

5. Prohibition of Child Marriage Act, 2006

Prelims Level: Rights Issues

Mains Level: GS-II Issues relating to development and management of Social Sector or Services relating to Health, Education, Human Resources.

Why in News?

- A recent SC Judgement has stated that anti Child Marriage Law does not intent to punish a male between 18 and 21 years for marrying a Female Adult.

About Prohibition of Child Marriage Act, 2006:

- This Act replaced the Child Marriage Restraint Act, 1929 which was enacted during the British era.
- The Prohibition of Child Marriage Act presently allows for child marriages, between a boy of under 21 years and a girl under 18 years of age.
- It defines a child to mean a male below 21 years and female below 18 years.
- "Minor" is defined as a person who has not attained the age of majority as per the Majority Act.
- The legal status of Child Marriage is Voidable if so desired by one of the parties. However, if the consent is obtained by fraud, deceit or if the child is enticed away from his/her lawful guardians, and if the sole purpose is to use the child for trafficking or other immoral purposes, marriage would be void.
- There is also a provision for maintenance of girl child. Husband is liable to pay maintenance in case he is a major. In case, the husband is also a minor, his parents would be liable to pay maintenance.
- It envisages preventing child marriage with punishments of rigorous imprisonment for two years and/ or fine of Rs. 1 lakh.
- The Act also provides for the appointment of Child Marriage Prohibition Officer whose duties are to prevent child marriages and spread awareness regarding the same.
- The Act has been grossly inadequate in preventing child marriages.
- A proposal by the Ministry of Women and Child Development, seeking the Union Cabinet's approval to an amendment to the Act and make child marriages void, has been pending.

Why the law is partial?

- **Section 9 of the Prohibition of Child Marriage Act, 2006**, which says: "whoever, being a male adult above 18 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.

- The court said neither does the provision punish a child for marrying a woman nor a woman for marrying a male child.
- The latter is because “in a society like ours, decisions regarding marriage are usually taken by the family members of the bride and groom, and women generally have little say in the matter.”
- The sole objective of the provision is to punish a man for marrying a minor girl. “The intention behind punishing only male adults contracting child marriages is to protect minor girls”.
- The 2006 Act also gives an option for prospective grooms who are between 18 and 21 years old to opt out of marriages.
- The Supreme Court set aside the HC order, saying the intent behind Section 9 was not to punish a child for contracting a child marriage.

