

# NEEDLESS ROW: THE HINDU EDITORIAL ON AMENDMENT TO RAJASTHAN MARRIAGE LAW

Relevant for: Developmental Issues | Topic: Rights & Welfare of Children - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

The controversy over the recent [amendment to the Rajasthan Compulsory Registration of Marriages Act](#) is unnecessary, as it clearly does not amount to validating or legitimising child marriage. However, the issue made by the Opposition and [the National Commission for Protection of Child Rights](#) may occasion a reconsideration of the legal framework dealing with child marriages that continue to take place despite a statutory prohibition. The Rajasthan law enacted in 2009 provided for compulsory registration of all marriages. It is largely similar to the enactments in other States, and is based on the Supreme Court's verdict in *Seema vs Ashwani Kumar* (2007), which directed that all marriages in India should be registered. The original law itself did not exclude registration of child marriages, and all that the amendment does is to change the age at which the obligation to register shifts from the parents or guardians to the parties to the marriage. Earlier, it was the duty of the parties to the marriage to submit a memorandum on their marriage to the registrar if they were both above 21 years; and if younger, it was the duty of the parents or guardians. The amendment changes this age limit to 21 for men and 18 for women. It is difficult to see this change authorising the bride herself to participate in the marriage registration after the age of 18, as one that permits child marriage.

Under the law, child marriages are not void, but only voidable at the instance of one of the parties, who may approach the court for nullifying the marriage within two years of attaining majority. Registering such a marriage may help establish the legal rights of the underage party and those of any children born and deter any attempt to deny the marriage later. It may even help prosecution of those solemnising child marriages and implement provisions relating to maintenance and residence of the girl whose marriage is invalidated later. Nothing prevents the marriage registrar from alerting the child marriage prohibition officer after registering the marriage. One must note that there was never any specific prohibition on registering child marriages. Even the Supreme Court observed that even though registration itself could not be proof of a valid marriage as such, it would have "great evidentiary value in the matters of custody of children, right of children born from the wedlock of the two persons whose marriage is registered and the age of parties to the marriage". As a fallout of this controversy, Parliament ought to consider the Law Commission's recommendation to amend the Prohibition of Child Marriage Act, 2006, to make child marriages below 16 years void, and those solemnised when either party was between 16 and 18, voidable.

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