

19 September, 2024

To,  
Smt. Droupadi Murmu,  
Hon'ble President of India

**Subject: Appeal to withhold assent to the  
Prohibition of Child Marriage (Himachal Pradesh Amendment) Bill, 2024  
in light of adverse impact on Constitutional, legal, social and economic  
rights of girls and young women**

We are writing to you on behalf of two networks - the National Coalition for Advocating Adolescent Concerns (NCAAC), and the Young Voices Working Group (YVWG). NCAAC is a coalition of 23 members from different parts of India, working on the rights of women, children, persons with disability - on concerns relating to legal rights, public health, sexual and gender based violence, sexual and reproductive health, life skills, education and restorative justice. YVWG is a collaboration of civil society organisations and individuals from 15 Indian states, dedicated to upholding young people's rights, including their right to be heard. It facilitated the Young Voices National Movement, involving over 2,500 marginalised youth who expressed their views on raising the legal marriage age for women from 18 to 21 years.

We are all fully committed to gender equality and the promotion of women's rights and child rights, and have been actively engaging with the issue of child and early marriage, at the community level, through research and writing and in policy processes, including with the Central Government appointed Task Force headed by Jaya Jaitly in 2020 and the Parliamentary Standing Committee headed by Dr. Vinay P. Sahasrabudhe in 2022 to examine these and related issues.

We are deeply concerned by the passing of the **Prohibition of Child Marriage (Himachal Pradesh Amendment) Bill, 2024 (hereafter referred to as the HP Bill)** that has been presented to you for Presidential assent, and collectively urge you to not sign it for reasons outlined herein, and detailed in the attachments to this petition.

The Bill mainly seeks to raise the minimum age of marriage for women to 21 years for the state of Himachal Pradesh, as distinct from the minimum of 18 years set out in the Central law, the **Prohibition of Child Marriage Act, 2006 (hereafter referred to as the PCMA, 2006)**. It also seeks to increase the time period within which an underage marriage may be nullified, from two years from the age of majority as set out in the Central Act, to five years. This petition is concerned with raising the minimum age of marriage for girls beyond the universal age of majority, which is 18 years in India under the general law as well as under the PCMA, 2006, religion based family laws, and the Convention of the Rights of the Child, which is ratified by India. The raising of minimum age contrary to and beyond the universal standard has been affected by Section 2(i)(a) of the HP Amendment which defines "child" to mean any male or female who has not completed twenty one

years of age”, and by virtue of an overriding clause under Section 2(ii) that upholds this inconsistency with other laws in force for the purposes of marriage.

The objective of this Amendment is purportedly to advance gender equality and opportunities, and states - “The early marriages, however, act as hindrance not only in the progress of their career but also their physical development. In order to provide for gender equality and opportunities of obtaining higher education, it has become necessary to increase the minimum age of marriage for girls. Thus, it is proposed to amend the Prohibition of Child Marriage Act, 2006 and other related Acts in their application to the State of Himachal Pradesh and increase the minimum age for marriage for girls to 21 years.”

Raising the minimum age of marriage to 21 years for women, and correspondingly defining them as ‘child’ for the purposes of marriage, does not advance gender equality or create new educational, income generation or any other opportunities for women within any context. What it does is to deny adult women voice, agency and choice and render them vulnerable to social, parental controls as well as criminalisation for exercising civil and personal rights available to all adults. Instead of strengthening the agency of young women, or creating new opportunities, it denies them constitutional right to autonomy by subjecting them to extended period of guardianship of family, community and state, in personal matters, in contravention of all central laws in India.

It is noteworthy that the Central Government constituted a Task Force led by Jaya Jaitly in 2020 to examine matters pertaining to the age of motherhood, lowering of MMR, and improvement nutritional levels, including through raising the minimum age of marriage for women to 21 years. The Task Force undertook extensive consultations, extended their tenure to examine complex issues involved; subsequent to which the Prohibition of Child Marriage (Amendment) Bill, 2021 was introduced in the Parliament to raise the marriage age of women to 21 years, and immediately referred to the Parliamentary Standing Committee chaired by Dr. Vinay P. Sahasrabudhe, the report of which is yet awaited.

The HP Bill reflects non-application of mind on complex concerns that are in contravention of rights and freedoms guaranteed by the Constitution of India to women, and under the Central laws pertaining to age of majority and minimum age of marriage. There is no causal link between raising the minimum age of marriage and advancement of gender equality, and more importantly, the national data shows that not only has child marriage declined over the years, but that HP is among the states with lowest prevalence rates.

Child marriage has been declining over time. As per the NFHS-5 (2019-21) out of all women who were 20-24 years old, 23% were married before the current legal age of 18 years, lower than the 26.8% recorded in NFHS-4 (2015-16), and a considerable drop from the 47.4% in NFHS-3 (2005-06) in the same age group who married before 18. The mean

age at first marriage for girls has risen from 17.2 years in 2005-06, to 19 years for women in 2015-16, to 19.2 years among women in 2019-21. The trend shows that child marriage has declined, and given way to late adolescent marriage, more aptly described as 'early marriage'.

The state-wise segregation of data in NFHS-5 (2019-21) shows high prevalence states where about two-fifths of women marry before reaching the legal minimum age at marriage to be West Bengal (42%), Bihar (40%), and Tripura (39%); as compared to the states where the percentage of women marrying before reaching the legal minimum age of 18 is lowest in Lakshadweep (4%); Jammu & Kashmir and Ladakh (6% each); Himachal Pradesh, Goa, and Nagaland (7% each), and Kerala and Puducherry (8% each). Data from Himachal Pradesh suggests that child marriage is not widely prevalent as according to NFHS-5, only 5.4% women aged between 20-24 years were married<sup>1</sup> before 18 years and enrolment and retention of girls in schools has been consistently high.<sup>2</sup>

The differential minimum age of marriage at 18 and 21 years for men and women respectively, in the law is often cited as gender inequality. Recognising this to be an outcome of social and cultural practice, lacking any rational basis, the Law Commission of India in its report no. 205 on the proposal to amend the PCMA and other allied laws, recommended that the "The age of marriage for both boys and girls should be 18 years as there is no scientific reason why this should be different."

In short, not only does raising the minimum marriage age raise concerns about inconsistencies with Constitutional, general as well as personal laws, and the recommendations of the Law Commission of India; it also sidesteps ongoing policy deliberations at the of Central level and the Standing Parliamentary Committee that are yet to conclusively pronounce on this matter. Further, the national data reveals that neither child nor early marriage are issues of concern for Himachal Pradesh, which has one of the lowest rates of prevalence in the country. The HP Bill as a consequence appears to be a hasty although well intended mis-step, passed without due process involving consultations with civil society, affected constituencies of adolescent and young women, and without regard to existing reports and policy processes. It must not come into force, for the outcomes are likely to inflict harm and impact the intended beneficiaries (young women), adversely.

As members of civil society, we had made submissions and deposited before the Central Government constituted Task Force led by Jaya Jaitly in 2020 and subsequently also presented submissions to the Parliamentary Standing Committee chaired by Dr. Vinay P. Sahasrabudhe in 2022. Our collective submissions, based on evidence, national data and

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<sup>1</sup> National Family Health Survey - 5 (2019 - 2021), Himachal Pradesh State Report, p.85, available at [https://nhm.hp.gov.in/storage/app/media/uploaded-files/NFHS-5\\_%20Himachal Pradesh.pdf](https://nhm.hp.gov.in/storage/app/media/uploaded-files/NFHS-5_%20Himachal%20Pradesh.pdf)

<sup>2</sup> 2.3% of girls aged 15 - 16 years are 'out of school' in the state of Himachal Pradesh. Annual Status of Education Report (ASER) 2022 (Himachal Pradesh Rural), p.121, available at [https://img.asercentre.org/docs/ASER%202022%20report%20pdfs/State%20pages/6%20pages\\_English/himachalpradesh\\_8.pdf](https://img.asercentre.org/docs/ASER%202022%20report%20pdfs/State%20pages/6%20pages_English/himachalpradesh_8.pdf)

extensive consultations with the youth highlighted the concerns relating to lack of causal link between raising age of marriage to 21 years and empowerment of women, educational opportunities and nourishment; and to draw attention to the harmful consequence of such a move as well as the voices and aspirations of young women. The highlights of our concerns are listed below, which we urge you to consider.

1. Studies have shown that prosecutions against underage marriage are initiated twice as much against elopements or self-arranged marriages as it is against arranged or forced marriages, intended to punish girls for marrying without parental consent by criminalising their husbands for serious offences such as rape and kidnapping.<sup>3</sup> The law is very sparingly used to prevent child marriage; in a small fraction of cases, minors when supported by families, use the law to annul marriages that have broken down. The law in effect, is used for retribution, not relief to girls, and raising the minimum age of marriage will consequently bolster parental control and retributive capacity of law against young women.<sup>4</sup>
2. Extensive consultations were undertaken with youth towards informing and participating in the Task Force appointed by the Central Government in 2020, which were documented in a report titled Young Voices. Based on consultative processes involving 2500 young people from 15 States, this report unequivocally emphasised the right of girls' to choice and self-determination, and called upon law and policy to enable rather than curtail these. The report categorically rejected delaying the guarantee of civil rights associated with age of majority, including the right to enter into marriage between 18-21 years, as these impact the right to life, liberty and dignity. They asserted "Our entitlements should be available to all of us without conditionality and judgement whomever or whenever we choose to marry, whether or not we choose to marry."<sup>5</sup>
3. According to NFHS-5 (p.208) women in the highest wealth quintile marry much later (21.1 years) than women in other wealth quintiles (17.5-19.3 years). Both statistical and qualitative studies establish many key drivers of early marriage in

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<sup>3</sup> Partners for Law in Development, *Child Marriage Prosecutions in India - Case Law Analysis of Actors, Motives and Outcomes 2008-2017* (2021), available at [https://www.academia.edu/50087712/Child\\_Marriage\\_Prosecutions\\_in\\_India\\_Case\\_Law\\_Analysis\\_of\\_Actors\\_Motives\\_and\\_Outcomes\\_2008\\_2017](https://www.academia.edu/50087712/Child_Marriage_Prosecutions_in_India_Case_Law_Analysis_of_Actors_Motives_and_Outcomes_2008_2017)

Enfold Proactive Health Trust, *Trends in Child Marriage: Insights from Judgments under the Prohibition of Child Marriage Act, 2006 in Assam, Maharashtra and Tamil Nadu* (2024), p.19, available at [https://enfoldindia.org/wp-content/uploads/2024/08/Report2-ChildMarriage\\_web.pdf](https://enfoldindia.org/wp-content/uploads/2024/08/Report2-ChildMarriage_web.pdf)

<sup>4</sup> Partners for Law in Development, *Child Marriage Prosecutions in India - Case Law Analysis of Actors, Motives and Outcomes 2008-2017* (2021), available at [https://www.academia.edu/50087712/Child\\_Marriage\\_Prosecutions\\_in\\_India\\_Case\\_Law\\_Analysis\\_of\\_Actors\\_Motives\\_and\\_Outcomes\\_2008\\_2017](https://www.academia.edu/50087712/Child_Marriage_Prosecutions_in_India_Case_Law_Analysis_of_Actors_Motives_and_Outcomes_2008_2017)

Enfold Proactive Health Trust, *Trends in Child Marriage: Insights from Judgments under the Prohibition of Child Marriage Act, 2006 in Assam, Maharashtra and Tamil Nadu* (2024), p.19, available at [https://enfoldindia.org/wp-content/uploads/2024/08/Report2-ChildMarriage\\_web.pdf](https://enfoldindia.org/wp-content/uploads/2024/08/Report2-ChildMarriage_web.pdf)

<sup>5</sup> Young Voices National Report (15 States, nearly 2500 young people): Submission to the Task Force examining age of marriage and other concerns, July 2020 (2020) p.8, available at [Final-National-Report-for-submission-to-TF.pdf \(concernedforworkingchildren.org\)](https://concernedforworkingchildren.org/Final-National-Report-for-submission-to-TF.pdf)

India including poverty, social marginalisation, lack of safety, lack of decent employment opportunities, humanitarian crisis and conflict, as well as gender inequality within a patriarchal social order. These drivers, wherever they occur across contexts, must be addressed through creation of opportunities in education and livelihoods, as well as welfare interventions, rather than law that is either punitive or curtails civil rights of women. Even in relation to poor maternal health outcomes and child mortality, studies from the last decade link it with socio-economic vulnerabilities of young girls, as opposed to traditional literature which has associated young motherhood and age with poor pregnancy and birth outcomes.<sup>6</sup> Recent studies ascribe poverty, poor nutritional status, lack of education and inadequate access to health services - rather than age, to be the cause of poor health consequences.<sup>7</sup> The evidence also shows that to delay girls' age of marriage, it is far more important to improve overall educational access, retention, and quality of education, than to raise the legal age of marriage.

4. Raising the age of marriage beyond the age of majority is more about setting an ideal age of marriage, rather than minimum age. It is desirable for women to not marry early, and indeed, not be compelled to marry for social and economic survival. The social and economic conditions must enable this, not the law. The law cannot become a tool for setting an ideal age of marriage, which is a matter of individual circumstance and discretion.
5. An increase in minimum marriage age will adversely impact on sexual reproductive rights of girls and young people, with devastating consequences given that India has the largest adolescent population in the world. Already the stigma and social taboos around female sexuality make access to sexual

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<sup>6</sup> Santhya, K. G., Ram, U., Acharya, R., Jejeebhoy, S. J., Ram, F., & Singh, A. (2010), Associations between early marriage and young women's marital and reproductive health outcomes: Evidence from India, *International Perspectives on Sexual and Reproductive Health*, 36(3), p.132-139, available at <https://doi.org/10.1363/ipsrh.36.132.10>

Godha, D., Hotchkiss, D. R., & Gage, A. J. (2013), Association between child marriage and reproductive health outcomes and service utilization: A multi-country study from South Asia, *The Journal of Adolescent Health: Official Publication of the Society for Adolescent Medicine*, 52(5), p.552-558, available at <https://doi.org/10.1016/j.jadohealth.2013.01.021>;

Raj, A., Saggurti, N., Winter, M., Labonte, A., Decker, M. R., Balaiah, D., & Silverman, J. G. (2010), The effect of maternal child marriage on morbidity and mortality of children under 5 in India: Cross sectional study of a nationally representative sample, *BMJ*, p.340, available at <https://doi.org/10.1136/bmj.b4258>

Paul, P. (2018), Maternal Age at Marriage and Adverse Pregnancy Outcomes: Findings from the India Human Development Survey, 2011-2012, *Journal of Pediatric and Adolescent Gynaecology*, 31(6), p.620-624, available at <https://doi.org/10.1016/j.jpag.2018.08.004>

<sup>7</sup> Banerjee, B., Pandey, G., Dutt, D., Sengupta, B., Mondal, M., & Deb, S. (2009), Teenage Pregnancy: A Socially Inflicted Health Hazard, *Indian Journal of Community Medicine : Official Publication of Indian Association of Preventive & Social Medicine*, 34(3), p.227-231 available at <https://doi.org/10.4103/0970-0218.55289>

Masoumi, S. Z., Kashanian, M., Arab, E., Sheikhsari, N., & Arab, R. (2017), A comparison between pregnancy outcomes in women in 15-19 and 20-35 years age groups, *Medical Journal of the Islamic Republic of Iran*, 31, p.140, available at <https://doi.org/10.14196/mjiri.31.140>

John, M.E. *Child Marriage in an International Frame: A Feminist Review from India*. (2021/22) Routledge, available at <https://doi.org/10.4324/9781003158592>

reproductive health information and services very challenging for girls and young women. Any move to delay the age of marriage, will lead to surveillance, stigma and punitive measures against girls, especially those from most vulnerable populations, excluding many from public health services. Additionally, it will attract criminal prosecution for the 18-21 years category of adult but underage women, for premarital sex, marriage and make reproductive health care, contraception and abortion even more difficult.

We the two networks and the undersigned civil society members comprising academics, social workers, lawyers, among others, urge you to withhold assent to the **Prohibition of Child Marriage (Himachal Pradesh Amendment) Bill, 2024, and send back the proposed Bill to the Himachal Pradesh Legislature to review in the light of the concerns we have raised.** We also request you to grant an opportunity to representatives of NCAAC and Young Voices Working Group to share with you our concerns in detail.

We have enclosed two documents in support of the above mentioned concerns - a) civil society submissions dated February 3, 2022 to the Parliamentary Standing Committee for Education, Women, Children, Youth and Sports on the PCMA Amendment Bill, 2021; and b) Young Voices National Report: Submission to the Task Force examining age of marriage and other concerns 2020, dated July 2020, as annexures for your reference and information.

**Sincerely,**

National Coalition for Advocating Adolescent Concerns (NCAAC) and the Young Voices Working Group (YVWG)

**For Contact:**

1. Madhu Mehra (Head of Research and Training, Partners for Law in Development), [madhu.mehra@pldindia.org](mailto:madhu.mehra@pldindia.org), +91 9810737686
2. Kavita Ratna (Young Voices Working Group), [kavitaratna@gmail.com](mailto:kavitaratna@gmail.com), +91 9448990480

<b>National Coalition for Advocating Adolescent Concerns (NCAAC) members:</b>			
1.	Partners for Law in Development (PLD) (Delhi)	12.	Mahila Jan Adhikar Samiti (MJAS) (Rajasthan)
2.	ANANDI (Gujarat)	13.	Nirantar Trust (Delhi)
3.	Action India (Delhi)	14.	Mahila Sarvangeen Utkarsh Mandal (MASUM) (Maharashtra)
4.	Butterflies (Delhi)	15.	Prerana (Maharashtra)

5.	Centre for Enquiry Into Health and Allied Themes (CEHAT) (Maharashtra)	16.	RATI Foundation (Maharashtra)
6.	Counsel to Secure Justice (CSJ) (Delhi)	17.	Sahiyar (Gujarat)
7.	Disability Rights Centre (DARC) (West Bengal)	18.	Nicole Rangel (Child Rights Social Worker) (Delhi)
8.	Enfold India (Karnataka)	17.	SAMA Resource Center for Women and Health (Delhi)
9.	HAQ Centre for Child Rights (Delhi)	18.	Shakti Shalini (Delhi)
10.	Hidden Pockets Collective (Karnataka)	19.	The YP foundation (Uttar Pradesh)
11.	Maharukh Adenwalla (Child Rights Lawyer) (Maharashtra)	20.	Vishakha (Rajasthan)
		21.	Praajak (West Bengal)

### Young Voices Working Group members:

Please refer to this document for a list of 95 organisations / individuals who are part of Young Voices Working Group:

<https://www.concernedforworkingchildren.org/wp-content/uploads/Final-National-Report-for-submission-to-TF.pdf>

### ADDITIONAL ENDORSEMENTS:

Sr. No.	Name	Particulars	City
1.	Sejal Dand	Gujarat Mahila Manch	Ahmedabad
2.	Suneeta Dhar	Activist	New Delhi
3.	Enakshi Ganguly	Child Rights Activist	Goa
4.	Vidya Reddy	Tulir - Centre for the Prevention and Healing of Child Sexual Abuse	Chennai
5.	Vibhuti Patel	Retired teacher	Mumbai
6.	Amita Pitre	Vidhayak Trust, Pune	Mumbai
7.	Mary E John	Formerly Professor, Centre for Women's Development Studies, New Delhi	Bangalore
8.	Abha Bhaiya	Jagori Rural Charitable Trust	Rakkar