

THE PROHIBITION OF CHILD MARRIAGE ACT 2006



KAILASH SATYARTHI CHILDREN'S FOUNDATION

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Objective:

The objective of this Act is to prohibit solemnization of marriage where either the groom or the bride is below the marriageable age (18 years in case of girls and 21 years for boys). To ensure that child marriage is eradicated from the society, the Government of India enacted Prevention of Child Marriage Act 2006 by replacing the earlier legislation of Child Marriage Restraint Act, 1929. This new Act is armed with enabling provisions to prohibit child marriage, protect and provide relief to victim and enhance punishment for those who abet, promote or solemnize such marriage.

Definitions:

- **Child:** A child is a person who has not completed 21 years in case of male and 18 years in case of female.
- **Contracting party:** Either of the parties whose marriage is or is about to be solemnized.
- **Child marriage:** A marriage in which either party is a child.

Minor: A person who is not deemed to be major under Majority Act.

Voidable marriage: (Section 3) Every child marriage is voidable at the option of the contracting party who was child at the time of solemnization of marriage. A decree of nullity can be obtained by such person by filing petition before the District court for annulment of marriage within 2 years after attaining majority. While granting a decree, the district court shall make an order directing both parties and their parents or guardians to return to the other party, money, gold, ornaments, gifts and other valuables.

To whom and where complaint can be made regarding child marriage:

- Call 1098, 1090 or 100
- Complaint can be directly made to Child Marriage Prohibition Officer
- The nearest police station
- To District Magistrate

1) Provision for maintenance and residence of female:

The District Court while granting annulment of the child marriage, make an interim or final order directing the male contracting party to pay maintenance to the female contracting party. If the male contracting party is minor, then the court shall direct the parents/guardian of the minor, to pay maintenance to the female contracting party. The female contracting party is entitled to get maintenance up to her remarriage. The amount of maintenance may be paid monthly or in lump sum. The quantum of maintenance shall be determined considering the needs of the child, life style enjoyed by her and means of income of the paying party. The District court may also issue suitable order as to the residence of female contracting party.

District court shall make appropriate order for the custody of the children of such child marriage and while making such order of custody, the court issue order taking in to account the welfare and best interest of the child of such marriage. The court shall also make appropriate orders of maintenance and issue visitation orders also.

Child begotten or conceived of such child marriage shall be deemed to be legitimate children notwithstanding such marriage is annulled by the court.

Court has power to add modify or revoke any order made under Sections 3, 4 and 5, i.e., with respect to maintenance, residence, when there is change in circumstances.

For getting maintenance and residence of female contracting party or child born in such marriage and for custody of children, application can be moved before the district court having jurisdiction where

- The defendant / child resides,
- Where marriage was solemnized or where the parties last resided or
- Where the petitioner is residing on the date of presentation of petition.

When marriage is null and void:

Where minor child is taken or enticed out of the keeping of legal guardian
By force compelled or by any deceitful means induced to go from any place

Is sold for purpose of marriage and go through a form of marriage or

If the minor is married after which the minor is sold off or trafficked or used for
immoral purpose

Injunction:

The Judicial First Class magistrate / Metropolitan Magistrate have power to issue an injunction prohibiting child marriage which can be done by an application from the child marriage prohibition officer on receipt of any complaint or even suo motu and if the court is satisfied that a child marriage in contravention to the Act is arranged or about to be solemnized, court shall issue injunction against any person including a member of any organization prohibiting such marriage. Usually injunction is issued against any person after giving him notice and an opportunity to show cause, however, in case of urgency, the court has power to issue interim injunction without giving any notice. A person disobeying the injunction shall be punishable with imprisonment for a term which may extend upto two years and fine which may extend to Rs. One lakh or both. No women shall be punishable with imprisonment under this Act. For preventing mass child marriages on certain days such as Akshaya Tritiya, the District Magistrate assumes the power of CMPO in order to prevent solemnizing of child marriage and he can even use force to prevent such marriage.

Any child marriage solemnized in contravention to the injunction order issued whether interim or final shall be void .

Child marriage prohibition officers and their duties:

- To prevent child marriage by taking action
- To collect evidence for effective prosecution of cases of child marriage
- To advise the locals not to indulge in promoting or helping or allowing solemnization of child marriage
- To create awareness of the evil of such child marriage
- To sensitize the community on the issue
- To furnish periodical returns and statistics when the government may direct
- Such other duties assigned by the Government.

Offences and punishment under this Act

- 1) Punishment for male adult: If an adult male who is above 18 years of age contracts child marriage, he shall be punishable with rigorous imprisonment for two years or with fine which may extend to one lakh rupees or both.
- 2) Punishment for solemnizing marriage: If a person performs, conducts, directs or abets any child marriage, he shall be punishable with rigorous imprisonment for two years or with fine which may extend to one lakh rupees or both.
- 3) Punishment for promoting / permitting solemnization of marriage: Any person having charge of the child whether parent or guardian or any other person including member of organization or association of persons who does any act to promote the passing or permit child marriage or negligently fails to prevent it from being solemnized, including attending or participating such marriage, shall be punishable with rigorous imprisonment for upto two years or with fine which may extend to one lakh rupees or both.

Offence under this Act is cognizable and non bailable

Provided that no woman shall be punishable with imprisonment



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**TO COMPLAINT ABOUT CHILD ABUSE, PLEASE CALL 1098
OR BACHPAN BACHAO ANDOLAN HELPLINE NUMBER 18001027222**