



THE PROHIBITION OF CHILD MARRIAGE ACT, (2006)

CONTEXT

Child marriage is a social evil which has been prevalent in our country for a long period of time, with children being married off before their physical and mental maturity. This not only affects the basic rights to freedom and life, but also has an impact on the reproductive health of a girl child.

The problem of child marriage in India remains rooted in a complex matrix of religious traditions, social practices, economic factors and deeply rooted prejudices.

Gender inequality, social norms, perceived low status of girls, poverty, lack of education, safety concerns about girl children and control over sexuality are considered to be reasons for prevalence of child marriages. Girl children in rural areas are more affected than their urban counterparts. It has widespread and long-term consequences for child brides and grooms.

For this purpose, Prohibition of Child Marriage Act, 2006 was enacted where a child marriage is defined as marriage before age of 18. It defines 'child' as someone who is under 21 years, in case of a male, and under 18 years in case of a female



PROHIBITION OF CHILD MARRIAGE

The PCMA Act was put in place to not only put restraints on this menace but to prohibit such marriages altogether. Child marriage is considered to be illegal and voidable at the option of the minor within a period of 2 years after the child who was a party to the marriage has attained majority.

VOID MARRIAGES

In cases where a minor has been taken or enticed out of the custody of legal guardian, compelled or induced to go from any place or is sold or trafficked for purpose of or after the marriage, such a marriage shall be null and void.

KEY PROVISIONS

CHILD MARRIAGE PROHIBITION OFFICER

PCMA Act also calls for appointment of Child marriage prohibition officers (CPMO) with duties to prevent child marriage by taking action, advising and sensitizing the society against this evil and collecting evidence for effective prosecution. Such officers are deemed to be public servant and no suit will lie on the action taken by the child marriage prohibition officers in good faith.

INJUNCTION

The Judicial First Class magistrate / Metropolitan Magistrate has power to issue an injunction against any person including a member of an organisation or an association of persons prohibiting such marriage.

STRINGENT PUNISMENTS

Any Offence under PCMA Act is cognizable and non-bailable. The act lays down punishment for:-

- (1) Male adult above eighteen years of age marrying a child
- (2) Person performing, conducting, directing or abetting any child marriage
- (3) The parents or guardian of a child are also considered to have failed to prevent a child marriage and hence held accountable for their actions

PCMA Act lays down a punishment of upto two years imprisonment and/or a fine which may extend to Rs. 1 lakh (provided that no woman shall be punishable with imprisonment).

ACTION POINTS

Analysing the whole process, theoretically, it sounds ideal but in practice, this process is very tedious.

Under PCMA Act, petition for annulment of marriage can only be filed by the child bride/groom that too in their personal capacity. In a situation petitioner is statutorily a minor as per PCMA Act (girl below age 18, boy below age 21), the petition can be filed only through a guardian or the next best friend of the married child (who must be an adult of 18 years or more) with the help from the CMPO.

Researchers have stated that children often face resistance and physical restraint from their own families and are warned about the consequence of reporting such offences. Some children are even restricted from contacting their first Point of Contact (PoC), this gives rise to a fundamental concern at ground level that not all children are in an ideal position to approach their first PoC i.e. CMPO.

Another challenge is persuading the legal guardians to annul the marriage. In many situations, it is the guardian that pushes the children into child marriages. Moreover, they will be accustomed to the social norms and prejudices around this phenomenon. The chances of a child having a “next best friend” who is an adult are also highly unlikely.

