

[AS INTRODUCED IN THE RAJYA SABHA
ON THE 11TH JULY, 2014]

Bill No. XX of 2013

THE PROHIBITION OF CHILD MARRIAGE
(AMENDMENT) BILL, 2013

A

BILL

to amend the Prohibition of Child Marriage Act, 2006.

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

1. (1) This Act may be called the Prohibition of Child Marriage (Amendment) Act, 2013. 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.

6 of 2007.

2. In the Prohibition of Child Marriage Act, 2006, (hereinafter referred to as the principal Act), for clause (a) of section 2, the following shall be substituted, namely,— Amendment of section 2.

"(a) Child means a person who, if a male, has not completed eighteen years of age and if a female, has not completed fifteen years of age."

Amendment
of section 3.

3. In section 3 of the principal Act for sub-section (*I*), the following be substituted, namely,—

Child marriage
to be valid at
the option of
the female
child.

“3. (*I*) Every child marriage whether solemnized before or after the commencement of the Act, shall be valid:

Provided that a petition for annulling a child marriage may be filed in the district court 5
by a female who was child at the time of marriage.”

STATEMENT OF OBJECTS AND REASONS

Child marriage or marriage of girls under eighteen, is rampant in India. As per the United Nations Children's Fund report, forty-seven per cent. of women in India, married before eighteen years of age and about forty per cent. of the child marriages take place in India. It is also a fact that most the countries with majority of muslims have legal age limits for female ranging from fifteen to seventeen years for marriage, as comparable to western countries. The age for boys is either the same or slightly higher. India has also set the legal age limit of eighteen for girls and the same is the case in many other countries. The law is difficult to enforce in rural areas where historical, cultural and economic factors often outweigh legal restrictions. Communities, irrespective of their religions feel that with the implementation of the Prohibition of Child Marriage Act, 2006, a large number of marriages in the country are fit to be annulled, and will have natural consequences on the lives of women ranging from inheritance of property to maintenance of families and children.

In Islam, intellectual and physical maturity and a women's credible permission are prerequisites for a marriage to be valid. The section 2 of the Muslim Personal Law (Shariat) Application Act, 1937 provides that in all questions regarding 'marriage' the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (Shariat). Even the Muslim Personal Law would be in conformity with making the age of marriage for girls under eighteen. The Delhi High Court has also upheld the right of a Muslim girl to contract marriage at the age of fifteen on the basis of the Mohammedan law. Therefore, there is a need to amend the Prohibition of Child Marriage Act, 2006 to give effect to the Muslim Personal Law or the Shariat and the judgement pronounced by the Delhi High Court.

Hence this Bill.

MOHAMMED ADEEB

ANNEXURE

EXTRACTS FROM THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

(6 OF 2007)

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Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "child" means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age;

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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.

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RAJYA SABHA

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BILL

to amend the Prohibition of Child Marriage Act, 2006.

(Shri Mohammed Adeb, M.P.)

GMGIPMRND—1067RS(S4)—11.07.2014.