

# LEGALFOXES LAW TIMES

## LET THE AGE OF MARRIAGE BE UNIFORM

By Soumya Sakshi Mishra

### ABSTRACT

It is observed from various studies and research that those who marry later are more likely than others to have a better college education, career, and they gain a better understanding of the world. The minimum marriage age should be fixed after the teenage so that a person can grow mentally, physically, and emotionally. However, in India the minimum marriage age of a girl is 18. 18 is still a young age in which teenagers make mistakes, learn about their body and work hard to make their future bright. Meanwhile, the minimum marriage age of a boy is 21 years. This non-uniformity tends to create inequality and discrimination in society. Henceforth, this paper revolves around the concept, how a uniform age of marriage among men and women can bring about a massive help in uplifting the women.

### INTRODUCTION

In the Independence Day speech of 2020, Our Prime Minister Narendra Modi proclaimed that the age of marriage the women should be raised from 18 to 21. It was a laudable proclamation made on the part of the government. This move by the government will bring about equality in the country and empower as well as uplift the whole womankind of the country. The increment in the age of marriage will solve various types of problems faced by women in the entire country, which includes a reduction in infant mortality rate IMR and maternity mortality ratio MMR. Moreover, it will also provide and increase access to higher education for women.

### STEREOTYPE AND CONSTITUTIONAL VALIDITY

It is a conventional belief of the Indian Society that hypergamy<sup>1</sup> should follow between a couple, where the husband has to be elder as well as more educated than the wife. These perceptions and beliefs are bolstered by the law by making the minimum age of marriage of girls 18 compared to boys which is 21. Is this inequality constitutionally valid?

According to article 14<sup>2</sup> equality before law for women. Article 15<sup>3</sup> states that, not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. These article of the constitution comes under the fundamental right of an individual. The concept of hypergamy grossly violates article 14 as the age of marriage is not uniform. It also violates article 15 which states that there should not be any discrimination on the ground of sex. Moreover, it also violates article 16 of the constitution as article 16<sup>4</sup> states that equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. However, this provision kills the opportunity of a woman in various fields, be it higher education or job. In the case of Maneka Gandhi v Union of India<sup>5</sup>- it was stated that article 21 includes 'Right to live with dignity' and it is a fundamental right of an individual. However, this provision is supporting the Indian conventional belief to marry a girl as soon as she gets 18 and taking away the opportunity of a woman to be equal to man, thereby taking away the right to live with dignity as she has to rely financially on her husband.

### **JUDICIAL ACTIVISM**

The Indian judiciary has taken several steps to eradicate the discrimination against women which is spread in the society and various reforms have come through the judgments of the Courts. For example, in ShayraBano<sup>6</sup> case, the Supreme Court has protected the rights of Muslim women from the evil practice of triple talaq. In the case of Dr.NoorjehanSafiaNaiz<sup>7</sup> the Supreme Court

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<sup>1</sup>Should the age of marriage for women be raised to 21?,Jagriti ChandraSEPTEMBER 04, 2020 00:15  
<https://www.thehindu.com/opinion/op-ed/should-the-age-of-marriage-for-women-be-raised-to-21/article32517084.ece>

<sup>2</sup>INDIA CONST. art 14

<sup>3</sup>INDIA CONST. art 15

<sup>4</sup>INDIA CONST. art 16

<sup>5</sup>Maneka Gandhi v. Union of India 1978 AIR 597, 1978 SCR (2) 621

<sup>6</sup>ShayraBano v. Union of India (2017) 9 SCC 1

<sup>7</sup>NoorjehanSafiaNiaz and Ors. v. State of Maharashtra and Ors.2016(5)ABR660

has allowed entry of women inside Haji Ali Dargha. In the Sabrimala case<sup>8</sup> also it is laid down in the ratio decidendi of the case that, any custom which violates the fundamental right is not valid, henceforth the custom of hypergamy should be shed. In the same judgment, Justice Nariman said, “Anything destructive of individuality in anachronistic of Constitutionality. To treat women as people of lower status blinks at the Constitution itself”. Thus, it is seen that after the Sabrimala judgment, the custom of hypergamy and the provision of non-uniform age of marriage does not stand constitutionally valid.

### **HEALTH HAZARDS**

If a teenage girl is married then there is a hundred percent possibility that she will become pregnant in the initial days after the marriage. This can cause a lot of health hazards to a teenage girl as she will be pregnant in her teens when her body is not even transformed fully. Most of the teenage girls in India are anaemic this can cause health hazards not only to the teenage mother but also, to the infant and thus, in India the infant mortality rate and the maternity mortality rate is high.

According to the well-renowned Eric Erikson theory of psychosocial development, it is said that initial adulthood is a delicate period where a teenager learns several things about his/her body and tries to fit in the environment. If we force them to get married in their teens then we are denying them self-growth and plucking away from them their talent. Thus, the age of marriage of girls should be raised to 21.

### **Conclusion**

After the whole analysis, it is seen, understood, and observed that the minimum age of a girl should be increased from 18 to 21, as it will impede sex-based discrimination. Moreover, it will give more time to girls to focus on their careers. Not only it will reduce the Infant mortality rate but also, the maternity mortality ratio. ‘The youth is our power’ this slogan over and over again repeated by our Prime Minister Narendra Modi. However, because of the early marriage of the girls, we are wasting our youth power.

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<sup>8</sup> Indian Young Lawyers Association v. The State Of Kerala (2019)11SCC1

We should teach our daughters and sisters not to rely on their husbands rather we should teach them to be independent. We must not be the bystanders of gross inequality persisting in the society and raise our voices against the discrimination.

