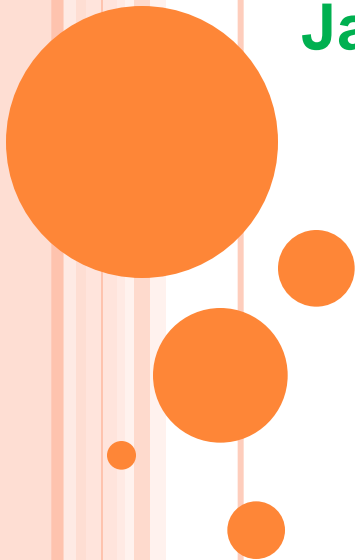


THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

Dr. K. Sheik Fareeth

**Assistant Professor in Social Work
Jamal Mohamed College (Autonomous)
Tiruchirappalli.**



INTRODUCTION

- To ensure that child marriage is eradicated from within the society, the Government of India enacted the *Prohibition of Child Marriage Act, 2006* replacing the earlier legislation of *Child Marriage Restraint Act, 1929*.
- This legislation is armed with enabling provisions to prohibit child marriages, **protect** and **provide** relief to victims and enhance **punishment** for those who abet, promote or solemnize such marriages.



BACKGROUND

- The Child Marriage Restraint Act (CMRA) 1929, popularly known as the Sharda Act, prohibited child marriages of girls below the age of 15 years and of boys below the age 18.
- This law applied to all citizens of India. In 1978, the law was amended to make it more effective and raise the minimum age of marriage by three years i.e. from 15 to 18 years in case of girls and from 18 to 21 years in case of boys.

However, despite the law, child marriages continued to take place.

EVILS OF CHILD MARRIAGE

- There are many marriages in which both the girl and the boy are children. In others the girls are children/minors who are married off to much older men, or sometimes even sold into marriage.

In yet another attempt to deal with the problem, the government passed The Prohibition of Child Marriage Act, 2006.



THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

The Prohibition of Child Marriage Act, 2006 (PCMA, 2006) was notified on 10 January 2007 to overcome the constraints of the former legislations in effectively dealing with the problem of child marriages in India and to put in place a comprehensive mechanism.

It came into force on 1 November 2007.



WHAT IS A CHILD MARRIAGE?

- It is a marriage to which either of the contracting party is a child.
- Child or minor under this law is defined as 18 years in the case of girls and 21 years in the case of boys.



WHOM DOES IT APPLY TO?

- It applies to all citizens of India irrespective of religion, within and beyond India.
- It however, does not apply to the State of Jammu and Kashmir.
- It excludes the Renoncants of the Union Territory of Pondicherry from its application. For them the French Civil Laws are applicable as they are treated as citizens of France.



PROVISIONS OF THIS LAW

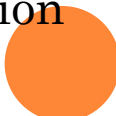
- A. Prevention
- B. Protection
- C. Prosecution of Offenders



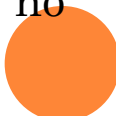
PREVENTION

The law seeks to prevent child marriages by making certain actions punishable and by appointing certain authorities responsible for the prevention and prohibition of child marriages. These persons are responsible for ensuring that the law is implemented. It is also the responsibility of the community to make use of the law.

More specifically, under the law:

- 1. **Child Marriage Prohibition Officers (CMPOs)** are to be appointed in every state to prevent child marriages, ensure protection of the victims as well as prosecution of the offenders.
 - 2. The Courts have the power to issue injunction for prohibiting child marriages from taking place.
 - 3. The CMPO and District Collector are responsible for sensitisation and awareness creation in the community
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PROTECTION


- 1. The law makes child marriages voidable by giving choice to the children in the marriage to seek annulment of marriage.
 - 2. It provides for maintenance and residence of the female contracting party.
 - 3. It gives a legal status to all children born from child marriages and makes provisions for their custody and maintenance.
 - 4. The law provides for all support and aid including medical aid, legal aid, counselling and rehabilitation support to children once they are rescued.
 - 5. The Child Marriage Prohibition Officer has been empowered:
 - • to provide necessary aid to victims of child marriage
 - • to provide legal aid
 - • to produce children in need of care and protection before the Child Welfare Committee or a First Class Judicial Magistrate, where there is no Child Welfare Committee.
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PROSECUTION OF OFFENDERS


- The law provides for punishment for an adult male above 18 years of age marrying a child.
- It also lays down punishment for those performing/conducting/ abetting a child marriage.
- The law clearly states that women offenders in any of the above categories cannot be punished with imprisonment. However, they can be penalised by way of imposition of a fine.



AUTHORITIES FOR PROHIBITING CHILD MARRIAGE

- Child Marriage Prohibition Officer
 - District Magistrate
 - First Class Judicial Magistrate or Metropolitan Magistrate
 - Police
 - Family Courts
 - Any person(s) called upon by the State Government to assist the Child Marriage Prohibition Officer. These could include - a respectable member of the locality with a record of social service, officer of the Gram Panchayat or Municipality, officer of the government or public sector undertaking, office bearer of any non-governmental organisation.
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CHILD MARRIAGE PROHIBITION OFFICERS

- The State Government shall, by notification in the Official Gazette, appoint for the whole State.
 - The State Government may also request a respectable member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any nongovernmental organisation to assist the Child Marriage Prohibition Officer.
 - The State Government may, by notification in the Official Gazette, subject to such conditions and limitations, invest the Child Marriage Prohibition Officer with such powers of a police officer
 - The Child Marriage Prohibition Officer shall have the power to move the Court
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DUTY OF THE CMPO

- to prevent solemnisation of child marriages by taking such action as he may deem fit.
 - to collect evidence for the effective prosecution of persons contravening the provisions of this Act;
 - to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages;
 - to create awareness of the evil which results from child marriages;
 - to sensitize the community on the issue of child marriages;
 - to furnish such periodical returns and statistics as the State Government may direct; and
 - to discharge such other functions and duties as may be assigned to him by the State Government.
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