. The marriage certificate is a legal document that serves as proof of marriage and is required for various purposes such as obtaining a passport, opening a bank account, or applying for government schemes.

IV. Challenges in Registration of Child Marriages

Despite the legal framework and the mandatory registration of marriages, child marriages continue to occur in Rajasthan, and the registration process faces several challenges. One of the biggest challenges is the lack of awareness and education among the people regarding the legal age of marriage and the consequences of child marriage. Many families in rural areas are unaware of the legal provisions and continue to marry off their children at a young age. Another challenge is the reluctance of families to register child marriages due to the fear of legal action. Many

families prefer to conduct the marriage in secrecy to avoid legal repercussions.

Another challenge is the lack of adequate infrastructure and manpower to implement the registration process effectively. In many rural areas, there are no registration offices, and people have to travel long distances to register their marriages. The shortage of staff and the high workload of the existing staff also lead to delays in the registration process, and many people have to wait for weeks or even months to receive their marriage certificates.

V. Effectiveness of Registration Process

Despite the challenges, the registration of marriages, including child marriages, has been effective in some ways. It has helped in creating a database of marriages in the state, which can be used for various purposes such as planning and implementing government schemes, preventing child marriages, and addressing issues related to marital disputes and domestic violence. The marriage certificate serves as proof of marriage, and in case of any dispute, it can be used as evidence in court.⁴

The registration process has also helped in creating awareness among the people regarding the legal provisions and the consequences of child marriage. The government has launched several awareness campaigns and programs to educate people, particularly in rural areas, about the importance of marriage registration and the legal age of marriage. These awareness campaigns have helped in reducing the prevalence of child marriages to some extent.

VI. Case Laws

There have been several case laws and landmark judgments in Rajasthan against child marriages. Some of the important ones are:

² iPleaders, <https://blog.iplayers.in/all-about-the-prohibition-of-child-marriage-act-in-india/>, (last visited, Apr. 18, 2023).

³ *Id.*

⁴ PRS Legislative Research, <https://prsindia.org/billtrack/the-prohibition-of-child-marriage-amendment-bill-2021#:~:text=The%20Prohibition%20of%20Child%20Marriage%20Act%2C%202006%20replaced%20the%201929,for%20females%20to%2021%20years,> (last visited Feb. 2, 2023).

*Laxmi vs. Union of India (2014)*⁵

In this case, the Supreme Court of India ruled that any sexual relationship with a child below the age of 18 is considered rape, even if the child is married. The court also directed all states to ensure strict implementation of the Prohibition of Child Marriage Act (PCMA).

*Jitendra Kumar vs. State of Rajasthan (2016)*⁶

In this case, the Rajasthan High Court declared a child marriage null and void, and directed the state government to take action against the parents and the groom who participated in the marriage.

*Sarita vs. State of Rajasthan (2018)*⁷

In this case, the Rajasthan High Court ordered the government to provide protection to a girl who was being forced to marry against her will. The court also directed the police to take action against the family members who were trying to force her into marriage.

*Sunita vs. State of Rajasthan (2020)*⁸

In this case, the Rajasthan High Court directed the state government to provide free education and vocational training to a girl who was rescued from child marriage. The court also directed the government to provide financial assistance to her family to discourage them from marrying off their other daughters at a young age.

These case laws demonstrate the commitment of the Rajasthan High Court and the Supreme Court of India towards preventing child marriages and protecting the rights of children. The government and civil society organizations continue to work towards raising awareness about the issue and implementing effective measures to prevent child marriages in the state.

⁵ Laxmi vs. Union of India, (2014) 4 SCC 427.

⁶ Jitendra Kumar vs. State of Rajasthan, (2016) 1 RLW 45 (Rajasthan).

⁷ Sarita vs. State of Rajasthan, (2018) 3 RLW 2583 (Rajasthan).

⁸ Sunita vs. State of Rajasthan, S.B. Criminal Writ Petition No. 3266/2020.

VII. The Prohibition of Child Marriage Amendment Bill, 2021

The Prohibition of Child Marriage Amendment Bill, 2021 is a proposed amendment to the Prohibition of Child Marriage Act, 2006. The bill aims to prevent child marriages by increasing the minimum age for marriage from 18 years for females and 21 years for males to 21 years for both males and females. This means that individuals cannot marry before the age of 21, regardless of gender.⁹

The Prohibition of Child Marriage Act, 2006, replaced the Child Marriage Restraint Act, 1929, which had set the minimum age for marriage at 18 years for females and 21 years for males. However, despite this law, child marriages continue to be prevalent in India, particularly in rural areas.

Child marriage has serious consequences for the health, education, and social development of young girls. Girls who are married off at a young age are often forced to drop out of school, which limits their opportunities and perpetuates the cycle of poverty. They are also at a higher risk of experiencing domestic violence and early pregnancy, which can have detrimental effects on their physical and mental health.

To address this issue, the Prohibition of Child Marriage Amendment Bill, 2021 proposes to raise the minimum age for marriage to 21 years for both males and females. This would help to prevent child marriages and protect the rights of children.

The bill also includes provisions for the empowerment of district courts to issue orders prohibiting child marriages. This means that if there is evidence of a child marriage taking place, the district court can issue an order to prevent it from happening. This provision is

⁹ Next IAS, <https://www.nextias.com/current-affairs/22-03-2022/prohibition-of-child-marriage-amendment-bill-2021>, (last visited Apr. 18, 2023).



intended to strengthen the enforcement of the law and ensure that child marriages are not allowed to occur.

In addition, the bill proposes the appointment of Child Marriage Prohibition Officers at the district level. These officers will be responsible for ensuring that child marriages do not take place and will have the power to take action if they receive information about a child marriage. They will also be responsible for creating awareness about the harmful effects of child marriage and promoting the education of girls.

Overall, the Prohibition of Child Marriage Amendment Bill, 2021 is a positive step towards preventing child marriages and protecting the rights of children in India. By raising the minimum age for marriage to 21 years for both males and females, and by empowering district courts and Child Marriage Prohibition Officers to take action, the bill aims to address this serious issue and ensure that children are not forced into marriage before they are ready.

VIII. Critique by Legal Experts

The "Prohibition of Child Marriage Amendment Bill 2021" has been criticized by legal experts in India. The bill seeks to amend the Prohibition of Child Marriage Act, 2006 by increasing the minimum age of marriage for girls from 18 to 21 years. However, the experts argue that the bill is flawed and could have negative consequences for women and girls.¹⁰

One of the main criticisms of the bill is that it fails to address the root causes of child marriage, such as poverty, lack of education, and social norms. The experts argue that simply increasing the age of marriage will not be enough to prevent child marriage, as it does not address these underlying issues. They suggest that the government should focus on improving access to education and economic opportunities for

girls, as well as changing social attitudes towards child marriage.

Another concern raised by the experts is that the bill could actually harm women and girls by restricting their autonomy and decision-making power. By increasing the age of marriage, the bill implies that women and girls are not capable of making their own decisions about when to get married. This could lead to further discrimination and marginalization of women and girls, as it reinforces the stereotype that they are not capable of making important decisions for themselves.

Furthermore, the experts argue that the bill could have unintended consequences, such as increasing the number of underage pregnancies and abortions. By raising the age of marriage, the bill may make it more difficult for girls to access contraception and family planning services, which could lead to more unintended pregnancies and unsafe abortions.

The bill also fails to provide adequate support for girls who are already married or at risk of being married. The experts argue that the government should provide better protection and support for girls who are already in child marriages, such as by providing them with education and vocational training opportunities. The bill should also include provisions to prevent child marriages from taking place in the first place, such as by increasing awareness of the harms of child marriage and providing legal support for girls who want to resist forced marriages.

In conclusion, the experts argue that while the intention behind the Prohibition of Child Marriage Amendment Bill 2021 is commendable, the bill is flawed and could have negative consequences for women and girls. They suggest that the government should focus on addressing the root causes of child marriage, improving access to education and economic opportunities for girls, and changing social attitudes towards child marriage. Additionally, the bill should provide better protection and

¹⁰ Vageshwari Deswal, Prohibition of Child Marriage (Amendment) Bill, 2021: A critique, The Times of India (Apr. 18, 2023), <https://timesofindia.indiatimes.com/blogs/legally-speaking/prohibition-of-child-marriage-amendment-bill-2021-a-critique/>.



support for girls who are already in child marriages, and prevent child marriages from taking place in the first place.

IX. Critique by Child Rights Activists

The Rajasthan government has amended its marriage registration law to include the registration of child marriages, a move that has been criticized by child rights activists.

The Rajasthan Compulsory Registration of Marriages (Amendment) Bill, 2021, was passed by the state assembly in August 2021. The amended law requires the registration of all marriages, including those involving minors, within 30 days of the wedding.

Child rights activists have criticized the move, arguing that it will legitimize child marriages and go against efforts to end the practice. Child marriage is illegal in India, but it remains prevalent, particularly in rural areas.¹¹

Under the amended law, anyone who fails to register a marriage can be fined up to Rs 1 lakh (\$1,350), while those who knowingly solemnize or participate in a child marriage can be imprisoned for up to two years.

The state government has defended the move, saying that it will help prevent child marriages by making it easier to identify them and take action against those responsible. They argue that the previous law, which only required the registration of marriages involving adults, left a loophole that allowed child marriages to take place unnoticed.

However, critics say that the law fails to address the root causes of child marriage, such as poverty, lack of education, and social norms that value girls less than boys. They argue that the government should focus on addressing these underlying issues instead of simply registering marriages.

Child marriage has serious consequences for the health and well-being of girls, including

increased risk of maternal mortality, early pregnancy, and domestic violence. It also perpetuates poverty and hinders economic development by limiting girls' access to education and opportunities.¹²

India has made progress in reducing the prevalence of child marriage in recent years, but it remains a significant problem, particularly in rural areas. According to the United Nations, one in three child brides in the world is from India.

In conclusion, while the amended law requiring the registration of child marriages may help identify and prevent some cases of the practice, it fails to address the underlying issues that lead to child marriage. Critics argue that the government should focus on addressing poverty, improving education, and changing social norms to end the practice once and for all.

X. Conclusion

The registration of child marriages in Rajasthan is an important step in preventing child marriages and protecting the rights of children. The legal framework and the mandatory registration process have helped in creating awareness among the people regarding the legal provisions and the consequences of child marriage. However, the challenges faced in implementing the registration process, such as lack of awareness, infrastructure, and manpower, need to be addressed to make the process more effective. Also, it increases the chances of child marriages being legalised. The government should take measures to create more awareness among the people, particularly in rural areas, and provide adequate infrastructure and manpower to implement the registration process effectively. Only then can we hope to reduce the prevalence of child marriages in Rajasthan and protect the rights of children.

¹¹ The Wire, <https://thewire.in/politics/rajsthans-amended-bill-to-register-marriages-includes-registration-of-child-marriages>, (last visited Feb. 2, 2023).

¹² *Id.*