

# **THE PROHIBITION OF CHILD MARRIAGE ACT, 2006**

## **SUMMARY**

The Prohibition of Child Marriage Act, 2006 is a legal framework that seeks to prevent child marriages and protect the rights of children. It defines a child as any person who is below the age of 18 years for girls and 21 years for boys, and makes it illegal for any person to marry a child or for a child to be married. The Act imposes penalties on those who perform, promote, or participate in child marriages and provides for the annulment of child marriages. It also provides for the establishment of special courts to try offences under the Act and for the appointment of Child Marriage Prohibition Officers to prevent child marriages and protect the rights of children.

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### **Section 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; 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.

### **Simplified**

(1) The name of this law is the Prohibition of Child Marriage Act, 2006.

(2) This law is applicable everywhere in India and also to all Indian citizens living in other countries. However, this law does not apply to people who have given up their rights under French law in the Union territory of Pondicherry.

(3) The government will announce when this law will start to be enforced. The start date might be different for different states. When we talk about when this law starts, it means when it starts in each particular state.

Explanation using Example

Imagine a situation where an Indian couple living in Canada is arranging the marriage of their 15-year-old daughter. Despite being overseas, the Prohibition of Child Marriage Act, 2006, applies to them as they are citizens of India. The Act prohibits child marriages and is applicable to all Indian citizens, irrespective of where they live. Therefore, even though they are not in India, the couple must adhere to the Act, which means they cannot legally marry off their underage daughter.

## **Section 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.

### **Simplified**

This law is about preventing child marriages, and here's what some of the terms mean:

- (a) "child" is a boy under 21 years old or a girl under 18 years old.
- (b) "child marriage" is a marriage where at least one person getting married is a child.

(c) "contracting party" refers to a person who is getting married or is about to get married.

(d) "Child Marriage Prohibition Officer" is the person appointed to stop child marriages as per this law.

(e) "district court" is the court that handles these matters. It could be a Family Court, City Civil Court, or the main civil court in the area. The State Government can also name other courts to deal with these issues.

(f) "minor" is someone who is not old enough to be considered an adult by law, which usually means under 18 years old.

#### Explanation using Example

Imagine a situation where a 20-year-old man and a 17-year-old girl are being pressured by their families to get married. A concerned neighbor, aware of the Prohibition of Child Marriage Act, 2006, informs a Child Marriage Prohibition Officer about the planned wedding.

In this context, the Act defines the girl as a "child" because she has not completed eighteen years of age. The planned marriage is a "child marriage" since one of the "contracting parties," the girl, is a child. The Child Marriage Prohibition Officer, as defined in the Act, has the authority to take action to prevent the marriage and protect the girl's rights. The case could be brought before the "district court" as defined, which in this area might be the Family Court, to obtain a legal order to stop the marriage.

### **Section 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.

## STATE AMENDMENT

Karnataka

Substitution of section 3

In the Prohibition of Child Marriage Act, 2006 (Central Act 6 of 2007) (hereinafter referred to as the principal Act), In section 3, after sub - section (1) the following shall be inserted, namely; -

"(1A) Notwithstanding anything contained in sub - section (1) every child marriage solemnized on or after the date of coming into force of the Prohibition of Child Marriage (Karnataka Amendment) Act, 2016 shall be void abinitio".

Vide Karnataka Act 26 of 2017, s. 2.

## Simplified

Simplified Explanation of The Prohibition of Child Marriage Act, 2006 - Section 3

**Voidable Marriages:** If you were a child when you got married, you can choose to cancel (annul) this marriage. This is true whether you got married before or after this law started. To annul the marriage, you must file a legal request in the district court.

**Filing by Minors:** If you are still under 18 when you want to file the request, you need an adult, like a guardian or a "next friend," to file it for you. A Child Marriage Prohibition Officer can also help you file it.

**Time Limit for Filing:** You must file the petition to annul the marriage before you turn two years older than the legal adult age.

**Returning Gifts and Money:** When the court annuls the marriage, it will also order that any gifts or money exchanged during the marriage be returned to the person who gave them, or their family. This will only happen after the people involved are notified and given the chance to explain why it should not happen.

**State Amendment - Karnataka:** In Karnataka, there's an additional rule. Any child marriage that happened after a specific law change in 2016 is completely void from the start, which means it's as if it never happened.

**Explanation using Example**

Imagine a scenario where a girl named Priya was married at the age of 15 in a rural village. The marriage was arranged by her parents, and she was not given a choice in the matter. After the marriage, Priya learns about her rights and the Prohibition of Child Marriage Act, 2006. Now at the age of 18, Priya decides she wants to annul the marriage. Since she was a child at the time of her marriage, she has the right to file a petition in the district court to declare her marriage voidable.

Priya approaches the district court, and because she is still considered a minor until she turns 18, she files the petition through her guardian. The Child Marriage Prohibition Officer also supports her case. The court accepts her petition and proceeds with the necessary legal process.

The court must decide on the case before Priya turns 20, which is two years after attaining majority, as per the Act's stipulations. During the proceedings, the court orders Priya's husband and his family to return all the gifts and valuables that were exchanged during the wedding. Similarly, Priya's family is ordered to return the gifts and valuables they received.

In the state of Karnataka, if Priya's marriage had taken place after the enforcement of the Prohibition of Child Marriage (Karnataka Amendment) Act, 2016, her marriage would be considered void ab initio, meaning it would be treated as invalid from the outset.

**Section 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.

### **Simplified**

(1) When a court decides to end a child marriage based on Section 3, it can also order the man involved in the marriage to provide financial support (maintenance) to the woman. If the man is underage, the court can order his parent or guardian to pay this support. This financial support will continue until the woman gets married again.

(2) The court will decide how much money should be paid for this support. It will look at what the child needs, the standard of living she had during the marriage, and how much money the person paying the support has.

(3) The court can order that the financial support be paid every month or in one large payment.

(4) If the woman is the one asking the court to end the marriage, the court can also decide where she will live until she gets married again.

### Explanation using Example

Imagine a 16-year-old girl named Priya who was married to a 21-year-old man named Rohan. The marriage is recognized as a child marriage under Indian law because Priya is a minor. Priya approaches the district court to have the marriage annulled under Section 3 of The Prohibition of Child Marriage Act, 2006.

While the court processes her annulment petition, it also considers her immediate financial needs. The court orders Rohan to provide interim maintenance to Priya, considering that she has no personal income and was dependent on Rohan during their marriage. The court determines the amount based on the standard of living Priya had while married and Rohan's income.

The court decides that Rohan must pay a monthly sum to Priya until she remarries, ensuring her financial stability. Alternatively, the court could have ordered a lump sum payment, but in this scenario, it chose a monthly arrangement.

Additionally, since Priya is the one petitioning for annulment and has nowhere else to go after leaving Rohan's house, the court arranges for her to reside in a safe shelter until she can support herself or until she remarries.

### **Section 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.

### **Simplified**

(1) If a child marriage results in children, the local district court will decide who should take care of the children.

(2) When the court decides who gets custody of the children, the most important thing is what is best for the children's well-being and interests.

(3) The court's decision about who cares for the children can also include instructions for when and how the other parent can see the children. The court will do what it thinks is best for the children.



(4) The court can also order that the child receive financial support from the people who were married or from the child's parents or guardians.

Explanation using Example

Imagine a situation where a 16-year-old girl named Priya was married to a 22-year-old man named Arjun. Two years into the marriage, Priya, now 18, seeks an annulment of her child marriage. They have a one-year-old daughter, Aisha. The court, while annulling the marriage, uses Section 5 of The Prohibition of Child Marriage Act, 2006, to decide the custody of Aisha.

The district court, keeping Aisha's welfare as the paramount consideration, grants custody to Priya, who is now legally considered an adult and has a stable job and living conditions. The court also arranges for Arjun to have regular visitation rights, ensuring Aisha's opportunity to have a relationship with her father. Additionally, the court orders Arjun to provide child support to assist with Aisha's upbringing, thereby applying the provisions of the act to ensure the child's best interests are met post-annulment of the child marriage.

### **Section 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.

#### **Simplified**

Even if a child's marriage is cancelled by a court order according to section 3, any children who were born or conceived in that marriage before the court order, no matter if they were born before or after this law started, are considered to be legitimate children in every way.

Explanation using Example

Let's say a girl named Riya, who is 15 years old, was married to Arjun, who is 22 years old. This marriage is a child marriage because Riya is a minor. The marriage is later annulled by a court decree under section 3 of The Prohibition of Child Marriage Act, 2006, because it's illegal. However, before the annulment, Riya became pregnant and had a baby. According to Section 6 of the Act, even though the marriage is annulled, the baby is considered legitimate for all legal purposes. This means the child has the same rights as

any child born to legally married parents, such as the right to inherit property from both Riya and Arjun.

### **Section 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.

#### **Simplified**

A district court can change, update, or cancel any decision it previously made regarding child marriage (under sections 4 or 5 of the law), if the situation changes at any point while the legal case is ongoing or even after the case has been resolved.

#### **Explanation using Example**

Imagine a scenario where a 17-year-old girl, named Priya, was married off by her parents. After the marriage, she learns about her rights and approaches the district court for an annulment under Section 3 of The Prohibition of Child Marriage Act, 2006. The court, considering her plea, issues an order under Section 4, providing for her custody and maintenance. A year passes, and Priya's circumstances change as she turns 18 and gains employment. She can now support herself financially. Consequently, she requests the court to modify the maintenance order, as she no longer requires financial support from her parents. Under Section 7, the district court has the authority to modify the previous order to reflect Priya's new circumstances, even though the original petition has already been disposed of.

### **Section 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.

#### **Simplified**

When someone is seeking help or remedies under sections 3, 4, and 5 of this law, which are about stopping child marriages and protecting the children involved, they can go to a district court. The right district court can be one of several places:

Where the person they are taking to court (the defendant) lives,

Where the child involved in the marriage lives,

Where the marriage happened,

Where the two parties (the couple) lived together before,

Or where the person asking for help (the petitioner) is living when they ask the court for help.

Explanation using Example

Imagine a scenario where a 15-year-old girl, Priya, was married off in a village in Rajasthan, but she currently resides in Delhi. Priya wants to seek relief under The Prohibition of Child Marriage Act, 2006, because her marriage was a child marriage and illegal. According to Section 8 of the Act, she can approach the district court in Delhi (where she currently resides) for relief, even though her marriage took place in Rajasthan. This provision ensures that Priya does not have to travel back to Rajasthan to file her case and can seek justice from a court that is more accessible to her.

### **Section 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.

STATE AMENDMENT

Karnataka

Amendment of section 9

In section 9 of the principal Act, for the words "be punishable with rigorous imprisonment which may extend to two years", the words "be punishable with rigorous imprisonment of not less one year which may extend up to two years" shall be substituted.

Vide Karnataka Act 26 of 2017, s. 3.

## Simplified

If a man over 18 years old gets married to a child (someone under 18), he can be sent to jail for up to two years or fined up to 1 lakh rupees (100,000 rupees), or both.

### STATE AMENDMENT

Karnataka

In the state of Karnataka, the law has been changed. Now, if a man over 18 marries a child, he must be jailed for at least one year, but the jail time can go up to two years.

This change was made by the Karnataka Act 26 of 2017, section 3.

### Explanation using Example

Imagine a scenario where a 22-year-old man named Arjun marries a 15-year-old girl named Priya in a small town in Karnataka. Despite being aware that Priya is underage, Arjun proceeds with the marriage ceremony. A local NGO working against child marriage learns about this and reports the marriage to the authorities.

Under the Prohibition of Child Marriage Act, 2006, Arjun has committed an offence by contracting a child marriage. Given the Karnataka amendment to Section 9 of the Act, Arjun is liable for a more stringent punishment than the original Act prescribes. Instead of the possibility of a shorter sentence, he now faces a mandatory minimum of one year of rigorous imprisonment, which could extend up to two years, and may also be liable to a fine of up to one lakh rupees.

### **Section 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.

### STATE AMENDMENT

Karnataka

Amendment of section 10

In section 10 of the principal Act, for the words "be punishable with rigorous imprisonment which may extend to two years", the words "be punishable with rigorous imprisonment of not less than one year which may extend up to two years" shall be substituted.

Vide Karnataka Act 26 of 2017, s. 4.

### **Simplified**

If someone is involved in a child marriage by performing, conducting, leading, or helping in any way, they can be sent to jail for up to two years and also have to pay a fine of up to one lakh rupees (100,000 rupees). However, they can avoid punishment if they can show that they truly believed the marriage did not involve children.

### **STATE AMENDMENT**

Karnataka

Change to section 10

In the state of Karnataka, the law has been changed. Now, anyone involved in a child marriage must be jailed for at least one year, but the jail time can go up to two years.

This change was made by the Karnataka Act 26 of 2017, section 4.

### **Explanation using Example**

Imagine a village festival where a local community leader is overseeing a marriage ceremony. The bride is 14 years old and the groom is 22. The police raid the ceremony and arrest the community leader for conducting a child marriage, which is illegal. Under Section 10 of The Prohibition of Child Marriage Act, 2006, the community leader is charged and faces up to two years of rigorous imprisonment and a fine up to one lakh rupees. However, if this occurred in Karnataka after the state amendment, the leader would face a minimum of one year of rigorous imprisonment, which could extend to two years, as per the stricter Karnataka amendment of the Act.

### **Section 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.

STATE AMENDMENT Karnataka

Amendment of section 11

In section 11 of the principal Act, in sub-section (1), -

(a) for the words "be punishable with rigorous imprisonment which may extend to two years", the words "be punishable with a rigorous imprisonment of not less than one year which may extend up to two years" shall be substituted.

(b) proviso shall be omitted.

Vide Karnataka Act 26 of 2017, s. 5.

### **Simplified**

If a child gets married, anyone responsible for the child, like a parent or guardian, or any other person in a different role, legally or not, or any member of a group who helps the marriage happen, lets it go ahead, or doesn't try to stop it, including those who attend or participate in the marriage, can be sent to jail for up to two years and fined up to one lakh rupees. But, no woman will be sent to jail for this.

In cases where a child marriage has occurred, it will be assumed that the person responsible for the child did not do enough to stop the marriage, unless they can show evidence to prove otherwise.

STATE AMENDMENT Karnataka

Changes to section 11

In Karnataka, the law has been changed:

(a) Instead of "up to two years", the jail time now must be "at least one year and can go up to two years".

(b) The part that says "no woman will be sent to jail" has been removed.

This change is from the Karnataka Act 26 of 2017, section 5.

#### Explanation using Example

Imagine a scenario where a local community leader is aware that a 15-year-old girl is about to be married off in his village. Despite knowing that this constitutes a child marriage under The Prohibition of Child Marriage Act, 2006, he not only fails to take any steps to prevent the marriage but also attends the ceremony. Under Section 11 of the Act, this community leader could be charged for promoting and negligently failing to prevent the child marriage. As a result, he could face rigorous imprisonment of up to two years and a fine of up to one lakh rupees.

In the state of Karnataka, the same community leader would face a minimum of one year of rigorous imprisonment due to the state amendment which removes the possibility of not being imprisoned and omits the provision that no woman shall be punishable with imprisonment.

### **Section 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.

#### **Simplified**

If a child who is not yet an adult:

(a) is taken away or convinced to leave the care of their legal guardian; or

(b) is forced or tricked into leaving a place; or

(c) is sold to be married, or is put through a marriage ceremony, and then is sold, trafficked, or used for immoral activities,

then such a marriage is considered completely invalid and not legally recognized.

#### Explanation using Example

Imagine a scenario where a 15-year-old girl named Priya is living with her aunt and uncle after her parents passed away. One day, a man named Rohan, who is known to her uncle, comes to their house and convinces her uncle that he will provide Priya with a good life and education if she marries him. Trusting Rohan, her uncle agrees, and Priya is taken to another town where she is married to Rohan in a small ceremony.

After the marriage, it becomes clear that Rohan's intentions were deceitful as he starts to mistreat Priya and forces her to work in his family's business without pay. A concerned neighbor, who learns about Priya's situation, informs a local NGO that works against child marriage. The NGO takes action by approaching the court, citing Section 12 of The Prohibition of Child Marriage Act, 2006.

The court reviews the case and finds that Priya was indeed enticed out of the keeping of her lawful guardian and was induced to go through a form of marriage under deceitful means. As per the provisions of Section 12, the court declares the marriage between Priya and Rohan null and void, freeing Priya from the unlawful marriage and allowing legal action against Rohan for the violation of the Act.

### **Section 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 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 suomotu 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 AkshayaTrutiya, 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.

STATE AMENDMENT

Karnataka

Amendment of section 13

In section 13 of the principal Act, in sub-section (10), -

(a) for the words "of either description for a term which may extend to two years", the words with a minimum term of one year, which may extent up to two years" shall be substituted.

(b) proviso shall be omitted.

Vide Karnataka Act 26 of 2017, s. 6.

### **Simplified**

Simplified Explanation of Section 13 of The Prohibition of Child Marriage Act, 2006

(1) Even if this law says something different, if a Child Marriage Prohibition Officer or anyone else informs a local judge that a child marriage is being planned or is about to happen, the judge can order people to not go through with the marriage.

(2) Anyone who knows about a child marriage that's likely to happen can report it. This includes individuals and non-profit organizations.

(3) The judge can also start an investigation on their own if they hear about a child marriage from a trustworthy source.

(4) On days when many child marriages might occur, the District Magistrate has the same power as a Child Marriage Prohibition Officer to stop them.

(5) The District Magistrate can also take strong actions to prevent child marriages and can use force if necessary.

(6) Before a court stops someone from marrying a child, that person must be told and given a chance to explain why they shouldn't be stopped. But, if there's an emergency, the court can order them to stop without warning.

(7) A court can decide to keep or cancel the order to stop the marriage after hearing from the person it was made against.

(8) A court can change or cancel the order to stop the marriage on its own or if someone affected by it asks.

(9) If someone asks the court to stop a marriage, the court must quickly let them explain why. If the court doesn't agree, it must write down why not.

(10) If someone ignores the court's order to stop the marriage, they can be jailed for up to two years, fined up to one lakh rupees, or both. However, women cannot be jailed for this.

### State Amendment in Karnataka

In Karnataka, they've made changes to this section:

(a) Instead of "up to two years" of jail, now there's a minimum of one year, which can go up to two years.

(b) The part that says women can't be jailed has been removed.

This change was made by Karnataka Act 26 of 2017, section 6.

### Explanation using Example

Imagine a small town where a local non-governmental organization (NGO) learns that a family is planning to marry off their 14-year-old daughter in the coming week. The NGO, aware of The Prohibition of Child Marriage Act, 2006, approaches the court with this information. Acting on the NGO's complaint, the Judicial Magistrate issues an injunction against the family, prohibiting the marriage.

The Magistrate also gives notice to the family to appear in court and present their case. Despite the injunction, the family tries to proceed with the wedding. As a result, the authorities intervene, and the persons responsible are arrested and may face imprisonment of up to two years and a fine, as per the law.

In this scenario, the law is applied to prevent a child marriage by empowering local authorities and the judiciary to take immediate and effective action to stop the illegal act.

### **Section 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.

### **Simplified**

If a child marriage takes place after the court has ordered it not to happen, either temporarily or permanently, that marriage is considered completely invalid from the start.

### **Section 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.

#### STATE AMENDMENT

Karnataka

Insertion of new section 15A

In the principal Act, after section 15, the following shall be inserted, namely:

"15A Police Officer to take cognizance of an offence suo motto"

Every Police Officer shall take cognizance of an offence committed in his jurisdiction under this Act, suo motto.

Vide Karnataka Act 26 of 2017, s. 7.

#### **Simplified**

Despite what is stated in the Code of Criminal Procedure from 1973, any crime under the Prohibition of Child Marriage Act, 2006, can be acted upon by the police immediately without a warrant (cognizable), and the person arrested cannot be released on bail easily (non-bailable).

#### STATE AMENDMENT

Karnataka

A new section, 15A, has been added to the main Act, which says:

"15A Police Officer to take action on their own initiative"

Police officers must independently recognize and act on any offences related to child marriage that happen within their area of duty.

This change was made by the Karnataka state government in 2017.

Explanation using Example

Imagine a situation where a local community is planning to marry off a 14-year-old girl. A neighbor, aware that child marriage is illegal, reports this to the police. Under Section 15 of The Prohibition of Child Marriage Act, 2006, the police can immediately take action without a warrant because the offence is cognizable and non-bailable. This means the police have the authority to arrest the individuals responsible for arranging the child marriage without needing prior approval from a court.

In the state of Karnataka, due to the state amendment inserting section 15A, if a police officer in Karnataka becomes aware of such an offence within their jurisdiction, they are mandated to take cognizance of the offence on their own initiative (*suo motto*). So, if a police officer in Karnataka comes across an invitation to a child marriage or hears about it from sources other than a formal complaint, they are required to act against it immediately.

### **Section 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.

### **Simplified**

- (1) The government of each state will appoint one or more officials, called Child Marriage Prohibition Officers, to oversee and prevent child marriages in specified areas of the state.
- (2) The state can also ask respected community members, local government officials, government employees, public sector workers, or members of non-profit organizations to help the Child Marriage Prohibition Officers. Those asked to help must do so.
- (3) The main responsibilities of the Child Marriage Prohibition Officer include:
- (a) Stopping child marriages from happening.
  - (b) Gathering evidence to prosecute those breaking the law against child marriage.
  - (c) Advising and educating people not to support child marriages.
  - (d) Raising awareness about the harm caused by child marriages.
  - (e) Making the community more aware of the issues related to child marriages.
  - (f) Providing regular reports and statistics to the state government.
  - (g) Performing any other tasks the state government assigns.

(4) The state government can give the Child Marriage Prohibition Officer certain police powers, as long as they follow any conditions and limitations set by the government.

(5) The Child Marriage Prohibition Officer has the authority to ask the court to take action against child marriages and protect the children involved.

#### Explanation using Example

Imagine a village where it is common for girls to be married before the age of 18. Concerned about this practice, the State Government appoints a Child Marriage Prohibition Officer (CMPO) for the region. The officer receives a tip that a local family is planning to marry off their 15-year-old daughter. Acting on this information, the CMPO intervenes to prevent the marriage by informing the family of the legal consequences and the harms of child marriage.

Additionally, the CMPO enlists the help of a respected village elder who has been active in social work to spread awareness. Together, they organize community meetings to educate the villagers about the negative impacts of child marriages on health, education, and children's rights.

The CMPO also gathers evidence of the planned marriage to ensure that if the family proceeds against the law, there is sufficient proof for prosecution. By performing these duties, the CMPO works towards eradicating the practice of child marriages in the village, as mandated by the Prohibition of Child Marriage Act, 2006.

### **Section 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 of the Indian Penal Code (45 of 1860).

#### **Simplified**

Officers who work to prevent child marriages are considered to be government employees, as defined by a law from 1860 called the Indian Penal Code.

#### Explanation using Example

Imagine a situation where a local community member notices that a child marriage is being planned in their neighborhood. They decide to report this to the appointed Child Marriage Prohibition Officer (CMPO) in their district. Upon receiving the report, the CMPO takes action to investigate and prevent the marriage from taking place. In doing so, the CMPO is required to act in

accordance with the law, and their actions are protected under Section 17 of The Prohibition of Child Marriage Act, 2006. This means that while performing their duties, the CMPO is considered a public servant, similar to a police officer, and is afforded the same legal protections and obligations under the Indian Penal Code. This status helps ensure that the CMPO can carry out their duties without undue influence or threat, as any harm or obstruction caused to them in the execution of their duties could lead to legal consequences under laws applicable to public servants.

### **Section 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.

#### **Simplified**

A Child Marriage Prohibition Officer cannot be sued or legally charged for actions taken in an honest effort to follow the rules of the Child Marriage Act. This protection applies as long as the officer believes they are doing the right thing under the law.

#### **Explanation using Example**

Imagine a scenario where a Child Marriage Prohibition Officer (CMPO) conducts a raid on a location where a child marriage is about to take place. The CMPO takes action to prevent the marriage and rescues the minor. The family of the child, upset with the interference, decides to sue the CMPO for disrupting what they consider a family event. In this case, Section 18 of The Prohibition of Child Marriage Act, 2006, protects the CMPO from any legal suit, prosecution, or other legal proceedings, as long as the actions taken by the CMPO were in good faith and in line with the powers granted by the Act to prevent child marriages.

### **Section 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.

#### **Simplified**



(1) The government of each state has the power to create specific guidelines to help enforce this law, and they will announce these guidelines publicly.

(2) After these guidelines are created, they must be presented to the state's law-making body as soon as possible for review.

#### Explanation using Example

Imagine the government of the state of X wants to implement a new procedure for reporting child marriages to the authorities. To do this, they need to create specific guidelines that align with The Prohibition of Child Marriage Act, 2006. According to Section 19(1), the state government has the authority to establish these rules by releasing an official notification in the Gazette.

Once these rules are made, Section 19(2) requires that they be presented to the state legislature. This could mean that, after the government of state X has drafted the new reporting procedure, it must then submit these rules to the legislative body of the state. The legislature will review the rules to ensure they are in accordance with the law and the constitution before they are enforced.

#### **Section 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".

#### **Simplified**

This text updates a part of the Hindu Marriage Act, 1955. Specifically, it changes the punishment in Section 18, Clause (a), related to breaking a certain rule in Section 5, Clause (iii). Now, if someone breaks this rule:

They could face strict jail time of up to two years, or a fine up to one lakh rupees (100,000 rupees), or both the jail time and the fine.

#### Explanation using Example

Imagine a situation where a 20-year-old man marries a 15-year-old girl in a traditional Hindu ceremony. This act violates the condition specified in clause (iii) of section 5 of the Hindu Marriage Act, 1955, which requires the bride to be at least 18 years of age at the time of marriage. As a result of this

violation, under the amended section 18 of the Hindu Marriage Act, 1955, as per Section 20 of The Prohibition of Child Marriage Act, 2006, the man could potentially face rigorous imprisonment for up to two years, a fine of up to one lakh rupees, or both, for marrying a minor.

### **Section 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.

### **Simplified**

(1) The old law called the Child Marriage Restraint Act from the year 1929 is now cancelled and no longer in effect.

(2) Even though this old law is cancelled, any legal cases or actions that started under it before the new law came into effect will still go on and be finished as per the old law's rules, just as if the new law didn't exist.

### **Explanation using Example**

Imagine a situation where a child marriage was reported and a case was filed under the Child Marriage Restraint Act, 1929, just before the Prohibition of Child Marriage Act, 2006 came into effect. Even though the old law (Child Marriage Restraint Act, 1929) has been repealed by the new law, the case will still be processed and judged according to the old law's provisions, as if the new Act had not been passed. This ensures that there is no legal loophole or escape for those who committed the act when the old law was still in force.