



The Impact of Indian Policy Framework on Age of Marriage

07
23

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Issue Brief

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July 2023

ISSUE BRIEF

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INTRODUCTION

The institution of marriage aids the state in both legislation and welfare policies. The custom of marriage regularises the creation of family. The state benefits from the creation of family because the unit of family goes on to take the burden of childcare, civil protection and property (both tangible and intangible). These social institutions have a coherent system for family property, lineage, insurance, healthcare, to name a few. Thus, the state benefits in both the constitution and continuance of the institution of marriage. The institution of marriage becomes complimentary to the policy framework. Policy research has gone on to show that marriage benefits the unit of the family itself through higher earnings and productivity, accessibility to care work, and better child care (Ahituv & Lerman, 2007).

At the same time, marriage continues to have patriarchal limitations for female members both at the time of constitution and within the institution (Kannabiran, 2014). The very constitution of this union through the ceremony of marriage increases economic burden on the family of the bride through practices of dowry and gift giving. To put it more succinctly, in a patriarchal society, the cost of marriage, through most customary practices, levies higher on women than men (Anderson,

2007). The exacerbated economic burden on families complimented by the accepted social avenues for girl child (Ahmed, 2015) have resulted in rampant prevalence of both child marriage and female foeticide. The Government of India has strategically attempted to create more equitable conditions within the institution of marriage. Social practices of child marriage, female infanticide & foeticide and dowry have been criminalised through separate laws like Dowry Prohibition Act, 1967; The Medical Termination of Prgnancy Act, 1972; Child Marriage Restraint Act, 1978 and The Prohibition of Child Marriage Act, 2006.

Within welfare and family planning schemes, the State has created a system of allied schemes for gender equity which promote conditions of equality between men and women. Furthermore, the welfare schemes have broadened their scope within the institution of marriage by dwelling on maternal health, child nutrition, foetal nutrition, and child education. Another unique feature to the Indian policy system is a form of formal policy institutionalisation of marriage through Marriage Assistance Schemes [MAS]. The MAS are designed to provide monetary assistance to recognised beneficiaries after the solemnisation of their marriage.

Thus, the Government of India continues to engage with marriage through a three-pronged approach of legal recognition, legal penology and welfare schemes. Given the structural importance of the institution of marriage and its socio-political location, this paper aims to understand the changing trends in marriage and analyse the impact of family planning, welfare policies and MAS on the institution of marriage at the stage of composition itself, by studying demographic indicators.

CHANGING MARRIAGE TRENDS

The primary concern that has recently captured the public attention is the legal age of marriage. The Government of India has proposed 'The Prohibition of Child Marriage (Amendment) Bill, 2021' to increase the minimum age of marriage for females to 21 years.

Delay in marriage has demographic, health and social benefits (Karamat, 2016). The delay in the age of marriage has shown greater enrollment of girls both in schools and higher education. This push creates conditions where the composition of traditional marriages change. Men and women share economic control in the house, because women have had the chance to pursue both education and economic avenues for growth. The prevalence of teenage pregnancies reduces exponentially which improves both maternal and infant health. Globally, studies have shown that delay in marriage links to long term economic empowerment for women (Yount, 2017).

Family Planning within India has become cognisant of the need to increase age of marriage across genders. Even within pre-independence India, social movements tried to emphasize the importance of girl child education and speak to the evil of child marriage. The debate around the Age of Consent Bill, 1891 created enough political impetus for the colonial government to not attempt a policy or legal move towards the same. In post-independence India the Prohibition of Child Marriage Act, 2006 was the first law which gave a policy push towards ending child marriage (UNICEF, 2014).

As a policy concern, child marriage began to be comprehensively studied post NFHS 2 (National Family Health Survey). The maximum leap of improvement is seen from NFHS 3 to NFHS 4

(UNICEF, 2019). There are two possible reasons for this, first, the penalisation in case of child marriage acted as a massive social deterrent. Second, the Indian government coherently acted towards ending the practice of child marriage through welfare and family planning policies.



Figure 1.1 : Prevalence of Child-Marriage in India
 Source: UNICEF, 2019

The national average of women married before turning 18 has reduced to 23.3% (NFHS 5, 2022). A review of the last three NFHS (Table 1.1) clearly indicates that the practice of child marriage has reduced in the country. However, the state of Manipur does portray a worrying trend towards rising practice of child marriage. Reports post COVID-19 have pointed to the increased risk of girls being pushed into child marriage. 10 million more girls face the risk of child marriage and South-Asia is likely to witness one-third of these child marriages (UNICEF, 2021)

States Age Cohort	20-25 (NFHS-5)	20-25 (NFHS-4)	20-25 (NFHS-3)
Andhra Pradesh	29	33.33	55
Arunachal Pradesh	a	24	42
Assam	32	31	39
Bihar	41	42	69
Chhattisgarh	12	21	55
Haryana	13	19	41
Punjab	9	8	20
Goa	6	10	12
Gujarat	22	25	39
Himachal Pradesh	5	9	12
Jammu & Kashmir	5	9	14
Jharkhand	32	38	63
Karnataka	21	21	42
Kerala	6	8	15
Madhya Pradesh	23	32	57
Maharashtra	22	25	34
Manipur	16	14	14
Meghalaya	17	17	25
Mizoram	8	11	23
Nagaland	6	13	21
Delhi	10	NA	NA
Odisha	21	21	37
Rajasthan	25	35	65
Sikkim	NA	15	30
Tamil Nadu	13	16	22
Telangana	24	26	NA
Tripura	40	33	42
Uttar Pradesh	16	20	59
Uttarakhand	10	14	23
West Bengal	42	42	54

Source: NFHS 5, NFHS 4 and NFHS 3

Table 1: Percentage Women who married before they turned 18 in the age cohort 20-25

The overall statistics from the State do support the statement that the deterrence from penalising Child Marriage and a more pointed family planning focus by the state, drastically reduced the social sanction associated with Child Marriage. Most states show a very sharp dip between NFHS 3 and NFHS 4. Furthermore, this is an indicator that large scale state policies with focused efforts create better emulation and have a larger impact.

Although the time period between NFHS 5 and NFHS 4 is half a decade, the indicators do not show the same pace for improvement. The criminalisation of child marriage created the dual impact of deterrence through penalisation and reduction in social sanction. Given the initial impact, emulation of welfare and family planning schemes would bring a more gradual change because these schemes rely on societal shifts. This gradual change becomes an indicator of social change.

The state of Chhattisgarh shows a rapid decline in the number of child marriages, yet reports indicate that women, more than men, in the state are subject to child marriage (Jaiswal, 2014). There is no data or study of the rapid decline reported in many states, which is contrary to news reports from the State. The rapid decline indicated through the data from Uttar Pradesh is difficult to explain, especially because the data from within the state is contradictory (Chuhan, 2021). While NFHS data shows a rapid decline, reports from the state indicate an increase in the number of child marriages (Mullick, 2019).

Both the states of Rajasthan and Haryana have shown rapid drops, the reason for the same were laws that legalised child marriage by reducing the age of marriage for women at the time of registration (Kumar, 2021 & Dutta, 2021). Though the criminalisation of child marriage continues, marriage stands in the eyes of the law. Which has created anxiety and cast a dark shadow on the NFHS data itself. If social and political sanctions exist, then is the data pointing to correct trends?

The case of West Bengal is distinctive, for it did not witness a massive fall in child marriage numbers between NFHS 3 and NFHS 4. While a 10% dip between NFHS 3 and NFHS 4 is present, comparison with other states is not very heartening. Furthermore, there seems to be a stabilisation of child marriage at 42% within West Bengal. News reports also indicate that these numbers are increasing after COVID-19 (News 18, 2021).

Studies within the State show that districts with extremely high rates of child marriage also have high incidence of trafficking, namely Murshidabad, Nirbhum, Malda and Purulia (Govt. of West Bengal, n.d.). Within West Bengal, UNICEF has studied the need to invest in 'the second decade of life as critical to break the intergenerational cycle of multiple deprivations' (UNICEF, n.d). Though, a cursory glance at the statistics is heartening, they seem to be masking greater concerns within the legal framework and enumeration.

Kerala, on the other hand, has had the lowest prevalence of child marriage and has sustained low numbers. Though the state is clearly showing progress, recent reports show that COVID-19 has impacted the state itself with a rise in child marriages (Sreemol, 2021). The sustained good percentages have been attributed to high literacy rates. The state has responded quickly and initiated Project Ponvakk, where reporting is being monetarily incentivised (Nath, 2021).

Another interesting indicator to study the age of marriage present in NFHS 5 is the median age of marriage for the age cohort of 25-29, which has increased nationally to 20 years and above. Another heartening trend is that in Goa, Nagaland, Jammu and Kashmir, and Delhi, for the same age cohort 25- 29, more than 50% of the women married after the age of 25 (NFHS 5, 2022).

States	Median Age of Marriage (25-29)	Median Age of Marriage (20-49)
Andhra Pradesh	18.9	18.4
Arunachal Pradesh	21.6	20.6
Assam	19.8	19.8
Bihar	17.4	17.7
Chhattisgarh	20.3	19.3
Haryana	20.6	19.7
Punjab	23	21.4
Goa	a	a
Gujarat	20.3	19.9
Himachal Pradesh	22.5	21.1
Jammu and Kashmir	a	a
Jharkhand	18.4	18.2
Karnataka	20.2	19.6
Kerala	21.6	a
Madhya Pradesh	19.1	18.4
Maharashtra	20.1	19.6
Manipur	22.9	23.45
Meghalaya	21.9	22.1
Mizoram	23.5	27
Nagaland	a	a
Delhi	a	a
Odisha	20.2	19.9
Rajasthan	19.2	18.7
Sikkim	24.4	a
Tamil Nadu	22	a
Telangana	19.3	18.3
Tripura	19	18.9
Uttar Pradesh	19.7	19.1
Uttarakhand	20.5	19.5
West Bengal	18	18

Source: State Reports for NFHS-5

Table 2: NFHS data on Median Age of Marriage for women between 25-29 and 20-49 age cohorts

Note: a stands for the population set for which more than 50% of the set was not married at the given starting age of the given age cohort

A synoptic reading of the statistics clearly indicates that given a choice, women are choosing to marry later (Lefgren & McIntyre, 2006). Yet, the ability to make that choice has faced various impediments within Indian society. Statistics show that in the states of Bihar, Manipur and Mizoram, the median age of marriage has fallen in the age cohort of 25-29 as compared to 20-49 years of age.

In Bihar the data is even more worrying as it points to the prevalence of child marriage in both the age cohorts, with the median age of marriage at 17.4 for women. In 37 districts of Bihar there was reported increase in the number of child marriages by an alarming 5% (Priyadarshini et al, 2022). A study for the reasons for this prevalence points to gendered discrimination in access to education as a major cause. There is a prevalent custom where less than 10 years of education is accepted for girls and young women (Priyadarshini et al, 2022). This has resulted in a rise in literacy but no improvement in the allied indicators.

A comparison of the NFHS 3,4 and 5 (look at Table 1.3) also shows that there is a considerable difference between marital trends in urban and rural India. The statistics show that the prevalence of child marriage was higher for women as compared to men. The schemes have successfully reduced the percentage of child marriages within the age cohorts of 20-24 for women and 25-29 for men. At the same time the percentage change in rural India is more than the percentage change in urban India. Given that the prevalence percentage was also high, beginning at more than 50% the results have been quicker to observe.

Indicator	NFHS-5			NFHS-4			NFHS-3		
	Urban	Rural	Total	Urban	Rural	Total	Urban	Rural	Total
20-24 married before 18 (Female)	14.7	27.0	23.3	17.5	31.5	26.8	29.3	56.2	47.4
25-29 married before 21 (Male)	11.3	21.1	17.7	14.1	24.4	20.3	18.1	40.3	32.3
15- 19 Pregnant	3.8	7.9	6.8	5.0	9.2	7.9	8.7	9.1	16.0
Female Literacy	83.0	65.9	71.5	81.4	61.5	68.4	na	na	55.1
Male Literacy	89.6	81.5	84.4	90.8	82.6	85.7	na	na	78.1

Source: NFHS 5, NFHS 4 and NFHS 3

Table 3: National Statistics for Allied Indicators of Marriage in India

Along with child marriage and median age of marriage, an alluring indicator for improving conditions of marriage for women is the persistent rise in female literacy. Even though the rise in rural India is not very heartening, with more than one quarter of the female population continuing to be illiterate. At the same time, the success of the rising age of marriage can be seen in the corresponding fall in teenage pregnancies (See Table 1.3). In India, marriage and copulation continue to coincide not only in policy imagination but also lived realities of the majority of the population. Overall, the trends show that the family planning and welfare schemes are resulting in set policy goals.

MARRIAGE ASSISTANCE SCHEMES [MAS]

Within the policy framework the Indian State engages with marriage both directly and indirectly. The framework to engage with the social institution of marriage directly beyond law is a unique Indian policy. Globally, this is done through law and registration which creates conditions where the state can control and regulate the institution of marriage. In India, along with this there is the MAS, these schemes are run at both national and state level but lack a coherent structure, set goals and objectives or indicated results.

An example of a MAS running at the national level is, the Dr. Ambedkar Scheme for Social Integration through Inter-Caste Marriages. This scheme aims to create social integration through Inter-Caste Marriages. The scheme provides 2.5 lakhs to any married couple where one member of the union belongs to a Scheduled Caste. The scheme is targeted towards incentivising inter-caste marriage. The only clarity of objective for the given MAS is that these schemes are not to be construed as supplementary schemes either to employment generation or poverty alleviation but recognise the socio-economic cost of marriage and hence aim to aid through conditional cash transfer. The conditions for these monetary transfers include recommendation letters from local MP/MLA and District Collector/ Commissioner/ Magistrate.

Firstly, the scheme falls short on creating complimentary conditions of monetary assistance for inter-caste marriage, as monetary assistance would be provided only three years after money is sanctioned by the foundation. Furthermore, the conditions of transfer contain more than registration of marriage. The difficulty in accessing monetary assistance is concerning, given that most inter-caste couples face the risk of social exclusion and high risk of honour killing. The decision of who constitutes a beneficiary is very ambiguous and requires couples to jump through hoops of red tape.

Various defence departments run a version of an MAS to help widows of army personnel arrange the marriage of their girl child (MoD, n.d). Given that the scheme is a conditional transfer where monetary assistance is provided only for the marriage of a girl child (maximum for two girl children per family). These MAS policies recognise that for marriage, the bride's family bears disproportionate economic costs, even though this is not acknowledged within the policy as a rectifiable objective. The recognition of this indirectly with no scope of course correction is a policy miss for two reasons. First, this form of recognition creates State-led institutional acceptance of disproportionate cost-bearing for marriage. Second, given the social prevalence and acceptance of dowry, the state's oversight on MAS becomes a much larger policy mistake. Thus, the MAS shifts from incentivisation to aiding the institution of marriage and its patriarchal customs. It moves a step further where there is institutional recognition and sustenance of the unequal costs borne for constituting a marriage by the state itself.

Except for the two stated national policies, MAS still largely remains within the ambiguous focus of the state policy framework. In India, these schemes have garnered most attention in the political landscapes of Tamil Nadu, Madhya Pradesh, Jammu and Kashmir, and Goa. Tamil Nadu politics has the most structured MAS schemes. Within these, two policies incentivise marriage in the form of widow remarriage and a state inter-caste MAS. There are three more policies which aim to aid targeted vulnerable populations for the marriage of their girl child, which are policies for BPL families, daughters of widows and orphaned girl children.

Given the fact that these policies seem to be torn between their intended targets and objectives, it becomes difficult to evaluate their success. While the state of Tamil Nadu tries to use the MAS for allied welfare policies like incentivising education by providing more aid to girls educated beyond 10th Grade, making registration compulsory (also in the states of Jammu and Kashmir and Madhya Pradesh), there is no monitoring or outcome-oriented data provided by Tamil Nadu or any State in India. They have five versions of the MAS running with their unique beneficiaries, all revisions to the schemes are done to increase the amount provided as assistance, but given no clear beneficiary objective and mechanism of both implementation and review, the outcome of these schemes remain ambiguous.

In the territories of Madhya Pradesh and Jammu and Kashmir, MAS have created a unique legal category of the destitute women. MAS are intended to aid this new legal category which has differing constitutive groups in different States while MP chooses to recognise the intersectionality within poverty and provide MAS for disabled girl child and widow-remarriage, Jammu and Kashmir chooses to only recognise the concern of poverty.

The progression of the MAS scheme in the State of Goa is most worrying of all. Even after all the stated concerns of lack of objectives, clear beneficiaries, bureaucratic efforts. The original policy was monetary assistance to girl children, which young girls could choose to use for higher education or marriage. The scheme was amended to focus only on marriage (Shetye, 2022) converting a monetary assistance scheme into an MAS. Goa fairs better than most states on allying indicators and yet the policy formulation seems to have shifted its focus, from incentivising higher education to marriage. The MAS theoretically seem to be legitimising patriarchal economic burdens on the brides' side of the family. Furthermore, this shift in the MAS from education to marriage turns out to be contrary to the focus of welfare and family planning schemes in India.

MARRIAGE AND ALLIED WELFARE SCHEMES:

Welfare and family planning schemes that fall under the larger rubric of women empowerment, have also impacted and influenced the institution of marriage. The government has pushed female healthcare, education, public access, maternal care, child care, nutritional needs, employment opportunities beginning at the level of sustenance and security to incentivising higher education, economic independence, and reproductive rights. Along with this, the law has attempted to work on legal choice, safety and security, property and child rights. The schemes that fall under this larger rubric have been showing promising results at the stage of beneficiary enrollment and benefits incurred.

This is not to say these are ideal policy frameworks which are successful, but seem to be performing better than their counterpart of MAS. The first section of this paper has dwelled deep on improving statistics in education and increasing the age of marriage and the allied concerns with the same. Correspondingly, NFHS data also indicates improvement in fertility rates and maternal mortality rates. The data at the same time shows that sex ratio continues to decline in seven states within India. These indicators when studied together, and in detail, show that the policy framework and legal system are resulting in gradual change. However, a more in depth reading of the same indicates that the rate of change might not be well paced. Furthermore, the impact of COVID-19 on demographic health of the country is yet to be calculated, though the projected trends do not foster much confidence.

MAS may be a more direct way other than law for policy framework to engage with marriage. Yet, the MAS seems to have an economic outlay with no clarity about outcomes of these schemes, intended targets, objectives and aims. The current framework of the MAS has been reduced to a political tool with no coherent study of impact or results. These policies need a revamp which weighs all important indicators of the scheme, ranging from beneficiary enrollment to beneficiary impact.

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