



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड I

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 6]

नई दिल्ली, वृहस्पतिवार, जनवरी 11, 2007 / पौष 21, 1928

No. 6]

NEW DELHI, THURSDAY, JANUARY 11, 2007 / PAUSA 21, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 11th January, 2007/Pausa 21, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 10th January, 2007, and is hereby published for general information:—

THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

No. 6 OF 2007

[10th January, 2007.]

An Act to provide for the prohibition of solemnisation of child marriages and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Prohibition of Child Marriage Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir; and it applies also to all citizens of India without and beyond India:

Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

Short title,
extent and
commencement.

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;

(b) "child marriage" means a marriage to which either of the contracting parties is a child;

(c) "contracting party", in relation to a marriage, means either of the parties whose marriage is or is about to be thereby solemnised;

(d) "Child Marriage Prohibition Officer" includes the Child Marriage Prohibition Officer appointed under sub-section (1) of section 16;

(e) "district court" means, in any area for which a Family Court established under section 3 of the Family Courts Act, 1984 exists, such Family Court, and in any area for which there is no Family Court but a city civil court exists, that court and in any other area, the principal civil court of original jurisdiction and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act;

66 of 1984.

(f) "minor" means a person who, under the provisions of the Majority Act, 1875 is to be deemed not to have attained his majority.

9 of 1875.

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.

Provision for maintenance and residence to female contracting party to child marriage.

4. (1) While granting a decree under section 3, the district court may also make an interim or final order directing the male contracting party to the child marriage, and in case the male contracting party to such marriage is a minor, his parent or guardian to pay maintenance to the female contracting party to the marriage until her remarriage.

(2) The quantum of maintenance payable shall be determined by the district court having regard to the needs of the child, the lifestyle enjoyed by such child during her marriage and the means of income of the paying party.

(3) The amount of maintenance may be directed to be paid monthly or in lump sum.

(4) In case the party making the petition under section 3 is the female contracting party, the district court may also make a suitable order as to her residence until her remarriage.

Custody and maintenance of children of child marriages.

5. (1) Where there are children born of the child marriage, the district court shall make an appropriate order for the custody of such children.

(2) While making an order for the custody of a child under this section, the welfare and best interests of the child shall be the paramount consideration to be given by the district court.

(3) An order for custody of a child may also include appropriate directions for giving to the other party access to the child in such a manner as may best serve the interests of the child, and such other orders as the district court may, in the interest of the child, deem proper.

(4) The district court may also make an appropriate order for providing maintenance to the child by a party to the marriage or their parents or guardians.

6. Notwithstanding that a child marriage has been annulled by a decree of nullity under section 3, every child begotten or conceived of such marriage before the decree is made, whether born before or after the commencement of this Act, shall be deemed to be a legitimate child for all purposes.

Legitimacy of children born of child marriages.

7. The district court shall have the power to add to, modify or revoke any order made under section 4 or section 5 and if there is any change in the circumstances at any time during the pendency of the petition and even after the final disposal of the petition.

Power of district court to modify orders issued under section 4 or section 5.

8. For the purpose of grant of reliefs under sections 3, 4 and 5, the district court having jurisdiction shall include the district court having jurisdiction over the place where the defendant or the child resides, or where the marriage was solemnised or where the parties last resided together or the petitioner is residing on the date of presentation of the petition.

Court to which petition should be made.

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 male adult marrying a child.

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 solemnising a child marriage.

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:

Punishment for promoting or permitting solemnisation of child marriages.

Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised.

12. Where a child, being a minor—

(a) is taken or enticed out of the keeping of the lawful guardian; or

(b) by force compelled, or by any deceitful means induced to go from any place;

or

(c) is sold for the purpose of marriage; and made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes,

Marriage of a minor child to be void in certain circumstances.

such marriage shall be null and void.

Power of
court to issue
injunction
prohibiting
child
marriages.

13. (1) Notwithstanding anything to the contrary contained in this Act, if, on an application of the Child Marriage Prohibition Officer or on receipt of information through a complaint or otherwise from any person, a Judicial Magistrate of the first class or a Metropolitan Magistrate is satisfied that a child marriage in contravention of this Act has been arranged or is about to be solemnised, such Magistrate shall issue an injunction against any person including a member of an organisation or an association of persons prohibiting such marriage.

(2) A complaint under sub-section (1) may be made by any person having personal knowledge or reason to believe, and a non-governmental organisation having reasonable information, relating to the likelihood of taking place of solemnisation of a child marriage or child marriages.

(3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate may also take *suo motu* cognizance on the basis of any reliable report or information.

(4) For the purposes of preventing solemnisation of mass child marriages on certain days such as *Akshaya Trutiya*, the District Magistrate shall be deemed to be the Child Marriage Prohibition Officer with all powers as are conferred on a Child Marriage Prohibition Officer by or under this Act.

(5) The District Magistrate shall also have additional powers to stop or prevent solemnisation of child marriages and for this purpose, he may take all appropriate measures and use the minimum force required.

(6) No injunction under sub-section (1) shall be issued against any person or member of any organisation or association of persons unless the Court has previously given notice to such person, members of the organisation or association of persons, as the case may be, and has offered him or them an opportunity to show cause against the issue of the injunction:

Provided that in the case of any urgency, the Court shall have the power to issue an interim injunction without giving any notice under this section.

(7) An injunction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.

(8) The Court may either on its own motion or on the application of any person aggrieved, rescind or alter an injunction issued under sub-section (1).

(9) Where an application is received under sub-section (1), the Court shall afford the applicant an early opportunity of appearing before it either in person or by an advocate and if the Court, after hearing the applicant rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(10) Whoever knowing that an injunction has been issued under sub-section (1) against him disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both:

Provided that no woman shall be punishable with imprisonment.

Child
marriages in
contravention
of injunction
orders to be
void

14. Any child marriage solemnised in contravention of an injunction order issued under section 13, whether interim or final, shall be void *ab initio*.

Offence to be
cognizable and
non-bailable.

15. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable. 2 of 1974.

16. (1) The State Government shall, by notification in the Official Gazette, appoint for the whole State, or such part thereof as may be specified in that notification, an officer or officers to be known as the Child Marriage Prohibition Officer having jurisdiction over the area or areas specified in the notification.

Child Marriage
Prohibition
Officers.

(2) The State Government may also request a respectable member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any non-governmental organisation to assist the Child Marriage Prohibition Officer and such member, officer or office bearer, as the case may be, shall be bound to act accordingly.

(3) It shall be the duty of the Child Marriage Prohibition Officer—

(a) to prevent solemnisation of child marriages by taking such action as he may deem fit;

(b) to collect evidence for the effective prosecution of persons contravening the provisions of this Act;

(c) to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages;

(d) to create awareness of the evil which results from child marriages;

(e) to sensitize the community on the issue of child marriages;

(f) to furnish such periodical returns and statistics as the State Government may direct; and

(g) to discharge such other functions and duties as may be assigned to him by the State Government.

(4) The State Government may, by notification in the Official Gazette, subject to such conditions and limitations, invest the Child Marriage Prohibition Officer with such powers of a police officer as may be specified in the notification and the Child Marriage Prohibition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification.

(5) The Child Marriage Prohibition Officer shall have the power to move the Court for an order under sections 4, 5 and 13 and along with the child under section 3.

17. The Child Marriage Prohibition Officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Child Marriage
Prohibition
Officers to be
public servants.

18. No suit, prosecution or other legal proceedings shall lie against the Child Marriage Prohibition Officer in respect of anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of
action taken in
good faith.

19. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of State
Government
to make rules.

(2) Every rule made under this Act shall, as soon as may be after it is made, be laid before the State Legislature.

20. In the Hindu Marriage Act, 1955, in section 18, for clause (a), the following clause shall be substituted, namely:—

Amendment
of Act No. 25
of 1955.

"(a) in the case of contravention of the condition specified in clause (iii) of section 5, with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both".

Repeal and
savings.

21. (1) The Child Marriage Restraint Act, 1929 is hereby repealed.

19 of 1929.

(2) Notwithstanding such repeal, all cases and other proceedings pending or continued under the said Act at the commencement of this Act shall be continued and disposed of in accordance with the provisions of the repealed Act, as if this Act had not been passed.

K. N. CHATURVEDI,
Secy. to the Govt. of India.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

743]
743]

नई दिल्ली, शुक्रवार, मई 30, 2008/ज्येष्ठ 9, 1930
NEW DELHI, FRIDAY, MAY 30, 2008/JYAISTHA 9, 1930

गृह मंत्रालय
अधिसूचना

नई दिल्ली, 30 मई, 2008

का.आ. 1274(अ).—संविधान के अनुच्छेद 239 के खंड (1) के अनुसरण में, राष्ट्रपति एतद्वारा, निदेश देते हैं कि राष्ट्रपति के नियंत्रण के अधधीन और अगले आदेशों तक, प्रत्येक संघ राज्य क्षेत्र के प्रशासक (चाहे वे उप-राज्यपाल के रूप में जाने जाते हों अथवा प्रशासक के रूप में) अपने-अपने संघ राज्य क्षेत्रों के संबंध में, बाल विवाह निषेध अधिनियम, 2006 (2007 का 6) तथा उसके अंतर्गत बनाए गए नियमों के तहत राज्य सरकार की शक्तियों का प्रयोग करेंगे तथा उसके कार्यों का भी निर्वहन करेंगे।

[फा. सं. 11018/3/2008-यूटीएल]

बी. भामथी, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 30th May, 2008

S.O. 1274(E).—In pursuance of clause (1) of Article 239 of the Constitution, the President hereby directs that, subject to the control of the President and until further orders, the Administrator of every Union Territory (whether known as Lieutenant Governor or Administrator) in relation to their respective Union Territories shall also exercise the powers and discharge the functions of the State Government under the Prohibition of Child Marriage Act, 2006 (6 of 2007) and the rules made thereunder.

[F.No. 11018/3/2008-UTL]

B. BHAMATHI, Jt. Secy.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

1277]

नई दिल्ली, शनिवार, अक्टूबर 20, 2007/आश्विन 28, 1929

1277]

NEW DELHI, SATURDAY, OCTOBER 20, 2007/ASVINA 28, 1929

महिला एवं बाल विकास मंत्रालय

अधिसूचना

नई दिल्ली, 19 अक्टूबर, 2007

का.आ. 1786(अ).—बाल विवाह निषेध अधिनियम, 2006 (2007 का 6) के खण्ड 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार इसके द्वारा 1 नवम्बर, 2007 के दिन को ऐसी तारीख नियत करती है, जिससे उक्त अधिनियम हिमाचल प्रदेश राज्य में प्रवृत्त होगा।

[फा. सं. 10-5/2007-सीएम]

पी. बोलीना, संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD DEVELOPMENT
NOTIFICATION

New Delhi, the 19th October, 2007

S.O. 1786(E).—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Prohibition of Child Marriage Act, 2006 (6 of 2007), the Central Government hereby appoints the 1st day of November, 2007, as the date on which the said Act shall come into force in the State of Himachal Pradesh.

[F. No. 10-5/2007-CM]

P. BOLINA, Jt. Secy.

Law
40 copies
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Government of Kerala
കേരള സർക്കാർ
2008



Reg. No. രജി. നമ്പർ
KL/TV(N)/12/2006-2008

KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണ

PUBLISHED BY AUTHORITY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

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|-----------|---------------------|--------------------|-------|
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| വാല്യം 53 | Tuesday | 2008 മാർച്ച് 4 | 444 |
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| | ചൊവ്വ | 1929 ഫാൽഗുനം 14 | |

GOVERNMENT OF KERALA

Social Welfare (B) Department

NOTIFICATION

G. O. (P) No. 18/08/SWD. Dated, Thiruvananthapuram, -29th February, 2008.

S. R. O. No. 246/2008.—In exercise of the powers conferred by section 19 of the Prohibition of Child Marriage Act, 2006 (Central Act 6 of 2007), the Government of Kerala hereby make the following rules, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Kerala Prohibition of Child Marriage Rules, 2008.

(2) They shall come into force at once.

2. *Definitions.*—In these rules, unless the context otherwise requires,—

(a) "Act" means the Prohibition of Child Marriage Act, 2006 (Central Act 6 of 2007);

(b) "Child Marriage Prohibition Officer" means an Officer appointed as such by the State Government under sub-section (1) of section 16 of the Act;

(c) "Chief Child Marriage Prohibition Officer" means an Officer of the State Government entrusted with the duties and responsibilities under these rules;

(d) "Form" means a form annexed to these rules;

(e) "Police Officer" means an Officer in the State Police Department;

(f) "Section" means a section of the Act;

(g) "State Government" means the Government of Kerala;

(h) the words and expressions used in these rules but not defined shall have the meanings respectively assigned to them in the Act.

3. *Method of appointment, duties and functions of Child Marriage Prohibition Officer.*—(1) The State Government shall, by notification in the Gazette, appoint Child Marriage Prohibition Officers for such par. as may be specified in the notification.

(2) In addition to the duties and functions assigned to a Child Marriage Prohibition Officer under clauses (a) to (g) of sub-section (3) of section 16 of the Act, it shall be the duty of every Child Marriage Prohibition Officer—

(a) to act immediately upon any information of the solemnization of any child marriage that may be received through any mode of communication including written or oral i.e., through a letter, telephone, telegram, e-mail etc. or by any other means and forthwith initiate all necessary action;

(b) to furnish quarterly return and statistics to the Chief Child Marriage Prohibition Officer in Form I;

(c) to file petition for annulling a child marriage in the District Court in the case if the petitioner is a minor;

(d) to file petition before the District Court to pay maintenance to the female contracting party of the marriage until her remarriage;

(e) to file petition to the District Court for the custody and maintenance of children of the child marriage.

4. *Method of appointment, duties and functions of Chief Child Marriage Prohibition Officer.*—(1) The State Government shall, by notification in the Gazette designate a Senior Officer of the Social Welfare Department as the Chief Child Marriage Prohibition Officer to administer and co-ordinate the work relating to Child Marriage Prohibition throughout the State.

(2) The Chief Child Marriage Prohibition Officer shall co-ordinate the work of Child Marriage Prohibition Officers and shall be responsible for the proper performance of the child marriage prohibition work in the State.

(3) The Chief Child Marriage Prohibition Officer shall be responsible for the preparation and submission of an Annual Report on the progress of implementation of the Act and related matters and of such statistics as may be required from time to time by the State Government.

(4) In addition to the general duties of monitoring and supervision of the implementation of the provisions of the Act, it shall be the duty of the Chief Child Marriage Prohibition Officer—

(a) to exercise general control, superintendence and direction over all the Child Marriage Prohibition Officers so much as the implementation of the Act and Rules are concerned;

(b) to review periodically the functioning of Child Marriage Prohibition Officers across the State;

(c) to cause an annual status report on child marriage to be submitted to the State Government;

(d) to formulate schemes and programme for creating awareness, sensitizing the community and organize training to functionaries of the concerned Departments;

(e) to discharge such other functions and duties as may be assigned to him by the State Government;

(f) to convene an annual review and strategy conference on prevention of child marriage;

(g) to cause publication and wide circulation of the Act and Rules in Malayalam and English.

5. *Nodal Officer.*—(1) The District Collector shall be the Nodal Officer at the District Level for the purpose of implementation of the Act.

(2) The District Collector shall periodically review the implementation of the Act within the respective District and take all necessary measures for the proper and effective implementation of the Act.

6. *Procedure for filing Complaints.*—(1) A complaint/information to the Child Marriage Prohibition Officer may be filed/given by any person in any form, written, phone, e-mail etc.

(2) On receipt of a complaint/information under sub-rule (1) of this rule, the Child Marriage Prohibition Officer shall record it in Form II and conduct a brief enquiry.

(3) For the conduct of enquiry under sub-rule (2) of this rule, he shall have the powers of a Police Officer under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) for the purpose of investigation, summoning of parties and witnesses, recording of statement etc. for discharging his duties under the Act.

(4) All Station House Officers shall provide all such assistance to the Child Marriage Prohibition Officers in order to carry out his duties under the Act and Rules.

(5) Every Child Marriage Prohibition Officer shall submit his report in Form III to the concerned Judicial Magistrate of the First Class or the Chief Judicial Magistrate with his enquiry report.

7. *Production of Document.*—It is the duty of the accused party to furnish the relevant document to the satisfaction of the Court to prove that the parties in the marriage are not children as defined in clause (a) of section 2 of the Act.

FORM I

[See rule 3 (2) (b)]

Quarterly report under the Prohibition of Child Marriage Act, 2006

For the Quarter starting from.....to.....

Name of District :

Name and address of the Child Marriage
Prohibition Officer (with Phone No.) :

1. Total No. of complaints received :
2. Total No. of enquiries conducted :
3. Total No. of reports submitted to
Courts :
4. Total No. of Injunction Order received :
5. Total No. of violations made by parties :
6. Total No. of maintenance orders issued :
7. Total No. of punishment orders made :
8. Total No. of Child Marriage successfully
prevented :
9. Total No. of residence orders made
under section 4 :
10. Total No. of awareness programs
conducted :
11. Total No. of review meetings of
assistance conducted :
12. Any other information :

*Signature of the Child Marriage Prohibition
Officer with Date.*

(Seal)

FORM II

[See rule 6 (2)]

Child Marriage Information Report

1. Name and Address of the Complainant (with Phone No.)
2. Name and Address of the accused (with Phone No.)
 - (1)
 - (2)
3. Particulars of the report
 - a. Age and date of birth
 - b. Address
 - c. Present residence
 - d. Occupation
 - e. Education
 - f. Name and address of parents
 - g. Name and address of employer, if any
 - h. Any other relevant information
4. Short summary on the circumstances of the child marriage.
5. Any other information

*Signature of the Child Marriage Prohibition
Officer with Date.*

(Seal)

FORM III

[See rule 6 (5)]

Report of Child Marriage Prohibition Officer

Summary of First Information :

Relief required*

1. Under section 3 of the Act :
2. Under section 4 of the Act :
3. Under section 5 of the Act :
4. Under section 13 of the Act :

*Signature of the Child Marriage Prohibition
Officer with Date.*

(Seal)

List of Enclosures:

1. Age Certificate if any :
2. Copy of Complaint if any :
3.

* [Add separate sheet if required]

By order of the Governor,

DR. USHA TITUS,
Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Sub-section (1) of section 19 of the Prohibition of Child Marriage Act, 2006 (Central Act 6 of 2007) empowers the State Government to make rules for carrying out the purposes of the Act. Government have now decided to make rules.

This notification is intended to achieve the above purpose.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1330]
No. 1330]

नई दिल्ली, मंगलवार, अक्टूबर 30, 2007/कार्तिक 8, 1929
NEW DELHI, TUESDAY, OCTOBER 30, 2007/KARTIKA 8, 1929

महिला एवं बाल विकास मंत्रालय
अधिसूचना

नई दिल्ली, 30 अक्टूबर, 2007

का.आ. 1850(अ).—बाल विवाह निषेध अधिनियम, 2006 (2007 का 6) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार इसके द्वारा 1 नवम्बर, 2007 के दिन को ऐसी तारीख नियत करती है, जिससे उक्त अधिनियम प्रवृत्त होगा।

[फा. सं. 10-5/2007-सीएम]

पी. बोलीना, संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD DEVELOPMENT
NOTIFICATION

New Delhi, the 30th October, 2007

S.O. 1850(E).—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Prohibition of Child Marriage Act, 2006 (6 of 2007), the Central Government hereby appoints the 1st day of November, 2007, as the date on which the said Act shall come into force.

[F.No. 10-5/2007-सीएम]

P. BOLINA, Secy.

Kerala Gazette No. 32 dated 7th August, 2007.

PART I

Section i



GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 13945/Leg. Pbn.3/07/Law. *Dated, Thiruvananthapuram, 18th June 2007.*

The following Act of Parliament, published in the Gazette of India, Extraordinary, Part II, Section I, dated the 11th January, 2007 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 10th January, 2007.

By order of the Governor,

P. S. GOPINATHAN,
Law Secretary.

THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

(ACT No. 6 OF 2007)

AN

ACT

to provide for the prohibition of solemnisation of child marriages and for matters connected therewith or incidental thereto.

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

1. *Short title, extent and commencement.*—(1) This Act may be called the Prohibition of Child Marriage Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and it applies also to all citizens of India without and beyond India:

Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

2. *Definitions.*—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;

(b) “child marriage” means a marriage to which either of the contracting parties is a child;

(c) “contracting party”, in relation to a marriage, means either of the parties whose marriage is or is about to be thereby solemnised;

(d) “Child Marriage Prohibition Officer” includes the Child Marriage Prohibition Officer appointed under sub-section (1) of section 16;

(e) "district court" means, in any area for which a Family Court established under section 3 of the Family Courts Act, 1984 (66 of 1984) exists, such Family Court, and in any area for which there is no Family Court but a city civil court exists, that court and in any other area, the principal civil court of original jurisdiction and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act;

(f) "minor" means a person who, under the provisions of the Majority Act, 1875 (9 of 1875) is to be deemed not to have attained his majority.

3. *Child marriages to be voidable at the option of contracting party being a child.*—(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.

4. *Provision for maintenance and residence to female contracting party to child marriage.*—(1) While granting a decree under section 3, the district court may also make an interim or final order directing the male contracting party to the child marriage, and in case the male contracting party to such marriage is a minor, his parent or guardian to pay maintenance to the female contracting party to the marriage until her remarriage.

(2) The quantum of maintenance payable shall be determined by the district court having regard to the needs of the child, the lifestyle enjoyed by such child during her marriage and the means of income of the paying party.

(3) The amount of maintenance may be directed to be paid monthly or in lump sum.

(4) In case the party making the petition under section 3 is the female contracting party the district court may also make a suitable order as to her residence until her remarriage.

● *Custody and maintenance of children of child marriages.*—(1) Where there are children born of the child marriage, the district court shall make an appropriate order for the custody of such children.

(2) While making an order for the custody of a child under this section, the welfare and best interests of the child shall be the paramount consideration to be given by the district court.

(3) An order for custody of a child may also include appropriate directions for giving to the other party access to the child in such a manner as may best serve the interests of the child, and such other orders as the district court may, in the interest of the child, deem proper.

(4) The district court may also make an appropriate order for providing maintenance to the child by a party to the marriage or their parents or guardians.

6. *Legitimacy of children born of child marriages.*—Notwithstanding that a child marriage has been annulled by a decree of nullity under section 3, every child begotten or conceived of such marriage before the decree is made, whether born before or after the commencement of this Act, shall be deemed to be a legitimate child for all purposes.

7. *Power of district court to modify orders issued under section 4 or section 5.*—The district court shall have the power to add to, modify or revoke any order made under section 4 or section 5 and if there is any change in the circumstances at any time during the pendency of the petition and even after the final disposal of the petition.

8. *Court to which petition should be made.*—For the purpose of grant of reliefs under sections 3, 4 and 5, the district court having jurisdiction shall include the district court having jurisdiction over the place where the defendant or the child resides, or where the marriage was solemnised or where the parties last resided together or the petitioner is residing on the date of presentation of the petition.

9. *Punishment for male adult marrying a child.*—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.

10. *Punishment for solemnising a child marriage.*—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.

11. *Punishment for promoting or permitting solemnisation of child marriages.*—(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.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised.

12. *Marriage of a minor child to be void in certain circumstances.*—Where a child, being a minor—

(a) is taken or enticed out of the keeping of the lawful guardian; or

(b) by force compelled, or by any deceitful means induced to go from any place; or

(c) is sold for the purpose of marriage; and made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes,

such marriage shall be null and void.

13. *Power of court to issue injunction prohibiting child marriages.*—(1) Notwithstanding anything to the contrary contained in this Act, if, on an application of the Child Marriage Prohibition Officer or on receipt of information through a complaint or otherwise from any person, a Judicial Magistrate of the

first class of a Metropolitan Magistrate is satisfied that a child marriage in contravention of this Act has been arranged or is about to be solemnised, such Magistrate shall issue an injunction against any person including a member of an organisation or an association of persons prohibiting such marriage.

(2) A complaint under sub-section (1) may be made by any person having personal knowledge or reason to believe, and a non-governmental organisation having reasonable information, relating to the likelihood of taking place of solemnisation of a child marriage or child marriages.

(3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate may also take *suo motu* cognizance on the basis of any reliable report or information.

(4) For the purposes of preventing solemnisation of mass child marriages on certain days such as *Akshaya Trutiya*, the District Magistrate shall be deemed to be the Child Marriage Prohibition Officer with all powers as are conferred on a Child Marriage Prohibition Officer by or under this Act.

(5) The District Magistrate shall also have additional powers to stop or prevent solemnisation of child marriages and for this purpose, he may take all appropriate measures and use the minimum force required.

(6) No injunction under sub-section (1) shall be issued against any person or member of any organisation or association of persons unless the Court has previously given notice to such person, members of the organisation or association of persons, as the case may be, and has offered him or them an opportunity to show cause against the issue of the injunction:

Provided that in the case of any urgency, the Court shall have the power to issue an interim injunction without giving any notice under this section.

(7) An injunction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.

(8) The Court may either on its own motion or on the application of any person aggrieved, rescind or alter an injunction issued under sub-section (1).

(9) Where an application is received under sub-section (1), the Court shall afford the applicant an early opportunity of appearing before it either in person or by an advocate and if the Court, after hearing the applicant rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(10) Whoever knowing that an injunction has been issued under sub-section (1) against him disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both:

Provided that no woman shall be punishable with imprisonment.

14. *Child marriages in contravention of injunction orders to be void.*—Any child marriage solemnised in contravention of an injunction order issued under section 13, whether interim or final, shall be void *ab initio*.

15. *Offences to be cognizable and non-bailable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974) an offence punishable under this Act shall be cognizable and non-bailable.

16. *Child Marriage Prohibition Officers.*—(1) The State Government shall, by notification in the Official Gazette, appoint for the whole State, or such part thereof as may be specified in that notification, an officer or officers to be known as the Child Marriage Prohibition Officer having jurisdiction over the area or areas specified in the notification.

(2) The State Government may also request a respectable member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any non-governmental organisation to assist the Child Marriage Prohibition Officer and such member, officer or office bearer, as the case may be, shall be bound to act accordingly.

(3) It shall be the duty of the Child Marriage Prohibition Officer—

(a) to prevent solemnisation of child marriages by taking such action as he may deem fit;

(b) to collect evidence for the effective prosecution of persons contravening the provisions of this Act;

(c) to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages;

(d) to create awareness of the evil which results from child marriages;

(e) to sensitize the community on the issue of child marriages;

(f) to furnish such periodical returns and statistics as the State Government may direct; and

(g) to discharge such other functions and duties as may be assigned to him by the State Government.

(4) The State Government may, by notification in the Official Gazette,

subject to such conditions and limitations, invest the Child Marriage Prohibition Officer with such powers of a police officer as may be specified in the notification and the Child Marriage Prohibition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification.

(5) The Child Marriage Prohibition Officer shall have the power to move the Court for an order under sections 4, 5 and 13 and along with the child under section 3.

17. *Child Marriage Prohibition Officers to be public servants.*—The Child Marriage Prohibition Officers shall be deemed to be public servants within the meaning of section 21(45 of 1860) of the Indian Penal Code.

18. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Child Marriage Prohibition Officer in respect of anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

19. *Power of State Government to make rules.*—(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall, as soon as may be after it is made, be laid before the State Legislature.

20. *Amendment of Act No. 25 of 1955.*—In the Hindu Marriage Act, 1955, in section 18, for clause (a), the following clause shall be substituted, namely:—

"(a) in the case of contravention of the condition specified in clause (iii) of section 5, with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both".

21. *Repeal and savings.*—(1) The Child Marriage Restraint Act, 1929 (19 of 1929) is hereby repealed.

(2) Notwithstanding such repeal, all cases and other proceedings pending or continued under the said Act at the commencement of this Act shall be continued and disposed of in accordance with the provisions of the repealed Act, as if this Act had not been passed.

Kerala Gazette No. 32 dated 7th August, 2007.

PART I

Section i



GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 13945/Leg. Pbn.3/07/Law. Dated, Thiruvananthapuram, 18th June 2007.

The following Act of Parliament, published in the Gazette of India, Extraordinary, Part II, Section I, dated the 11th January, 2007 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 10th January, 2007.

By order of the Governor,

P. S. GOPINATHAN,
Law Secretary.

THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

(ACT No. 6 OF 2007)

AN

ACT

to provide for the prohibition of solemnisation of child marriages and for matters connected therewith or incidental thereto.

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

1. *Short title, extent and commencement.*—(1) This Act may be called the Prohibition of Child Marriage Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and it applies also to all citizens of India without and beyond India:

Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

2. *Definitions.*—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;

(b) “child marriage” means a marriage to which either of the contracting parties is a child;

(c) “contracting party”, in relation to a marriage, means either of the parties whose marriage is or is about to be thereby solemnised;

(d) “Child Marriage Prohibition Officer” includes the Child Marriage Prohibition Officer appointed under sub-section (1) of section 16;

(e) "district court" means, in any area for which a Family Court established under section 3 of the Family Courts Act, 1984 (66 of 1984) exists, such Family Court, and in any area for which there is no Family Court but a city civil court exists, that court and in any other area, the principal civil court of original jurisdiction and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act;

(f) "minor" means a person who, under the provisions of the Majority Act, 1875 (9 of 1875) is to be deemed not to have attained his majority.

3. *Child marriages to be voidable at the option of contracting party being a child.*—(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.

4. *Provision for maintenance and residence to female contracting party to child marriage.*—(1) While granting a decree under section 3, the district court may also make an interim or final order directing the male contracting party to the child marriage, and in case the male contracting party to such marriage is a minor, his parent or guardian to pay maintenance to the female contracting party to the marriage until her remarriage.

(2) The quantum of maintenance payable shall be determined by the district court having regard to the needs of the child, the lifestyle enjoyed by such child during her marriage and the means of income of the paying party.

(3) The amount of maintenance may be directed to be paid monthly or in lump sum.

(4) In case the party making the petition under section 3 is the female contracting party the district court may also make a suitable order as to her residence until her remarriage.

5. *Custody and maintenance of children of child marriages.*—(1) Where there are children born of the child marriage, the district court shall make an appropriate order for the custody of such children.

(2) While making an order for the custody of a child under this section, the welfare and best interests of the child shall be the paramount consideration to be given by the district court.

(3) An order for custody of a child may also include appropriate directions for giving to the other party access to the child in such a manner as may best serve the interests of the child, and such other orders as the district court may, in the interest of the child, deem proper.

(4) The district court may also make an appropriate order for providing maintenance to the child by a party to the marriage or their parents or guardians.

6. *Legitimacy of children born of child marriages.*—Notwithstanding that a child marriage has been annulled by a decree of nullity under section 3, every child begotten or conceived of such marriage before the decree is made, whether born before or after the commencement of this Act, shall be deemed to be a legitimate child for all purposes.

7. *Power of district court to modify orders issued under section 4 or section 5.*—The district court shall have the power to add to, modify or revoke any order made under section 4 or section 5 and if there is any change in the circumstances at any time during the pendency of the petition and even after the final disposal of the petition.

8. *Court to which petition should be made.*—For the purpose of grant of reliefs under sections 3, 4 and 5, the district court having jurisdiction shall include the district court having jurisdiction over the place where the defendant or the child resides, or where the marriage was solemnised or where the parties last resided together or the petitioner is residing on the date of presentation of the petition.

9. *Punishment for male adult marrying a child.*—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.

10. *Punishment for solemnising a child marriage.*—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.

11. *Punishment for promoting or permitting solemnisation of child marriages.*—(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.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised.

12. *Marriage of a minor child to be void in certain circumstances.*—Where a child, being a minor—

- (a) is taken or enticed out of the keeping of the lawful guardian; or
 - (b) by force compelled, or by any deceitful means induced to go from any place; or
 - (c) is sold for the purpose of marriage; and made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes,
- such marriage shall be null and void.

13. *Power of court to issue injunction prohibiting child marriages.*—(1) Notwithstanding anything to the contrary contained in this Act, if, on an application of the Child Marriage Prohibition Officer or on receipt of information through a complaint or otherwise from any person, a Judicial Magistrate of the

first class or a Metropolitan Magistrate is satisfied that a child marriage contravention of this Act has been arranged or is about to be solemnised, such Magistrate shall issue an injunction against any person including a member of an organisation or an association of persons prohibiting such marriage.

(2) A complaint under sub-section (1) may be made by any person having personal knowledge or reason to believe, and a non-governmental organisation having reasonable information, relating to the likelihood of taking place of solemnisation of a child marriage or child marriages.

(3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate may also take *suo motu* cognizance on the basis of any reliable report or information.

(4) For the purposes of preventing solemnisation of mass child marriages on certain days such as *Akshaya Trutiya*, the District Magistrate shall be deemed to be the Child Marriage Prohibition Officer with all powers as are conferred on a Child Marriage Prohibition Officer by or under this Act.

(5) The District Magistrate shall also have additional powers to stop or prevent solemnisation of child marriages and for this purpose, he may take all appropriate measures and use the minimum force required.

(6) No injunction under sub-section (1) shall be issued against any person or member of any organisation or association of persons unless the Court has previously given notice to such person, members of the organisation or association of persons, as the case may be, and has offered him or them an opportunity to show cause against the issue of the injunction:

Provided that in the case of any urgency, the Court shall have the power to issue an interim injunction without giving any notice under this section.

(7) An injunction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.

(8) The Court may either on its own motion or on the application of any person aggrieved, rescind or alter an injunction issued under sub-section (1).

(9) Where an application is received under sub-section (1), the Court shall afford the applicant an early opportunity of appearing before it either in person or by an advocate and if the Court, after hearing the applicant rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(10) Whoever knowing that an injunction has been issued under sub-section (1) against him disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both:

Provided that no woman shall be punishable with imprisonment.

14. *Child marriages in contravention of injunction orders to be void.*—Any child marriage solemnised in contravention of an injunction order issued under section 13, whether interim or final, shall be void *ab initio*.

15. *Offences to be cognizable and non-bailable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974) an offence punishable under this Act shall be cognizable and non-bailable.

16. *Child Marriage Prohibition Officers.*—(1) The State Government shall, by notification in the Official Gazette, appoint for the whole State, or such part thereof as may be specified in that notification, an officer or officers to be known as the Child Marriage Prohibition Officer having jurisdiction over the area or areas specified in the notification.

(2) The State Government may also request a respectable member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any non-governmental organisation to assist the Child Marriage Prohibition Officer and such member, officer or office bearer, as the case may be, shall be bound to act accordingly.

(3) It shall be the duty of the Child Marriage Prohibition Officer—

(a) to prevent solemnisation of child marriages by taking such action as he may deem fit;

(b) to collect evidence for the effective prosecution of persons contravening the provisions of this Act;

(c) to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages;

(d) to create awareness of the evil which results from child marriages;

(e) to sensitize the community on the issue of child marriages;

(f) to furnish such periodical returns and statistics as the State Government may direct; and

(g) to discharge such other functions and duties as may be assigned to him by the State Government.

(4) The State Government may, by notification in the Official Gazette,

subject to such conditions and limitations, invest the Child Marriage Prohibition Officer with such powers of a police officer as may be specified in the notification and the Child Marriage Prohibition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification.

(5) The Child Marriage Prohibition Officer shall have the power to move the Court for an order under sections 4, 5 and 13 and along with the child under section 3.

17. *Child Marriage Prohibition Officers to be public servants.*—The Child Marriage Prohibition Officers shall be deemed to be public servants within the meaning of section 21(45 of 1860) of the Indian Penal Code.

18. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Child Marriage Prohibition Officer in respect of anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

19. *Power of State Government to make rules.*—(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall, as soon as may be after it is made, be laid before the State Legislature.

20. *Amendment of Act No.25 of 1955.*—In the Hindu Marriage Act, 1955, in section 18, for clause (a), the following clause shall be substituted, namely:—

“(a) in the case of contravention of the condition specified in clause (iii) of section 5, with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both”.

21. *Repeal and savings.*—(1) The Child Marriage Restraint Act, 1929 (19 of 1929) is hereby repealed.

(2) Notwithstanding such repeal, all cases and other proceedings pending or continued under the said Act at the commencement of this Act shall be continued and disposed of in accordance with the provisions of the repealed Act, as if this Act had not been passed.

C P 74

ASSENTED TO
ON 10 JAN 2007
Act No.

~~Bill No. LVI F of 2004~~

THE PROHIBITION OF CHILD MARRIAGE BILL, 2006

(AS PASSED BY THE HOUSES OF PARLIAMENT)

BILL

to provide for the prohibition of solemnisation of child marriages and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Prohibition of Child Marriage Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir; and it applies also to all citizens of India without and beyond India:

Short title,
extent and
commencement.

Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

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;

(b) "child marriage" means a marriage to which either of the contracting parties is a child;

(c) "contracting party", in relation to a marriage, means either of the parties whose marriage is or is about to be thereby solemnised;

(d) "Child Marriage Prohibition Officer" includes the Child Marriage Prohibition Officer appointed under sub-section (1) of section 16;

(e) "district court" means, in any area for which a Family Court established under section 3 of the Family Courts Act, 1984 exists, such Family Court, and in any area for which there is no Family Court but a city civil court exists, that court and in any other area, the principal civil court of original jurisdiction and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act;

66 of 1984

(f) "minor" means a person who, under the provisions of the Majority Act, 1875 is to be deemed not to have attained his majority.

9 of 1875

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.

Provision for maintenance and residence to female contracting party to child marriage.

4. (1) While granting a decree under section 3, the district court may also make an interim or final order directing the male contracting party to the child marriage, and in case the male contracting party to such marriage is a minor, his parent or guardian to pay maintenance to the female contracting party to the marriage until her remarriage.

(2) The quantum of maintenance payable shall be determined by the district court having regard to the needs of the child, the lifestyle enjoyed by such child during her marriage and the means of income of the paying party.

(3) The amount of maintenance may be directed to be paid monthly or in lump sum.

(4) In case the party making the petition under section 3 is the female contracting party, the district court may also make a suitable order as to her residence until her remarriage.

Custody and maintenance of children of child marriages.

5. (1) Where there are children born of the child marriage, the district court shall make an appropriate order for the custody of such children.

(2) While making an order for the custody of a child under this section, the welfare and best interests of the child shall be the paramount consideration to be given by the district court.

(3) An order for custody of a child may also include appropriate directions for giving to the other party access to the child in such a manner as may best serve the interests of the child, and such other orders as the district court may, in the interest of the child, deem proper.

(4) The district court may also make an appropriate order for providing maintenance to the child by a party to the marriage or their parents or guardians.

6. Notwithstanding that a child marriage has been annulled by a decree of nullity under section 3, every child begotten or conceived of such marriage before the decree is made, whether born before or after the commencement of this Act, shall be deemed to be a legitimate child for all purposes.

Legitimacy of children born of child marriages.

7. The district court shall have the power to add to, modify or revoke any order made under section 4 or section 5 and if there is any change in the circumstances at any time during the pendency of the petition and even after the final disposal of the petition.

Power of district court to modify orders issued under section 4 or section 5.

8. For the purpose of grant of reliefs under sections 3, 4 and 5, the district court having jurisdiction shall include the district court having jurisdiction over the place where the defendant or the child resides, or where the marriage was solemnised or where the parties last resided together or the petitioner is residing on the date of presentation of the petition.

Court to which petition should be made.

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 male adult marrying a child.

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 solemnising a child marriage.

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:

Punishment for promoting or permitting solemnisation of child marriages

Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor child has contracted a marriage, the person having charge of such minor child has negligently failed to prevent the marriage from being solemnised.

12. Where a child, being a minor—

(a) is taken or enticed out of the keeping of the lawful guardian; or

(b) by force compelled, or by any deceitful means induced to go from any place:

or

(c) is sold for the purpose of marriage; and made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes.

Marriage of a minor child to be void in certain circumstances

such marriage shall be null and void.

Power of court to issue injunction prohibiting child marriages.

13. (1) Notwithstanding anything to the contrary contained in this Act, if, on an application of the Child Marriage Prohibition Officer or on receipt of information through a complaint or otherwise from any person, a Judicial Magistrate of the first class or a Metropolitan Magistrate is satisfied that a child marriage in contravention of this Act has been arranged or is about to be solemnised, such Magistrate shall issue an injunction against any person including a member of an organisation or an association of persons prohibiting such marriage.

(2) A complaint under sub-section (1) may be made by any person having personal knowledge or reason to believe, and a non-governmental organisation having reasonable information, relating to the likelihood of taking place of solemnisation of a child marriage or child marriages.

(3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate may also take *suo motu* cognizance on the basis of any reliable report or information.

(4) For the purposes of preventing solemnisation of mass child marriages on certain days such as *Akshaya Trutiya*, the District Magistrate shall be deemed to be the Child Marriage Prohibition Officer with all powers as are conferred on a Child Marriage Prohibition Officer by or under this Act.

(5) The District Magistrate shall also have additional powers to stop or prevent solemnisation of child marriages and for this purpose, he may take all appropriate measures and use the minimum force required.

(6) No injunction under sub-section (1) shall be issued against any person or member of any organisation or association of persons unless the Court has previously given notice to such person, members of the organisation or association of persons, as the case may be, and has offered him or them an opportunity to show cause against the issue of the injunction:

Provided that in the case of any urgency, the Court shall have the power to issue an interim injunction without giving any notice under this section.

(7) An injunction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.

(8) The Court may either on its own motion or on the application of any person aggrieved, rescind or alter an injunction issued under sub-section (1).

(9) Where an application is received under sub-section (1), the Court shall afford the applicant an early opportunity of appearing before it either in person or by an advocate and if the Court, after hearing the applicant rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(10) Whoever knowing that an injunction has been issued under sub-section (1) against him disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one lakh rupees or with both:

Provided that no woman shall be punishable with imprisonment.

Child marriages in contravention of injunction orders to be void.

14. Any child marriage solemnised in contravention of an injunction order issued under section 13, whether interim or final, shall be void *ab initio*.

Offences to be cognizable and non-bailable.

15. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable. 2 of 1974.

16. (1) The State Government shall, by notification in the Official Gazette, appoint for the whole State, or such part thereof as may be specified in that notification, an officer or officers to be known as the Child Marriage Prohibition Officer having jurisdiction over the area or areas specified in the notification.

Child Marriage
Prohibition
Officers.

(2) The State Government may also request a respectable member of the locality with a record of social service or an officer of the Gram Panchayat or Municipality or an officer of the Government or any public sector undertaking or an office bearer of any non-governmental organisation to assist the Child Marriage Prohibition Officer and such member, officer or office bearer, as the case may be, shall be bound to act accordingly.

(3) It shall be the duty of the Child Marriage Prohibition Officer—

(a) to prevent solemnisation of child marriages by taking such action as he may deem fit;

(b) to collect evidence for the effective prosecution of persons contravening the provisions of this Act;

(c) to advise either individual cases or counsel the residents of the locality generally not to indulge in promoting, helping, aiding or allowing the solemnisation of child marriages;

(d) to create awareness of the evil which results from child marriages;

(e) to sensitize the community on the issue of child marriages;

(f) to furnish such periodical returns and statistics as the State Government may direct; and

(g) to discharge such other functions and duties as may be assigned to him by the State Government.

(4) The State Government may, by notification in the Official Gazette, subject to such conditions and limitations, invest the Child Marriage Prohibition Officer with such powers of a police officer as may be specified in the notification and the Child Marriage Prohibition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification.

(5) The Child Marriage Prohibition Officer shall have the power to move the Court for an order under sections 4, 5 and 13 and along with the child under section 3.

17. The Child Marriage Prohibition Officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Child Marriage
Prohibition
Officers to be
public servants.

18. No suit, prosecution or other legal proceedings shall lie against the Child Marriage Prohibition Officer in respect of anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of
action taken in
good faith.

19. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of State
Government
to make rules.

(2) Every rule made under this Act shall, as soon as may be after it is made, be laid before the State Legislature.

20. In the Hindu Marriage Act, 1955, in section 18, for clause (a), the following clause shall be substituted, namely:—

Amendment
of Act No. 25
of 1955

"(a) in the case of contravention of the condition specified in clause (iii) of section 5, with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both".

Repeal and
savings.

21. (1) The Child Marriage Restraint Act, 1929 is hereby repealed.

19 of 1929.

(2) Notwithstanding such repeal, all cases and other proceedings pending or continued under the said Act at the commencement of this Act shall be continued and disposed of in accordance with the provisions of the repealed Act, as if this Act had not been passed.

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A

BILL

to provide for the prohibition of solemnisation of child marriages and for matters
connected therewith or incidental thereto.

(As passed by the Houses of Parliament)