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ENDING CHILD MARRIAGE:

CHILD MARRIAGE LAWS AND THEIR LIMITATIONS

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OCTOBER 2017



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BACKGROUND

Child marriage is defined as a formal or informal union before the age of 18. The practice affects mostly girls. While child marriage is especially prevalent in low and lower-middle income countries, it is also observed in other countries. It endangers the life trajectories of girls in multiple ways. Child brides are at greater risk of experiencing a range of poor health outcomes, having children at younger ages when they are not yet ready to do so, dropping out of school, earning less over their lifetimes and living in poverty compared to their peers who marry at later ages. Child brides may also be more likely to experience intimate partner violence, have restricted physical mobility, and limited decision-making ability. Most fundamentally, child brides may be disempowered in ways that deprive them of their basic rights to health, education and safety. These dynamics affect not only the girls themselves, but also their children and households, as well as communities and entire societies.

Child marriage is widely considered as a violation of human rights and a form of violence against girls. The elimination of child marriage by 2030 is a target under the Sustainable Development Goals (SDGs).

Yet investments to end the practice are limited, and worldwide the incidence of child marriage has been declining too slowly over time to achieve the SDG target. Furthermore, in many countries, it remains legal to marry a girl before she turns 18, and even in countries where marriage before 18 is in principle illegal, too many girls continue to marry early.

This brief summarizes findings from research undertaken by Save the Children and the World Bank on the lack of legal protection against child marriage for girls and marriages that take place below the national minimum age of marriage¹. The analysis suggests that many countries still do not effectively legally protect girls against child marriage, but also that legal reforms are not sufficient to end the practice as many girls marry illegally in countries where legal protections are in place. While protecting girls in the law against child marriage is an important first step, additional interventions are needed to prevent child marriage.

¹ At the World Bank, this work is part of a larger work program on the economic impacts of child marriage and the role of laws, policies, and interventions to end the practice. This brief draws on forthcoming data from the Women, Business, and the Law program that will be publicly available in February 2018. At Save the Children, the brief is part of a program of research on child marriage trends and causal factors, to support Every Last Child, a global campaign to end child marriage.

KEY MESSAGES

- > Child marriage is a harmful practice that disproportionately affects girls, with negative impacts on their health, education, and opportunities in life.
- > Child marriage laws are important to provide girls with legal protection and signal commitment to achieving the Sustainable Development Goal target of ending child marriage by 2030.
- > Most countries have adopted 18 as the legal age for marriage for girls, but many countries allow younger girls to marry with parental or judicial consent.
- > Close to 100 million girls globally are not legally protected against child marriage when considering exceptions that allow marriage at a young age with parental or judicial consent.
- > Between 2015 and 2017, nine countries improved their laws on the minimum age for marriage, typically by eliminating exceptions that allow child marriage with parental or judicial consent.
- > While national laws against child marriage are important, they are not sufficient for ending the practice. Globally, even after accounting for exceptions to the legal age of marriage with parental or judicial consent, 7.5 million girls marry illegally each year (20,000 girls per day), making up 68 percent of child marriages.
- > Additional measures that address the underlying causes of child marriage and that expand access to quality education and other opportunities for girls need to be pursued more actively by governments, with support from the international community.



² There is often a disparity between age of majority and minimum age for marriage. International conventions suggest this is an issue which needs to be aligned in legislation.

LACK OF LEGAL PROTECTION AGAINST CHILD MARRIAGE

The threshold to define a child and thereby child marriage internationally is 18 years of age. This threshold is used in multiple conventions, treaties, and international agreements, including the Convention on the Rights of the Child, the Convention on the Elimination of All forms of Discrimination against Women, and the Universal Declaration of Human Rights. The threshold makes sense for several reasons. First, research suggests that boys and girls younger than 18 are often too young for sexual, marital, and reproductive transitions. Marrying before 18 can also have large negative impacts on a wide range of other outcomes for girls and their children. For example, 18 years corresponds in many countries to the age for completing secondary schooling. When girls marry early, it reduces the likelihood that they will be able to complete their secondary education. Furthermore, young girls are typically not capable of giving their free and full consent to their marriage².

In most countries, child marriage is prohibited by national law. But many countries still allow girls to be married before 18 if their parents or judicial bodies give their consent. In addition, many girls marry before reaching the legal age for marriage in their country.

In most countries, child marriage is prohibited by national law. Indeed, most countries have adopted 18 years as the legal age for marriage for girls, and in some countries the age is higher. But there are countries with a lower legal age for marriage. In addition, even when the legal age is 18 or higher, many countries allow girls to be married earlier if their parents or judicial bodies authorize it. The fact that in many countries there are no legal sanctions for those



involved in child marriage may compound the issue. Where no sanctions exist, the law may be less effective in acting as a deterrent for the practice. Finally, in some countries, the minimum age for marriage is lower under customary or religious laws than national law, which also undermines legal protections. For these reasons, the law often provides limited protection against child marriage for girls.

Table 1 provides estimates of the number of girls not protected under the law against child marriage. The analysis is carried out for 112 countries using data on laws for the minimum age for marriage collected by the Women, Business and the Law program at the World Bank. The estimates are based on the number of girls aged 10-17 who are below the minimum age of marriage in their country. Three definitions of the age for marriage in each country are used: (1) the legal age for marriage without consent from parents or judicial bodies; (2) the minimum age with parental consent; and (3) the minimum age with the authorization of judicial bodies.

Nine countries made positive changes in their laws between 2015 and 2017: Chad, Costa Rica, Ecuador, Guatemala, Malawi, Mexico, Nepal, Panama, and Zimbabwe.

We provide data for 2015 and 2017. Between these two years, ten of the 112 countries made changes in their laws. For nine of these countries (Chad, Costa Rica, Ecuador, Guatemala, Malawi, Mexico, Nepal, Panama, Zimbabwe), the changes led to higher minimum ages, typically by eliminating or reducing exceptions with parental or judicial consent. In Bangladesh, however, the minimum age with a combined parental and judicial consent was reduced.

Globally, when considering only the legal age and not exceptions with parental or judicial consent, the number of girls not protected increases from 11.3 million to 11.5 million between 2015 and 2017. When considering parental consent exceptions, the number of girls not protected is much higher, increasing from 52.5 million to 58.0 million. With judicial authorization, the data are available only for 2017. That year, 82.8 million girls were not protected. Finally, when considering the combination of parental and judicial exceptions so that the minimum age for both types of exceptions are accounted for, the number of girls not protected is estimated at 96.1 million in 2017. Worldwide, since not all countries are included, the estimate would be even higher. A key reason for the increase over time (for the measures where we have two data points) in the number of girls not protected is population growth. While some countries have raised the minimum age of marriage, many have not, and the number of girls not protected continues to increase globally under most measures. In addition, for the trend with parental consent, the change in the law for Bangladesh plays an important role in the increase (assuming that parents also get judicial consent as required by the law).

Globally, when considering exceptions for the age of marriage with parental or judicial consent, close to 100 million girls are not effectively legally protected against child marriage in their country.

When comparing legal protections against child marriage between regions or income groups, in order to take into account population sizes, it is best to look at the share of girls not protected under the law as opposed to the absolute number of girls not protected. Legal protections tend to be the weakest in the Middle East and North Africa where three in four girls (73.3 percent) between 10 and 17 years of age are not protected against child marriage in

2017 when the possibility of parental or judicial consent is acknowledged. In South Asia, the proportion is one in two girls (47.7 percent). For trends over time in legal protection, we must rely on the measures with parental consent. The region with the most progress in increasing legal protection against child marriage between 2015 and 2017 is Latin America and the Caribbean. In that region, the share of girls not protected under the law decreased from 36.6 percent in 2015 to 22.7 percent in 2017. This is because of the nine countries that increased the legal age for marriage in one way or another, five are from the region (Costa Rica, Ecuador, Guatemala, Mexico, Panama). By contrast, due to changes in the law in Bangladesh, the share of girls not protected when accounting for parental consent increased in South Asia from 33.4 percent to 47.7 percent. Interestingly, protection tends to be better in low income countries than in the other country income groups, but this of course does not mean that these protections are enforced, as is discussed next.

Table 1: Number and Share of Girls Ages 10-17 Not Protected Against Child Marriage, 112 Countries

	Global	Regions							Income Groups			
		EAP	ECA	LAC	MENA	NA	SA	SSA	Low	Lower Middle	Upper Middle	High
Number of Girls Not Protected Against Child Marriage (Millions)												
2015												
Legal Age	11.3	0.3	0.6	0.0	5.3	0.0	0.8	4.4	1.1	6.9	3.2	0.0
Parental Consent	52.5	2.4	6.7	13.1	6.4	8.7	2.5	12.7	6.3	16.7	19.1	10.4
2017												
Legal Age	11.5	0.3	0.5	0.0	5.3	0.0	0.8	4.6	1.2	7.2	3.2	0.0
Parental Consent	58.0	2.4	6.7	6.5	6.5	8.6	15.3	11.9	5.3	29.1	13.3	10.3
Judicial Consent	82.8	5.2	24.2	8.4	14.1	2.5	15.3	13.1	8.5	45.4	23.1	5.8
Either Consent	96.1	5.3	25.2	10.0	14.1	8.6	15.3	17.5	10.2	47.5	26.2	12.2
Share of Girls Not Protected Against Child Marriage (%)												
Legal Age												
2015	5.4	2.2	0.5	0.0	20.2	0.0	17.5	6.3	2.0	10.0	5.7	1.1
2017	5.4	2.2	0.5	0.0	20.0	0.0	17.5	6.3	2.0	10.0	5.7	1.1
Parental Consent												
2015	19.1	9.5	5.9	36.6	23.4	38.8	33.4	17.5	12.2	21.1	22.5	18.0
2017	16.8	9.5	5.7	22.7	23.2	38.1	47.7	14.9	8.1	22.5	15.9	17.7
Judicial Consent												
2017	29.4	29.2	20.6	22.6	73.3	19.3	47.7	22.7	16.8	35.1	33.7	26.3
Either Consent												
2017	33.6	31.2	22.5	32.6	73.3	38.1	47.7	27.5	20.3	38.1	36.3	35.5

Source: Wodon and Tavares (2017).

Note: EAP = East Asia & Pacific; ECA = Europe and Central Asia; LAC = Latin America & Caribbean; MENA = Middle East and North Africa; NA = North America; SA = South Asia; SSA = sub-Saharan Africa.

³ The sample includes 22 low income countries, 35 lower middle-income countries, 33 upper middle income countries and 22 higher income countries.

ILLEGAL CHILD MARRIAGES

To compute trends in illegal marriages, we rely on additional data from Demographic and Health Surveys (DHS) and Multiple Indicators Cluster Surveys (MICS) that provide information on the age at first marriage (formal or informal union) for women. The analysis is carried out for a subset of 74 countries. These 74 countries are selected because (1) they are included in the sample of the 112 countries with the most recent data on the minimum age for marriage as described above; and (2) survey or census data have been analyzed to estimate the number of girls marrying before the minimum age for marriage in the country.

To be considered as an illegal child marriage, a marriage must take place before a girl reaches 18 and before the minimum age for marriage in her country, accounting for exceptions linked to parental and judicial consent. It should be noted that some of the marriages we consider as illegal for the analysis are likely to be informal as opposed to formal unions, given the way child marriage is measured in DHS and MICS surveys. An argument could be made that these informal marriages are not covered by the law, and therefore cannot strictly be considered as illegal. At the same time, the intent of child marriage laws is to protect all girls from early marriage, whether formal or informal. In addition, in many countries, informal unions may be considered as marriages under customary law. For these reasons, in this brief and the background research we consider all unions, whether formal or informal, as illegal broadly speaking if they involve girls who are younger than the legal age for marriage, or the age with parental or judicial consent.

Trends in illegal marriages over time must be considered with caution as an indicator of progress made by countries. When a country reduces the age for marriage, whether this is for the general age or the age with parental or judicial consent, this reduces the number of illegal marriages. Conversely, when a country increases the minimum age for marriage, at least in the short term this is likely to increase the number of illegal marriages. When observing a reduction or an increase in illegal marriages over time,

it is important to assess whether this is due to a change in the law, or other factors. The same holds for comparisons between groups. Some countries may have higher rates of illegal marriages because they have adopted laws to protect girls against child marriage, which is a good thing. When measuring trends in illegal marriages, or when comparing countries or groups of countries, the idea is not to suggest that countries should reduce protection, or to discourage countries from increasing protections. The rationale for measuring illegal marriages is to show that simply adopting legal reforms is not enough to end child marriage. Enforcement of minimum marriage laws is difficult and a broader set of policies and interventions are needed to end child marriage. Statistics on illegal marriages help illustrate this point.

Globally, when considering only the legal age and not exceptions, the number of girls marrying illegally is estimated at 10.3 million in 2015 and 10.6 million in 2017 (see table 2). Assuming that girls did get parental consent if they married at a younger age than the legal age but at an age equal or higher than the age with parental consent, the number of girls marrying illegally decreases from 8.3 million to 8.1 million between the two years. Considering the possibility of judicial exceptions, this number decreases slightly to 8.0 million girls married illegally in 2017. Finally, allowing for the possibility of either type of exceptions, 7.5 million girls would have been married illegally in 2017. In other words, at least 20,000 girls are likely to be married illegally each day. The figure would be higher if parental or judicial consent is not obtained for those marriages.

Globally, even after accounting for the possibility of exceptions to the legal age of marriage with parental or judicial consent, 7.5 million girls marry illegally each year making up 68 percent of all child marriages. That is more than 20,000 girls each day.

⁴ This trend is based on changes in population and changes in laws, holding child marriage rates constant based on the data available in the latest survey for the various countries.

⁵ This is a lower figure than often reported in global studies of the extent of the practice in part because of partial country coverage, but also because of a large drop in child marriages in India between 2006 and 2016.



Table 2: Number of Girls Marrying Illegally in 2017, 74 Countries

	Global	Regions							Income Groups			
		EAP	ECA	LAC	MENA	NA	SA	SSA	Low	Lower Middle	Upper Middle	High
	Number of Girls Marrying Illegally (Millions)											
All Child Marriages	10.96	0.21	1.04	0.96	0.38	0.04	4.31	4.02	2.67	6.75	1.49	0.04
Legal Age	10.55	0.18	1.04	0.96	0.29	0.04	4.24	3.80	2.56	6.46	1.49	0.04
Parental Consent	8.13	0.13	0.67	0.61	0.21	0.00	3.33	3.18	2.10	5.09	0.95	0.00
Judicial Consent	7.96	0.06	0.53	0.62	0.16	0.02	3.33	3.24	2.06	5.00	0.88	0.02
Either Consent	7.46	0.06	0.47	0.54	0.16	0.00	3.33	2.89	1.83	4.86	0.77	0.00
Share Illegal (%)	68.0%	29.9%	45.5%	55.8%	41.6%	10.4%	77.2%	72.0%	68.4%	71.9%	51.5%	10.4%

Source: Wodon, Tavares, Fiala, and Le Nestour (2017).

Note: EAP = East Asia & Pacific; ECA=Europe and Central Asia; LAC=Latin America & Caribbean; MENA=Middle East and North Africa; NA=North America; SA=South Asia; SSA=sub-Saharan Africa.

There are also differences within regions. For example, West and Central Africa is home to many of the countries with the highest rates of child marriage globally. In this region alone, 1.7 million child marriages are taking place below the national minimum age every year—one of the highest proportions globally. Lower-middle income countries (which include India) account for 61.6 percent of all child marriages in the sample, versus 24.4 percent for low income countries, 13.6 percent for upper-middle income countries, and 0.4 percent for high income countries.

Of the 11.0 million child marriages observed in the sample of 74 countries, 7.5 million or 68.0 percent are illegal under national law even after accounting for the possibility of parental or judicial consent. The rates of illegal child marriages differ between regions and country income groups, but recall that these rates must be interpreted carefully. Countries with lower legal ages for marriages with parental or judicial consent tend to also have lower rates of illegal marriages, but not necessarily lower rates of child marriages. Said differently, a low rate of illegal marriages need not reflect a low rate of child marriages

Table 2 also provides data on the total number of child marriages observed globally as well as by region and income group, and the share of those marriages that are illegal considering both judicial and parental exceptions. The total number of girls marrying as children in the 74 countries is estimated at 11.0 million in 2017. Said differently, in the 74 countries included in the analysis, about 30,000 girls marry as children every day. Despite progress in India towards reducing the prevalence of child marriage, South Asia still accounts for 39.3 percent of all child marriages among the countries included in the analysis. Sub-Saharan Africa's share of all child marriages in the sample is at 36.6 percent, followed by 9.5 percent for East Asia and the Pacific, 8.8 percent for Latin America and the Caribbean, 3.5 percent for the Middle East and North Africa, 2.0 percent for Europe and Central Asia, and finally 0.4 percent for North America.

CONCLUSION

Child marriage has large impacts on a wide range of development outcomes for the girls who are married early, their children and families, and societies at large. Close to 100 million girls today are not protected by national law against child marriage. In countries where the minimum age for marriage is not set at 18, laws should be adopted specifying 18 as the minimum age for marriage, eliminating exceptions with parental or judicial consent for minors, and harmonizing discrepancies with customary and religious laws when such disparities exist. At the same time, while implementing legal reforms to protect girls from child marriage is important, this will not be sufficient to end the practice. Today, at least 7.5 million girls marry illegally each year, or 20,000 per day. This means that more than two thirds of child marriages are illegal under national law even after accounting for parental or judicial consent.

Legal reforms setting the legal age for marriage at 18 or higher and eliminating parental or judicial exceptions must be accompanied by a wide range of additional policies and interventions. Many Governments are now adopting national strategies to end child marriages, but what is even more important is the adoption of action plans with clear interventions to delay marriage and increase investment in the poorest and most marginalized girls. The literature suggests that one of the best ways to prevent marriage for adolescent girls is to keep them in school. Studies indeed suggest that girls

often prefer to continue their education rather than getting married and parents can see continued schooling at the secondary level as a viable alternative to marriage. But for girls to remain in school, efforts are needed to address discrimination and social norms that determine the opportunities and potential futures available to girls. Furthermore, schools must be safe, have adequate facilities to meet both girls' and boys' needs, be accessible and affordable, and provide a quality education.

Promising interventions aimed at keeping girls in school, preventing child marriage, working with different stakeholders to end harmful social norms and attitudes, and providing opportunities for adolescent girls are being tested and implemented in many countries. These interventions have the potential to generate better evidence on what works to end child marriage. Investing in such interventions, documenting their impacts, and implementing a broad range of gender transformative policies will all be key to ensuring a better future both for girls and countries as a whole.

APPENDIX: DATA SOURCES AND METHODOLOGY

To compute trends in the lack of legal protection against child marriage, data on population size by age and the minimum legal age for marriage are needed. We rely on population data from the World Bank. The data on the minimum age for marriage are collected by the Women, Business and the Law program at the World Bank. The Women, Business, and the Law report provides quantitative measures of laws and regulations that affect women's economic opportunities in seven areas: accessing institutions, using property, getting a job, providing incentives to work, going to court, building credit and protecting women from violence. This brief uses data from the 2016 report and more recent data to be published in the 2018 report. The data published in the 2016 report pertain to laws on the books in April 2015. The data that will be published in the 2018 report pertain to legislation in place by end May 2017.

Women, Business, and the Law data are based on statutory or codified laws and regulations for civil law systems, and on case law, which for common law systems is law established by judicial decisions in cases that set binding precedents. Customary law is not accounted for unless it has been codified or upheld by case law. Answers are based solely on the letter of the law and not on the application or enforcement thereof. The data cover legislation on the legal age of marriage for girls and boys, including exceptions with parental consent and judicial authorization, as well as whether marriages in violation of the age requirements are considered void or voidable, and whether there are penalties for authorizing or entering into a marriage in violation of the age provisions. In this brief, we focus on girls since they are much more likely to marry as children than boys, and are also less protected by laws (the minimum age for marriage for boys is often higher than is the case for girls). We use four definitions of the age for marriage:

- 1) the legal age without consent from parents or the judicial bodies;
- 2) the minimum age with parental consent;
- 3) the minimum age with judicial consent;
- 4) the minimum age with either parental or judicial consent (considering the lowest value).

More details on the Women, Business, and the Law methodology for data collection are available in the background papers for this brief. One question arises as to whether very young girls should be included in the count of girls not protected when there is, for example, no legal age for marriage at all. Because child marriage is statistically only rarely observed among girls younger than 10 years old, the analysis is based on the number of girls age 10 or older who are not protected from marriage. The methodology could however readily be applied considering all girls within a country, including those younger than 10, in which case the number of girls not protected by the law would increase.

To compute trends in illegal marriages, we rely in addition on data from Demographic and Health Surveys (DHS) and Multiple Indicators Cluster Surveys (MICS) that provide information on the age at first marriage for women. The analysis is based on age at first marriage for women aged 18-22 and applied to the population of girls ages 10-17. This means that we are missing a few girls who may marry before 10, but this tends to be rare, and does not affect estimates in a substantial way. The rationale for focusing on girls aged 10-17 is that when computing the share of girls marrying illegally, considering younger girls would result in an even larger denominator and thereby result in somewhat artificially low numbers. Using the same age group as that used for legal protection also facilitates comparison of the statistics.

To be considered as an illegal child marriage, a marriage must have two characteristics: (1) the marriage must be taking place before a girl reaches the age of 18; and (2) the marriage must be taking place before the minimum legal age for marriage in the country. The default survey used for estimations of illegal marriages is the DHS. For China and the United States, we use census data. These data may underestimate the extent of child marriages as only formal unions may be reported, but they still provide an idea of the extent of the practice. For Brazil, the analysis is based on an old DHS (because more recent DHS surveys are not available), but census data for 2000 and 2010 suggest that DHS estimates are still relevant given no reduction over time between the two censuses in the rates of child marriage.



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Recommended citation for this paper:

Wodon, Q., Tavares, P., Fiala, O., Le Nestour, A., and Wise, L. 2017. *Ending Child Marriage: Legal Age for Marriage, Illegal Child Marriages, and the Need for Interventions*. London and Washington, DC: Save the Children and The World Bank.

This brief was prepared by a team from the World Bank (Quentin Wodon and Paula Tavares) and Save the Children (Oliver Fiala, Alexis Le Nestour, and Lisa Wise). The World Bank team acknowledges support for this brief and a broader work program on child marriage from the Children's Investment Fund Foundation and the Global Partnership for Education. The findings, interpretations, and conclusions expressed in this paper are entirely those of the author(s) and should not be attributed in any manner to the World Bank, its affiliated organizations or members of its Board of Executive Directors or the countries they represent. Citation and the use of material presented in this report should take into account this provisional character. The World Bank does not guarantee the accuracy of the data included in this work. Information contained in this brief may be freely reproduced, published or otherwise used for noncommercial purposes without permission from Save the Children and the World Bank. However, Save the Children and the World Bank request that the original study be cited as the source.

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