



COMMISSION ON HUMAN RIGHTS
REPUBLIC OF THE PHILIPPINES

**POSITION PAPER ON THE PROPOSED MEASURES PROTECTING
CHILDREN BY PROHIBITING AND DECLARING CHILD MARRIAGE
AS ILLEGAL
(HOUSE BILL NOS. 1486, 3899, 5670, AND 7922)**

The Commission on Human Rights (“Commission” for brevity), pursuant to its constitutional mandate to recommend to Congress effective measures to promote human rights and monitor government’s compliance with international human rights treaties, submits this position paper on House Bill Nos. 1486, 3899, 5670, and 7922 on the proposed measures to prohibit child, early, and forced marriage.

Child, early, and forced marriage is one of the gravest expressions of violence against women and girls and has been one of the contributing factors to teenage pregnancy, out-of-school youth, and risks on women’s health. This affects both boys and girls, thus it is a concern for all children. However, girls are disproportionately affected because of risks of child pregnancy and other health issues.

Child marriage is defined as a union, where one or both parties are below the age of 18. It is a misconception that child marriages will be providing protection to the children. This practice is also a form of gender inequality.

The Family Code prescribes the marrying age of 18 years and above. This is an essential requirement, along with consent freely given before a solemnizing officer. Any marriage not meeting the essential requisites is considered *void ab initio*.

This notwithstanding, child marriage still occurs in certain indigenous cultural communities in the Philippines. Under the Code of Muslim Personal Laws,¹ a male Muslim must be at least fifteen (15) years of age to be able to contract into marriage, while a female must reach the age of puberty, which is presumed to be at the age of fifteen (15) years. However, a female is allowed to be married even below the age of 15 but not less than 12 years old as long as she has attained puberty.

¹ Code of Muslim Personal Laws of the Philippines, Presidential Decree No. 1083, Art. 16 (1977)

Section 3 of the proposed measures, affirms the principles of human rights of women and children. Coincidentally, Section 3 (2) of Republic Act No. 7610 or the Special Protection of Children against Abuse, Exploitation, and Discrimination, provides that *any act by deed or words, which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being is considered child abuse*. Child marriage exposes a child, particularly girls, to risks of domestic violence as children are considered not yet fully developed physically and mentally. Risks and threats of violence and abuse is greater especially when the other party is an adult.

According to UNICEF, girls who marry before the age of 18 is less likely to remain in school and will have an impact on economic and social outcomes. This circumstance will greatly hamper our attainment of the United Nations Sustainable Development Goals particularly target 5.3 of Goal number 5, on achieving gender equality and empowerment of women and girls.² Achieving this goal is particularly important as it is considered a step forward in attaining other SDG indicators, such as on reducing the number of out-of-school youth, health in terms of reducing maternal and child mortality, gender equality, and reduced inequalities.

The International Covenant on Civil and Political Rights (ICCPR) provides that the exercise of the freedom of religion are subject to limitations by law necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.³ Girls who enter into marriage by reason of their family's free exercise of their religious beliefs exposes them to childhood pregnancy that poses a threat to their health and increases the risk of complications for themselves and the infant. Marriage at a young age may also result in isolation from their family, friends, and community and have an impact on their physical and psychological well-being. Further, the ICCPR also provided that the right to marriage and found a family should be at a marriageable age.⁴

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages,⁵ to which the Philippines is a state party, mandates that no marriage shall be legally entered without the full and free consent of both parties.⁶ Studies have shown that children are not yet capable of fully deciding for themselves,⁷ given that a child's brain have not yet reached maturity, thus they are vulnerable to exploitation and abuse.

² Transforming our world: the 2030 Agenda for Sustainable Development, G.A. Res. 70/1, U.N. Doc. A/RES/70/1 (Oct. 21, 2015).

³ International Covenant on Civil and Political Rights, Part III, Art. 18 (3), *ratified* Oct. 23, 1986, 999 U.N.T.S. 171

⁴ *Id.* Art. 23

⁵ Convention on the Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages, *ratified* Jan. 21, 1965, 521 U.N.T.S. 231

⁶ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Art. 1 (1)

⁷ Johnson S.B., Blum R.W., Giedd J.N. Adolescent maturity and the brain: The promise and pitfalls of neuroscience research in adolescent health policy. *J. Adolesc. Health Off. Publ. Soc. Adolesc. Med.* 2009;45:216–221. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2892678/>

The Committee on the Rights of the Child and the Committee on the Elimination of All Forms of Discrimination against Women,⁸ through Joint General Comment No. 31, also confirmed that marrying age should be at the age of eighteen (18), taking into consideration that girls are not yet psychologically and physically prepared for marriage and pregnancy at an early age. Child marriages often lead to early and frequent pregnancies resulting to a high maternal mortality and child mortality rate due to childbirth complications.

According to the 2017 National Demographic and Health Survey,⁹ 8.6% of women have begun childbearing at age 15-19 and 1.6% had sexual intercourse before the age of 15. The advocacy to end the practice of child marriage, as a child rights violation, intersects with several issues that affects the realization and fulfillment of the rights of a child. It disrupts a child's education, resulting to increased rate of school drop-out. It also exposes the child to risks of violence and abuse. Teenage pregnancy will also complicate the health of the child forced into marriage.

While the Commission recognizes the different cultural and religious aspects on child marriage, we highlight the need to ensure proper education on why child marriage should be prohibited and why we should focus more on the rights and welfare of the child. Penal provisions in the proposed bills mentioned above are important to deter or prevent child marriage. However, the focus must shift to community-based and participatory education and awareness on why child marriage poses risks to the health and development of the child. We likewise reiterate that the best interests of the child shall be the primary consideration for any intervention and policy development.

In light of the foregoing, the Commission on Human Rights, submits this position paper to the House of Representatives and hereby proposes these recommendations:

1. Include cohabitation of a child, together with an adult (10 years or more of child's senior) as spouses even without the rite or solemnization of the child marriage as among those prohibited under this proposed measure
2. Strengthen the advocacy for ending child marriage through education; and information dissemination, taking into consideration the different nuances in indigenous cultural communities and Muslim communities
3. Ensure evidence-based, culture-sensitive, and age-appropriate program interventions and policies for preventing and mitigating child marriage and eventually empowering girls to participate in such efforts. These

⁸ Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, U.N. Doc. CEDAW/C/GC/31-CRC/C/GC/18 (Nov. 4 2014)

⁹ 2017 Philippine National Demographic and Health Survey.

https://psa.gov.ph/sites/default/files/PHILIPPINE%20NATIONAL%20DEMOGRAPHIC%20AND%20HEALTH%20SURVEY%202017_new.pdf

program interventions will be undertaken by the Department of Social Welfare and Development and other government agencies and stakeholders as provided for in Section 6 of HB No. 1486, Section 9 of HB No. 3899, Section 10 of HB No. 5670, and Section 8 of HB No. 7922

In conclusion, the Commission supports the passage of this proposed measure that will provide safeguards for our children and ensuring that their best interest is of primary consideration. As the Gender Ombud, the Commission seeks to protect girls, especially children, from any form of abuse and exploitation and advance our work to achieve gender equality in society.

ISSUED this 15th day of June 2021, Quezon City, Philippines.



JOSE LUIS MARTIN C. GASCON

Chairperson



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