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Fault lines emerge in debate over age of consent and marriage for women

Instead of bringing gender justice, higher age limits for consensual sex, marriage can become tools to control women, say women politicians, activists; argue that punitive laws cannot address complex social issues

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The legal age for both marriage and consensual sex in India is 18 years, though the government is attempting to increase the **age of marriage for women to 21 years**. But deep fault lines have emerged in the debate on whether higher legal age limits will lead

to gender justice or merely provide punitive solutions for complex social problems such as child marriage and adolescent sex.

A Bill introduced in Parliament in 2021 to increase the age of marriage for women to 21 years has been virtually put on the backburner; on Monday, the Parliamentary committee examining the Bill got its sixth extension in three months.

Now, the Parliamentary Standing Committee on Education, Women, Children, Youth and Sports will have time till October 24 to examine the issue and present its report on The Prohibition of Child Marriage (Amendment) Bill, 2021.

Child marriage

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Widespread opposition

When the Standing Committee sought the views of the public and stakeholders in January 2022, it received about 95,000 online responses, of which 90,000 opposed the Bill.

According to the statements and objects of the Bill, it aims to “address the issues of women in a holistic manner, as a measure for empowerment of women, gender equality, increasing the female labour force participation, make them self-reliant and to enable them to take decisions themselves”.

While the government officially insisted that increasing the age of marriage will reduce infant and maternal mortality, sources told *The Hindu* that many BJP MPs on the panel were privately opposed to the Bill.

Punitive solutions

“Why is it that we are always looking for punitive solutions for complex social problems?” asked Enakshi Ganguly, co-founder of HAQ: Centre for Child Rights, who was one of the respondents to the Committee. “That’s what they did in the child sexual abuse case. It is all about controlling sexuality and pretending that there is no sex happening among adolescents. They are all connected to not addressing the crux of the problem.”

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Ms. Ganguly was referring to the Protection of Children from Sexual Offences (POCSO) Act, 2012 enacted to safeguard children from sexual abuse and sexual offences which clearly defines a child as any person below the age of 18 years. This, in effect, criminalises all sexual activity between adolescents less than 18 years of age.

Multiple High Courts have urged the government to review the age of consent and reduce it from 18 years to 16 years. The Chief Justice of India had himself asked the government to review it last year.

The government, however, informed the Parliament in December 2022 that it had no plans to reduce the age of consent for sexual relationships.

‘Tool to control girls’

An analysis of romantic relationships from Assam, Maharashtra and West Bengal by Enfold India, an NGO which works to protect children, revealed that in 80% of cases, the girls’ family lodged a complaint under POCSO when she had eloped with a partner or a pregnancy came to light. At least 17 High Courts across the country have quashed cases of consensual relationships under POCSO Act.

“We are giving them a bad experience about the world when they are just trying to discover themselves. The POCSO law has become a tool for families to control girls, especially where inter-faith and inter-caste relationships are involved,” Zakia Soman, a

women's rights activist, told *The Hindu*. "This thinking that girls are the property of the family is very evident in all these cases of age of consent being violated."

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The POCSO law was passed in June, 2012. The Act was further amended in 2019 to introduce more stringent punishments, including the death penalty, for committing sexual crimes against children, in an effort to deter perpetrators and prevent such crimes.

Crackdown on child marriage

According to a woman politician from northeastern India, who did not wish to be named, the Act has been used as a tool for "communal politics" as well. Earlier this year, over 3,000 people had been arrested as part of a crackdown on child marriage across Assam. Some of the men arrested were the sole breadwinners for their families.

According to data from the National Crime Records Bureau, the incidence of child marriage across the country has increased over the last few years. In 2019, 523 cases of child marriage were reported; in 2020, it was 785; and in 2021, it was 1050.

"This clearly shows that stringent laws do not ensure gender justice," the politician said.

Those against such laws argue that the underlying issues that need to be addressed are grinding poverty and school drop-outs which lead to families marrying off their daughters early as it is one less mouth to feed. If girls are empowered, they will marry and chose partners on their own; till then, all such laws will remain misguided initiatives, they said.