

## Strengthening the Law vs Early, Child, & Forced Marriages

Jessie Fungayi Majome MP  
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## The law's Achilles' Heels

- Content - what it actually provides or doesn't provide
- Form - non consolidation and incoherence
- Implementation - administrative practices & procedures  
e.g. registration & documentation of age and marriage
- Enforcement i.e. weak/absent sanctions for breach/  
incentives for compliance
- Weak Rule of Law culture
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## Causes of the law's weakness

- Weak rule of law culture
- Conflict of law between formal and  
customary/religious law- semi autonomous social  
fields
- Gender bias in law and legal, including law making  
systems
- Poor domestication of international h r instruments  
CEDAW stereotyping Art 4
- Underfunding, under - equipping by facilities and  
expertise of anti E, C & F marriages

## Strategies for Effectiveness vs E, C & F Marriages

- Strengthen Rule Of Law- take marriage out of the  
informal sector! Empower Parliaments in all 3 roles,  
improve legal awareness & access to justice
- Rationalize all law systems to International Human  
Rights standards CEDAW, PROW Africa, ACRW Child -  
Art 21.2, AYC Art 8.2
- Mainstream gender into all law making and enforcement  
- gender parity, gender sensitization & ultimately  
engendering parliamentary business
- Improve law implementation and enforcement by  
reforming for efficiency age (ACRWC) and marriage  
registration - ICTs

## CEDAW *et al* domestication

- Art 6 a State Parties must eliminate  
*' modify social and cultural patterns of conduct of men and  
women, with a view to the elimination of prejudices and  
customary and all other practices which are based on the  
superiority of either of the sexes and the stereotyped roles of  
men and women'*

## .. CEDAW cont'd Art 16 Marriage

- (1)...eliminate discrimination against women in all  
matters relating to marriage and family relations and in  
particular ensure on the basis of equality with men
  - a. The same right to enter into marriage
  - b. The same right to freely choose a spouse & enter into  
marriage only with their free & full consent
  - c. the same rights and responsibilities as parents .. In  
matters relating to children.. bests interests of the child

## ...CEDAW cont'd Art 16.2

- (2) *'The betrothal & marriage of children shall have no legal effect & all necessary action, including legislation, shall specify the minimum age of marriage and make the registration of marriage in an official registry compulsory'*

## Last word on Zimbabwe's struggles

- On tier of 2<sup>nd</sup> prevalence - 31-35 % UNICEF Girls not Brides survey
  - 22 May 2013 Constitution entrenched protection from E C & F Ms but enactment of enabling legislation absent. Marriage Act min girls' marriage age 16
1. Raised min age for girls to 18 as boys
  2. Unequivocally entrenched equality and non discrimination
  3. Domesticated international women's rights, children's rights & youth rights

## Parliamentary initiatives

- Motion to strengthen content, implementation and enforcement of official response to GBV which includes E, C & F marriages by
1. Raising minimum sentences for GBV, rape to 30yrs
  2. Equipping forensic investigation
  3. Developing action plan with budget of National Gender Based Violence Strategy 2012 -2013

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