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INTERNATIONAL BAR ASSOCIATION RESOLUTION ON ENDING CHILD MARRIAGE

Adopted on

The Council of the International Bar Association

Guided by the existing international instruments and legal framework, including the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments, including the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; as well as the United Nations Guiding Principles on Business and Human Rights and the Sustainable Development Goals, targets and indicators relevant to preventing, responding to and eliminating child, early and forced marriage, including target 5.3,

Recalls the 2023 United Nations Human Rights Council Resolution (A/HRC/RES/53/23), reaffirming the unequivocal commitment of the international community to eradicate child, early and forced marriage,

Recalls the 2024 Report of the United Nations Secretary-General on the issue of child, early and forced marriage (A/79/308)¹, indicating that despite ‘global advances, the reduction of the incidence of child marriage is too slow to meet the target of eliminating this harmful practice by 2030 in line with Sustainable Development Goal 5’,²

Reaffirms that child, early and forced marriage constitutes a blatant violation of human rights and is a harmful practice that disproportionately affects girls that cannot be justified under cultural, religious or economic grounds. It is a form of sexual and gender-based violence that perpetuates other forms of violence and discrimination against women and girls, and that has

¹ UN Secretary-General, ‘*Report of the Secretary-General on the issue of child, early and forced marriage*’ (9 August 2024) [A/79/308](#).

² *ibid* para 3.

severe, interrelated, adverse consequences for the full enjoyment of all human rights, including, but not limited to:

- Right to education: child, early and forced marriage regularly results in the interruption or termination of education, perpetuating cycles of poverty and preventing life opportunities;
- Right to health: child, early and forced marriage heightens exposure to health risks, including early pregnancy, maternal mortality and sexual and gender-based violence;
- Right to equality and non-discrimination: child, early and forced marriage disproportionately impacts girls, entrenching gender-based discrimination and undermining equality before the law;
- Right to protection from violence and exploitation: child, early and forced marriage exposes children to elevated risks of abuse, violence and exploitation; and
- Right to autonomy and participation: child, early and forced marriage impairs the capacity of children to exercise their rights to participate in decisions affecting their lives,

Underscores that States have human rights obligations to respect, protect and fulfil the human rights and fundamental freedoms of women and girls, including to prevent and eradicate the practice of child, early and forced marriage,

Notes that in all contexts, the essential drivers of child, early and forced marriage are patriarchal ideologies and structures targeting women and girls and violating their rights and human dignity, and that child marriage is consistently rooted in gender inequality, fuelled by poverty, harmful social norms and barriers to education,

Recognises that, in many contexts, the practice of child, early and forced marriage may include informal unions, cohabitation or other arrangements that are not formalised, registered or recognised by a religious, customary or state authority, and that such arrangements must be addressed in policies and programmes that hold violators accountable,

Recognises also that child, early and forced marriage is a major impediment to the achievement of women's and girls' economic empowerment, social and economic development and their inclusive participation and leadership in economic, social, political and public life,

Recognises further that child, early and forced marriage constitutes a serious and urgent threat to the full realisation of the right to the enjoyment of the highest attainable standard of physical and mental health by women and girls, in particular adolescent girls, including but not limited to their sexual, reproductive and mental health,

Concerned that an estimated 12 million girls are married before the age of 18 each year worldwide, perpetuating cycles of poverty, violence and inequality,

Deeply concerned that, in some cases, guardians have the legal authority to consent to marriage for women and girls, in accordance with custom or other bases,

Convinced that the effective protection of children from all forms of exploitation and harmful practices necessitates comprehensive, coordinated and sustained measures by states, legal professionals, civil society and the international community,

Stresses, in particular, the need for targeted policy, to prevent the practice of child, early and forced marriage, not only as a severe urgent case of violence against women and girls, but also as a form of slavery, according to the international legal definition of slavery, as well as a form of gender apartheid,

Reiterates that child, early and forced marriage is firmly prohibited by international law, including, but not limited to:

- The Convention on the Rights of the Child (CRC), obliging States Parties to protect children from all forms of harmful practices (Articles 19 and 24);
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), mandating the elimination of discrimination against women and girls regarding marriage and family relations (Article 16);
- The Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which require the free and full consent of intending spouses to marriage; and
- Relevant regional instruments, including the African Charter on the Rights and Welfare of the Child and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention),

Recalls that for the purposes of this Resolution, the following definitions apply:

- Child marriage: any formal or informal union in which at least one party is under the age of 18 years, consistent with the definitions prescribed in the CRC and CEDAW General Comments.
- Forced marriage: Any marriage conducted without the full, free and informed consent of both parties, including instances where one or both parties are children and thereby incapable of providing such consent.
- Best interests of the child: this Resolution should be interpreted in the light of the principle of best interest of the child, as defined in Article 3 of the CRC,

Affirms its unwavering commitment to upholding and advancing international human rights and the rule of law, and contribute to the eradication of child, early and forced marriage.

Hereby resolves that:

Child, early and forced marriage is prohibited under fundamental principles and norms of international law (*jus cogens*). The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child classify it as a harmful practice, which States Parties have a duty to prevent.³ The Sustainable Development Goals clearly urge to eliminate forced marriage by 2030.

- ***On states' obligations***

Urges states to:

- 1) Recognise child, early and forced marriage as a distinct and *per se* crime and violation of the human rights of women and girls;

³ Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices

- 2) Adopt, implement and harmonise national legislation establishing the minimum legal age for marriage at 18 years, without exemptions based on gender, culture, religion or any other consideration (in accordance with the recommendations of the CRC and the CEDAW);
- 3) Develop and implement comprehensive, multisectoral and human rights-based national measures and policies, including public education, awareness campaigns and empowerment initiatives, aimed at the prevention of child, early and forced marriage and effectively address root causes, risk factors and drivers of child, early and forced marriage in order to prevent it;
- 4) Recognise the diverse contexts of child, early and forced marriage and implement targeted interventions appropriate to the prevention and protection of victims in these differing contexts;
- 5) Ensure the registration of all marriages, also for the purpose of establishing responsibility for the prevention of a child, early and forced marriage; exercise due diligence as regards unregistered or non-formalised marriages that have already taken place and include them within measures of prohibition and protection; strengthen civil registration and vital statistics systems to ensure the compulsory registration of all births and marriages;
- 6) Collect data on child, early and forced marriage in a human-rights-based manner, to inform initiatives aimed at addressing child, early and forced marriage, particularly in marginalised groups and remote areas;
- 7) Tackle drivers of child, early and forced marriage, in consultation and collaboration with relevant stakeholders, including civil society, rural, community-based and faith-based organisations, community leaders, youth and women organisations, as well as the legal professions and the private sector, and engage proactively in challenging stereotypes, harmful traditional practices and social norms that perpetrate child, early and forced marriage; and
- 8) Encourage the provision of universal access to quality education, particularly for girls, as a proven means to prevent child, early and forced marriage.

- ***Monitoring and accountability***

- 9) Promote access to justice, accountability measures and remedies to ensure the effective enforcement of laws aimed at preventing and eliminating child, early and forced marriage;
- 10) Ensure legal protection of victims and survivors of child, early and forced marriage, including by: 1) informing them about their rights under relevant laws, including in marriage and at its dissolution; 2) improving legal infrastructure; 3) mainstreaming gender equality and human rights perspectives into justice systems; 4) ensuring equal access to meaningful legal aid, *pro-bono* legal advice, assistance and representation; 5) ensuring access to judicial and non-judicial legal remedies; 6) addressing conflicting laws and policies, including customary policies; and 7) training members of the judiciary and legal professionals;
- 11) Ensure the systematic collection, analysis and public dissemination of data regarding the persistence and consequences of child marriage,

- 12) Ensure the systematic, independent oversight of the implementation of laws and policies by national human rights institutions, ombudspersons and international treaty bodies;
- 13) Strengthen international cooperation and solidarity to support programmes and to address the root causes of child, early and forced marriage and to support progress toward its elimination;
- 14) Mandate periodic reporting and monitoring of progress towards the elimination of child, early and forced marriage, with accountability mechanisms to ensure commitments are upheld,

- ***Role of the legal profession***

- 15) Recognises the essential function of legal practitioners, judges and legal institutions in eradicating child, early and forced marriage and calls upon the legal profession to:
 - Advocate for the adoption and enforcement of the above-mentioned recommendations, in particular laws preventing this harmful practice;
 - Promote access to justice for children and survivors of child marriage, including through the provision of legal aid, *pro-bono* legal representation and child-sensitive judicial procedures;
 - Engage actively in law reform, strategic litigation and public interest advocacy to strengthen the protection of girls and combat child, early and forced marriages;
 - Develop the capacity of legal professionals, including judges and prosecutors, judicial officers and law enforcement agents to identify, prevent and proactively respond to cases of child marriage; and
 - Support governments, international organisations and civil society to implement comprehensive and coordinated responses to end child marriage, including by providing expertise and analysis on the impact and eradication of child, early and forced marriage,
- 16) Expresses its resolute determination towards the universal eradication of child, early and forced marriage in all jurisdictions. By reaffirming the fundamental rights and inherent dignity of all children, in particular girls, calls upon the Bar Associations and legal professions to act as a matter of urgency, to contribute to the eradication of child, early and forced marriage.