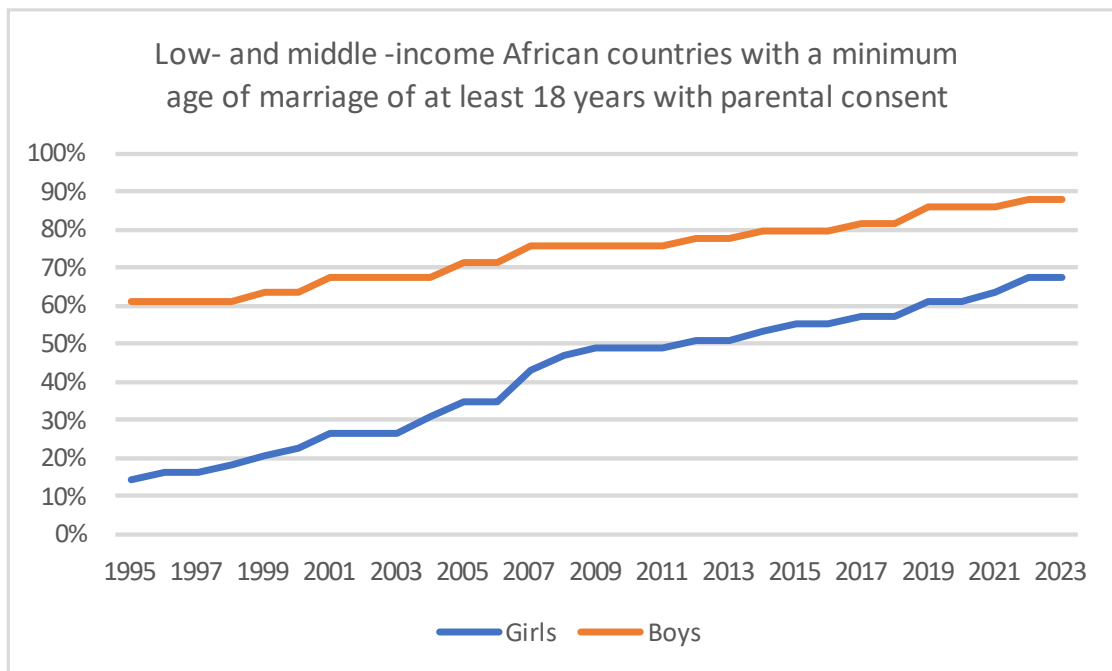


Child Marriage Laws: South Africa in a Regional Context

Child Marriage: South Africa in context

- 69% of African¹ countries set a minimum marriage age of 18 for girls when taking into account parental consent exceptions. South Africa remains one of the minority of countries in Africa allowing girls to marry before the age of 18 with parental consent. In South Africa, girls can marry at 15 with parental consent.
- Currently, 70% of countries in Africa set a minimum age of 18 for girls when taking into account customary or religious law exceptions. South Africa is one of only 13 countries in Africa that exclude customary and religious marriages from the general marriage legislation. In South Africa, boys and girls can marry at any age under customary or religious law.
- In the 50 African countries for which we have complete data since 1995, Africa has seen phenomenal progress in raising the minimum age of marriage, even accounting for parental consent, and in closing the gender difference in legal age of marriage. In 1995, only 14% of countries ensured that girls did not marry before 18 when parental consent was taken into account. In 2023, these figures had grown to 67% for girls.



¹ African countries include all African Union members that are also United Nations members.

Why Child Marriage Laws Matter

Child marriage disproportionately affects girls, who are 5 times more likely than boys to be married by the age of eighteen; around the world, nearly twelve million girls are married every year.²

Girls who marry before the age of 18 face significant negative consequences, such as:

Education:

- Recent estimates from the World Bank and the International Center for Research on Women suggest that child marriage is responsible for up to a third of girls' dropout rate from school, depending on the country.³
- According to the World Bank and the International Center for Research on Women, each year of marriage before the age of eighteen is associated with a 4 to 6 percentage-point reduction in girls' chances of completing secondary school.⁴
- Child marriage is also likely to have a negative effect on the educational attainment of children of mothers who marry early.⁵

Health:

- Around 75 percent of births to mothers under age eighteen in low- and middle-income countries can be attributed to child marriage, and pregnancy complications are the leading cause of death globally among girls ages fifteen to nineteen.⁶
- One study of forty-five low- and middle-income countries found that risks of neonatal mortality could be over twice as high for babies born to girls ages sixteen or younger compared to women in their twenties.⁷

Domestic violence:

- A study of thirty-four countries found that 29 percent of young women who had been married as children had experienced sexual or physical violence in their relationships in the preceding year, compared to 20 percent of women married as adults.⁸

² UNICEF. *Child marriage*. <https://data.unicef.org/topic/child-protection/child-marriage/>, consulted October 20, 2021.

³ Q. Wodon et al. (2017a). *Economic impacts of child marriage: Global synthesis report*, Washington, DC: The World Bank and International Center for Research on Women.

⁴ Q. Wodon et al. (2017b). *Economic impacts of child marriage: Educational attainment*. Washington, DC: The World Bank and International Center for Research on Women.

⁵ Ibid.

⁶ Q. Wodon, C. Male & A. Onagoruwa (2020). A simple approach to measuring the share of early childbirths likely due to child marriage in developing countries. In *Forum for Social Economics*, 49(2), 166–179. Routledge.

⁷ S. Neal, A.A. Channon, & J. Chintsanya (2018). The impact of young maternal age at birth on neonatal mortality: Evidence from 45 low and middle income countries. *PLoS One*, 13(5), e0195731.

⁸ R. Kidman (2017). Child marriage and intimate partner violence: A comparative study of 34 countries. *International Journal of Epidemiology*, 46(2), 662–675.

- A 2020 study by the WORLD Policy Analysis Center found that, in countries that strengthened child marriage laws, women’s risk of domestic violence dropped by larger margins than in countries that did not.⁹
- The same study found that prohibiting child marriage by law was associated with a greater likelihood that both men and women would consider domestic violence “unacceptable”.¹⁰

The economy:

- By curtailing their school attendance, girls who marry early forego up to 15% in yearly earnings.¹¹

KEY ELEMENTS OF LAW

Examples of strong legislative text approaches from other African countries are included at the end of the document.

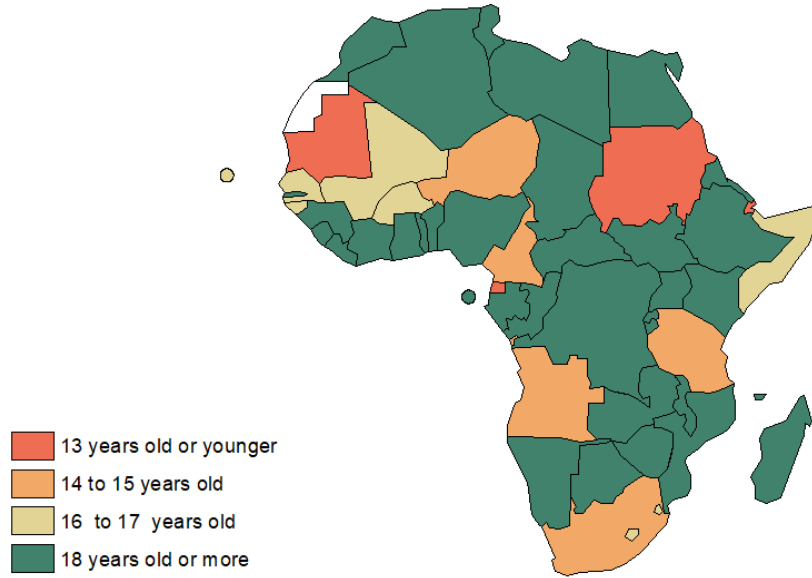
- Child marriage laws should target a **minimum age of 18** for both boys and girls, **without exceptions**.
 - Currently, in South Africa girls can marry at 15 with parental consent. South Africa is one of only 8 countries in Africa that allows girls to marry at age 15 or younger with parental consent. 69% of countries in Africa set a minimum age of 18 for girls when taking into account parental consent exceptions.
 - South Africa is one of only 12 countries in Africa that have no explicit minimum age of marriage under customary or religious law. 70% of countries in Africa set a minimum age of 18 for girls when taking into account customary or religious law exceptions.
 - In setting the minimum age of marriage at 18 after all exceptions are taken into account, South Africa would be joining other countries in Southern Africa such as the Democratic Republic of the Congo, Malawi, and Mozambique.
- Child marriage laws should protect girls as well as boys from early marriage. In South Africa, girls can marry at 15 and boys at 18 with parental consent. Eliminating the age difference in minimum ages of marriage for girls and boys, as South Africa is trying to do, is a second crucial element of legislation.
 - 61% of African countries have no difference in the legal age of marriage for women and men once parental consent and customary/religious exceptions are taken into account.

⁹ N. Omidakhsh, N., & J. Heymann (2020). Improved child marriage laws and its association with changing attitudes and experiences of intimate partner violence: A comparative multi-national study. *Journal of Global Health, 10*(1).

¹⁰ Ibid.

¹¹ Q. Wodon et al. (2017a).

What is the minimum age of marriage for girls with parental consent?



Source: *WORLD Policy Analysis Center, Child Marriage Database*

LEGISLATIVE TEXT EXAMPLES FROM AFRICAN COUNTRIES

Ghana

ACT OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE CHILDREN'S ACT, 1998

Section 14. Right to refuse betrothal and marriage. (1) No person shall force a child:

(a) to be betrothed;

(b) to be the subject of a dowry transaction; or

(c) to be married.

(2) The minimum age of marriage of whatever kind shall be eighteen years.

Benin

Amendment to Code des personnes et de la famille (2018), 2021

Article 119 nouveau : Chacun des futurs époux doit consentir personnellement aux fiançailles.

En aucun cas, le mineur ne peut être fiancé.

Article 123 nouveau: « Le mariage ne peut être contracté qu'entre un homme âgé d'au moins dix-huit (18) ans et une femme âgée d'au moins dix-huit (18) ans.

Article 124 nouveau : La femme divorcée ou veuve peut, sans délai se remarier des lors qu'elle administre la preuve de ce qu'elle ne porte pas de grossesse son précédent mariage.

Kenya

The Marriage Act, 2014

4. A person shall not marry unless that person has attained the age of eighteen years.

87. Any person who marries a person who is below the minimum age commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or a fine not exceeding one million shillings or to both.

Egypt

Civil Status Law, 2008

Article 31-bis The marriage contract shall not be registered for those who did not reach eighteen (18) years of age. [...]

Without prejudice to any criminal penalty stipulated in any other law, anyone who registers a marriage that violates provisions of this article shall receive disciplinary punishment.

About the WORLD Policy Analysis Center: Data for all 193 countries

The WORLD Policy Analysis Center, analyzed laws in all countries to determine how many establish eighteen years as the minimum legal age of marriage. Further, since in many countries, minimum age laws carve out exceptions for parental consent or marriages performed under customary or religious law, we capture separately whether any of these exceptions exist, and at which age they are applied. In addition, despite overwhelming evidence that child marriage primarily affects girls, some countries still legally allow girls to be married at younger ages than boys; for this reason, we distinguish the minimum age of marriage for girls from that of boys.

For any questions, reach out to mbarrera@ph.ucla.edu and learn more at worldpolicycenter.org