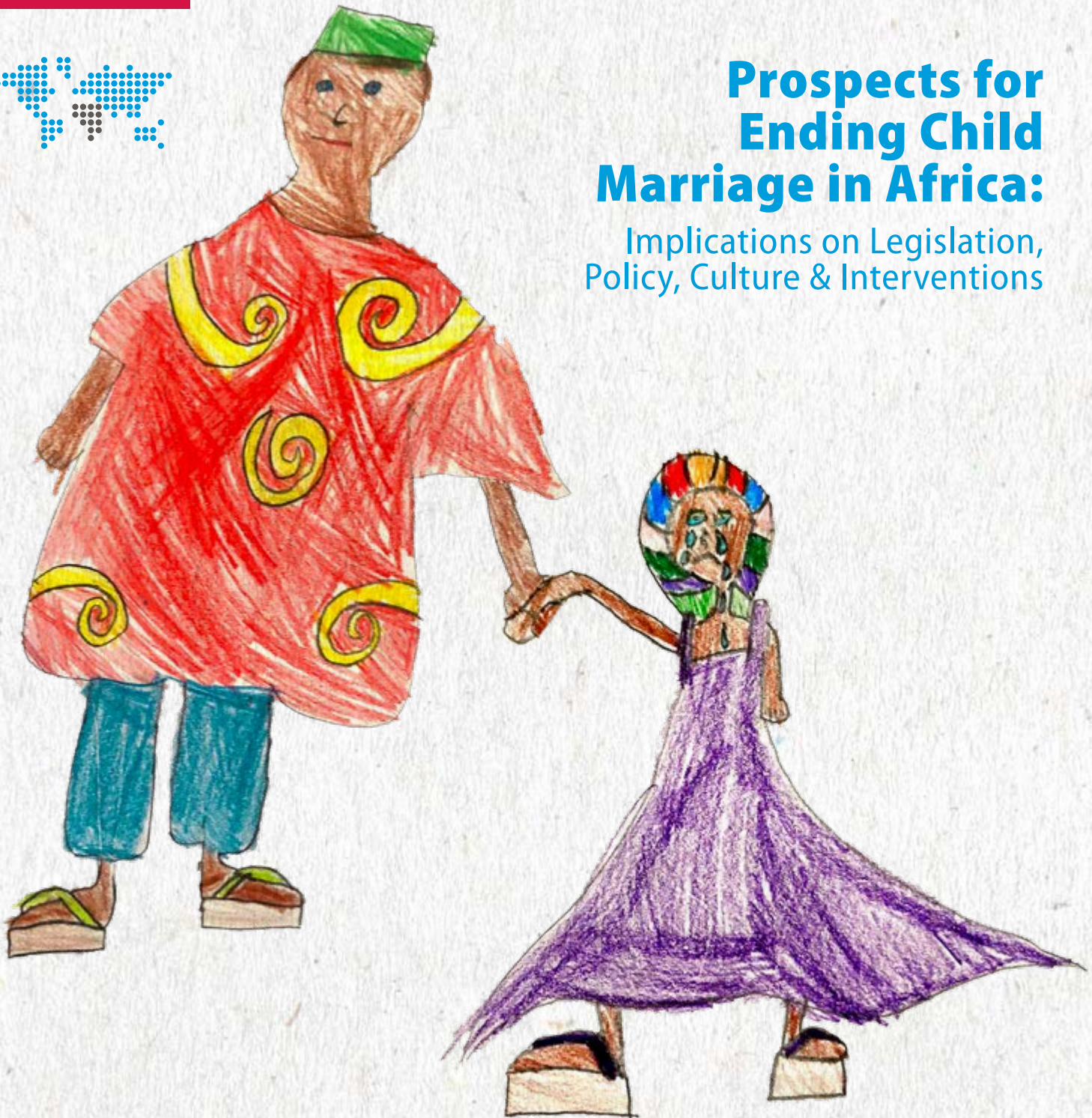


**EXECUTIVE BRIEF**



# Prospects for Ending Child Marriage in Africa:

Implications on Legislation,  
Policy, Culture & Interventions





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# 1.0 Introduction

This policy brief is a synthesis of key findings and recommendations from a multi country analytical study by UN Women on child marriage in Africa covering ten countries selected due to their comparatively higher prevalence of child marriage in the continent and globally. The focus of the study was on the state and implementation of policies/legislation, interventions, cultural/religious practices in the countries in relation to the elimination of child marriage. A critical emphasis of the study was on the nexus between the existence and implementation of the policies/legislation, and the dominant cultural and religious practices that affect the outcomes of the interventions in those countries, especially in identified hotspot areas within the countries. The study was conducted in the period 2017/2018 and targeted DRC, Egypt, Ethiopia, Malawi, Mali, Morocco, Mozambique, Niger, Nigeria and Tanzania. The study builds on the African Union's (AU) Campaign to End Child Marriage in Africa. The specific objectives of the study included: conducting an analytical review of existing customary practices and statutory policies on child marriage with a view to identifying drivers of success and gaps that are hampering success; assessing and mapping existing and ongoing child marriage community, national and regional initiatives and identifying the intervention gaps; and proposing programmatic interventions that could be adopted to reduce the high prevalence of child marriage in the targeted countries specifically, and in Africa in general. The background, methodology and detailed findings and recommendations of the study are taken from the overall report of the study- Multi-Country Analytical Study of Policies, Interventions and Cultural Practices on Child Marriage in Africa.





## 2.0 Contextualising Child Marriage-Dynamics and Realities

Globally,

≈ **25%** 

of women aged 20-24 years entered into or are in a union before the age of 18 years, with approximately one out of thirteen married or in such unions before the age of 15 years



### 2.1 The Global State of Child Marriage

Among the human rights of children stipulated by the Convention on the Rights of the Child (CRC) are the right to survive; the right to develop to their fullest; the right to protection from harmful practices, abuse and exploitation; and the right to participate fully in family, cultural and social life. By signing the Convention, governments commit to taking “all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of the children.”<sup>1</sup> Among the practices that were deemed prejudicial were child marriage and female genital mutilation. The International Conference on Population and Development (ICPD) of 1994 adopted a programme of action under which countries committed to undertake measures to eliminate child marriage and to “strictly enforce laws to ensure that marriage is entered into only with the free and full consent of the intending spouses.” Child marriage refers to a legal or customary union between two people, of whom one or both spouses are below the age of 18 years. Sometimes referred to as early and/or forced marriage, child marriage affects both boys and girls. However, the practice predominantly impacts girls compared to boys due to biological as well as socio-cultural concepts of maturity and gender inequalities. Globally, approximately one-quarter of



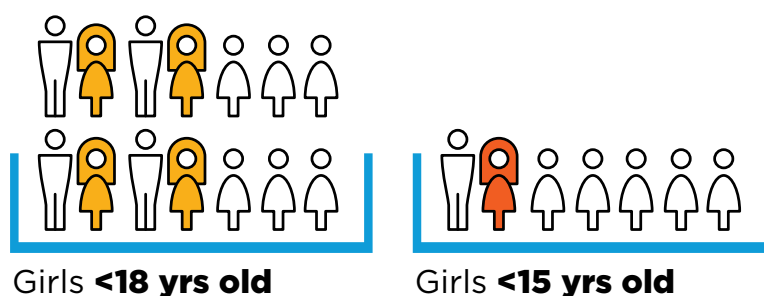
women aged 20-24 years entered into or are in a union before the age of 18 years, with approximately one out of thirteen married or in such unions before the age of 15 years. Despite the preponderance of policies and legislation across nations that are signatory to the Convention on the Rights of the Child and other international conventions, in the face of socio-cultural traditions and norms exacerbated by contextual political economies, child marriage remains persistent in many countries. The United Nations Population Fund (UNFPA) estimates that between 2011 and 2020, more than 140 million girls will become child brides, meaning that 14.2 million girls will marry annually, or 39 000 girls will become child brides each day. Furthermore, of the 140 million girls who will marry before they are 18 years, fifty million will be under the age of 15 years.<sup>2</sup> A World Bank Group report (2017) indicates that 41,000 girls are married each day translating to 15 million girls every year complementing the position by UNFPA.<sup>3,4</sup> Global data indicates that child marriage of girls is most common in South Asia and sub-Saharan Africa and the highest global prevalence rates have been documented in 10<sup>5</sup> countries found in these two regions of which Ethiopia, Mali and Niger fall among the study countries.<sup>6</sup> While 17 African countries are ranked among those with the highest rates of child marriage,<sup>7</sup> child marriage is widespread in many countries in Asia and South America as well. These include countries such as Bangladesh, India, Indonesia, Nicaragua, Brazil, and Mexico that have been reported as having among the highest numbers of child brides.<sup>8</sup>

## 2.2 The State of Child Marriage in Africa

The study reports that Africa, especially sub-Saharan Africa, is one of the highest child marriage prevalence regions in the world. It is estimated that 125 million (17%) of the more than 700 million women alive today, who were married as children, live in Africa. Evidence on child marriage prevalence indicates an average of 11.6 per cent and 42.8 per cent of girls are married by the age of 15 and 18 years respectively.<sup>9</sup> This translates to approximately 4 in 10 girls married or in a union before the age of 18 years and 1 in 6 girls before the age of 15 years. All African countries are faced with the challenge of child marriage. Prevalence of child marriage in African countries ranges from high prevalence countries such as Niger at 76%, Chad at 72%, Central African Republic at 68%, Mali at 55%, Mozambique at 52% and Malawi at 50%;<sup>10</sup> to low prevalence countries such as Algeria at 3%. An analysis of literature (UNICEF, 2017) further reveals that more than half of adolescent girls aged 15 to 19 years are currently married and have husbands who are 10 or more years older than they are in Mauritania and Nigeria which is one of the countries of study.



Approximately 4 in 10 girls are married or in union before the age of 18 years and 1 in 6 girls before the age of 15 years.



Although efforts have been invested in its eradication, child marriage remains a persistent problem across the continent of Africa. It is projected that by 2050, the number of children who are married before the age of 18 years will double if nothing is done to eradicate child marriage.<sup>11</sup> Overall, child marriage is more widespread in West and Central Africa (42%) and Eastern and Southern Africa (36%).<sup>12</sup> Figure 1 below shows the 10 highest child marriage prevalence countries in the continent as at 2015.<sup>13</sup>

**FIGURE 1:**  
The ten highest child marriage prevalence countries in Africa

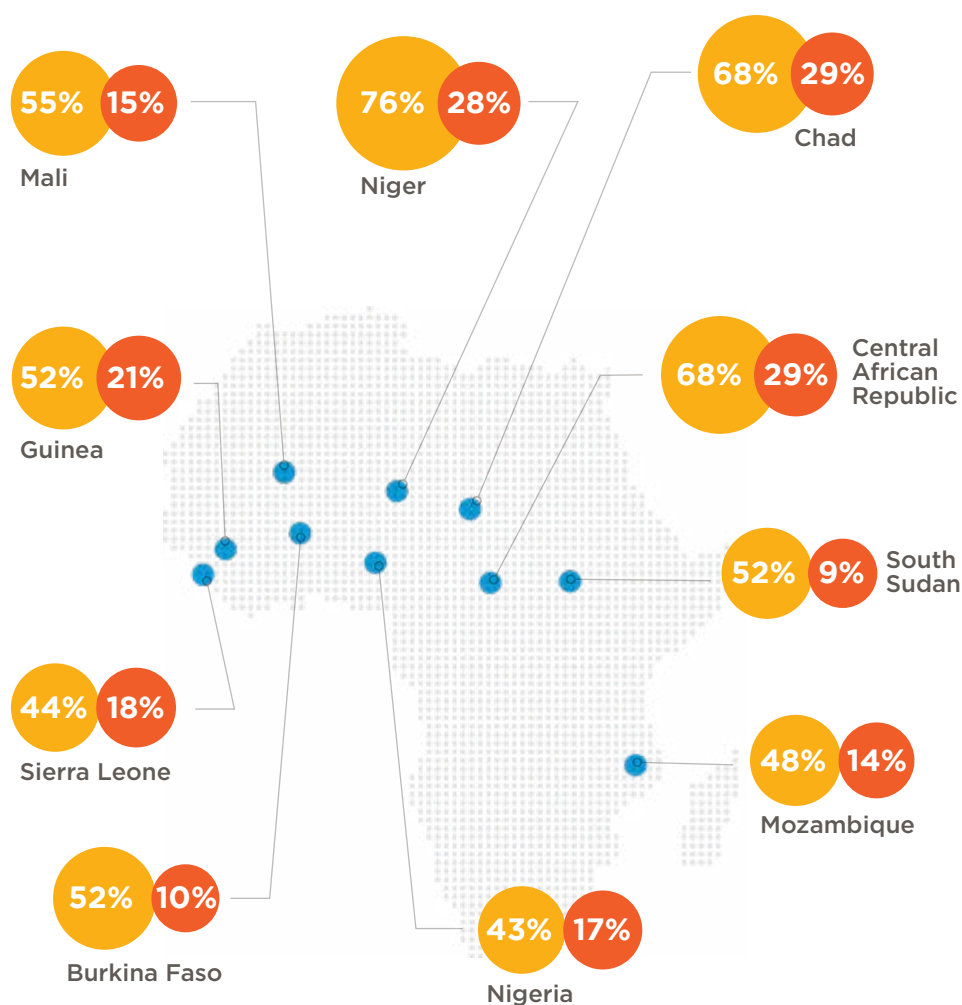
Source: UNICEF, 2014



Marriage  
before 18



Marriage  
before 15





## 2.3 Reality Check for the Study Countries – The Current Situation

The study reports an obvious decline in the prevalence of child marriage in Africa and particularly in the countries studied over the last three decades. Efforts have been intensified in eradicating child marriage, but it remains a persistent problem in Africa, with a majority of the ten study countries reported which form part of the 17 African countries being ranked among those with the highest rates of child marriage globally. In Morocco the risk of marriage before the age of 18 years has declined by over 50%<sup>14</sup> over the last three decades, while in Ethiopia women aged 20-24 years are marrying later than their counterparts who were in the same age group three decades ago. The decline could be linked to the increased adoption of laws and policies aimed at eradicating child marriage, amongst other harmful traditions and practices in the study countries. In fact, among the countries listed above, eight have either signed, or signed and ratified, the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa with only Egypt and Morocco<sup>15</sup> not signing to the Protocol. Additionally, only Niger has neither ratified nor deposited the Protocol with the African Union.

Some of the countries studied including Mali, Niger and Nigeria, represent the continental hotspots of child marriage in Africa and share a unique set of characteristics. The findings show that the majority of the study countries (70%) constituting 7 study countries score high on the Social Institutions and Gender Index (SIGI).<sup>16</sup> Concisely: DRC (0.428-very high); Egypt (0.43-very high); Ethiopia (0.245-high); Malawi (0.2074-medium); Mali (0.5164-very high); Morocco (0.1052-low); Mozambique (0.1375-medium); Niger (0.4415-very high); Nigeria (0.3911-high); and Tanzania (0.2504-high). SIGI is a tool developed by the Organisation for Economic Co-operation and Development (OECD) Centre's and is a cross-country measure of the level of discrimination against and inequalities amongst women in social institutions including formal and informal laws, social norms, and practices. It covers 160 countries and is premised on the fact that discriminatory social institutions intersect across all stages of girls' and women's life, restricting their access to justice, rights and empowerment opportunities, and undermining their agency and decision-making authority over their choices in life. Discriminatory social institutions are viewed as underlying drivers of gender inequalities, perpetuating gender gaps in development areas, including education, employment and health, and hindering progress towards rights-based social transformation that benefits both women and men equally. The major socio-economic areas that affect the lives of women and girls cover five dimensions of discriminatory social institutions including: restricted resources and assets; discriminatory family code;





restricted physical integrity; son bias; and restricted civil liberties. The variables used in SIGI analysis quantify discriminatory social institutions and inequalities experienced by women and girls such as unequal inheritance rights, early marriage, violence against women, and unequal land and property rights. The country profiles created, which include country classifications and unique databases, provide a strong evidence base for more effectively addressing the discriminatory social institutions and inequalities that hold back progress on gender equality and women's empowerment.

Similarly, the SIGI statistics above are affirmed by the UNDP Gender Inequality Index (2015) which ranks the study countries as follows: DRC (0.663); Egypt (0.565); Ethiopia (0.499); Malawi (0.614); Mali (0.689); Morocco (0.494); Mozambique (0.574); Niger (0.695); and Tanzania (0.544).<sup>17</sup> The UNDP Gender Inequality Index measures the gender gap in achievement between men and women across three parameters: empowerment; reproductive health; and labour market. The Gender Inequality Index ranges between 0 and 1. Higher Gender Inequality Index values indicate higher inequalities and thus higher loss to human development. Accordingly, high level of gender discrimination and inequalities on women and girls is seen as a critical driver to child marriage.

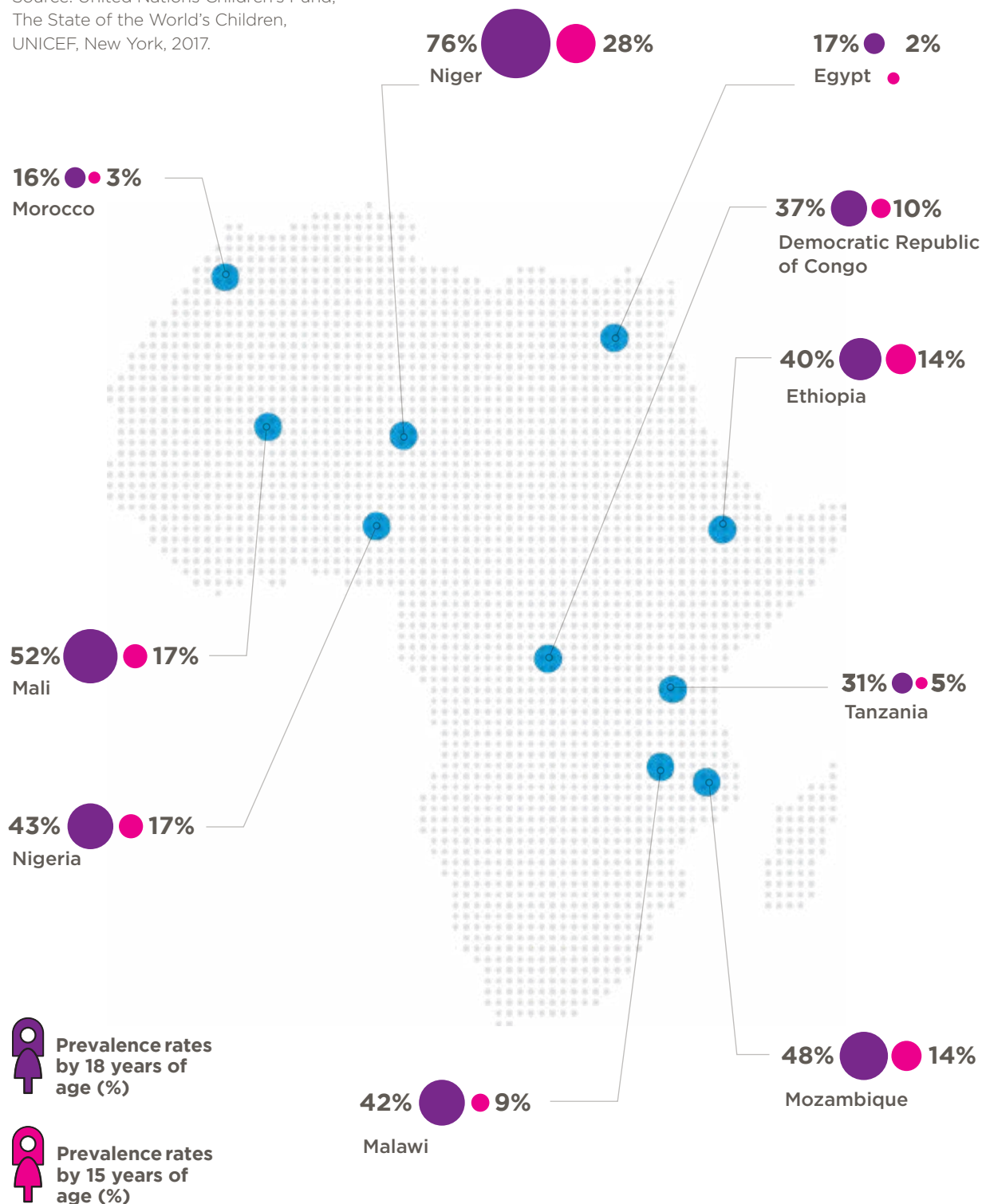
The countries of study also have high incidence of poverty besides being very conservative especially in community child marriage hotspots. Such communities embrace a mix of traditional practices and religious dogmas that encourage child marriage as a practice among them. In particular, they believe that child marriage is for the good of the community, family and the individual child. The study further established that the various child marriage enablers, motivators and drivers work together to reinforce each other.

**Prevalence rates as reported from the UN Women study countries are as follows** (see page 10);



**FIGURE 2:** Multi-country study coverage on percentage prevalence of child marriage by age<sup>18</sup>

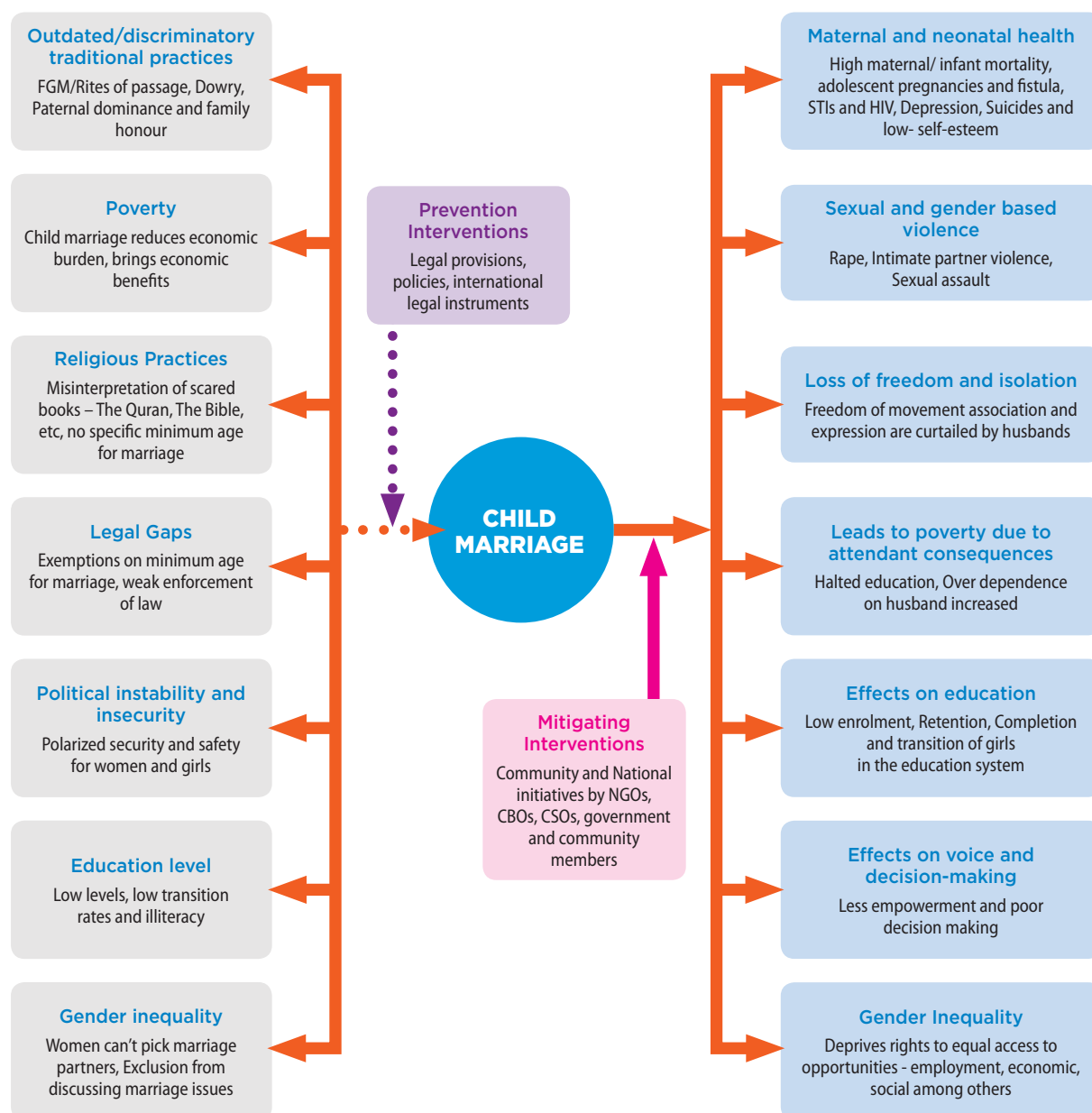
Source: United Nations Children's Fund, The State of the World's Children, UNICEF, New York, 2017.





## 2.4 Logic and Pathway of Ending Child Marriage in Africa

The diagram below summarizes the child marriage logic and theory of change causality and effects in Africa.



**FIGURE 3:**

Conceptualising  
Child Marriage  
in Africa

Source: Field data

### KEY »

**Legal Provisions** – Include respective country Constitution, Acts of Parliament an Executive/Court order

**International Legal Instruments** – These include UN declarations and conventions such as UN Convention on the the Rights of the Child (UNCRC)

**Regional Legal Instruments** – Include Africa African Charter on the Rights and Welfare of the Children, African Union Campaign to End Child Marriage, etc.



From figure 3, the logic and pathway of ending child marriage is developed from the study and views persistence of child marriage as a composite outcome of social, cultural, economic and religious drivers, accompanied by low levels of education<sup>18</sup> and widespread gender inequalities. The drivers find fertile ground in the inadequacies/gaps in policy and legal instruments, and in deficient enforcement and implementation of existing laws and policies. The situation is compounded by lack of political goodwill and committed leadership, as well as insecurity and weak policing of child and gender rights.

Overall, the causes and drivers of child marriage can be viewed as consisting of drivers and enablers all producing certain consequences in the lives of women and girls. They are moderated by preventive initiatives which constitute policy and laws of those countries, backed by mitigating interventions which include community, national and regional initiatives that respond positively to the needs and aspirations of women and girls. Enablers create the environment within which drivers can thrive while preventive and mitigating variables disable/ inhibit/ prevent and/ or slow down the increase of child marriage and contribute meaningfully to ending child marriage; in the absence of preventive variables, the enablers create a space for an accelerated surge in child marriage.

The study recognises that community, national, regional and global initiatives can be a very useful tool in laying out a coordinated picture of the roles of different stakeholders in a comprehensive response to child marriage. However, initiatives only add value if there has been sufficient planning and involvement of relevant stakeholders, including the community, women and girls in particular, and if there are necessary resources, commitment and capacity to allow for implementation. This logic and theory of change affirms that it is necessary for stakeholders and African governments to develop related action plans on child marriage with monitoring and accountability mechanisms across different sectors. They should also ensure that national strategies and action plans are implemented across sectors – costed and budgeted for implementation with adequate planning, coordination and implementation. This must be coupled with priorities for interventions prioritising the “do no harm approach” and those which will maximise impact; and measure progress in the medium to long-term. This logic premises that addressing negative cultural and gender stereotypes and practices, coupled with effective policy/legal environments at multiple levels, is a requisite to ending child marriage in Africa.

The study notes that enablers, motivators and drivers work in concert to reinforce each other. In the hotspot communities amongst the study countries, they combine well because of insufficient investment in policy and legal enforcement mechanisms and processes due to local and national politics, where allegiance is torn between laws and traditions. Limited investments enable lax enforcement of the laws and policies, thus turning into an enabler. Furthermore, the absence of effective and



functional monitoring, accountability and information systems from national to local levels makes it difficult to keep track of the implementation, enforcement and transgression of existing interventions, laws, and policies against child marriage. In the countries of study, the push factors - enablers, motivators and drivers of child marriage - are enhanced by gender inequalities, weak and uncoordinated implementation of interventions, laws/policies and ineffective enforcement of laws/policies due to loopholes that render adherence flexible. Corruption, bad politics and gender-based violence, especially against women and girls, make it difficult to enforce existing laws/policies by discouraging reporting of cases, prosecution and deterrent punishment of perpetrators.



**The absence of effective and functional monitoring, accountability and information systems from national to local levels makes it difficult to keep track of the implementation, enforcement and transgression of existing laws and policies against child marriage.**

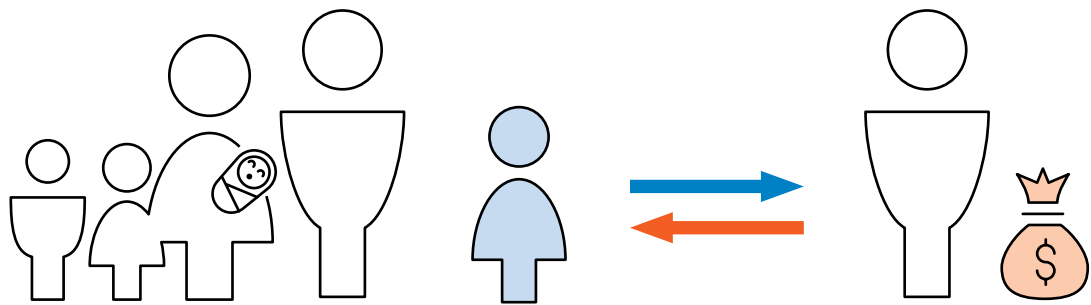
## 2.5 Drivers of Child Marriage in Africa

The study reports that many factors driving child marriage are common across Africa and are anchored in the social, structural and systemic determinants of the children's ecology. Despite near universal commitment by the countries to the elimination of child marriage and several global and regional instruments, national laws, policies and interventions, there is still a high prevalence in the countries studied. Children are married off because of poverty or deprivation; insecurity and lack of safety; socio-cultural and religious traditions; illiteracy levels; gender inequalities and stereotypes; as well as inadequate legal and policy safeguards against child marriage. A combination of these drivers creates a series of factors that include: fears over girls' safety and security, especially in relation to abductions and violent attacks; concerns over loss of family's honour due to premarital sex and pregnancy; and lack of family income/livelihoods leading to trading off the girls for dowry. Customs and culture take high precedence, and this makes it difficult to implement legal and policy frameworks including ratified international legal instruments and policy frameworks. Many countries in Africa have conflicting customary, statutory and religious provisions surrounding child marriage and marriage in general. For example, in Morocco, while the Moudawana code was amended in 2014 to stop child marriage, there have been several loopholes that increase child marriage. Specifically, Articles 20 and 16<sup>19</sup> allows child marriage through family judges.<sup>20</sup>



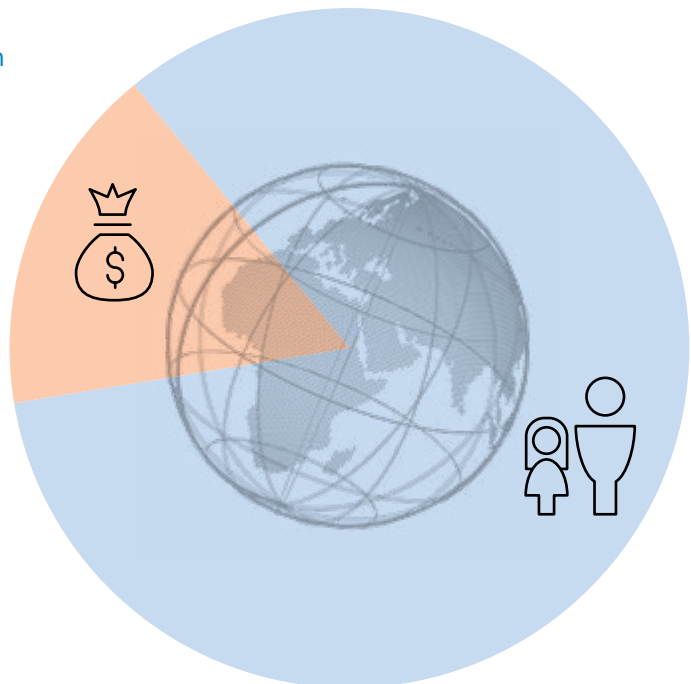


While it is noted that many child marriages are driven by social honour, many families in Africa still perceive girls as economic burdens that should be shed or as sources of potential wealth. In Ethiopia, for instance, despite the legal age for marriage being 18 years for both boys and girls, there is almost no enforcement of such laws, thus leading to lack of prosecution of perpetrators and hence entrenchment of this illegal practice. Additionally, national registration of births, deaths, marriages and divorces is dwindling thus making it cumbersome for authorities to prove a girl is underage.



**Economic pressures and the incentive of bride price appear to be powerful factors driving parents to marry off their daughters at a young age.**

Respondents shared a strong correlation between child marriage, unequal opportunities for women, and low social economic development, in countries with high prevalence of the practice. It follows therefore that poor countries have the highest levels of child marriage and child marriages are most common among the proportion of the population living below the poverty line.





An analysis of the continental hotspot countries levels of education for females revealed a clear effect and linkage to child marriage. In the countries with highest prevalence of child marriage such as Niger, over 90% of girls married before 15 years have little or no formal education at all. There is a clear relationship between early marriage and level of education - those who marry late tend to have more education.

## 2.6 Effects and Consequences of Child Marriage in Africa

Child marriage, from a human rights perspective, is regarded as a violation of the rights of an individual, which is rooted in gender inequality and therefore an impediment to girls' social and economic development.<sup>21</sup> In Africa, societies where this practice is common exhibit low value placed on girls and women which perpetuates this norm and continually binds them in a vicious cycle affecting both present and subsequent generations. Respondents shared a strong correlation between child marriage, unequal opportunities for women, and low social economic development, in countries with high prevalence of the practice. It follows therefore that poor countries have the highest levels of child marriage and child marriages are most common among the proportion of the population living below the poverty line.<sup>22</sup> It is noted that besides the inherent health risks associated with child marriages that put the girls at risks of maternal mortality, infection with venereal diseases and HIV, as well as affecting their education and wellbeing, child marriages also have a bearing on increasing sexual and gender based violence, loss of freedom and isolation for the victims, and school drop-out and illiteracy.



**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.**

At individual level, child marriage has harmful effects on girls' health, psychological development, human rights and girls' economic survival. Child marriage curtails the victims' education and their social growth. In most cases, it starts a lifelong dependency, especially for girls, and subjection to abuse and violence. Girls younger than 15 years are five times more likely to die in childbirth than women in their 20s. In Mali for example, child marriage is closely linked to the extremely low literacy



rates among women. Child marriage also 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 recognised human rights.<sup>23</sup> It should be noted that in communities or households where women are exploited or subjected to violence in Africa, poverty is often common and severe, and there are poor health indicators. The effects on community and family follow the trends at national level. Families that practise child marriage are often poor and lowly educated. While this is the most fundamental condition (linked to causality rather than consequences) it generates a generational vicious cycle where those married early are likely to marry their children early.

## 2.7 Child Marriage, Culture and Religion Nexus in Africa

The study affirms that traditional beliefs related to gender roles and sexuality and those encouraging subordination of women and girls underpin many customary practices including payment of dowry or bride price, and ultimately drive child marriage. In a context of limited economic resources and opportunities, as evidenced in all the countries of study, girls are often seen as economic assets whose marriages provide cattle, other animals, money, and gifts.

All the study countries have policies and laws prohibiting child marriage and establishing minimum marriage ages. However, the practice has persisted because of established traditions and religious practices that hinder effective enforcement of the policies and laws. In many of the communities with high prevalence in the ten countries, parents and the girls are under pressure to conform to traditional and religious norms that prohibit premarital sex, loss of virginity before marriage, or girls' autonomous decision-making and choice over marriage partners. Across the countries, there are socio-cultural practices, either condoning or promoting forms of gender-based violence or harmful practices, which perpetuate gender inequality and promote child marriage while shielding men from legal penalties and prosecution.



**In many of the communities with high prevalence in the ten countries, parents and the girls are under pressure to conform to traditional and religious norms that prohibit premarital sex, loss of virginity before marriage, or girls' autonomous decision-making and choice over marriage partners.**



For example, *Telefa* is a traditional Ethiopian practice by which a man kidnaps, hides and rapes a girl and then, as the father of her unborn child, can claim marriage. In many communities, the legal conception of adulthood and personhood applying to individuals is contested in the context of local traditions that conceive of the community as a collective. The cultural and geographical differences across Africa determine the forms in which living arrangements in child marriages take shape. A further example from Ethiopia is where child marriage is a deeply rooted cultural practice with customs such as marriage by abduction and forced unions between close relatives (*abusuma*), mainly cousins, propagating this practice. In the context of the Boko Haram driven kidnapping and attacks in Nigeria, the practice of child marriage has acquired further justification as a strategy for protecting the girl child from kidnapping, sexual assault and unwanted out-of-wedlock pregnancies. Community elders, especially male elders, play domineering roles where they select spouses for their children with great emphasis on marrying a virgin. Parents prioritise marrying off their daughters at a very tender age to ensure they marry as virgins and retain the family honour.

Religion and its institutions across Africa have a suffocating hold on traditional practices. In many communities across the countries, it plays both sides of the child marriage situation. Whereas, on the one hand, it offers a system within which interventions can be anchored, on the other hand it has often provided normative frames for perpetuation of child marriage and other harmful traditional practices. For instance, Islamic preachers in Nigeria argue that under Islamic doctrines, girls' maturity is defined by '*physical appearance; ... when a girl starts menstruation – she is matured.*' In most cases, religion is a supportive frame for persistent cultural traditions within a particular community and is also deployed to justify child marriage as a protective measure for enhancing/ensuring purity, fidelity and honour.

Such logic exists in both Christianity and Islam - the dominant religions in Africa - which emphasises the sanctity and honour of married life, and the subservient position of women in marriage. They do not provide clear demarcation of the appropriate age for marriage, instead showing convenient deference to customary and civil laws. This convenient deference provides strategic loopholes through which religion, in practice, plays both sides of the child marriage laws - religious leaders can claim to marry only consenting mature brides and grooms, while leaving the definition open for the parties involved. In extreme cases religious-framed conflicts have led to abduction and forced marriage of girls in Nigeria (Boko Haram – Islamic) and in Uganda (the Lords' Resistance Army- Christian).

The study concludes that traditions are used to formalise child marriages with modern religion being used as ceremonial events to reinforce the marriages as formal legal processes.



## 2.8 Child Marriage and Sustainable Development Goals



**Eight of the 17 SDGs may not be achieved without significant progress to end child marriage**

The findings confirmed that child marriage perpetuates poverty, inequality and insecurity for women and girls and is an obstacle to national and global development. Further, a lack of attention to child marriage undermined the achievement of a majority of the Millennium Development Goals (2000-2015). Ending the practice is critical to achieving the Sustainable Development Goals (SDGs). Eight of the 17 SDGs may not be achieved without significant progress to end child marriage, including those related to: poverty (SDG 1); food security and nutrition (SDG 2); health (SDG 3); education (SDG 4); gender equality (SDG 5); economic growth (SDG 8); reducing inequalities (SDG 10); and peace, justice and strong institutions (SDG 16). Child marriage is a core development and human rights issue and hinders the achievement of many other development goals with gender related targets and indicators.<sup>24</sup> The 2030 Agenda for Sustainable Development features the stand-alone Goal 5 to “Achieve gender equality and empower all women and girls” with over 50 gender-specific targets out of the 169 targets<sup>25</sup> Target 5.3, specifically aiming to ‘Eliminate all harmful practices, including child, early and forced marriage and female genital mutilations’ is critical in terms of garnering action and monitoring progress on ending child marriage globally and in Africa and will certainly not be achieved if child marriage is not eradicated.





## 2.9 Child Marriage Interventions and Investments in Africa



**The community, national and regional level interventions are mostly focused on changing the policy, culture and structural environment by ensuring government commitment and alignment of priorities to child rights, gender equality and protection of children from harmful traditional practices.**

The findings show four levels of interventions (community, national, regional and policy) against child marriage at varying levels of implementation and success in different countries studied. At regional level, through the guidance of the African Union, countries have adopted policies and laws that prohibit the practice of child marriage. These laws have created an environment within which it is illegal and, in some countries, criminal to engage in child marriage and associated harmful traditional practices. The most significant change that has occurred through these efforts is the near-universal establishment of the minimum age of marriage at 18 years and related emphasis on marriage consent as a constitutional right.

The community, national and regional level interventions are mostly focused on changing the policy, culture and structural environment by ensuring government commitment and alignment of priorities to child rights, gender equality and protection of children from harmful traditional practices. Translating those national commitments, policies and laws into the eradication of child marriage requires concerted efforts at national and community level (or any sub-national unit in the country) often run through a coordinating mechanism such as a national alliance. In all the countries of study, the efforts are led by government, local and international Non-Governmental Organisations (NGOs) and Community Based Organisations (CBOs) that work with community leaders and stakeholders to strengthen awareness and monitoring of child marriage incidence. In response, most countries studied have designed and rolled out policies and laws that prohibit child marriage by stipulating the minimum age of marriage and emphasising consent before marriage. However, the implementation of the policies and laws has not been optimal because of several barriers that have emerged. The barriers include: poor enforcement due to political fears; low education; a dominance of traditional beliefs and practices; poverty; gender-based violence; and religious practices. There are key gaps in the implementation of interventions starting with an absence of credible monitoring, evaluation and accountability mechanisms and strategies on child marriage. The data amongst the study countries is at best



inferential and, at worst, only anecdotal estimates. A majority of the countries have no working monitoring, accountability and evaluation framework and plan, or specific indicators used to track incidence or prevalence. Thus, there is a need for African Union-led monitoring and evaluation plan to standardise the monitoring and tracking of child marriage.

## 2.10 Policy and Legislation on Child Marriage in Africa



**Across the ten countries of study, there are laws and policies setting the minimum age for marriage and other protections for women and children with varying extent and effectiveness of implementation.**

The findings show three levels of instruments that have been deployed against child marriage - international agreements and commitments; national policies and laws directed at child marriage especially minimum age and consent; and tangential laws and policies that target other fundamental rights and protections for children. By 2018, 36 countries in the continent have not only signed but also ratified the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Among the countries of study, only Morocco and Egypt have not signed and ratified the Maputo Protocol since the former only rejoined AU in 2017 while the latter have some reservations on the Protocol.<sup>26</sup> They have also launched national action plans to eradicate child marriage and other harmful traditional practices including The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which provides in Article 16(1)-2 that states should commit to eliminating all forms of violence against women through setting conditions of marriage such as minimum age, registration of marriage and consent in marriage. However, UN Women notes that while almost all the countries studied have laws and constitutional provisions that are aligned to key international instruments, there is a disconnect with the actual practices and implementation in those countries. For instance, although in all the ten countries the law recognises three forms of marriages, namely customary, religious and civil marriage, most of the legal obligations are imposed on civil marriages only thus making it difficult to enforce the legal minimum age when earlier marriages are condoned by custom or religion.<sup>27</sup>



Across the ten countries of study, there are laws and policies setting the minimum age for marriage and other protections for women and children with varying extent and effectiveness of implementation. It is evident that having the laws has made a significant difference in awareness and practice of child marriage. They have affected and shaped public attitudes, perceptions and responses to child marriage and enabled citizen and court action for enforcement. Even when local enforcement is incomplete, laws still have an impact by shaping the terms of debate and providing levers for civil society advocates.

African countries have so far set the minimum age of marriage at 18 years for both girls and boys, and sometimes above, as is the case in Algeria, Lesotho, Libya and Rwanda.<sup>28</sup> A review of laws and policies relating to child marriage in Africa (AUC/UN Women, 2017) found that out of 55 African Union Member States, 41 Member States (75%) have legal frameworks that put the minimum age of marriage at 18 years or above for both girls and boys. However, 20 (49%) of these states have exceptions legalising child marriage either with parental/guardian consent, judge approval, and many more with the court/state's approval. A total of 12 Member States (22%) do not have legal frameworks putting the minimum age as 18 years and above for both boys and girls, and six (50%) of these states have further exceptions reducing the age of marriage to as low as 10 years for girls. A further 14 (25%) Member States have disproportionate minimum age for boys and girls ranging from as low as 14 years for girls and 15 years for boys and two Member States have no minimum age for marriage. This brings the total number of states where child marriage is legalised to 34 (62%). There are Member States with no minimum age for marriage, states without legal frameworks putting the minimum age as 18 years and above, and states where frameworks putting the minimum age for marriage at 18 years and above exist, but where they have exceptions permitting child marriage or contradictory laws).<sup>29</sup> All the ten hotspot countries have legal and policy frameworks setting a minimum age of marriage. Eight countries (80%) have set the minimum age at 18 years while only two countries (Mali and Tanzania) have exemptions on age of marriage specifically affecting females. Succinctly, Mali has an exemption setting a minimum age at 16 years for girls while Tanzania has an even lower age at 15 years for females (in the *Children Act* which does not reconcile with the provisions of the Constitution which set the minimum age at 18 years for both sexes). However, males in the two countries are legally allowed to marry at a minimum of 18 years.

**TABLE 1:** Minimum age of marriage – Country Laws

Country	Girls	Boys
DRC	18	18
Egypt	18	18
Ethiopia	18	18
Malawi	18	18
Mali	16	18
Morocco	18	18
Mozambique	18	18
Niger	18 (parental permission allows marriage by age 15)	18
Nigeria	18	18
Tanzania	14 (court consent); 15 (parental consent) - the Marriage Act (1971)  Constitution provides no minimum age for marriage	18

Source: Field data

In all the study countries, the legal frameworks outline a series of requirements for a formal marriage - spousal consent without which marriage is rendered invalid; a minimum age of marriage (in most cases, 18 years); and civil registration. For example, in Niger, where over two thirds of girls between 15 and 19 years old are married (78% in 2017), girls can be married at age 15 years with parental permission. This in effect reduces the minimum age from the official limit of 18 to anything that can be permissible by the parents and the religious minister, thus exposing the loopholes in laws.<sup>30</sup> In some countries in Africa, the legal frameworks are buttressed by other policies which, seeming tangential, extend beyond the penal codes or civil laws by instituting special rights and constitutional entitlements for women and children, and which thereby, in effect, contribute to preventing child marriage. Such is the case with Malawi's school readmission policy that allows girls who became pregnant while in school to return after giving birth.

There are legal and policy loopholes created by other civil policies especially those related to registration or births, marriages, divorce and deaths. The findings point to weak registration systems that made it difficult to identify and legally prevent marriage involving under-age 'spouses' by allowing parents and marriage officials to fudge demographic data especially relating to the age of the brides. There are several legal exemptions that facilitate child marriage. An example is Mali where



although Article 281 of the Persons and Family Code sets the minimum age for marriages in Mali at 18 years for men and 16 years for women, exemptions on age can be granted in the office of the district administrator. The specific country and community conditions and practices make enforcement of laws and policies difficult and compromise the capacity and effectiveness of the structures charged with monitoring and implementing the laws. Such conditions and practices include corrupt officials and socio-culturally/religiously influenced judicial officers. In Egypt, the interpretation of Sharia laws limits the use of civil law. These conditions explain instances where abductors and rapists are facilitated to 'marry' their victims as was found to be common in Ethiopia, Nigeria and Niger.

Overall, as the African Union review of laws (AUC/ UN Women, 2017) established, in most countries the good laws 'have a range of exemptions within the law allowing for legalisation of marriage of children under the age of 18 years. Furthermore, some Member States have conflicting laws with a different minimum age for marriage applicable in civil, customary and religious courts. Customary and religious statutes and laws, although subservient to the civil laws in most countries, continue to sanction child marriages carried out especially in some rural areas and villages. The practice is rampant where the civil laws provide ambiguity and lack of clarity on prohibitions, or in countries where religious laws determine civil laws.<sup>31</sup>

Several countries have not established robust national action plans despite being signatories of the African Union campaign against child marriage. According to country data, the challenge has been the lack of willingness to invest state resources in implementing the actions and prioritising child marriage elimination in the national development agenda. Commitment at the continental level has not translated into national action plans; or in cases where costed action plans have been developed such as Tanzania, they have not been translated into practice.

There are significant political barriers to rolling out national plans because national governments negotiate and compromise on the extent of enforcing laws with traditional leaders for fear of losing power.<sup>32</sup> Due to these and other factors, some countries, including Ethiopia and Nigeria, have developed some form of monitoring and evaluation mechanism for tracking child marriage. In Ethiopia for example, IMC worldwide has commissioned a three-year independent evaluation programme that includes a biannual verification of the End Child Marriage Programme funded by DFID. This aims at delaying child marriage for more than 200,000 girls in the Amhara part of Ethiopia. Similarly, Nigeria formed a Technical Working Group on Ending Child Marriage in 2015 under the Ministry of Women Affairs and Social Development to execute a holistic implementation, monitoring and evaluation of existing laws and policies.

From the discussions and data gathered, efforts against child marriage have been benefiting from what may be considered tangential policies – policy instruments that are focused on achieving different developmental goals and SDGs such as





education and health. In all the countries of study, there is commitment to universal education of all children and access to health services. Thus, as more girls attend compulsory schooling, they are able to avoid early marriage and thus raise the national age of marriage. Some countries such as Malawi, Egypt, and Mozambique, have return to school policies although, in certain cases, they are not effective due to poverty often experienced by the families of victims of child marriage. Other policies such as those on child rights and women empowerment through quota systems have promoted an environment within which more girls can evade early marriage. The same applies for countries that have criminalised and adopted more radical interventions against child marriage, such as Morocco which enacted a law criminalising rape and subsequent marriage of rape victims.

The findings point to a universal commitment to the international instruments against child marriage across the ten study countries and in Africa in general. However, development and activation of the national action plans remains a challenge. This calls for an alternative frame of reference which will emphasise a bottom-up approach -that is, focus on socio-cultural rather than legal reforms and increased investment in activities to enhance implementation and enforcement of national laws. Effective enforcement requires clarity and elimination of possible ambiguities and loopholes by consolidating provisions on marriage under harmonised Act(s) for reference. Of critical interest here are the religious and customary provisions that redefine maturity and consent.

## 2.11 Criminalisation of Child Marriage in Africa

In 2015, the United Nations Human Rights Council by consensus adopted the first-ever substantive resolution on child marriage embedded in the Sustainable Development Goals. An explicit target under Goal five in the new sustainable development agenda is to 'Eliminate all harmful practices, such as child, early and forced marriage.' The study reports that following the adoption of SDGs and further to the African Union campaign on ending child marriage launched in 2015, nine countries of the study have developed national initiatives, strategies and plans on how to end child marriage, with the exception of Morocco.<sup>33</sup> For example, Ethiopia launched a national strategy and action plan to end child marriage in 2013. Some countries, including Malawi, have also undertaken legal reform to help end the practice. Setting 18 years or above as the legal age of marriage is a common step taken amongst the majority of the study countries.

Ethiopia is at one end of the continuum from criminalisation to non-criminalisation in the legal approach to child marriage in Africa. While 18 years is set as the legal age of marriage in the revised Family Code of 2000, special provisions in the Criminal Code of 2005 (Article 649) criminalises child marriage. The Code explicitly



states that marriage with someone below the age of 18 years (apart for the exceptions allowed according to the Family Code) is punishable with imprisonment ranging from a maximum of three years (marriage with minor below 18 years), to a maximum of seven years (marriage with minor below the age of 13 years).



**Egypt, Mali, Mozambique, Niger and Tanzania have not criminalized child marriage.**



**Niger, Mali, Mozambique and Tanzania provide exceptions to the law, for instance upon parental consent or authorization by the court.**

Despite setting the minimum age of marriage at 18 years in at least 80% of the ten study countries, 50%, constituting Egypt, Mali, Mozambique, Niger, and Tanzania have not criminalised child marriage. The eight countries above have legislated a minimum age of marriage at 18 years or above but have not criminalised child marriage. Further, five of these countries (Niger, Mali, Mozambique and Tanzania) also provide exceptions to the law, for instance, upon parental consent or authorisation by the court. Some make constitutional exceptions, typically for customary or religious law. In Tanzania, for example, the *Marriage Act (1971)* allows girls at the age of 15-17 years to marry by parental consent, while boys may marry at 18 years. Girls may even marry at 14 years with court approval. Customary marriages are exempt from the law and this further promotes child marriages below this age since girls typically are considered ready for marriage when they reach puberty. The other half of the study countries, including DRC, Ethiopia, Malawi, Morocco,<sup>34</sup> and Nigeria have explicit provisions criminalising child marriage in their countries.



## 3.0 Strategic, Programmatic and Policy Implications and Way Forward

Addressing child marriage is a sure strategic approach in promoting girl's and women's rights thus empowering them in areas such as quality education, good health, freedom from violence, work, as well as their participation in the public life. In order to achieve this, it is critical that all stakeholders (government officials, international organisations, community and religious leaders, traditional leaders, healthcare workers, school administrators and teachers, the police, the judiciary, the prosecutors, media parents, gender advocates as well as boys and girls) not only understand but also commit to their respective roles in eliminating child marriage. This policy brief therefore makes the following recommendations to support the scaling up and accelerating of interventions to end child marriage. These recommendations assume the availability of political will, resource and sustained leadership to deliver it all levels, covering issues of laws and policies, institutional programmatic interventions, traditions, cultures and behavior change as well as monitoring and evaluation.

The following are the key implications and recommendations of the brief:

### 3.1 Implications on Programming

- i. **Review and standardise programme and intervention design on ending child marriage:** Discussions with various country and regional experts, analysis of available reports and information on existing and past intervention programmes show that many are inadequately conceived and planned or exclusively centred on eradicating child marriage. The brief established a lack of clear *conceptual frameworks, theories of change or monitoring and evaluation frameworks or plans for implementation of child marriage interventions*. Due to the complexity of the issue of child marriage, the brief recommends that a regional level conceptual framework, theory of change and M&E framework be developed by various stakeholders particularly the African Union under the auspices of the Campaign on Ending Child Marriage to guide intervention programming. These



frameworks should incorporate the three levels of an ecological model- structural, social/community and behavioural- to design interventions appropriate for each level of targeted outcomes. Presently, there is disproportionate emphasis on structural interventions- laws and policies, religion and the political economy, at the expense of individual agency – girls' behaviours and family decision-making.

**ii. Harmonisation and consolidation of national interventions on child marriage:**

The brief established the existence of a variety of laws and policies across Africa. The challenge noted in the countries were the existence of many laws and policies that provided loopholes and ambiguities which made it possible for some forms of child marriage to be both legal and illegal, especially when viewed from customary versus statutory lenses like the case of Tanzania on the Children Act 1971 setting age of marriage for girls at 15 and that of boys at 18 vis-a-viz the Tanzania's constitution setting age of marriage at 18. Some countries like Mali and Tanzania also have exemptions on minimum age of marriage, a situation which complicates the policing, enforcement, prosecution and compliance related to various country laws and policies on minimum age of marriage. It is recommended that countries should work to harmonise the various laws both in their content and spirit to seal any loopholes that perpetrators use to escape legal sanctions and punishment. At national level, harmonisation of laws and their application procedures will strengthen enforcement practices.

**iii. Integrating child marriage prevention and response into gender-based violence programming:**

In all programmes related to sexual and gender-based violence, they should be integrated with child marriage as a critical component. African countries are encouraged to promote more equitable societies that are safer for women and girls through laws and policies related to inheritance, asset ownership, economic entitlement, and family law. When and where laws exist and are violated, girls need access to justice through legal-aid and paralegal professionals who are educated on the issue of child marriage and the needs of married adolescents.

**iv. Interventions that address child marriage need to integrate with sexual reproductive, maternal and neonatal health interventions:**

In addition, there is great importance of intervening against the deep-rooted norms that are adversely affecting sexual reproductive maternal and neonatal health. A study by Walker summarised possible interventions that can be cascaded at country levels across the ten study countries.<sup>35</sup> Governments also need to develop and/or strengthen sexual and



reproductive health policies to ensure youth friendly services are provided to young girls who find themselves pregnant in order to address complications related with early pregnancy.

- v. **Develop a coordination and peer review mechanism for all stakeholders working on child marriage at community and national levels:** Different agencies implementing community and national interventions and programmes duplicate efforts and in certain cases do not synergise with government efforts. On this premise, there is need for a coordination mechanism for all stakeholders working on issues of child marriage at all levels. Agencies need to work together with government in order for the interventions to have effect as working in silos only negates achieved results. Besides the periodic meetings and fora organised by the African Union and other agencies which present great learning opportunities among different countries in Africa, there is little inter country coordination and monitoring of efforts. This would also inform a coordinated regional research and information management agenda. Such an agenda should be designed to incorporate emerging lessons and innovations into child marriage interventions, policy and investment options.

### 3.2 Implications on Behaviour, Culture and Community

- i. **Develop an integrated engagement strategy and framework with traditional leaders' and authorities:** Ending child marriage requires the collaboration and leadership of traditional leaders (widely regarded as gate keepers) who can harness the positive aspects and practices in culture and customs towards enhancing and enforcing the appropriate laws and policies. Working with traditional leaders ensure a multifaceted approach in providing an enabling environment for change, accompanied by other reform strategies that encourage positive change in communities through proposed alternative rites of passage. This will enhance and leverage the existing legislative and policy frameworks which are equally important in ending child marriage. Evidence has confirmed that working with traditional leaders to challenge gender inequalities has a positive impact on the health and well- being of women and girls. It is therefore critical to engage them in ending child marriage through engagement in gender equality interventions, policy development and programming.





**ii. The effect and utility of religious and cultural practices on child**

**marriage:** The place of religion in the child marriage agenda is ambiguous- it is both a driver and potential intervention factor. There is a significant potential of the utility of religious interventions in the elimination of child marriage because there is a growing convergence between traditional and religious norms in most of the countries' hotspot communities. Cultural practices that are contradictory to religious practices tended to find common ground where both claimed moral purity as their ultimate focus in supporting child marriage. Because of the ambiguous and problematic relationship, the brief recommends the establishment of robust inter-religious interventions working groups both at national and regional level. Religious leaders are encouraged to initiate within the religious circle dialogue to question the long-held perspective of child marriages as being accepted.

**iii. Behavioural interventions, agency and male involvement on ending child marriage:**

In Africa, a clear gender-divide exists: women and girls are victims while males are predominantly perpetrators and decision makers in child marriage. To lead transformation, there is need for robust sensitisation and awareness creation to trigger change of behaviour in both males and females. Thus, the brief recommends design and implementation of standardised, gender responsive, do no harm and context responsive evidence driven interventions that can enhance the agency of girls while educating males on the negative effects of child marriage and building on male responsibility and accountability. There is need to scale up and reinforce traditional complimentary ways of redress and justice within the national law enforcement and justice. Through regional technical forums, a male involvement strategy should be developed and integrated with/into the behaviour change interventions.

**iv. Communication and advocacy strategy on child marriage:**

There is need for a purposeful communication and advocacy strategy on child marriage at national level to increase the visibility and interest on child marriage agenda. Advocacy should focus on the bureaucratic systems in the countries to enhance scrutiny on enforcement; increase investments on policy and programmes and strengthen accountability mechanisms right from community, national and regional levels. A regional distinct agenda and communication strategy centred on child marriage should be developed and linked to national action plans for cascading. This should also work hand in hand with the recommended monitoring and evaluation strategy as well as research plan to ensure that communiqués are evidence driven, policy and intervention oriented and coherent.



**v. The use of media in engaging community to change harmful social norms:**

Efforts aimed at changing family and community attitude towards child marriage require massive campaigns that can reach as many people as possible. Communities across the continent have no choice but to engage young people on the dangers of marrying girls under 18. According to the respondents in 10 countries studied by UN Women, it was established that the use of extensive communication via media including social media has great impact of informing and offering real support of change to eradicating child marriage in Africa and beyond. The findings further indicated that use of mass media can strengthen awareness of the general laws and policies pertaining to child marriage particularly to the public which is often less informed on such issues. Additionally, respondents pointed out that mass media campaigns and strategies have been instrumental in capturing governments' and other policy making bodies' attention on issues regarding child marriage including piling pressure for policy and legislative changes in most countries.

- vi. Community-based child protection and rights strategies:** These should be intensified, and existing ones should be strengthened to ensure that there is systematic prevention, reporting and monitoring of child and forced marriages as well as providing support to children who have experienced child marriage. There need to recognise traditional, culture and religious institutions as part of the multi sectoral referral system in responding to child marriage and abuse. Functional committees made of religious leaders, local administrators and traditional leaders should initiate and fast-track dialogue with various communities that are still stuck into this practice. Various child protection players should pool information, initiate and promote community-based child protection strategies, share their challenges and achievements towards a greater communication and organisation. There should be an intensified effort on heightening adolescent economic livelihoods and negotiation skills while addressing the roots and the harms of child marriage. Child marriage interventions should identify adolescent girls as the prime recipients of development initiatives. Boys and girls should be educated to ensure that they are enlightened enough to postpone marriage and denounce child marriage in their communities. Further, good practices like working community bylaws should be scaled up and replicated across Africa to increase the impact of the role of traditional leaders and cultural authorities in ending child marriage at community level.



### 3.3 Implications and Recommendations for Access to Services

- i. **The education system needs strengthening to improve access, enrolment, retention and completion of school by girls with special efforts to reduce the wide gender gaps that continuously disadvantage the girl child:** Enrolment, retention, completion and transition rates for girls need to be improved by committing the resources necessary to guarantee access to free, compulsory primary and secondary education for all girls and boys. Efforts such as making the school environment friendly for girl children that help the keep the child in school need to be enhanced. At the same time, the government owes it to the citizens to improve the standards and quality of education to make it more attractive for many families to send their girls to school. This could be achieved through building of more schools in rural areas to reduce the walking distance to school. Return to school policy for young/teenage mothers such as making it easy for them to transfer to other schools, to minimise stigma and discrimination needs to be encouraged and made more attractive for more girls to take up this opportunity. Additionally, this research supports anecdotal information that education can help to mitigate risks to child marriage. As education interventions are rarely implemented solely for child marriage outcomes, it remains challenging to prove this link, but it is one of the main recommendations to operationalise. The brief premises that education is key for economic empowerment of girls so as it improves their opportunities for better income, hence better livelihoods and in turn addresses poverty as the leading driver of the practice of child marriage. Education further provides girls a safe space where they can articulate their issues and concerns and also learn from others on the dangers associated with child marriage and generally go through the natural motions of growing up without simultaneously carrying the burdens of reproductive and productive roles. The return to school policies such as those in DRC, Malawi and Mozambique need to be encouraged as they ensure more girls get opportunities to explore on their potential for better future. Stakeholders are encouraged by the study to create non-monetary and monetary incentives, and/or provide public social transfers for school attendance. Incentives can range from covering transportation costs, to covering school fees, to giving cash transfers for attendance, to providing hot meals. This will serve to reduce cases of child marriage.



- ii. **Strengthen support services to girls at risk and victims of child marriage** by developing the capacity of local organisations and Ministries of Social Welfare to provide adequate, timely and quality services to mitigate on the impact of child marriage on the young girls and boys by among others protecting girl brides and grooms. This will not only require resourcing by government and other stakeholders but also improvement and clarity of referral systems and case management systems for prevention and response on issues of child marriage at community and national level.
- iii. **Health Services and wellbeing:** Health services are often tailored to meet the needs of adults who access them on behalf of children. Child marriages produce child parents who are not aware of the existence of the services or the need to access them. UN Women recommends building adolescents' communication and negotiation skills related to sexual and reproductive health; adopting a comprehensive sexual and reproductive health education for married and unmarried adolescents; education and mobilisation of community members on the harmful health impacts of child marriage; training of providers and equipping of facilities for the provision of youth friendly services and appropriate maternal health services.
- iv. **Psyco-social services and safety spaces/structures:** Programmes to minimise and cope with psychological consequences such as mental health risks; trauma of abrupt termination of childhood; loss of freedom and isolation; loss of voice and decision making as well as gender-based violence should be initiated or scaled up at local levels. The programmes could include counselling services and group activities with peers.
- v. **Economic empowerment and social protection policies:** Programmes that economically empower children in marriages should be initiated or supported. These might include income generating projects, skills training, savings clubs, business training that create permanent livelihoods self-sufficiency.



### 3.4 Implications and Recommendations on National Planning, Budgeting and Resourcing

- i. **Allocate adequate resources towards ending child marriage at national and community level with priorities to domestic resourcing integrated within the national development plans and frameworks:** One challenge across Africa relates to poor enforcement of existing laws and transformation of perceptions, attitudes and practices towards child marriage. African countries have not adequately invested in the same as they have not allocated any significant resources towards child marriage eradication instead leaving the interventions to, international and local civil society organisations, volunteers, movements and groups. Even in Ethiopia where the national alliance is robust and enjoys strong partnership with Government, there is little direct government investment or allocation of resources hence lack of sustainable and autonomous interventions targeting to end child marriage and its underlying causes. As part of government commitment, resource allocation towards establishing and actually implementing national action plans should be made a key benchmark by the AU and other strategic commitments including prioritising domestic resourcing. Specific child marriage focused budget lines should be included in national and local government plans and budgets to ensure sustainable and consistent efforts rather than depending on the donor and NGO priorities. The brief affirms that investing in girls throughout their adolescence delays their marriage and childbearing thereby ensuring that girls give birth as adults and are able to make informed decision on choices around issues of marriage. The delayed marriage reduces the age power imbalances between the wife and the husband. In fact, benefits of delaying marriage and childbearing among girls trickle down to the next generation as it gives the parents more room to invest in their children, particularly girls whose education and health are usually hampered.
- ii. **Actively engage girls in all decisions affecting them especially regarding investments, programming and policies on gender equality, Sexual and Reproductive Health and Rights in general and child marriage in particular:** It is imperative to effectively engage girls and young women in major discussions and decisions that affect them directly or indirectly such as child, early and forced marriage and its underlying causes and consequences. This follows that African countries should create a safe, favourable and enabling environment for girls and young women's effective participation. Girls' voices have great power for breaking the silence about child marriage and giving real life evidence for making the case at national and international levels engaging communities, political



leaders and policy makers. Putting girls' voices at the centre of the social change ensures transformational change that addresses the needs of girls. It also showcases girls' own initiatives and interventions in ending child marriage as active participants.

### 3.5 Implications and Recommendations on Legislation and Policy

- i. **Strengthen law and policy enforcement mechanisms:** All African countries have laws and policies on child marriage. In some countries, discrepancies exist between the existence of laws against child marriage and the enforcement of those laws. Enforcement of laws is further compromised by corruption, lack of accountability by responsible government officials and lack of resources to invest in public education and systems. The implication is that African governments should establish robust law enforcement mechanisms and systems that include public education, community-level monitoring and reporting of incidences. It must also include mechanisms for referral, tracking and processing reported cases to the eventual punishment of perpetrators, extraction of the children from the marriages and post-marriage support systems including protection schooling and universal access to health services. Security agencies including the community security, chiefs, and police among others should be supported with appropriate enforcement skills and awareness that aligns to the "do no harm approach" while ensuring they remain highly accountable to their actions in ending child marriage.
- ii. **Strengthen prosecution and judicial systems and processes to ensure confidence in reporting and to provide deterrents amongst perpetrators:** Laws that criminalise child marriage should guide the prosecution of child marriage cases without exemptions on the basis of third party consent or consent from the judiciary. Similarly, girls who report child marriages should be accorded protection from the time they report these marriages to the point of prosecution in court and thereafter as they seek reintegration into the community. Successful prosecution of these cases where punitive measures are exercised will provide deterrence to perpetrators while at the same time build confidence in the communities and especially for girls to report child marriages. Additionally, states should repeal any provision that enables perpetrators of rape, sexual abuse or abduction to escape prosecution and punishment by marrying their victims.





**iii. Community sensitisation and awareness on existing laws and policies:**

All African countries have enacted laws against child marriage and their citizenry and communities need to be educated on the content and spirit of the laws with emphasis on understanding the effects of the practice as well, corresponding punitive action for non-compliance as well as protection mechanisms for girls in marriage who seek dissolution of marriage. Such education should be presented in user friendly formats including the development of reader friendly material translated into local languages. Further the initiatives must be deliberate, government led and with involvement from religious and cultural leaders. Appropriate modes of communication may include social media platforms and other informative, educative and communication materials.

**iv. Harmonisation of laws and policies:**

- a.** Set the minimum age for marriage as 18 in law for both males and females without any judicial exceptions- Judicial exceptions have been witnessed in many African countries including Mali, Niger and Tanzania among others. To adequately enforce these laws, capacity building should be targeted to all judicial officers and marriage registrars to understand the detrimental impact of child marriage and benefits in delaying marriage and enforce laws against child marriage. Also, the study found several legal exemptions that facilitate child marriage. An example is Mali where Article 281 of the Persons and Family Code sets the minimum age for marriages in Mali at 18 and 16 for girls. Additional exemptions on age can be granted in the office of the District Administrator. Laws should be amended to ensure that there is no gender discrimination in law and that laws should be aligned to reflect the minimum age of marriage as 18 years for both boys and girls.
- b.** Amend laws and policies to ensure that customs, traditions and religion do not override constitutionally guaranteed and protected rights for women and children.

- v. Strengthen registration and vital statistics to ensure legal compliance to eliminate child marriages:** This includes birth, death, citizenship and marriage which enables planning for interventions, targeting and resourcing of services and ensuring appropriate policies to prevent child marriage and support married children. In all the countries of study, there



were weak registration systems that made it difficult to identify and legally prevent child marriages by allowing parents and marriage officials to fudge demographic data especially relating to the age of the brides. Countries need to prioritise and regularise the registration of births especially for individuals living in rural and remote areas and all types of marriages so that they are able to identify girls who are married below the age of 18 based on actual age and not the onset of puberty. Furthermore, states should identify and remove all physical, administrative, procedural and any other barriers that impede access to registration and provide, where lacking, mechanisms for the registration of customary and religious marriages.

### 3.6 Implications and Recommendations on monitoring, reporting and accountability

- i. **Develop national and regional accountability frameworks and mechanisms on ending child marriage:**
  - a. **Accountability through the Treaty Bodies:** Reporting on the African Charter on the Rights and Welfare of the Child through the periodic report to the Committee by Member States.
  - b. **Report to the African Common Position (ACP) on Ending Child Marriage, through the biannual report to the African Union Summit.** This is presented through the Presidential Champion on ending child marriage. While the ACP provides for a report once every two years, the nature and core indicators of such a report are yet to be defined.
  - c. **The African Union Campaign on ending child marriage has monitoring and evaluation as one of its key pillars.** The work of the campaign is to end child marriage through an integrated approach including stakeholder engagement-Member States, CSOs, Media, Private Sector, the African Union Goodwill Ambassador on Ending Child Marriage as well as the Special Rapporteur on Ending Child Marriage among other players. However, there is no standardised, established and documented approach for such monitoring. To ensure that African countries commit to specific targets and set indicators of progress, the brief recommends developing accountability structures, frameworks and mechanisms on ending child marriage at



national and regional level. The accountability frame work shall be a tool to monitor country and regional progress towards the agreed commitments as set out in the AU agenda on ending child marriage whilst synergising with sustainable development goal 5.3 on eliminating all harmful practices, such as child, early and forced marriage and female genital mutilations. There should be a coordination mechanism at the AU level which plays a key role in the development and implementation of the accountability mechanism.

- ii. **Develop and standardise monitoring and evaluation plans on child marriage:** In each country in Africa, there are various ways of tracking and reporting child marriage interventions, many of which are inadequate and difficult to link to interventions going within the country. There are also ambiguities in definitions and application of some key concepts in the child marriage programs arena. For instance, the conception of child marriage versus early marriage was problematic in some countries such as Egypt. Key indicators were predominantly reliant on health or education sectors thus unable to track systemic level interventions. There is a gap for a regional standardised M&E framework which will be critical in defining clearly the logic of interventions across countries, the expected outcomes and change processes. More importantly, a standardised regional M&E framework can be cascaded to each country; providing a standard set of child marriage focused indicators that can be tracked by respective sectors in each country. Regional and national information management systems should be developed which may be linked to the DHIS.<sup>36</sup> Enhance and strengthen the role of parliament, human rights and gender commissions as monitoring institutions for ending child marriage.
- iii. **Social Accountability and Civil Society Engagement:** In addition to governments, and intergovernmental led monitoring and evaluation strategies approaches, it important to resource and strengthen civil society led monitoring, evaluation and documentation approaches and initiatives. This could include but are not limited to the following:
- An annual and thematic flagship report on status and progress on ending child marriage, that UN Women could lead as a collaborative with African Union and a research organisations as strategic way of tracking key gender equality related indicators related to SDG 5 target 3 on harmful practices. This could be launched annually as part of the Day of the African Child.



- Shadow Reports by Civil Society on ending child marriage, which could specific be tracking progress on set of civil society defined indicators and such report could be aligned with the periodic report on the African Common Position on Ending Child Marriage
  - Annual Report of the AU Goodwill Ambassador on working with both the CSO Reference Group on Ending Child Marriage could be an advocacy tool with both the engagement with governments, the African Union institutions including those on Human Rights.
  - National shadow reports by civil society and community monitoring of by-laws could also provide a solid systems of tracking significant stories of change in communities including on behaviour change.
- iv.** Establish and strengthen the capacity of traditional authorities and religious institutions in monitoring and evaluation related to child marriage.
- v.** Ensure reporting at regional and global reporting mechanisms that monitor the implementation of targets set on ending child marriage such African Commission on Human and People's Rights (Reporting on the Maputo Protocol), The African Committee of Experts on the Rights and Welfare of the Child (Reporting on the African Charter), the Agenda 2063 Monitoring Mechanism, African Forum on Sustainable Development and the High Level Political Forum and its Voluntary National Review Processes.



# Endnotes

- 1 UN, 1989. The Convention of the Rights of the Child, Article 24.3. Available at: [www.unicef.org/crc/](http://www.unicef.org/crc/). Currently, 193 countries – excluding Somalia, South Sudan and the United States – are party to the Convention.
- 2 UNFPA, 2013
- 3 The World Bank: Educating girls, ending child marriage; 2017
- 4 Girls Not Brides, 2017.
- 5 The 10 countries with the highest prevalence of child marriage in 2014 include Nepal, Burkina Faso, Ethiopia, India, Central African Republic, Mali, Chad, Bangladesh and Niger.
- 6 United Nations Children's Fund, Ending Child Marriage: Progress and prospects, UNICEF, New York, 2014.
- 7 UNICEF, 2016. State of the World's Children Report
- 8 Ibid.
- 9 UNICEF, 2017
- 10 [www.Devinfo.info/mdg5b/profiles/2017](http://www.Devinfo.info/mdg5b/profiles/2017)
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- 12 Source: <https://www.girlsnotbrides.org/region/sub-saharan-africa/> - (cited on 14/01/2018)
- 13 UNICEF, 2017. Achieving a Future without Child Marriage: Focus on West and Central Africa. (Source: <https://data.unicef.org/wp-content/uploads/2017/10/Child-Marriage-WEB.pdf>)
- 14 United Nations Children's Fund, Ending Child Marriage: Progress and prospects, UNICEF, New York, 2014.
- 15 Morocco left the then Organization for Africa Unity in 1984 following the AOU's recognition of the independence of Western Sahara/Sahrawi Arab Democratic Republic (SADR). However, it ended her 33 years absence from the Union when the AU Summit voted her back on 30 June 2017. The country is yet to comply with the various protocols and summits of the AU
- 16 All variables are coded between 0 and 1. The value 0 means no or very low inequality and increases relative to the level of inequality and discrimination against women and girls up to the highest value of 1 which indicates the highest level of inequality and discrimination. Succinctly, (SIGI < 0.04 means very low; 0.04 < SIGI < 0.12 means low; 0.12 < SIGI < 0.22 means medium; 0.22 < SIGI < 0.35 means high; SIGI > 0.35 means very high).
- 17 <http://hdr.undp.org/en/indicators/137506#>
- 18 Education attendance rates among both parents and children are low, particularly in the countryside. This facilitates child marriage and consequently, such rates worsen for girl wives and their families since married girls hardly continue and finish their education. This may create a cycle of poorly educated parents and generations in such areas if the situation is not reversed in time
- 19 Both articles 16 and 20 give the court the opportunity to legalise underage marriages in Morocco. Article 16 particularly allows for late recognition of marriages based on existence of pregnancy, children or conjugal relationship
- 20 Refer to Case Study 28: *Moroccan Moudawana has a big legal gap* for detailed statistics on case referrals and their subsequent approval between 2007 and 2013.
- 21 Parsons, J Edmeades, J Kes, A Petroni, S Sexton, M & Wodon, Q (2015) Economic Impacts of Child Marriage: A Review of the Literature, The Review of Faith & International Affairs, 13:3, 12-22, DOI: 10.1080/15570274.2015.1075757
- 22 *ibid*
- 23 Nawal M. Nour, 2006. Health Consequences of Child Marriage in Africa Emerging Infectious Diseases. [www.cdc.gov/eid](http://www.cdc.gov/eid) • Vol. 12, No. 11, November 2006
- 24 Onyisi, J.A (2018, January). Analysis of Child Marriage and SDGs.
- 25 UN Women analysis on gender-specific SDGs and targets, conducted by Ms. Lakshmi Puri - Assistant Secretary General, Strategic Partnerships, Coordination and Intergovernmental Support Bureau.



- 26 Ratification Table: Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa <http://www.achpr.org/instruments/women-protocol/ratification/> Accessed on April 11 2018.
- 27 Forum on Marriage and the Rights of Women and Girls Early Marriage and Poverty: Exploring links for policy and programme development (2003)
- 28 Ibid.
- 29 African Union, 2017. Marriage Laws in Africa: A compendium of Laws from 55 Countries in Africa (Unpublished).
- 30 Arthur, Megan et al., 2014. *Legal Protections against Child Marriage around the World*. World Policy Analysis Centre/MachEquity, Los Angeles.
- 31 African Union, 2017 Ibid.
- 32 African Union key informant – Addis, 21<sup>st</sup> February 2018
- 33 Supra, note 14.
- 34 Morocco has advanced its journey in fighting violence against women when she created a new Article in the penal code, in February 2018, which criminalises forced marriages, and doubles the sentence when the bride is a minor
- 35 Walker, J. 2012. Early Marriage in Africa – Trends, Harmful Effects and Interventions. *African Journal Reproductive Health 2012 (Special Edition)*; 16[2]: 231-240
- 36 The District Health Information System (DHIS) is used in more than 60 countries around the world. DHIS is an open source software platform for reporting, analysis and dissemination of data for all health programs, developed by the Health Information Systems Programme (HISP).

## Additional Resources

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