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THE CASE FOR A MINIMUM AGE OF MARRIAGE OF 18

A key pillar of what is needed to end child marriage is a supportive legal framework which sets the age of marriage for girls and boys at 18 without exceptions. As non-governmental organisations have called for greater action to address child marriage, there have been moves to strengthen legal frameworks in a number of countries, including by using regional and international law. There have been some [positive developments](#), as well as some backtracking on legislative protection for girls.

This brief aims to support *Girls Not Brides* members advocating for a minimum age of marriage of 18 without exceptions around the world.¹

While a minimum age is an important part of what is needed to address child marriage, it is just one part of the solution. Equal attention must be placed on what else needs to be done – like changing the norms that perpetuate the practice, and offering valid alternatives to marriage in the form of meaningful educational and employment opportunities to girls and boys, women and men. This brief should be read with *Girls Not Brides*' [Theory of Change](#), which explains what a comprehensive response to child marriage involves.

What is *Girls Not Brides*' position on the minimum age of marriage?

Girls Not Brides members believe that 18 should be the minimum age for marriage in line with international human rights standards. This was a founding principle of *Girls Not Brides: The Global Partnership to End Child Marriage* when it established in 2011 and was included in the mission statement adopted by its founding members. All *Girls Not Brides* members commit to supporting this by agreeing to the mission statement when they join the partnership.

While many countries set 18 as the minimum age of marriage, most allow marriage below that age with parental or judicial consent. As these exceptions are often abused, and do not adequately protect girls, it is important for the Partnership to advocate for a minimum age of 18 globally without exceptions.

Why should 18 be the minimum age of marriage?

1. There is growing international consensus that a minimum age of marriage of 18 is critical to end child marriage.
2. Setting the minimum age of marriage at 18 is an objective standard of maturity that prevents discrimination.
3. A minimum age of 18 safeguards a child from marriage when they are not ready and lack the legal rights of an adult.
4. Leaving a marriage is not always an option. We must ensure everyone is able to make meaningful decisions about marriage.
5. Marriage before 18 has an economic impact on girls, their families, and their countries.

1. There is growing international consensus that a minimum age of marriage of 18 is critical to end child marriage.

Governments are increasing the age of marriage to 18

- Since 2012, 15 countries have raised the age of marriage to 18 or removed exceptions before 18. Those governments include both countries with high and low rates of child marriage: Chad, Costa Rica, Ecuador, Germany, Guatemala, Honduras, Malawi, Mexico, Nepal, The Netherlands, Panama, Spain, Sweden, Turkmenistan, and Zimbabwe.ⁱⁱ Similar moves have been made at sub-national level including in the Sindh Province of Pakistan.
- In the 15 years before that (1995-2012), 14 countries increased their minimum age of marriage to 18 without exceptions: Albania, Benin, Bhutan, Democratic Republic of Congo, Egypt, Ethiopia, Kazakhstan, Jordan, Maldives, Mauritania, Moldova, Morocco, Tajikistan, Turkmenistan.
- More countries have taken steps towards legal reform: in May 2017 the Dominican Republic House of Representatives approved a reform of the civil code that would set the age of marriage at 18 without

exceptions. The British Parliament, the Irish government and a number of US State legislatures are considering no exceptions legislation.

Civil society, parliamentarians, regional bodies and young people themselves are calling for 18 to be the minimum age of marriage.

- **Young people**
 - Over 1400 young people consulted in 2015 for the development of a General Comment on the implementation of the rights of the child during adolescence called for a minimum age of marriage of 18 years.
 - As part Plan International's *Stop Child Marriage Project*, Bangladeshi adolescent girls were asked their opinion on the ideal age of marriage. An overwhelming majority (60%) of girls said that the ideal minimum age of marriage was 18. Another 24.5% said that that 21 years or above should be the minimum age of marriage.ⁱⁱⁱ
- **Civil society**
 - The *Girls Not Brides* Theory of Change to end child marriage, which was developed with input from over 150 members and partners, outlines what a comprehensive response to ending child marriage involves. Ensuring a robust legal and policy framework for addressing child marriage and supporting married girls – including by setting 18 as the minimum legal age for marriage – is one of four key strategies for ending child marriage.
- **Parliamentarians**
 - Parliamentarians for Global Action, in their Statement of Commitment on Combating Child, Early and Forced Marriage (Accra, March 2014) call for lawmakers to establish “18 as the minimum and uniform age of marriage for both boys and girls.”
 - The Pan-African Parliament adopted a resolution in 2012 “to work towards specific parliamentary review and harmonise national registration and child marriage with the Maputo Protocol on the Rights of Women in Africa and call for the removal of negative clauses and inconsistencies such as so-called ‘parental consent’ that permit criminal and early marriage of children below the age of 18.
 - The Council of Europe’s Parliamentary Assembly in [resolution 1468](#) in 2005 urged national parliaments of member states to take the requisite legislative measures to prohibit child marriage by making 18 years the minimum marriageable age.
- **Regional bodies**
 - The SADC Model Law, adopted by the Southern African Development Community-Parliamentary Forum (SADC-PF) in June 2016, includes a clear definition of 18 as the minimum age of marriage.

The model law aims to serve as guidance to legislators and policy makers in SADC Member States for strengthening their legal frameworks to address child marriage.

- The Addis Ababa Declaration on Accelerating the Implementation of the Beijing Declaration and Platform for Action 2014 recommends that governments “continue to strengthen efforts to completely eliminate early child marriages by... enforcing the age of marriage of 18 for girls, in accordance with international norms and standards”.
- The 2014 Kathmandu Call for Action to End Child Marriage in South Asia, a South Asia Initiative to End Violence against Children (SAIEVAC) commitment, calls on governments in South Asia to establish a uniform minimum legal age of 18.

International and regional human rights bodies recommend that 18 should be the minimum age of marriage.

- **International human rights law confirms that marriage must be entered into with the free and full consent of both parties**, and that the age of marriage must be such as to enable each of the intending spouses to give his or her free and full personal consent.^{iv}
- **It recommends that 18 should be the minimum age for marriage with or without parental consent.** Both the Committee on the Rights of the Child, which oversees adherence to the Convention on the Rights of the Child, and the Committee on the Elimination of Discrimination against Women, which oversees adherence to the Convention on the Elimination of all Forms of Discrimination against Women have recommended that 18 should be the minimum age for marriage, most recently in [General Comment \(no.20\) on the implementation of the rights of the child during adolescence](#) in 2016.
- **The General Comment on Child Marriage issued by the African Committee (ACERWC) and the African Commission on Human and People’s Rights (ACHPR)** says that the best interests of the child requires that no exceptions should be made to marriage before the age of 18.
- **Governments around the world have committed to international and regional Conventions** which are legally binding instruments under international law for the States that have ratified them. By ratifying international human rights treaties, governments undertake to put in place domestic measures and legislation compatible with their treaty obligations. To find out which international conventions your country has ratified, please see [here](#).^v

2. Setting the minimum age of marriage at 18 is an objective standard of maturity that prevents discrimination.

A minimum age of marriage of 18 for both parties set by national law helps to prevent discrimination on the basis of sex, religion, culture, or ethnicity.

- **The most widely accepted definition of a child is anyone under the age of 18 years**, in line with the Convention on the Rights of the Child which all countries but the US have signed up to.
 - **It provides a benchmark for presumed capacity to make the decision to marry.** However, just as important as age, other factors such as experience, ability and context are important for determining capacity.
 - **Because in many high prevalence countries child marriage is socially and culturally acceptable, and in some cases driven by religious beliefs, the ability of adolescents to make free and informed choices is limited.** They are pressured to marry by society, their families, and the stigma attached to children being born out of wedlock. A lack of viable alternatives such as education and employment also create economic pressures to marry.
 - **From a public policy perspective, a minimum age of 18 helps to protect children, as a whole,** from harmful decisions taken either by themselves or imposed by family members against their wishes where they are powerless to object, and helps to protect the most vulnerable.
 - **Where exceptions permit children under the age of 18 to marry, these exceptions are often used in particularly harmful ways,** e.g. to facilitate the marriage of girls who have been the victims of statutory or forcible rape, or pregnant girls who have been denied access to contraception or abortion. This is especially worrying in countries where there is no minimum age as the law in practice equates age of marriage with the ability to conceive.
 - **Some countries allow exceptions to the minimum age of marriage for only certain religions, or provide different exceptions for different religious groups.** These provisions constitute de facto discrimination against girls who belong to religious groups.
- **Girls who marry before 18 are at risk of a range of negative health and development outcomes in the short and longer term.**
 - In some countries, children under the age of 18 can marry without having other rights of an adult. Why allow children to marry at an age when, for example, they do not have the right to vote or enter into other legal contracts or make medical decisions for themselves?
 - Why allow girls to marry before the age of majority when they don't have the right to leave a marriage? In the United States, for example, girls can marry before the age of 18 but may not be allowed to file for divorce or leave their husband's home until they come of age. They also face barriers to accessing services such as domestic violence shelters, or other social services which have a duty to inform a minor's parents or guardian of their whereabouts.^{vi} They may face other legal barriers that make it difficult for them to be independent, such as renting a home, getting a job, acting as a guardian to their children, etc.
 - The younger a girl marries, the more likely it is that there will be a bigger age difference between her and her husband, which **reduces her ability to exercise her sexual and reproductive health rights**, including the right to refuse sex, and to decide to use condoms or delay pregnancy.^{vii}
 - Girls who marry before 18 are **more likely to experience intimate partner violence** than their peers who marry later.^{viii} Girls who marry before the age of 15 are almost 50% more likely to have experienced either physical or sexual intimate partner violence than those married after age 18.^{ix}
 - Girls who marry before 18 are **likely to have children earlier and have more children**, impacting their own health and welfare, as well as that of their families. On average, girls who marry between 13 and 17 rather than 18 or later have 26% more children. Girls marrying at age 17 are likely to have 17% more children than those marrying at 18 or over.^x
 - Pregnancy and childbirth complications are the **leading cause of death for 15 to 19 year old girls** globally.^{xi} Where girls survive childbirth, they are at increased risk of post pregnancy-related complications. For example, 65% of all cases of obstetric fistula occur in girls under the age of 18.^{xii}
 - In their own families, more children increases household size, thus **reducing money available to pay for food, education, healthcare and other expenses** for each member of the household. It also impacts how women use their time - mothers with more children have less time to engage in the formal, paid workforce.
 - Women married before 18 in the United States have an **increased risk of developing psychiatric disorders** and a 23% greater risk of

3. A minimum age of 18 safeguards a child from marriage when they are not ready and lack the legal rights of an adult.

- **It's a contradiction to allow the potentially life-long decision to marry when children are often not afforded other rights that would be conferred at the age of majority.**

heart disease, diabetes, cancer and stroke than women who marry between the ages of 19 and 25.^{xiii}

4. Leaving a marriage is not always an option. We must ensure everyone is able to make meaningful decisions about marriage.

- **In many countries, discriminatory laws make it difficult for women to annul or leave a marriage, inherit property after the marriage ends, or maintain custody of their children.**^{xiv} In Afghanistan for example, where women face difficulties getting a divorce, many choose to informally leave their husbands. Such women are often charged with “running away” and given jail sentences.^{xv}
- **In countries which allow girls to marry while they are still legally minors, girls face huge barriers to leaving a marriage** before they come of age.^{xvi}
- **Even where divorce is legally and practically possible, in many countries there is still a social stigma surrounding divorce** which deters women from seeking one.^{xvii} For example, in India, the custom of the Sati, under which widows immolate themselves on the pyres of their husbands, was abolished in 1870 but remained in practice long after with the support of public opinion.^{xviii}
- **Bride price and dowry traditions can create additional barriers to divorce, which young girls**

find even harder to navigate. In Papua New Guinea for example, a husband may demand repayment of the bride price from the woman’s family, creating a barrier to women getting help from their parents and relatives: the families may not want or be able to repay the bride price, and pressure them to stay with the husband.^{xix}

- **Other barriers can be a lack of support options for women facing violence or degrading treatment from police or law enforcement officials.** For example, in Northern Nigeria the practice of ‘wife correction’ via physical force is condoned under customary law through the Northern Nigeria Penal Code.^{xx}

5. Marriage before 18 has an economic impact on girls, their families, and their countries.

- **New global estimates of the economic costs of child marriage show that child marriage is costing countries trillions of dollars** through its impact on fertility and population growth, women’s reduced earning potential and child health costs.
- **If child marriage had ended in 2015,** the global economy could have saved \$566 billion by 2030.
- **Ending child marriage would have a considerable impact on a country’s GDP.** Indeed, the World Bank estimates that ending child marriage could increase a country’s national earnings by 1%.

Annex: International and regional human rights provisions recommending a minimum age of 18 for marriage

- Article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956 states that “each of the States Parties to the Convention shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of... **any institution or practice whereby a child or young person under the age of 18 years**, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labor”.
- Article 16.2 of the Convention on the Elimination of all Forms of Discrimination against Women, 1979 states that “the betrothal and the marriage of a child shall have no legal effect, and **all necessary action, including legislation, shall be taken to specify a minimum age for marriage...**”. General Recommendation No. 21 states that the Committee considers that “**the minimum age for marriage should be 18 years for both men and women...**consequently, marriage should not be permitted before [children] have attained full maturity and capacity to act. Some countries provide for different ages for marriage for men and women...these provisions should be abolished. In other countries, the betrothal of girls or undertakings by family members on their behalf is permitted. **Such measures contravene not only the Convention, but also a woman's right freely to choose her partner.** States parties should also require the registration of all marriages whether contracted civilly or according to custom or religious law. The State can thereby ensure compliance with the Convention and establish equality between partners, a minimum age for marriage, prohibition of bigamy and polygamy and the protection of the rights of children”.
- Article 24.3 of the Convention on the Rights of the Child, 1989 states that “states parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children”. In General Comment No. 4 the Committee “strongly recommends that States parties review and, where necessary, reform their legislation and practice to **increase the minimum age for marriage with and without parental consent to 18 years, for both girls and boys**”. In General Comment No. 20 (2016) the Committee reaffirmed that ‘**the minimum age limit should be 18 years for marriage...**’.
- Article 6 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol), 2003 states that “States Parties shall...enact appropriate national legislative measures to guarantee that no marriage shall take place without the free and full consent of both parties, **and the minimum age of marriage for women shall be 18 years.**”
- Article 21 of the African Charter on the Rights and Welfare of the Child, 1990 states that “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** and make registration of all marriage in an official registry compulsory”.

ⁱ The *Girls Not Brides* secretariat would like to thank *Girls Not Brides* members who provided input and feedback for this brief, including Unchained At last, Equality Now, Human Rights Watch, Plan International, World Vision, and Promundo.

ⁱⁱ Wodon, Q., P. Tavares, O. Fiala, and A. Le Nestour, *Measuring Illegal Child Marriages under National Law*, London and Washington DC, Save the Children and The World Bank, 2017. *Girls Not Brides, It takes a movement: reflecting on five years of progress towards ending child marriage*, 2016.

ⁱⁱⁱ Plan International Bangladesh, *End-term Evaluation of the Stop Child Marriage (SCM) Project*, Centre for Entrepreneurship Development (CED) BRAC University, 2016.

^{iv} For a comprehensive list of provisions related to child marriage in international legal frameworks, see pages 21-23 of [The role of parliamentarians in ending child marriage: A Toolkit](#), July 2016

^v See the Annex for a list of provisions from international and regional human rights instruments which recommend 18 as the minimum age of marriage

^{vi} Unchained at Last, *Ending Child Marriage in the United States*, 2017

^{vii} World Bank, *Voice and Agency: Empowering Women and Girls for Shared Prosperity*, 2014

^{viii} Kishor, S. & Johnson, K., *Profiling Domestic Violence – A Multi-Country Study*, ORC Macro, Calverton, Maryland, 2004

^{ix} Rachel Kidman, *Using global data to examine child marriage, IPV and legal protection*, Stony Brook Medicine, Program in Public Health, 2017

^x World Bank and International Center for Research on Women, *The Economic Impacts of Child Marriage: Global Synthesis Brief*, 2017

^{xi} WHO, *Global Accelerated Action for the Health of Adolescents (AA-HA!): Guidance to support country implementation*, 2017

^{xii} WHO Fact Sheet WHO/MPS/o8.14, *Why is giving special attention to adolescents important for achieving Millennium Development Goal 5?*, 2008

^{xiii} Unchained at Last, *Ending Child Marriage in the United States*, 2017

^{xiv} UN Department of Economic and Social Affairs Division for Social Policy and Development background note *Men in Charge? Gender Equality and Children's Rights in Contemporary Families*, 2015, Trust Law and the World Bank, *Women and Land Rights: Legal barriers impede women's access to resources*, 2013, Human Rights Watch, *Divorced from Justice Women's Unequal Access to Divorce in Egypt*, 2004

^{xv} Human Rights Watch, *"I Had To Run Away" The Imprisonment of Women and Girls for Moral Crimes* in Afghanistan, 2012

^{xvi} Unchained at Last, *Ending Child Marriage in the United States*, 2017

^{xvii} OECD Development Centre, *Social Institutions and Gender Index, East Asia and the Pacific SIGI regional report*, 2016

^{xviii} OECD Development Centre, *Changing social institutions to improve the status of women in developing countries*, Policy Brief no. 27, 2005

^{xix} Human Rights Watch, *Bashed Up, Family Violence in Papua New Guinea*, 2015

^{xx} Trust Law and the World Bank, *Women and Land Rights: Legal barriers impede women's access to resources*, 2013