



Family Digest 45

27th October 2021

International Day of the Girl Child

The International Day of the Girl Child is marked every year on 11th October to promote girls' rights and to recognize the unique challenges girls experience around the world. Achieving the empowerment of women and girls is integral to each of the United Nations (UN) 17 Sustainable Development Goals,¹ but particularly Goal 5, which calls for the realization of gender equality. One of the most pernicious obstacles to gender equality is the continuing practice of child marriage, which takes place in South Africa as well as many other African countries.²

The UN Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, as well as the Constitution of South Africa, determine the age of eighteen as the age of majority. One of the chief objectives of the South African Law Reform Commission Report³ on a single marriage statute was that no one should be able to give permission to marry on behalf of a minor. Both parties must be a minimum of 18 years of age; there must be free and informed consent by all parties; and parties must have the capacity to enter into a marriage or life partnership. These proposals, should they be adopted, would do much to prevent child marriages.

In South Africa, girl children may be victims of the customary practice of *ukuthwala*, which is defined by the Department of Justice as “a form of abduction that involves kidnapping a girl or a young woman by a man and his friends or peers with the intention of compelling the girl or young woman’s family to endorse marriage negotiations.”⁴ The man involved incurs liability and reparation is paid to the victim’s family. Increasingly, the practice involves “the kidnapping, rape and forced marriage of minor girls as young as twelve years, by grown men old enough to be their grandfathers.”⁵ Nyasha Karimakwenda argues that violent *ukuthwala* is not necessarily a new corruption of an old tradition, but rather that there are “sources that provide rich insights into past practices of violent *ukuthwala*”.⁶

Human trafficking is also common. The girl child is regarded as a commodity that can be bought and sold – an object exchanged for gain. Girl children endure other forms of economic exploitation, including physical labour in agricultural and factory work. These children are denied their own agency while their health, education and development is compromised. Most sadly of all, these children are not loved.

The continued dominance of *patriarchy* regardless of race, class or ethnic origin stretches well into the 21st century. The explosion of gender-based violence experienced by the women and girls in the South Africa of today is further evidence of gross gender inequality.

As far back as 1993, the UN Declaration on the Elimination of Violence against Women (CEDAW) defined violence against women in a way which is apposite to this focus on the girl child. It stated that:

“Violence against women shall be understood to encompass, but not be limited to, the following:
(a) *Physical, sexual and psychological violence* occurring in the family, including battering, *sexual abuse of female children* in the household, dowry-related violence, *marital rape, female genital mutilation* and other *traditional practices harmful to women*, non-spousal violence and violence related to exploitation;

(b) *Physical, sexual and psychological violence* occurring within the general community, including *rape, sexual abuse, sexual harassment* and intimidation at work, in educational institutions and elsewhere, *trafficking in women and forced prostitution*.”⁷

The rights of the girl child are perhaps most violated by child marriage. Importantly, child marriage is closely linked to early childbearing, with consequences that can be fatal.

“Girls who marry young are often denied a range of human rights: many must discontinue their education, face serious health risks from early and multiple pregnancies, and suffer sexual and domestic violence. Agenda 2063, the African Union’s 50-year action plan for development, recognizes that child marriage is a major impediment to regional development and prosperity.”⁸

International standards require state parties to take appropriate measures with a view to abolishing traditional practices such as child marriage and female genital mutilation which are prejudicial to the health of children. International standards stipulate that, where cultural practices hinder or stand in the way of children’s rights, the cultural practice must give way as it is not in the *‘best interests of the child’*.

This year the world is marking the International Day of the Girl Child under the theme, *‘Digital Generation, Our Generation.’* “The world must ensure that girls, especially in developing countries, can reap the benefits of the technological revolution that has reshaped the life of every human being.”⁹ Increasingly, access to the internet is seen as a basic human right. The persistent high cost of data limits that access and results not only in an educational deficit, but limits participation and independence in the world of today.

It is difficult to imagine the deliberately disempowered girl children discussed here having access to such an effective tool of knowledge and communication, but if they did it could be the key to their liberation.

The links below provide some further information on this issue.

<https://www.un.org/en/observances/girl-child-day>

<https://www.twinkl.co.za/event/international-day-of-the-girl-child-2021>

<https://www.africanews.com/2021/10/11/international-day-of-the-girl-child-2021-digital-generation-our-generation/><https://www.justice.gov.za/brochure/ukuthwala/ukuthwala.html>

<https://www.dailymaverick.co.za/article/2021-09-21-rethinking-ukuthwala-the-south-african-bride-abduction-custom/>

Lois Law

lois@cplo.org.za

Project Co-ordinator

¹ The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as a universal call to action to end poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity.

² Nigeria has the largest number of child brides in Africa. 23 million girls and women were married as children
<https://www.globalcitizen.org/en/content/ask-an-expert-why-important-empower-girls-nigeria/>

³ The South African Law Reform Commission (SALRC) Discussion Paper 152 on the Single Marriage Statute: Project 144.

⁴ <https://www.justice.gov.za/brochure/ukuthwala/ukuthwala.html>

⁵ <https://www.justice.gov.za/brochure/ukuthwala/ukuthwala.html>

⁶ <https://www.dailymaverick.co.za/article/2021-09-21-rethinking-ukuthwala-the-south-african-bride-abduction-custom/>

⁷ [https://www.google.com/search?q=%E2%80%9CViolence+against+women+shall+be+understood+to+encompass%2C+but+not+be+limited+to%2C+the+following%3A+\(a\)+Physical%2C+sexual](https://www.google.com/search?q=%E2%80%9CViolence+against+women+shall+be+understood+to+encompass%2C+but+not+be+limited+to%2C+the+following%3A+(a)+Physical%2C+sexual)

⁸ <https://www.hrw.org/news/2015/12/09/ending-child-marriage-africa>

⁹ <https://www.africanews.com/2021/10/11/international-day-of-the-girl-child-2021-digital-generation-our-generation//>

This Digest, or parts thereof, may be reproduced with acknowledgement. For any further enquiries or suggestions, or to receive our regular publications, please contact events@cplo.org.za.