

Criminology

CHILD MARRIAGE ACT

The British colonial government enacted the Child Marriage Restraint Act, 1929 (known as the Sarda Act), as the primary legislation to curb child marriages in India.

Historical Context

Introduced by Harbilas Sarda amid social reform movements, the Act responded to widespread early marriages harming girls' health and education, particularly in Hindu and Muslim communities.

Despite opposition from orthodox groups and initial British reluctance, the Imperial Legislative Council passed it on September 28, 1929, effective April 1, 1930, across British India (excluding some princely states).

Key Provisions

It set minimum marriage ages at 14 for girls and 18 for boys, applying universally regardless of community.

Penalties targeted adults: up to 1 month imprisonment and ₹1,000 fine for male adults marrying below age; similar for parents/guardians promoting it; 3 months/₹500 for officiants.

Marriages themselves were not voided—only punishable—marking it as a restraint rather than prohibition law.

Stakeholder Offence	Punishment
Adult male contracting	1 month jail + ₹1,000 fine
Parent/Guardian abetting	1 month jail + ₹1,000 fine
Priest/Officiant	3 months jail + ₹500 fine

Limitations and Impact

Enforcement was weak due to reliance on complaints and cultural resistance; no state machinery for prevention. Post-1931 census showed temporary spikes in marriages as preemptive measures. Amended post-independence: ages raised to 15 (girls, 1949) and 18/21 (1978).

India's Constitution and laws robustly address child marriage, defining it as any formal or informal union involving a male under 21 or female under 18 years, aiming to protect minors from exploitation and promote gender equality.

Constitutional Provisions

Article 21 guarantees the right to life and personal liberty, interpreted by courts to include protection from forced child marriages as violations of bodily autonomy and dignity.

Article 14 ensures equality before law, challenging discriminatory practices like early marriages disproportionately affecting girls. Article 15(3) empowers affirmative action for women and children.

Article 39(f) mandates the state to ensure children's tender age protection from abuse, while Article 45 (now Article 21A via RTE) prioritizes education up to age 14, indirectly curbing child marriages.

Key Legislation: Prohibition of Child Marriage Act, 2006

This Act prohibits child marriages nationwide, declaring them voidable at the option of the child party (Section 3), with provisions for maintenance (Section 4) and child custody (Section 5).

Child marriages become void ab initio in cases of enticement, force, sale, or trafficking (Section 12); courts can issue injunctions (Section 13).

Offences are cognizable and non-bailable (Section 15), with Child Marriage Prohibition Officers (CMPOs) appointed for prevention and enforcement.

Offence (Sections)	Punishment
Male adult contracting (Sec 9)	Up to 2 years rigorous imprisonment + ₹1 lakh fine

Offence (Sections)	Punishment
Solemnizing/abetting (Sec 10)	Up to 2 years imprisonment + ₹1 lakh fine (proof of good faith defence)
Promoting/permitting (Sec 11)	Up to 2 years imprisonment + ₹1 lakh fine (includes guardians/organizations)

Enforcement and Judicial Support

District Magistrates oversee CMPOs; states like Karnataka added minimum 1-year imprisonment via amendments. Supreme Court rulings emphasize awareness campaigns and voiding exploitative unions.

Integrated with POCSO Act for sexual offence overlaps and Juvenile Justice Act for child protection.

India's Constitution and laws provide robust protections against child labour, emphasizing children's right to education and dignity over exploitation. These provisions evolved from early regulatory measures to comprehensive prohibitions, reflecting global standards like ILO conventions.

Constitutional Provisions

Article 24 prohibits employment of children below 14 years in factories, mines, or hazardous activities, forming the bedrock against exploitation.

Article 21A mandates free and compulsory education for children aged 6-14, directly linking to labour bans by prioritizing schooling.

Article 39(f) directs the state to ensure children grow in a healthy environment with opportunities for education, shielding them from abuse.

Key Legislation: Child Labour Act

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (amended 2016) bans employment of children under 14 in all occupations and processes, extending to family businesses if harmful to health or education.

Adolescents (14-18 years) are barred from 38 hazardous occupations (e.g., mining, fireworks) and 65 processes listed in schedules.

The 2016 amendment aligned with RTE Act, making violations cognizable offences with stricter penalties.

Provision	Key Features	Penalties
Section 3 (Prohibition)	No child under 14 in any work	6 months-2 years jail + ₹20k-₹50k fine (first offence)
Section 14 (Penalties)	Covers employers/parents	1-3 years + ₹30k-₹1 lakh (repeat)
Adolescent Safeguards	Hazardous bans only	Similar escalating fines/jail

Enforcement Mechanisms

Child Labour-RTE Portal and PENCIL (Platform for Effective Enforcement) track complaints, rescues, and rehab with real-time data.

National Child Labour Project (NCLP) schools rehabilitate rescued children; District Magistrates oversee compliance.

Juvenile Justice Act integrates punishments, treating violations as child rights breaches.

Judicial Role

Supreme Court in M.C. Mehta vs. State of Tamil Nadu (1996) ordered rehabilitation funds from employers; later rulings expanded hazardous lists.

Recent enforcement: Over 44,000 rescues in 2025 highlight ongoing vigilance despite challenges like informal sectors.