



**Women's
Probono
Initiative**

Your rights, Your life

**AN OVERVIEW OF THE LEGAL
AND POLICY LANDSCAPE
ON CHILD MARRIAGE AND
ADOLESCENT (TEENAGE)
PREGNANCY IN UGANDA**

Handbook

July 2019

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LIST OF ABBREVIATIONS

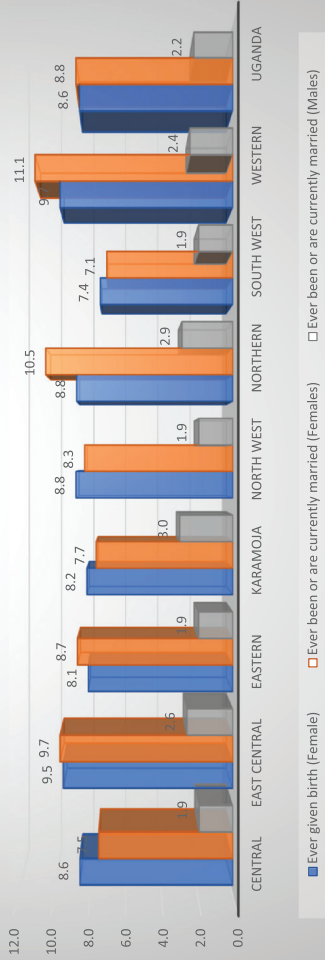
MoGLSD	Ministry of Gender Labour and Social Development
UBOS	Uganda Bureau of Statistics
UDHS Survey	Uganda Demographic Health
SRHR Rights	Sexual Reproductive Health and
CESCRs	Convention on Economic Social and Cultural Rights
ESCRs	Economic Social and Cultural Rights

INTRODUCTION

An adolescent is defined by the World Health Organisation (WHO) as a person in the age group of 10-19 years. Uganda has a predominantly young population with over 56% of its population under the age of 18 and about half (48.7%) under the age of 15 (UBoS). 25% of Uganda's female population is adolescent girls and a quarter of these have had a baby by the age of 19 (MoH). Further 1 in 10 girls is married off before the age of 15 (MoH) and at least 40% of women aged 20-24 were married by the age of 18 (UDHS, 2016).

Data extracted from the 2014 census about child marriages and teenage pregnancies indicate that 8.6% (230,474) of the females aged 12 – 17 years have ever given birth. Western and East Central region registered the highest percent at 9.7% and 9.5% respectively. Napak, Amuru, Pader, Mayuge, Bundibugyo and Namayingo districts registered highest percent at 14.4%, 14.1%, 13.9% 13.8%, 13.5% and 13.1% respectively. More girls (8.8%) compared to 2.2% males aged 12 to 17 years were ever married or currently married.

Percent of children 12-17 years ever given birth or ever been or are currently married, 2014



Source: Ministry of Gender, Labour and Social Development

Studies have ranked Uganda 9th among the top 20 'hotspot' countries for child marriage. In 2013 Uganda was ranked 16th among 25 countries with the highest rates of early marriages; with 46% of girls marrying before 18 years, and 12% before they are 15 years (MoGLSD). The situation is worrying, because for the last 30 years, there has been very little or no change in median age at first marriage which has been fairly stable at an average of 17.9 years. Though the Practice is common for both boys and girls, it's more prevalent amongst girls in rural areas of Uganda.

Child marriage affects all aspects of a child's life and is a violation of their human rights to health, education, dignity and freedom from torture. The practice exposes girls to health risks associated with adolescent/early pregnancies such as HIV/AIDS, sexually transmitted diseases, which negatively impact on their physical and psychological wellbeing. More often, infants born to adolescent mothers have a higher risk of being born premature, dying soon after birth or having a low birth weight, which subsequently affect the infants' health, physical and cognitive development (UNICEF).

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Behavioural risks

According to national health surveys, 22% of adolescents have had sexual intercourse and 10% had their first sexual encounter by the age of 15. 49% of the adolescent population has ever used a contraceptive – mainly male condoms and injectables for boys and girls respectively. 42% of all adolescent pregnancies are unintended and 30% of those unplanned pregnancies are aborted (UNFPA).

Major causes of adolescent (teenage) pregnancy in Uganda

Low levels of information on sexual reproductive health and rights (SRHRs) of adolescents by adolescents, peer pressure and poverty are ranked as the main causes of teenage pregnancy in Uganda. The culture of shame and silence is characteristic of sexuality issues that are considered taboo by many communities in Uganda. This has resulted in teenagers seeking information from their peers or wrong persons that may instead sexually abuse them. A general lack

of basics such as scholastic materials, food at school entice adolescent girls to engage in sexual activities in exchange for these necessities the resultant effect being unintended pregnancies. Adolescents also sometimes fail to access sexual reproductive health services from health facilities where health workers deny them contraceptives due to their age or they simply cannot afford to buy contraception which means they are having unprotected sex resulting into teenage pregnancies.

Causes of child marriages in Uganda

In Uganda a girl will be sent off to get married if she is uneducated (many families still believe sending a girl to school is a waste of time), poverty (giving a girl away for a few material possessions), culture of preserving virginity (if they wait too long, the family's dignity of giving away a virgin will be lost), then peer pressure, harmful traditional practices such as female genital cutting and pregnancy drive many girls into early marriages.

HOW TO MITIGATE CHILD MARRIAGES AND TEENAGE PREGNANCIES

Provide age appropriate, scientifically correct information to adolescents and children on their sexual reproductive health and rights. Comprehensive sexuality education when given to adolescents helps them make informed choices and delay sexual debut (UNESCO).

Engage parents, religious institutions, cultural institutions and leaders to end child marriage and teenage pregnancy.

Provide youth friendly health corners at health facilities so adolescents can feel comfortable to seek information and services on their sexuality.

Encourage retention and re-entry of pregnant girls and girls that have given birth back into school. Getting pregnant is not a reason to be sent out of school according to Ugandan laws and policies.

Punish sexual offenders that abuse girls sexually. Laws MUST be enforced against sexual predators defiling girls.

Lower age of consent for access to sexual reproductive health services. The law limits access to contraceptives to persons above the age of 18 – yet in-light of access to HIV treatment, 12year olds can be allowed to access information and services without parental consent. Lowering age of consent for access to SRHR services ought to be considered as is the case in jurisdictions such as South Africa.

LEGAL AND POLICY ENVIRONMENT

Uganda's Constitution

- National Objective XX The State shall ensure access for all Ugandans to basic medical services (health information, counseling and contraceptives are basic medical services)
- Article 22 (2) restricts provision of abortion services to exceptional circumstances provided for by law.
- Article 31(1) sets the legal age for marriage at 18

- Article 33(2) Uganda makes a commitment to provide facilities and opportunities to women to enable them to realize their full potential and advancement
- Article 33(3) the State shall protect women and their rights taking into account their unique status and natural maternal functions in society.
- Article 34 (2) Children have a right to education which shall be the responsibility of the state and the parents (this includes education on sexuality)
- Article 41 provides for the right to access information (This can include sexual reproductive health information)

NATIONAL LAWS

Penal Code Act

- **Section 129** provides for the offence of defilement which is defined as sexual intercourse with a person below the age of 18 punishable by life imprisonment
- **Section 129 A** provides for the offence of child to child sex as being sex between persons below the age of 18 punishable in the children's court

- **Section 224** only allows for a health worker with reasonable skill and care to perform an abortion to save the life of a mother.

Children's Act

- Provides for protection of children against harmful cultural practices
- Provision of right to education and information for the wellbeing of a child (includes all persons below 18 years)

Policy Environment

- **Uganda National Adolescent Health Policy of 2004** provides for Uganda's commitment to provide for information to adolescents on Sexual Reproductive Health and Rights (SRHRs). This policy is currently under review to consider provision of contraceptives to adolescents.
- **National Sexuality Education Framework of 2018** provides for access to age-appropriate information and services to enable young people determine whether and when to become pregnant.

- **National Strategy on Ending Child Marriage and Teenage Pregnancy (2014/15-2019/20)** encourages districts to develop action plans to end child marriages.
- **National Development Plan 2010-2014/15**, which acknowledged that child marriage affects early pregnancies and poor health outcomes for Ugandan women and children, and committed to delay marriages through expanding basic education.
- **Gender in Education Policy (2009)**, pledged to facilitate the re-entry of girls who drop out of school as a result of child marriage.
- **The National Population Policy (2008)**, acknowledges the harmful cultural practices driving child marriage and the need to address them.
- **Health Sector Development Plan 2015/16-2019/20** provides for priority areas of focus by the Uganda government to include Health education, promotion and control.
- **Vision 2040**, the government pledges to improve the quality of the population over the Vision period and will focus on creating a more sustainable age structure by reducing the high fertility rate through increased access to quality

reproductive health services as well as keeping all children of school going age in school with more emphasis on the girl child.

UGANDA'S INTERNATIONAL COMMITMENTS

The Uganda government has signed on and incorporated the following human rights instruments in Ugandan laws;

- **African Charter on the Rights and Welfare of the Child**, which in its Article 21 bans child marriage.
- **Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa**, in Article 6 sets the minimum age for marriage as 18.
- **Convention on the Rights of the Child** which sets a minimum age of marriage of 18,
- **UN Convention on the Elimination of All Forms of Discrimination Against Women** obligates states to ensure free and full consent to marriage
- **UN Convention on Economic Social and Cultural Rights (CESCR)** in its Article 12 provides for the right to health. The Committee on ESCRs in its General Comment No. 14 of 2001 explained that States parties (including Uganda) should provide a safe and supportive environment for

adolescents, that ensures the opportunity to participate in decisions affecting their health, to build life skills, to acquire appropriate information, to receive counselling and to negotiate the health-behaviour choices they make and that the realization of the right to health of adolescents is dependent on the development of youth-friendly health care, which respects confidentiality and privacy and includes appropriate sexual and reproductive health services.

In other commitments at an International level;

- Uganda has committed to eliminate child, early and forced marriage by 2030 in line with target 5.3 of the Sustainable Development Goals.
- Under the Ministerial Commitment on comprehensive sexuality education and sexual and reproductive health services for adolescents and young people in Eastern and Southern Africa, Uganda is one of 20 countries which has committed to ending child marriage by the end of 2020
- During its 2016 Universal Periodic Review, Uganda supported recommendations to

implement the action plan to more effectively combat child marriage.

- In 2015 Uganda launched the African Union Campaign to End Child Marriage in Africa.
- At the Girl Summit in July 2014, the government signed a charter committing to end child marriage by 2020.
- Uganda co-sponsored the 2013 and 2014 UN General Assembly resolutions on child, early and forced marriage, and also co-sponsored the 2013 Human Rights Council resolution on child, early and forced marriage.
- In 2014, Uganda signed a joint statement at the Human Rights Council calling for a resolution on child marriage.

OUR VISION

A Uganda free of violence and discrimination against women and girls

MISSION

To advance access to justice for girls through awareness creation, legal representation, Research and knowledge sharing

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