

## PLAN 18+ PROGRAMME ON ENDING CHILD MARRIAGE IN SOUTHERN AFRICA

### POLICY BRIEF

# ENDING CHILD MARRIAGE IN MOZAMBIQUE: GAPS AND OPPORTUNITIES IN LEGAL AND REGULATORY FRAMEWORKS

**Child marriage, also referred to as early marriage, is any marriage where at least one of the parties is under 18 years of age. The overwhelming majority of child marriages, both formal and informal, involve girls under 18 years old, although at times their spouses are also underage. A child marriage is considered as a form of forced marriage given that one or both parties have not expressed their full, free and informed consent.**

[Joint General Recommendation/General Comment No. 31 of the Committee on the Elimination of Discrimination against Women (CEDAW) and No. 18 of the Committee on the Rights of the Child (CRC) on Harmful Practices (2014), paragraph 19]

Child marriage is a global concern. The drive to end child marriage has been adopted regionally by the African Union through the launch of the campaign to eradicate this problem in Africa. Child marriage affects children in many African countries including Mozambique, which has amongst the highest child marriage prevalence rates in the world. Child marriage causes serious damage to the social, emotional and physical condition of the victims and often

leads to their discrimination and social marginalisation. As with other governments bound by international human rights laws, the government of Mozambique has a duty to take concrete measures to address these harmful practices, and take the necessary practical and effective legal, policy and programmatic measures.

This policy brief speaks to a number of pertinent questions around the legal and

regulatory frameworks on child marriage in Mozambique. It considers child marriage an unlawful practice and maps the steps which the government has taken to address this problem. It summarises some of the major concerns, points to areas of progress, and identifies the gaps that need to be addressed in order for the country to progress in its efforts to address child marriage. Some areas of progress include:

- the signing of international and regional treaties on children’s rights;
- the drafting of laws and constitutional reforms relating to child marriage;
- investment in civil registration systems; and
- increased public campaigns to raise awareness of the negative aspects of child marriage.

In the Mozambican context, child marriage mostly affects girls and has serious consequences for their physical, social and psychological and/or emotional well-being.

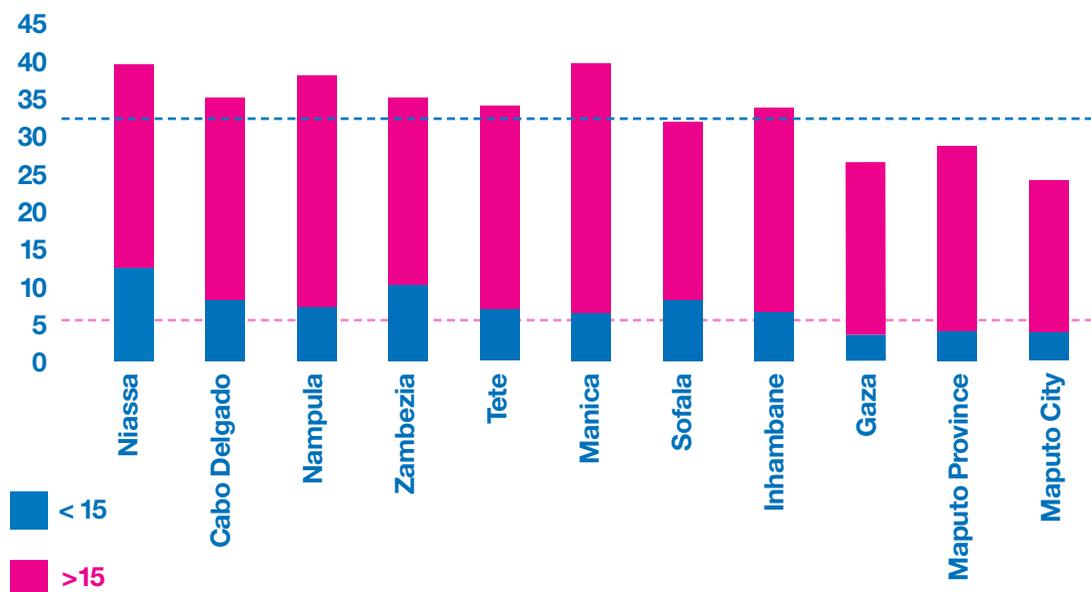
Mozambique has the tenth highest rate of child marriage in the world. This shows that more effort needs to be made to ensure that the country lives up to its international commitments to end child marriage in order to improve the lives of its girls in particular. Addressing child marriage in Mozambique will also help the country promote its development agenda in light of the clear linkages between the well-being of a population and its development needs.

Table 1 shows the number of pregnant women under 15 and 18 by province, and Table 2 shows the number of marriages for women aged under 15 and between 15 and 18 years by province.

## Key statistics on child marriage in Mozambique

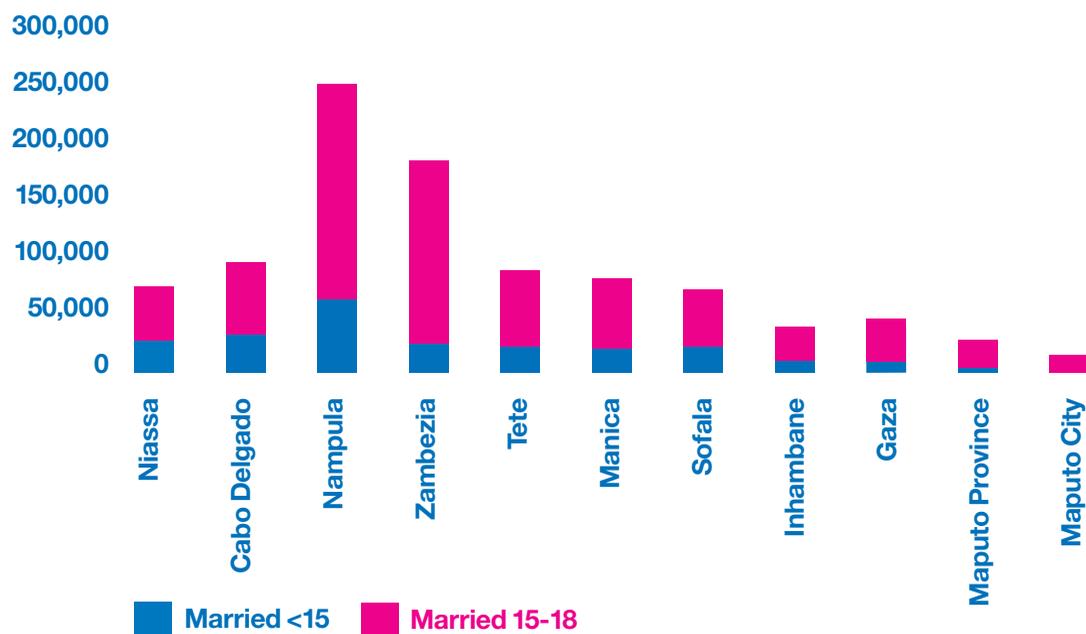
- As of 2015, the total population in the country was estimated at 25,727,911.<sup>1</sup>
- Women make up about 13,308,897 of the total population; and men approximately 12,419,014.<sup>2</sup>

**Table 1: Statistics showing pregnant women under 15 and under 19 years in the provinces**



1. Data available on the website of the National Institute for Statistics at: [www.ine.gov.mz/](http://www.ine.gov.mz/) [accessed 28 January 2016].  
 2. As above.

**Table 2: Numbers of marriages below 15 and 18 years in provinces in Mozambique**



Source: CECAP and Oxford Policy Management (2014)

- Children make up about 50 per cent of the total population in the country.
- 14.3 per cent of Mozambican girls between the ages of 20 and 24 were married before the age of 15.<sup>3</sup>
- Illiteracy rates are very high in the country, with close to 70 per cent of Mozambican women being illiterate versus 30 per cent of men.<sup>4</sup>
- Marriage prevalence is much higher for women under 18 years who never had any form of education, compared to those who have received some form of education.<sup>5</sup>
- About 40 per cent of women become pregnant before the age of 20.
- 12.2 per cent of women become pregnant before the age of 15.

- 41 per cent of girls between 15-19 years have either given birth or are pregnant.<sup>6</sup>
- 408 women out of every 100,000 die during childbirth.<sup>7</sup>
- 36.8 per cent of the total number of maternal deaths (500 per 100,000 live births) occurs among women aged 15-24 years.<sup>8</sup>

As the statistics above show, child marriage in Mozambique is a huge problem and has led to the discrimination of girls within their own families as well as in the wider community. Due to child marriage, many Mozambican girls are denied their basic rights, such as education and health. Some of them are sexually abused and face domestic violence. Child marriage is also a contributor to the spread of sexually transmitted infections/diseases (eg HIV/AIDS), and increases the levels of pervasive poverty affecting many Mozambican families.

3. UNICEF (2015), *Child marriage and adolescent pregnancy in Mozambique: Causes and impact*, UNICEF Mozambique, p 4.

4. Information extracted from Index Mundi website available at: [www.indexmundi.com/pt/mocambique/taxa\\_de\\_alfabetizacao.html](http://www.indexmundi.com/pt/mocambique/taxa_de_alfabetizacao.html) [accessed 28 January 2016].

5. See, for example, Cristiana Hanguana (2014) Africa regional study on early and forced marriage: Mozambique country report, Centre for Human Rights, p 11.

6. Information available at <http://africa.unfpa.org/public/pid/10021> (accessed April 2015).

7. As above.

8. As above.

## **Mozambique has initiated the process of drafting a National Child Marriage Policy, which means that child marriage has assumed more visibility in the country's political sphere**

It is important to ensure that a sound policy document is adopted which will serve as a tool to address child marriage, and that it is backed up with sufficient resources for its implementation.

The following are some of the legal and policy steps that Mozambique has taken which can be seen as indicators of progress:

- A Department of Gender, Children and Social Affairs (*Ministério do Género, Criança e Acção Social*) has been established at ministerial level to deal with matters affecting gender, women, and children.
  - The Constitution of Mozambique has provisions dedicated to the promotion and protection of children's rights, including protection against discrimination;
  - A comprehensive Children's Statute has been enacted, governing children's rights and protecting children against negative traditional practices which obstruct the enjoyment of their rights.
  - A National Strategy on Prevention and Fight against Child Marriage was adopted in December 2015.
  - The Family Law was adopted, placing the minimum age for marriage at 18 years, although exceptions are permitted.
  - A comprehensive Domestic Violence Statute has been adopted, carefully designed to protect women and children against domestic violence in the family and in the wider community.
  - A comprehensive gender policy has been developed to help enhance gender equality and to further equality rights among men and women (including young boys and girls).
- Mozambique has acceded to many international and regional treaties relevant to the advancement of children's rights which outlaw child marriage completely.

## **Serious efforts need to be made to address the practice of child marriage to ensure that concrete goals are defined and benchmark objectives are achieved in the country's short, medium and long term planning**

Despite the progress there still remain challenges in addressing child marriage in Mozambique. These include the following:

- Although the Family Law places the age of marriage at 18, the law allows marriage at 16 in exceptional circumstances (and without the need to obtain judicial review of the age and consent given by the relevant parties to the marriage).
- Although the Civil Code regulates marriages in general, it has weak standards on customary marriage with many traditional marriages in the country remaining unregistered.
- The absence of an adequate data tracking system to record traditional marriages hampers data collection efforts.
- Significant proportions of the country's population living in *de facto* unions (defined as stable unions between persons of opposite sex living together for more than a year) do not have knowledge about their rights.
- Very high illiteracy rates prevail in the country; these are particularly high among women, limiting possibilities for them to know their rights.
- Although a National Strategy on Prevention and Fight against Child Marriage has been adopted, implementation remains in abeyance as the process of developing operational plans only started recently.

- Parents can give their consent for children to get married at 16 and hence below 18 years without appropriate judicial review of the consent given by parents.
- In practice, children younger than 16 years also marry in customary unions as the statistics on child marriage in Mozambique show.
- There is no preliminary inquiry procedure as a requirement to determine the true age of persons who get married traditionally.
- Children affected by child marriage are not included in the group of vulnerable children defined in the Action Plan for Orphans and Vulnerable Children.
- The prevalence of pervasive poverty and cultural practices such as initiation rituals contribute significantly to the occurrence of child marriage; and
- The current child marriage policy does not take into account the fact that the country has a huge gap in (human) resources needed to implement the strategy. This also undermines the role of enforcement mechanisms which could play a more meaningful role in addressing child marriage in the country.

The fact that a National Strategy on Prevention and Fight against Child Marriage has been adopted means that child marriage has become more visible in the country's social and political sphere. However, serious efforts need to be made to concretise goals defined in the strategy in its short, medium and long term implementation processes. There is also a need to prioritise and support the development of operational plans for the implementation of the child marriage policy.

It is important to ensure that the policy document is fully operational in order to serve its purposes as a tool to address child marriage. Moreover, it is also important to ensure that the policy tool adopted is backed with sufficient resources for its implementation.

## Recommended actions

### For policy makers:

Given the challenges, there are some immediate and long term steps that policy makers should take to address child marriage in Mozambique. Some of these keys steps are listed below:

- a) Consider accelerating efforts to ensure the speedy development of annual operational plans for the implementation of the National Strategy on Prevention and Fight against Child Marriage with the involvement of all stakeholders (such as local and international CSOs, relevant government departments or agencies, and children themselves). Given the widespread occurrence of child marriage in Mozambique, a 'zero tolerance' approach to child marriage should be taken in the implementation of the strategy document in every setting. In order to be effective, the operational plans for implementation of the child marriage policy must identify clear interventions and include measurable targets and indicators for reducing the incidence of child marriage within a specified timeline.
- b) Strengthen sexual reproductive rights and girls' education in school as a matter of urgency to protect young girls against child marriage.
- c) Implement measures to increase the number of girls attending and completing primary and secondary education as a measure to equip them with basic knowledge and prepare them to be better mothers and citizens in the future.
- d) Continue supporting, strengthening and implementing programmes aimed at ensuring that schoolgirls who fall pregnant remain in school, and girls of school age who are pregnant are encouraged to attend school.

- e) Carry out awareness-raising campaigns and programmes aimed to build public knowledge about the consequences of child marriage and sensitise parents and caregivers to refrain from giving away their children in marriage.
- f) The Department of Gender, Children and Social Affairs to consider adopting a comprehensive strategy envisaging a multi-sectorial approach (including all relevant department such as health, education, justice, agriculture and others) to prevent child marriage and raise awareness about the practice through integrated stakeholder interventions as provided under the recent child marriage policy.
- g) Continue investing in birth and marriage registration programmes and initiatives ensuring that there is direct link between these forms of registration, thus facilitating easy access of information by officials working on the ground.
- h) Consider amending the Family Law Statute to allow marriage only at age 18 and remove the current provisions allowing boys and girls aged 16, but below 18, to get married. Otherwise, policy makers need to consider amending the Family Law Statute in order to include provisions making it mandatory to obtain judicial review of parental consent to the marriage of persons under 18 years (the former being the most preferred approach to address child marriage in Mozambique as it bars the practice completely). Moreover, the section of the Family Law Statute dealing with customary marriage needs to be reviewed and strengthened or policy makers should respectfully consider passing a separate domestic law regulating better customary marriages (and ensure wide consultation including involving traditional authorities and local communities among others) in the process leading to the adoption of the law.
- i) Consider including child marriage as an offence prohibited in the country's Domestic Violence Act.
- j) Support and strengthen training initiatives for officers working for law enforcement institutions and resource/equip these institutions adequately in order for them to be able to address pertinent issues relating to child marriage.
- k) Ensure that traditional practices such as initiation rituals are adapted with more positive age-appropriate messages to equip boys and girls with vital skills so they do not have to depend solely on marriage. Programmes and interventions must also be tailored to involving more men themselves (including boys) in campaigns aimed at reducing child marriage, since they are among the major actors leading to the prevalence of this practice.
- l) Implement fully the recommendations and concluding observations of treaty bodies on matters relevant to the subject under discussion.



## About Plan International

Founded in 1937, Plan International is one of the oldest and largest children's development organisations in the world. Plan International is currently working in 71 countries worldwide. Their vision is of a world in which all children realise their full potential in societies that respect people's rights and dignity. Through its *Because I Am A Girl* (BIAAG) global campaign, Plan International has had a major focus on promoting gender equality to lift millions of girls out of poverty.

## About the 18+ Programme

*The 18+ Programme on Ending Child Marriage in Southern Africa* was conceptualised as an initiative to domesticate and operationalise the BIAAG campaign. It is a programming model with a clear theory of change and pathways for attaining the desired change. The programme, hosted in Zambia, covers Malawi, Mozambique, Zambia, and Zimbabwe and has three main objectives:

1. To mobilise girls at risk of child marriage so that they have the capabilities to determine their own futures and make their own choices about if, when and whom they marry.
2. To transform, through social movement-building, the gender norms and practices that drive child marriage.
3. To facilitate an enabling legal and policy environment to protect girls from child marriage.

## About the study

The study, which took place between November 2014 and April 2015, analysed and documented domestic and regional legislation that prohibits and/or perpetuates the practice of child, early and forced marriage in the four countries. It interrogated whether formal, customary or religious laws are in conformity with international human (child) rights standards. The validation workshop was held in April 2015 and the final draft reports were out in July 2015. This in-depth review of the legal and policy environment has informed the development of policy briefs for the four participating countries, which recommend legal and policy changes at country and regional levels.

## Acknowledgements

On behalf of Plan International, the chairperson of the *18+ Programme on Ending Child Marriage in Southern Africa*, Samuel Musyoki, would like to acknowledge the support accorded by our partners namely: the Open Society Initiative of Southern Africa (OSISA), Plan Netherlands, the Royal Netherlands Government and Plan Norway. We are thankful to Emmily Kamwendo-Naphambo, manager of the 18+ Programme, for the pivotal role she played in coordinating this study; and the 18+ focal point persons in Malawi, Mozambique, Zambia and Zimbabwe, the CSO and government partners and the Southern Africa Development Community (SADC) Parliamentary Forum (PF) for providing information and participating in the validation workshop. Finally we would like to thank Aquinaldo Célio Mandlate from the Dullah Omar Institute (DOI), University of the Western Cape (UWC), who carried out the review of legal and regulatory frameworks in Mozambique which informed this brief. Our thanks go also to the editorial team.

## This policy brief

This policy brief is part of the four-country review of domestic and regional legislation relating to the practice of child, early and forced marriage in Malawi, Mozambique, Zambia, and Zimbabwe. Each policy brief is accompanied by a longer report which provides an in-depth review of the legal and regulatory frameworks in each country. An overview report is also available which reviews applicable international and regional law and policy on child, early and forced marriage.

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*The 18+ Programme on Ending Child Marriage in Southern Africa* is hosted at:

Plan International Zambia Country Office, Plot 87A, Kabulonga Road, Lusaka, Zambia, Southern Africa  
Email: zambiacountryoffice@plan-international.org  
Tel: +260 211 260074 or +260 211 260075  
Fax: +260 211 260093

Website: <https://plan-international.org/what-we-do/because-i-am-girl>

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