

FACT SHEET

RIGHT BY HER WHERE DO YOU STAND! 

On Child Marriage in Africa

The State of the African Women Project #RightByHer Campaign

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COMMITMENTS AND REQUIRED RESPONSE ON CHILD MARRIAGE IN AFRICA.

The Rights.

Child marriage is prohibited under the Maputo Protocol, which also states that women and men shall enjoy equal rights and are regarded as equal partners in marriage. The Joint General Comment from the ACHPR and ACERWC on ending child marriage (2017) elaborates on the obligations of states with respect to ending child marriage that arise from the Maputo Protocol and the African Children's Charter. They both prohibit child marriage.

The guidance provided by this joint general comment is grounded in four general principles:

- (1) The best interest of the child,
- (2) Freedom from discrimination,
- (3) Rights to survival, development and protection and
- (4) Participation.

The Joint General Comment provides that:

- Child marriage and the betrothal of girls and boys are prohibited.
- The legal age of marriage is 18 years and effective action, including legislation, shall be taken to specify this.
- Registration of all marriages in an official registry is mandatory.
- No exceptions can be made to the legal age of marriage at 18 for betrothal and marriage, as the Africa Children's Charter defines a child as every human being below the age of 18 years.

- The prohibition of marriage under the age of 18 applies to all marriages, under all forms of law, including customary or religious law.
- No marriage shall take place without the full and free consent of both parties.
- Women and men enjoy equal rights in marriage, and are regarded as equal partners. The obligations of states to ending child marriage include legislative measures, institutional measures (including those related to verification procedures, law enforcement, training and capacity-building, resource allocation, education, access to SRH services and information and to justice, redress and support for women and girls) and other measures (including awareness raising, national action plans and involving men and boys, among others).

In addition to the prohibition and elimination of all harmful practices, the Maputo Protocol also provides that ‘women shall have the right to live in a positive cultural context’ (Art. 17.1). This is qualified in its Preamble that refers to ‘the preservation of African values based on the principles of equality, peace, freedom, dignity justice, solidarity and democracy’. Art. 17 also articulates women’s right ‘to participate in all levels in the determination of cultural policies’. Recognizing that it is not just gender-discriminatory cultural values that are impeding women’s and girls’ enjoyment of their rights, the Protocol provisions on socio-economic rights and on the right to participate in political decision-making are of at least equal value in ending harmful practices.

PREVALENCE OF CHILD MARRIAGE:

The Realities

Africa knows the highest rates of child marriage in the world: four in ten women and girls in Sub-Saharan Africa are married before the age of 18.

- Prevalence of child marriage is highest in Western and Central Africa, and only slightly lower in Eastern and Southern regions.
- Child marriage prevalence rates in the continent vary between 2% (Tunisia) and 3% (Algeria), and 52% (Mali), 67% in Chad, and 68% in CAR and up to 76% (Niger). In seven countries, more than half of women and girls are married when they turn 18: Burkina Faso, CAR, Chad, Guinea, Mali, Niger and South Sudan. In as many as 20 countries, child marriage prevalence lies between 30% and 50% of women and girls (at age 18).
- Child marriage is slowly declining, particularly in Northern Africa. In Western and Central Africa also, where child marriage is commonly practised, some countries have shown great declines. In other countries, prevalence has been 50–52% for the past 30 years. If the current trend continues, by 2050 Africa will become the region with the largest number of child marriages in the world.
- Countries with high levels of child marriage also have high rates of maternal deaths and high adolescent birth rates.

MAP ON Child Marriage:



Legend

- Legal age of marriage set at 18, with full and free consent, applying to all marriages. Action/strategic plan or campaign to end child marriage in place.
- Legal age of marriage set at 18, with full and free consent, applying to all marriages. No action/strategic plan or campaign to end child marriage in place (or missing data).
- Legal age of marriage set at 18 but presence of legal loopholes (either or both: no full and free consent and/or not applying to all marriages, or missing data).
- Legal age of marriage not set at 18 or missing data. Action/strategic plan or campaign to end child marriage in place.
- Legal age of marriage not set at 18 and no action/strategic plan or campaign to end child marriage in place.
- No data available.

Recommendations:

- Enact legislation, in constitutions or statutory law, that explicitly prohibit harmful practices. This applies to all 42 countries that lack such a provision, and especially to those that have ratified the Maputo Protocol and should hence align their legal frameworks accordingly.
- Include a provision in the national Constitution that customary law cannot contradict fundamental rights guaranteed in the Constitution, and in particular cannot infringe on women's and girls' human rights.
- Reform legislation regarding marriage and child marriage, to ensure 18 is the minimum age of marriage, and to guarantee the full and free consent of marrying parties and that the legal age of marriage applies to all marriages, including customary and religious ones. In those countries that have the age of marriage set at 18, remove legal loopholes regarding full and free consent and other issues that allow for exceptions.
- Allocate financial resources, and put in place institutional bodies and mechanisms for implementation, including the monitoring of progress.
- Ensure access of girls and young women to education, comprehensive SRH services and comprehensive information and education on SRH, harmful practices, sexuality and rights.
- Strengthen youth and especially girls' and young women's leadership and participation on human rights and in ending child marriage.

**This factsheet is based on findings from the State of the African Women Report.
Read full report at www.rightbyher.org**

The #RightByHer Campaign works across Africa to reduce the gap between rights and reality. At #RightByHer, we analyse the status of inequality, raise awareness, facilitate empowerment and together advocate for change.

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