

**Status of Human Rights in Zimbabwe
for the 40th Session of the
Universal Periodic Review**

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Zimbabwe (Zimbabwe) for the 40th session of the Universal Periodic Review.

Background

2. Zimbabwe is a country located in southern Africa with an estimated population of 14.8 million people¹. It is a predominantly Christian nation with 75% of the population identifying as Protestant, 7% Roman Catholic, 5% as other Christian, 2% as traditional, .6% as other, and 11% as none².

3. Zimbabwe's previous review was held on 2 November 2016³. As a result of the review Zimbabwe received 260 recommendations, 157 of which Zimbabwe supported. One of the recommendations supported by Zimbabwe was that the government "[e]nsure strict compliance with legal provisions pertaining to the minimum age for marriage, and also prevent and investigate cases of forced marriage, bringing perpetrators to justice and guaranteeing assistance to victims"⁴. There were no recommendations made regarding freedom of religion.

Legal Framework

4. According to Article 26 of the Constitution of Zimbabwe:

The State must take appropriate measures to ensure that –

- a. no marriage is entered into without the free and full consent of the intending spouses;
- b. children are not pledged in marriage;
- c. there is equality of rights and obligations of spouses during marriage and at its dissolution; and
- d. in the event of dissolution of a marriage, whether through death or divorce, provision is made for necessary protection of any children and spouses⁵.

5. In Article 78, the Constitution even goes one step further to establish the minimum age for marriage:

1. Every person who has attained the age of eighteen years has the right to found a family.
2. No person may be compelled to enter into marriage against their will⁶.

6. In January of 2016, the Constitutional Court ruled that the Marriage Act of Zimbabwe violated the Constitution by permitting girls as young as sixteen to be married with the consent of their parents. Then, in 2019, through its Marriages Bill, Zimbabwe amended the Marriage Act, entitling it the “Marriages Act, 2019”, to align it with the Constitution. Under Part II of the Marriages Act, 2019:

Clause 3 provides that the minimum age of marriage is 18 years. In order to ensure the protection of minors, the minimum age of requirement has been extended to unregistered customary law marriages and to civil partnerships. This guards against attempts to side-step the law by avoiding formal marriages and still have children being forced into relationships which are, to all intents and purposes, marriages.

Clause 3 also explicitly outlaws the marrying, pledging or betrothal of children by any person and doing so is an offence which is aggravated in circumstances where the contravention is by a parent or a person in the role of a parent.

Clause 4 requires that the free and full consent of parties to a proposed marriage be given before the marriage is solemnised⁷.

7. Furthermore, Zimbabwe is also party to the Convention on the Rights of the Child (CRC), and Article 34 outlines protections for children:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials⁸.

8. Zimbabwe is also party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Under Article 16:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory⁹.

Forced Underage Marriage

9. According to the United Populations Fund (UNFPA), an estimated 20% of girls are married before the age of eighteen¹⁰. In underdeveloped countries, this rate skyrockets to 40%. In Zimbabwe, despite the Constitution and new laws banning underage marriage, approximately 30% of girls are married below the age of eighteen, and some girls are married as young as ten¹¹.

10. Within rural regions of Zimbabwe, poor families—especially amidst the worsening poverty aggravated by COVID-19—will often forcibly marry off their daughter to receive

financial compensation in the form of a “bride price” that is paid to the family by the groom. Many women in forced marriages find themselves in bondage and subject to verbal and physical abuse by their husbands¹². One girl tells of her horrifying life after she was forced to marry a man she had never met at the age of fifteen:

My experience was painful. I was made to sleep outside when I was pregnant . . . I was not used to eating one meal a day but this became the norm, I used to be beaten up, until I realised that this abuse should not happen to me or to another girl child. I realised my life was headed for disaster, I got the courage to go and face my dad and present my situation. I grew up wanting to be a nurse, and my desire is to live the life I wanted than what you are forcing me into¹³.

11. In another case, a sixteen-year-old girl took her own life after being forced to marry her rapist¹⁴. In yet another case, a thirteen-year-old girl shares the story of her forced marriage:

I was forcibly married off to my aunt’s husband from 2002 to 2018 before I left to stay with one of my mother’s relatives. During that time I didn’t understand why I was married off and I didn’t like the marriage as I was always abused . . . I am no longer interested in the marriage because when they married me off I was very young and didn’t know my rights. This was not what I wanted with my life. I actually wanted to finish school and become someone of value to myself and community¹⁵.

12. These are just a few of the tragic stories of young girls who have been forced into marriage underage.

13. The U.N. has recognised the severity of the underage marriage problem and stated:

Child marriage is a violation of the rights of girls and women. Girls who are married as children are more likely to be out of school, suffer domestic violence, contract HIV/AIDS and die due to complications during pregnancy and childbirth. Child marriage also hurts economies and leads to intergenerational cycles of poverty¹⁶.

14. Furthermore, the U.N. Children’s Fund (UNICEF) and UNFPA launched an initiative to end child marriage by 2030. The Executive Director for UNFPA commented that “[c]hoosing when and whom to marry is one of life’s most important decisions. Child marriage denies millions of girls this choice each year”¹⁷.

15. The U.N.’s initiative would work with governments of countries that have high rates of child marriage to focus on strategies such as “increasing girls’ access to education and health care services, educating parents and communities on the dangers of child marriage, increasing economic support to families, and strengthening and enforcing laws that establish eighteen as the minimum age of marriage”. UNICEF Director Anthony Lake commented on the urgency of this issue: “if current trends continue, the number of girls and women married as children will reach nearly 1 billion by 2030 – 1 billion childhoods lost, 1 billion futures blighted”¹⁸.

Conclusion

16. Zimbabwe, by amending its Marriage Act to align with its Constitution and the international treaties to which it is party, has taken significant steps towards the protection of the young girls and women in its country. Zimbabwe must further protect young women by strengthening the enforcement of its laws that criminalize forced marriage and the marriage of underage girls.

¹ *Zimbabwe*, WORLD FACTBOOK (4 May 2021), <https://www.cia.gov/the-world-factbook/countries/zimbabwe/>.

² *Id.*

³ *Universal Periodic Review – Zimbabwe*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ZWindex.aspx>.

⁴ UPR of Zimbabwe Thematic List of Recommendations – A/HRC/34/8 – Para. 131, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session26/ZW/MatriceRecommendationsZimbabwe.docx>.

⁵ Constitution of Zimbabwe art. 26, https://www.constituteproject.org/constitution/Zimbabwe_2013.pdf.

⁶ *Id.* at art. 78.

⁷ Marriages Bill [H.B.7, 2019.] Part II, <https://www.parlzim.gov.zw/component/k2/marriages-bill-h-b-7-2019>.

⁸ Convention on the Rights of the Child, 20 Nov. 1989, G.A. Res. 44/25, art. 34, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

⁹ Convention on the Elimination of All Forms of Discrimination Against Women art. 16, <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

¹⁰ *Child Marriage*, UNFPA, <https://www.unfpa.org/child-marriage>.

¹¹ Farai Mutsaka, *Zimbabwean Teen Teaches Taekwondo to Fight Child Marriage*, AP NEWS (5 Jan. 2021), <https://apnews.com/article/zimbabwe-teen-teaches-taekwondo-fde85a3c65703eb09bef1acfbf733e67>.

¹² Imogen Calderwood, *supra* note 12.

¹³ *Id.*

¹⁴ Gibson Mhaka, *Zimbabwe: Child Marriage Violates Girls' SRHR*, GENDER LINKS (20 Jan. 2020), <https://genderlinks.org.za/news/zimbabwe-child-marriage-violates-girls-srhr/>.

¹⁵ *Id.*

¹⁶ *New UN Initiative Aims to Protect Millions of Girls From Child Marriage*, UN, <https://www.un.org/youthenvoy/2016/03/new-un-initiative-aims-to-protect-millions-of-girls-from-child-marriage/> (last visited July 9, 2021).

¹⁷ *Id.*

¹⁸ *Id.*