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Criminalising sexuality or preventing child marriage: legal interventions and girls' empowerment

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Child marriage—defined as marriage before age 18 years and legal age of majority—raises serious human-rights and public-health concerns. Girls who marry before age 18 years are at increased risk for adverse outcomes, including child and maternal mortality, intimate partner violence, and truncated education.¹ Despite global declines in child marriage, one in five women is married before the age of 18 years; and in sub-Saharan Africa, where the prevalence of child marriage is highest, one in eight girls is married before reaching age 15 years.²

Poverty is both a cause and a consequence of child marriage. Structural poverty and lack of life opportunity—coupled with inequitable gender norms for boys and girls—drive the practice of early marriage.³ Child marriage is often forced and between young girls and older men, reflecting the grinding poverty of families. Family preference for older male suitors reflects gender normative values around the protection and control of girls, and patriarchal expectations of male providers.⁴ In countries with high mortality and high morbidity, early marriage and childbearing can have strong survival value for families and communities. Yet, child marriage is not compatible with life success in countries where mortality and fertility are low and education is the key to young people's advancement. In a rapidly developing world, child marriage truncates life aspirations for adolescents—to education, to work outside the home, and to escaping poverty.

As such, child marriage is internationally recognised as a human rights violation under the Universal Declaration of Human Rights (1948), Convention on Rights of the Child (1989), and other international and regional charters. Child marriage can violate a young person's right to freely choose a spouse and have full information about that choice. Likewise, adolescents younger than 18 years generally lack the legal capacity to make life decisions. Allowing parents or community members to make these decisions ignores the evolving capacity of adolescents to make these important decisions.⁵

In *The Lancet Child & Adolescent Health*, Suzanne Petroni and colleagues⁶ raise crucial and timely questions about the legal and ethical issues about child marriage and statutory rape laws, warning us about the potential downside of moving from laws on child marriage to laws on statutory rape. The authors argue that as countries worldwide legislate child

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marriage, there is a risk of child marriage laws converging with laws on the age of sexual consent, as this would criminalise healthy and consensual sexual relationships between close-in- age young people. The Viewpoint addresses essential issues regarding laws on sexual consent, and focuses less on the specific problems with child marriage laws. Here, we consider the efficacy of legal frameworks in preventing child marriage, the relationship between national civil legal systems and customary and religious laws, and the evidence that access to education and economic empowerment for young women can prevent child marriage.

While laws can be useful in signalling a nation's commitment to improving human rights, there is little evidence regarding the efficacy of standalone legal approaches to reducing child marriage.^{3,7,8} In a review of 40 sub-Saharan African countries, Svanemyr and colleagues⁷ found inconsistent and limited enforcement of child-marriage laws and therefore little evidence that national laws help to reduce child marriage. The few existing evaluations have focused on the issue of consistency in national child-marriage laws, and the generalisation of these studies are limited by weak research designs and the conflation of laws on child marriage and sexual consent.⁹ Additionally, since plural legal systems exist in many countries where child marriage is common, civil laws based on international agreements are often in tension with customary and religious laws permitting child marriage, complicating what constitutes legal compliance.⁵ Moreover, legal interventions often fail when laws are too far from existing social norms and practices.⁸

As Petroni and colleagues⁶ advise, laws regulating normative behaviours such as child marriage run the risk of punishing young people or driving the practice underground (or both). We would suggest that child marriage laws are intended to protect adolescent girls and boys from social and economic pressures that could force or drive them to marry early. Yet,

laws around age at sexual consent often reflect moralistic attitudes designed to punish young people for engaging in a behaviour that could, instead, be normalised in their community.

So what kinds of interventions work to prevent child marriage? A variety of programmes and policies have addressed the underlying causes of child marriage—such as poverty, lack of schooling, and gender inequality—and can be effective.³ Key interventions include empowering girls with information, skills, and support; educating and mobilising parents and community members; enhancing access and the quality of formal education; and providing economic support to girls and their families. Furthermore, fostering an enabling legal and policy framework might be more effective when combined with programmes that address root causes of child marriage. Demographic research has shown an association between girls' schooling and delays in marriage and childbearing, with better economic and health outcomes over the life course. In Uganda, rising socioeconomic status and school enrolment among adolescent girls has substantially reduced teen pregnancy, HIV infection, and child marriage.¹⁰

Child-marriage laws express a nation's commitment to respecting children's human rights and to protect childhood and adolescence as crucial life phases. However, laws around age at marriage are insufficient at best and can punish young people and their families rather than protecting them. Governments need to invest in tackling the underlying drivers of child marriage—poverty and gender inequality—and empowering young women through access to education and economic opportunities. National policy should move from punishment to educational and economic opportunities for young people. An enabling legal framework could be helpful when combined with policies and programmes that address economic, social, and gender inequalities that are root causes of child marriage.

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