

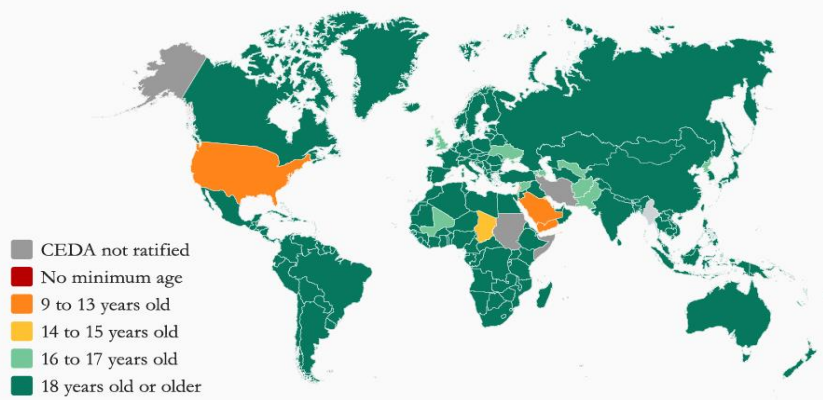


## Govt to rethink minimum marriage age for women

### Context:

- During the Independence Day Speech, PM announced that the central government has set up a committee to reconsider the minimum age of marriage for women.

### The minimum legal marriage age for girls worldwide



\* USA – Several places, including the state of Massachusetts in the United States, allow girls as young as 12 to get married in "exceptional circumstances" with the consent of a judge



Sources: World Policy Center, State Department



INDEPENDENT



- Currently, the law prescribes that the minimum age of marriage for men as 21 years and 18 and for women as 18 years.
- The minimum age of marriage is distinct from the **age of majority** which is gender-neutral. An individual attains the age of majority at 18 as per the Indian Majority Act, 1875.

### What is the committee that the Prime Minister mentioned in his speech?

- On June 2, the Union Ministry for Women and Child Development set up a task force to examine matters pertaining to age of motherhood, lowering Maternal Mortality Ratio and the improvement of nutritional levels among women.
- The task force will examine the correlation of age of marriage & motherhood with health, medical well-being, nutritional status of the mother & child.
- Headed by former Samata Party president **Jaya Jaitely**, the committee includes Member Health at the NITI Aayog, Dr Vinod Paul, and several Secretaries to the Government of India.

### Why is there a minimum age for marriage?

- The law prescribes a minimum age of marriage to essentially **outlaw child marriages** and prevent the abuse of minors.

19.08.2020

Wednesday



<http://www.sriramsias.com>

- Personal laws of various religions that deal with marriage have their own standards, often reflecting custom
- For Hindus, Section 5(iii) of **The Hindu Marriage Act, 1955**, sets 18 years as the minimum age for the bride and 21 years as the minimum age for the groom.
- However, child marriages are not illegal — even though they can be declared void at the request of the minor in the marriage.
- In Islam, the marriage of a minor who has attained puberty is considered valid.
- The **Special Marriage Act, 1954** and the **Prohibition of Child Marriage Act, 2006** also prescribe 18 and 21 years as the minimum age of consent for marriage for women and men respectively.
- Additionally, sexual intercourse with a minor is rape, and the **'consent' of a minor is regarded as invalid** since she is deemed incapable of giving consent at that age.

### How has the law evolved over years?

- The Indian Penal Code enacted in 1860 criminalised sexual intercourse with a girl below the age of 10.
- A legal framework for the age of consent for marriage in India only began in the 1880s.
- The provision of rape was amended in 1927 through **The Age of Consent Bill, 1927**, which declared that marriage with a girl under 12 would be invalid.
- In 1929, **The Child Marriage Restraint Act** set 16 and 18 years as the minimum age of marriage for girls and boys respectively.
- It was eventually amended in 1978 to prescribe 18 and 21 years as the age of marriage for a woman and a man respectively.

### How did freedom movement deal with these laws?

- **Conservative Stance:** The laws faced opposition from conservative leaders of the Indian National Movement, who saw the British intervention as an attack on Hindu customs.

19.08.2020

Wednesday



<http://www.sriramsias.com>

- **Progressive Stance:** However, there were other who propounded for increasing the age of consent so that education is not neglected for the sake of marriage.
- The Age of Consent Bill, 1927 is popularly known as the Sarda Act after its sponsor Harbilas Sarda, a judge and a member of Arya Samaj.

### Why is the law being relooked at?

- **To reduce the risks of early pregnancy** among women. Early pregnancy is associated with increased child mortality rates and affects the health of the mother.
- Despite laws mandating minimum age and criminalising sexual intercourse with a minor, child marriages are very prevalent in the country (estimated at 4.1 million in 2017).
- Making the age equal to that of men is in the spirit of right to equality.
- **Articles 14 and 21 of the Constitution** which guarantee the right to equality and the right to live with dignity, were violated by having different legal ages for men and women to marry.

### Conclusion:

- The minimum age of marriage, especially for women, has been a contentious issue. It is high time that the laws dealing with same are changed in the spirit of Constitutional values.