

# Child marriage

## An appraisal of Zimbabwe's proposed Marriage Bill, 2019

### BRIEF

#### Introduction

Child marriage disproportionately affects girls, threatens their health and wellbeing, and also negatively impacts their education and life opportunities<sup>1</sup>. Given all the health and socio-economic risks of child marriage, prohibiting child marriage will save lives, protect girls' rights and dignity, and improve their health and wellbeing. This brief presents a review of Zimbabwe's proposed Marriage Bill, 2019, relative to the provisions of the Southern African Development Community Parliamentary Forum (SADC PF) model law for eradicating child marriage.

#### Prevalence of child marriage in Zimbabwe

- Child marriage is widespread in Zimbabwe, with one in three girls marrying before their 18<sup>th</sup> birthday<sup>2</sup>.
- It disproportionately affects less educated girls, those from the poorest households and those living in rural areas<sup>3</sup>.



Girls is married off before their eighteenth birthday. (ZIMSTAT, 2019)

#### Consequences of child marriage

- Child marriage perpetuates a cycle of poverty, by robbing girls of their educational opportunities<sup>4</sup>.
- The consequences are cyclical as it not only adversely affects the victims' socio-economic wellbeing, but it also affects their children by limiting the resources available to cater for them.
- Early marriage also predisposes girls to early pregnancy. Girls who experience early pregnancy are disproportionately at risk of developing complications and dying during childbirth<sup>5</sup>.
- The risks of premature birth, low birth weight, and perinatal death are higher among teenage mothers.

#### The role of laws in ending child marriage

- The odds of child marriage is 40% lower in countries with laws criminalizing child marriage compared with those with laws permitting child marriage<sup>6</sup>.
- For example, Rwanda criminalised child marriage in 1992 and the prevalence of child marriage in the country is 7%<sup>7</sup> compared to 31% in Zimbabwe<sup>2</sup>.
- Rwanda is among the few countries with low prevalence of child marriage
- Over 24 countries in Africa now have laws prohibiting child marriage with no exceptions<sup>7</sup>.
- Chad, Malawi, Tanzania, and the Gambia are among the countries that recently banned child marriage.
- Malawi raised the minimum age of marriage to 18 in 2017, which led the Ministry of Justice and Constitutional Affairs to harmonize all relevant laws with the new law<sup>8</sup>.

#### The Marriage Bill, 2019

The proposed Marriage Bill, 2019, if passed, will repeal and replace *the Customary Marriage Act* and *Marriage Act* that allows children to get married. It will restore the dignity and protect the human rights of the girl child, while also improving their health and socio-economic wellbeing.

- In 2019, the Mozambican Assembly passed a stand-alone law: **Law to Prevent and Combat Premature Marriage**, mirroring the Southern African Development Community (SADC) model law on the eradication of child marriage and protecting of children already in marriage<sup>9,10</sup>.

#### Provisions of the Marriage Bill 2019

- **Prohibits child marriage:** Clause 3 of the bill stipulates 18 years as the minimum age for marriage.
- **Provides that a proof of age and identity** be provided before any marriage be made official, as highlighted in clause 28.
- **voids any child marriage existing at the enacting of the bill:** Echoed in clause 42.
- **Prohibits child betrothals:** As defined in clause 2.

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- **Prohibits the solemnization of child marriage:** Detailed in clause 39.
- **Mandates marriage registration:** Clause 35 mandates registration of marriages.
- **Requires the consent of both parties:** Clause 4 requires the free and full consent of parties to a proposed marriage.
- **Provides for effective enforcement provisions to ensure compliance of the law:** Clause 38 and 39 stipulates penalties for failure to comply with the law banning child marriage and registration of marriages.
- **Equal rights for couples:** Clause 6 provides that spouses have equal rights and obligations during marriage and at its dissolution.
- **Encourages monogamy:** Clause 5 states that civil marriage is monogamous.

### What is not in the bill

The following provisions in the SADC PF model law on eradicating child marriage and protecting children already in marriage<sup>10</sup> are not in the proposed bill but are referenced in the model law clauses 18, 20, 22, 25, 29 and, 34.

The bill **DOES NOT PROVIDE FOR:**

- Legal aid to victims of child marriage as detailed in clause 22.
- Custody and maintenance of offspring of prohibited marriages and victims of child marriages.
- The legitimacy of the children born from prohibited marriages.
- The division of property acquired during the period of a prohibited marriage.
- The establishment of places of safety for the residence and maintenance of victims of child marriage and their offspring.
- Protection from exploitation and abuse or support to children and victims of child marriage.

### Conclusion and Recommendations

- Having a well-defined Bill and law criminalizing child marriage sends a strong signal that child marriage is not tolerated and permitted, with consequences for any breach.
- While the proposed Marriage Bill, 2019, prohibits child marriage by raising the age of marriage to 18, it does not

adequately protect the children who are already in a marriage and their offspring.

- There is a need for provisions such as legal aid for victims of child marriage, custody, maintenance, and legitimacy of the offsprings of prohibited marriages.
- The bill should consider providing policy options for programming to develop strategies and incentives to delay marriage until the age of consent (18 years).
- It is important to note that achieving a reduction in child marriage goes beyond the enactment of the law. Stringent implementation and accountability mechanisms need to be put in place to ensure wide dissemination and strict enforcement of the law.
- There is a need to establish an anti-child marriage fund as proposed in the SADC-PF model law<sup>9</sup>. The fund will facilitate the implementation of training programs for law enforcement, provision of public safety homes for children already in marriage and their offsprings, as well as social protection and services
- Lastly, the proposed bill does not provide for monitoring and evaluation mechanisms, which are critical for tracking progress. As such, there is a need for lawmakers to include monitoring and evaluation in the proposed bill.

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## Funding

*"This content has been produced by APHRC for the Zimbabwean Parliament with the support of SADC PF and financed by the Swedish International Development Cooperation Agency (Sida). The statements made and views expressed are solely the responsibility of APHRC."*

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