



Ending Child Marriage in the United States: Why New York Needs to Close the Loopholes on Marriage for Minors

Child Marriage Happens Here.

- As the United Nations Children’s Fund reports, more than 700 million women worldwide were married before their 18th birthday.¹ However, child marriage is not only an issue confined to distant shores. **According to data obtained from the New York State Health Department, 3,853 minors were married in New York State between 2000 and 2010.**²
- Statewide data³ shows that 85 percent of the children who were married between 1997 and 2010 were minor girls wed to adults.⁴ These marriages include 14 or 15-year-old girls married to men older than 25 years of age, and all of these marriages were approved by New York judges.⁵ In New York State, sexual relations between minors and adults of these ages is considered statutory rape.
- Neighboring New Jersey approved 3,481 marriages involving minors between 1995 and 2012. Ninety-one percent of these marriages involved children married to adults, and 90 percent of the children married were girls.⁶
- Under current New York State law, the minimum age of consent for marriage is 18. However, loopholes in the law allow for 16 and 17-year olds to be married with parental consent and for children as young as 14 to be married with both parental and judicial consent.⁷
- Children under 18 can easily be forced into marriage under the current law, just at the age when they are at heightened risk of forced marriage. Currently, a 16- or 17-year-old can be wed with only their parents’ signatures on their marriage license application, with no process in place to ensure that a parent’s “approval” is not actually “parental coercion.”

¹ United Nations Children’s Emergency Fund (UNICEF), *Ending Child Marriage: Progress and Prospects* (2014), available at http://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf.

² Fraidy Reiss, *America’s Child-Marriage Problem*, N.Y. Times (Oct. 13, 2015), available at http://www.nytimes.com/2015/10/14/opinion/americas-child-marriage-problem.html?_r=0.

³ This statewide data was collected and analyzed by Unchained at Last, www.unchainedatlast.org. The statewide data referred to in this paragraph excludes New York City.

⁴ *Id.*

⁵ Reiss.

⁶ Reiss.

⁷ N.Y. Domestic Relations Law, §§ 15, 15-a.

Child Marriage is Harmful, Particularly for Girls.

- Child marriage harms both boys and girls, but disproportionately affects girls who are much more likely to be married before age 18. Marriage at any age before 18—including at 16 or 17—undermines girls’ health, education and economic opportunities, and increases their likelihood of experiencing violence.⁸
- Overall, pregnant teens who marry are more likely to end up living in poverty and have less long-term economic stability.⁹ This is because girls who marry in their teens generally have less access to education and work opportunities, tend to have more children spaced more closely together, and get divorced 70 to 80 percent of the time.¹⁰
- Girls who marry before the age of 18 experience violence at higher rates—they are three times more likely to have been beaten by a spouse than women who marry at 21 or older.¹¹
- Because of its known harms, there is global support for ending child marriage, defined as marriage under the age of 18. The 1995 Beijing Declaration and Platform for Action re-affirmed the commitments of 189 countries to advance the rights of women and girls and aims to set and enforce a minimum marriage age to protect girls.¹² The U.S. Senate unanimously passed legislation in 2010 to enact the “International Protecting Girls By Preventing Child Marriage Act,” which denounced all cases of child marriage as child abuse.¹³
- Children can easily end up trapped in marriage without the legal rights, protections and resources of adults. Children who are married face legal barriers to obtaining a divorce,¹⁴ may be unable to secure their own bank account or lease,¹⁵ and may have a more difficult time accessing services in the case of domestic violence, all because they are under the age of 18.

⁸ Clinton Foundation & Gates Foundation, *No Ceilings: The Full Participation Report: Highlights* (Mar. 2015), at p. 3, available at <http://noceilings.org/report/highlights.pdf>.

⁹ *Id.*

¹⁰ Vivian E. Hamilton, *The Age of Marital Capacity: Reconsidering Civil Recognition of Adolescent Marriage*, 92 Boston University Law Review 1817 (2012), at p. 1846, available at <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2467&context=facpubs>, *supra* note 8.

¹¹ WORLD Policy Analysis Center, *Fact Sheet: Assessing National Action on Protection from Child Marriage*, University of California, Los Angeles (2015), available at

http://worldpolicycenter.org/sites/default/files/WORLD_Fact_Sheet_Legal_Protection_Against_Child_Marriage_2015.pdf.

¹² *Id.*

¹³ Hamilton.

¹⁴ N.Y. C.P.L.R. § 1201 (noting a child must generally initiate or appear in court proceedings through the guardian of her property, her parent, her legal guardian, or her adult spouse with whom she is residing if she is married, unless the court appoints a guardian ad litem); *see, e.g., Wood v. Wood*, 1830 WL 2724, 2 Paige Ch. 108, 109 (N.Y. Ch. 1830) (noting that the child appeared in divorce proceedings with an attorney, instead of a guardian as required, “when she was legally incompetent to understand and defend her own right”).

¹⁵ *See, e.g., In re Farley*, 213 N.Y. 15 (1914) (noting that a minor is regarded as “not having sufficient capacity to understand and pass upon questions involving contractual rights, and, therefore, a person dealing with him does so at his peril, and subject to the right of the infant to avoid his contract when he becomes of age”).