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# Let Me be a Child, Child Marriage is Child Abuse

*Addressing Child Marriage  
using Anti-Sexual Violence  
Policies in Kwazulu Natal,  
South Africa*



Norad



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Panos Institute Southern Africa (PSAf)

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For more information and request for copies, please contact:

**Panos Institute Southern Africa**

5 Chinungu Close, Woodlands

P.O. Box 39163

Lusaka, Zambia

Tel: +260 978778148/9

Email: [general@panos.org.zm](mailto:general@panos.org.zm)

Website: [www.panos.org.zm](http://www.panos.org.zm)

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# Acronyms

ACRWC	African Charter on the Rights and Welfare of the Child
APRWA	Optional Protocol on the Rights of Women in Africa
CAGS	Community Action Groups
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
GBV	Gender Based Violence
KPACC	KwaZulu Natal Provincial Advisory Council for Children
NGOs	Non-Governmental Organisations
RSA	Republic of South Africa
SALRC	South African Law Reform Commission
SADC	Southern African Development Conference
SRHR	Sexual Reproductive Health Rights
UNICEF	United Nations Childrens' Education Fund
VEP	Victim Empowerment Programme

# Executive Summary

Violence against women and girls is a global problem that affects millions of women every year. In fact, it is estimated that one in three women and girls experience violence in their lifetime. Child marriage is one of the many manifestations of that violence, putting women and girls at particular risk of sexual, physical and psychological violence throughout their lives.

Child marriages are prevalent in South Africa. More than 91 000 girls in South Africa between the ages of 12 and 17 that are married, divorced, separated, widowed or living with partner as husband and wife, with the latter forming the majority group. Kwazulu Natal (KZN) has 25 205, Gauteng (GT) has 19 960, Eastern Cape (EC) has 14 968, Limpopo (LP) has 14 231, Western Cape (WC) has 12 444, Mpumalanga (MP) has 10 221, North West (NW) has 6 173, Free State (FS) has 3 654 and Northern Cape (NC) has 1 672. KwaZulu-Natal, which is the focus of the study, ranks the highest with 25 205 girl child marriages (Stats SA Community Survey 2016). KwaZulu-Natal ranks the highest with 25 205 child marriage cases in 2016 because of the social and cultural practises such as the Ukuthwala, a traditional practise which is one of the drivers for child marriage is rife. Based on the analysis, there is an urgent need need for anti-child marriage interventions in Kwazulu Natal.

As part of advocacy to prevent child marriage as a form of sexual, gender- based violence, Panos Institute Southern Africa (PSAf) through funding from Hivos RSHR commissioned a study therefore to assess the extent to which the anti-sexual gender- based violence laws and policies can address the drivers of child marriage. The study was undertaken to inform Panos Institute Southern Africa (PSAf) communication project termed “Preventing Child Marriage Using Community Based Structures”. The study is expected to contribute to the existing body of knowledge and information to stimulate engagement between various stakeholders including government, non-profit organisations, private sector and society in general, for the development of effective strategies to prevent sexual violence and child marriage.

The study employed a qualitative approach which included desk based critical review of published material. This entailed the identification and analysis of national policies against sexual violence in South Africa, assessment of the extent to which national policies address the drivers of child marriages, an examination of the gaps in policy implementation, and identification of opportunities and advocacy issues for addressing drivers for child marriage in Kwazulu Natal Province of South Africa.

This report is therefore a presentation of the findings of the assessment, and recommended actions to address child marriage as a form of sexual based gender-based violence in South Africa. The report is presented in five chapters, as follows:

- i. **Chapter 1** provides an introduction to the study and explains the rationale for using a communication for development approaches to address child marriage as a form of SGBV.
- ii. **Chapter 2** gives an overview of the state of child marriage in South Africa and defines the key concepts of concepts of “child”, “child marriage” and “gender-based violence” to ensure better understanding of the concepts. The chapter also outlines the drivers and consequences of child marriage.
- iii. **Chapter 3** analyses the extent to which international, regional and South African policies against sexual and gender-based violence address drivers of child marriage. The chapter identifies and unpacks the gaps and limitations in individual policies and presents them in a manner that can enhance improved understanding of the gaps and inspire stakeholder interest to address them.
- iv. **Chapter 4** outlines the opportunities for addressing the social and cultural drivers of child marriage in South Africa. The chapter identifies available initiatives, organisations and structures for stakeholder participation in addressing the social and cultural drivers for child marriage in KwaZulu Natal Province.
- v. **Chapter 5** focuses on the advocacy issues for addressing the barriers to protection of women against violence. The chapter also draws conclusions from the findings and makes recommendations on strategies that can be used to address child marriage as a form of sexual gender-based violence.

The information presented in this report attempts to contribute to the body of knowledge on child marriage as a human rights violation and a form of sexual gender-based violence. The strategies recommended in the study are expected to contribute to increased involvement of stakeholders in address the problem.

## 1.1 Background

The study on analysis of social and cultural drivers of child marriages as a form of sexual and gender-based violence will inform the implementation of communication project in South Africa by Panos Institute Southern Africa (PSAf), funded by Hivos. The aim of the communication project is to prevent child marriages as a form of sexual and gender-based violence (GBV) through community-based structures by creating space and opportunities against GBV. PSAf will use social behaviour change communication models as an effective strategy for sensitisation, awareness creation and behaviour change.

The study used a desktop or literature review design, which is a critical evaluation of published material. Authors of literature reviews organise, integrate and evaluate previously published material. Literature reviews are tutorial in that authors define and clarify the problem, summarise previous investigations to inform the reader of the state of research, identify relations, contradictions, gaps and inconsistencies in the literature and suggest the next steps in solving the problem.

Child marriage is a marriage that takes place between persons below the age of 18 years. It is the age before the girl child is physically, physiologically and psychologically ready to shoulder the responsibility of marriage and child bearing. Child marriage is also referred to as early marriage. It occurs where both or one spouse is a child and has not consented to it. Normally this kind of marriage is not registered and is conducted under, or based on cultural, religion or tradition (Mikhail.2002:43 cited in Mafhala.2016:9). In South Africa, the practice of bridal abduction is regarded as one form of marriage (Nkosi and Buthelezi.2013:162). The study, therefore, will focus on child marriages, which are marriages of children below 18 years without children's consent.

Child marriages as a form of sexual and gender-based violence are a reality in Africa and South Africa. Prof Byrne (Head: Institute for Gender Studies and Chairperson: UNISA-AGDP) highlights that the South African statistics are lower compared to the rest of Africa, which represents 125 million - or 17 percent - of the 700 million child-brides worldwide. However, Professor Byrne asserts that it is frightening that child brides are a reality in South Africa, a country with one of the world's best Constitutions that is human rights based. Prof Byrne further cites UNICEF (2015) study findings, which reflects that more than one in three of these African women and girls (over 40 million) entered into marriage or union before age

15. If current trends continue, almost half of the world's child brides in 2050 will be African. There is a need, therefore, for a serious collaborative call for response by the government, non-profit organisations, private sector and the communities to address the challenge of child marriages.

## **1.2 Rationale for the study**

Panos Institute Southern Africa (PSAf), a regional Communication for Development organisation, through funding from the Hivos is implementing a communication project in South Africa. The aim of the project is to prevent child marriages as a form of sexual and gender-based violence (GBV) through the community-based structures by creating space and opportunities against GBV. Based on the analysis of social and cultural drivers of child marriages in KwaZulu Natal in South Africa, there is an urgent need for intervention strategies to address child marriages in KwaZulu Natal. PSAf will use social behaviour change communication as an effective strategy for sensitisation, awareness creation and behaviour change. The study will also contribute to the existing body of knowledge. The information will stimulate discussion and dialogue between various stakeholders including government, non-profit organisations, private sector and society in general, for the development of effective strategies to prevent sexual violence and child marriage.

### **1.2.1 The objectives of the study**

The objectives for the proposed study are:

1. To identify the national policies that protect against sexual violence in South Africa;
2. To assess the extent to which national policies address the drivers of child marriages;
3. To examine the gaps in implementation of the policies that address child marriage as a form of sexual violence; and
4. To identify opportunities and advocacy issues for addressing drivers for child marriage in Kwazulu Natal Province of South Africa.

# CHAPTER 2

## THE STATE OF CHILD MARRIAGE IN SOUTH AFRICA

It can be argued that the accuracy of numerical data on child marriages is hard to confirm, even though child marriage is widespread, because in many instances child marriages are not recorded or registered. The non-registration of child marriages could be attributed to the fact that such practises are more prevalent in the rural areas where birth certificates are not valued and newly-borns are often not registered. There is also scarcity of data for the marriages that occur or have occurred before the age of 15 years (Mafhala.2016:14 cited in van der Watt & Ovens.2012:20).

The reality and extent of child marriages in South Africa is very clear and easily observed. The results of Community Survey 2016 cited by Prof Byrne confirms that there are more than 91 000 girls in South Africa between the ages of 12 and 17 that are married, divorced, separated, widowed or living with partner as husband and wife, with the latter forming the majority group. According to Stats Sa Community Survey 2016, the provincial breakdown of child marriages (married, divorced, separated, widowed or living with partner as husband and wife and single but have been living together with someone as husband/wife/partner) are as follows: KwaZulu Natal (KZN) has 25 205, Gauteng (GT) has 19 960, Eastern Cape (EC) has 14 968, Limpopo (LP) has 14 231, Western Cape (WC) has 12 444, Mpumalanga (MP) has 10 221, North West (NW) has 6 173, Free State (FS) has 3 654 and Northern Cape (NC) has 1 672.

KwaZulu-Natal, which is the focus of the study, ranks the highest with 25 205 child marriages. In the different KwaZulu Natal District municipalities, according to Stats SA Community Survey 2016, child marriages (married, divorced, separated, widowed or living with partner as husband and wife and single but have been living together with someone as husband/wife/partner) are as follows: Ethekwini has 7 272, Umkhanyakude has 4 378, Zululand has 4 043, Umgungundlovu has 2 685, Uthukela has 1 814, Uthungulu has 1 593, Sisonke has 1 200, Umzinyathi has 1194, Ilembe has 601 and Amajuba has 470.

### 2.1 Definition of concepts

For the purposes of this study, it is important to define the concepts of “child”, “child marriage” and “gender-based violence” to ensure better understanding of the concepts.

1. **The concept <sup>TM</sup>child** The definition of the concept child is the same in the international, regional and South African policies. A child is a person under the age of 18 years (Child Care Act 38 of 2005); Criminal Law (Sexual Offences and Related Matters) Amendment

Act 32 of 2007; Convention on the Rights of the Child; African Charter on the Rights and Welfare of the Child and AU Optional Protocol on the Rights of Women in Africa). Therefore, the study will take the standard definition of the concept child.

2. **The concept <sup>TM</sup>childmarriage** : Child marriage is a marriage that takes place below the age of 18 years. It is the age before the girl child is physically, physiologically and psychologically ready to shoulder the responsibility of marriage and child bearing. Child marriage is also referred to as early marriage. It occurs where both or one spouse is a child and has not consented to it. Normally this kind of marriage is not registered and is conducted under, or based on cultural, religion or tradition (Mikhail.2002:43 cited in Mafhala.2016:9). In South Africa, the practice of bridal abduction is regarded as one form of marriage (Nkosi and Buthelezi.2013:162). Therefore, the study will take the stance of child marriage, which are marriages of children below 18 years without the concerned children's consent.
3. **The concept <sup>TM</sup>gender-based violence** : According to the SADC Protocol on Gender and Development, gender-based violence is described as all acts perpetrated against women, men, girls and boys on the basis of their sex which cause or could cause them physical, sexual, psychological, emotional or economic harm.

## 2.2 Social Drivers of Child Marriage in South Africa

Some of the social and economic drivers that perpetuate child marriages are gender inequality and poverty.

### 1. Gender inequality

Patriarchy is still rife in South Africa. It is reflected in the societal structural system that is still male dominated and biased. The patriarchy system makes it difficult to stop child marriages. It reinforces the perspective that the current social norms that undermine women are desirable (Bwakwali.2001: 270 cited in Mafhala.2016:15). Prof Byrne agrees and adds that patriarchy reinforced by cultural beliefs and practices values the life of a son far higher than that of a daughter because of the status of a boy carrying the family name, continuing the family business, and contributing financially to the family home. Girls are, in such an instance, seen as a drain on the resources and with the father making all the decisions; the girl's prospects are grim. Mafhala (2016:15) argues that marriage entrenches and embraces gender inequality. Marriage system practices, attitude and norms resist the new culture of human rights. Maluleke (2012:12/429) concurs that early marriage is a symptom of and exacerbates gender inequality. The subordinate position of the girl or young woman is reinforced by the fact that in most of the documented cases the girl children have been forced to marry men old enough to be their parents

or grandparents. It can be concluded, therefore, that patriarchy and gender inequality perpetuate child marriages.

## 2. Poverty

This is an economic reality in South Africa especially in rural areas. Poor families in some communities in South Africa often marry off their girl child so that they could get the bride price and use it for other important things. Men who cannot afford the bride price resort to abducting and or raping such a girl. This is a serious violation of human rights and should be condemned at all costs (Mafhala.2016:16). Prof Byrne adds that economic inequalities that surround our society lead to poor families who do not have the resources to feed all their children, “selling” their underage daughters to lascivious men. Prof Byrne states that child brides are a toxic combination of regressive gender norms that make families regard daughters as sources of revenue, instead of treasured family members. UNICEF (2013:1) cited in Mtshali (2014:51) agree that poor families give up their young daughters in marriage to reduce the number of children they need to feed, clothe and educate. The major incentive is the price paid by prospective husbands for the young girls as the bride, in some cultures. In most cases, parents arrange child marriages and young girls have no choice. Maluleke (2012:12/429) concurs that research indicates that the majority of the girls and young women that are victims of Ukuthwala are from poor families. Their lack of education and underdevelopment, due to Ukuthwala, deepens their poverty and perpetuates the cycle of poverty. In many instances, the children born into poverty also tend to be poor. This contributes to the cycle of poverty in the communities, particularly rural communities, where Ukuthwala is rife. Therefore, based on this literature, it can be concluded that poverty contributes to child marriages.

## 3. Culture as the driver of child marriage

Families in many societies where child marriage is practised and valued are fully convinced that they conform to the cultural norms. The practise of child marriage is done to protect the family from shame, ridicule and disapproval by members of society (Mafhala.2016:17). Senyonjo (2007:39) cited in Mafhala (2016:9) agree that the source of child marriage practise are local customs and social norms. Community members’ perception influence local customs and social norms. There are perceptions about proper age for a girl to be married, as well as the understanding that a woman should be submissive which is why she should be married young. Therefore, it can be concluded culture contributes to child marriages

In South Africa, both the Nguni and Sotho speaking people practise a form of forced marriage. In Sepedi, it is called “go thibadifate” while in Zulu it is called “ukuganisela” (Mokwana 2009:74; Mtshali 2010:121 cited in Mtshali.2014:51). Krige (1950:125) and Shangase (2013) cited in Mtshali (2014: 52) explain that the Nguni cultural background

of forced marriage is described as “Ukuganisela”. In addition to the cultural practice of “ukuganisela”, there is a cultural practice called “Ukuthwala” which is a method of forcing the girl’s family to enter into marriage negotiations. The custom of Ukuthwala allowed parents to arrange the marriage of their children but was never intended to violate the rights of children (Seleoane 2005:1). Therefore, it can be concluded that the cultural practice of “Ukuthwala” drives child marriages.

The practice of child marriage is perpetuated by patriarchy, gender inequality, culture and poverty in South Africa, and it violates the children’s rights. There is need to unlearn certain cultural practices which greatly influence child marriages. Practices like “ukuthwala”, a practice of abducting young girls, mostly virgin girls under the age of 18 and forcing them into marriage, often with the consent of their parents, is still prevalent in South Africa.

## **2.3 The effects of child marriage**

Child marriage does not only violate the child’s human rights it has harmful consequences as well. Some of the consequences are health related, educational and psychosocial.

### **2.3.1 Health consequences of child marriage**

Evidence from research reflects that many children die from health reasons especially after conceiving. Chronic disability is prevalent in such girls after giving birth (Mswela.2009:180 cited in Mafhala.2016:22). Obstretic fistula is the worst condition that could happen to such children. It is an injury that happens in the woman’s birth canal. The consequences render a woman’s lack of self control and leak urine and/or faeces. This is the major cause of high mortality in South Africa is pregnancy related deaths for girls between 15 and 19 years. Young mothers tend to lose their babies more than older mothers. HIV and AIDS is an added problem in young married girls (Mafhala.2016:22-23) and Maluleke (2009:16) cited in van der Watt and Ovens (2012.20). Maluleke (2012:12/429) agrees that child marriage exacerbates the problems ranging from HIV and AIDS and other Sexually Transmitted Infections (STIs) to pregnancy-related complications such as infant and maternal mortality and fistula-related diseases.

### **2.3.2 Educational consequences of child marriage**

Three critical aspects that make girl children not to participate successfully educationally are child marriage, domestic chores as well as pregnancy. The fact that married girls are denied educational opportunities means that they are ultimately bound to their homes and lack the information in the external environment. They lack confidence, become vulnerable, powerless and perpetuate poverty (Mafhala.2016:25-26). De Silva-Alwis (2008:3) agrees that

early marriage disrupts the girl's schooling opportunities. Lack of information can be linked to lack of education also on sexual and reproductive health issues, which may lead to early pregnancies. Maluleke (2012:12/429) concurs that there is a proven link between a lack of education, underdevelopment and poverty. Ukuthwala deprives girl children opportunities to educate and develop themselves. Furthermore, research indicates that the majority of the girls and young women that are victims of Ukuthwala are from poor families. Their lack of education and underdevelopment, due to Ukuthwala, deepens their poverty and perpetuates the cycle of poverty. In many instances the children born into poverty also tend to be poor. This contributes to the cycle of poverty in the communities, particularly in the rural communities where Ukuthwala is rife.

### **2.3.3 Psychosocial consequences of child marriage**

According to Dottridge (2004:36), the effects of sexual abuse can be particularly devastating. They include fear, depression, low self-esteem and lack of self-worth, poor social skills, anger and hostility, an inability to trust and build meaningful relationships in later life, blurred roles and boundaries, appearing older than they really are (pseudo-maturity), sexualised behaviour, guilt, shame, feeling 'different' from others, isolation, substance abuse, self-harm (including suicide) and post-traumatic stress disorder.

# CHAPTER 3

## THE EXTENT TO WHICH POLICIES AGAINST SEXUAL AND GENDER- BASED VIOLENCE IN SOUTH AFRICA ADDRESS DRIVERS OF CHILD MARRIAGE

This chapter analyses the extent to which the international, regional and South African policies against sexual and gender-based violence address drivers of child marriage. Fox and Meyer (1995:107) describe policies as authoritative statements noticeable in the form of laws. Legally authorised public institutions develop policies aimed at addressing problems in the community. Policy gaps is what transpires in the implementation process between policy expectations and perceived policy results (Brynard.2007:357). Policy gap is also a disjuncture between policy intention and policy practice (Brynard.2007:361).

### 3.1 International Conventions

The Constitution of the Republic of South Africa, 1996, Section 231(4) stipulates that any international agreements become law when it is enacted into law in the Republic, unless if it is inconsistent with the Constitution or an Act of Parliament. Section 231(5) further states that the Republic is bound by international agreements. The International Conventions ratified by South Africa applicable to child marriage as a form of sexual and gender-based violence are: the Convention on the Rights of the Child (CRC), the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on Consent to Marriage, Minimum age for Marriage and Registration of Marriage.

#### 3.1.1 The Convention on the Rights of the Child, 1989

South Africa ratified the Convention on the Rights of the Child (CRC) on 16 June 1995 (May; Mahomed; Mudarikwa; Rubin & Ngubane.2014:19). The provisions that address child marriage are as follows:

Article 1 on the definition of the child as “every human being below the age of eighteen years”. This article, therefore, addresses the age that children can at least be married. Article 3 provides that “in all actions concerning children...the best interests of the child shall be a primary consideration”. Read with Article 6 which provides for “maximum support for survival

and development” together with Article 19 on “the right to protection from all forms of physical or mental violence, injury or abuse, maltreatment or exploitation, including sexual abuse, while in the care of parents, guardian or any other person”. These articles should be used to provide protection for the children against child marriage and ensure optimal development of the child. Article 24, which provides for the “the right to health and to access to health services; and to be protected from harmful traditional practices”, should be used to protect children from marriage as it is seen as a harmful practise to their health based on the health consequences children face. Article 24.3 of the CRC provides that states parties shall take measures to abolish “traditional practices prejudicial to the health of children.” Article 24(3) states that the parties must take appropriate measures to abolish traditional practices harmful to the health of children. The CRC explicitly gives the state members responsibility and obligation to stop socially and culturally driven harmful practice of child marriage and to protect the welfare of the child at all costs. It condemns and prohibits the traditional practice of child marriage, which has negative health consequences associated with sexual intercourse and childbearing before the girl’s body is sufficiently mature.

Child marriage leads to children dropping out of school and thereby violating Articles 28 and 29 which guarantee “the right to education on the basis of equal opportunity”. When Article 6 of the CRC on survival and development and Article 29 (a) on education which obliges States to take “all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men” provides that States should take all appropriate legal measures to prevent child marriage in order to ensure the full development and advancement of women.

### **3.1.1.1 Gaps and limitations**

#### **1. The ambiguity of the principle of the <sup>TM</sup>best intèest of the child**

While child marriage is not referred to directly in the Convention on the Rights of the Child, 1989, child marriage is connected to other rights - such as the right to protection from all forms of abuse, and the right to be protected from harmful traditional practices. These are provided for under the principle of the “best interest of the child”. The principle provides a basis for evaluating the laws and practices of States with respect to the protection of children. The CRC endorses the principles of the “best interest of the child”. However, this can be interpreted in different ways by different people and makes its application difficult.

## **2. The principle of <sup>TM</sup>evolving capacity of the adolescent gives parents and guardians to decide for children when to get married**

Article 5 provides that “States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention”. This article denies children to be active agents in their own lives as they are seen as immature. It is implied that children are incapable of judgment and are entitled to appropriate direction and guidance from parents or guardians. The act, therefore, allows parents and members of the family through the marriage laws in the country to support child marriages through the provision of consent for marriages under the age of 16.

### **3.1.2 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

South African Parliament ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1995 (National Policy Guidelines for Victim Empowerment.7). Both Articles 1 and 3 in CEDAW indicate that under international law, women are entitled to enjoy fundamental freedoms and development equally with men in all fields. Article 1 defines discrimination as any restriction on fundamental freedoms in any field on the basis of sex. Article 3 requires that States shall take in all fields all appropriate measures, including legislation to ensure the “full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of rights and fundamental freedoms on a basis of equality with men.” Child marriage discriminates against girls by denying them equal rights with boys. States that allow the practice of child marriage to occur - including States that do not have laws prohibiting child marriage or those that have law but fail to enforce them - violate their commitment to guarantee women’s fundamental freedoms and development as stipulated in the CEDAW. Article 5(a) states that parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, which promote any type of discrimination or stereotyped roles for men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes.

Article 16(2) of the Convention also provides that the betrothal and marriage of a child shall have no legal effect and that all necessary action, including legislation, must be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

### 3.1.2.1 Gaps and Limitations

#### 1. No specific guidelines and provisions on sexual and gender-based violence

CEDAW does not contain a specific provision on gender-based violence. From the community to the state level, there is gender-based violence perpetrated by public authorities as well as by any person or organization which constitutes discrimination. There is also family violence which is one of the most insidious forms of violence against women and that it is prevalent in all societies. Recognizing that within family relationships, women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are encouraged and perpetrated by traditional attitudes. If child marriage is also a form of sexual and gender-based abuse, then the CEDAW fails to address this as a main issue.

### 3.1.3 The Convention on Consent to Marriage, Minimum age for Marriage and Registration of Marriage

South Africa ratified the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages on 29 January, 1993. The convention has a number of provisions that address child marriage. Article 1 guarantees that “no marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person as prescribed by law”. Article 2 states that state parties to the convention shall specify a minimum age for marriage (“not less than 15 years” according to the non-binding recommendation accompanying this Convention). No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interests of the intending spouses. Article 2 states that parties shall take legislative action to specify a minimum age for marriage. No marriage shall be entered into by any person under this age except where a competent authority has granted a dispensation, in the interest of the intending spouses. Article 3 states that all marriages shall be registered in an appropriate official register by the competent authority. This Convention requires the state parties to take legislative action to specify a minimum age for marriage and stipulates that no marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to the age, for serious reasons, in the interest of the intending spouses. The Convention calls upon parties to eliminate the marriage of girls under the age of puberty and requires the states to stipulate the minimum age of marriage.

### 3.1.3.1 Gaps and limitations

#### 1. Encourages the consent of others in the agreement for marriage

It allows for a third party, an authority or law to prescribe exceptional circumstances when consent of one of the marriage partners may not be necessary. This kind of limitation may possibly be providing loop holes for countries to maintain laws and policies supportive of child marriages.

#### 2. The convention provides no standard age for marriage

While the Convention obliges member states to take legislative action to specify a minimum age for marriage, it provides no age standards. This gap clearly gives unrestricted liberty to state parties to define who a child is in their policies and laws. With disparate marriageable age legislations across countries, enforcing prevention and elimination of child marriage practices has always become difficult. Lack of age standards aside, the Convention additionally grants permission to State Parties to provide for legal relaxation of the rules on marriage age provision in favour of permitted early marriage practices.

## 3.2 Regional Treaties and Instruments

There are several regional instruments against sexual and gender-based violence with specific reference to child marriages ratified by South Africa, namely, the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa and the Southern African Development Community Protocol.

### 3.2.1 The African Charter on the Rights and Welfare of the child, 1990

South Africa ratified the African Charter on the Rights and Welfare of the Child (ACRWC), 1990, on 17 December 2004 (May; Mahomed; Mudarikwa; Rubin & Ngubane.2014:19). Article 16 states that children should be protected from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse. Every individual shall have the right to enjoy the best attainable state of physical and mental health. This article is useful to end child marriages because while the difference between the age of marriage for girls and boys violates the equality clause, early marriage exposes girls to the extreme health risks associated with sexual intercourse and childbearing before the girl's body is sufficiently mature.

Article 21 of the African Charter on the Rights and Welfare of the Child provides that states parties shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular (a)

those customs and practices prejudicial to the health or life of the child; and (b) those customs and practices which are discriminatory to the child on the grounds of sex or other status.

Article 24 stipulates the rights of all people to a general satisfactory environment favourable to their development. Considering all the physical and psychological consequences of child marriage on girls which do not provide the conducive environment for development, the African Charter on the Rights and Welfare of the Child is suitable, relevant, appropriate, applicable and implementable through this Article by stipulating the right to prevent girls' exposure to family violence. Child marriages violate the right to health and health services and constitutes "sexual exploitation and sexual abuse".

Therefore, the ACRWC which is in harmony with the CRC, is appropriate and can be applicable to protect children from forced child marriages and to alleviate the cultural and social drivers of detrimental forced child marriages.

### **3.2.1.1 Gaps and limitations**

#### **1. No funding for the Committee to implement the provisions**

The Committee that makes recommendations is not adequately funded through the AU budgetary mechanisms. Although the Committee has established a fully functional Secretariat, its activities are mainly externally funded. Until recently in 2017, funding from EU grants supported activities including follow-ups on decisions of previous communications and concluding observations and recommendations. This would mean that the Committee is equally handicapped on accelerating its role to formulate and lay down principles and rules aimed at prevention and elimination of child marriage in Africa.

### **3.2.2 Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol)**

This protocol was adopted in Maputo, Mozambique in 2003, with three of its Articles seeking to protect children and eliminate child marriages. According to this Protocol, child marriage constitutes violence against women which should be eliminated. Article 1 of the Protocol defines women to mean 'persons of female gender, including girls'. It further describes 'harmful cultural practices' to mean 'all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as the right to life, health, dignity, education and physical integrity'.

The Protocol calls on the state parties to adopt and implement appropriate measures to ensure the total eradication of all forms of discrimination against women. Article 2 provides for the elimination of discrimination against women and Article 5 imposes a duty on member states

to eliminate all ‘harmful practices’, which by necessary suggestion includes child marriages. The Article also prescribes that the minimum age for marriage is 18 years.

Article 6 provides that state parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. In relation to preventing child marriages, the article through the listed sections guarantees that countries will enact appropriate national legislative measures to guarantee the following:

- That no marriage shall take place without the free and full consent of both parties;
- The minimum age of marriage for women shall be 18 years;
- That monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected; and
- That every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognised.

### **3.2.2.1 Gaps and Limitations**

#### **1. It lacks any specific and direct prohibitive statement on child marriage issues.**

It is notable that Article 18 (3) of the Charter requires each State to ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions, but does not provide any direction on how to achieve these.

#### **2. Exclusion of the social and cultural practices as drivers of child marriage.**

The Charter does not have provisions on ways in which to deal with the customary laws which usually include the traditional and cultural practices that fuel child marriages.

### **3.2.3 SADC Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage**

Like other regional treaties, the SADC Model Law requires the countries to set the minimum age of marriage at 18, register all marriages and take effective action, including legislation, to eradicate child marriage. It is important to note that some national legislation permit the marriage of minors, sometimes in a discriminatory fashion and with gender-based differences in minimum ages.

Article 16 which is on the minimum age of marriage and contractual capacity, from the commencement of the law, stipulates that a person under the minimum age of marriage has no capacity to consent to a marriage or contract a marriage and any marriage purportedly

entered into or solemnised is prohibited and void. This is further guaranteed by Article 17 which guarantees the prohibition of child betrothal and marriage (1) From the commencement of the law – (a) the betrothal of a child is prohibited; (b) a marriage between a child and an adult or between two children is prohibited; and (c) a person shall not contract, solemnise, abet or aid, promote, permit, coerce or force the betrothal or marriage of a child. Any breach and contravention of these Articles shall lead to some form of conviction. The law further ensures that the marriages contracted under the consent of parents are also prosecuted. Article 17(3) indicates that where it is proved to a court that a child was, at the time the betrothal or marriage was contracted, living or dependent on a person, the court shall consider the parental relationship as an aggravating circumstance. MS should use this Model Law to develop their national laws as it creates a robust and uniform legal framework relating to the prohibition and prevention of child marriage and is a key path to addressing Sexual Reproductive Health Rights.

### **3.2.3.1 Gaps and limitations**

#### **1. The law provides for the legal solutions and disregards the social and other factors connected to child marriage.**

Child marriage, according to their studies, is driven by a complex web of factors and, therefore, responding to that would definitely encounter a variety of implementation challenges. The African Law Service update on SADC Model Law on Child Marriage (2017) has expressed concerns about the implementation of the law. Firstly, it argues that while the law adopts a prohibitionist stance criminalizing child marriage, previous research shows that law reform is a cumbersome tool through which to push behaviour change. Insistently, they argue the approach is fraught with the problem of trying to provide a legal solution to an only partly-legal problem.

#### **2. Lack of policy documents to guide operationalization**

Relying on research undertaken in countries which have reformed their laws on child marriage, it is evidently unclear how the model law, if implemented, will be enforced. These include a lack of will among police to intervene in cases of child marriage, a paucity of shelters and options for girls who are already married and want to leave their unions, a lack of pathways for girls who are already married (and likely have children) to go back to school and a lack of policy understanding of how to deal with situations of girls who want to remain married, but who will be criminalized and stigmatized as a result.

### 3.3 South African Legislations

South Africa has several legislations against sexual and gender-based violence, namely, the Constitution of South Africa, Children's Act 38 of 2005, Domestic Violence Act 116 of 1998, The Marriage Act 25 of 1961, Recognition of Customary Marriage Act 120 of 1998, Criminal (Sexual Offences and related Matters) Amendment Act 32 of 2007 and National Policy Guidelines for Victim Empowerment.

#### 3.3.1 The Constitution of the Republic of South Africa, Act 108 of 1996

The Constitution of the Republic of South Africa is the supreme law. The Constitution has rights that are applicable to address detrimental cultural drivers that promote child marriages. Senyonjo (2007:39) cited in Mafhala (2016:9) agrees that the source of child marriage practice are local customs and social norms. Section 9 (1) and (2) give everyone the right to equal protection. Section 12 (1) (c) offers everyone the right to be free from all forms of violence. Section 28 (1) (b) (d) gives every child the right to parental care and to be protected from maltreatment, abuse or degradation. Section 28 (2) states that a child's best interests are of paramount importance in every matter concerning the child. These Constitutional rights offers children protection from detrimental forced child marriages. Parents are obligated to care for their children and to protect them from violent and abusive cultural practices of forced marriages, which are not to the best interest of children due to the educational, health and psychological consequences. Section 205 (3) states that the objects of the police service are to prevent, combat and investigate crime, to protect and secure inhabitants of the Republic and to uphold and enforce the law.

The Constitution is applicable to address the social and cultural drivers of child marriages. It gives police officers a Constitutional responsibility to prevent, combat and investigate cases of abusive and harmful cultural practice of forced child marriages. It is evident that the Constitutional rights are suitable, relevant, applicable and implementable to protect children from harmful and abusive cultural practices of forced child marriages. Both the parents and officials (social workers, police, teachers, doctors and nurses) have a Constitutional obligation to protect children from harmful and abusive cultural practices of forced child marriages.

##### 3.3.1.1 Policy gap and limitation

1. No explicit sections on children protection. It is evident that the Constitution strives to protect the rights of children in general. However, the Constitution does not set a specific and explicit right to protect children under the age of 18 years from child marriages.

### **3.3.2 Children's Act 38 of 2005**

Children's Act 38 of 2005 gives effect to certain rights of children contained in the Constitution. Section 9 sets the standard of upholding and applying the best interest of the child in all matters concerning the care, protection and wellbeing of a child. Section 10 offers every child the right to participate in an appropriate way and views expressed by the child must be given due consideration. Section 12 (1) gives every child the right not to be subjected to social, cultural and religious practices that are detrimental to his or her wellbeing. Section 12 (2) (a) (b) states that a child below the minimum age set by law for a valid marriage may not be given out in marriage or engagement. A child above the minimum age may not be given out in marriage or engagement without his or her consent. Section 305 specifies that a person is guilty of an offence if that person (a) commits an act in contravention of the prohibition set out in section 12(2). Section 150 (1) (f) states that a child is in need of care and protection if the child lives in or is exposed to circumstances which may seriously harm that child's physical, mental or social wellbeing.

Children's Act is suitable, rational, applicable and implementable to address social and cultural drivers of harmful child marriages. Children's Act concurs with CRC and ACRWC by providing children the right to protection from abusive and detrimental cultural practise of forced child marriages. The Children's Act concurs ICCPR by providing children with the right to expression of opinion and self-determination regarding child marriages. The Act protects children who are in harmful and abusive marital relationships. Social Workers or police officers should remove the victims to alternative placement. Therefore, the Children's Act is appropriate, applicable and relevant to protect children from detrimental child marriages.

#### **3.3.2.1 Policy Gaps and limitations**

##### **1. It does not address issues of discrimination**

The Act does not address discrimination regarding the legal age of marriage, which remains at 15 years for girls and 18 years for boys. The provision of this Law does not reflect international and regional instruments standards to guarantee effective domestication.

### **3.3.3 Marriage Act 25 of 1961**

The Marriage Act 25 of 1961 governs the solemnisation and registration of marriages in South Africa. The Act authorises child marriages with the set condition of consent. Section 24 (1) states that no marriage officer shall solemnize a marriage between parties of whom one or both are minors unless the consent to the party or parties which is legally required for the purpose of contracting the marriage has been granted and furnished to him in writing. Section

26 (1) states that no boy under the age of 18 years and no girl under the age of 15 years shall be capable of contracting a valid marriage except with the written permission of the Minister or any officer in the public service authorized by him, which he may grant in any particular case in which he considers such marriage. May; Mahomed; Mudarikwa; Rubin and Ngubane (2014: 13-14) confirm that a number of cases have been reported where girls as young as 12 years were twala'd (carried away) by men old enough to be their fathers in some cases.

### **3.3.3.1 Policy Gaps and limitations**

1. Different ages stipulated for the different gender. The Marriage Act stipulates different ages between a boy child and girl child with regard to contracting a valid marriage. The Marriage Act protects girl children below the age of 15 years from harmful and forced child marriages. The Act validates that child marriage is valid if the girl is above 15 years and the boy above 18 years with the parties' consent or written permission of Minister or public service officer. This Act strives to protect children under 15 years from detrimental cultural practices of forced child marriages.

### **3.3.4 Recognition of Customary Marriage Act 120 of 1998**

The purpose of the Recognition of Customary Marriage Act (RCMA) is to improve the position of women in line with the provision of the Constitution. The main objective is to improve the position of women to be on equal footing with their husbands in both status and capacity. Section 3 (1) states that the customary marriage entered into should be valid. Both the prospective spouses must be above the age of 18 years; and must both consent to be married to each other under customary law. Section 3(3) stipulates that if the prospective spouses are minors, both his or her parents or legal guardian must consent to marriage. Section 3(4) stipulates that if consent of parent or legal guardian cannot be obtained, a Minister or any officer may grant permission for a person under 18 years to enter into customary marriage. Section 4(1) states that the spouses of a customary marriage have a duty to ensure that their marriage is registered.

#### **3.3.4.1 Policy Gaps and Limitations**

1. There is a clear contradiction with the regional instruments. The RCMA is not in harmony with Article 6 of the AU Optional Protocol on the Rights of Women in Africa, which sets 18 years as the minimum age of marriage for women and requires the consent of the parties to be married. The Recognition of Customary Marriage Act gives parents, legal guardians and Minister the power to consent on behalf of minor children to enter into marriage. Thus, the RCMA perpetuates social and cultural drivers of child marriages.

### 3.3.5 National Policy Guidelines for Victim Empowerment

The National Policy Guidelines provide a framework for sound inter-departmental and inter-sectoral collaboration and for the integration of effective institutional arrangements for a multi-pronged approach in managing victim empowerment. Such an approach facilitates the establishment of partnerships in the victim empowerment sector to effectively address the diverse and sensitive needs of victims holistically. In addition, the National Policy Guidelines serve as a guide for sector-specific victim empowerment policies, capacity development and a greater emphasis on the implementation of victim empowerment programmes by all relevant partners (National Policy Guidelines for Victim Empowerment: 1). The National Policy Guidelines supports the victims of child marriages through the Victim Empowerment Programme (VEP). There is a greater emphasis on the implementation of victim empowerment programmes by all relevant partners (National Policy Guidelines for Victim Empowerment: 1). There is also the National Toll-Free Helpline for Gender-Based Violence (Western Cape Department of Social Development.2014:43).

#### 3.3.5.1 Policy Gaps and Limitations

##### 1. **There is no comprehensive law guiding aspects of the VEP**

The lack of legal and policy framework to guide victim empowerment is a critical shortcoming that creates confusion and uneven service provision. There are no policies outlining the specific victim empowerment duties of social workers and other service providers. The lack of comprehensive legislation guiding and mandating victim empowerment in South Africa impacts on all levels of management, coordination and service provision of victim empowerment services. Without a clear, legislated mandate, the VEP lacks focus, capacity and accountability (Western Cape Department of Social Development. 2014: 99 &134). Therefore, there is a need to develop policy outlining the specific victim empowerment duties of social workers and other service providers, with explicit reference to child marriage victims.

Shangase (2013:3) cited in Mtshali (2014:56) confirms that the courts treat “ukuganisela” which is a form of forced child marriage and a violation of the girls’ rights lightly. This may be the consequence of having fragmented legislation against sexual and gender-based violence.

# CHAPTER 4

## OPPORTUNITIES FOR ADDRESSING THE SOCIAL AND CULTURAL DRIVERS FOR CHILD MARRIAGE IN KWAZULU NATAL PROVINCE IN SOUTH AFRICA

This Chapter will focus on opportunities in addressing the social and cultural drivers for child marriage in KwaZulu Natal Province. Literature confirms that there are opportunities for addressing the social and cultural drivers for child marriages in KwaZulu Natal Province, South Africa by stakeholders.

### 4.1 Hivos Regional Fund on SRHR

Established in 2010, the SRHR Fund fosters improved regional partnerships and collaboration to address critical barriers to SRHR rights and the provision of SRHR services. These include the lack of policy, programming or government will, inflexible social norms and beliefs about sexuality and women's position in society, as well as a reluctance to take the lead in embracing systemic change. Working with a wide range of partners, including civil society and regional organizations, donors, government ministries, and community leaders, the fund has approached the complex issue of child marriage from many angles, including focusing on the rights of girls, the link between child marriage and reproductive health and HIV, advocating to ensure that protective policies and laws are implemented effectively, and supporting national and regional champions and advocates (including young women) as they lead efforts to prevent early marriage.

### 4.2 The Ukuthwala Provincial Task Team in KwaZulu Natal

The Commission for Gender Studies confirmed that there is a task team which comprises of the following stakeholders: District Municipalities, Traditional Leaders, Department of Education, Department of Justice and Constitutional Court, Department of Social Development, National Prosecuting Authority, South African Police Services, Office of the Premier and Non-Profit Organisations. The KwaZulu Natal Office of the Premier has assumed the coordination of the multi-sectoral Ukuthwala Provincial Task Team, through its Office on the Rights of the

Child (ORC). The establishment of the Task Team was recommended by the KwaZulu-Natal Provincial Advisory Council for Children (KPACC), a provincial institution that promotes the respect of the rights of children. KPACC is coordinated and chaired by the ORC within the Office of the Premier.

### **4.3 Involvement and engagement of the traditional leadership**

Involvement and participation of Municipality and traditional leaders is one of the opportunities and initiative for addressing social and cultural drivers for child marriages in KwaZulu Natal. The District Municipality and Inkosi (traditional leader) involvement in Gugwini has contributed enormously in the elimination of the malpractice of the abduction of the girls in the area. Inkosi has reportedly developed a programme of visiting areas and addressing residents on the evils of Ukuthwala (Commission for Gender Studies. 2012:14-15). Based on this initiative, there is an opportunity for further capacity building to ensure that awareness campaigns are inclusive of all the social ills of sexual and gender-based violence including child marriages. The awareness campaigns must also include information on children and women rights and services available.

### **4.4 Reporting child abuse cases**

The Department of Social Development reported that social workers, when coming across ukuthwala, reportedly deal with such cases the same way they deal with any other case where the rights of children are violated, such as child abuse and neglect, offering the necessary counselling services. Ukuthwala was reported in one instance in Umzimkhulu when the induna, who is conscious of children's rights, reported an individual case to the local SAPS. After a discussion was held on the same day with the respective families, about the disadvantages of ukuthwala for an underage girl, the families accepted that they had violated the girl child's rights. The child was brought back home to continue with her schooling (Commission for Gender Studies. 2012:14-15). The involvement and partnership between SAPS and the Department of Social Development is a better opportunity to address sexual and gender-based violence of children and women holistically and comprehensively.

### **4.5 Awareness campaigns and capacity building on Sexual and Gender based Violence**

An imbizo (public meeting) was held wherein all government departments and Amakhosi were invited to discuss ukuthwala. In addition to the above intervention in the affected districts, efforts have also been made throughout the province to provide support to learners and help them understand their rights and the recourses available when these are infringed (Commission for Gender Studies. 2012:14-15). Awareness campaigns are held with other

government departments and NGOs in relevant areas. A joint imbizo was held and pamphlets distributed. Community members received the necessary training, including matters relating to sexual offences and child justice. Other ongoing training includes multi-sectoral training with other government departments and Non-Governmental Organisations (NGOs). Talks were held at some local schools regarding the Criminal Law (Sexual Offences and Related Matters) Amendment Act and the Children's Act (Commission for Gender Studies. 2012:14-15). The Department of Education is engaged in a partnership with the Department of Justice and Constitutional Development, which also visits schools to bring awareness to learners about the dangers of ukuthwala and its implications (Commission for Gender Studies. 2012:14-15). Through the partnership, meetings have been held with parents to conscientise them about the dangers of the practice and steps that should be taken to address this (Commission for Gender Studies. 2012:14-15).

#### **4.6 Dialogues on child marriage**

The My Life My Future (MLMF) campaign was launched in May 2011 under which 175,000 community members have been reached through 304 school community dialogues. These dialogues focus on issues such as abuse, pregnancy, ukuthwala and substance abuse. The MEC for Education in KwaZulu-Natal called a meeting of government departments and nongovernmental organizations (NGOs) on 13 June 2012 to encourage all those who support children at risk to work in an integrated manner and provide a seamless service delivery to learners. The KZN Cabinet has seen the value of this exercise and has subsequently asked the technical committee of the Social Sector Cluster to call a follow-up meeting of all government departments and leading NGOs in order to lend support to the initiative started by the MEC for Education (Commission for Gender Studies. 2012:14-15). It is explicit that there is a buy-in of most intergovernmental departments and multi-sectors. Therefore, the approach can be enhanced based on the current challenges.

# CHAPTER 5

## ADVOCACY ISSUES TO ADDRESS THE SOCIAL AND CULTURAL BARRIERS TO PROTECTION OF WOMEN AGAINST VIOLENCE

Chapter 5, the last in this Report, will focus on advocacy issues aimed at addressing barriers to protection of women against violence. The advocacy issues will align with social development approach. Social development questions and challenges, the systemic barriers that hold societies back, such as poverty, social and cultural beliefs about gender and sexual preference. South Africa formally adopted a social development approach with the policies and programmes that protect and promote rights, manage social problems, facilitate the optimal use of opportunities and empower the people.

The South African Law Reform Commission (2010:2) cited in van der Watt and Ovens (2012:21) found that the problem of forced child marriage is aggravated by the lack of a dedicated or single piece of legislation, which comprehensively addresses the problem. Such legislation should be clear on the responsibilities of first responders to these incidents including the police, social workers and members of society who come into contact with young women affected or threatened by child marriage practices. Therefore, a dedicated single piece of child marriage legislation may contribute positively in combating and alleviating child marriages in South Africa. This is important for aligning South African legislation with international standards, but more significantly, as a safeguard against parents or guardians imposing a marriage upon minors, who have limited means to exercise their own free will in such circumstances (LRC. 2014:16-17). Therefore, there is an urgent need for advocacy to amend both Acts regulating the minimum age of marriage for all types of marriages.

To reach long lasting change, it is important to involve and engage all stakeholders including girls and young people in the dialogue and discussions to generate impact. The advocacy issues will be at the different levels of implementation from the community to the national level.

## Conclusions and recommendations

Conclusion	Recommendation	Recommendations/strategies
<p>Child marriage is rampant in Kwazulu natal due to the social and cultural practises.</p>	<p>Understanding the gender dynamics in the community and how these affect child marriage.</p>	<p>At the local community level, there is need to establish Community Action Groups that include girls, young people and men to discuss issues around child marriage and advocate for the prevention of child marriages as a form of sexual and gender-based violence. The purpose of the committee (through facilitation of a gender-based violence expert) is to conceptualise, plan, implement, monitor and evaluate protection of child marriages advocacy programme.</p>
<p>There is insufficient understanding on the connection between child marriage and sexual and gender-based violence</p>	<p>Training of ward committees and volunteers on child marriage as a form of sexual and gender-based violence to stimulate action to challenge the behaviour, perceptions and attitudes towards child marriage.</p>	<p>The established Community Action Groups must be trained on child marriage as a form of sexual and gender-based violence and women's rights to inform their discussions to challenge the status quo on child marriage. The training should include the following themes: Policies against child marriage, the social and cultural drivers of child marriages, the effects or consequences of child marriages, children's rights, reporting of perpetrators of child marriage, identifying the local psychosocial services and health services for victims of child marriage and referrals to health, psychosocial services, and advocacy skills to prevent child marriage as a form of sexual and gender-based violence.</p>
<p>There have been persistent discriminatory attitudes towards girls, the persistence of early marriages, as well as persistence of traditional practices and attitudes that seriously hamper the enjoyment of the rights of the girl child. This is due to the limited awareness on the need for child protection.</p>	<p>Awareness campaigns aimed at changing attitudes and stereotypes that currently exist towards children and eradicating child marriage as a form of sexual and gender-based violence.</p>	<p>The Community Action Groups and volunteers should develop community action plans to implement gender sensitisation and public awareness campaigns at community level, with the support of the traditional leadership and a community coordinator. Through the involvement and engagement of the local CBOs, FBOs, NPOs and CSOs as well as the relevant government departments, the campaigns will take the form of community discussions, dialogues, information sharing and or distribution of pamphlets on child marriage as a form of sexual and gender-based violence.</p>

Conclusion	Recommendation	Recommendations/strategies
<p>There is need to protect children from marriages which expose them to negative consequences such as sexual and gender-based violence.</p>	<p>Identification of children at risk of child marriage to minimise the cases of child marriage and provide psychosocial support services.</p>	<p>The CAGs will conduct door to door visits to identify children at risk of child marriage. The cases may be reported to the local social workers for further investigation and intervention at a professional level. The cases should be reported to the local social workers for further investigation and intervention at a professional level. The National Department of Social Development through the Victim Empowerment Programme and Gender-based Violence Call Centre must identify children at risk of child marriages as a form of sexual and gender-based violence. The children at risk of child marriage must be protected through procedures in the Child Care Act and be provided with psychosocial trauma counselling to address the psychosocial harms incurred.</p>
<p>There is less inclusive participation in responses towards ending child marriage.</p>	<p>There is need to facilitate and stimulate debates and dialogues for effective strategies to prevent sexual violence and child marriage and aim for the transformation of harmful cultural practices.</p>	<p>Engagement on debate and dialogues around child marriages with the experts on marriage law, sexual and gender-based violence and women's rights to improve the understanding and change attitudes and behaviour around child marriage.</p>
<p>Child marriage is rampant but less monitoring of the effectiveness of the programmes that are being implemented.</p>	<p>Identification of children at risk of child marriage to minimise the cases of child marriage and provide psychosocial support services.</p>	<p>The Community Action Groups should request statistics from government departments on child marriages to monitor and evaluate the impact on awareness campaigns in their respective communities and to enable the province, the districts, and local task teams conceptualise, implement and monitor the impact of intervention strategies.</p>
<p>There is non-domestication of, and lack of harmony between the international, regional and national policies and human rights instruments to address drivers of child marriage.</p>	<p>There is need for dedicated legislation to address child marriage as a form of sexual and gender-based violence and provide an enabling legal and policy environment to end child marriage.</p>	<p>The communities with support and engagement of all relevant stakeholders should advocate for amendment of fragmented policies and legislations. They must also advocate for raising the minimum age of marriage to 18 years. The National Government must amend the fragmented policies and legislations and develop legislation specific to child marriage as a form of sexual and gender-based violence.</p>

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## Contact us

### **Panos Institute Southern Africa (PSAf) Regional Office**

No. 5 Chinungu Close, Off Mwatusanga Road, Woodlands  
P. O Box 39163, Lusaka, Zambia  
Tel: +260-211-263258, +260978778148/9  
Fax: +260-211-261039  
Email: [general@panos.org.zm](mailto:general@panos.org.zm)  
Web: [www.panos.org.zm](http://www.panos.org.zm)

### **South Africa Office**

P.O. Box 3286, Parklands, 2121  
158 Jan Smuts Avenue, 3rd Floor  
Rosebank, 2196  
Johannesburg  
Email: [admin@panos.org.za](mailto:admin@panos.org.za)

### **Mozambique Office**

Rua Castelo Branco, 47 -1st Floor  
Malhangalene  
Tel/Fax: (+258)21415549/ 849414984  
Mobile: (+258) 823050604/ 848585135  
Email: [mozambique@panos.org.zm](mailto:mozambique@panos.org.zm)

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### **Panos Network Secretariat**

[www.panosnetwork.org](http://www.panosnetwork.org)  
Email: [info@panosnetwork.org](mailto:info@panosnetwork.org)

### **Panos Caribbean**

[www.panoscaribbean.org](http://www.panoscaribbean.org)

### **Panos Eastern Africa**

[www.panoseasternafrica.org.ug](http://www.panoseasternafrica.org.ug)

### **Kampala, Uganda**

(regional centre)  
tel: +256 414 344231  
fax: +256 412 54729  
[pea@panoseasternafrica.org.ug](mailto:pea@panoseasternafrica.org.ug)

### **Panos Paris**

[www.panosparis.org](http://www.panosparis.org)  
tel: +33 1 40 41 05 50  
fax: +33 1 40 41 03 30  
[panos@panosparis.org](mailto:panos@panosparis.org)

### **Panos South Asia**

[www.panossouthasia.org](http://www.panossouthasia.org)

### **Kathmandu, Nepal**

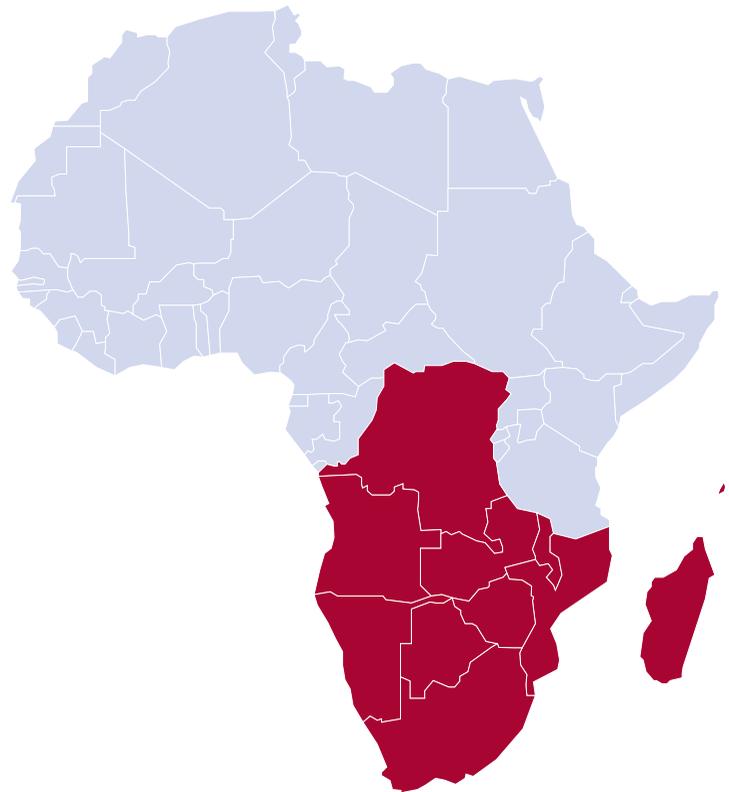
(regional centre)  
tel: +977 1 5521889  
fax: +977 1 5544641  
[psa@panossouthasia.org](mailto:psa@panossouthasia.org)

### **Panos West Africa**

[www.panos-ao.org](http://www.panos-ao.org)

### **Dakar, Senegal**

(regional centre)  
tel: +221 849 16 666  
fax: +221 822 17 61  
[info@panos-ao.org](mailto:info@panos-ao.org)



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