



Syllabus subtopic: Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

News: A new study calls for a need to distinguish between self-arranged marriages among older adolescents and forced child marriages to protect teens from social stigma, parental backlash and punitive action

Prelims and Mains focus: Laws on this issue, need for change.

Findings of the study:

1. The study makes a case for an age of consent that is lower than the age of marriage to decriminalise sex among consenting older adolescents to protect them from the misuse of law for enforcing parental and caste controls over daughters.
2. It also demanded **uniform age for marriage**.
3. The study also records that while girls face restrictions on their mobility, premarital relations and sexuality, the same was not true for boys of the same social milieu who enjoyed greater freedom.
4. The study again provides evidence of the misuse of POCSO, which raised the age of consent from 16 to 18 years. Activists have long argued that this would result in adolescents being wrong

What the law says?

- Currently, the law prescribes that **the minimum age of marriage is 21 and 18 years for men and women**,
- The **minimum age of marriage is distinct from the age of majority**, which is gender-neutral.
- An individual attains **the age of majority at 18 as per the Indian Majority Act, 1875**.
- For Hindus, Section 5(iii) of **the Hindu Marriage Act, 1955** sets 18 years as the minimum age for the bride and 21 years as the minimum age for the groom. **Child marriages are not illegal but can be declared void at the request of the minor in the marriage**.
- **In Islam, the marriage of a minor who has attained puberty is considered valid** under personal law.
- **The Special Marriage Act, 1954** and the Prohibition of Child Marriage Act, 2006 also prescribe 18 and 21 years as the minimum age of consent for marriage for women and men respectively.

Why have a minimum age for marriage?

The law prescribes a minimum age of marriage **to essentially outlaw child marriages and prevent abuse of minors**. Personal laws of various religions that deal with marriage have their own standards, often reflecting custom.



Need for uniformity:

1. The different legal standards for the age of men and women to marry has been a subject of debate.
2. In a consultation paper of reform in family law in 2018, the Law Commission argued that having different legal standards "contributes to the stereotype that wives must be younger than their husbands".
3. Women's rights activists too have argued that the law perpetuates the stereotype that women are more mature than men of the same age and therefore can be allowed to marry sooner.
4. The Law Commission paper recommended that the minimum age of marriage for both genders be set at 18. For the difference in age for husband and wife has no basis in law as spouses entering into a marriage are by all means equals and their partnership must also be of that between equals.

Two Supreme Court rulings could be significant to the context of this argument:

1. In 2014, in National Legal Services Authority of India v Union of India, the Supreme Court while recognising transgenders as the third gender said that justice is delivered with the "assumption that humans have equal value and should, therefore, be treated as equal, as well as by equal laws."
2. In 2019, in Joseph Shine v Union of India, the Supreme Court decriminalised adultery and said that "a law that treats women differently based on gender stereotypes is an affront to women's dignity."