

CCZ 79/14

IN THE CONSTITUTIONAL COURT OF ZIMBABWE  
HELD AT HARARE

CASE NO /2014

In the matter between:-

LOVENESS MUDZURU

FIRST APPLICANT

RUVIMBO TSOPODZI

SECOND APPLICANT

AND

THE MINISTER OF JUSTICE, LEGAL &  
PARLIAMENTARY AFFAIRS

FIRST RESPONDENT

MINISTER OF WOMEN'S AFFAIRS,  
GENDER & COMMUNITY DEVELOPMENT

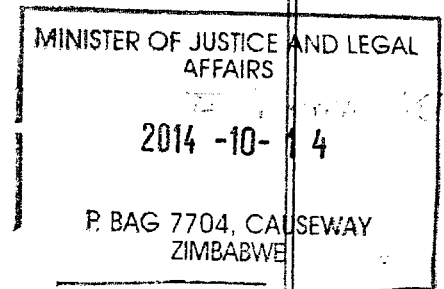
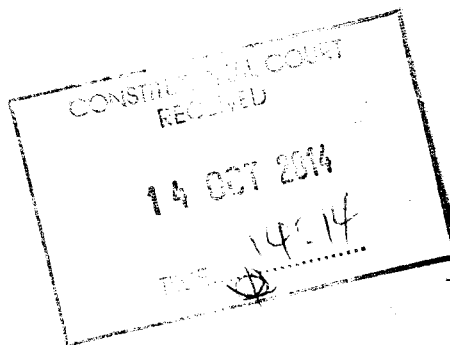
SECOND RESPONDENT

ATTORNEY GENERAL OF ZIMBABWE

THIRD RESPONDENT

### COURT APPLICATION

*Tempo 15/10/14*



*Tempo 30/5/14*

Prepared by: TENDAI BITI LAW  
APPLICANTS' LEGAL PRACTITIONERS  
HMB CHAMBERS  
28 Rowland Square  
Milton Park  
HARARE [TB/om/M20] Tel: 251659

*VS*

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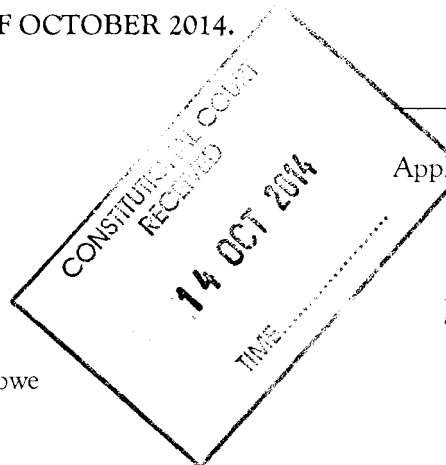
THIRD RESPONDENT

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DATED AT HARARE ON THIS 14<sup>th</sup> DAY OF OCTOBER 2014.

TO: THE REGISTRAR  
Constitutional Court of Zimbabwe  
HARARE



TENDAI BITI LAW  
Applicant's Legal Practitioners  
HMB CHAMBERS  
28 Rowland Square  
Milton Park  
HARARE [TB/om/M20]

And To: **MINISTER OF JUSTICE, LEGAL & PARLIMENTARY AFFAIRS**  
**1<sup>st</sup> Respondent**  
New Government Complex  
6<sup>th</sup> Floor  
Central Avenue/3<sup>rd</sup> Street  
**HARARE**

And To: **MINISTER OF WOMEN'S AFFAIRS,  
GENDER & COMMUNITY DEVELOPMENT**  
**2<sup>nd</sup> Respondent**  
Kaguvi Building, 8<sup>th</sup> Floor  
Cnr 4<sup>th</sup> Street/ Central Avenue  
**HARARE**

And To: **ATTONEY GENERAL OF ZIMBABWE**  
**3<sup>rd</sup> Respondent**  
New Government Complex, 4<sup>th</sup> Floor  
Corner Central Avenue/4<sup>th</sup> Street  
**HARARE**

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ATTORNEY GENERAL OF ZIMBABWE

THIRD RESPONDENT

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COURT APPLICATION

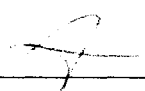
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TAKE NOTICE THAT the Applicant intends to apply to the Constitutional Court at Harare for an Order in terms of the Draft Order annexed to this notice and that the accompanying affidavit/s and documents will be used in support of the application.

If you intend to oppose this application you will have to file a Notice of Opposition in **Form No. 29A**, together with one or more opposing affidavits, with the Registrar of the Constitutional Court at Harare within **ten (10) days** after the date on which this notice was served upon you. You will also have to serve a copy of the Notice of Opposition and affidavit/s on the Applicant at the address for service specified below. Your affidavit/s may have annexed documents verifying the facts set out in the affidavits.

If you do not file an opposing affidavit within the period specified above, this application will be set down for hearing in the Constitutional Court at Harare without further notice to you and will be dealt with as an unopposed application.

DATED AT HARARE ON THIS DAY OF OCTOBER 2014.

  
TENDAI BITI LAW  
Applicant's Legal Practitioners  
HMB CHAMBERS  
28 Rowland Square  
Milton Park  
HARARE [TB/om/M20]

TO: **THE REGISTRAR**  
Constitutional Court of Zimbabwe  
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And To: **MINISTER OF JUSTICE, LEGAL & PARLIMENTARY AFFAIRS**  
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New Government Complex  
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ATTORNEY GENERAL OF ZIMBABWE

THIRD RESPONDENT

**FIRST APPLICANT'S FOUNDING AFFIDAVIT**

**A. THE ACTORS**

I LOVENESS MUDZURU do hereby make oath and state that:-

1. I am a Zimbabwean young woman born on the 16<sup>th</sup> of March 1995. I reside at stand 8415, 5<sup>th</sup> Crescent Glenview 8, Harare. The facts I depose hereto are fully within my knowledge and to the best of my belief true and correct. My address for service is care of my undersigned legal practitioners, **TENDAI BITI LAW**.
2. **Second Applicant** is Ruvimbo Tsopodzi, again a young woman born on the 15<sup>th</sup> of February 1996. Her address of services is 8306, 23<sup>rd</sup> Road, Glenview Harare.

3. The **First Respondent** is the Minister of Justice, Legal and Parliamentary Affairs cited as such as the Minister constitutionally responsible for the administration of both the **Marriage Act [Chapter 5:11]** and the **Customary Marriages Act [Chapter 5:07]**. His address for service is 6<sup>th</sup> Floor, Block A, New Government Complex, Central Avenue, Harare.
  
4. The **Second Respondent** is the Minister of Women’s Affairs, Gender and Community Development. She has been so appointed by the President in terms of **Chapter 5 of the Constitution of Zimbabwe**. Her address for service is care of her office 8<sup>th</sup> Floor, Kaguvi Building, Corner 4<sup>th</sup> Street/Central Avenue, Harare.
  
5. The **Third Respondent** is the Attorney General of Zimbabwe, a public office duly set up in terms of **Section 114 of the Constitution of Zimbabwe**. His functions among other things include that of being the principal legal advisor to the Government and he has the obligation to represent Government in civil and constitutional proceedings. His address for service is care of 4<sup>th</sup> Floor, Block A, New Government Complex, Central Avenue, Harare.

**SECTION B**

**BIOGRAPHY OF THE APPLICANTS**

6. As indicated above I was born on the 16<sup>th</sup> of March 1995. I have one other sibling a female. My mother died in February of 2012 whilst my father in August of 2012.
  
7. My mother, was a single mother who raised us, and throughout our life we have stayed as lodgers in various houses in the township of

- S
- Glenview. My mother worked in various jobs the last of which was the job of a till operator.
8. My father, who had another family, worked as waiter at the Sheraton Hotel as it then was and later became a taxi driver but at the time of his death was unemployed.
  9. I went to Glenview High School, and when I was in form three I then met Tinashe Chikonye who was born on the 25<sup>th</sup> of April 1987. We fell in love and before I knew it, I was pregnant. My first child Chiedza was thus born on the 7<sup>th</sup> of November 2011.
  10. At the present moment, I stay with Tinashe's family at the above residence in Glenview. We stay in a seven roomed house where we use five rooms with two leased to some lodgers. There are four adults staying at this residence with five children. The adults there are Tinashe's parents, Tinashe and myself and Tinashe's sister.
  11. None of the above persons are in gainful employment.
  12. On the 9<sup>th</sup> of February 2013, I gave birth to my second child Adonia. Whilst I had been taking my family planning pills for a long time when I went to attend to my father's funeral in August of 2012, I forgot to take my tablets and as a result I got pregnant. My life at the present moment is extremely excruciating raising two children when I am just 19 years. I had a dream of being a social worker having obtained a degree in sociology but that dream has evaporated.
  13. Although at school we were taught the three principles of ABC, Abstinence, Be faithful and Condomise, I could not help sleeping with



6

Tinashe and when I got pregnant I did not even understand that I was pregnant.

14. Raising a child when you are a child yourself is excruciating and painful. If my current conditions remain as they are, I have no doubt I will probably have a breakdown and collapse.
15. If I were to be given a chance I would advise every young girl to stay away from men and only to seek to engage in sex well after the age of 28 years and perhaps after attainment of a degree and years of working. In short my life is hell.

## SECTION C

### LEGAL STANDING

16. As a victim with two young children, and as a human right activist, I have a right to bring the instant application in terms of **Section 85 of the Constitution of Zimbabwe**. The issues I raise below are in the public interest and therefore I bring this application in terms of **Section 85 (1) (a) and (d) of the Constitution of Zimbabwe**.
17. The issue at hand is in respect of the marriage laws of Zimbabwe in so far as they apply to child marriages. The current law is that, in terms of sections 20 and 22 of the **Marriage Act [Chapter 5:11]**, a girl between the age of sixteen (16) and eighteen (18) may with joined consent of a mother and father, and in the civil marriage. The marriage of a girl child below the age of sixteen (16) is proscribed by section 22 of the Act except with the written permission of the Minister of Justice, Legal and Parliamentary Affairs. The position is different for boys: no boy

under the age of eighteen (18) may contract a marriage except with the Minister's written permission (section 22 of the Act).

18. However, in terms of the **Customary Marriages Act [Chapter 5:07]**, there is no specified marriage age for persons intending to contract a customary law marriage.
19. It is my respectful contention, as will be shown fully below, that the legitimate age of marriage in Zimbabwe for all sexes should be eighteen (18) whether or not a person is marrying in terms of the **Marriage Act [Chapter 5:11]** or the **Customary Marriages Act [Chapter 5:07]** or for that matter an unregistered customary law union. In addition, there should be no differences at all amongst the sexes.
20. The present application is thus to declare unconstitutional the provisions of the Marriage Act, and to declare that customary law and the Roman-Dutch common law, in so far as they differentiate between the sexes as to the minimum age of marriage, are unconstitutional.

## SECTION D

### THE LEGAL ISSUE: IN DETAIL

21. The instant application is an important public interest application that seeks to challenge the law in so far as it relates to child marriages in Zimbabwe. It is motivated by my desire to protect the interest of children in Zimbabwe.
22. The law is that for persons contracting a marriage in terms of the **Marriage Act [Chapter 5:11]** no boy under the age of eighteen (18)

years and no girl under the age of sixteen (16) years may do so without the consent of the Minister. This is so as a result of **Section 22 (1) of the Marriage Act [Chapter 5:11]**.

- 23. What this effectively means is that the legal age of marriage for a boy is eighteen (18) years and that of a girl is sixteen (16).
- 24. This clearly is discriminatory and unconstitutional. I will revert to this point below.
- 25. For those contracting a marriage under the **Customary Marriages Act [Chapter 5:07]** there is no marriageable age that is specified. Put in simple terms there is nothing that prevents, in terms of this law, minors from contracting a marriage or entering into a registered customary law union.
- 26. The Constitution of Zimbabwe seeks to protect the rights of children. **Section 81** of the same reads as follows:-

***“81. Rights of children***

- (1) Every child, that is to say every boy and girl under age of eighteen years, has the right –
  - (a) To equal treatment before the law, including the right to be heard;
  - (b) To be given a name and family name;
  - (c) In the case of a child who is –
    - (i) Born in Zimbabwe; or
    - (ii) Born outside Zimbabwe and is a Zimbabwean citizen by descent;
    - (iii) to the prompt provision of a birth certificate;

- (d) To family or parental care, or to appropriate care when removed from the family environment;
- (e) To be protected from economic and sexual exploitation, from child labour, and from maltreatment, neglect or any form of abuse;
- (f) To education, health care services, nutrition and shelter;
- (g) Not to be recruited into a militia force or take part in armed conflict or hostilities;
- (h) Not to be compelled to take part in any political activity; and
- (i) Not to be detained except as a measure of last resort and, if detained –
  - (i) to be detained for the shortest appropriate period;
  - (ii) to be kept separately from detained persons over the age of eighteen years; and
  - (iv) To be treated in a manner, and kept in conditions, that take account of the child’s age.

(2) A child’s best interests are paramount in every matter concerning the child.

(3) Children are entitled to adequate protection by the courts, in particular by the High Court as their upper guardian.”

27. It is my contention that the marriage of any child, boy or girl below the age of eighteen (18) years, amounts to child abuse but more importantly, is a breach of **Section 81 of the Constitution**.

28. In any event to the extent that under the **Marriage Act** boys only can marry at eighteen (18) years, therefore subjecting girls whether under any law, **Customary Law**, the **Marriage Act** or any other religious law

to marry before the age of eighteen (18) years is subjecting the same to unequal treatment before the law, and is therefore discriminatory.

29. I therefore make the point that any law in Zimbabwe that allows girls to be married or to enter into any unregistered customary law union or some other religious marriage, before the age of eighteen (18) years, is a breach of the equal **Protection Provision of the Constitution** codified under **Article 56 (1)** of the same.

30. **Section 78 of the Constitution** is clear. It reads as follows:-

***“78. Marriage Rights***

- (1) Every person who has attained the age of eighteen years has the right to found a family.*
- (2) No person may be compelled to enter into marriage against their will.*
- (3) Persons of the same sex are prohibited from marrying each other.”*

31. It is respectfully submitted that the clear meaning of **Section 78** is to make eighteen (18) the age of marriage in Zimbabwe. To that extent therefore it follows that any law, general law, customary law, religious law that is to the contrary is unconstitutional.

32. In this Court Application I therefore seek to protect the rights of children, in particular girl children, who are being subjected to the vagaries of early marriages before eighteen (18).

33. As I will show below, through various studies done by other people, early marriages in the majority of situations prejudice the livelihood and opportunities of girl children particularly those from poor

backgrounds. The law thus needs to be brought in sync with the Constitution so as to protect these vulnerable persons in our community whose rights are clearly enshrined and protected by the new Constitution of Zimbabwe.

34. I therefore seek as relief the following:-

(a) A Constitutional declaration in general, that, consistent with **Section 78 of the Constitution of Zimbabwe** only persons who are above the age of eighteen (18) years can marry, in terms of the general law, customary law or any other religious law or rite.

(b) An order that **Section 22 (1) of the Marriage Act [Chapter 5:11]** be and is hereby declared unconstitutional to the extent that it has a different age specifications for girls and boys.

(c) Further, an order that the **Customary Marriages Act [Chapter 5:07]** be and is hereby declared unconstitutional to the extent that in that it does not provide for a minimum age limit (specifically an age limit of eighteen (18) years) in respect of any marriages contracted under the same or indeed under African customary law.

(d) I further seek a declarator to the fact that no one may enter into unregistered customary law union before the age of eighteen (18) years and that any registered customary law union contracted by person below the age of eighteen (18) years be declared null and void.

**SECTION E**

## BACKGROUND

35. Child marriages in Zimbabwe are rife and notorious. Many young girls particularly in the rural areas where there is massive poverty are being subjected to early marriages before the age of eighteen (18). The recent **ZimStat Multiple Indicator Cluster Survey Report of 2014**, indicates that from a sample of people aged between 15 and 49 years, 5% of women and 0.3% of men age were first married or in union before the age of 15 years. Further, from a sample of people aged 20 - 49 years, one in three women and less than one in twenty men were first married or in union before the age of eighteen (18).
36. The same report shows that young people aged between 15 - 19 years currently married or in union were 24.5% and 1.7% for women and men respectively. The percentage of women and men aged 15 - 49 years who are in a polygamous union was 10.1% and 3% respectively.
37. I reproduce herein, **Table 24**, which is found at page 36 of this survey produced by **ZimStats** and then published in September of 2014.

<b>Table 24: Early marriage and polygyny</b>			
<b>MISC</b>	<b>Indicator</b>	<b>Description</b>	<b>Value</b>
<b>Indicator</b>			
8.8	Marriage before age 15	Percentage of people who were first married or in union before age 15	
		(a) Women age 15 - 49 years	5.0
		(b) Men age 15 - 49 years	0.3
		(c) Men age 15 - 54 years	0.3

8.5	Marriage before age 18	Percentage of people who were first married or in union before age 18  (a) Women age 20 - 49 years (b) Men age 20 - 49 years (c) Men age 20 - 54 years	  32.8 3.7 3.9
8.6	Young people age 15-19 years currently married or in union	Percentage of young people aged 15 - 19 years who are married or in union  (a) Women (b) Men	  24.5 1.7
8.7	Polygyny	Percentage of women who are in a polygynous  (a) Women age 15 - 49 years (b) Men age 15 - 49 years (c) Men age 15 - 54 years	  10.1 3.8 4.1
8.8a 8.8b	Spouse age difference	Percentage of young women who are married or in union and whose spouse is 10 or more years older,  (a) Among women 15 - 19 years (b) Among women age 20 - 24 years	  19.9 17.5
Note: (b) Standard MICS age group (c) Zimbabwe specific age group			

38. The above statistics are not unique to Zimbabwe. According to reports in 2002, throughout the world 52 million girls below the age of eighteen (18) years were married. The average estimates are that 25 000 (twenty-five thousand) girls worldwide are married before the age of eighteen (18) years on a day to day basis. With estimation being that by the year 2012, 100 000 000 (one hundred million) girls before the age of eighteen (18) would have married.
39. Child marriages occur more frequently in South East Asia where 48% of women aged 15 - 24 have been married before the age of fourteen (14) years, 42% for Africa and 29% for Latin America and the Caribbean.



40. The same reports will show that most children married before the age of eighteen (18) are girls. Thus in Mali, the girl boy ratio of marriage before age eighteen (18) is 72:1, Kenya 21:1, USA 8:1.
41. I attach hereto marked Annexure 'A' an article published by **Dr Nawal M. Nour** headed "**Health Consequences of Child Marriage in Africa**" published in [www.cdc.gov/eid](http://www.cdc.gov/eid) Vol 12, No. 11 November 2006.
42. The point I thus make is that child marriages are thus widespread in Zimbabwe and elsewhere.
43. There is no question that child marriages are largely as a result of economic, cultural and social issues. Indeed in Zimbabwe it is well accepted that poverty is at the epicentre of causing early child marriages. Girls from indigent backgrounds are vulnerable to marriage because of the costs associated with education and the opportunity costs on parents and households of maintaining and up keeping unemployed unmarried female children.
44. However, as will be shown below, it becomes a vicious circle in that the young girls who marry early and often in poor families are then forced to produce young children in a sea of poverty and the cycle begins again. Put simply child marriage fosters poverty and cyclical reproduction of poverty as girls who marry young, in an uneducated environment with few opportunities, continue reproducing the same.
45. Early child marriages are also a product of patriarchy. African culture, and indeed South East Asian cultures, devalue women and treat women as objects. A young girl child is thus treated as an object whilst if there are little resources available it is the boy child who is sent to school.

46. In some cultures, parents worry about protecting their daughters' virginity. The child marriage is thus seen as a protective mechanism against premarital sexual activity, which in fact is not correct.
47. I attach hereto marked **Annexure 'B'** the August 2014 **Human Rights Bulletin** headed "Child Marriages" in respect of which some of these issues are captured. **Annexure 'C'** herein, is an article available and downloaded from [www.unicef-irc.org/publications/pdf/digest.pdf](http://www.unicef-irc.org/publications/pdf/digest.pdf) published an **Innocent Digest No. 7 March 2001** headed "Early Marriage: Child Spouses" published by the **Innocent Research Centre of Florence Italy** which again outlines some of the causes.

#### DAMAGING EFFECTS OF CHILD MARRIAGES

48. Clearly the most damaging effect of child marriages is simply the fact that they rob children of the beauty of childhood and cast upon these beautiful creatures the obligation of parenthood and family life on extremely vulnerable persons.
49. Indeed, child marriage cuts off the freedom of being young and all the pain, pleasure and joy that comes with it. Being young is a protected human right on its own as is reflected in our Constitution.
50. More importantly, child marriages decapitate educational opportunities and the prospect for personal growth. The statistics again show that once a child has been married, particularly the girl child, that is generally the end and closure of her educational attendances. The girl child thus becomes the girl mother who quickly becomes a girl

grandmother and has captured horizons, captured dreams and captured existence often in deep structural poverty.

- 51. Furthermore, the consequences of children bearing children is one that is scientifically been shown in the studies. For instance in the article by Dr Nawal M. Nour which I have attached hereto marked **Annexure 'A'** it is exposed clearly that because pregnancy stresses the immune system pregnant girls are at increased risk of acquiring disease like malaria.
- 52. Further, as a mother and a woman I can speak to the true demand and pain of giving birth, which under any circumstances should never be visited on a young child but on a mature adult.
- 53. The challenge of children delivering children is key. As Dr. Nour states in her article above *"The problem with children delivering children is that the young mothers are at a significantly higher risk than older women for debilitating illness and even death. Compared with women above 20 years of age, girls 10 – 14 years of age are 5 – 7 times more likely to die from childbirth, and girls 15 -19 years of age are twice as likely. For example, in Mali, the maternal mortality rate for girls aged 15 – 19 is 178 per 100,000 live births and for women aged 20 – 34, only 32 per 100,000."*
- 54. Further as the literature I have enclosed shows, the risk of HIV, Aids and cervical cancer is also much higher in child mothers. .

INTERNATIONAL LAW

- 55. International law has various protocols and frameworks that protect children's rights that are consistent with the Zimbabwean Constitution. One of the most significant one is the African Charter on the Rights

and Welfare of the Child (ACRWC), which prohibits child marriage and the betrothal of boys and girls. Article 16.1 of the above charter obligates the state parties to *“take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of a parent, legal guardian or school authority or any other person who has care of the child.”*

Article 21.2 of the Charter (i.e. the ACRWC) goes on to say: *“Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years ...”*

56. In addition the Universal Declaration of Human Rights (UDHR), the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) all expressly forbid the degrading and mistreatment of girls inherent in child marriage.
57. **Article 16.1 of the Universal Declaration of Human Rights (UDHR) of 1948** is particularly important in that it holds that men and women of full age have the right to marry and found a family. They are entitled to equal rights as to marriage and its dissolution.
58. In addition the Convention on Consent to Marriage, minimum age for marriage and registration of marriages of 1964 states in **Article 1** that no marriage shall be legally entered into without the full and free consent of both parties and it further obliges parties to the Convention to specify a minimum age of marriage.

- 59. The Convention on the Rights of the Child of 1999, which has been ratified by all countries except the United States of America and Somalia, has a number of interesting provisions. **Article 19** stipulates the right to protection from all forms of physical or mental violence, injury or abuse, maltreatment or exploitation, including sexual abuse while in the care of parents. **Article 24** restates the right to health and to access to health services and to be protected from harmful traditional practices. **Article 36** restates the right to protection from all form of exploitation prejudicial to any aspect of the child’s welfare.
  
- 60. The Protocol to the African Charter on Human and Peoples’ Rights on the Rights on Women in Africa to which Zimbabwe is also a State party is even more specific.
  
- 49 **Article 6: Marriage** states Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that:
  - a. No marriage shall take place without the free and full consent of both parties;
  - b. The minimum age of marriage for women shall be 18 years.
  
- 61. I bring the above instruments to this Honourable Court’s attention so that the Court should not waver or hesitate in granting the Order that I seek.

CONCLUSION

- 62. I respectfully contend that it is a huge responsibility for a young girl to become a mother and a wife. This is a burden that impacts on the psychological welfare of the children and their offspring.
- 63. I also maintain that child marriage also has implications for the social development of child's rights in terms of low levels of education, poor health and personal autonomy. A lack of education means that young wives lack knowledge about sexual relations, their bodies and reproduction, an issue exacerbated by the cultural silence surrounding the same. This clearly denies the girl child the ability to make and form decisions about sexual relations, planning a family, and her health. Further, as already indicated above, early marriage results in a likely low level of education and life skills increased vulnerability to abuse and poor health and therefore deepened poverty.
- 64. Under the circumstances I pray that this Honourable Court should as a question of law hold that and issue a declarator that the minimum age of marriage in Zimbabwe for all types of marriage is 18 years. *A fortiori*, **Section 22(1) of the Marriage Act** is unconstitutional. I therefore pray for an order in terms of the draft.

THUS SWORN AT HARARE THIS      DAY OF OCTOBER 2014.

Before me:-

\_\_\_\_\_  
 LOVENESS MUDZURU  
 \_\_\_\_\_  
 COMMISSIONER OF OATHS

NYASHA MUNETSI  
 LEGAL PRACTITIONER  
 COMMISSIONER OF OATHS

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2<sup>ND</sup> APPLICANT

AND

THE MINISTER OF JUSTICE, LEGAL &  
PARLIAMENTARY AFFAIRS

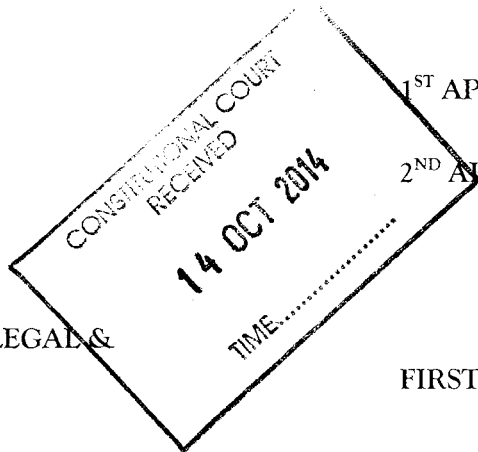
FIRST RESPONDENT

MINISTER OF WOMEN'S AFFAIRS,  
GENDER & COMMUNITY DEVELOPMENT

SECOND RESPONDENT

ATTORNEY GENERAL OF ZIMBABWE

THIRD RESPONDENT




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**SECOND APPLICANT'S FOUNDING AFFIDAVIT**

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I RUVIMBO TSOPODZI do hereby make oath and state that:-

1. I am the Second Applicant in this matter, being a young woman residing at 8306, 23<sup>rd</sup> Road, Glenview, Harare.
2. I confirm that I have read the Founding Affidavit of my friend the First Applicant Loveness Mudzuri. I confirm that I verify the same and associate myself particularly with the relief being sought.
3. I want to bring to the Court's attention my own horrible experience. I am the third born in a family of five. My father is a panel beater in the informal sector working at Makomva Centre in Glenview. My mother is a retired House Wife.

4. None of my four other siblings are employed and as a matter of fact the housing we are staying, we are mere tenants. When I was in form three, and aged 15 years at Glenview High School, I met, Clive Kapeni, born on the 1<sup>st</sup> of June 1990. We fell in love but with my little experience I was seduced into sex and right on the day that I broke my virginity I also fell pregnant.
5. My child, Junior Clive Kapeni was born on the 24<sup>th</sup> of October 2011 when I was now 16 years.
6. For a time I stayed with Clive and his parents in Glenview. The house itself is rented and again none of Clive's family is in gainful employment.
7. Clive, is an alcoholic who drinks the toxic potent known as kachasu. He physically abused me and beat me up on so many occasions that I was forced to go back to my parents where I am currently staying.
8. I have no idea how to raise a child and at the present moment it is my mother in particular, who looks after my child.
9. I have gone through excruciating circumstances where I would go for days without food whilst residing at Clive's parents. Even now, my parents are poor but once in a while, my "mother-in-law" brings us some food. I had dreams of becoming a nurse but needless to say those dreams are gone.
10. I strongly believe that it is a crime to allow anyone below the age of 18 years to have a child. What I am going through is painful and unacceptable and cannot be wished on anyone else.



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11. If I had a chance of advising young girls below 18, I would advise them to totally abstain from sex until they have graduated and are in gainful employment.
  12. Giving birth causes trauma and pain. Living with a man also causes pain and trauma.
  13. My life is hell at the present moment and at this stage I find it unbearable.
  14. I am aware that the practice of marrying young children is rampant in Zimbabwe. For instance members of the Apostolic Faith, have this insatiable habit of grabbing young children and marrying them.
  15. I am also aware of the practices in the rural areas where young women are pledged or married to older wealthier husbands. This should be considered criminal conduct and unacceptable.
  16. Young women, like myself, are going through hell and I will be ready to testify orally before any Honourable Court so that this society can do the right thing.
  17. I therefore pray that the powers that be and this Honourable Court hear the plea of a victim and grants the order that we seek in the instant matter.
  18. Whilst I accept that my life has a write off, I am seriously concerned about the life of my son Junior. He has no prospects of success at all in life. His father is a drunkard and I am a poor uneducated woman. It means that my son is going through that same cycle of poverty and



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# Health Consequences of Child Marriage in Africa

Nawal M. Nour\*

Despite international agreements and national laws, marriage of girls <18 years of age is common worldwide and affects millions. Child marriage is a human rights violation that prevents girls from obtaining an education, enjoying optimal health, bonding with others their own age, maturing, and ultimately choosing their own life partners. Child marriage is driven by poverty and has many effects on girls' health: increased risk for sexually transmitted diseases, cervical cancer, malaria, death during childbirth, and obstetric fistulas. Girls' offspring are at increased risk for premature birth and death as neonates, infants, or children. To stop child marriage, policies and programs must educate communities, raise awareness, engage local and religious leaders, involve parents, and empower girls through education and employment.

Awareness of reproductive health issues in developing nations is growing. Critical issues are the high prevalence of HIV/AIDS among young people; childbearing by young girls, which can lead to obstetric fistulas and death of the mother; and child marriage.

Child marriage, defined as marriage of a child <18 years of age, is an ancient, worldwide custom. Other terms applied to child marriage include "early marriage" and "child brides." Early marriage is vague and does not necessarily refer to children. Moreover, what is early for one person may be late for another. Child bride seems to glorify the process, implying a celebration and a bride who is happy to start a loving union with her spouse. But for the most part, girl brides do not know—and may have never met—their groom.

In 2002, ≈52 million girls <18 years of age were married. With ≈25,000 girls <18 years being married each day, an estimated 100 million will be married by 2012 (1). Child marriages occur most frequently in South Asia, where 48% of women aged 15–24 have been married

before the age of 18; these figures are 42% for Africa and 29% for Latin America and the Caribbean (2).

Although the definition of child marriage includes boys, most children married at <18 years of age are girls. For example, in Mali the girl:boy ratio of marriage before age 18 is 72:1; in Kenya, 21:1; and even in the United States, 8:1 (3–5). We therefore focus on the social and health consequences of child marriage for girls. And although we focus on African countries, similar arguments over what drives child marriages, how they affect girls, and how to stop them may be applied to other continents.

## United Nations Efforts and National Laws

Since 1948, the United Nations and other international agencies have attempted to stop child marriage. Article 16 of the Universal Declaration of Human Rights states that persons must be at "full age" when married and that marriage should be entered into "freely" and with "full consent." In other words, any country that allows child marriage is committing a violation of human rights (6). Articles 1, 2, and 3 of the 1962 Convention of Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages require that countries establish a minimum age for marriage and that all marriages be registered (7). Article 16 of the 1979 Convention on the Elimination of All Forms of Discrimination against Women requires minimum ages for marriage to be specified and says that child marriages are illegal (8). However, not until 1989, at the Convention on the Rights of the Child, did international law define children as persons <18 years of age (Article 1) (9). In 1994, the International Conference on Population and Development stated that the minimum age of marriage should be raised and enforced, all forms of coercion and discrimination should be eliminated, marriage should be entered into with free consent and as equal partners, and the education and employment of girls should be encouraged (Principle 9, Action 4.18, Action 5.5) (10).

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In many countries, the legal age for marriage is 18, yet some governments enforce these laws loosely. For example, the percentage of girls married before age 18 in Niger is 77%, in Chad 71%, in Mali 63%, in Cameroon 61%, and in Mozambique 57% (1). In parts of Ethiopia, 50% of girls are married before the age of 15, and in Mali, 39%. Some marriages even occur at birth; in such instances, the girl is sent to her husband's home at the age of 7 (11).

### Incentives for Perpetuating Child Marriages

Poverty plays a central role in perpetuating child marriage. Parents want to ensure their daughters' financial security; however, daughters are considered an economic burden. Feeding, clothing, and educating girls is costly, and girls will eventually leave the household. A family's only way to recover its investment in a daughter may be to have her married in exchange for a dowry. In some countries, the dowry decreases as the girl gets older, which may tempt parents to have their daughters married at younger ages. These are not necessarily heartless parents but, rather, parents who are surviving under heartless conditions. Additionally, child marriages form new alliances between tribes, clans, and villages; reinforce social ties; and stabilize vital social status.

Parents worry about ensuring their daughters' virginity and chastity. Child marriage is also seen as a protective mechanism against premarital sexual activity, unintended pregnancies, and sexually transmitted diseases (STDs). The latter concern is even greater in this era of HIV/AIDS.

Girls who marry young tend to be from poor families and to have low levels of education. If they marry men outside their village, they must move away. Coping with the unfamiliar inside and outside the home creates an intensely lonely and isolated life. As these girls assume their new roles as wives and mothers, they also inherit the primary job of domestic worker. Because the husband has paid a hefty dowry, the girl also has immediate pressure to prove her fertility. Girls often embrace their fate and bear children quickly to secure their identity, status, and respect as an adult. As a result, these young girls have high total fertility rates but have missed the opportunities to be children: to play, develop friendships, bond, become educated, and build social skills.

Characteristics of the men who marry young girls are also fairly homogenous. Because men have to pay large dowries for girls, many must work for years to generate enough income. As a result, they are older when they marry, which means that they have little in common to discuss with their young wives except household responsibilities and child rearing. Men also are expected to have had multiple sex partners and to be sexually experienced. Because men are aware of the HIV/AIDS danger, they seek even younger, virginal brides, who are presumably not infected.

### Risk for HIV and Other Sexually Transmitted Diseases

A common belief is that child marriage protects girls from promiscuity and, therefore, disease; the reality is quite different. Married girls are more likely than unmarried girls to become infected with STDs, in particular HIV and human papilloma virus (HPV). In sub-Saharan Africa, girls ages 15–19 years are 2–8 times more likely than boys of the same age to become infected with HIV (12). The risk of acquiring HIV from a single act of unprotected vaginal intercourse is 2–5 times greater for women than men (13). Globally, the prevalence of HIV infections among women is highest from ages 15 to 24; the risk for men peaks 5–10 years later (12).

Marriage by age 20 has become a risk factor for HIV infection for young and adolescent girls (13), as has been shown by several studies of African populations (14–16). A study in Kenya demonstrated that married girls had a 50% higher likelihood than unmarried girls of becoming infected with HIV. This risk was even higher (59%) in Zambia. In Uganda, the HIV prevalence rate for girls 15–19 years of age was higher for married (89%) than single girls (66%); for those 15–29 years of age, HIV prevalence was 28% for married and 15% for single girls. This study noted that the age difference between the men and their wives was a significant HIV risk factor for the wives (16). All of these studies showed that girls were being infected by their husbands. A hypothesis relevant to this finding is that a young girl may be physiologically more prone to HIV infection because her vagina is not yet well lined with protective cells and her cervix may be more easily eroded. Risk for HIV transmission is also heightened because hymenal, vaginal, or cervical lacerations increase the transmission rate, and many of these young girls lose their virginity to HIV-infected husbands. Also, STDs such as herpes simplex virus type 2 infection, gonorrhea, or chlamydia enhance girls' vulnerability to HIV (17–19).

Another study explored why married girls in Kenya and Zambia had a higher risk for HIV infection. This study concluded that because married girls are under intense pressure to prove their fertility, they have more unprotected intercourse. The study also found that husbands were substantially older (5–14 years) than their wives and were 30% more likely than boyfriends of single girls to be HIV infected. Because of their age alone, the husbands had already had numerous sex partners. Additionally, in these areas of Africa, polygamy is common (20).

One fundamental difficulty with child marriage is that girls are financially dependent on their husbands and therefore lack the power to make demands upon them. They cannot ask their husbands to get an HIV test; they cannot abstain from intercourse or demand condom use (20); they cannot insist that their husbands be monogamous; and

ultimately, they cannot leave because they cannot repay their high dowry (27). In addition, returning to their parents' home may not be an option because divorce is considered unacceptable and leaving their husbands may have serious implications on the social or tribal ties that were developed during the marriage.

### Cervical Cancer

Child marriage and polygamy play an important role in another deadly disease, cervical cancer. HPV infection has become endemic to sub-Saharan Africa (22–24). Although many African nations do not have the capacity to adequately or effectively screen for cervical cancer or HPV, the incidence of cervical cancer in Africa is estimated to be extremely high. Common risks for cervical cancer are child marriage, low socioeconomic status, poor access to health care, and husbands who had multiple sex partners. For example, in Mali, cervical cancer is the most common cancer in women, has an age-standardized incidence rate of 24.4 per 100,000, and is the second most common cause of death from cancer (25). In a case-control study of 200 participants with and without cervical cancer, among whom the mean age at marriage was 15 years, HPV was detected in 97% of the cases and 40% of the controls. The risk factors identified were child marriage, high parity (>10 children), polygamous husbands (>2 wives), and poor genital hygiene (no tap water available and reuse of sanitary napkins). Another study in Morocco had similar findings (26), with cervical cancer risk factors identified as child marriage, high parity, long-term use of oral contraceptives, and poor genital hygiene (control participants bathed more frequently, and case-participants used home-made sanitary napkins more frequently). Other studies have also implicated hygiene as a possible factor (22,27).

### Children Bearing Children

Pregnancy poses many challenges for young girls. Because pregnancy suppresses the immune system (28), pregnant girls are at increased risk of acquiring diseases like malaria. Malaria kills >1 million people each year, 90% of them in Africa. Approximately 25 million pregnant women are exposed to malaria per year, and pregnant women are among the most severely affected by malaria. About 10.5 million become infected during their second or third trimester (29), and among these, the mortality rate is ≈50% (30). Not only are pregnant women most susceptible to malaria during their first pregnancy (31), but they also have higher rates of malaria-related complications (predominantly pulmonary edema and hypoglycemia) and death than do nonpregnant women. Malaria parasite density is significantly higher in pregnant girls <19 years than in pregnant women >19 years. (32) However, a woman who has had malaria during pregnancy is less susceptible

to malaria during subsequent pregnancies, unless the woman is also HIV infected (31).

The interaction between HIV and malaria in young married girls is devastating. Rates of coinfection are highest in Central African Republic, Malawi, Mozambique, Zambia, and Zimbabwe, where >90% of the population are exposed to malaria and >10% are HIV positive. HIV-infected patients are much more susceptible to infection with *Plasmodium falciparum*. Pregnant women have high malaria parasitemia in the placenta and more severe clinical disease, which affects not just the first pregnancy but all subsequent pregnancies. HIV-infected patients also do not respond as well to standard antimalaria treatment. Finally, malaria increases HIV viral load and raises the risk for mother-to-child HIV transmission (29). The biologic interaction between these diseases not only complicates treatment in an already challenging setting but also presents a serious risk for death to pregnant girls <19 years of age.

### Children Delivering Children

Births resulting from child marriages are said to be “too soon, too close, too many, or too late” (33). For example, a high percentage of girls in Ethiopia (25%), Uganda (42%), and Mali (45%) have given birth by the age of 18 compared with only 1% in Germany, 2% in France, and 10% in the United States (1). The problem with children delivering children is that the young mothers are at a significantly higher risk than older women for debilitating illness and even death. Compared with women >20 years of age, girls 10–14 years of age are 5–7 times more likely to die from childbirth, and girls 15–19 years of age are twice as likely (34). For example, in Mali, the maternal mortality rate for girls aged 15–19 is 178 per 100,000 live births and for women aged 20–34, only 32 per 100,000. In Togo, for the same age groups, these rates are 286 and 39, respectively (1). Reasons for these high death rates include eclampsia, postpartum hemorrhage, HIV infection, malaria, and obstructed labor. Obstructed labor is the result of a girl's pelvis being too small to deliver a fetus. The fetus's head passes into the vagina, but its shoulders cannot fit through the mother's pelvic bones. Without a cesarean section, the neonate dies, and the mother is fortunate if she survives. If sepsis or hemorrhage does not occur and the girl does survive, the tissue and bones of the neonate will eventually soften and the remains will pass through the vagina.

Many times, obstructed labor leads to fistulas; the pressure of the fetal head on the vaginal wall causes tissue necrosis, and fistulas develop between the vagina and the bladder or rectum after the necrotic tissue sloughs. More than 2 million adolescents are living with fistulas, and fistulas develop in ≈100,000 more each year (35). Girls ages 10–15 years are especially vulnerable because their pelvic

bones are not ready for childbearing and delivery. Their risk for fistula is as high as 88% (36). Once a fistula is formed, fecal or urinary incontinence and peroneal nerve palsy may result and may lead to humiliation, ostracism, and resultant depression. Unless the fistula is surgically repaired, these girls have limited chances of living a normal life and bearing children.

### Effects on Offspring

Child marriage affects more than the young girls; the next generation is also at higher risk for illness and death. Adolescent mothers have a 35%–55% higher risk than older women for delivering infants who are preterm and of low birthweight. Mortality rates are 73% higher for infants born to mothers <20 years of age than for those born to older mothers (37). The infant mortality rates in Mali are 181 per 1,000 children born to women <20 years and 111 per 1,000 born to mothers ages 20–29 years; in Tanzania these rates are 164 and 88, respectively (1). These deaths may be partly because the young mothers are unhealthy, immature, and lack access to social and reproductive services. Their babies are also at high risk of acquiring HIV at delivery and during breastfeeding. Mothers who have had malaria are at increased risk for premature delivery, anemia, and death. Untreated STDs such as gonorrhea, chlamydia, syphilis, and herpes simplex virus infection can have deleterious effects on neonates, such as premature delivery, congenital neonatal infections, and blindness. Even the mortality rate for children <5 years can be 28% higher for children born to young mothers than for those born to mothers >20 years (38).

### Discussion

Child marriage has far-reaching health, social, economic, and political implications for the girl and her community. It truncates a girl's childhood, creates grave physical and psychological health risks, and robs her of internationally recognized human rights. Ending child marriage requires the consent of all those involved, including fathers and religious, community, and tribal leaders. To break the cycle of poverty, programs are needed to educate and empower women. In 2000, eight Millennium Development Goals outlined a vision that committed member countries to eradicate extreme poverty and hunger, educate all children through primary school, empower women, reduce childhood death, improve mothers' health, combat HIV/AIDS and malaria, ensure environmental sustainability, and develop a global partnership for development by the year 2015. Most of these goals directly affect child marriage. Data show that improvements are being made and that sub-Saharan Africa has the most obstacles to overcome (39).

In some countries, child marriage has been declining. Increasing mean age for marriage often results in part from overall advancement of an economy. In some countries, such as Korea, Taiwan, and Thailand, decreasing poverty effectively decreased child marriage by enabling these countries to improve education, increase employment, and provide better health care for the whole nation. Education is a key factor for delaying first sexual activity, pregnancy, marriage, and childbearing. Programs that specifically focused on the status of girls may have directly or indirectly reduced the number of child marriages. Successful programs have provided economic and educational opportunities to young women and their families by employing girls with the specific goal of delaying marriage (40), giving families financial incentives to keep their daughters in school (1), or feeding children during school to decrease families' expenses. Keeping girls in school or vocational training not only helps protect them from HIV infection, pregnancy, illness, and death but also enhances their earning potential and socioeconomic status. Educated girls can contribute to the health and welfare of their family and marry men of their own choosing and age.

Lack of enforcement renders laws against child marriage ineffective. Through media campaigns and educational outreach programs, governments need to take responsibility for stopping this practice. Local, regional, and national governments can also implement health outreach programs for girls and boys. Learning about reproductive and sexual health, STD prevention, contraception, AIDS, and how to seek health care helps girls negotiate safer sex. Governments must incorporate preventive and treatment programs for reproductive health issues into their health services. Necessary preventive services include supplying mosquito netting and condoms; educating patients about contraceptive methods; providing diagnostic screening for HIV and HPV; and offering treatment options such as medications, cesarean sections, and postpartum care.

Ending child marriage requires a multifaceted approach focused on the girls, their families, the community, and the government. Culturally appropriate programs that provide families and communities with education and reproductive health services can help stop child marriage, early pregnancies, and illness and death in young mothers and their children.

Dr Nour is a board-certified obstetrician-gynecologist and director of the African Women's Health Center at the Harvard-affiliated Brigham and Women's Hospital in Boston. She is committed to the eradication of female genital cutting. In 2003, Dr Nour received a MacArthur Foundation Fellows "genius grant" for creating this country's only center that focuses on issues

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PERSPECTIVE

regarding the health, public policy, and legal needs of circumcised women.

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## CHILD MARRIAGES

### Introduction

Child marriage also referred to as “early marriage” and “child brides” is marriage of a child under the age of 18 years. The minimum age of 18 is considered appropriate to ensure that children are able to give their free and full consent to marry, and are mentally, psychologically and physically developed enough for the responsibilities and consequences of marriage. Although the definition of child marriage includes both sexes, the girl child is most affected, as the majority of victims are girls. Child marriage is a human rights violation that robs children of their childhood and prevents them from obtaining an education, enjoying optimal health, bonding with others of their own age, maturing, and ultimately choosing their own life partners.

### Legislative Framework:

#### Domestic Legislation

Child marriages are outlawed in the domestic, regional and international legislation. The

constitution of Zimbabwe defines a child as “every boy and girl under the age of 18 years” and sets the minimum marriageable age at 18 years. However the Customary Marriages Act does not provide a minimum marriageable age and has therefore been abused to justify child marriages.

#### Regional legislation

The African Charter on the Rights and Welfare of the Child (ACRWC) prohibits child marriage and the betrothal of boys and girls, in article 21. In addition, Article 16(1) of the ACRWC obligates the state parties to; *take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of a parent, legal guardian or school authority or any other person who has care of the child.* Indeed Africa is scaling up efforts to end child marriage. In June 2014 the African Union Commission launched an African



-wide campaign to end child marriages.

International legislation

The Universal Declaration of Human Rights (UDHR), the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) all directly or indirectly forbid the degrading and mistreatment of girls inherent in child marriage. Article 16 of the UDHR states that persons must be at "full age" when married and that marriage should be entered into "freely" and with "full consent." The CRC stipulates the right to protection from traditional practices harmful to the health of the children while article 3 of the same, states that in all actions concerning children the best interests of the child shall be a primary consideration. In spite of the Government of Zimbabwe being a state party to these conventions, child marriage is still common in Zimbabwe resulting in the undermining of children's rights. The following are some of the rights lost by children forced into early marriage:

- The right to education.
- The right to be protected from physical and mental violence, injury and sexual abuse
- The right to the enjoyment of the highest attainable standard of health.
- The right to rest and leisure, and to participate freely in cultural life.

- The right to not be separated from parents against the child's will.
- The right to protection against all forms of exploitation.
- The right to employment in adult life.

Causes of child marriages

Child marriages can be a result of cultural, social, economic and religious causes. In many cases, a mixture of these causes fuel the practice of child marriages. Factors that facilitate vulnerability to child marriages are as follows:

- **Poverty:** plays a central role in perpetuating child marriage. Girls from poorer families are more vulnerable to child marriage because the costs associated with education impede their attendance. Child marriage is also valued as an economic coping strategy that reduces the costs of raising daughters. Further, some girls marry early to escape poverty. However, child marriage fosters poverty, as girls who marry young will not be properly educated and may not attract viable livelihoods in adult life.
- **Gender discrimination:** Child marriage is a product of cultures that devalue women and girls and discriminate against them. According to the United Nations Children's Education Fund report on Child Marriage and the Law, discrimination "often manifests itself in the form of domestic violence, marital rape,

and deprivation of food, lack of access to information, education, healthcare, and general impediments to mobility." Through discrimination children, more often girls, are forced into early marriages.

• **Protecting the girl's sexuality:** In certain cultures, parents worry about ensuring their daughters' virginity and chastity. Thus child marriage is seen as a protective mechanism against premarital sexual activity, unintended pregnancies, and sexually transmitted diseases (STDs). Furthermore early marriage for young girls also presumes that the girl's sexuality and therefore the girl's family's honor will be protected. The imposition of family honor on the girl child robs the child of her own honor and dignity.

### Effects of child marriage

Child marriage is a violation of children's rights as it cuts off educational opportunities and chances of personal growth and deprives them of their childhood. For both boys and girls marriage has physical, intellectual, psychological and emotional impact. Although boys are affected by child marriage the impact is higher on girls both in terms of numbers and intensity. The following are some effects of child marriage on the girl child.

• **Maternal Mortality:** Girls younger than 15 years are five times more likely to die during child- birth or pregnancy related deaths than older women.

• **Illiteracy:** Child brides are often pulled out of school and denied further education. Their children are also more likely to be illiterate.

• **Poverty:** Child brides - already poor - are isolated and denied education and employment opportunities, making it difficult for them to break out of the cycle of poverty.

• **Infant Mortality:** Mortality rates for babies born to mothers under the age of 20 are higher than for children born to older mothers. The children that survive are more likely to be premature, have a low birth weight, and are more at risk for contracting HIV/AIDS.

• **HIV/AIDS:** There is a high prevalence of HIV/AIDS among young people. Married girls are more likely to contract sexually transmitted disease, including HIV/AIDS, than unmarried girls and are often powerless to demand the use of contraception or protection during sex.

• **Abuse and Violence:** Child brides are more likely to experience domestic abuse, and



violence than their peers who marry later. Violence and abuse can lead to post-traumatic stress and depression.

### Child marriage in Zimbabwe

Child marriage is a global problem. On a global scale 14 million girls are married off young while 39 000 are married off on a daily basis. Zimbabwe has one of the highest child marriage prevalence rates. According to the United Nations Population Fund 31% of Zimbabwean women entered into child marriage between 2000-2011 translating to one in every three girls getting married before the age of 18. Child marriage is prevalent in some religious sects like the apostolic sect where girls are married off to elderly church members normally in polygamous relations. In some cultures young girls are paid off to appease avenging spirits.

### Conclusion

Families need to realign their perspective of the girl-child, from viewing them as “economic assets” to be sold off to the highest bidder as child-brides, to seeing them as partners for development who need to be invested in to transform their families and communities. Society must bear in mind that each child has one childhood to experience, a sacred time to form an identity, set life goals and build a dream of the future they want to see for themselves and their families. Lastly the Government of Zimbabwe must formulate policies and programs that address the issue of culture and the abuse of the girl child under the guise of religion and cultural practices. Resources and efforts must also be directed towards education of children as education delays marriage age and provides an alternative opportunity other than marriage.

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age of marriage – a judge is not required. In Colombia, the legal age is 18, but with parents' permission girls of 12 and boys of 14 can be married. In the Dominican Republic there is no minimum age in exceptional circumstances and with parental consent.<sup>27</sup>

The UK Home Office Report into forced marriages of British girls of South Asian parentage distinguishes between 'forced' and 'arranged' marriages. In arranged marriages, the initiative is taken by the parents of the couple, but consent is required from both partners and either has the right to withdraw. However, the pressures from parents may be very high,

and the younger the bride or groom the less real chance there is to exercise this right. Both types of marriage indicate the degree to which many societies view marriage as a family affair in which the views of people other than the couple are given priority. Parents' views will override children's, and men's will override women's – even taking precedence over the law.

Cases of runaway brides highlight the issue of consent – or lack of it. In Pakistan, the Commission on the Status of Women reported in 1989: "Men are constantly fighting to retrieve their women because they have run away".<sup>28</sup> There are reports

of young wives being locked up by their husbands in India, and in Zimbabwe it is often forbidden for a young bride to visit her own family until she goes there to give birth to her first child.<sup>29</sup> In one tragic case in Nigeria, a 12-year-old girl unhappy with her new husband ran away so often that he cut off her legs to prevent her absconding. She subsequently died.<sup>30</sup>

The CRC Committee has focused on laws and customs in its observations to a number of countries. Its most common complaints are low minimum age for girls and disparate – therefore discriminatory – marriage ages for girls and boys.

## THE IMPACT OF EARLY MARRIAGE ON CHILDREN AND ON SOCIETY

Young girls may endure misery as a result of early marriage and the number of those who would seek help, if they thought it existed, is impossible to calculate. Until more is known about their situation there can be no reliable estimates of the scale of their predicament, or of the social damage that is carried forward in the upbringing they give to their own children.

One thing is clear: the impact of early marriage on girls – and to a lesser extent on boys – is wide-ranging. Within a rights perspective, three key concerns are the denial of childhood and adolescence, the curtailment of personal freedom and the lack of opportunity to develop a full sense of selfhood as well as the denial of psychosocial and emotional well-being, reproductive health and educational opportunity.

Early marriage also has implications for the well-being of families, and for society as a whole. Where girls are uneducated and ill-prepared for their roles as mothers and contributors to society, there are costs to be borne at every level, from the individual household to the nation as a whole.

### Psychosocial disadvantage

The loss of adolescence, the forced sexual relations, and the denial of freedom and personal development attendant on early marriage have profound psychosocial and emotional consequences. The impact can be subtle and insidious and the damage hard to assess. It includes such intangible factors

as the effect of a girl's loss of mobility and her confinement to the home and to household roles. Obviously there is a marked lack of data in these areas, and social researchers have failed to examine the impacts of early marriage in this context.

Most girls who are unhappy in an imposed marriage are very isolated. They have nobody to talk to as they are surrounded by people who endorse their situation. In Ethiopia, Inter-African Committee researchers were struck by the lack of interest from elders in the traumas suffered by young girls as a result of early marriages, premature sex and childbearing. These traumas were regarded as an "unavoidable part of life".<sup>31</sup> Girls who run home to their parents may be beaten and sent back to their husbands. Distress is generally endured in silence.

Indian researchers on child marriage in Rajasthan and Madhya Pradesh state that girl spouses suffer more than boys: "Inadequate socialization, discontinuation of education, great physiological and emotional damage due to repeated pregnancies devastates these girls." If the husband dies, even before consummation, the girl is treated as a widow and given in *nata* to a widower in the family. Officially she is then his wife, but in fact under the practice of *nata* she becomes the common property of all the men in the family.<sup>32</sup>

The child bride who is widowed very young can suffer additional discrimination. Widows suffer loss of status and they

along with their children, are often denied property rights, and a range of other human rights. In parts of Africa, a widow is remarried to a brother-in-law, a custom known as *levirate*, originally intended, in part, to provide economic and social support. If the widow resists, she may be cast out by the family. Child widows with little education and no means of earning are especially powerless. At a 1994 Conference in Bangalore, India, participants told of being married at five and six years old, widowed a few years later, and rejected by their in-laws and their own families.<sup>33</sup> These widows are, quite simply, left with no resources and nowhere to go.

### Adolescent health and reproduction

The notion of good reproductive health covers all aspects of the reproduction process – including a satisfying and safe experience of sexual relations, the capability to reproduce, and the freedom to decide if and when to bear a child.<sup>34</sup> The right not to engage in sexual relations and the right to exercise control over reproduction may both be violated by early marriage.

#### Sexual relations

In the case of girls married before puberty, the normal understanding between families is that there will be no sexual intercourse until first menstruation. In Gojan,

Ethiopia, husband and wife may grow up playing together in the house of his parents. In this case, the mother-in-law must protect the girl from any advances by her son.<sup>54</sup> This is also true in West African countries.<sup>55</sup> However, this protection may fail, especially where the husband is much older than the girl. Cases of forced intercourse by much older and physically fully developed husbands with wives as young as eight have been reported.<sup>56</sup>

For the vast majority of under-educated rural adolescent girls in the developing world, marriage remains the likely context for sexual intercourse.<sup>57</sup> And while an unmarried teenage girl may find it difficult to resist unwanted sexual advances, her married sister may find it impossible.

Researchers have tended to focus on adolescent sexuality outside marriage, or have made no distinction between married and unmarried adolescents. This means that there are only limited data about sexual experience among married adolescents; the assumption prevails that sex within marriage is *a priori* consensual. A 1997 study among women in Calcutta found that half had been married at or below the age of 15, and that this group were highly vulnerable to sexual violence in marriage. In 80 per cent of cases where these young wives informed their husbands of their unwillingness to endure sexual violence, they were ignored.<sup>58</sup>

Pain and trauma are enhanced where girls have undergone some form of FGM, especially where this has been undertaken recently, and especially in the case of infibulation which is designed to make penetration difficult. Problems may be exacerbated after childbirth. In many societies, and in many millions of individual cases, women have no choice but to resume sexual relations within two or three days of childbirth, even if there has been vaginal cutting during delivery, and regardless of the pain it causes.<sup>59</sup>

**Access to contraception and reproductive health advice**

Very few girls in early marriages in developing countries have access to contraception; nor would delayed pregnancy necessarily be acceptable to many husbands and in-laws.<sup>60</sup> Indeed, in many societies, childbearing soon after marriage is integral to a woman's social status. In Yemen, 11 per cent of wives aged 15-29 stated that they did not use contraception because of their

husbands' opposition.<sup>61</sup> In almost all Asian countries the family exerts strong pressure on the newly-married couple to begin childbearing quickly.<sup>62</sup> In Cameroon, Mali and Nigeria, the modern contraceptive usage rates among married 15-19 year olds are only 1.5, 2.4 and 0.6 per cent respectively.<sup>63</sup> The girls' right to have any say over when and if they should become pregnant is unacknowledged, and their chances of early pregnancy are high. Analysis of DHS data indicates that the first birth usually occurs within 14-26 months of marriage, although it may be slightly longer where age of marriage is very low, as in Bangladesh.<sup>64</sup>

Teenage girls are also more susceptible than more mature women to sexually-transmitted infections (STIs), including HIV. This is the result of both biological factors, such as hormonal fluctuations and the permeability of vaginal tissue, and social factors, such as skewed power relations between women and men that make it difficult for girls and young women to negotiate safe sex. STIs can lead to infertility, and in the case of HIV, the outcome is premature mortality and risks of transmission to the foetus. In a recent study in Rwanda, 25 per cent of girls who became pregnant at 17 or younger were infected with HIV, although many reported having sex only with their husbands. According to the study, the younger the age at sexual inter-

course and first pregnancy, the higher the incidence of HIV infection.<sup>65</sup>

As far as preparation of both girls and boys for sexual and reproductive life is concerned, there has been deep resistance in many developing countries to sex education in the classroom for fear of promoting promiscuity. The threat of HIV/AIDS has reduced this opposition to some extent, but there is little prospect at present of girls receiving education on what to expect, or about their rights in terms of marriage or reproduction. Moreover, classroom education does not reach children who are not in school. For example, according to data from Sri Lanka published in 1990, one-third of young adults between ages 16 and 24 did not know the duration of a normal pregnancy. Less than 5 per cent had discussed reproductive health with their parents.<sup>66</sup>

There are still a number of countries where reproductive health services are barred to adolescents, or require them to have reached a certain age.<sup>67</sup> This excludes many married adolescents in countries such as Zambia or Bangladesh where age limits are in force - another of the anomalies surrounding early marriage.

**Pregnancy and childbirth**

The risks of early pregnancy and childbirth are well documented: increased risk of dying, increased risk of premature labour, complications during delivery, low

**Nepali Children's Views on Early Marriage**

During research commissioned by Save the Children Fund (UK), girls aged between 14 and 17 from different ethnic groups and castes in two villages in Surkhet District, Nepal, made the following observations on early marriage:

"My sister was married at 14 years old. She appealed to the school to stop the marriage, but to no avail." 14 year old girl

"My parents married me to a man in Lekh. I had to work very hard but my parents-in-law didn't recognise this. My husband beat me, so I don't like to go to his house even though he will come to take me. I want to go to school." 14 year old girl.

"I married due to my father's pressure. I gave birth to a son, yet my family members encouraged me to go to school. I study more than others do. So my husband's family members respect me." 17 year old girl.

The girls were aware that early marriage was dangerous from a health perspective; that early pregnancy could threaten the health - even the lives - of mother and baby.

Asked to give reasons for early marriage, the girls mentioned society's refusal to accept unmarried pregnancies and sex outside marriage; failing school exams; neighbours' gossip; the heavy workload in their parents' home and the dream of love, good food, nice clothes and seeing new places after marriage. Many girls felt that marriage and motherhood would provide them with safety, a sense of security and better status.

The girls felt that their value and status were low because they would belong to their husband's family and because daughters do not inherit parental property. They all said they had been happy until the age of 10 because they could play as they liked without any work or restrictions on their mobility. Now they wanted to continue their studies but found it hard to do so due to their heavy household workloads.

From report of research conducted by Irada Gautam for Save the Children (UK) in Surkhet, Nepal, December 1998-January 1999. ([www.savethechildren.org.uk/development/reg\\_pub/nepalgenderreport.htm](http://www.savethechildren.org.uk/development/reg_pub/nepalgenderreport.htm))

birth-weight, and a higher chance that the newborn will not survive.<sup>115</sup>

Pregnancy-related deaths are the leading cause of mortality for 15-19 year-old girls (married and unmarried) worldwide. Mothers in this age group face a 20 to 200 per cent greater chance of dying in pregnancy than women aged 20 to 24. Those under age 15 are five times as likely to die as women in their twenties.<sup>116</sup> The main causes are haemorrhage, sepsis, pre-eclampsia/eclampsia and obstructed labour. Unsafe abortion is the other major risk for teenage women – most of those affected are unmarried.<sup>117</sup> Some specific local studies show worse outcomes for the very young mother: in Zaria, Nigeria, maternal mortality among women younger than 16 was found to be six times higher than for women aged 20-24, and similar findings have been reported from Cameroon and Ethiopia.<sup>118</sup> For every woman who dies in childbirth, 30 more suffer injuries, infections and disabilities, which usually go untreated and some of which are lifelong.

Part of this heavy toll has more to do with poor socio-economic status and lack of ante-natal and obstetric care than physical maturity alone.<sup>119</sup> However, physical immaturity is the key risk for the under 15s. High rates of Vesico-Vaginal Fistula (VVF) are clearly identified with marriage and childbearing in the 10-15 year-old age group; in one study in Niger, 88 per cent of women with fistula were in this age group at marriage.<sup>120</sup> Mothers whose pelvis and birth canal are not fully developed often endure very prolonged labour.<sup>121</sup> Unless the mother receives emergency obstetric care, relentless pressure from the baby's skull can damage the birth canal, causing breakages in the wall, allowing uncontrollable leakage from the bladder into the vagina. The same problem may also occur in relation to the rectum, with leakage of faeces (recto-vaginal fistulas, or RVF).

Fistula conditions are permanent without surgical intervention to re-seal the tissues,<sup>122</sup> such intervention may not be sought or may be hard to access. There is some evidence from Nigeria that FGM practices that damage the vagina may also increase the likelihood of VVF.<sup>123</sup> The prevalence of VVF/RVF is not fully known, but WHO estimates that there are two million women living with fistulas and an additional 50,000-100,000 new cases every year, many of which go

untreated.<sup>124</sup> A girl with the condition is usually ostracized as unclean, and is often divorced. In Nigeria, where the condition affects around 150,000 women, 80-90 per cent of wives with VVF are divorced by their husbands;<sup>125</sup> in Niger VVF is the reason for 63.3 per cent of all divorces.<sup>126</sup>

*Infant and early childhood care*

The health problems linked to early marriage not only affect the pregnant mother and the foetus, but also continue after childbirth. Evidence shows that infant mortality among the children of very young mothers is higher – sometimes two times higher – than among those of older peers.<sup>127</sup> A stronger likelihood of low birth-weight in the infant has been recorded among adolescent mothers than among older peers. This is mainly associated with poor maternal nutrition, reinforcing the point that adolescents are 'unready' for childbirth. Low birth-weight babies are 5-30 times more likely to die than babies of normal weight.<sup>128</sup> If a mother is under 18, her baby's chance of dying in the first year of life is 60 per cent higher than that of a baby born to a mother older than 19.<sup>129</sup> A 1993 survey among women married young in Rajasthan found that 63 per cent of their children under four were severely malnourished.<sup>130</sup>

The immaturity and lack of education of a young mother undermines her capacity for nurture. Even children are able to work this out: it was one reason given by Nepali children for avoiding early marriage, as shown by Save the Children research.<sup>131</sup>

*Future maternal health and childbearing*

Finally, early marriage extends a woman's potential childbearing capacity, which itself represents a risk to mothers.<sup>132</sup> Not until the 'demographic transition' is relatively advanced, child survival adequately assured, and education valued, do families see the births of many children as a drain on resources rather than an asset. Until that time, women are under pressure to produce large numbers of children.

Population and family planning policies since the 1970s have tried to reduce large family size, focusing on the social, economic and environmental costs to countries that lack the resources to ensure a good quality of life for their rapidly growing populations. In this light, early mar-

riage can be said to have profound social and economic consequences for society as a whole. These consequences are reinforced by the fact that the children of young and illiterate mothers tend to face the same cycle of childhood deprivation and damage experienced by their mothers.

.....  
**The denial of education**

Early marriage inevitably denies children of school age their right to the education they need for their personal development, their preparation for adulthood, and their effective contribution to the future well-being of their family and society. Indeed, married girls who would like to continue schooling may be both practically and legally excluded from doing so.

The interaction between the number of years of a girl's schooling and the postponement of marriage is firmly established by demographic and fertility studies. On average, women with seven or more years of education marry four years later and have 2.2 fewer children than those with no education.<sup>133</sup> However, the precise nature of the interaction between education and marriage is not always evident. Are girls withdrawn from school to marry, or is lack of schooling for girls part of the pattern of traditional expectations and roles? The situation in Bangladesh, however, is clear – a girl will be withdrawn from school if a good marriage prospect arises.<sup>134</sup> DHS data also show a clear link in some other countries, including Nepal, Kazakhstan and Indonesia.

Although attitudes towards the education of girls have begun to change even in traditional societies, many parents still believe that investment in a girl's education is wasted when she is simply going to be married and work in another household. The costs of the investment in education reinforce the impetus towards the girls' withdrawal from school.

In rural areas, secondary education often means that a girl must leave home to live in a school dormitory. Parents fear that this may expose her to risks including premarital sex and pregnancy. In Northern Nigeria, for example, girls are often kept out of school for this very reason.<sup>135</sup> Even where girls can live at home while attending school, fears about their possible sexual activity, about sexual harassment, or about insecurity on the journey to and from school, discourage their attendance.

national and international non-governmental and intergovernmental bodies.

While prevention measures are essential, efforts must be made to ensure that all of the following interventions are available to married, as well as unmarried girls.

**Support for physical well-being**

This is primarily intended to maintain sexual and reproductive health, starting by ensuring that both girls and boys learn about sex, reproduction and the related risks at an early age. Information should replace 'ignorance plus early marriage' as the child sexual protection strategy.

Proposals that adolescents – male and female – should be given sex education and have access to reproductive health services, have often been greeted with resistance. In a number of African and Asian cultures, there is reticence about, or an actual taboo on, the discussion of sex. This feeds fears that sex education will encourage early sexual relations and pregnancy. The work of UNAIDS has demonstrated such fears to be unfounded, and that sex education does not lead to promiscuity. All the same, such misconceptions take time to overcome.

Evidence shows that silence about sex does not inhibit teenage pregnancy in countries where old-style sexual protection systems are breaking down and HIV now poses a serious threat to the lives of girls. More than half of new HIV infections occur in 15-24 year olds, but girls become infected at twice the rate of boys.<sup>12</sup> More countries are now willing to include sex and family life education in the school curriculum as a means of combating HIV, and this growing acceptance needs reinforcing, as do youth-focused programmes on this issue.

However, concern with teenage vulnerability to HIV has centred on those who are in school or leading lives that expose them to risky sexual activity. This invariably excludes girls who are married. Yet they, too, are vulnerable, and need to be able to adopt systems of self-protection where they fear their husbands are infected or could be exposed to HIV. Unlike most of their unmarried peers, married girls are exposed constantly to sex, and may be more prone to STIs.<sup>11</sup>

In these circumstances, there is an urgent need to transform attitudes and approaches towards adolescent health care and provide services that are accessible to

**Teenage Health information Service, Uganda**

When the Nuguru Teenage Health Information Service began in Kampala, Uganda, in 1994, its main concern was teenage pregnancy. It quickly became clear that young people need other sexual and reproductive advice and that the service was revealing a real need: it was deluged by clients aged between 10 and 24-years-old.

Their most common concern has been how to avoid STIs including HIV. But a high proportion of young people simply want to talk about changes in their bodies or matters of personal hygiene – acne for example. Counselling about relationships is also in demand, as is information about contraception.

Nuguru runs a weekly radio programme focusing on topics they know to be of high interest to their young audience. The daily clinic is packed with clients, 30-40 of whom are newcomers. Trained teenage volunteers provide most of the back-up staffing.

Such a service may only rarely be of use to girls threatened with early marriage, many of whom are beyond its reach. But it illustrates young people's desire for information and help as they journey through their sexual development.

Source: Project visit, Maggie Black, September 2000.

married and unmarried youngsters of both sexes. Life skills education for sexual health and negotiation needs to be provided in the classroom, in youth clubs and through newsletters and radio programmes. The experience of the Nuguru Teenage Health Information Service in Kampala, Uganda, shows the appetite of young people for information about sex-related problems.<sup>13</sup>

In many developing countries, lack of resources makes contraception and reproductive advice inaccessible. This situation may be exacerbated by religious beliefs that disapprove of artificial birth control methods. The result is that many adolescents, both married and unmarried, find it difficult to locate, or even seek, help about sexual matters. There may be few facilities offering such support, particularly in remote rural areas. The poorest often lack the resources to travel to these facilities and any fees charged for the services on offer would push them even further out of reach. In some cases, the ante-natal clinic is the only place where a young woman can obtain reproductive advice, but pregnancy is a pre-condition. Contraception may not be offered to married women until they have borne a child. There is an urgent need for 'youth friendly' health services, as adolescents are unlikely to seek help about sexual matters from a service that is unsympathetic to their needs and anxieties.

Girls aged 15 to 19 give birth to 15 million babies a year.<sup>14</sup> Many of these girls give birth without attending an ante-natal clinic or receiving the help of a professional midwife. It is essential to devise programmes to reach girls in and out of marriage with reproductive advice and services – a particular challenge in the remote rural areas where most early marriages are to be found.

**Education for empowerment and intellectual development**

The key to girls' progress is education and learning. Persuading parents to keep their daughters in school and ensuring that they receive a basic education, as is their right, is important for a number of personal and family, as well as wider social and economic, reasons including postponement of marriage. Both Sri Lanka and the state of Kerala in neighbouring India have relatively high age of first marriage. They also have something else in common that has contributed to this phenomenon: both have given high priority to education for women as well as men. This has changed the way men and women perceive their roles and potential, and has led to greater support for the rights of women than is found in many other parts of this region.

Where girls have lost out on formal education, non-formal programmes can help them catch up on the intellectual and personal growth offered by schooling. Such programmes can have a direct impact on early marriage: a programme from the 1990s among the people of the Samburu district in Kenya led to a fall in early marriage and helped women assert themselves.<sup>15</sup>

While there has been a recent drive to increase participation of girls in basic education, the more significant gender gap is at the secondary level. Throughout the developing world, with the exception of Latin America and the Philippines, boys have higher rates of secondary school enrolment. The decline of girls' enrolment and attendance after age 12-13 is most marked in sub-Saharan Africa. In Tanzania, for example, enrolment of girls and boys is equal at age 12-13 but by the age of 16-17 girls' attendance is only 71 per cent of boys.<sup>16</sup>

The removal from school of a young girl to marry, or to work in her parents' or another household in preparation for married life, limits her opportunities to develop her intellect. She also loses out on socializing, making friends outside her family circle, and many other useful skills. This reduces her chances of developing her own independent identity. Indeed, in the old patriarchal view this is an important reason for taking her away.

The most important implication of this loss is that the girl grows up with no sense of the right to assert her own point of view – and little experience in articulating one. Lack of self-esteem or of a sense of ownership of her own body expose a woman to unwanted pregnancy and make her vulnerable to HIV infection. A typically submissive wife in, for example, Eastern Africa is not in a position to refuse sex to her husband, even if he has other sexual partners and she suspects that he may be infected with HIV. A woman has the right to refuse sex in any circumstances,<sup>121</sup> but few young brides will ever gain enough self-confidence or self-esteem during the course of their marriage to assert such a right.

Lack of schooling also means that those girls and women who must work to earn a living have no qualifications or skills. Illiterate women who are abandoned, widowed or divorced, or who are victims of growing urban poverty, are forced into commercialized versions of their work as wives: cleaning, cooking, child-minding. They may even enter the commercial sex trade. In many Latin American countries (and elsewhere), there is a strong link between very poor, women-headed households in urban areas and menial occupations<sup>122</sup> – an association that will only diminish when educational levels are raised.

But work itself can have a positive impact on delaying marriage. A study in Penang Island, Malaysia, found that those women who worked before marriage tended to marry almost 2.5 years later than those who had never worked at all.<sup>123</sup>

Where work and education opportunities have opened up for women, this has had the effect of encouraging parents' support for their daughters' education. Increased enrolment of girls in school and higher levels of educational completion have been conclusively shown to produce improvements in family well-being, increased use of contraception, reduced infant mortality and economic advantages for society.<sup>124</sup> Marriage age is part of a wider picture of interaction between economic advance and increased participation of women in education.

### Violence and abandonment

The UK working group on forced marriage found that many of the victims of this practice suffered from prolonged domestic violence, but felt unable to leave the marriage because of economic pressures, lack of family support and other social circumstances.<sup>125</sup> Many cases of self-harm and suicide among British women of South Asian origin were thought to be linked to forced marriage. If a woman did feel able to challenge the situation, it often took her years to do so. If this is happening in a society where forced marriage is not the norm, it is safe to assume that such a challenge is far less likely from a girl in an environment where early and forced marriages are commonplace.

Most available information on violent abuse is anecdotal, consisting of interviews with girls who have suffered trauma as a result of their marriages. However, DHS

data from Egypt has found that 26 per cent of married adolescents have been beaten by their husband (or husband and others), and of these 41 per cent have been beaten during pregnancy.<sup>126</sup> A study in Jordan, published in 2000 found that 26 per cent of reported cases of domestic violence were committed against wives under 18.<sup>127</sup> Some girls in brutal marriages become desperate enough to run away.<sup>128</sup> Those who do so, and those who choose a marriage partner against the wishes of their parents, may be punished, or even killed by their family. These girls run the risk of the so-called 'honour killings' that occur in Bangladesh, Egypt, Jordan, Lebanon, Pakistan, Turkey and elsewhere.<sup>129</sup>

Early marriage is often linked to wife abandonment, as shown by its association with divorce and separation.<sup>130</sup> Violent behaviour towards a wife, including coercive sex, plays a major role in marital breakdown. In Java, it has been found that girls who marry early are three times more likely to be divorced than those married later.<sup>131</sup> A study in Calcutta found that sexual violence in marriage is associated with a greater likelihood of separation than physical violence alone.<sup>132</sup>

Divorce or abandonment often plunges a woman into poverty, as she usually assumes sole responsibility for dependent children. If she married young, is under-educated and has few income-generating skills, her poverty may be acute. Studies of young mothers in Latin America and the Caribbean found that they are more likely to be disadvantaged later in life; in Mexico they are six times more likely to be living in poverty than those who postponed childbearing.<sup>133</sup> Thus early marriage contributes to the 'feminization of poverty' and its resulting impact on children.

## TAKING ACTION

A range of policy and programmatic actions are needed to reduce early marriage and its impact. Actions to fulfil or restore the rights of those already married should go hand in hand with preventive actions aimed at wider society. In either case, the aim should be to inform parents and young people currently com-

that they are aware of its true implications and empowered to resist it. The role of government and civil society institutions is to develop and implement suitable systems to prevent or discourage the practice.

While the main actors helping those directly affected will operate at household

national and international policy-makers and rights advocates is essential in order to change the policy and programme climate. Over the entire action spectrum, a wide variety of actors must be engaged, including teenagers themselves, adult women and men, community leaders,



IN THE CONSTITUTIONAL COURT OF ZIMBABWE  
HELD AT HARARE

CASE NO /2014

In the matter between:-

LOVENESS MUDZURU

FIRST APPLICANT

RUVIMBO TSOPODZI

SECOND APPLICANT

AND

THE MINISTER OF JUSTICE, LEGAL &  
PARLIAMENTARY AFFAIRS

FIRST RESPONDENT

MINISTER OF WOMEN'S AFFAIRS,  
GENDER & COMMUNITY DEVELOPMENT

SECOND RESPONDENT

ATTORNEY GENERAL OF ZIMBABWE

THIRD RESPONDENT

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DRAFT ORDER

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AT HARARE

Before the Honourable Mr/Mrs Justice  
for the Applicant  
for the Respondents

WHEREUPON after reading papers filed of record and hearing Counsel:

IT IS DECLARED THAT:

1. No person, male or female, in Zimbabwe may enter into any marriage including an unregistered customary law union or any other union including one arising out of religion or a religious rite, before attaining the age of eighteen (18).
2. Section 22(1) of the Marriages Act [Chapter 5: 11] is unconstitutional.
3. The Customary Marriages Act [Chapter 5:07] is unconstitutional in that it does not provide for a minimum age limit of eighteen (18) years in respect of any marriage contracted under the same.
4. The Respondents pays costs of suit.

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BY THE JUDGE

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REGISTRAR