
HISTORICAL CONTEXT OF THE AGE OF CONSENT AND MARRIAGE LAWS

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ABSTRACT

Over centuries the concepts of age of consent and marriage laws have evolved by the religious, cultural and legal factors. During the Ancient Civilizations the age of the marriage was determined by physical maturity like typically for girls marrying after puberty. Roman law, Medieval and Early modern periods allowed girls at the age of 12 and boys as 14 to marry. Marriage often served as a means to secure property, ensure lineage or forge alliances etc. During the 19th century especially with Industrialization and Urbanization the harsh realities of child labor brought attention to broader issues of child welfare including early marriage. Legal reforms started to address the age of consent to protect young girls from sexual exploitation. Patriarchal norms have historically created marginalized women's autonomy resulting in early marriages that limit educational and economic opportunities for girls. In the 20th century, global human rights movements improved the standardization of marriage and consent laws. The Universal Declaration of Human Rights (1948) emphasized free and full consent of both parties as a prerequisite for marriage. India introduced the Child Marriage Restraint Act 1929 to prohibit child marriages, later amended the minimum age at 18 for women and 21 for men. Traditional and religious groups' efforts to reform marriage laws often faced resistance, also there was a debate over marriage laws in countries with cultural and religious demographics. The age of consent related to sexual activity and the age of marriage are distinct but they become closely connected, difficult to separate in legal frameworks. There reflects shifting societal values, from traditional family structures to individual rights and gender equality in the evolution of age- of- consent and marriage laws. In modern needs, framing these laws is increasing as one of the Human Rights ensuring that they promote equality, dignity and the well-being of individuals.

Keywords: History, UDHR, International View, Legal Framework

Introduction:

Over centuries the concepts of age of consent and marriage laws have evolved by the religious, cultural and legal factors. During the Ancient Civilizations the age of the marriage was determined by physical maturity like typically for girls marrying after puberty. Roman law, Medieval and Early modern periods allowed girls at the age of 12 and boys as 14 to marry. Marriage often served as a means to secure property, ensure lineage or forge alliances etc. During the 19th century especially with Industrialization and Urbanization the harsh realities of child labor brought attention to broader issues of child welfare including early marriage. Legal reforms started to address the age of consent to protect young girls from sexual exploitation. Patriarchal norms have historically created marginalized women's autonomy resulting in early marriages that limit educational and economic opportunities for girls. In the 20th century, global human rights movements improved the standardization of marriage and consent laws. The Universal Declaration of Human Rights (1948) emphasized free and full consent of both parties as a prerequisite for marriage. India introduced the Child Marriage Restraint Act 1929 to prohibit child marriages, later amended the minimum age at 18 for women and 21 for men. Traditional and religious groups' efforts to reform marriage laws often faced resistance, also there was a debate over marriage laws in countries with cultural and religious demographics. The age of consent related to sexual activity and the age of marriage are distinct but they become closely connected, difficult to separate in legal frameworks. There reflects shifting societal values, from traditional family structures to individual rights and gender equality in the evolution of age- of- consent and marriage laws. In modern needs, framing these laws is increasing as one of the Human Rights ensuring that they promote equality, dignity and the well-being of individuals.

Origins of age-related Marriage laws and their evolution

The origins and evolution Age - related marriage laws have been influenced by social, cultural and legal factors among Historical periods and different societies. Medieval canon law, during the middle ages the legal system of the Roman catholic church played a pivotal role in processing the marriage practices and regulations in Europe. The principle of mutual consent, was central to this which held required the free agreement of both parties for a valid marriage. In the 12th century, it was established that the age of consent for marriage was 12 for girls and 14 for boys, aligning with the onset of puberty, acknowledged by Gratian, a

prominent canon jurist. Additionally, as early as the age 7 betrothals could occur through the actual marriage after reaching the age of consent was expected to take place. The Church brought moral behavior, strengthened its influence over societal norms and ensured the legitimacy of offspring. This helps to standardized marriage practices across christendom but it is part of a broader effort by the church. In 1275, Westminster the concept of an age emerged in England Which made them by force refering to girls under 12 and the 16th century, was lowered to 10 years. Early American colonies adopted English common law, the age of consent at 10 or 12 years but these laws were primarily concerned with property rights and the gains of wealth through marriage.

Before the middle of the 18th century, Church of England an ordained clergyman is a male religious leader who is set for a specific ministry in a Christian Church marriage could be placed before them. This encourages secret marriage without the consent of the parents and which leads towards bigamous. Without the consent of the parents or guardians under the age of 21 the marriage is not valid. Clergymen who disobeyed the law were liable for 14 years' transportation. In 1929, by the National Union of Societies for Equal Citizenship, in result of the Campaign the parliament raised the limit to 16 for both sexes in the ages of Marriage Act this is still the minimum age.

In the 19th century, England made significant reforms to age of marriage laws, in view of the age and parental approval. In 1885 the age of consent were decided remains 16 years for girls but there was contemporary concerns such as "child sexual abuse" and "teenage pregnancy". The Criminal Amendment act 1885, decision to raise the age of consent to 16 with higher penalties for offences against girls under the age of 13, which resulted from the combination of a child protection and an important need to control juvenile sexualities. Relatively recent phenomenon, links the age of sexual consent and expected sexual activity, so the age of puberty cannot be taken as a clear-cut indicator of the need to decrease the age of sexual consent. The history of sexual consent law shows the problems with direct comparisons with a 130-years- old law in order to promote or resist change but does not reveal whether the age of consent should be increased or lowered. During this time, social reform movements, raised voice for the women's rights activists, advocated for raising the age of consent to protect young girls from exploitation.

In the 20th century, The Age of Majority Act 1969 reduced the age of majority from 21

to 18, by lowering the age at which individuals could marry without parental consent. Before the 20th century in 1904 the Anglican canons made parental consent compulsory for those marrying under 21, so without parental consent were deemed as irregular. In order to eliminate the child marriage there need to be contemporary changes in the age of the marriage, so there has been a global push to set the minimum marriage age at 18 without exceptions. Some U.S states have enacted laws to this effect, while others still allow exceptions with parental consent or judicial consent.

Ancient civilizations of the age of marriage

In Ancient Civilizations, influenced by societal norms, legal stipulations and economic factors based on that the age at which individuals entered into marriage varied significantly across cultures. During the Ancient Rome period, by the time of Emperor Augustus Roman law set the legal minimum ages at 12 for girls and 14 for boys. While the girls from Aristocratic background often married shortly after the legal minimum age. Among the lower social classes that reflect the economic and social consideration, individuals typically married in their late teens to early twenties. Marriage was a fundamental institution in ancient Rome , the legal framework and social norms played a significant role, with strict rules about marriage referred to the legal right to marry granted to adult Roman Citizens they are Conubium, Monogamy.

During Ancient Greece, the age of the individuals married varied based on gender, city-state customs and societal norms. Marriage age for women is again classified as per customs they are general practices, Athenian Customs and Spartan Customs. Greek girls typically married between the ages of 14 and 19 and for men typically married in their mid to late twenties after achieving a degree in economic stability in general practices. In Athenian customs the age of marriage is around 14 to 18 for girls. In spartan customs the age of marriage is 18 to 20 for girls and for Spartan men at the age of 30 also includes this rule as well when they become full citizens, although they could marry earlier but continued to live in communal barracks until this age. In addition, according to the societal and cultural considerations - that the marriages are arranged by the parents, that was alliances would enhance familial status and wealth, the dowry system. In Ancient Egypt, marriage coincided with the onset of puberty, around the age of 13 for girls and for boys between 16 and 20 years by supporting a family financially.

In ancient Israel, the age was influenced by religious teachings, societal expectations and practical considerations. The legal and religious guidelines by age of maturity considered by reaching puberty and individual mature at the age of 12 for girls and at the age of 13 for boys. But in Rabbinic recommendations, men were advised to marry at 18 though it permitted marriage as early as 16, discouraging the delayed marriage beyond the age of 20, as they believed to neglect the divine commandment to “to fruitful and multiply”. Parental Role especially father guides the children in arrange marriage. Betrothals could occur before the individuals reached the age of maturity. In cultural consideration, cases of levirate marriage, significant age disparities to ensure compatibility and also well being of the individuals involved. Legal minimum ages existed, mainly by social status, economic conditions and cultural traditions.

Early Modern period

During the Early Modern period in Western Europe, ages of marriage were influenced by legal standards. In England, before the Marriage Act of 1653, the age of consent was defined as the “years of discretion”, as young as 12 for girls and 14 for boys. The marriage Act 1653 set the age of the marriage at 16 for men and 14 for women with the parental consent required. Average marriage at first marriage, from 1550 onwards, the average age for women rarely fell below 24, except during the baby boom of the 1950’s and 1960’s. In the 17th century, in England the average age at first marriage was 25.6 to 26.2 for women and around 28.1 for men. The median age in the archdiocese of Canterbury is 22 years and nine months for brides and 25 years and six months for grooms.

Universal Declaration of Human Rights (UDHR)

UDHR, adopted by the United Nations General Assembly in 1948, . Under UDHR Article 16, Right to Marry and Equality speaks that both Men and women of full age are entitled to equal rights as to marriage, during marriage and its dissolution. Both have the right to find a family without any limitation due to race, nationality or religion. Free and full consent for marriage shall be with the intending spouses and there should be protection of the family, as per the natural and fundamental group unit of society and the state. But the UDHR does not specify any age it just mentions as “full age” by leaving it to individual countries to define this within their legal frameworks. So legal variations across different nations allows this approach towards the cultural and legal variations. The United Nations adopted the convention on

Consent to Marriage, Minimum Age for marriage and Registration of Marriages in 1962. The member states establish a minimum age for marriage, suggesting that it should not be less than 15 years. The specific age of marriage is determined by national laws, while UDHR sets broad principles, Legal minimum age for marriage have set by many countries at the age of 18 in order to prevent child marriage and protect the rights of young individuals Aligned by International Human Rights standards.

International view of the minimum age of the marriage:

An appropriate legal minimum age for marriage is crucial to safeguard individual rights, promote gender equality and prevent exploitation. International Human Right Organisation aligns 18 years as the minimum age for marriage, set as the Global standards and variations. The National laws in many countries permit 18 years as the legal minimum age for marriage while in some nations allows at the younger age with parental or judicial consent. Only a few U.S States have started prohibiting laws under 18 without exceptions. Majority still allow to marry minors with parental consent or judicial consent and still some states exist without minimum age. In England and Wales, 2023 introduced legislation to raise the minimum age to 18, by removing the previous provisions that permitted marriage at 16 with parental consent. This legislation aims towards the prevention of forced marriages and protection of vulnerable minors.

The age of consent in Iraq is set to lower the age to nine years old, women's rights activists will say "legalised child rape". The amendment to the country's "personal status law" also known as law 188, avoid risk of sexual and physical violence, deprive women of rights to divorce, child custody and inheritance. During the year 1959, law 188 was established, the Middle East viewed as one of the most progressive towards acting as a safeguard for families, regarding religion. A 2023 UNICEF survey found that Iraq girls marry before the age of 18 because of a loophole in law 188 that allows religious leaders instead of courts to decide, to officiate marriages involving girls as young as 15 with the permission of their father, this continues in Iraq for more than 70 years. Main aim is to Strict Interpretation of Islamic law, and is intended to protect young girls from immoral relationships.

Legal Frameworks:

Child marriage remains a major prevalent in various parts of the world, due to cultural

practices, economic pressures or gaps in law enforcement. Risks lead to education, personal development and health, Violation of Fundamental Human rights if the marriage is before the age of 18. Many factors interact to place a child at risk of marriage ; poverty, family honor, social norms, customary religious laws that condone the practice. The practice is more common among girls than boys, it is a violation of rights regardless of sex. This interrupts the schooling, limiting her opportunities for career and leads her to domestic violence. The impact on Child grooms has not been extensively studied, similarly in case of boys the role is an adult for which they are unprepared. The issue of child marriage is addressed in a number of International Conventions and Agreements. The Convention of All Forms of Discrimination against women, covers the right to protection from child marriage which states “The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage”. The Right to free and full consent to marriage is recognized in the UDHR, also says that consent cannot be free and full when one of the parties involved is not mature in decision making about a life partner. Child marriage is linked with other rights such as right to freedom of expression, right to protection from harmful traditional practices, right to protection from all forms of abuse.

Social Values from traditional family structure

Individual values have played a significant role in determining the age of marriage. These values are deeply embodied in cultural, religious and societal norms. In most ways the parents hold sway over their children’s marital decisions, including the appropriate age of marriage. If parents have customs to marry their children early to meet familial expectations then the children may internalize these beliefs. Legal exceptions and societal norms help out in different minimum marriage ages for both males and females. So to conclude Traditional family values have a perception of appropriate age for marriage. While modern societal shifts are towards changing the marriage patterns, the enduring impact of cultural, religious and familial expectations follows to shape individual decisions regarding marriage timing.

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