

# Frequently Asked Questions on Child Marriage and the Prohibition of Child Marriage Act, 2006



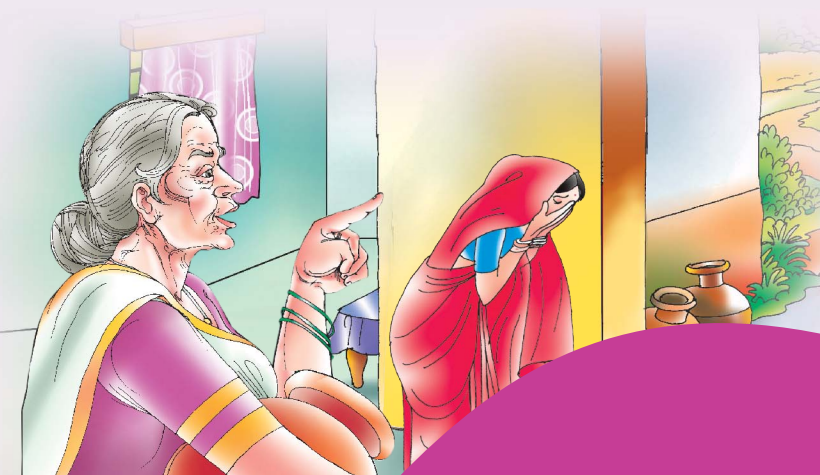
liable to pay fine up to Rupees One lakh and/or imprisonment up to two years. However, no women can be imprisoned for having performed Child Marriage despite the directions of the Magistrate prohibiting that Child Marriage, even though she is liable to financial punishment, in terms of the fine prescribed under the law prohibiting Child Marriage.

**Question No.18 :** What is the status of a Child Marriage that had been performed in violation of any order passed by the Magistrate prohibiting the performance of that Child Marriage?

**Answer :** Any Child Marriage, which has been performed in violation of the orders of the Magistrate prohibiting it, is considered to have never been performed and is no marriage at all in the eyes of law.

**Question No.19 :** What is the nature of offence in cases of performance of a Child Marriage?

**Answer :** Performance of Child Marriage is an offence for which the offenders are not entitled to bail and the police is required to register the case of commission of an offence of Child Marriage, on receipt of such information at the very first instance. Thereafter, the facts related to Child Marriage are confirmed, before filing the challan in the court of the Magistrate. In case a Child Marriage is being solemnized before a police officer, it is his duty to stop such an offence from being committed and register the case against the offenders immediately and proceed with investigation and filing of the challan in court, in cases where the Child Marriage had been performed, despite his best efforts.



**Question No. 20 :** What are the duties of the Child Marriage Prohibition Officer (CMPO)?

**Answer :** Any person, who is notified by the State Government as the Child Marriage Prohibition Officer (CMPO), for the area specified, shall:-

- Take steps to prevent performance of Child Marriage;
- Collect evidence against the person/persons who violated the law to organize a Child Marriage or else performed a Child Marriage or else participated in the activities relating to Child Marriage, including attending it;
- Advise and counsel persons into not promoting, helping and allowing solemnization of a Child Marriage;
- Generate awareness about the evils associated with Child Marriages.



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**Question No.15 :** Who can file a complaint against performance of Child Marriage?

**Answer :** The complaint against performance of Child Marriage may be filed by any of the following:-

- Any person having personal knowledge or belief that the marriage being/having been performed is a Child Marriage; OR
- Any Non-Governmental Organisation (NGO) having reasonable information relating to likelihood of taking place of a Child Marriage or mass Child Marriages.
- Child Marriage Prohibition officer (CMPO)

**Question No.16 :** Can a Magistrate do anything if he is in receipt of a reliable report or information about solemnization of Child Marriage?

**Answer :** The Magistrate may himself take notice of the performance of a Child Marriage as and when any reliable report or information is received and pass necessary orders.

**Question No.17 :** What happens when any person or organisation does not obey the orders of the Magistrate prohibiting Child Marriage?

**Answer :** When any person or the responsible persons, of any organization, do not obey the orders of the Magistrate prohibiting Child Marriage, such person/persons are



**Question No.1** : Who is a Child under the "Prohibition of Child Marriage Act, 2006"?

**Answer** : A girl under 18 years or a boy under 21 years is considered a child under the "Prohibition of Child Marriage Act, 2006".

**Question No.2** : When is any marriage called Child Marriage?

**Answer** : Such a marriage, where:

- the girl is less than 18 years and the boy/ man is 21 years or above; or else
- the girl/woman is above 18 years and boy is less than 21 years; or else
- the girl is less than 18 years and the boy/ man is less than 21 years

**Question No.3** : Can a Child Marriage be declared void?

**Answer** : Yes, at the instance of the spouse who was a minor at the time when marriage took place, a Child Marriage may be declared void (no marriage in the eyes of law). Such a spouse who was a minor at the time of performance of marriage should approach the court on turning a major, i.e., 18 years in case of girls and 21 years in case of boys.

**Question No.4** : Who should be approached, to get a Child Marriage declared void?

**Answer** : District court of the district of residence is to be approached by the spouse who was a minor at the time of performance of marriage for getting the Child Marriage declared void (no marriage in the eyes of law).

**Question No.5** : Can the petition to get the Child Marriage annulled (dissolved) be filed at any time in life?

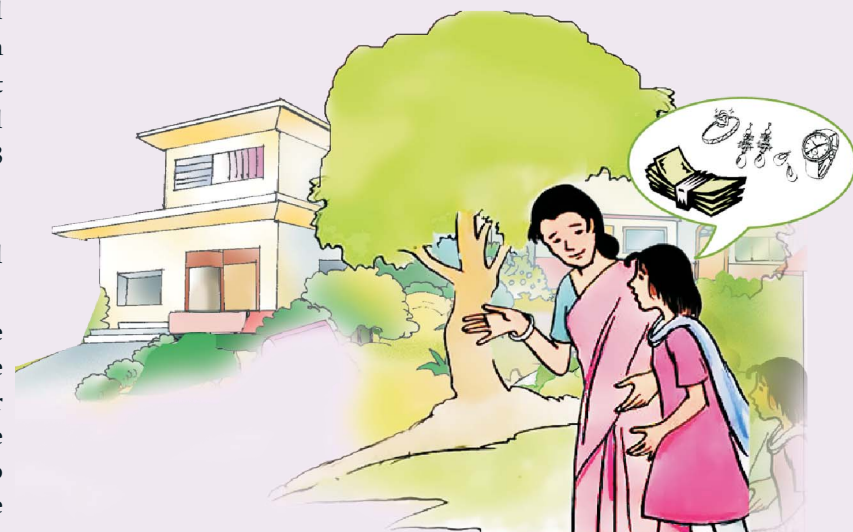
**Answer** : No. Any petition to get Child Marriage annulled (dissolved) has to be filed before completion of two years of being a major. That is to say, in case of girl, before she attains the age of 20 years and in case of boy, before he attains the age of 23 years.

**Question No.6** : On dissolution of Child Marriage, can the parties retain the gifts and valuables exchanged between them at the time of solemnization of Child Marriage?

**Answer** : No. At the time of dissolution of Child Marriage by the District Court, both parties shall be directed by the Court to return all the ornaments, valuables, gifts and money received by both the parties on the occasion of the Child Marriage, or alternatively pay to the other party money equivalent to the ornaments, valuables, gifts and cash received by it from the other party.

**Question No.7** : In the case of a Child Marriage, is the married girl entitled to maintenance, during and after the proceedings held to declare the Child Marriage void?

**Answer** : Yes. A girl who was given in marriage, in the case of a Child Marriage is entitled to maintenance, both during and after the proceedings for getting the Child Marriage dissolved. A decree of dissolution passed to dissolve Child Marriage



does not disentitle the girl from continuing to obtain maintenance from her husband (if major) or his parents/ guardians (if husband is a minor).

**Question No.8** : Are children born out of Child Marriage, which has been dissolved, considered legitimate?

**Answer** : Yes. The children born and/ or even conceived up to the day on which the decree of dissolution of marriage is passed in cases of Child Marriage, are legitimate.

**Question No.9** : What happens to children in cases of Child Marriage which have been or are being declared void (no marriage in the eyes of law) by the Court?

**Answer** : The Court passes orders both, during the proceedings to declare the Child Marriage void (no marriage in the eyes of law), and as well as at the stage of passing final order/decree declaring the Child Marriage to have been dissolved, regarding the custody and maintenance of children of such children, in reference to welfare and best interests of such children.

**Question No.10** : Where should the petition to get Child Marriage dissolved be filed?

**Answer** : Any petition to get the Child Marriage dissolved has to be filed in the District Court that has the jurisdiction of the area where:-

- Either party to the Child Marriage resides; or
- Child Marriage was solemnized; or
- Where parties to Child Marriage last resided together; or
- Party to Child Marriage who seeks dissolution of Child Marriage, is residing at the time of presenting the petition.

**Question No.11** : Can the person who was an adult at the time of Child Marriage be punished for marrying a minor?

**Answer** : Yes. If an adult man marries a minor girl, he can be made liable to rigorous imprisonment up to 2 years and/ or be fined up to Rupees 1 lakh, but not vice-versa.

**Question No.12** : Is only the male adult entering into Child Marriage liable to penalty in case of a Child Marriage?



**Answer** : No. Not only the male adult entering into Child Marriage, but also all those persons:-

- who perform;
- who conduct;
- who direct; and
- who abet (support/ encourage) the Child Marriage are liable for punishment of up to 2 years rigorous imprisonment and/ or fine of up to Rupees 1 lakh.

**Question No.13** : Can we attend and participate in a Child Marriage as a social function when invited as a guest?

**Answer** : If you attend and participate in a Child Marriage in any capacity, and take no steps to stop it, you are at least abetting (supporting/ encouraging) Child Marriage and thus, liable to be punished with rigorous imprisonment up to 2 years and/ or fine of up to Rupees 1 lakh.

**Question No.14** : Is the age of the minor contracting Child Marriage, the only consideration in declaring the marriage null and void?

**Answer** : No. Apart from the age of the minor child, other circumstances are also to be taken into consideration, like:-

- Taking minor child out of the custody (control) and care of parent/ guardian; OR
- Forcefully compelling or deceiving the minor child into going from one place to another; OR
- Selling minor child for purpose of marriage and the minor child is married after being sold; OR
- Selling minor child, who is married and thereafter is sold/trafficked/abused for immoral purposes.