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INDIAN WOMEN: PRESENT, PAST AND FUTURE



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## **Progressive Legislation of Triple Talaq and Raising Legal age of Girls' for Marriage: Journey towards Women Empowerment via Gender Equality**

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### **Abstract**

Gender equality implies men and women performing on same footing not only in terms of education but of employment. The patriarchal Indian society protested for gender equality and women empowerment when the women already proved themselves equal to or superior to men. Yet the same society witnessed the abuse of women, inhuman treatment given to girls, dowry deaths and child marriages. This is because the girls/women are of less age having no or less education which does not allow them to leave the place and take a stand. Equality can be gained from equal laws for both men and women. Women empowerment and gender equality can be achieved only when societal perspective towards women will change. Social transformations are outcome of laws and its implementation. A progressive change in law by introducing new Acts can also bring fundamental changes in social perceptions of gender equality. This perspective can be changed with the help of education and awareness. But certain change has to be brought forcefully by implementing the law. Legislation has the authority to force the community to abide the law and behave likewise. Hence new laws introduced are noteworthy for the gender equality and women empowerment including ban on triple talaq and raising legal age of girls' for marriage. The present paper highlights the changes took place in gender equality across the time and the laws which may bring drastic change in future with lots of opportunities for women. At the same time the law would raise new questions of late marriages, illegal marriages and live-in relationships.

### **Key Words**

Child marriage, discrimination, equality, women empowerment, sustainable development (goals), legislation, triple talaq, live-in relationship, compatibility.

### **Objectives**

- 1) To underline the change took place in gender equality across the time.
- 2) To highlight the legislature that brought good and bad change in societal perspective.
- 3) To discuss the purpose of the legislature in terms of women empowerment.

### **Hypothesis**

- 1) Women in past had no right to equality and were suppressed.
- 2) Post independent India witnessed change due to legislature.
- 3) The percentage of child marriage decreased across the time.

### **Introduction**

Change is everywhere and inevitable. Child marriage was the trend in the ancient and medieval period. Neither the culture nor the religion prohibited them. But the education changed society's mindset and its culture. In the British colonial times, the legal minimum age of marriage was set at 14 for girls and 18 for boys. Education and legal system widened its perspective towards child marriages. Independent India introduced the marriage act mentioning the age of bridegroom and bride as twenty-one and eighteen respectively. Although India witnessed child marriages all over the country by giving the reasons as poor socio-economic conditions, unemployment, culture, tradition so on and so forth. After few decades an act introduced entitled Prohibition of Child Marriage Act, 2006.



implies equal access to opportunities and life changes of both men and women. Women deserve to be independent. To achieve gender equality what requires is women's empowerment. They should be enabled for decision-making at personal and public levels not only in men's favor but for the sustainable development of the community. In simple words gender equality means both men and women should fully participate as equal partners in a productive life. The purpose of gender equality is to develop a society in which women and men enjoy the same opportunities, rights, duties, fairness, and obligations in all phases of life. It can be promoted when they share equal distribution of power. The Nation that has witnessed gender equality has emerged as developed nation. Hence gender equality is much required component of women empowerment in India from all perspectives.

India had ratified the Convention on the Elimination of All Forms of Discrimination Against Women in 1993. Accordingly India has taken a progressive step to achieve Sustainable Development Goals (SDGs). Goal 5 of SDG promotes nations to formulate policies to achieve gender equality. In this respect the government has taken a step ahead by introducing progressive legislation such as The Muslim Women (Protection of Rights on Marriage) Act, 2019. Triple Talaq was a kind of instant divorce used by Muslims in India. It allowed any Muslim man to legally divorce his wife by uttering the word talaq three times consecutively in oral, written or, more recently, electronic form. Triple Talaq was itself an evil practice demanded to be banned by Muslim women for a very long time. Shayarabanu, who was unable to fulfill the demands of dowry, was given triple talaq even after 14 years of marriage. She challenged the practice and argued such evil practice is against the dignity of women. It is also discriminatory and injustice to women. It goes against right to equality where women are not given any choice but to accept the ill treatment. Under The Muslim Women (Protection of Rights on Marriage) Act, 2019 it has been declared that the instant divorce granted by pronouncement of talaq three times as void and illegal. It provides for imprisonment for a term up to 3 years and fine to the husband who practiced instant Triple Talaq.

The government has proposed raising the minimum legal age of marriage for women from 18 to 21 years. As per the bill, The Prohibition of Child Marriage (Amendment) Bill, 2021 the new minimum marital age for women shall prevail over all the personal laws regardless of their religion. The perception in Indian context is that marriage provides women social protections and recognition in the society. But the study proved that early/child marriage exposes women to early pregnancy, malnutrition, and mental, emotional, and physical violence. So under the Prohibition of Child Marriage Act, 2006 a girl under the age of 18 to be considered as child while for men this age is 21. This difference is discriminating and not justifiable. The age of voting can be equal for men and women. Then why there is inequality of age requirements to enter into a valid marriage? Today, women stand on equal footing or a step ahead to men in all spheres of life. Hence the perception needs to change.

In India marriage institute is one of the pillars that hold and control the customs, norms and traditions of society. But the society itself very easily neglects and forgets equal rights of women in terms of their age of marriage. By this amendment all men and women will come on equal footing and women empowerment will get a further promotion with equality in marriage - their age. The laws prescribe the minimum age of marriage so that it could control and prohibit child marriages and prevent the abuse of minors especially of the girls'. The pandemic period of COVID-19 witnessed high rate of child marriages not only in backward, illiterate and rural area but also in the urban areas. Such early marriages consequent early pregnancies which result into infant mortality and maternal mortality. We protest women empowerment and on the other hand they are often tend to cut off from access to education and livelihood after their early marriage.



futures for themselves. Growing evidence shows that the number of child marriages (under 18) has increased in many states during the pandemic COVID19 and lockdown periods. It was the calling for concerned government to ensure the implementation of present laws which prohibits the child marriage rather than expending efforts to further raise the marriage age. The feasibility of new law will be assessed as the time passes and the way people accept it and reacts to it. Till then we have to aware the people, literate the people about the importance and role of gender equality and women empowerment in the sustainable growth of the nation. Otherwise the law would result into girls sayings as \_\_

**“My marriage age may have been raised but my hopes have not....”**

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