



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

### **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK  
LEGAL

## **EDITORIAL** **TEAM**

### **Raju Narayana Swamy (IAS ) Indian Administrative Service** **officer**

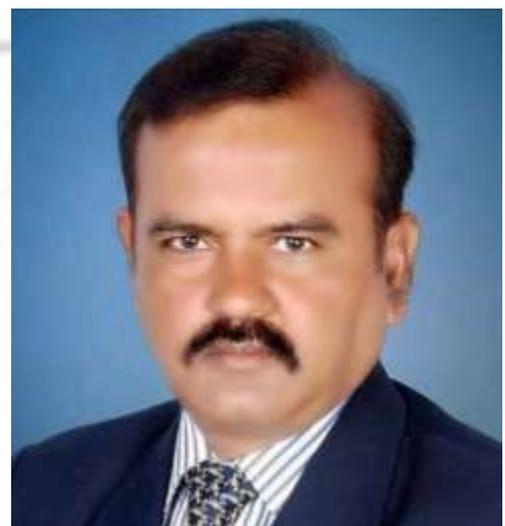


a professional  
Procurement from the World Bank.

Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and diploma in Public

### **Dr. R. K. Upadhyay**

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



## **Senior Editor**

### **Dr. Neha Mishra**



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

### **Ms. Sumiti Ahuja**

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



### **Dr. Navtika Singh Nautiyal**

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



### **Dr. Rinu Saraswat**

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

### **Dr. Nitesh Saraswat**

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



### **Subhrajit Chanda**

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **CHILD BETROTHAL: A LOOPHOLE IN CHILD MARRIAGE LAWS**

AUTHORED BY - RITIKA<sup>1</sup> & MUSKAN<sup>2</sup>

University Institute of Legal Studies, Chandigarh University, Mohali, Punjab

*“Devo vah Savita Praarpayatu Shreshthtamaay Karmana.”*<sup>3</sup>

The existence of *Swayamvara*<sup>4</sup> during the pre-vedic era is the best evidence that neither the concept of child marriage<sup>5</sup> is ours nor its negative implications. We have always believed in freedom of choice, equity and autonomy. It was the Mughal invasion that became the backing force for such a malpractice. The shloka “*Devo vah ..... Karmana*” clearly suggests that our ancestors believed that Physical, Mental, Personal and Communal development is possible only when all do the best deeds together. This holistic development required a matured understanding of each other and age-difference could affect it. Hence, children were married only when they were mature enough to understand each other. The abductions of unmarried girls during the Mughal era left the commoners with no option but to marry their children as early as possible. Although this was started with a *bona fide*<sup>6</sup> intention, it continued for centuries and became an inseparable society even when the then prevailing situations had come to an end. To prohibit such marriages constituting the breach of Fundamental Rights of such children, the Prohibition of Child Marriage Act was enforced in 2007. The Veil of Betrothal is being used as a strategy to circumvent Child Marriage Prohibitions. This grave violation of child rights must be eradicated and children subjected to such arrangements should be recognized as children in need of care and protection.

**Keywords:** Child, Child betrothal, Child Marriage, Child-in-need of care and protection<sup>7</sup>, Child Rights.

---

<sup>1</sup> [Ritikaritika3115@gmail.com](mailto:Ritikaritika3115@gmail.com)

<sup>2</sup> [Muskannarwal15@gmail.com](mailto:Muskannarwal15@gmail.com)

<sup>3</sup> 1/1 Yajurveda

<sup>4</sup> Oxford English Dictionary, [https://www.oed.com/dictionary/swayamvara\\_n?tab=factsheet#1954014](https://www.oed.com/dictionary/swayamvara_n?tab=factsheet#1954014) (May 12, 2025, 6 PM).

<sup>5</sup> The Prohibition of Child Marriage Act, 2006, § 2(b), No. 6, Act of Parliament, 2006 (India).

<sup>6</sup> Merriam webster, <https://www.merriam-webster.com/dictionary/bona%20fide> (April 10, 2025, 9.25 AM).

<sup>7</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015, § 2(14), No. 2, Acts of Parliament, 2015 (India).

## **PROLOGUE**

The evolution of child marriage as a custom has been a restraint in the holistic development of children. Such children tied in the knot of marriage at a tender age are implicitly excluded from the competing strata as their physical, mental and emotional development is constrained. It violates their Rights to Freedom of Choice<sup>8</sup>, Equity and Autonomy. Early marriage makes girls more vulnerable to violence, abuse and exploitation.<sup>9</sup> Although boys are also affected by child marriages, the girls suffer irreparable damage in far larger numbers and with more intensity.<sup>10</sup> To prevent such violations, the Prohibition of Child Marriage Act, 2006 (PCMA) was enforced. The facts that number of child marriages in India (103 million) was even more than the total population of the twelfth largest country in the world<sup>11</sup> and 45% of women currently aged 20-24 were child brides<sup>12</sup> are evident that the Act could not be implemented properly during the initial years. The improvements in its implementation became the Damocles's sword for the offenders<sup>13</sup> that could include the Guardians or parents of both parties, priests, relatives or friends of both parties, persons who give patronage to such marriages, marriage bureaus, traffickers, the bridegroom if he is over 18 years of age, caterers and other service providers.<sup>14</sup> To evade punishment under the PCMA, they discovered a legal grey area and began to use Child betrothals as a deception. The negative implications of Child betrothals are nohow less than those of Child marriages. It is the time to cure this false Pretence of Innocence and hold that Betrothal can not protect a perpetrator. In this research paper, we shall delve into the ins and outs of this loophole being used as a shield to avoid punishment. We shall suggest several methods not only to remove such loopholes but also to protect such minors from negative implications of such evil practice.

### **1. ESSENTIALS OF A CHILD BETROTHAL**

An intricate relationship exists between a child marriage and a child betrothal. Child betrothal is a precursor to child marriage. It involves the formal arrangement of a marriage between two persons either or both of whom are minor.

---

<sup>8</sup> The Constitution of India, A. 21 (India).

<sup>9</sup> Unicef, <https://www.unicef.org/india/what-we-do/end-child-marriage> (May 11, 2025, 12 PM).

<sup>10</sup> 'National Strategy Document on Prevention of Child Marriage.' Ministry of Women and Child Development, Government of India.

<sup>11</sup> Census.gov, <https://www.census.gov/popclock/world/rp> (March 25, 2025, 3 PM).

<sup>12</sup> Unicef, <https://www.unicef.org/india/what-we-do/end-child-marriage> (March 27, 2025, 9 PM).

<sup>13</sup> Andhra Pradesh Legal Service Authority, <https://apslsa.ap.nic.in/> (March 27, 2025, 7 PM).

<sup>14</sup> The Prohibition of Child Marriage Act, 2006, § 9-11, No. 6, Acts of Parliament, 2006 (India).

### *MINOR*

Although the concept of minority differs from Act to Act, provision to provision, the general rule sets the bar at 18 years of age and such changes do not occur on gender basis. But, to fulfil the four goals of marriage viz-a-viz *dharmā*, *artha*, *kama* and *moksha*, properly, the age of minority differs according to gender. A girl is considered a minor when she is below the legal age of marriage i.e. under 18 years of age and the boy when he is under 21 years of age<sup>15</sup>.

### *PROMISE TO GIVE THE CHILD IN MARRIAGE*

India, a land of diverse traditions, is known for its rich cultural heritage. Everyone follows different customs and traditions as per their religion, caste, creed and community and so differ the essentials of a child betrothal. But, some essentials are common to all with respect to a child betrothal. One of these essentials is the promise to get the minor(s) married to the particular person to whom the marriage is promised.

### *EXCHANGE OF 'SAGUNA'*

*Saguna* is a gift in the form of cash or arrears often moving from the to be bride family to the to be bridegroom. The exchange of *Saguna* is a significant cultural practice signifying the informal, yet binding agreement signifying the commitment of family(ies) of the child betrothed to the future union of marriage.

## **2. CAUSES OF CHILD BETROTHAL**

Despite the stipulation of legal age for marriage, child betrothals continue to thrive in various cultural, economic and social contexts, creating a loophole in child marriage regulations. The causes for this societal behaviour are multi-faceted and deeply rooted in poverty, tradition and social structures, influencing its persistence despite legal regulations.

### *CULTURAL AND TRADITIONAL NORMS*

Cultural and traditional norms are some of the strongest drivers of child betrothals. In some communities, marriage is not just seen as a union of individuals but as a crucial social contract between families. This practice is often seen as a safeguard to ensure security of the child. It is more prevalent in societies where a woman's worth is weighed as per her role as a wife and mother, and early marriage is recognised as a method to protect her from potential social

---

<sup>15</sup>The Prohibition of Child Marriage Act, 2006 , § 2(a), No. 6, Acts of Parliament, 2006 (India).

stigmas.

### *ECONOMIC FACTORS*

In many poverty-stricken communities, early marriage is generally viewed as a way to relieve economic burdens. As early marriages are punishable in law, they see child betrothals as a legal grey area and as a ploy to avoid conviction under the child marriage regulations. *Saguna* exchanged during the betrothal may offer financial assistance to the family in regions where economic stability is precarious. This rationale often supersedes concerns about the child's well-being, perpetuating the cycle of early marriage.

### *GENDER-BASED DISCRIMINATION*

In many cultures, families consider their girls to be a financial burden and they are expected to marry early to relieve their families of this perceived burden and responsibility. It reflects the underlying belief that early marriage is a way to secure a girl's future, even though it often restricts her opportunities and freedom. This gender bias makes it difficult to challenge the practice of child betrothal, as it is rooted in deep-seated patriarchal norms that prioritize marriage over education and personal agency for girls.

### *LACK OF EDUCATION AND AWARENESS*

In communities where child marriage and betrothal are common, there is often limited knowledge about children's rights and the legal, social, and health consequences of early marriage. Many families do not fully understand the psychological, emotional, and physical toll that early betrothal and marriage can take on children. Such absence of awareness perpetuates the cycle of early betrothal.

### *SOCIAL AND PEER PRESSURE*

In some communities, social pressure to conform to established traditions, including child betrothal, is very strong. Families may feel compelled to engage their children at a young age to avoid social stigma or exclusion. In tightly-knit communities, this practice can be seen as a status symbol or a rite of passage, and those who deviate from these traditions may be viewed negatively. This peer pressure creates an environment in which families are reluctant to challenge the status quo, leading them to arrange early betrothals.

### *WEAK LEGAL ENFORCEMENT*

Despite laws prohibiting child marriages, weak enforcement mechanisms allow child betrothals to continue without legal consequences. Betrothal is often seen as a less formal arrangement compared to marriage, and as a result, it is not always subject to scrutiny by authorities and is used as a shield to avoid punishments. This lax enforcement allows the practice of early engagement to persist, even when the legal age for marriage has been set higher.

### *INCREASE IN OFFENCES AGAINST WOMEN AND CHILDREN*

The alarming trends of offences against women and children constitutes a significant concern in the legal discourse. To overcome this concern, some parents perform child betrothal under the misconception that it can land their children in safer hands and save them from the evil eyes of offenders.

### *LAST WISHES OF ELDER ONES*

Death, an eternal truth, is a pious reunion of the beginningless eternal constant primordial soul and the divine self. To ensure a successful reunion and free our kiths and kins from this loop of birth and death, we try to fulfil all their wishes when they are in death bed. Several times, they wish to see their descendants marrying to ensure the continuance of their lineage. To fulfil such wishes parents go for child betrothal as marriage is more time and resource consuming act.

## **3. BETROTHAL OR BETRAYAL?**

No doubt the practice of child betrothal is often viewed through the lens of cultural, societal and familial obligations, but its implications on the rights of the child can be far-reaching. In many instances, such arrangements are treated as mere ceremonial engagements without realizing the significant emotional, psychological, and physical consequences they impose on the child involved. The dilemma arises when these betrothals trap children in legally and socially binding contracts before they even have the ability to comprehend the full consequences of their actions. This practice undermines the rights of the child and raises the question: Is a betrothal truly a voluntary engagement, or is it a subtle form of betrayal of the child's autonomy?

### *MINOR'S CONSENT IS VOID AB INITIO*

Consent is a condition precedent in the bond of marriage, irrespective of the nature perceived, as sacrament or contract. Minor, even if he gives the consent without coercion, undue influence, fraud and misrepresentation; his consent is no consent. A relationship based upon a minor's consent is not a relationship at all. It seems more of a betrayal with the minor and his family rather than a betrothal.

### *RIGHT TO MAKE A FREE CHOICE*

It is a basic human right to choose the partner recognised under national and international laws and conventions.<sup>16</sup> The practice of child betrothal infringes upon their ability to consent freely, creating power imbalances and exposing them to potential harm, including early pregnancy, loss of education, and abuse. Children, lacking the maturity and understanding of such life-altering commitments, are often coerced into these arrangements by external pressures.

### *RIGHT TO AUTONOMY*

Instead of a voluntary union, a child betrothal is a betrayal of the child's right to self-determination. It strips the child of their agency, forcing them into a commitment they cannot fully comprehend or choose freely.

Moreover, child betrothals often undermine the child's well-being and violate their fundamental rights. Therefore, child betrothals are not true betrothals but rather a betrayal of the child's right to personal freedom, safety, and a future of their own making.

### *RIGHT TO CHILDHOOD*

Child betrothals prematurely thrust minors into adult roles, disrupting their right to experience childhood in its full, natural form. A child's childhood is a period of emotional, physical, and psychological development. Child betrothals deprive them of this essential time by compelling them to enter into lifelong commitments they are ill-equipped to understand or handle. This premature transition robs the child of their freedom to enjoy a childhood, explore personal interests, and build relationships appropriate for their age. Furthermore, the emotional and psychological toll on children involved in betrothals can be severe, violating their fundamental rights to protection and autonomy.

---

<sup>16</sup> Universal Declaration on Human Rights, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (April 2, 2025, 10 PM)

### *EMOTIONAL, PSYCHOLOGICAL AND PHYSICAL CONSEQUENCES*

The overall social interactions open the gates to societal behaviours that impose pressure upon the child betrothed. His involvement in sexual activities without proper sex education and knowledge shall lead to numerous emotional, psychological and physical ill-effects. The pressure although unintended to fulfill the expectations bestowed upon a bride and groom, narrowing down their choice to choose their partner is a heavy effect upon the child.

### *RIGHT TO EDUCATION*

The right to education is a fundamental right u/A 14 of the Constitution of India. The Right to Education Act was also passed in 2009 to enforce this right guaranteed under our Constitution. Circumlocutory, the practice of child betrothal affects it as those children are tied up with all those customary practices which limit the access to quality education. They are not left in a position strong enough to fight for their rights against society. Impulsively, escalating the number of school drop-outs.

### *CAN'T BE STEPPED BACK EVEN IF THE TO BE SPOUSE TURNS OUT TO BE UNFAITHFUL, ILL TEMPERED, CRIMINAL OR IMPOTENT*

Betrothal is like a gamble where the betrothed child is at stake. Even if the spouse turns out to be unfaithful, ill tempered, criminal or impotent, there's no easy way to overturn the decision previously taken. Even if they overturn it, it puts the betrothed child in even worse circumstances as he is considered as unlucky, left off, cursed and is seen as a blot on the respective family, ruining the life of the innocent child.

### *IF ONE'S FAMILY CHANGES THE MIND BASED ON MONETARY OR MORAL PERFORMANCE OF THE OTHER, AND CANCELS THE BETROTHAL*

In such cases, the betrothed child is left confused and questioning himself, which is often brushed aside as normal. It is the murder of the child's dreams which were forced upon him by the family and society, even worse. The society's behavior towards such a child alters as per the social status of such child and he is made to feel as a clown who was shown some dreams without his wish, made to live such dreams and then those dreams were crashed in a snap of time and wish of the other to be spouse and his family.

## 4. FUTURE SCOPE

### *OUTLAW CHILD BETROTHAL*

A crucial step in safeguarding the rights and well-being of children globally is the formal outlawing of child betrothals. These practices, which often involve forcing minors into binding marital commitments, directly violate a child's right to free choice, childhood, and personal autonomy. A legal mandate to outlaw child betrothals would clarify this legal gray area and would provide a stronger deterrence against such ill practices of betrothing children. Future legal reforms should aim to establish clear, enforceable laws preventing child betrothals and ensuring that their violation is subject to legal penalties. Such laws would not only protect children from premature marriages but also promote their rights to education, personal development, and freedom to make their own thoughtful choices.

### *DECLARE THE AFFECTED MINORS AS THE MINORS IN NEED OF CARE AND PROTECTION*

Outlawing child betrothals may land the children as vulnerable, requiring care and protection. They may be susceptible to physical, emotional and psychological harm, including domestic violence, abuse, trauma by continuous taunting and neglect. There must be a provision that may include them in the minors in need of care and protection. This critical step shall lead to the protection of the betrothed children by acknowledging the inherent risks faced by betrothed children, who, due to their age and potential lack of autonomy, may not be capable of making informed decisions regarding their safety, personal freedom, and future. Such minors require intervention by the legal system to ensure that their rights to protection, education, and a safe, healthy environment are upheld. They should be recognized under the law as requiring care and protection, with immediate measures to safeguard their physical, emotional, and psychological well-being, while addressing the root causes that contribute to their exploitation or coercion in these situations.

### *EDUCATION AND AWARENESS*

Education is not just a fundamental right but also a crucial strategy for protecting betrothed children. Creating awareness and offering education on the harmful effects of child betrothals can empower communities to abandon these practices voluntarily. A comprehensive approach combining legal action, education, and support for affected children could foster long-term cultural shifts and protect future generations from the exploitation and harm associated with

child betrothals. Education and awareness shall serve as both, a preventive and a corrective measure. It can help in breaking the cycle of perpetuating this practice of child betrothal deeply ingrained in tradition. It is the very catalyst required to welcome this broad social change. By prioritizing education, societies can prevent early betrothal, ensure the rights of minors are respected, and build a future where all children can thrive.

## 5. ACT OR AMENDMENT?

Child betrothal is often a precursor to child marriage, and the two are interlinked. Criminalisation of child betrothals must be an amendment rather than an Act in order to address the hour's needs better. An amendment to the existing child marriage regulations would be the more practical, efficient, and effective way to outlaw child betrothals. This approach would maintain legal coherence, streamline enforcement, and respond to the interconnected nature of child betrothal and child marriage.

A draft to consider for "**THE PROHIBITION OF CHILD MARRIAGE (AMENDMENT) ACT**" is:

An Act further to amend the Prohibition of Child Marriage Act, 2006.<sup>17</sup>

Be it enacted by Parliament in the XXXX 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 (Amendment) Act, XXXX.

(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.

### 2. AMENDMENT TO DEFINITIONS.—

In section 2 of the Prohibition of Child Marriage Act, 2006 (hereinafter referred to as

---

<sup>17</sup> The Prohibition of Child Marriage Act, 2006.

the principal Act),—

(i) after Clause (a) of the principal Act, the following Clause shall be inserted, namely:—

(aa) “child betrothal” means a promise to give into marriage to which either of the contracting parties is a child;

### 3. INSERTION OF NEW SECTION 3A AFTER SECTION 3.—

Legal status of a Child betrothal.—

(1) Every child betrothal, before the commencement of this Amendment Act, shall be voidable at the option of the contracting party who was a child at the time of the betrothal:

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) Every child betrothal, after the commencement of this Amendment Act, shall be void ab initio.

(3) 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 betrothed in any form, such betrothal shall be null and void.

(4) Any child betrothal solemnised in contravention of an injunction order issued under section 13, whether interim or final, shall be void ab initio.

### 4. AMENDMENT TO SECTION 4.—

In section 4 of the principal Act,—

(i) the word “child marriage”, shall also include child betrothal.

(ii) the reference to Section 3 of the principal Act, shall be considered as a reference to Section 3A as well.

### 5. AMENDMENT TO SECTION 7.—

In section 7 of the principal Act,—

(i) the reference to Section 4 of the principal Act, shall also consider the insertion of Section 3A.

### 6. AMENDMENT TO SECTION 8.—

In section 8 of the principal Act,—

(i) the reference to Section 3, 4 and 5 of the principal Act, shall be considered as a reference to Section 3A as well.

#### 7. INSERTION OF NEW SECTION 9A.—

Punishment for male adult being a contracting party to a child betrothal.—

Whoever, being a male adult above eighteen years of age, contracts a child betrothal shall be punishable with rigorous imprisonment which may extend to one year or with fine which may extend to fifty thousand rupees or with both unless he proves that he had reasons to believe that the betrothal was not a child betrothal.

#### 8. INSERTION OF NEW SECTION 10A.—

Punishment for solemnising a child betrothal.—

Whoever performs, conducts, directs or abets any child betrothal shall be punishable with rigorous imprisonment which may extend to one year and shall be liable to fine which may extend to fifty thousand rupees unless he proves that he had reasons to believe that the betrothal was not a child betrothal.

#### 8. INSERTION OF NEW SECTION 11A.—

Punishment for promoting or permitting solemnisation of child betrothal.—

(1) Whoever promotes or permits solemnisation of a child betrothal shall be punishable with rigorous imprisonment which may extend to one year and shall also be liable to fine which may extend up to fifty thousand 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 been betrothed, the person having charge of such minor child has negligently failed to prevent the betrothal from being solemnised.

#### 9. AMENDMENT TO SECTION 13.—

After the sub-section (10), it shall be inserted that.—

Notwithstanding anything contained in Section 13, the court may exercise all the powers enlisted under section 13 in case of child betrothals as well.

## 6. CONCLUSION

Betrothal or Betrayal? Despite the question mark, the answer lies within. Betrothal is nothing more than a betrayal and we must arise, awaken and realise the truth that we are to stop looking at the silver lining of the blue clouds that we create ourselves. Such customary practices affect

the society at large. Child betrothal is only a medium to betray the judiciary just by recognising it as a custom. This not only impacts the child but also the whole community at large. It creates the pressure in the minds of immature children who are not even able to explore the real world. These practices weaken the child not only emotionally but also physically. The data on Child betrothals is very scarce but the issue can be understood by the facts that Child marriage is becoming less common in India, but the country still accounts for one in three of the world's child brides, and fewer than 2 in 10 married girls remain in school. Aforesaid traditions or the customary practices must be banned and if any found then punishment shall be imposed. Everyone ought to understand the outcome and how it affects the society. This fight for the protection of children from being victims under the lacunas and flaws in the legislations is not a battle that can be won overnight; it requires sustained efforts, dedication and the willingness to confront and challenge societal norms that perpetuate child betrothals.

## **7. BIBLIOGRAPHY**

1. Andhra Pradesh Legal Service Authority
2. Bhagavad Gita by Ved Vyasa
3. Demographic data by US Census Bureau
4. Merriam webster Dictionary
5. National Strategy Document on Prevention of Child Marriages
6. Oxford English Dictionary
7. The Bharatiya Nyaya Sanhita, 2023
8. The Constitution of India
9. The Convention on the Rights of the Child (CRC)
10. The Juvenile Justice (Care and Protection of Children) Act, 2015
11. The Prohibition of Child Marriage Act, 2006
12. The Protection of Children from Sexual Offences Act, 2012
13. The Universal Declaration of Human Rights
14. United Nations International Children's Emergency Fund
15. Yajurveda