

AS INTRODUCED IN LOK SABHA

Bill No. 92 of 2016

THE PROHIBITION OF CHILD MARRIAGE (AMENDMENT)
BILL, 2016

By

DR. SANJAY JAISWAL, M.P.

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BILL

to amend the Prohibition of Child Marriage Act, 2006.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Child Marriage (Amendment) Act, 2016. Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.	2. In section 2 of the Prohibition of Child Marriage Act, 2006, (hereinafter referred to as the principal Act), for clause (a), the following clause shall be substituted, namely:— '(a) "child" means a person who has not completed eighteen years of age.'	6 of 2007
Amendment of section 3.	3. In section 3 of the principal Act, for sub-section (1) to (3), the following sub-sections shall be substituted, namely:—	5
Child marriages to be void or voidable at the option of contracting party being a child.	"3. (1) Every child marriage solemnised after the commencement of this Act shall be null and void at the option of the contracting party, if the age of either or both of the contracting party was below sixteen years on the date of solemnisation of marriage. (2) The marriage referred to in sub-section (1) may be declared null and void by a decree of nullity, on a petition being filed in the district court only by a contracting party who was below the age of sixteen years at the time of marriage. (3) Every child marriage, whether solemnised before or after from commencement of this Act, shall be voidable at the option of contracting party who was a child above the age of sixteen years but below the age of eighteen years at the time of marriage. (3A) The petition for annulling a child marriage under sub-section (3) by a decree of nullity may be filed in a district court by a contracting party till the age of twenty years. (3B) Notwithstanding anything in this Act, the provisions of this Act shall also apply to null and void child marriages as they apply to voidable child marriages."	10
Amendment of section 9.	4. In section 9 of the principal Act, for the words "two years", the words "five years" shall be substituted.	20
Amendment of section 10.	5. In section 10 of the principal Act, for the words "two years and shall be liable to fine which may extend to one lakh rupees", the words "five years and shall be liable to fine which may extend upto ten lakh rupees" shall be substituted.	
Amendment of section 11.	6. In section 11 of the principal Act, in sub-section (1), for the words "two years and shall also be liable to fine which may extend upto one lakh rupees", the words "five years and shall also be liable to fine which may extend upto five lakh rupees" shall be substituted.	25

STATEMENT OF OBJECTS AND REASONS

The Prohibition of Child Marriage Act, 2006 was enacted to provide maintenance and residence to the female contracting party to child marriage. The provision of maintenance, residence and other such matters are applicable only to the voidable child marriages. However, no such benefit is available to the parties of void marriages which is unjustified as the same is available under the other marriage laws.

It is, therefore, need of the hour that, Act should be applicable to cases of void marriages also. This is in line with the 205th Report of Law Commission of India, 2008. Moreover, the current penal provisions of the parent Act hardly act as a deterrent and needs revision. The need is to increase the punishment provided in the parent Act to discourage the increasing child marriage in the country.

The Bill, therefore, seeks to amend the Prohibition of Child Marriage Act, 2006 with a view to—

- (i) restrict the age of filing petition for annulling a voidable child marriage till the child filing the petition attain the age of twenty years;
- (ii) prescribed child marriage below sixteen years of age to be void marriage;
- (iii) apply the provisions of the Act to void marriages; and
- (iv) increase the punishment provided under the Act to act as a deterrent to the increasing child marriages in the country.

Hence this Bill.

NEW DELHI;
February 22, 2016.

SANJAY JAISWAL

ANNEXURE

EXTRACT FROM THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

(No. 6 OF 2007)

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Child marriages to be voidable at the option of contracting party being a child.

3. (1) Every child marriage, whether solemnised before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage:

Provided that a petition for annulling a child marriage by a decree of nullity may be filed in the district court only by a contracting party to the marriage who was a child at the time of the marriage.

(2) If at the time of filing a petition, the petitioner is a minor, the petition may be filed through his or her guardian or next friend along with the Child Marriage Prohibition Officer.

(3) The petition under this section may be filed at any time but before the child filing the petition completes two years of attaining majority.

(4) While granting a decree of nullity under this section, the district court shall make an order directing both the parties to the marriage and their parents or their guardians to return to the other party, his or her parents or guardian, as the case may be, the money, valuables, ornaments and other gifts received on the occasion of the marriage by them from the other side, or an amount equal to the value of such valuables, ornaments, other gifts and money:

Provided that no order under this section shall be passed unless the concerned parties have been given notices to appear before the district court and show cause why such order should not be passed.

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Punishment for male adult marrying a child.

9. Whoever, being a male adult above eighteen years of age, contracts a child marriage shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both.

Punishment for solemnising a child marriage.

10. Whoever performs, conducts, directs or abets any child marriage shall be punishable with rigorous imprisonment which may extend to two years and shall be liable to fine which may extend to one lakh rupees unless he proves that he had reasons to believe that the marriage was not a child marriage.

Punishment for promoting or permitting solemnisation of child marriages.

11. (1) Where a child contracts a child marriage, any person having charge of the child, whether as parent or guardian or any other person or in any other capacity, lawful or unlawful, including any member of an organisation or association of persons who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, including attending or participating in a child marriage, shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine which may extend up to one lakh rupees:

Provided that no woman shall be punishable with imprisonment.

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(Dr. Sanjay Jaiswal, M.P.)