CHAPTER 2

POPULATION COMPOSITION AND AGE AT MARRIAGE

A. Population

The population of India as of the census on March 1, 2001 numbered 1,027,015,247 persons. This was a 21.4 percent increase from the country’s previous census population of 846,302,688 in 1991. The count in the 2001 census was four times the population of 238,396,327 in 1901 when the first census was undertaken.

Figure 3. Enumerated Population in Various Census Years, 1901-2001

The population pyramid for 2005 in India is provided in Figure 4.

Figure 4. Population Pyramid, 2005

As shown in Table 1, 21.9 percent (225 million) of India’s total population in 2001 belonged to the adolescent age group (10-19 years). The overall sex ratio has slightly declined from 107.8 in 1991 to 107.2 in 2001. The predominance of males is notable among adolescents. Sex ratio increased from 112.3 in 1991 to 113.4 in 2001.

Table 1. Adolescent Data by Age and Sex (in thousands) in India, 1991 and 2001

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Age Group</td>
<td>Male</td>
<td>% of</td>
<td>Female</td>
<td>% of</td>
</tr>
<tr>
<td>10-14 years</td>
<td>52,487</td>
<td>11.9</td>
<td>46,749</td>
<td>11.5</td>
</tr>
<tr>
<td>15-19 years</td>
<td>43,842</td>
<td>18.0</td>
<td>38,701</td>
<td>9.5</td>
</tr>
<tr>
<td>10-19 years</td>
<td>95,969</td>
<td>21.9</td>
<td>85,450</td>
<td>21.0</td>
</tr>
<tr>
<td>Total population</td>
<td>439,230</td>
<td>100.0</td>
<td>407,072</td>
<td>100.0</td>
</tr>
</tbody>
</table>


The patriarchal structure with preference for male children affects intrafamilial food distribution and selective health consultation for male children which may result in higher childhood and adolescent mortality in children. The high sex ratio may also be a function of under-enumeration of females.
According to the National Family Health Survey (NFHS) conducted in 1998-99, there was an equal distribution of both adolescent girls and boys in rural and urban areas; with boys accounting 22.6 percent in urban areas and 22.5 percent in rural areas, and girls representing 21.9 percent in urban areas and 22.2 percent in rural areas.

<table>
<thead>
<tr>
<th>Age Group (years)</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban</td>
<td>Rural</td>
</tr>
<tr>
<td>10-14</td>
<td>11.5</td>
<td>12.5</td>
</tr>
<tr>
<td>15-19</td>
<td>11.1</td>
<td>10.0</td>
</tr>
<tr>
<td>Total</td>
<td>22.6</td>
<td>22.5</td>
</tr>
</tbody>
</table>


In Table 3 are the population estimates from 1950 to 2050. While increases in absolute numbers of the population were noted from 1950-2004 (a 69.5 million increment over a 54-year period), the annual growth rate declined from 2.2 percent in the period of 1960-1970 to 1.4 percent in the period 1990-2000. The growth is estimated to further decrease to 0.5 percent in the period of 2040-2050. Despite the trend toward a growth rate decline, the large population base accounts for a marked increase in the population.

<table>
<thead>
<tr>
<th>Year</th>
<th>Population</th>
<th>Period</th>
<th>Growth Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1950</td>
<td>369,880</td>
<td>1950-1960</td>
<td>1.9</td>
</tr>
<tr>
<td>1960</td>
<td>445,857</td>
<td>1960-1970</td>
<td>2.2</td>
</tr>
<tr>
<td>1970</td>
<td>555,043</td>
<td>1970-1980</td>
<td>2.1</td>
</tr>
<tr>
<td>1980</td>
<td>687,029</td>
<td>1980-1990</td>
<td>2.0</td>
</tr>
<tr>
<td>1990</td>
<td>841,655</td>
<td>1990-2000</td>
<td>1.8</td>
</tr>
<tr>
<td>2000</td>
<td>1,002,708</td>
<td>2000-2010</td>
<td>1.4</td>
</tr>
<tr>
<td>2001</td>
<td>1,018,504</td>
<td>2010-2020</td>
<td>1.2</td>
</tr>
<tr>
<td>2002</td>
<td>1,034,173</td>
<td>2020-2030</td>
<td>0.9</td>
</tr>
<tr>
<td>2003</td>
<td>1,049,700</td>
<td>2030-2040</td>
<td>0.7</td>
</tr>
<tr>
<td>2004</td>
<td>1,065,071</td>
<td>2040-2050</td>
<td>0.5</td>
</tr>
</tbody>
</table>

In Table 4, the US Census Bureau projected the midyear population and constituent age groups for 2005 and 2025. In 2005, there was an estimated 219.6 million adolescents representing 20.3 percent of the total population. By 2025, the number is estimated to reach 221.5 million, constituting only 16.7 percent of the total population. As in other countries, the increased life expectancy and reduced mortality account for the aging of the population.
A comparison of the population pyramids for 2005 and 2025 (Figure 5) shows a slight increase in the number of adolescents from 2005 to 2025.
B. Marriage and Nuptiality Patterns

According to the 1929 Child Marriage Act, the legal minimum age for marriage is 21 years for men and 18 years for women. While the Act imposes penalties for any violation of its provisions, it has not affected the practice of early marriage. Marriages below the legal age remain prevalent in the country.

1. Age at First Marriage

The 2001 census data are compared with the 1991 census on married population by sex and mean age at marriage for different levels of education. (Table 5 and Figure 6)

Table 5. Mean Age at Marriage (Years) for Currently Married Population by Sex and Educational Level, 1991 and 2001

<table>
<thead>
<tr>
<th>Educational Level</th>
<th>1991 Male</th>
<th>1991 Female</th>
<th>2001 Male</th>
<th>2001 Female</th>
<th>Increase in Mean Age at Marriage (MAM) (years) 1991-2001 for Females</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>NA</td>
<td>17.7</td>
<td>22.6</td>
<td>18.3</td>
<td>0.6</td>
</tr>
<tr>
<td>Illiterate</td>
<td>NA</td>
<td>17.2</td>
<td>21.6</td>
<td>17.6</td>
<td>0.4</td>
</tr>
<tr>
<td>Literate</td>
<td>NA</td>
<td>18.6</td>
<td>23.0</td>
<td>19.2</td>
<td>0.6</td>
</tr>
<tr>
<td>Literate but below primary</td>
<td>NA</td>
<td>-</td>
<td>22.4</td>
<td>18.1</td>
<td>-</td>
</tr>
<tr>
<td>Primary but below middle</td>
<td>NA</td>
<td>17.9</td>
<td>22.3</td>
<td>18.4</td>
<td>0.5</td>
</tr>
<tr>
<td>Middle but below matric or secondary</td>
<td>NA</td>
<td>18.5</td>
<td>22.4</td>
<td>19.1</td>
<td>0.5</td>
</tr>
<tr>
<td>Matric or secondary but below graduate</td>
<td>NA</td>
<td>19.7</td>
<td>23.4</td>
<td>20.2</td>
<td>0.5</td>
</tr>
<tr>
<td>Graduate and above</td>
<td>NA</td>
<td>21.5</td>
<td>25.3</td>
<td>22.6</td>
<td>1.1</td>
</tr>
</tbody>
</table>

Note: (1) For 1991, Mean age at marriage is not calculated for males, as tabulation of data by age and marriage for males was not done during Census 1991.
(2) Figures for 1991 exclude Jammu and Kashmir since census was not conducted there due to disturbed conditions.

Data on age at marriage recorded in Census 2001 show that the mean age at marriage in the country increased slightly between 1991 and 2001 by 0.6 years. On comparison by educational level, it was observed that the mean age at marriage increased with education progression. There was also a trend toward increasing age at marriage for all education groups between 1991 and 2001.

The mean age at marriage for females, which was 17.7 years in 1991, increased to 18.3 in 2001. While illiterate women married at an average age of 17.6 years, the mean age was 22.6 years for those who were graduates and above - a difference of more than four years. In the case of males, the mean age at marriage was 22.6 years and the difference by education was similar to that of women. Substantial increases in mean age of marriage occurred after they attained matric or secondary level of education. Figure 6 illustrates the mean age at marriage by female educational attainment for 1991 and 2001.
2. Marital Status

Tables 6 and 7 present the percent distribution of household population aged 6 years and above by marital status in 1998-1999. Based on the tables, the proportion of those who were currently married among the adolescents (ages 15-19) for males and females were 0.4 percent and 29.5 percent, respectively. Females tended to marry earlier.

By far, there were more married females 15-19 than males (a gap of 29.1%). Regarding child marriages (children below 15 years of age), 0.7 percent of the males and 1.6 percent of the females were married at the ages of 6-15.
### Table 6. Percent Distribution of Household Population (Male) Aged 6 Years and Above by Marital Status according to Age and Residence, 1998-1999

<table>
<thead>
<tr>
<th>Age</th>
<th>Never Married</th>
<th>Currently Married</th>
<th>Married, <em>gauna</em> not performed</th>
<th>Widowed</th>
<th>Divorced</th>
<th>Separated</th>
<th>Deserted</th>
<th>Total percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-12</td>
<td>99.4</td>
<td>0.3</td>
<td>0.2</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>13-14</td>
<td>98.9</td>
<td>0.4</td>
<td>0.7</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>15-19</td>
<td>93.7</td>
<td>0.4</td>
<td>0.7</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>20-24</td>
<td>65.6</td>
<td>32.3</td>
<td>1.6</td>
<td>0.3</td>
<td>0.1</td>
<td>0.1</td>
<td>0.1</td>
<td>100.0</td>
</tr>
<tr>
<td>25-29</td>
<td>27.9</td>
<td>70.3</td>
<td>0.5</td>
<td>0.5</td>
<td>0.2</td>
<td>0.3</td>
<td>0.3</td>
<td>100.0</td>
</tr>
<tr>
<td>30-49</td>
<td>4.0</td>
<td>93.7</td>
<td>0.1</td>
<td>1.5</td>
<td>0.2</td>
<td>0.2</td>
<td>0.3</td>
<td>100.0</td>
</tr>
<tr>
<td>50+</td>
<td>1.3</td>
<td>86.0</td>
<td>0.0</td>
<td>12.3</td>
<td>0.1</td>
<td>0.1</td>
<td>0.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>47.5</td>
<td>49.1</td>
<td>0.6</td>
<td>2.5</td>
<td>0.1</td>
<td>0.1</td>
<td>0.2</td>
<td>100.0</td>
</tr>
</tbody>
</table>


### Table 7. Percent Distribution of Household Population (Female) Age 6 and Above by Marital Status according to Age and Residence, 1998-1999

<table>
<thead>
<tr>
<th>Age</th>
<th>Never Married</th>
<th>Currently Married</th>
<th>Married, <em>gauna</em> not performed</th>
<th>Widowed</th>
<th>Divorced</th>
<th>Separated</th>
<th>Deserted</th>
<th>Total percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-12</td>
<td>99.0</td>
<td>0.3</td>
<td>0.6</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>13-14</td>
<td>96.1</td>
<td>1.3</td>
<td>2.6</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>15-19</td>
<td>66.4</td>
<td>29.5</td>
<td>3.6</td>
<td>0.1</td>
<td>0.2</td>
<td>0.1</td>
<td>0.2</td>
<td>100.0</td>
</tr>
<tr>
<td>20-24</td>
<td>21.2</td>
<td>76.0</td>
<td>0.8</td>
<td>0.6</td>
<td>0.6</td>
<td>0.3</td>
<td>0.6</td>
<td>100.0</td>
</tr>
<tr>
<td>25-29</td>
<td>5.5</td>
<td>91.3</td>
<td>0.1</td>
<td>1.5</td>
<td>0.5</td>
<td>0.4</td>
<td>0.7</td>
<td>100.0</td>
</tr>
<tr>
<td>30-49</td>
<td>1.4</td>
<td>89.7</td>
<td>0.1</td>
<td>6.9</td>
<td>0.6</td>
<td>0.5</td>
<td>1.0</td>
<td>100.0</td>
</tr>
<tr>
<td>50+</td>
<td>0.6</td>
<td>55.0</td>
<td>0.0</td>
<td>43.4</td>
<td>0.2</td>
<td>0.3</td>
<td>0.4</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>35.9</td>
<td>53.2</td>
<td>0.8</td>
<td>9.0</td>
<td>0.3</td>
<td>0.3</td>
<td>0.5</td>
<td>100.0</td>
</tr>
</tbody>
</table>

3. Rights within Marriage in India

a. Marriage Laws

Family relations, including marriage, are generally governed by the personal laws of individual religious communities. In addition to these secular legislation applies to all citizens regardless of their religious affiliation. Among these secular laws is the 1954 Special Marriage Act, which allows people of different faiths to legally register their marriage. Another is the 1929 Child Marriage Act, which as previously mentioned, establishes the legal minimum age for marriage as 21 for men and 18 for women and imposes penalties for any violation of its provisions. The 1961 Dowry Prohibition Act on the other hand, prohibits giving, taking, abetting or demanding of dowry. While personal laws generally supersede state laws, this is not the case in the union territories of Pondicherry, Goa, Daman, and Diu, as well as the states of Jammu and Kashmir, where distinct laws apply.

Laws governing Hindus

The 1955 Hindu Marriage Act is a codification of Hindu personal law and is applicable to Sikhs, Buddhists and Jains. According to the act, marriage is a sacramental union. For most Hindu communities, the ritual of *saptapadi* - the taking of seven steps by the bridegroom and the bride around the sacred fire - is necessary for a valid marriage. In addition, other requirements for a valid Hindu marriage include the following:

- At the time of marriage, neither party has a living spouse;
- At the time of marriage, neither party is (1) incapable of giving valid consent to the marriage; (2) unfit for marriage and procreation because of a mental disorder; or (3) suffering from insanity or epilepsy;
- The bridegroom has reached the age of 21 years and the bride 18 years;
- The parties are not within prohibited degrees of relationship; and
- The parties are not *sapindas* (close relatives) of each other.

Despite the act's prohibition of marriage between closely related individuals, customary practices prevail if the custom of the relevant parties is contrary to this prohibition.

Laws governing Muslims

Under Muslim personal law, which is mostly uncodified, marriage is a contract. Conditions for a valid Muslim marriage include the following:

- A proposal of marriage by one party and acceptance by the other, called *nikah*; if the parties are minors, the proposal and acceptance must be secured by their guardians;
- Among Sunnis, the presence of witnesses is necessary during *nikah*; among Shias, witnesses are not necessary during *nikah*;
- A *mahr*, or sum of money or property, is given to the bride by the bridegroom at the time of marriage;
- The parties must not be closely related;
- The parties must be "mentally sound";
- The bride and bridegroom must have attained the age of puberty, or 15 years of age.

Muslim law allows men to have up to four wives.
Laws governing Christians

Christian marriage is governed by the 1872 Indian Christian Marriage Act. There are three forms of marriage: a religious marriage, a secular marriage, and a marriage by certificate between Indian Christians. The conditions for a valid marriage are as follows:

- Men should not be under age 21 and women should not be under age 18;
- Neither party should have a living husband or wife;
- The parties must exchange vows in the presence of two witnesses and a person licensed under the act.

Laws governing Parsis

Marriage between Parsis is governed by the 1936 Parsi Marriage and Divorce Act. The requirements for a valid marriage include the following:

- The parties must not be closely related;
- The marriage must be solemnized by a priest in the presence of two additional witnesses in a Parsi ceremony known as ashirvad;
- Males must be at least 21 years of age and females must be at least 18;
- Neither party should have a husband or wife still living at the time of marriage.

Additionally, all marriages must be registered where the marriage was solemnized.

b. Divorce Laws

Laws governing Hindus

Under the Hindu Marriage Act, grounds for divorce include the following:

- Adultery;
- Cruelty to the other spouse;
- Desertion for a continuous period of two years immediately preceding the petition;
- Conversion to another religion;
- Incurable unsoundness of mind;
- Incurable leprosy;
- Communicable veneral disease;
- Renunciation by entering any religious order;
- Not being heard of as alive for at least seven years.

Additional bases for divorce under the act include:

- No resumption of cohabitation for at least one year after a decree for judicial separation;
- No restitution of conjugal rights for at least one year after a decree for restitution of conjugal rights;
- The husband has more than one living wife at the time of marriage;
- The husband is guilty of rape, sodomy, or bestiality;
- The woman's marriage was solemnized (whether consummated or not) before she reached age 15, provided that she repudiates the marriage before reaching age 18;
- Mutual consent, provided the parties have not been living together as husband and wife for at least one year;

The Indian Penal Code provides for specific grounds of divorce, including bigamy, cruelty, and adultery.
Laws governing Muslims

Under Muslim personal law, non-judicial divorce may occur in the following manners:

- By *talak* (at the husband's will);
- By *Tafweez*, whereby the husband "delegates" his right of divorce to his wife in a marriage contract;
- By *khula*, whereby the wife gives or agrees to give consideration to her husband for her release from the marriage;
- By *mubara'at*, whereby the husband and wife mutually agree to divorce.

A man may remarry immediately upon receiving a divorce. If the marriage was consummated, a woman may not remarry before the completion of *iddat*, which is a specified period of time (usually three months) that must pass after the date of divorce.

The Supreme Court has ruled that a mere plea of *talak* taken in an unsubstantiated statement and submitted before a court cannot be accepted as adequate proof of *talak*. Rather, the divorce must be for a reasonable cause and preceded by an attempt at reconciliation between the husband and wife and a mediator representing each side. Only if the attempt fails can *talak* be effected. Similarly, a city court in Delhi has ruled that divorce by *biddat* (pronouncement of *talak* three times) by mail "cannot be deemed a continuing practice in India."

Citing the aforementioned Supreme Court case and the Koran, the judge in the case stated that the Koran provides for pre-divorce conference between both sides with one mediator on behalf of the wife and one on behalf of the husband.

Judicial divorce is also available at the suit of the wife under the 1939 Dissolution of Muslim Marriages Act. Under the act, Muslim women may seek divorce on any of the following grounds:

- Whereabouts have not been known for a period of four years;
- Failure to provide maintenance for a period of two years;
- Imprisonment for a period of seven or more years;
- Failure to perform marital obligations for a period of three years;
- Insanity from the time of marriage;
- Leprosy;
- Virulent venereal disease;
- The woman's marriage was solemnized before she attained age 15 and she repudiates the marriage before she attains age 18, provided that the marriage has not been consummated;
- Cruelty, including if the husband (1) habitually assaults her or makes her life miserable by cruelty of conduct not amounting to physical ill-treatment; (2) associates with women of "evil repute" or leads an "infamous" life; (3) attempts to force her to lead an "immoral" life; (4) disposes of her property or prevents her from exercising her legal rights over it; (5) obstructs her in the observance of her religious profession or practice; (6) has more than one wife and does not treat her equitably with the injunctions of Islam; or
- Any other recognized ground for the dissolution of marriages under Muslim law.
Laws governing Christians

Divorce among Christians is governed by the 1869 Indian Divorce Act. Under the act, grounds for dissolution of marriage by either party include the following:

- Adultery;
- Conversion from Christianity to another faith;
- Incurable unsoundness of mind for a continuous period of at least two years;
- Incurable leprosy for at least two years;
- Communicable venereal disease for at least two years;
- Not being heard of as alive for at least seven years;
- Willful refusal to consummate the marriage;
- Failure to comply with a decree of restitution of conjugal rights for at least two years;
- Desertion for at least two years;
- Cruelty as to cause a reasonable apprehension of harm or injury from continued cohabitation.

A woman may also seek divorce if her husband has been found guilty of rape, sodomy or bestiality. Divorce may also be obtained by mutual consent.

Laws governing Parsis

The Parsi Marriage and Divorce Act governs divorce among Parsis. Under the act, divorce by either party to the marriage is permissible on the following grounds:

- The marriage has not been consummated within one year of its solemnization due to the willful refusal of the defendant to consummate it;
- Unsoundness of mind from the time of marriage;
- Incurable unsoundness of mind for a period of two or more years immediately preceding the filing of the lawsuit, or continuous or intermittent mental disorder of such nature and extent that the plaintiff cannot reasonably be expected to live with the defendant;
- The defendant was pregnant by someone other than the plaintiff at the time of marriage;
- Adultery, “fornication”, bigamy, rape, or an “unnatural offense”;
- Cruelty;
- Grievous hurt;
- Transmission of venereal disease by defendant to plaintiff;
- Where the defendant is the husband, compelled the wife to submit herself to prostitution;
- Imprisonment of seven or more years for an offense under the Indian Penal Code;
- Desertion for at least two years;
- A court order awarding separate maintenance to the plaintiff against the defendant and the parties have not had marital intercourse for one or more years since such order;
- Conversion to another religion;
- Non-resumption of cohabitation or restitution of conjugal rights for a period of one or more years pursuant to a decree;
- Mutual consent.

Either party may attempt to nullify the marriage if consummation is impossible due to natural causes. Either spouse may bring lawsuits to dissolve the marriage if the other spouse has been continually absent for a period of seven years and has not been heard of as alive within that time.
c. Judicial Separation

Judicial separation is explicitly recognized as a matrimonial remedy in all matrimonial laws except Muslim personal law. Under all other personal laws, an individual can petition for judicial separation on any of the grounds available for divorce. Once a decree of judicial separation is obtained the parties are legally permitted, although not required, to live separately. The law still regards the couple as husband and wife and forbids them from remarrying, although their conjugal duties are temporarily suspended.

Laws governing Hindus

Under the Hindu Marriage Act, either of the marriage parties may bring a petition for judicial separation on any of the grounds specified in the act for divorce. Once a decree for judicial separation has been obtained, the parties are no longer legally required to cohabit. The court may rescind the decree upon the petition of either party.

The Supreme Court of India holds that “husbands living in adultery during judicial separation can be denied divorce as their action constitutes ‘a continuing matrimonial offence’ under the Hindu Marriage Act.”

Laws governing Muslims

Judicial separation is not recognized as a matrimonial remedy.

Laws governing Christians

Under the Indian Divorce Act, judicial separation is available to either party on the following grounds:

- Adultery;
- Cruelty;
- Desertion for at least two years.

Laws governing Parsis

Under the Parsi Marriage and Divorce Act, judicial separation is available to either party on any of the grounds specified for divorce.
References

