

DOES AN INCREASE IN THE LEGAL AGE OF MARRIAGE FOR WOMEN GUARANTEE EQUALITY FOR WOMEN IN INDIA?

—JAGRITI GANGOPADHYAY*

In India's quest to fight malnutrition, the current Prime Minister of India, Narendra Modi, in his speech on 15th August 2020, declared that the legal age of marriage for women would be increased from 18 to 21. This announcement has received mixed reactions from the media. For instance, one section of the media has appreciated this declaration for providing equal opportunities to women, with a particular focus on health. However, another section of the media has critiqued the Prime Minister's announcement and indicated how an increase in marital age will not necessarily reduce malnutrition levels. Drawing from secondary data sources and media articles, this Note highlights the existing gender-related discrimination and seeks to understand the implications of increasing the minimum legal age of marriage for women in India.

Keywords: legal age for marriage, gender inequalities, child marriage, health, education, employment.

I. INTRODUCTION

The Age of Consent Act was passed in 1891. According to this Act, the age of consent for the purpose of engaging in sexual intercourse was raised from 10 years to 12 years. However, this Act did not address the legal age of marriage. Hence, the age of marriage was subsequently addressed through the Child Marriage Restraint Act of 1929, also known as the Sarda Act, which finalised the minimum marriageable age for girls at 14 years and boys at 18 years.¹ Later, the Prohibition of Child Marriage Act, 2006 was enacted and the minimum marriageable age limits were revised to 18 years for girls and 21 years for

* Jagriti Gangopadhyay (PhD), Assistant Professor, Manipal Centre for Humanities, Manipal Academy of Higher Education (MAHE).

¹ Abhijit Das, 'Does India Need a New Law That Revises the Age at Which Women Are Married?' (*The Wire*, 13 September 2020) <<https://thewire.in/women/india-new-law-age-at-marriage-women>> accessed 30 November 2020.

boys.² This minimum marriageable age for girls may soon witness a change as the Prime Minister of India, Narendra Modi, in his recent Independence Day Speech on 15 August 2020, announced that the legal marriageable age for women in India would be increased from 18 to 21.³ In his speech, he also mentioned that a committee had already been formed to start looking into this policy, and on 4 June 2020, a task force was appointed by the Women and Child Development Ministry of India to this effect.⁴ This ten member task force is being led by Ms. Jaya Jaitly and NITI Aayog member Vinod Paul.⁵

By increasing the marriageable age for women, the aim of the Government is to lower maternal mortality and increase nutrition levels among Indian women.⁶ Additionally, this increase of marriageable age for women is being portrayed as a move towards gender equality with a particular focus on health and demographic well-being.⁷ Praising this move, a report prepared by the State Bank of India suggests that by increasing the legal age of marriage for women, the percentage of females enrolled for graduation will increase by 5-7%.⁸ However, other media platforms have critiqued this announcement and highlighted that without tackling other major issues such as low levels of literacy, prevalence of child marriages and child pregnancies, lack of access to job opportunities, and nutrition levels among women in India, a mere delay in marriage will not bridge the existing gender inequalities in India.⁹ Relying on various secondary sources such as media reports, research papers, and online data sets, this Note intends to highlight how a mere increase in the marriageable age for women might not necessarily yield greater gender equality or reduce maternal mortality and improvement of nutrition levels among women in India.

² Ibid.

³ The Wire, 'Focus Should Be on Root Causes of Child Marriage, Not Increasing Marriage Age: Activists' (*The Wire*, 25 August 2020) <<https://thewire.in/women/marriage-age-women-18-21-children>> accessed 30 November 2020.

⁴ Ibid.

⁵ Ministry of Women and Child Development, 'Task Force set up to examine matters pertaining to age of motherhood, imperatives of lowering MMR, improvement of nutritional levels and related issues' (*Press Information Bureau*, 6 June 2020) <<https://pib.gov.in/PressReleasePage.aspx?PRID=1629832>> accessed 6 March 2021.

⁶ Shireen J. Jejeebhoy, 'Raising the Minimum Legal Age of Marriage for Women to 21 Years is Neither Feasible Nor Promising' (*Scroll.in*, 3 September 2020) <<https://scroll.in/article/971605/raising-the-minimum-legal-age-of-marriage-for-women-to-21-years-is-neither-feasible-nor-promising>> accessed 30 November 2020.

⁷ Das (n 1).

⁸ Ecowrap, 'Increasing the Legal Age of Women Marriage: A Dominant Strategy For Societal Good, Financially Empowering Women' State Bank of India 3 (22 October 2020) <https://www.sbi.co.in/documents/13958/3312806/231020-Ecowrap_20201022_VaO7iwN.pdf/1793f5eb-5225-62f4-74ec-9e97775dd8cc?t=1603435145924> accessed 6 March 2021.

⁹ Das (n 1); Jagriti Chandra, 'Activists Against Raising Age of Marriage for Women' *The Hindu* (25 August 2020) <<https://www.thehindu.com/news/national/activists-against-raising-age-of-marriage-for-women/article32435181.ece>> accessed 30 November 2020.

The Note is divided into the five sections. Section I discusses the prevalence of child marriages, and child pregnancies in India, and the impact these have on the health of women and girls. Section II looks into indicators such as access to education and employment for women in India. Section III delves into a discussion of the urban scenario in terms of these indicators. On the basis of the material discussed in the said sections, Section IV seeks to find an answer to the question of whether an increase in marriageable age can lead to gender equality and improved nutritional levels for women in India. Finally, Section V looks at the policy implications that this discussion has. The main aim of this Note is to highlight some of the major gender disparities that exist in the country and discuss policies to strive for gender equality in India, in light of the proposal to increase the legal age of marriage for women.

II. CHILD MARRIAGES, CHILD PREGNANCIES, AND HEALTH IN INDIA

According to a report titled “Ending Child Marriage: Progress and Prospects”, published by UNICEF,¹⁰ India has the largest number of child brides in the world, roughly one third of the global total.¹¹ The Prohibition of Child Marriage Act, 2006 (‘PCMA’) states that “a “child” means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age.”¹² Additionally, the Act also states that ““child marriage” means a marriage to which either of the contracting parties is a child.”¹³ As per this Act, child marriages are declared as illegal and the goal of this law is to prevent the solemnisation of child marriages. In particular, this Act prohibits marriages below 18 years of age for girls and 21 years of age for boys. This law was implemented in 1978 to tackle the population explosion in India.¹⁴ Despite this law, as per the National Family and Health Survey Round 4,¹⁵ 6.8% of women, between ages 20-24, were married before they turned 18.¹⁶

Factors such as dowry (younger bride means lesser dowry), fear of loss of family honour (the anxiety of girls losing their virginity before marriage), and pressure from extended kin and other external network ties to marry off a girl

¹⁰ Shireen J. Jejeebhoy, *Ending Child Marriage in India, Drivers and Strategies* (New Delhi, UNICEF) <<https://www.unicef.org/india/media/2556/file/Drivers-strategies-for-ending-child-marriage.pdf>> accessed 30 November 2020.

¹¹ Ibid 9.

¹² The Prohibition of Child Marriage Act 2006, s 2(a).

¹³ The Prohibition of Child Marriage Act 2006, s 2(b).

¹⁴ Chandra (n 9).

¹⁵ International Institute for Population Sciences (IIPS), ‘National Family Health Survey-4 2015-16’ 165 (IIPS, December 2017) <<http://rchiips.org/nfhs/NFHS-4Reports/India.pdf>> accessed 30 November 2020.

¹⁶ Ibid.

child dominate marriage-related decisions across India.¹⁷ The situation is particularly dire in rural areas, as the girl child is seen as an economic liability and the preference for a son continues to dominate.¹⁸ In addition to cultural perceptions, lack of access to education and employment opportunities for girls and women also act as major sources of gender inequality in India.

A study published in the *Lancet* journal indicates that children born to adolescent mothers are at risk of suffering from malnutrition. Adolescent pregnancy results in child under-nutrition through “poor maternal nutritional status, lower education, less health service access, poor complementary feeding practices, and poor living conditions.”¹⁹ Attributing the reason to son preference, another study has indicated that within siblings, a girl child is breastfed lesser than her brother.²⁰

Thus, one major consequence of child marriage is early pregnancy, which risks the health of both the mother as well as the child.²¹ A recent study found that states such as Bihar and Andhra Pradesh account for the highest number of women marrying and having children before they turn 18.²² In particular, across their samples, the study found that women who had their first birth before 18, belonged to the ‘significantly thin’ category across all the samples.²³ Another study has demonstrated that child marriage is associated with high health complications among teenage mothers and their children.²⁴ Specifically, the study found that most underage mothers are at risk of reproductive health challenges, impaired mental health, malnutrition, anaemia, vaccine-preventable infectious diseases, hypertensive disorder, eclampsia, preeclampsia, postpartum haemorrhage and exposure to sexually transmitted diseases.²⁵ Similarly, the children of underage mothers are at increased risk of prematurity, intrauterine growth retardation, being small for gestational age, birth asphyxia, and perinatal complications.²⁶

¹⁷ Aparna Mitra, ‘Son Preference in India: Implications for Gender Development’ (2014) 48(4) *Journal of Economic Issues* 1021.

¹⁸ *Ibid* 1022.

¹⁹ P.H. Nguyen, S. Scott, S. Neupane, L.M. Tran & P. Menon, ‘Social, Biological, and Programmatic Factors Linking Adolescent Pregnancy and Early Childhood Undernutrition: A Path Analysis of India’s 2016 National Family and Health Survey’ (2019) 3 *The Lancet Child and Adolescent Health* 463–473.

²⁰ J. Flederjohann, S. Agrawal, S. Vellakkal, S. Basu, O. Campbell, P. Doyle, S. Ebrahim, and D. Stuckler, ‘Do Girls have a Nutritional Disadvantage Compared with Boys? Statistical Models of Breastfeeding and Food Consumption Inequalities Among Indian Siblings’ (2014) 9(9) *PLoS one* 1.

²¹ Pintu Paul, ‘Effects of Education and Poverty on the Prevalence of Girl Child Marriage in India: A District-level Analysis’ (2019) 100 *Children and Youth Services Review* 16, 17.

²² Srinivas Goli et al, ‘The Effect of Early Marriages and Early Childbearing on Women’s Nutritional Status in India’ (2015) 19 *Maternal and Child Health Journal* 1864, 1866.

²³ *Ibid* 1868.

²⁴ Rajeev Seth et al, ‘Social Determinants of Child Marriage in Rural India’ (2018) 18(4) *The Ochsner Journal* 390, 392.

²⁵ *Ibid.* 391.

²⁶ *Ibid.*, 392.

These health risks also increase mortality rates among the children of teenage mothers.²⁷

Based on these findings, it may be suggested that child marriage which persists due to dominant cultural constructs of the Indian family system result in child pregnancies as well. These child pregnancies adversely impact the health of the mother and the child. A female child is considered to be a burden and liability and marriage seems to be the most feasible solution for girls.²⁸ Thus, to ensure the complete abolition of child marriages and child pregnancies, attitudes towards the girl child need to be changed. As indicated, the main goal of the Government of India in increasing the legal marital age for women is to reduce maternal mortality rates and increase nutrition levels. Findings from the recent NFHS-5 are glaring and the Government of India needs to examine the various forms of gender inequalities to improve the health of girls and women across the country.

Flavia Agnes has written that though there is a consistent urge from various activists and scholars to make child marriages void, they continue to remain voidable at the option of the party that was a child at the time of marriage,²⁹ and thus, the general compliance with the PCMA continues to remain a concern in contemporary India.³⁰ Data from NFHS-3, which pertains to a period before the implementation of the PCMA demonstrates that the national average for child marriages among girls was 58%.³¹ On the other hand, a 2020 UNICEF survey states that in South Asia, 8% of women aged 20 to 24 marry before they turn 15 and 29% marry before they turn 18.³² This shows that although the PCMA has resulted in the decline of child marriages over the years, child marriage continues to persist as a social problem and is not quite the exception yet.

With the introduction of the PCMA, the Government offered a legal solution. However, cultural and social practices continue to exist. Besides, the failure to curb child marriages could be attributed to some of the gaps within the PCMA as well. First, only a child bride/groom has the right to file a petition to annul their marriage.³³ In case the petitioner is a minor, then the petition can

²⁷ Ibid.

²⁸ Malavika Rajkumar, 'To Root Out Child Marriage, Existing Laws Need Tightening' (*The Wire*, 11 September 2019) <<https://thewire.in/rights/child-marriage-laws-india>> accessed 30 November 2020.

²⁹ The Prohibition of Child Marriage Act 2006, s 3(i).

³⁰ Flavia Agnes, 'Controversy over Age of Consent' (2013) 48(29) *Economic and Political Weekly* 10, 11.

³¹ International Institute for Population Sciences (IIPS), 'National Family Health Survey-3 2005-06: Volume I' 163 (IIPS, September 2007) <http://rchiips.org/NFHS/NFHS-3%20Data/VOL-1/India_volume_I_corrected_17oct08.pdf> accessed 30 November 2020.

³² UNICEF, 'Child Marriage' (April 2020) <<https://data.unicef.org/topic/child-protection/child-marriage/>> accessed 6 March 2021.

³³ Malavika Rajkumar, 'To Root Out Child Marriage, Existing Laws Need Tightening' (*The Wire*, 11 September 2019) <<https://thewire.in/rights/child-marriage-laws-india>> accessed 30 November 2020.

be filed by a guardian through a child marriage probationary officer.³⁴ Most of the time the children are not in a position to approach an officer.³⁵ Similarly, the guardians are also influenced by societal norms and pressures regarding their child's marriage and often refrain from taking legal action.³⁶ In particular, often it is the guardians who coerce their children into child marriages. Second, the PCMA does not punish the officer for dereliction of duty.³⁷ This leads to lack of accountability, thereby causing hindrance to social justice for the children. Third, personal laws often interfere with the PCMA.³⁸ In many communities, personal laws allow child marriages and prevent the implementation of PCMA.³⁹ Finally, registration of marriages is not compulsory under the PCMA. Consequently, a lot of child marriages go unreported.⁴⁰ Thus, unless these gaps are addressed in the existing Act, it will be hard for the Government of India to reduce the incidence of child marriage by simply raising the age of marriage.

III. WOMEN'S ACCESS TO EDUCATION AND EMPLOYMENT IN INDIA

In addition to the existence of social problems such as child marriage and child pregnancies, women also face inequalities with regard to their access to education and employment. In particular, Naila Kabeer has indicated that with education and paid work, women are able to take better health related decisions, both for themselves and their children.⁴¹ Kabeer argues that education enables women in processing and utilising information related to their reproductive health and complete immunisation of their children.⁴² Similarly, Kabeer suggests that with economic independence, women can spend more on their health as well as that of their children.⁴³

Despite this stress on education and employment, school attendance rates and female labour force participation rates continue to remain low in India. A 2017 report published by the National Commission for Protection of Child

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Naila Kabeer 'Gender Equality, Poverty Eradication and the Millennium Development Goals: Promoting Women's Capabilities and Participation', (2003) Gender and Development Discussion Paper Series No 13 <<http://nailakabeer.net/wp-content/uploads/2003/09/10.1.1.173.4604.pdf>> accessed 6 March 2021; Naila Kabeer, 'Gender Equality and Women's Empowerment: A Critical Analysis of the Third Millennium Development Goal' (2005) 13(1) Gender and Development 13.

⁴² Naila Kabeer 'Gender Equality, Poverty Eradication and the Millennium Development Goals: Promoting Women's Capabilities and Participation', (2003) Gender and Development Discussion Paper Series No 13, 9 <<http://nailakabeer.net/wp-content/uploads/2003/09/10.1.1.173.4604.pdf>> accessed 6 March 2021.

⁴³ Ibid., 18.

Rights revealed that across India, 39.4% girls aged 15-18 years dropout of school and college.⁴⁴ Among the girls who dropout, 64.8% of the girls are coerced into doing household chores or are pushed into begging.⁴⁵ Globally, India's female literacy rate was about 66% in 2018 as compared to the World Average of 82.65%.⁴⁶ In terms of female literacy rates, India ranks lower than middle and lower income countries such as Sri Lanka and Zimbabwe.⁴⁷ In addition to low female literacy rates, dropout rates among girls reaching secondary education is also high in India. For instance, as per the Annual Status of Education Report (Rural) 2017, 32% of girls are not enrolled in secondary education as compared to 28% of boys.⁴⁸

Apart from low female literacy rates and low enrolment rates among females in secondary education, labour force participation for women is also significantly low in India. As per the recently released data by the National Sample Survey Organisation (NSSO) in its Periodic Labour Force Survey, India's female labour force participation was 23.3% in 2017-18.⁴⁹ Only thirteen countries across the world have lower female labour force participation rates as compared to India.⁵⁰ These numbers paint a sorry picture and highlight the stark gender disparities embedded in the education and employment sectors of India.

The abysmal numbers associated with female literacy, enrolment in secondary education, and labour force participation could be attributed to a number of factors. First, traditional gender roles, which continue to exist, expect men to earn and women to be relegated to the domestic sphere. As a result of these gender norms, women are solely expected to take on the responsibility of household chores and childcare.⁵¹ While the Maternity Benefit Act, 1961 was amended in 2017 and increased paid maternity leave from 12 weeks to 26 weeks, paternity

⁴⁴ National Commission for Protection of Child Rights, *Vocational & Life Skills Training of Out-of-School Adolescent Girls in the age group 15-18 years* 7 (2017) <<https://ncpcr.gov.in/showfile.php?lang=1&level=1&&sublinkid=1357&clid=1558>> accessed 30 November 2020.

⁴⁵ *Ibid.*, 1.

⁴⁶ UNESCO Institute for Statistics, 'Literacy Rate, Adult Female (% of Females Ages 15 and Above) – India' <<https://data.worldbank.org/indicator/SE.ADT.LITR.FE.ZS?locations=IN>> accessed 26 January 2021.

⁴⁷ *Ibid.*

⁴⁸ *Annual Survey Education Report "Beyond Basics" (Rural)* 7 (ASER Centre, January 16, 2018) <<http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202017/aser2017fullreportfinal.pdf>> accessed 27 January 2021.

⁴⁹ National Sample Survey Organization, 'Periodic Labour Force Surveys' 4 (*Ministry of Statistics and Programme Implementation*, June 2020) <http://mospi.nic.in/sites/default/files/publication_reports/Quarterly_Bulletin_PLFS_April_June_2019_M_o.pdf> accessed 27 January 2021.

⁵⁰ United Nations Development Programme, 'Labour Force Participation Rate (Female-Male Ratio)' <<http://hdr.undp.org/en/content/labour-force-participation-rate-female-male-ratio>> accessed 6 March 2021.

⁵¹ Anjela Taneja, 'The High Dropout Rates for Girls in India' (*Livemint*, 31 January 2018) <<https://www.livemint.com/Opinion/iXWvKng7uU4L8vo5XbDn9I/The-high-dropout-rate-of-girls-in-India.html>> accessed 27 January 2021.

leave is yet to be made applicable to all male citizens in India (only a section of government employees are eligible for paternity leave in India). As such, owing to patriarchy and associated stereotypes, women are still not viewed as breadwinners of the family. Second, various infrastructural barriers prevent women from continuing their education as well as employment. Infrastructural issues such as distance from the school and the employing organisation, often prevent girls and women from continuing their education or employment.⁵² On a related note, lack of gender sensitive environment in the form of unavailability of toilets also coerces girls and women to dropout from their schools and jobs.⁵³ Hence, a culmination of factors such as gender norms, patriarchal structures and logistical problems prevent girls and women from accessing their schools and organisations offering them employment.

IV. THE URBAN SCENARIO IN INDIA

Anthony Giddens, a leading contemporary sociologist, in ‘Globalisation Theory’, suggested that globalisation is “*the intensification of worldwide social relations which link distant localities in such way that local happenings are shaped by events occurring many miles away and vice versa*”.⁵² The argument forwarded was that globalisation results in distant events impacting and changing aspects of our everyday life. In short, Giddens argued that globalisation as a macro process would come to influence the micro and intimate lives of individuals across the globe.⁵³ Focusing on gender equality and everyday life, he argued that ordinary women would seek equal opportunities and join the workforce and education sector as an outcome of globalisation.⁵⁴ Additionally, he also suggested that as women entered the workforce, societies would witness late marriages.⁵⁵

Although the number of urban women in higher education has increased from 46.5% in 2004-2005 to 65.4% in 2017-2018, the proportion of highly educated women who work continued to be only 17.3% in 2017-2018.⁵⁶ These numbers suggest that inspite of education, women in urban India continue to remain outside the workforce. These low numbers among urban women could be attributed to the fact that normative gender roles play a key role in shaping women’s career choices, irrespective of their access to higher education. In particular, data and studies demonstrate how motherhood often acts as a key factor in determining a woman’s career trajectory.

⁵² Anthony Giddens, *The Consequences of Modernity* (Stanford University Press 1990) 64.

⁵³ Anthony Giddens, *Modernity and Self-Identity* (Stanford University Press 1991) 106.

⁵⁴ Anthony Giddens, *Modernity and Self-Identity* (n 53) 27.

⁵⁵ Anthony Giddens, ‘Living in a post-traditional society’ in Ulrich Beck, Anthony Giddens, and Scott Lash, *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order* (Polity Press 1994) 59.

⁵⁶ Ministry of Statistics and Programme Implementation and National Statistical Office, ‘Annual Report, Periodic Labour Force Survey 2017-2018’ (June 2020) 52 <http://mospi.nic.in/sites/default/files/publication_reports/Annual_Report_PLFS_2018_19_HL.pdf> accessed 8 March 2021.

According to research conducted by Zinnov (a global management consulting firm), only 30% of representation of women is in corporate sectors of India, with 31% representation in non-technical category and 26% representation in the technical category.⁵⁷ Additionally, this research also shows that in India, only 13% of seats on boards of companies are occupied by women and there are only 11% of senior women leaders in the corporate sector.⁵⁸ This data suggests that while urban educated women might be entering the workforce in sufficient numbers, their retention rates remain low. Similarly, owing to the glass ceiling effect,⁵⁹ women do not find equal representation at the top level either. Women are under-represented in academia as well. A survey conducted by the All India Survey of Higher Education found that only 42% of faculty are female in the higher education institutes of India.⁶⁰

In this regard, it is pertinent to note that a study using the National Sample Survey indicated that motherhood serves as a strong normative pressure for women to leave their jobs.⁶¹ Another study found that working mothers in urban India are often discriminated against, for neglecting their motherhood responsibilities, and respondents from India characterised good motherhood as “putting care responsibilities as uppermost responsibilities”.⁶² Thus, based on these studies, it may be suggested that in the process of navigating between their careers and motherhood responsibilities, most women discontinue their employment and focus on fulfilling their roles as mothers.

As such, leaving the workforce owing to motherhood responsibilities restricts women’s autonomy and impacts their health and well being as well, given that it is important for women to be financially independent to be able to address their health issues.

⁵⁷ Zinnov Intel India, Zinnov-Intel India Gender Diversity Benchmark (2018) <<https://www.prnewswire.com/in/news-releases/zinnov-intel-india-gender-diversity-benchmark-study-released-841386549.html>> accessed 28 January 2021.

⁵⁸ Ibid.

⁵⁹ Dennis M. Daley, ‘Attribution Theory and the Glass Ceiling: Career Development Among Federal Employees’ (1998) 1(1) *International Journal of Organization Theory & Behavior* 93, 97.

⁶⁰ All India Survey of Higher Education, ‘All India Survey of Higher Education 2016-17’ 16 (*Department of Higher Education*, 2017) <<http://aishe.nic.in/aishe/viewDocument.action?documentId=239>> accessed 30 November 2020.

⁶¹ Farzana Afridi, Taryn Dinkelman and Kanika Mahajan, ‘Why Are Fewer Married Women Joining the Work Force in India?: A Decomposition Analysis over Two Decades’ (2016) IZA Discussion Paper No 97228 <<http://ftp.iza.org/dp9722.pdf>> accessed 28 January 2021.

⁶² Maitreyi Bordia Das, Ieva Žumbytė, ‘The Motherhood Penalty and Female Employment in Urban India’ (2017) Policy Research Working Paper 8004 5 <<https://openknowledge.worldbank.org/handle/10986/26347>> accessed 30 November 2020.

V. DOES AN INCREASE IN MARRIAGEABLE AGE LEAD TO EQUALITY?

This Note began by highlighting that the recent announcement of the Government of India to increase the age of marriage for girls to 21 has been touted as a measure that will foster greater gender equality and improve the health indicators of women in India. However, using empirical studies and the data relating to child marriage, child pregnancies, female literacy rates and female labour force participation, this Note suggests that a mere increase in the age of marriage or delaying the legal marriageable age for girls will not ensure equality or improve the health of girls and women in India.

As discussed in the previous sections, the data relating to child marriage reveals that while child marriage is prohibited in India, families in rural India consider marriage to be the most viable economic option for their minor daughters.⁶³ Child marriage, in turn, results in child pregnancies, which has major consequences for the health of both the mother and the child, child marriage and child pregnancies continue to be a reality in India. The still prevalent practice of child marriage denotes that passing a law to eliminate a social problem might not yield positive results. Unless there are attitudinal changes towards girl children, and daughters are given equal access to education and employment opportunities, gender equality will continue to remain unattainable in India.

While child marriages and child pregnancies are prevalent in rural India, data from urban India demonstrate new layers of inequality. As has been pointed out above, women often leave their jobs to fulfil motherhood responsibilities. Thus, the findings of these studies suggest that even access to equal opportunities might not be able to achieve equality until there is a change of perception towards role fulfilment of women in Indian society. Despite, the rise of globalisation and liberalisation, women in India continue to be burdened with the role of reproduction and motherhood.

VI. POLICY IMPLICATIONS

In the World Economic Forum's Global Gender Gap Index 2019-2020, India's overall rank was 112; and in the 'health and survival' parameter, it ranked 150 out of 153 countries.⁶⁴ The report particularly notes that economic opportunities for women are extremely limited in India.⁶⁵ In contrast to India, neighbouring South Asian countries such as Bangladesh, Nepal, and Sri Lanka performed much better in the Global Gender Gap Index.⁶⁶

⁶³ Paul (n 21).

⁶⁴ World Economic Forum, *The Global Gender Gap Report 2020* 9 (World Economic Forum, 2020) <http://www3.weforum.org/docs/WEF_GGGR_2020.pdf> accessed 30 November 2020.

⁶⁵ Ibid.

⁶⁶ Ibid., 9 (Bangladesh is ranked 50, Nepal is ranked 101, and Sri Lanka is ranked 102).

Additionally, the recent lockdown owing to the pandemic has further heightened gender inequalities in India. According to research conducted by the Centre for Monitoring Indian Economy (CMIE),⁶⁷ post the lockdown imposed owing to the COVID-19 pandemic, female labour force participation had shrunk by 13%.⁶⁸ Thus, to achieve and strive for gender equality the Government of India needs to understand some of the core issues associated with gender disparities in the country. To begin with, as different versions of data as well as studies have demonstrated, cultural constructs regarding gender roles and attitudes towards women and their work need to be changed. Additionally, infrastructural constraints which prevent girls from accessing education should be addressed to encourage girls to continue with their education. For instance, building more toilets in schools could increase female enrolment rates in primary and secondary education. Some states such as Kerala, Bihar and Rajasthan have taken initiatives to increase enrolment numbers among their female students. Kerala's 'She Pad' project launched in 2017 in 300 schools provides incinerators, pads and almirahs as per the requirements submitted by the Kerala State Women Development Corporation (KSWDC), the implementing agency of the project.⁶⁹ Similarly, state governments of Bihar⁷⁰ and Rajasthan⁷¹ have distributed bicycles and scooties for girls to overcome the barrier of distance. In the case of Bihar, the female literacy rates have gone up from 33.12 per cent in 2001 to 51.5 per cent in 2011.⁷² Syllabi and curriculum highlighting gender equality need to be taught from the beginning for children to understand men and women as equal gender identities. The Government of India should target household heads and change their mindset towards gender equality and encourage more women to be educated and seek employment. Finally, the Government of India should also aim to create safer working conditions with flexible working hours for working mothers, to motivate more working mothers to continue in the workforce.

⁶⁷ Mahesh Vyas, 'The Bitter Truth of Female Labour Force Participation' (*Center for Monitoring Indian Economy*, 9 October 2020) <<https://www.cmie.com/kommon/bin/sr.php?kall=warticle&dt=2018-10-09%2009:49:57&msec=456>> accessed 17 February 2021.

⁶⁸ Mahesh Vyas, 'Female Workforce Shrinks in Economic Shocks' (*Centre for Monitoring Indian Economy*, 14 December 2020) <<https://www.cmie.com/kommon/bin/sr.php?kall=warticle&dt=2020-12-14%2012:48:29&msec=703&ver=pf>> accessed 30 November 2020.

⁶⁹ Anu Kuruvilla, 'She Pad' Project in Kerala Schools Going Strong' *The New Indian Express* (9 January 2019) <<https://www.newindianexpress.com/states/kerala/2019/jan/09/she-pad-project-in-schools-going-strong-1922561.html>> accessed 29 January 2021.

⁷⁰ Vikas Pathak, 'On a High Note: Bihar's Female Literacy Up' *Hindustan Times* (7 April 2011) <<https://www.hindustantimes.com/india/on-a-high-note-bihar-s-female-literacy-up/story-oTRo4i6TAzfJHjp87y9QiL.html>> accessed 29 January 2021.

⁷¹ ANI, 'Rajasthan CM Approves 6000 Scooters for Tribal Girls' *Business Standard* (January 19 2020) <https://www.business-standard.com/article/news-ani/rajasthan-cm-approves-6000-scooters-for-tribal-girls-120011900001_1.html> accessed 29 January 2021.

⁷² 'Bihar Population 2011-2021' <<https://www.census2011.co.in/census/state/bihar.html>> accessed 17 February 2021.

With increasing the marriageable age of women to 21, the Government of India aims to reduce maternal mortality rates and improve nutrition levels among women. However, unless there is a change in attitude towards women's health, education and employment, gender equality would continue to remain a distant dream and attaining any of these aims would be difficult for India. Hence, the Government of India, instead of considering incomplete legal solutions, needs to design various strategies to develop a culture that will encourage more women to access education, enter the workforce and prioritise their health as well.