

The Child Marriage Restraint Act, 1929

UNION OF INDIA

India

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Act 19 of 1929

- Published on 1 October 1929
- Commenced on 1 October 1929
- [This is the version of this document from 1 October 1929.]
- [Note: The original publication document is not available and this content could not be verified.]

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Act 2 of 1978.- The Child Marriage Restraint Act, 1929, was enacted with a view to prevent child marriages, namely, a marriage to which either of the contracting parties is under a specified age. Originally, the age limit for a male was eighteen years and for a female fourteen years. The age limit was subsequently raised in the case of females from fourteen to fifteen by the Amending Act 41 of 1949. Violation of the provisions of the Act is made punishable.² The question of increasing the minimum age of marriage for males and females has been considered in the present context when there is an urgent need to check the growth of population in the country. Such increase of the minimum age of marriage will result in lowering the total fertility rate on account of latter span of married life. It will also result in more responsible parenthood and in better health of the mother and child. A Bill introduced for this purpose in the Lok Sabha on 25th August, 1976, lapsed with dissolution of the Lok Sabha on 18th January, 1977. The matter has been examined in all its aspects again.³ The Bill seeks to amend the Child Marriage Restraint Act, 1929, to increase the minimum age of marriage from fifteen to sixteen for females and from eighteen to twenty-one for males and to make consequential amendments in the Hindu Marriage Act, 1955, and the Indian Christian Marriage Act, 1872. It is also being provided that offences under the Child Marriage Restraint Act may be investigated upon by a police officer under the Code of Criminal Procedures as if it were a cognizable offence. The police officer shall, however, not have the power to arrest without a warrant or an order of a Magistrate.[1st October, 1929]An Act to restrain the solemnisation of child marriages. Whereas it is expedient to restrain the solemnisation of child marriages; It is hereby enacted as follows:-

This Act has been extended to the new Provinces and merged States by the Merged States (Laws) Act 59 and to the States of Manipur, Tripura and Vindhya Pradesh by the Union Territories (Laws) Act 30 of 1950. Manipur and Trupura are full-fledged States now, see Act 81 of 1971. Vindhya

Pradesh is a part of the Madhya Pradesh State now, see Act 37 of 1956. This Act has been supplemented in Assam by Assam Act 27 of 1948, Section 45. The Act has been extended to Goa, Daman and Diu by Regulation 11 of 1963. Goa is now a State, see Act 18 of 1987, Section 3 (w.e.f. 30.5.1987); Dadra and Nagar Haveli by Regulation 6 of 1963; Laccadive, Minicoy and Amindivi Islands by Regulation 8 of 1965. These islands are now known as Lakshadweep, see Act 34 of 1973 and Pondicherry by Act 26 of 1968.

1. Short title, extent and commencement .-(1) This Act may be called The Child Marriage Restraint Act, [1929].

(2)[It extends to the whole of India [except the State of Jammu and Kashmir] [Substituted by A.O. 1950, for the former sub-section.]; and it applies also to all citizens of India without and beyond India:][Provided that nothing contained in the Act shall apply to the Renoncants of the Union territory of Pondicherry.] [Inserted by Act 26 of 1968, Section 3 and Sch.](3)It shall come into force on the 1st day of April, 1930.

2. Definitions .-In this Act, unless there is anything repugnant in the subject or context,-

(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;(c)"contracting party to a marriage" means either of the parties whose marriage is [or is about to be] [Inserted by Act 19 of 1938, Section 2.] thereby solemnised; and(d)"minor" means a person of either sex who is under eighteen years of age.

3. Punishment for male adult below twenty-one years of age marrying a child .- Whoever, being a male above eighteen years of age and below twenty-one, contracts a child marriage [shall be punishable with simple imprisonment which may extend to fifteen days, or with fine which may extend to one thousand rupees, or with both.]

4. Punishment for male adult above twenty-one years of age marrying a child .-Whoever, being a male above twenty-one years of age, contracts a child marriage shall be punishable with [simple imprisonment which may extend to three months and shall also be liable to fine].

5. Punishment for solemnising a child marriage .-Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to three months and shall also be liable to fine, unless he proves that he had reason to believe that the marriage was not a child marriage.

6. Punishment for parent or guardian concerned in a child marriage .-(1)

Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punishable with [simple imprisonment which may extend to three months and shall also be liable to fine]:

Provided that no woman shall be punishable with imprisonment.(2)For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised.

7. [Offences to be cognizable for certain purposes

.-The Code of Criminal Procedure, 1973 (2 of 1974), shall apply to offences under this Act as if they were cognizable offences-(a)for the purpose of investigation of such offences; and(b)for the purposes of matters other than (i) matters referred to in section 42 of that Code, and (ii) the arrest of a person without a warrant or without an order of a Magistrate.]

8. Jurisdiction under this Act .-Notwithstanding anything contained in section 190 of the [Code of Criminal Procedure, 1973 (2 of 1974)], no Court other than that of a [Metropolitan Magistrate or a Judicial Magistrate of the first class] [Substituted by Act 2 of 1978, Section 4, certain words (w.e.f. 1.10.1978).] shall take cognizance of, or try, any offence under this Act.

9. [Mode of taking cognizance of offences

.-No Court shall take cognizance of any offence under this Act after the expiry of one year from the date on which the offence is alleged to have been committed.]

10. [Preliminary inquiries into offences

.-Any Court, on receipt of a complaint of an offence of which it is authorised to take cognizance, shall, unless it dismisses the complaint under section 203 of the [Code of Criminal Procedure, 1973 (2 of 1974)], either itself make an inquiry under section 202 of that Code or direct a Magistrate subordinate to it to make such inquiry.]

11. Power to take security from complainant .-[Repealed by the Child Marriage Restraint (Amendment) Act , 1949 (41 of 1949), section 7 (w.e.f.15-7-1949).]

12. [Power to issue injunction prohibiting marriage in contravention of this Act

.- (1) Notwithstanding anything to the contrary contained in this Act, the Court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnised, issue an injunction against any of the persons mentioned in sections 3, 4, 5 and 6 of this Act prohibiting such marriage. (2) No injunction under sub-section (1) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction. (3) The Court may either on its own motion or on the application of any person aggrieved rescind or alter any order made under sub-section (1). (4) Where such an application is received, the Court shall afford the applicant an early opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing. (5) Whoever knowing that an injunction has been issued against him under sub-section (1) of this section disobeys such injunction shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both: Provided that no woman shall be punishable with imprisonment.]