

# Child Marriage

Child marriage is when one or both parties are under 18 years old at the time of the marriage. It happens around the world, transcending culture, race, and religion. Child marriage takes place in the U.S. and is legal in 44 states.<sup>1</sup> Some states allow marriage with judicial consent with no minimum age restriction.<sup>2</sup> The Pew Research Center estimates that 57,800 minors aged 15 to 17 were married in the U.S. in 2014.<sup>3</sup> Data from several U.S. states demonstrates child marriage's disparate impact on girls; approximately 90% of the children married in recent years were girls.<sup>4 5 6</sup>



Worldwide, according to UNICEF, fifteen million girls under the age of 18 are married each year, approximately 41,000 child brides each day.<sup>7</sup> Child marriage is regarded as a human rights violation by the United Nations,<sup>8</sup> United Nations Children's Fund (UNICEF),<sup>9</sup> Human Rights Watch,<sup>10</sup> and the International Center for Research on Women (ICRW),<sup>11</sup> among others. The United States government has identified abolishing child marriage as a key strategy to promoting gender equality and fighting poverty.<sup>12</sup>

## A WORLDWIDE MOVEMENT TO ABOLISH CHILD MARRIAGE

In the past few years, there has been increased attention and consensus, both globally and nationally, about the need to abolish child marriage.

In 2014, the U.K. and UNICEF's London Girl Summit aimed to mobilize efforts to end child marriage.<sup>13</sup> The U.N. adopted resolutions setting out key recommendations to end child marriage, declaring child, early, and forced marriage (CEFM) a human rights abuse,<sup>14</sup> and adopting Sustainable Development Goals that included ending child marriage by 2030.<sup>15</sup> The U.N.'s Human Rights Council adopted a resolution by consensus recognizing child marriage as a human rights violation. In 2016, UNICEF and the U.N. Population Fund launched the Global Programme on Accelerating Action to End Child Marriage in 12 countries. Between 2016 and 2019, 11 countries developed child marriage action plans reaching millions of adolescent girls.<sup>16</sup>

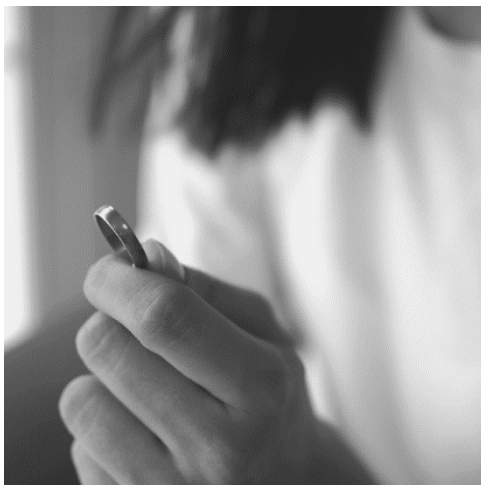
The African Union adopted a position calling for a minimum marriage age of 18, and a number of African countries developed national strategies to end child marriage and raise their minimum age of marriage to 18.<sup>17</sup> Worldwide, at least thirteen countries have changed laws or policies to help end CEFM since 2011.<sup>18</sup>

In the U.S., bills have been introduced in many states in an attempt to eliminate child marriage. Since 2016, at least 25 states have strengthened their marriage-age laws.<sup>19</sup> As of August 2021, six states have

banned underage marriage, with no exceptions: New Jersey (2018), Delaware (2018) Pennsylvania (2020), Minnesota (2020), Rhode Island (2021), and New York (2021).<sup>20</sup> Seven have banned minors from marrying unless they have been court-emancipated.<sup>21</sup> Other states have raised the minimum age of marriage and allow certain exceptions to be made. For example, Connecticut's governor signed a law prohibiting child marriage, providing an exception for 16- and 17-year-olds with the consent of a parent and a judge.<sup>22</sup>

## ADULTS MARRYING MINORS: A DISPROPORTIONATE IMPACT ON GIRLS

In the U.S., every state requires parties to a marriage be at least 18 or older. Several states set higher minimum ages.<sup>23</sup> <sup>24</sup> However, most have exceptions, allowing minors aged 16 and 17 to marry with parental consent, and many allow younger children to marry with judicial consent.<sup>25</sup>



These laws can allow marriages of parties that would otherwise violate statutory rape laws. For example, health record data in New Jersey showed that 91% of the minors who married between 1995 and 2012 were married to adults and that 90% of those children who married were girls.<sup>26</sup> Someone 18 or older who has sex with a child under 16 can be charged with a felony in Idaho, yet between 2000 and 2010, more than 50 Idaho girls under the age of 16 were married to adult men aged 18 or older.<sup>27</sup>

According to New Hampshire's vital statistics, between 1995 and 2012, 369 minors were married, and 88% of them were girls.<sup>28</sup> Virginia's records show that almost 4,500 children as young as 13 were married between 2004 and 2013,<sup>29</sup> and in 2013 alone, 227 minors were married, 88% of whom were girls.<sup>30</sup> Alarming, 90% of the children married were married to adults, and 30 – 40% of those adults were 21 or older; some of the adults were decades older than the children they married.<sup>31</sup>

Vermont has a child marriage rate of 3.7 per thousand, less than the national average of 4.6, but higher than other New England states, including New Hampshire (3.2), Maine (2.2), and Rhode Island (2.0).<sup>32</sup>

According to Vermont Department of Health records, 223 Vermonters age 16 – 17 were married between the years of 2000 – 2013, and 87% of those were girls.<sup>33</sup> VCW analysis indicates that 49% of girls who married as minors wed someone 4 or more years older than themselves, including 9% of girls who married someone more than 10 years older, compared to 20% of boys who married someone 4 or more years older than themselves, and 3% of boys who were wed to someone more than 10 years older than themselves.<sup>34</sup>

## VERMONT LAW

Vermont allows parties ages 16 and 17 to marry with one parent’s consent, demonstrated by an affidavit on the back of the marriage license. Vermont does not allow the marriage of parties 15 or younger, even if parental consent is given. Vermont’s statutes do not require that a minor must consent to a marriage.<sup>35</sup> No court review is required.

In Vermont, when minors marry, they are considered legally emancipated.<sup>36</sup> Without a valid marriage or service in the armed forces, the emancipation process in Vermont requires an order from a judge. In the emancipation process, the judge must consider seven factors to determine if the minor has both the maturity and the ability to support themselves, and also to determine if emancipation is in the best interest of the minor.<sup>37</sup> The opinion and recommendations of the minor’s parents or guardians are one criterion weighed among others in evaluating the best interests of the minor.<sup>38</sup> Bypassing this review system puts minors at risk.

## ARGUMENTS AGAINST RESTRICTIONS ON THE MINIMUM AGE OF MARRIAGE

Historical, religious, and cultural precedent are influential factors in continuing the practice of child marriage. Arguments supporting the continuation of child marriage center around upholding religious customs, preventing children from being born out of wedlock, allowing young military service members to marry before being deployed thereby providing financial support to the couple, and giving girls self-determination. New Jersey Governor Chris Christie cited the preservation of religious customs and traditions as the reason behind his 2017 veto of a ban.<sup>39</sup> New Hampshire Rep. David Bates voted against a bill that would raise the minimum age of marriage, saying, “If we pass this, we will ensure forever that every child born to a minor will be born out of wedlock.”<sup>40</sup> Rep. Bates also cited concerns about preventing 17-year-olds who join the military from marrying before deployment.<sup>41</sup> Idaho Rep. Bryan Zollinger stated in 2019 that a state bill attempting to end state marriage “went too far”, saying “marriage is a contract between people that shouldn’t require government permission.”<sup>42</sup>



## ARGUMENTS IN FAVOR OF RAISING THE MINIMUM AGE OF MARRIAGE

### ***Child Marriage Perpetuates Gender Inequality***

The U. S. government has acknowledged child marriage as a human rights abuse, and abolishing child marriage is part of a larger strategy to promote gender equality and to reduce poverty.

*“Ultimately [Child, Early, and Forced Marriage] CEFM arises from, and often perpetuates, gender inequality. It is a human rights abuse that contributes to economic hardship and leads to under-investment in girls’ educational and health care needs. CEFM undermines economic productivity, threatens sustainable growth and development, and fosters conditions that enable or exacerbate violence and insecurity, including domestic violence. It produces devastating repercussions for a girl’s life, effectively ending her childhood. Early marriage forces a girl into adulthood and motherhood before she is physically and mentally mature and before she completes her education, limiting her future options, depriving her of the chance to reach her full potential, and preventing her from contributing fully to her family and community.”*

- U.S. Global Strategy to Empower Adolescent Girls, 2016 <sup>43</sup>

### **Negative Health, Education, and Poverty Outcomes**

Child marriage has negative health effects for girls and women. Girls who marry at age 18 or younger face significantly higher health risks compared to women who marry at 19 or older, including a 23% higher risk of heart attack, diabetes, cancer, and stroke.<sup>44</sup> Women who marry as minors are significantly more likely to present with psychiatric disorders, including substance use disorders, mood disorders, anxiety disorders, and personality disorders.<sup>45</sup>

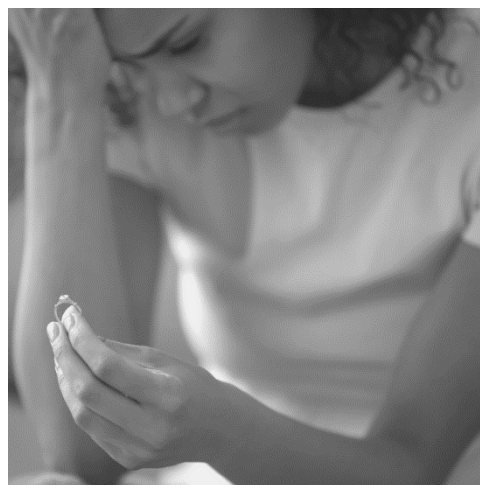
Teen girls who marry as children are 130% more likely to be pregnant than unmarried teens who live with a partner,<sup>46</sup> and are more likely to have their first child before the age of 18.<sup>47</sup> According to the World Health Organization, complications from pregnancy and childbirth are the leading cause of death globally for girls between the ages of 15 and 19.

***Girls who marry before age 18 are 300% more likely to be beaten by their spouses compared to women who are at least 21 when they marry.***<sup>48</sup>

Child brides face serious educational consequences as well; girls in the U.S. who marry before the age of 19 are 50% more likely to drop out of high school and four times less likely to graduate from college.<sup>49</sup> These and other barriers lead girls who marry young to be 31% more likely to live in poverty.<sup>50</sup>

### **Increased Likelihood of Divorce**

Age at marriage is one of the strongest predictors of divorce.<sup>51</sup> Overall, around 50% of marriages end in divorce.<sup>52</sup> However, child marriages are significantly more likely to end in divorce than marriages entered later in life; between 70-80% of marriages entered before age 18 end in divorce,<sup>53</sup> and for those who marry in their mid-teens or younger, the divorce rate is closer to 80%.<sup>54</sup>



Child marriage followed by divorce doubles the likelihood that child mothers will descend into poverty.<sup>55</sup> Individuals who wait to marry are far less likely to divorce; fewer than thirty percent of marriages entered at age 25 or later end in divorce.<sup>56</sup> Divorce correlates with a higher rate of poverty than never marrying,<sup>57</sup> and has far-reaching emotional consequences for both parents and children.

### ***Risk of Force and Coercion***

Allowing child marriage with parental or judicial consent can facilitate forced marriages of minors. Forced marriage of minors by their parents is not prohibited in most U.S. states.<sup>58</sup> A survey by the Tahirih Justice Center, a leading national organization dedicated to ending gender-based violence against immigrants, found 3,000 known or suspected cases in 2009 and 2010 of girls in the U.S. as young as 15 forced to marry under threats of death, beatings, or ostracism.<sup>59</sup> Unchained At Last, a national non-profit dedicated to ending child and forced marriage, estimates that hundreds of thousands of women and girls in the U.S. are in forced marriages.<sup>60</sup>

Studies show that victims of child marriage in the U.S. are acutely vulnerable to higher rates of physical, emotional, or verbal abuse.<sup>61</sup> Minors face force and coercion from two primary sources – friends and partners, and parents and family.



The younger a teen begins sexual activity, the more likely it is a result of force or coercion.<sup>62</sup> Teen girls who are physically or sexually abused are six times more likely to become pregnant.<sup>63</sup> Allowing exceptions for teen pregnancy could subject teens to further rape and abuse. Parental consent may not offer the protection one might hope; while 82% of parents feel confident that they could recognize the signs if their child was experiencing dating abuse, 58% could not correctly identify all the direct warning signs of abuse according to a 2009 study.<sup>64</sup>

Minimum age and parental consent laws were primarily put in place to prevent teenagers from marrying without their parent's consent, not to protect children.<sup>65</sup> Few states' marriage laws set forth that the minor must also consent to the union or require a court to assess whether the minor is being forced, frauded, or coerced into the union. Cultural and parental expectations could feel insurmountable to a child of 16 or 17. Teenagers who do not grasp the impact and consequences of marriage can easily grasp the consequences of disobeying their parents insisting they marry.

### ***Consent and Contract Law***

It is a longstanding legal principle in the United States that minors do not have the capacity to enter into legally binding contracts, and every state has statutorily restricted the enforceability of contracts entered into with minors. In Vermont, being underage is a defense against the enforcement of simple

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contracts.<sup>66</sup> Adults can enter contracts on behalf of their minor children, but it is the adult who retains the legal obligations under such contracts.

Marriage is a unique, permanent, binding contract with far-reaching impacts, that requires a judicial order to terminate. When minors marry even with parental consent, it is the minor who acquires legal obligations and faces the potential consequences of their marriage and likely its dissolution, including alimony, property distribution, and legal fees.

Allowing minors to marry is inconsistent with existing policy. Adolescents' brains are still developing until they reach their early 20s,<sup>67</sup> generating concern about minor's ability to consent to marriage. In Vermont and around the nation, the age of majority is 18. Those age 17 or under are not permitted to enter legally binding contracts, to make their own health or education decisions, including to purchase alcohol or cigarettes, and are not subject to the same punishments for violations of criminal laws as adults.

### ***Barriers to Legal Assistance***

A minor pressured to marry by their family may face barriers in seeking outside assistance to prevent the union. Obtaining legal counsel could prove difficult as retainer agreements made with minors are generally voidable. Vermont statutes prohibiting the sheltering of runaway minor children could deter organizations and shelters that provide support in these situations to adults from sheltering a minor child to prevent a non-consensual marriage.<sup>68</sup>

## **PUBLIC POLICY RESPONSE**

Many international human rights organizations recommend raising the minimum marriage age to 18 as the first step in ending child marriage.<sup>69</sup> UNICEF urges governments to establish 18 as the minimum legal age to marry without exception,<sup>70</sup> as does the U. N. Population Fund.<sup>71</sup> Human Rights Watch put forth a clear position, stating that:

***“Adopting and implementing cohesive national legal frameworks that uphold international human rights standards is key. This includes making 18 the minimum marriage age, avoiding loopholes such as exceptions for parental consent, ensuring the laws require free and full consent of both spouses, requiring proof of age before marriage licenses are issued, and imposing penalties on anyone who threatens or harms anyone who refuses to marry.”***

– Human Rights Watch, Ending Child Marriage:  
Meeting the Global Development Goals' Promise to Girls<sup>72</sup>

### ***Preventing Forced Child Marriage***

Some states are using additional tools to prevent forced child marriage: explicitly requiring the consent of the minor to marry, and passing criminal laws that prohibit using force, threats, coercion, or fraud to compel individuals into marriage. Most states do not require that a minor consent to their marriage.



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However, Hawaii<sup>73</sup> and Indiana<sup>74</sup> explicitly require the consent of the minor parties before marriage can occur. Arizona,<sup>75</sup> Mississippi,<sup>76</sup> and Utah<sup>77</sup> explicitly require the consent of minors only when the consent of a judge is also required.

The District of Columbia, Maryland, Nevada, and West Virginia have criminal statutes that apply to parents who force their child to marry.<sup>78</sup> Nevada's statute considers forcing a marriage by force, violence, threats, or duress to be sex trafficking, a felony.<sup>79</sup> If the victim was a minor at the time of the offense, the punishment is life in prison with the possibility of parole.<sup>80</sup>

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