

CHILD MARRIAGE RESTRAINT ACT, 1929

19 of 1929

[1st October, 1929]

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STATEMENT OF OBJECTS AND REASONS Act 2 of 1929.- The Child Marriage Restraint Act, 1929, was enacted with a view to prevent child marriages, namely, a marriage to which either of the contracting parties is under a specified age. Originally, the age limit for a male was eighteen years and for a female fourteen years. The age limit was subsequently raised in the case of females from fourteen to fifteen by the Amending Act 41 of 1949. Violation of the provisions of the Act is made punishable. 2. The question of increasing the minimum age of marriage for males and females has been considered in the present context when there is an urgent

need to check the growth of population in the country. Such increase of the minimum age of marriage will result in lowering the total fertility rate on account of latter span of married life. It will also result in more responsible parenthood and in better health of the mother and child. A Bill introduced for this purpose in the Lok Sabha on 25th August, 1976, lapsed with dissolution of the Lok Sabha on 18th January, 1977. The matter has been examined in all its aspects again. 3. The Bill seeks to amend the Child Marriage Restraint Act, 1929, to increase the minimum age of marriage from fifteen to sixteen for females and from eighteen to twenty-one for males and to make consequential amendments in the Hindu Marriage Act, 1955, and Christian Marriage Act, 1872. It is also being provided that offences under the Child Marriage Restraint Act may be investigated upon by a police officer under Code of Criminal Procedure, 1973 as if it were a cognizable offence. The police officer shall, however, not have the power to arrest without a warrant or an order of a Magistrate.- Gaz. of Ind., 15-12-1977, Pt. II, S. 2, Extra., p. 882.

1. Short title, extent and commencement :-

(1) This Act may be called The Child Marriage Restraint Act, ¹[1929].

²(2) It extends to the whole of India ³[except the State of Jammu and Kashmir]; and it applies also to all citizens of India without and beyond India.] ⁴ [Provided that nothing contained in the Act shall apply to the Renoncants of Union Territory of Pondicherry.]

(3) It shall come into force on the 1st day of April, 1930.

1. Substituted for the figures "1928" by the Repealing and Amending Act, 1930 (8 of 1930), S. 2 and Sch. I.

2. Substituted for sub-section (2), by A.L.O., 1950.

3. Substituted for the words "except Part B States" by the Part B States (Laws) Act 1951 (3 of 1951) S. 3 and Sch. [1-4-1951].

4. Proviso inserted by the Pondicherry (Extension of Laws) Act, 1968 (26 of 1968) S 3(1) and Sch Pt I [15-8-1968].

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

¹[(a) "child" means 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 to a marriage" means either of the parties whose marriage is ² [or is about to be] thereby solemnised; and

(d) "minor" means a person of either sex who is under eighteen years of age.

1. Substituted for Cl. (a) by the Child Marriage Restraint (Amendment) Act (2 of 1978), S. 2 (1-10-1978).

2. Inserted by the Child Marriage Restraint (Second Amendment) Act (19 of 1938), S. 2 [9-4-1938].

3. Punishment for male adult below twenty-one years of age marrying a child :-

Whoever, a male above eighteen years of age and below twenty-one, contracts a child marriage ¹ [shall be punishable with simple imprisonment which may extend to fifteen days, or with fine which may extend to one thousand rupees, or with both].

1. Substituted for the words "shall be punishable with fine which may extend to one thousand rupees", by the Child Marriage Restraint (Amendment) Act (41 of 1949), S. 3 [15-7-1949]

4. Punishment for male adult above twenty-one years of age marrying a child :-

Whoever, being a male above twenty-one years of age, contracts a child marriage shall be punishable with ¹ [simple imprisonment which may extend to three months and shall also be liable to fine.]

1. Substituted for the words "simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both" occurring in sections 4, 5 and 6 by the Child Marriage Restraint (Amendment) Act, 1949 (41 of 1949), S. 4 [15-7-1949].

5. Punishment for solemnising a child marriage :-

Whoever performs, conducts or directs any child marriage shall be punishable with ¹ [simple imprisonment which may extend to three months and shall also be liable to fine,] unless he proves that he had reason to believe that the marriage was not a child marriage.

1. See Foot-note under S. 4.

6. Punishment for parent or guardian concerned in a child marriage :-

(1) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punishable with ¹ [simple imprisonment which may extend to three months and shall also be liable to fine]: 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 has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised.

1. See Foot-note under section 4,

7. Offences to be cognizable for certain purposes :-

Code of Criminal Procedure, 1973 , shall apply to offences under this Act as if they were cognizable offences-

(a) for the purpose of investigation of such offences; and

(b) for the purposes of matters other than (i) matters referred to in section 42 of that Code, and (ii) the arrest of a person without a warrant or without an order of a Magistrate].

8. Jurisdiction under this Act :-

Notwithstanding anything contained in ¹[S.190 of Code of Criminal Procedure, 1973], no Court other than that of a ² [Metropolitan Magistrate or a Judicial Magistrate of the first class] shall take cognizance of, or try, any offence under this Act.

1. Substituted for the words "Code of Criminal Procedure, 1898" by the Child Marriage Restraint (Amendment) Act (2 of 1978), S. 4 [1-10-1978].

2. Substituted for the words "Presidency Magistrate or a Magistrate of the first class", the Child Marriage Restraint (Amendment) Act (2 of 1978), S. 4

9. Mode of taking cognizance of offence :-

No Court shall take cognizance of any offence under this Act after the expiry of one year from the date on which the offence is alleged to have been committed.]

10. Preliminary inquiries Into offences :-

Any Court, on receipt of a complaint of an offence of which it is authorised to take cognizance, shall, unless it dismisses the

complaint under ¹ [S.203 of Code of Criminal Procedure, 1973], either itself make an inquiry under section 202 of that Code or direct a Magistrate subordinate to it to make such inquiry.]

1. Substituted for words "Code of Criminal Procedure, 1898" by the Child Marriage Restraint (Amendment) Act (2 of 1978), S, 5 [1-10-1978]

11. Power to take security from complainant :-

Repealed by the Child Marriage Restraint (Amendment) Act, 1949 (41 of 1949), S. 7 [15-7-1949].]

12. Power to issue injunction prohibiting marriage in contravention of this Act :-

(1) Notwithstanding anything to the contrary contained in this Act, the Court may, if satisfied that information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnised, issue an injunction against any of the persons mentioned in section 3 , section 4 , section 5 and section 6 of this Act prohibiting such marriage,

(2) No injunction under sub-section (1) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction.

(3) The Court may either on its own motion or on the application of any person aggrieved rescind or alter any order made under sub-section (1).

(4) Where such an application is received, the Court shall afford the applicant an early opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(5) Whoever knowing that an injunction has been issued against him under sub-section (1) of this section disobeys such injunction shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both: Provided that no woman shall be punishable with imprisonment.]

13. Child Marriage Prevention Officers :-

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

Gazette, appoint for the whole State or for such part thereof as may be specified in that notification an officer to be known as Child Marriage Prevention Officer.

(2) It shall be the duty of the Child Marriage Prevention Officer-

(i) to prevent marriages being performed in contravention of the provisions of this Act by taking such action under this Act as he deems fit;

(ii) to collect evidence for the effective prosecutions of persons contravening provisions of this Act: and

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

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

(4) The State Government may associate with each Child Marriage Prevention Officer a non-official advisory body consisting of not more than five social welfare workers, of whom at least two shall be women workers known in the area within the jurisdiction of the officer for the purposes of advising and assisting him in the performance of his functions under this Act.

(5) The terms and conditions of appointment of persons on the advisory body shall be such as may be prescribed by rules."- Gujarat Act 11 of 1964, S.4 [15-7.1964].

13A. Officer appointed under the Act to be public servant :-

" The Child Marriage Prevention Officer appointed under section 13 shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 .

13B. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the Child Marriage Prevention Officer appointed under this Act in respect of anything in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder."- Gujarat Act 4 of 1973, S.2 [8-2-1973].

14. Power to make rules :-

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

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect." - Gujarat Act 11 of 1964, S. 4 [15-7-1964]

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