

CHILD MARRIAGE: THE SITUATION IN ZAMBIA



The Justice Desk
A Human Rights NPO



WHY DOES CHILD MARRIAGE OCCUR?

Child marriage mainly occurs because of poverty, adolescent pregnancy, vulnerability of orphans and step-children, and gender stereotyping and discrimination.

- In cultures where girls and women are not considered potential wage earners, they are viewed as a financial burden on families living in poverty. Therefore, these families may arrange for the marriage of a young girl to eliminate their financial burden. The families of the young girl may also receive a dowry in exchange for the girl which will further assist their financial circumstances. Where the girl is very young, a higher dowry price could also be negotiated.

DEFINITION

Child marriage is any formal marriage or informal union (in terms of statutory or customary law) where one or both of the parties are under the age of 18 years. A child marriage is considered to be a form of forced marriage as one or both parties have not expressed full, free and informed consent because they are still under the age of 18.

Statutory Law: written laws, usually enacted by a legislative body.

Customary Law: written and unwritten rules which have developed from the customs and traditions of communities.

INTRODUCTION



- In some cultures, girls are married off young to ensure that they have many child-bearing years ahead of them. Girls who are sexually active before marriage are considered “ruined” in some cultures, thus they are married as soon as they reach puberty to ensure that they are still virgins. In Zambia, 29% of girls aged 15-19 fall pregnant, therefore some families ensure the girl is married as quickly as possible when she falls pregnant to ease the perceived social damage.
- In some cultures, when orphans and step-children reach puberty, families believe that their duty of care has been met and they marry the young child off.
- Gender stereotyping and discrimination is one of the main causes of child marriage.



Child marriage is rooted in the belief that girls and women are inferior to boys and men. In some cultures, girls are considered financial burdens on their families because they cannot earn wages. Child marriage is also driven by the patriarchal desire to control female sexuality and independence.

Patriarchy: A deeply-ingrained and persistent social system in which men are positioned to hold primary power, dominate in roles of political privilege, and control property; a social structure in which men are considered to have a monopoly on power and women are expected to submit

THE CONSEQUENCES OF CHILD MARRIAGE

Child marriage disproportionately affects young girls globally.

- Girls under the age of 15 face higher risks of pregnancy-related injuries and fatalities.
- Child brides who have children may be psychologically unprepared and emotionally immature to be mothers at such a young age.
- Child marriage effectively ends a girl's childhood and deprives them of further educational development and economic opportunities.
- Child brides are often unable to access and negotiate safer sex resources and practices and are, thus, at a higher risk of contracting HIV and other sexually transmitted infections.
- Child marriage traps girls in cycles of poverty and increases their chances of experiencing domestic violence and abuse.
- Child marriage effectively strips young girls of their potential and independence, and further disempowers them.



THE SITUATION IN ZAMBIA

Zambia has one of the highest rates of child marriage in the world. According to UNICEF, in 2018, 31% of young Zambian women (aged 20-24) were married or in a union before the age of 18 while 6% were married or in a union by the age of 15.

In terms of the Zambia Marriage Act of 1964, the minimum legal age of marriage is set at 21 years (article 17 of the Marriage Act). However, persons aged 16-21 years can obtain parental consent to marry and persons below the age of 16 can marry with judicial consent as long as the circumstances of the case are not contrary to public interest. The Marriage Act also states that nothing within the Act will affect the validity (how real) of customary marriages (article 34 of the Marriage Act).

Judicial consent: Getting permission to marry from the court structures.

THE SITUATION IN ZAMBIA (CONTINUED)



The Zambian Constitution of 1991 also states that protection from discrimination does not apply to any law regulating marriage or other matters of personal law (article 23(1) and 23(4)(c)). Thus, Zambia does not have sufficient legislation (law) which prohibits and protects children from child marriage. There is a draft Marriage Bill (2015) which, if adopted, will hopefully cover civil, religious and customary marriages more extensively and provide much-needed protection to young girls vulnerable to child marriage.

Zambia has committed to ending all child marriage by 2030 in terms of Target 5.3 of the Sustainable Development Goals. In the Zambia seventh National Development Plan (2017 – 2021), child marriage intervention strategies were included as well as the effort to end child marriage.

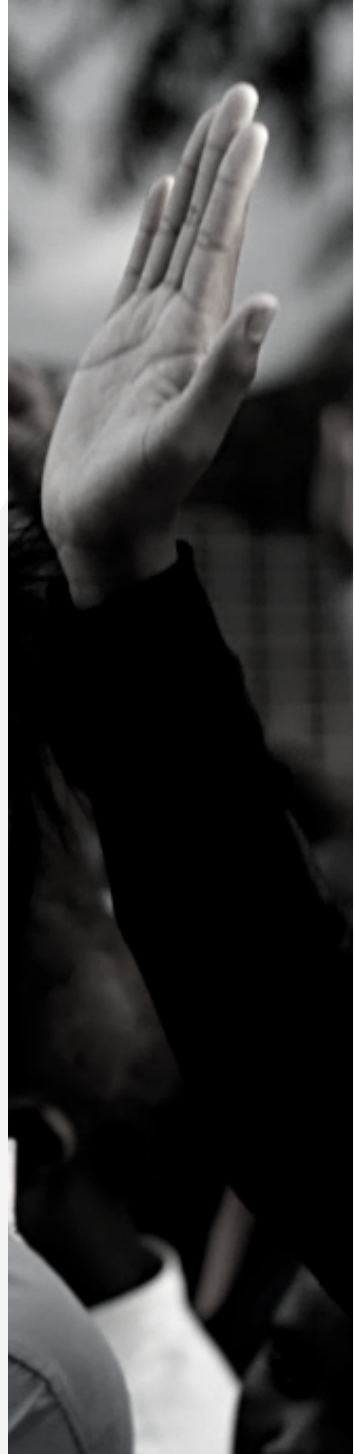
WHAT DOES INTERNATIONAL LAW SAY?

In 2008, Zambia ratified the African Charter on the Rights and Welfare of the Child which sets the minimum age of marriage at 18 years in Article 21(2).

In 2006, Zambia ratified (put in law) the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) which sets the minimum age of marriage at 18 years in Article 6(b).

In 1991, Zambia ratified the Convention on the Rights of the Child (CRC) which states in Article 36 that children should not be victim to any form of exploitation harmful to any aspects of the child's welfare.

In 1985, Zambia ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which obligates states to ensure free and full consent to marriage in Article 16(1)(b).



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