



20th July 2017

Justice and Electoral Committee

Parliament Building
Wellington 6140
New Zealand

E-mail: Justice.Electoral@parliament.govt.nz

Re: Submission on the Marriage (Court Consent to Marriage of Minors) Amendment Bill

This submission is from the NZ Federation of Business and Professional Women (BPW NZ) Inc.

Executive Summary

BPW NZ supports Marriage (Court Consent to Marriage of Minors) Amendment Bill, as it helps protect minors from forced or coerced marriages.

However, BPW NZ believes the legal age of marriage should be eighteen, so that it is not legal for minors to marry under any circumstances. UN protocol states that a minor is anyone under the age of eighteen and should a minor be married it is effectively forced/coerced marriage, as they are not equipped to make a decision about marriage at a young age.¹

We believe the best way to protect adolescent children is to ensure they cannot, for any reason, enter into a contract with such lasting consequences.

General Comments

Our policies

- 1.1** 16.15. urges the New Zealand Government to revise the legal minimum age of marriage to eighteen years without any exception for parental consent and to introduce legal measures to prohibit underage and forced marriages and promote measures to protect women harmed by polygamy and dowry-related violence.

¹ https://www.unicef.org/publications/files/Early_Marriage_12.lo.pdf



1.2 In 2013 we brought a resolution to the National Council of Women New Zealand (NCWNZ) which ask that the NCWNZ:

Responds to Clauses 21 and 37 of the July 2012 New Zealand “*Concluding Observations of the UN Committee on the Elimination of Discrimination Against Women*” by supporting measures to prohibit underage and forced marriages and through the promotion of measures to protect women harmed by polygamy and dowry-related violence.

1.3 In 2014, we took the issue of forced marriages and child brides to the international stage and along with BPW Africa, brought a resolution to the BPW International Congress which was subsequently passed.

The resolution reads:

The BPW International General Assembly 2014:

is mindful that action to stop and prevent all forms of violence against women and girls is a BPW International priority policy; that the UN Convention on the Rights of the Child considers marriage before the age of eighteen a human rights violation; and that child marriage, described by UNICEF as "perhaps the most prevalent form of sexual abuse and exploitation of girls", is one of the biggest obstacles to development, destroys the innocence of millions of girls in Africa and worldwide and often condemns them to lives of poverty, ignorance and poor health;

recognises the loss of opportunity for child brides to reach their potential, the economic impact of child marriage on the woman and her children, and the effect on the economy of the disempowerment of whole communities of women through child marriage; shares the global concern on the ills of child marriage; and therefore, notes with grave concern the rationale for prevention of child marriage and resolves to address the issue as a top priority policy issue through:

a. advocacy – *creating awareness and sensitizing traditional and religious leaders, government officials, women’s groups, opinion leaders and other stakeholders on the implication of child marriage; and advocating for free and compulsory basic education for the girl child.*

b. education – *building capacity through training key stakeholders on human rights abuse and rights protection, and alerting them to existing laws and platform they can use to protect their rights or rights of their children; specifically building capacity of mothers through sensitization*

BPW NEW ZEALAND

AFFILIATED TO THE INTERNATIONAL FEDERATION OF BUSINESS & PROFESSIONAL WOMEN

✉ PO Box 28326, Remuera, Auckland 1541, New Zealand

✉ svp@bpwnz.org.nz twitter.com/nzfedbpw facebook.com/bpwnz bpwnz.org.nz



and knowledge sharing to equip them to serve as agents for the prevention of early marriages; providing platforms for men to advocate for the prevention early early/child marriages.

c. conducting community mobilization programmes and evaluating interventions.

d. media campaigns – promoting national discussions on gender violence; increasing public awareness through campaigns designed to change attitudes and behaviours.

e. lobbying and engaging governments and other relevant policy decision makers, through existing platforms, networks and coalitions for the inclusion of human rights in school curriculum and for enactment of policy and law prohibiting child and forced marriage.

f. locally adapting, adopting and distributing all charters, treaties, policies, laws and agreements targeted countries have committed to.

g. identifying and working with agencies that can provide legal support to young girls whose rights are violated through forced marriage.

h. collaborating with credible local and international organizations working on prevention of early/child marriage i.e. FIDA in Nigeria, Tostan in Senegal and other research institutions.

i. conducting research on existing programmes aimed at preventing early/child marriage in developing countries; facilitating cross communication and learning to improve efficiency of intervention.

2.0 Child Marriage in New Zealand

2.1 BPW NZ believes the legal age of marriage should be eighteen, because sixteen and seventeen-year old are classified as minors and should not therefore be able to marry. In New Zealand, sixteen and seventeen-year old cannot vote, buy alcohol, sit on a jury, buy fireworks, or be fully bound by a contract.² The age of majority in New Zealand is 20, and generally, anyone under the age of eighteen is considered a minor.

2.2 It is difficult to find public statistics around the prevalence of child marriages in New Zealand. Statistics NZ reports on marriages for those 19 and under; in 2016, there were 117 males and 282 females married who were 19 or younger. The

² Care of Children Act 2004



explanatory note in the Bill advises that there are about 80 marriages per year involving sixteen and seventeen-year old's.³

2.3 Much of the anecdotal evidence for forced marriages in New Zealand indicates that they are more prevalent in non-Maori or NZ European cultures. Priyanca Radhakrishnan worked for Shakti, a national not-for-profit community organisation specialising in the area of women's development, empowerment and domestic/family violence intervention, with particular cultural awareness for children and families of Asian, African and Middle Eastern origin. Ms. Radhakrishnan's Master's thesis *Unholy Matrimony* spoke in detail about cases of forced marriages in New Zealand and the challenges migrants have because they are often required to live in more insular, smaller communities. She described how migrant women struggle fit in among English speakers, to find work and further their education and consequently they become more reliant on their family and a smaller network. These communities, faced with adapting to a different cultural environment, may even experience a backlash supporting traditional cultural practices which claim to protect women and their cultural identity, such as forced marriages.

2.4 Child marriages and forced marriages, which often go hand-in-hand, does happen in New Zealand. Girls are primary impacted; eighty percent of minors married are female.⁴ Some of our most marginalised people are a target too—young women who are migrants. Poverty is a factor, the International Centre for Research on Women (ICRW) finds that, globally "girls living in poor households are almost twice as likely to marry before 18 than girls in higher income households". In The United Nations Children's Fund (UNICEF) report titled *Early Marriage: A Harmful Traditional Practice* it was found that domestic violence is more common for women who had been married as children.⁵

3.0 Child Marriages: International Perspective

3.1 New Zealand is a signatory to the following international agreements and lists them as guiding documents in the Government's efforts to prevent forced marriage.⁶

- Universal Declaration of Human Rights
- United National (UN) Convention on the Rights of the Child
- UN Convention on the Elimination of All Forms of Discrimination Against Women
- UN Convention on consent to marriage, minimum age for marriage and registration of marriages
- UN Convention on the Elimination of All Forms of Discrimination Against Women

³ <http://legislation.govt.nz/bill/member/2017/0256/latest/d56e2.html>

⁴ <https://nzfvc.org.nz/news/collaboration-address-forced-marriage-new-zealand-more-action-urged>

⁵ https://www.unicef.org/publications/files/Early_Marriage_12.lo.pdf

⁶ <https://www.workandincome.govt.nz/providers/programmes-and-projects/forced-marriage.html#null>



3.2 In *The State of the World's Children* UNICEF reported that:

- Girls who marry early are more likely to abandon formal education and become pregnant
- If a mother is under the age of eighteen, her infant's risk of dying in its first year of life is 60 percent greater than that of an infant born to a mother other than nineteen
- Children born to child brides are more likely to suffer from low birth weight, under nutrition, and late physical and cognitive development
- Child brides are at risk of violence, abuse and exploitation and are often separated from family and friends, lacking freedom to participate in community activities

3.3 The UN is clear about its stance regarding marriage, it considers anyone under the age of eighteen a minor and if married, consent is not possible as the marriage that cannot be 'free and full' when one partner is immature.⁷

3.4 The global economic cost of child marriage is billions of dollars, annually.⁸ *Costs of Child Marriage* - is an ICRW and the World Bank initiative aimed at researching the economic consequences of child marriage to support the economic case for ending child marriage.⁹

In their words:

When girls are forced to marry, they often drop out of school, may face serious health complications and even death from early pregnancy and childbearing, and are at greater risk of HIV infection and intimate partner violence.

They are often isolated, with limited opportunity to engage socially and to participate in the economic development of their communities. Child marriage thus hampers efforts to eradicate poverty and achieve sustainable global development.

4.0 Proposed Bill

4.1 Our question for the committee is: where the burden of proof will lay when a case for marriage involving a minor is taken before a Court? Will the bridal couple, or their family, be required to state the case for marriage? What will be considered an acceptable case for a sixteen or seventeen-year-old to be married? Will they have

⁷ <https://www.unicef-irc.org/publications/pdf/insight6.pdf>

⁸ <http://www.costsofchildmarriage.org/file/153/download?token=kFoVE9w1>

⁹ <http://www.costsofchildmarriage.org/>



to prove true love and a lasting, equal commitment? Or will the judge be assessing whether force or coercion is involved? Is a judge able to ensure they can identify more complicated cases of coercion?

4.2 One of our members, a teacher, reported a student being encouraged by her mother to marry the girl's teenage boyfriend, so that he would be better eligible for a NZ visa. The children are close, their families are close, and the coercion is not violent or outwardly abusive. The girl and boy may be manipulated into a decision with long-term consequences, as well as abetting visa fraud, because they want the best for one another as friends or a young couple in love. Cases like these are much more ambiguous.

4.3 The above questions lead BPW NZ to believe the bill does not address the issue of forced or coerced marriage as definitely as outlawing marriages among minors.

5.0 International Status

5.1 BPW NZ is affiliated to the International Federation of Business and Professional Women (BPW International) which has General Consultative Status at the United Nations (UN) through the UN Economic & Social Council (ECOSOC). This enables BPW International to appoint official representatives to UN agencies worldwide and to accredit members to attend specific UN meetings.

5.2 BPW International upholds the outcomes of the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee at state party level. BPW International upholds the outcome documents of the annual UN Commission on the Status of Women (CSW) which evaluates progress, identifies challenges, sets global standards and formulates policies to promote gender equality and women's empowerment worldwide.

5.3 BPW International also upholds the UN Resolution on Child, Early and Forced Marriage, the UN Convention on Consent to Marriage, Minimum Age for Marriage and the UN Convention of the Rights of the Child. In addition, Article 16 of the 1948 Universal Declaration of Human Rights states that:

- (1)** Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2)** Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3)** The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

BPW NEW ZEALAND

AFFILIATED TO THE INTERNATIONAL FEDERATION OF BUSINESS & PROFESSIONAL WOMEN

✉ PO Box 28326, Remuera, Auckland 1541, New Zealand

✉ svp@bpwnz.org.nz twitter.com/nzfedbpw facebook.com/bpwnz bpwnz.org.nz



6.0 Recommendation Summary

BPW NZ believes this legislation is an attempt to prevent minors from being forced or coerced into marriage, which on its own, we support. Alternatively, we recommend the legal age for marriage be raised to eighteen. This would mean New Zealand leads the way in following through on its obligations to UN protocol and most importantly, would be a much more effective and humane approach in preventing forced or coerced marriages.

Our Organisation

BPW NZ is a group with over three hundred diverse members throughout New Zealand. Our organisation's aims are to link professional and business women throughout the world so that they may provide support to each other, lobby for change and to promote the ongoing advancement of women and girls. We work for equal opportunities and status for all women in economic, civil and political life and the removal of discrimination in all countries. We promote our aims and organise our operating structure without distinction as to race, language or religion.

Thank you for the opportunity to speak to our submission and we hope that our comments are of use to you.

On behalf of New Zealand Federation of Business and Professional Women Inc.

Hellen Swales
President

Janet Gibb
Vice President, Issues

BPW NEW ZEALAND

AFFILIATED TO THE INTERNATIONAL FEDERATION OF BUSINESS & PROFESSIONAL WOMEN

PO Box 28326, Remuera, Auckland 1541, New Zealand

✉ svp@bpwnz.org.nz twitter.com/nzfedbpw facebook.com/bpwnz bpwnz.org.nz