Minimum Age of Marriage

Why in news?

The central government has set up a committee to reconsider the minimum age of marriage for women.

What is the difference?

- The minimum age of marriage is distinct from the age of majority which is gender-neutral.
- As per the Indian Majority Act, 1875, an individual attains the age of majority at 18.
- Currently, the minimum age of marriage is 21 years and 18 years for men and women respectively.

What is the committee?

- The task force was set up by the Ministry for Women and Child Development.
- It will examine the possibility of increasing the age of marriage for women from the present 18 years to 21 years.
- It will examine the correlation of age of marriage and motherhood with certain factors.
- These factors include health, medical well-being, and nutritional status of the mother and child, during pregnancy, birth and thereafter.
- It will also look at parameters like Infant Mortality Rate (IMR), Maternal Mortality Rate (MMR), Total Fertility Rate (TFR), Sex Ratio at Birth (SRB) and Child Sex Ratio (CSR).

Why is there a minimum age for marriage?

- The law prescribes a minimum age of marriage to essentially prohibit child marriages and prevent the abuse of minors.
- Personal laws of various religions that deal with marriage have their own standards, often reflecting custom.
- **Hindus** - The Hindu Marriage Act, 1955, sets 18 years and 21 years as the minimum age for the bride and groom respectively.
- However, child marriages are not illegal - though they can be declared void at the request of the minor in the marriage.
- **Islam** - The marriage of a minor who has attained puberty is valid.

- The Special Marriage Act, 1954 and the Prohibition of Child Marriage Act, 2006 prescribe 18 and 21 years as the minimum age of consent for marriage for women and men respectively.
- Additionally, sexual intercourse with a minor is rape and the 'consent' of a minor is regarded as invalid.

How did the law evolve?

- The Indian Penal Code enacted in 1860 criminalised sexual intercourse with a girl below the age of 10.
- The provision of rape was amended in 1927 through The Age of Consent Bill, 1927.
- It declared that marriage with a girl under 12 would be invalid.
- In 1929, The Child Marriage Restraint Act set 16 and 18 years as the minimum age of marriage for girls and boys respectively.
- The law, popularly known as the Sarda Act, was amended in 1978 to prescribe 18 and 21 years as the age of marriage for a woman and a man.

Why is the legal age of marriage different for men and women?

- There is **no reasoning in the law** for having different legal standards of age for men and women to marry.
- The laws are a codification of **custom and religious practices**.
- The Law Commission argued that having different legal standards contributes to the stereotype that wife must be younger than husband.
- The Committee on the Elimination of Discrimination against Women, calls for the abolition of laws that assume women have a different physical or intellectual rate of growth than men.
- It recommended that the minimum age of marriage for both genders must be set at 18.
- It noted that the difference in age for husband and wife has no basis in law as spouses entering into a marriage are by all means equals.

Why is the law being relooked at?

- There are many arguments in favour of increasing the minimum age of marriage of women.
- There is a need to bring in gender-neutrality.
- There is a need to reduce the risks of early pregnancy among women.
- Early pregnancy is associated with increased child mortality rates and affects the health of the mother.
- Despite laws mandating minimum age and criminalising sexual intercourse with minor, child marriages are very prevalent in India.

What are the grounds on which the law was challenged?

- In 2019, the Delhi High Court sought the central government's response in a plea that sought a uniform age for marriage for men and women.
- The petitioner had challenged the law on the grounds of discrimination.
- He argued that Articles 14 and 21 of the Constitution were violated by having different legal ages for men and women to marry.
- [Articles 14 and 21 guarantee the right to equality and the right to live with dignity.]
- Two significant Supreme Court (SC) rulings can act as precedents to support the petitioner's claim.
- **2014** - In the 'NALSA v Union of India', the SC recognised transgenders as the third gender.
- The justice is delivered with the assumption that humans have equal value and should, therefore, be treated as equal, as well as by equal laws.
- **2019** - In the 'Joseph Shine v Union of India', the SC decriminalised adultery.
- It said that a law that treats women differently based on gender stereotypes is an affront to women's dignity.

How common are child marriages in India?

- **UNPF** - A report by the United Nations Population Fund said that child marriages happen 33,000 times a day, every day, globally.
- An estimated 650 million girls and women alive today were married as children.
- By 2030, another 150 million girls under the age of 18 will be married.
- Advances in India have contributed to a 50% decline in child marriage in South Asia - to 30% in 2018.
- But, the region still accounts for the largest number of child marriages each year.
- **UNICEF** estimates suggest that each year, at least 1.5 million girls under the age of 18 are married in India.
- This makes India home to the largest number of child brides in the world - accounting for a third of the global total.
- Nearly 16% adolescent girls aged 15-19 are currently married.

Source: The Indian Express



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