

# LEGAL AGE FOR MARRIAGE IN INDIA: A CASE FOR SOCIAL HEALTH OUTCOMES

*Posted on July 17, 2020 by Dr. Vidisha Vallabh*



**Category:** [Opinion](#)

Union budget 2020-21 was dissected thoroughly by academicians, economists, health care professionals and common man for tax proposals, education and infrastructure development amongst others. The heavily decorated speech with poetry from both north and south of our nation contained one proposal in particular which grabbed the attention of public health specialists and common man alike (1).

Minister of Finance and Corporate Affairs of India, Nirmala Sitaraman, proposed a taskforce to give recommendations on raising the marriageable age for Indian women (2).

## **Brief History of Marriage Acts in India**

Brought forward by Rai Sahib Harbilas Sarada, an Indian politician in 1927 to the lower house of British India Legislative council, the controversial bill of **Child marriage restraint** was opposed by all Communities' Orthodoxy who challenged the government intervention in their religion. Backed by All India Women's Conference, Women's Indian Association and National Council of Women in India, the newly formed Joshi Committee presented its report and the bill became **The child marriage restraints act or Sarada Act** law on 1<sup>st</sup> April 1930.(3)(4)(5)

This law fixed the marriageable age for girls and boys at 14 and 18 respectively, with a month-long imprisonment and a 1000 rupee fine.

**The Hindu Marriage Act of 1955** raised the age again to 18 and 21 respectively for women and men which was followed by a 1978 amendment in Sarda Act as well(4)(5)(6)(2).

**The Prohibition of Child Marriage Act (POCM), 2006** based on prevention, protection and prosecution made child marriage a cognizable and non-bailable offence (5).

### **Why do we have so many child brides?**

Gender inequality, gender norms, gender based violence including eve teasing, poverty, girls perceived as economic burden, early betrothal, less dowry, additional hand for household labour, traditional customs, social pressure, insecurity, lack of access to media and limited access to quality education are few of the common reason for marrying early (7)(8).

### **How large is the issue of child marriage?**

With 23 million child brides in India, marriage acts in India have failed their purpose, making only a scratch on the rotting underbelly of child marriage business in India. In a report by UNICEF, nearly 27% of Indian women are married before turning 18. The prosecution rate remains measly with most of the people considering the fine an inevitable marriage expense. A total of 1,785 cases were registered between the years 2014 and 2016 across the country and 4,777 people were arrested. However, only 274 were convicted (9)(10)(11)(12)(13).

Though all is not lost. Trends analysis of child marriage reveals an improvement in prevalence. According to NFHS 4, the prevalence of child marriage amongst 15-19 and 20-24-year olds was 11.9% and 26.8% respectively for girls in India. Child marriage prevalence in rural and urban India is 14.1% and 6.9% respectively for age group 15-19 and 31.5% and 17.5% respectively for rural and urban areas for age group 20-24-year olds. Child marriage is seemingly a rural phenomenon in India with every one in three brides being minor in rural India. About 16.6% of child marriages belonged to the lowest wealth index group. 30.8% of child marriages were solemnised in girls(15-19 years) with no education (7)(11) (14)(15) (16).

### **Why is this task force proposal in Union Budget so important?**

Child marriage is a public health issue as the lifelong morbidity among young mothers and their babies places a burden on public healthcare. India is among the top 10 countries with the highest rates of child marriage. One-third of the world's child brides live in India. With 17.7% population of the world residing together, India has been struggling to improve its statistics and meet the *goals 3,4,5 of Sustainable Development*. (13) (17) (18)(19). Marrying a child before maturity has several short, mid and long-term implication on the mother and child community as well as the country: (20)

**Poor literacy rates and Increase in school drop-out rate:** Education and higher income play a major role in increasing the mean age of marriage. A girl with 10 years of education has a six times lower chance of being pushed into marriage before she is 18. Many Indian women face opposition from in-

laws to continue education after marriage. A higher marriageable age usually implies an increased likelihood of accessing educational opportunities. According to Census-2011, the percentage of women at various levels of education who married below 18 dropped, indicating that as more women were educated, the average age of marriage rose (14) (17)(21)(22) (23).

**Child Labor:** Child marriage in poor households gives rise to domestic servitude. Young inexperienced girls are expected to take care of even younger children, do household chores, work as maids or daily wagers in farms. It is a shame that this servitude is not recognised under the Child Labor (Prohibition and Regulation) Act, 1986. (17)

**Gender based violence including domestic violence and marital rapes, child trafficking:** Married early, young girls are forced with intercourse which before 2013 was legal even if the wife is as young as 15. Amendments have revised the age of consent but yet marital rape in India is still not punishable. Refusal from the bride often results in rape, violence and sometimes death.

In families with reduced means, the girl child is often married off young, and far for a price. These girls are forced with polyandry and are often sold to better buyers. (17)(24)(25)(26)

**Teenage pregnancies and forced pregnancies:** Taboo and reproductive knowledge gap are the progenitor of teenage pregnancies. NFHS-4 reveals that 31.5 % of the girls in 15-19 years age group has their first pregnancy as minors. A quarter of these pregnancies happened when the girls were 15-16 years of age. Multiple pregnancies in quick succession often work as the final nail to the casket (16) (17).

### **Pregnancy losses and Maternal mortality**

Child brides are less likely to receive medical care during pregnancy than women who married as adults. Lack of access to reproductive health services and family planning services; immunisation services and iron/folic acid in miscarriages, delivery complications leads to miscarriages and these child brides often face a higher rate of eclampsia, puerperal endometritis, and systemic infections. Adolescent mothers aged 15–19 are more likely than older mothers to die in childbirth, while very young mothers aged 14 and under are at highest risk(13)(27)(28)(29).

### **Poor birth outcomes**

Adolescent pregnancy is associated with inherent physiological risk both for the mother and child. adverse infant outcomes including preterm birth, poor fetal growth, low birth weight, and neonatal mortality. It adds to the statistics of infant mortality and low birth weight with a profound impact on the child, the community and the country. (30)(31)(32)(28)(33)(34)

**Malnutrition and Anemia:** child marriage is significantly associated with increased likelihood of stunting, underweight and childhood anaemia of the progeny as well as anemia in the teenage mother. The caloric, protein and mineral requirements increase drastically in a teenage girl, more so when she is pregnant. With no means to meet these needs, poor weight gain and anemia are most common morbidities seen in these girls. According to NFHS-4, more than half of the Indian women

aged 15-49 were found to be anaemic and 35% children under the age of five were found to be stunted.(14)(19)(35)

**Sexual and reproductive health morbidities:** early pregnancy , unsafe abortion, sexually transmitted infections (STIs) including human immunodeficiency virus (HIV), and sexual coercion and violence along with genital mutilation and its consequences are some of the issues faced due to initiation of sexual activity in adolescents. (29)

**Empowerment: Property, participation, inheritance:** Early marriage strips away the financial autonomy of girls, leaving them at the kind mercy of their husband and in-laws. It often limits the decision taking power in women and their ability to leave their marital homes (17)(36)

### **The way ahead**

The taskforce proposed by the Government of India is a laudable beginning towards gender equality in India.

Apart from mooting on the marriageable age for Indian women the task force will also examine the correlation of early marriage with maternal and child health, mortality rates in teenage mothers and their neonates, the resultant morbidities from early pregnancies etc.

Suggestions of amendments in various laws and a timeline for their implementation are also expected from the task force.

To accomplish its national goals based on SDGs, to achieve economic development and to achieve a healthier and happier community, India must give her girls an equal opportunity of education, financial independence, decision making and participation and this can only be achieved when a child is not forced to become a mother. (37)(38)

### **About the author:**

Dr. Vidisha Vallabh is assistant professor at the dept of community medicine at Himalayan Institute of Medical Sciences, Dehradun, Uttarakhand. Views expressed are the author's own.

*Disclaimer:* Views expressed are the authors own. CHD Group takes no liability on behalf or for the contents expressed.

### **References**

1. Dutta PK. Union Budget 2020: Past in Sitharaman's theme-based budget blast - Business News . India Today. 2020 . Available from: <https://www.indiatoday.in/business/budget-2020/story/union-budget-2020-past-sitharman-theme-based-budget-blast-1642328-2020-02-01>
2. Porecha M. Taskforce to recommend raising woman's marriageable age - The Hindu BusinessLine . The Hindu Business. 2020 . Available from: <https://www.thehindubusinessline.com/news/taskforce-to-recommend-raising-womans-marriageable-age/article30714241.ece#>

3. Major A. Mediating modernity: Colonial state, Indian Nationalism and the renegotiation of the 'civilizing mission' in the Indian Child Marriage debate of 1927–1932. In: Watt C, Mann M, editors. *Civilizing Missions in Colonial and Postcolonial South Asia: From Improvement to Development* . London: Anthem Press; 2011 . p. 165–90. Available from:  
[https://www.cambridge.org/core/product/identifier/CBO9780857288301A012/type/book\\_part](https://www.cambridge.org/core/product/identifier/CBO9780857288301A012/type/book_part)
4. Hatekar Neeraj, Mathur Rajni, Rege Pallavi. "Legislating" Social Change: Strange Case of the Sarda Act on JSTOR. *Econ Polit Wkly* . 2007 Jan 13 ;42(2):145–53. Available from:  
<https://www.jstor.org/stable/4419136>
5. The Child Marriage Restraint Act, 1929 19 of 1929 | Ministry of Women & Child Development | Gol . . Available from: <https://wcd.nic.in/child-marriage-restraint-act-1929-19-1929>
6. Hindu Marriage Act, 1955. 1955 May 18 ; Available from:  
<http://indiacode.nic.in/handle/123456789/1560>
7. India - Child Marriage Around The World. Girls Not Brides . . Available from:  
<https://www.girlsnotbrides.org/child-marriage/india/>
8. Mehra D, Sarkar A, Sreenath P, Behera J, Mehra S. Effectiveness of a community based intervention to delay early marriage, early pregnancy and improve school retention among adolescents in India. *BMC Public Health* . 2018 Jun 14 ;18(1):1–13. Available from:  
<https://link.springer.com/articles/10.1186/s12889-018-5586-3>
9. Vandana. CHILD MARRIAGE UNDER HINDU PERSONAL LAW: FACTUM VALET OR AN ISSUE FOR PROTECTION OF HUMAN RIGHTS OF WOMEN . *ILI Law Review*. 2017 . Available from:  
<http://www.nfhsindia.org>
10. Dodda TP. The maze of Child Marriage Laws in India . *Factly*. 2016 . Available from:  
<https://factly.in/maze-child-marriage-laws-india/>
11. Nair H V. Child marriage still alive and kicking; 1,785 cases registered in last 3 years - Mail Today News . *India Today*. 2017 . Available from:  
<https://www.indiatoday.in/mail-today/story/child-marriage-national-commission-for-the-protection-of-child-rights-ministry-of-women-and-child-development-1036790-2017-09-03>
12. Hunt A, Development Institute O, Binat Sarwar M. DIRECTORATE GENERAL FOR INTERNAL POLICIES POLICY DEPARTMENT C: CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS . . Available from:  
[http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/583128/IPOL\\_IDA\(2017\)583128\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/583128/IPOL_IDA(2017)583128_EN.pdf)
13. United Nations Children's Fund. *Ending Child Marriage: Progress and prospects* . New York; 2014 . Available from:  
[https://www.unicef.org/media/files/Child\\_Marriage\\_Report\\_7\\_17\\_LR..pdf](https://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf)
14. Muttreja P. Ending early marriage in India will take more than legal action – it needs real belief in equality . *Scroll.in*. 2020 . Available from:  
<https://scroll.in/article/966034/ending-early-marriage-in-india-will-take-more-than-legal-action-it-needs-real-belief-in-equality>
15. Launch of National Analysis of Child Marriage and Teenage Pregnancy Based on NFHS 4



- (2015-16) | Young Lives India . . Available from:  
<https://www.younglives-india.org/news/launch-national-analysis-child-marriage-and-teenage-pregnancy-based-nfhs-4-2015-16>
16. YOUNG LIVES. INDIA CHILD MARRIAGE AND TEENAGE PREGNANCY . 2018 . Available from:  
<https://ncpcr.gov.in/showfile.php?lang=1&level=1&sublinkid=1671&lid=1677>
  17. Ending Impunity for Child Marriage in India: NORMATIVE AND IMPLEMENTATION GAPS. 2018.
  18. India Population (2020) - Worldometer . . Available from:  
<https://www.worldometers.info/world-population/india-population/>
  19. Kala Sadhana. Teen Pregnancy: Hard To Raise A Child When You're A Child | Outlook Poshan . Outlook Poshan. 2020 . Available from:  
<https://poshan.outlookindia.com/story/poshan-news-teen-pregnancy-hard-to-raise-a-child-when-youre-a-child/347137>
  20. Chari A V., Heath R, Maertens A, Fatima F. The causal effect of maternal age at marriage on child wellbeing: Evidence from India. J Dev Econ. 2017 Jul 1;127:42–55.
  21. Increasing age-threshold for marriage for women would be freater step forward - The Financial Express . The Financial express. 2019 . Available from:  
<https://www.financialexpress.com/opinion/increasing-age-threshold-for-marriage-for-women-would-be-freater-step-forward/1684632/>
  22. Education Pushes Back Age Of Marriage For Rural Women - Everylifecounts.NDTV.com . . Available from:  
<https://everylifecounts.ndtv.com/education-pushes-back-age-marriage-rural-women-9252>
  23. Paul P, Chouhan P, Zaveri A. Impact of child marriage on nutritional status and anaemia of children under 5 years of age: empirical evidence from India. Public Health. 2019 Dec 1;177:95–101.
  24. Warria A. Forced child marriages as a form of child trafficking. Child Youth Serv Rev . 2017 Aug 1 ;79:274–9. Available from: <https://linkinghub.elsevier.com/retrieve/pii/S0190740916303929>
  25. Sarkar S. Child Marriage Trafficking in India: Victims of Sexual and Gender-Based Violence. Anthropol Now . 2016 Sep ;8(3):62–70. Available from:  
<https://www.tandfonline.com/doi/abs/10.1080/19428200.2016.1242911>
  26. Wallen J. Sold into sexual slavery: The women forced to take multiple husbands to combat India's "wife shortage" . The Telegraph. 2019 . Available from:  
<https://www.telegraph.co.uk/global-health/women-and-girls/sold-sexual-slavery-indias-gender-imbalance-crisis-fuelling/>
  27. Adolescent pregnancy . . Available from:  
<https://www.who.int/news-room/fact-sheets/detail/adolescent-pregnancy>
  28. Patra S. Motherhood in childhood: Addressing reproductive health hazards among adolescent married women in India. Reprod Health . 2016 May 4 ;13(1):52. Available from:  
<http://reproductive-health-journal.biomedcentral.com/articles/10.1186/s12978-016-0171-7>
  29. Baltag V, Chandra-Mouli V. Adolescent pregnancy: Sexual and reproductive health. In: International Handbook of Adolescent Pregnancy: Medical, Psychosocial, and Public Health Responses. Springer US; 2014. p. 55–78.

30. Prakash R, Beattie TS, Javalkar P, Bhattacharjee P, Ramanaik S, Thalinja R, et al. The Samata intervention to increase secondary school completion and reduce child marriage among adolescent girls: Results from a clusterrandomised control trial in India. *J Glob Health* . 2019 Jun 1 ;9(1). Available from: /pmc/articles/PMC6684866/?report=abstract
31. Delprato M, Akyeamong K. The Effect of Early Marriage Timing on Women's and Children's Health in Sub-Saharan Africa and Southwest Asia. *Ann Glob Heal* . 2017 Nov 8 ;83(3-4):557. Available from: <https://annalsofglobalhealth.org/articles/10.1016/j.aogh.2017.10.005>
32. Efevbera Y, Bhabha J, Farmer PE, Fink G. Girl child marriage as a risk factor for early childhood development and stunting. *Soc Sci Med*. 2017 Jul 1;185:91-101.
33. Neal S, Channon AA, Chintsanya J. The impact of young maternal age at birth on neonatal mortality: Evidence from 45 low and middle income countries. Cabieses B, editor. *PLoS One* . 2018 May 23 ;13(5):e0195731. Available from: <https://dx.plos.org/10.1371/journal.pone.0195731>
34. Cavazos-Rehg PA, Krauss MJ, Spitznagel EL, Bommarito K, Madden T, Olsen MA, et al. Maternal Age and Risk of Labor and Delivery Complications. *Matern Child Health J* . 2015 Jun 1 ;19(6):1202-11. Available from: /pmc/articles/PMC4418963/?report=abstract
35. Soares NN, Mattar R, Camano L, Tortoni MR. Iron deficiency anemia and iron stores in adult and adolescent women in pregnancy. *Acta Obstet Gynecol Scand* . 2010 Mar 1 ;89(3):343-9. Available from: <http://doi.wiley.com/10.3109/00016340903559992>
36. Carpena F, Jensenius FR. Age of Marriage and Women's Political Engagement: Evidence from India. *SSRN Electron J* . 2019 Jun 5 ; Available from: <https://papers.ssrn.com/abstract=3383080>
37. Government set to revise women's legal age for marriage: *The Tribune India* . . Available from: <https://www.tribuneindia.com/news/nation/government-set-to-revise-womens-legal-age-for-marriage-95664>
38. Panel to review age of marriage for women - *The Economic Times* . . Available from: <https://economictimes.indiatimes.com/news/politics-and-nation/panel-to-review-age-of-marriage-for-women/articleshow/73861527.cms>