

Supreme Court ruling on child marriage: why it's important to go beyond just punishment

The judgment underlines that comprehensive efforts to address child marriage should go beyond prevention and prosecution, and must include substantial measures to help those already in child marriages reclaim their agency.

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New Delhi | Updated: November 1, 2024 09:04 IST

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who were married before 18 declined from 47.4% in 2005 to 26.8% in 2016, and further to 23.3% in 2021.

The judgment in *Society for Enlightenment and Voluntary Action v. Union of India*, delivered by the Supreme Court earlier this month, has moved the focus in cases of child marriage from penalising criminal actions to addressing the “harm meted out to the victim”.

The judgment underlines that comprehensive efforts to address child marriage should go beyond prevention and prosecution, and must include substantial measures to help those already in child marriages reclaim their agency.

According to National Family Health Survey data, the percentage of women aged 20-24 who were married before 18 declined from 47.4% in 2005 to 26.8% in 2016, and further to 23.3% in 2021. Nonetheless, the United Nations’ Sustainable Development Goal (SDG) of eliminating child marriage entirely by 2030 appears ambitious.

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The institutional response has focused mostly on prevention and, of late, prosecution — such as the mass arrests of men in Assam whose wives were minors when they married.

What is the law on child marriage?

Under the Prohibition of Child Marriage Act, 2006 (PCMA), a “child marriage” is one in which either the husband is under 21 years of age, or the wife is under 18. Such a marriage is “voidable”, that is, the party that was a child at the time of the marriage has the option to annul it — until such annulment occurs, the marriage is valid and subsists.

In [Karnataka](#) and Haryana, as state-specific amendments have made all child marriages void from the beginning.

Is annulment the same as divorce?

Annulment is different from divorce — when a marriage is annulled, it is as though it had never occurred, and the individuals involved are considered unmarried.

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In contrast, divorce acknowledges that a marriage existed for a period before being dissolved, leaving the parties with the legal status of divorcees.

Divorce requires proving specific grounds — such as cruelty or adultery — depending on the personal law applicable. For annulment under the PCMA, the individual needs to only establish that a child marriage took place, and that they were within the legal age limit to apply for nullification.

PCMA also provides for other civil remedies such as maintenance, residence orders, and return of gifts exchanged at the wedding.

Why are there concerns about using criminal action to tackle child marriage?

Although the child marriage itself subsists unless it is annulled, various activities related to child marriage are criminalised.

Under the PCMA, performing or promotion of child marriage, and a male adult marrying a minor are criminal offences. Sexual activity with a minor, including within a child marriage, is an offence under the Protection of Children from Sexual Offences Act, 2012 (POCSO), and the Bharatiya Nyaya Sanhita, 2023 (BNS).

Applied together, the criminal provisions of PCMA, BNS, and POCSO create the possibility of criminal action against the girl's entire family — her parents, husband, and in-laws — which could leave her in a vulnerable position without preparation or support to survive independently. It may also create barriers in accessing sexual and reproductive healthcare, as seeking such services could inadvertently trigger criminal action against her family.

A study of 73 judgments from 2008 to 2017 by the Delhi-based legal resource group Partners for Law in Development found that the criminal provisions of PCMA were used twice as often in cases of self-initiated marriages than arranged marriages.

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A 2024 study by Bengaluru-based Enfold Proactive Health Trust and Civic Data Lab based on 174 PCMA judgments from Assam, [Maharashtra](#), and [Tamil Nadu](#), showed 49.4% of these marriages were self-initiated.

These trends suggest that criminal action can overlook complexities involved in the issue, and cause unintended harm to adolescents seeking autonomy.

In many cases, underage individuals choose to marry to escape difficult situations such as neglect, abuse, or the prospect of a forced marriage. These child marriages involve young people asserting their agency in a patriarchal society, using elopement as a way to legitimise their relationships.

Why is the SC judgment significant?

Exiting a child marriage can attract social and economic sanctions. The SC judgment directs the introduction of a special scheme for skill development, vocational training, and economic stability for women who leave child marriages, rehabilitation services, monitoring and follow-up support to ensure reintegration, and a call to consider compensation for these women under victim compensation schemes.

Some women may not want to exit the marriage, but may need help to claim agency within the marriage. They require tools to strengthen their ability to advocate for themselves in decisions involving reproductive rights, employment, and education. The SC judgment's emphasis on sex education for adolescents can empower those in such marriages with the skills and information to effectively navigate their relationships.

When implemented with an understanding of the evolving nature of child marriage — especially trends involving young people eloping — these measures offer a more holistic and agency-affirming approach to eliminating child marriage than an over-reliance on criminal prosecution.



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