



WOMEN'S LEGAL CENTRE

# CHILD MARRIAGE

OPINION - WOMEN'S LEGAL CENTRE

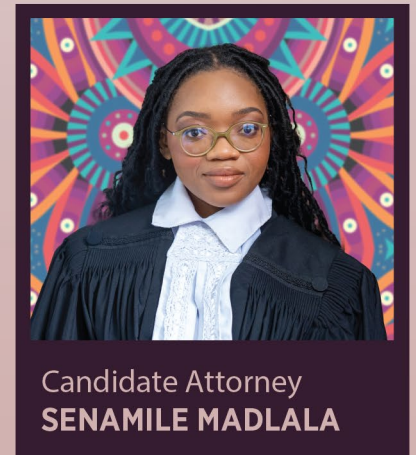
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On 19 December 2011 the United Nations General Assembly adopted a resolution to declare 11 October as the International Day of the Girl Child. The day seeks to promote the empowerment of girls in their full diversity and to not only identify the challenges that girls face but to address them.

The United Nations estimates that up to 10 million girls are at risk of child marriage, and that the COVID 19 pandemic which saw the closure of schools and interruption of access to sexual and reproductive health care services has had a further detrimental impact on girls. The ongoing economic downturn will continue to impact on food security, tenure security and family's ability to provide for their children, and because of patriarchal attitudes and families girls vulnerability will be compounded.

Under the guise of custom, we continue to see many rural girls being subjected to harmful practice such as ukuthwala. Although the definition and justification for the abduction and

forced marriage of girls against their will have taken many forms over decades the practice continues to impact the lived reality of girls. The practice which once may have served a justifiable purpose has become an abhorrent rights violation steeped in gender discrimination as it is only unmarried young women and girls that are at risk of abducted. Custom which infringes on the fundamental human rights and bodily integrity, human dignity, equality, sexual self-determination, and health, of young women need to be addressed.

Child marriage presents a major challenge for South Africa because it remains unclear how many young girls are affected. Statistics South Africa has made it known that officially 207 child marriages were recorded in 2021 and 188 of that number were young girls. The fact that there remains legal uncertainty in respect of the age of consent for marriage compounds girls' vulnerability, because it is not as simple as the age of consent being set at 18 years.

Our fragmented laws allow for deviation from the age of consent with permission from parents and guardians and state officials depending on which marital regime is chosen to conclude the marriage. These deviations permitted by law muddies the waters and leaves girls exposed. It also means that girls as young as 15 can be married of legally in our country.

Our legislative and regulatory framework for marriage does not recognises all the different forms of marriages being concluded. This makes it possible for child marriage to go unrecorded and girls vulnerable.

The recorded statistics indicate that teenage pregnancies increased from 129 951 in 2017/18 to 152 292 in 2020/21, this is amongst girls from the age of 10 to 14. We know that we have high rates of pregnancy amongst teenage girls without any real information about who the perpetrators are that are raping girls that do not have the legal capacity to consent to sex. Of concern is that in many instances to avoid arrest and criminal prosecution young girls are married to the perpetrators in exchange for the payment of damages or other forms of economic benefit under the guise of upholding the family honour and avoiding stigma and shame within their communities.

Not enough attention and resources are being spent to eradicate patriarchal views on women and girls and their place in our society. Deeply entrenched beliefs that devalue women and girls and the desire to control their bodies and reproduction require continues and ongoing attention within our communities. We need to address the belief that women's only value lies in reproduction and caring for families.

We also require the government to adopt and implement laws that are clearly oppose to child marriage. That sets the minimum age for marriage at 18 years, and that does not allow for deviations and exceptions. We need to ensure that where adults participate in criminal acts of violence

against girls such as forced and coerced marriage and rape, they are held accountable.

This international day of the girl child we call for action to address child marriage and ensure that we do not leave those most vulnerable in society behind.

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