

National Coalition Advocating for Adolescent Concerns (NCAAC) Statement on Increase in the Age of Marriage for Girls

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National Coalition Advocating for Adolescent Concerns (NCAAC) is a coalition of 21 organisations from across the country, working with children and adolescents on empowerment, education, life skills, health, sexual and reproductive health information and services, child marriage, gender-based violence, sexual abuse and restorative justice in urban, rural and tribal contexts. This submission draws upon our collective learnings- through provisions of direct services, community-based intervention and research related to concerns that impact the lives of girls through adolescence and young adulthood- to support the authorities in their reflections on underage marriage and its interaction with poverty, education and the law.

NCAAC presented its submissions on the government appointed task force headed by Jaya Jaitly on the age of marriage in 2020. In the context of the Union Cabinet approval for increasing the minimum legal age for marriage of women from 18 to 21 years, we make the following statement.

We recommend that any proposed change in the law should be made after looking at data and research on how the current law is being used in courts, as it would have far-reaching consequences, especially for marginalised groups, more so in the time of a pandemic and the accompanying social-economic crisis.

We emphasize that raising the age of marriage of girls from 18 years to 21 years will be counterproductive and adversely affect the interests of girls. Several studies have shown that the PCMA is used twice as much against elopements or self-arranged marriages than it is used against arranged marriages. Existing laws such as the POCSO Act and the IPC are already being used to criminalise young men in self-arranged relationships or marriages, and institutionalise girls in Children's Homes where they find no access to education or vocational training.

Without addressing the root causes of child marriage, which happens in the context of marginalisation, poverty and lack of opportunities, an increase in age will aggravate the vulnerability and harm to young people, whose interest these laws envisage to protect. It will also impede their access to sexual and reproductive healthcare, as well as social security schemes for maternal benefits. Articulation of the problem in terms of age of marriage, rather than empowerment of girls, obscures the prevalence of structural factors that impede girls' agency, aspirations, and voice, and leads to narrow-focused interventions that singularly criminalise marriages below a certain age, whether 18 or 21 years.

While law reform is necessary, its aim should be to enhance the access of adolescents to education, health and wellbeing and employment opportunities, not expand the ambit of criminalisation and give greater parental and societal control over young women's right to choose their partner. We therefore recommend that:

1. The age of marriage for girls remains at 18 years and does not increase to 21 years. The proposed Bill to amend the Prohibition of Child Marriage Act, 2006 should be withdrawn or sent to a Parliamentary Standing Committee. We urge the Parliamentary Committee to invite stakeholder inputs from girls as well as civil society organisations and experts working on the issue of child marriage.

2. Legislative reform should be considered with a view to extend the right to free and compulsory education to adolescents between 14-18 years, and to provide vocational training and skill development.
3. Investments and efforts should be intensified to improve the overall educational access, retention, quality of education, with infrastructural amenities like hygienic toilets and availability of sanitary napkins, to ensure that girls transition from elementary to secondary and higher education.
4. The Central Government and State Governments proactively take measures to improve young peoples' access to adolescent-friendly sexual and reproductive health information and services, through removal of social and legal barriers and ensure effective implementation of the RKSK.
5. The implementation of the Prohibition of Child Marriage Act be reviewed and measures be taken to ensure that CMPOs function more effectively.
6. The report and recommendations of the government appointed task force headed by Jaya Jaitly (2020) on this subject, be made public.

Please write to us if you have any questions or clarifications.

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