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## Marriage System in Zimbabwe and Its Implication on Child Marriage

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### Abstract

Countries across the globe have different marriage systems which are determined by cultural and social norms of the area. Even within the same State, each tribe follow or may have its unique marriage system. This paper is an analysis of the marriage systems which are practiced by the MaShona people in Zimbabwe. Despite the fact that there are several marriage systems in Zimbabwe, the marriage system within Shona culture is linked to the high cases of child marriage in Zimbabwe. The system is considered to undermine the rights of girls and violates their rights as marriage is concerned. Human rights activists including feminists have advocated for the ban of these systems which they considered to be outdated and barbaric. Researches have revealed that child marriages are high in the Shona people as compared to other tribes in the country. This is believed to be attributed by their marriage systems which seem to promote child marriage, especially among the girl child. Despite the presence of some legal frameworks which try to regulate the increase of child marriages, the strong traditional and cultural norms are antagonising the legal system. It is encouraged that forces including political sphere join hand in uprooting the marriage system which puts girls and women at disadvantage. One way of dealing with such systems is to have a strong legal system supported with a political will.

**Keywords:** Child, marriage, girl-child, marriage system

### 1. Introduction

There are various tribes in Zimbabwe which in some cases use different systems including marriage. However, the country is more dominated by MaShona people as they constitute approximately 82% of the population of Zimbabwe (Madzivire, 2019) <sup>[16]</sup>, as such, this paper makes reference to Shona marriages and more so, child marriages have their roots in the evolution of Shona marriages. The aim of this paper is therefore to explain Shona marriage and get to understand its evolution and the influence it has on current cases of child marriage in Zimbabwe. Although child marriage has been seen as a form of marriage previously due to tradition, and culture among the Shona people of Zimbabwe, today child marriage is seen as a violation of children's rights and has a lifetime negative impact on the wellbeing and livelihoods of children.

### 2. Types of Shona Marriage in Zimbabwe *Kukumbira* (Marriage by Request)

When translating *kukumbira* it means 'asking for', usually the man asks permission from the parents of the woman whom he wants to marry (Madzivire, 2019) <sup>[16]</sup>. In this case, the daughter knew about the desire of her future husband, and when the process begins, the girl/woman who is the intended wife is fully aware. Usually the parents of the girl ask if their girl child knows about the man and his intentions. As alluded before, the answer is usually 'yes' since the couple to be will have been discussed before the man initiates the marriage

process. This type of marrying was and is still considered dignified form of marrying within the Shona culture and it has been supported from time immemorial. The process includes the two families uniting as a result of the union of the two individuals (man and woman marrying) (Chitakure, 2016) <sup>[6]</sup>.

The paternal aunt (*tete*) of the future bride is the one who will process all the marriage negotiations between the two families with the assistance of the middle man (*munyayi*). The process begin by the two setting what they call bride-wealth negotiations date (Kileff & Kileff, 1970) <sup>[1]</sup>. The union becomes formally legitimized only when the girl's family has approved it and bride-wealth has been paid. The bride-wealth here is known as the *rusambo*, and the giving of gifts is also part of the ceremony or process. Currently, this form of marriage is even practiced by Christians and it is highly respected where people believe that the bride and the groom have followed the moral standards of the process. Failure to go through the process of the union will be seen as cohabitation and the union will not be recognized by both families until the bride's wealth has been paid (Chitakure, 2016) <sup>[6]</sup>.

### *Kutema Ugariri* (Labour/Service Marriage)

This type of marriage is named after the manner in which the bride's wealth is paid by the groom. As the name suggests, the groom provides labour/service to the bride's family as a means of payment. This system is meant for groom with poor backgrounds who however, wants to marry. Under this

system, the future son-in-law will arrange the provision of labour service to his future wife's family instead of paying in monetary form. This is usually practiced in Zimbabwe's rural areas where the bride's family will have land in which the son-in-law will work in (clearing the land) (Shoko, 2016; Holleman, 1969 & Bourdillon, 1987) [25, 13, 3]. Upon completion of the service, the man is then recognised as son in law to the wife's family that marks the beginning of their marriage. Not all families would agree to this form of marriage as some would not want their daughter to stay the rest of her life with someone poor.

This system of marriage involves three forms of marriage;

- i) A man works for the family in return, he is promised an unborn daughter who will be given to him when she reaches puberty (with the hope that a girl child will be born in the family);
- ii) A man works for the family in return for a young girl who would be given to him as wife at puberty, and
- iii) A man works for the family for a woman whom she is already in love with. In all instances, the man will be given the girl or woman upon completion of the work which usually took ten years to complete (Madzivire, 2019) [16].

In some instances, the girl's family would agree the two to stay together as wife and husband even before the labour has provided. This was done in trust that the son-in-law will honour and complete the work in the near future. In this case, however, the girl is not allowed to join the man's until the service marriage has been completed. The major challenge of this form of marriage is the age difference between the man and his future wife. In most cases, the girl is made to enter into marriage unknowing due to the age at the time of marriage as such, there is much violation of the girl's right. This in its simple terms is an agreement between a groom and the girl's family. There is a clear absence of the girl's consent. The girl is immature to consent when the marriage is concluded. However, due to urbanization, this types of marriage no longer common in Zimbabwe. More so, industrialization has made it impossible for this marriage to live up to today (Chitakure, 2016) [6].

#### **Musengabere (Marriage by Abduction)**

This type of marriage is mostly practiced by a man from wealthy families who is able to pay large sums of bride wealth and would likely get approval from the future father-in-law (Chitakure, 2016) [6]. Usually, a man who has proposed love to a young woman and got rejected would do this type of marriage. Once the girl has been taken by force to the man's home, would be not allowed to go, instead she ends up in an unplanned marriage by abduction.

After this abduction, lobola negotiation is initiated by the husband's family which marks the beginning of marriage. However, this type of marriage has its negative consequences for the woman as she would be forced to begin a family when not ready. This type of marriage is slowly fading out in Zimbabwe as the issue of force violates the girl and woman's right to choose the husband she would want to stay with (Chitakure, 2016) [6].

#### **Kuganha (Marriage by Imposition)**

This type of marriage is the opposite of *musengabere* marriage. In this case, the woman is the one who takes herself to the family where she wants to be married. The man whom the woman chose to be married to is not supposed to refuse or

reject the woman as it was believed this wife is supported by the ancestors hence; she is supposed to be taken in (Chitakure, 2016) [6].

This type of marriage, however, had its disadvantage on the woman as the husband is allowed to marry another wife of his choice. It is considered that the husband did not choose the first wife out of his own will hence, the first wife will not be able to refuse the marrying of the second wife. More so, the man would either pay or not pay lobola because he did not intend to marry. In some cases, he would take long time to pay lobola and the in-laws would not demand the payment but to wait for their son-in-law to pay the bride's wealth on his will.

#### **Kutizisa (Elopement Marriage)**

This type of marriage occurs when the man and woman in love agree to start a family through this process. *Kutizira* usually happens when the man could not afford to pay the bride's wealth through the *kukumbira* process of marriage. Sometimes this type of marriage will be used to speed up the process of marriage between the man and woman. The two would have agreed to stay together through this process. The woman's aunt (*tete*) is supposed to inform the in-laws and initiate the bride's wealth payment procedures.

The mother of the girl is usually aware of the proceedings of the elopement of her daughter. When *kutizira* had happened, the aunt from the man's side would notify the family and the bride wealth negotiations will begin with the assistance *munyai* (go-between). In this system, it starts with payment of damages called *tsvakirai kuno* 'look for her from us' before the really bride wealth is paid (Shoko, 2016) [25].

#### **Kutizira/kutiza Mukumbo (Flight Marriage)**

Usually, it happens when a woman finds out she is pregnant before marriage takes place and man responsible. The two then agree on *kutizira*. In some cases, the boyfriend/man would deny the pregnancy and avoid the girl to come to his family. It is flight marriage if the woman leaves her family to forcibly come to the boyfriend's place or family home (Holleman, 1969; Chitakure, 2016) [13, 6]. In some instances, this marriage fails especially when the man succeeded in denying the pregnancy. It is worthy to note that this type of marriage is still commonly practiced in contemporary Zimbabwe (Marashe, 2017) [17].

#### **Kugarwa Nhaka (Widow Inheritance)**

This type of marriage usually takes place when the husband passed on. The deceased husband's family will agree on whom to inherit the deceased's wife and at times with or without wife's consent. Her next husband would be chosen from the surviving brothers or nephews of the deceased. The chosen person then takes the responsibility to look after the widow and her children to become the father of the family. In case the wife had no children, the new father will have the duty to have children with the widow (Marashe, 2017) [17]. This marriage custom is no longer commonly practiced due to an upsurge of sexually transmitted diseases especially HIV/AIDS, that will recur in the family. More so, human rights implementation that seeks to protect women against a cultural practice that undermines the rights of women to choices has been banned and most women chose not to *kugarwa nhaka* but rather start afresh after the death of their husbands (Marashe, 2017) [17].

**Matenganagudo/Kutenganiswa (Exchange Marriage)**

Lastly, this refers to an exchange marriage between two families. Families will exchange their daughters and no bride price will be charged or given to any family. In most cases, this would be done against the will of the marrying parties.

**Kuripa Ngozi (Appeasement Marriage)**

Chae and Ngo (2017:2) <sup>[4]</sup> postulate that in *kuripa ngozi*, young girls are married off to make peace with avenging spirits. The term *ngozi* is referred to the spirit of a dead person who might have been killed by a family member. This spirit then haunts the living family members and only rest when the family of the killer makes payment to the dead person's family. The payment of *kuripa ngozi* is usually in the form of a herd of cattle accompanied by a virgin young girl. In all *kuripa ngozi* cases, the only solution to the avenging spirit is to pay with a virgin young girl. The reason behind giving a virgin young girl as payment is that she will bear children that will replace the dead person. Once this has been done the avenging spirit will rest forever.

*Kuripa ngozi* cultural practices undermine the well-being and rights of virgin young girls as the girl is forced to marry against her will and in most cases, pay for what they do not know about and in most cases, they will be very young, unable to decide on her own. However, Zimbabwe as a signatory to various human rights frameworks including children's rights, the practice has received negative connotations, and not everyone supports this practice as it undermines girls' rights and wellbeing. The practice is now forbidden by the law in Zimbabwe. Sithole (2016) <sup>[26]</sup> alluded that in 2006 chiefs signed a petition to stop the practice and agreed on the payment of livestock rather than a virgin young girl to the family of the deceased.

**Kuzvarira/Kuputsira (Pledged Marriage)**

In *kuzvarira* mostly happens in poor families where they send off their young girls to wealthy families in return for food and money as part of the bride price (Chae & Ngo, 2017) <sup>[4]</sup>. The term *kuzvarira* refers to 'to be born for someone' and this is sometimes used interchangeably with *kuputsira* which means to 'break or throw away a child' (Muchenje *et al*, 2016; Andfansi, 1970:20; Holleman, 1969) <sup>[19, 13]</sup>. Pledged marriage is more of a barter trade, as the family of the girl which will be in severe poverty gives a daughter to a wealthy man who in return give the family food and money in exchange for her. In most cases, the daughter is usually very young and unable to make independent sound decisions.

The pledged daughter is allowed to with her family until she is ready for marriage at which time the husband takes the girl (Chitakure, 2016) <sup>[6]</sup>. The wealthy family choose the husband among the family members (the girl is not given the chance to choose). In most cases, the girl is married to a very old man. Pledged marriage is among the practices which contribute to girls being married young as a result of poverty, traditional and cultural beliefs, and lack of proper law enforcement.

Currently, such type of practice is forbidden by the law and the majority of people are enlightened and no longer allow their daughters to such kind of practice. The practice is only found in remote rural areas of Zimbabwe where cultural practice is still strongly respected. Although State and none State institutions are working hard to educate populace, there is still much work to be done to abolish this practice in Zimbabwe (Marashe, 2017) <sup>[17]</sup>.

**Kuroodza**

This is similar to *kuzvarira* or pledge marriage. Usually, this type of marriage practice happens when a family in need of assistance asks for help in the form of food and grains from another wealthy family. The family in need in most cases does not have any reliable sustainable livelihoods for survival, thus will promise the other family to pay with their unborn or already born girl child. This usually happens in rural areas where cultural practices are still respected. A girl to the age of 19 years is given to the other family in a form of 'debt bondage' (Muchenje *et al*, 2016) <sup>[19]</sup>. The practice is almost close to *kuzvarira* or pledge marriage.

**Chimutsa Mapfihwa**

In *chimutsa mapfihwa* practice, a family offers a young girl (cousin, sister, or niece) to become the second wife to her sister or auntie's husband. This is done when the sister or auntie failed to conceive or dies leaving children without anyone to look after and the family agrees to send off her sibling or niece to look after the deceased's children and husband (Muridzo, & Malianga, 2015) <sup>[20]</sup>. This type of agreement results/promotes in the formation of polygamous marriage. In some situations, a deceased sister will have shown interest for her sibling or niece to look after her family in case of her death, hence this practice is meant to fulfil the wish of the dead (Chitakure, 2016) <sup>[6]</sup>. There is no bride price paid in all scenarios. The belief is that the bride price that was paid to the sister or auntie still serves its purpose, hence, when the sister, niece, or cousin came to bear children for the sister or auntie the purpose of the bride price is fulfilled. As mentioned before, girls are used to paying off in this marriage practice and they do not have a choice as it will be fulfilling a practice that has been already there (Chitakure, 2016) <sup>[6]</sup>.

**Chiramu**

*Chiramu* practice is done by the girl's maternal uncles and brother-in-law. The Shona tradition allows wife's young sisters or cousins and nieces to jokingly act as husband and wife with their sister's husband (Musiwa, 2018) <sup>[22]</sup>. Maternal uncles and brother-in-law practice role-play with wife's young sister, cousins, or nieces. The purpose of role play is to teach young girls (wives to be) ways of handling a man and turn down men when they advance for love. It is an indirect way of teaching girls to look after their husbands as they are doing it to their sister or auntie's husband.

However, the practice of *chiramu* has resulted in many girls being abused (sexually, psychologically, physically, and verbally). Many men have used the practice as an excuse to incite or lure young girls for sex resulting in impregnating them (Musiwa, 2018) <sup>[22]</sup>. In some cases, these girls end up married by these men promoting polygamy as a result of this *chiremu* practice. The Shona men who prefer polygamous would rather prefer to impregnate the wife or auntie's sibling, niece, or cousin as this is culturally accepted and no extra bride's wealth is charged but only a token of appreciation (Vhutuza, 2017; Mawodza, 2019) <sup>[30, 18]</sup>.

**3. Marriage System as Causes of Child Marriages in Zimbabwe**

Greene (2018) <sup>[11]</sup> asserts that research undertaken by Plan International and other global actors has revealed that the fundamental causes that contribute to child marriage are multifaceted and interconnected. The causes will be different between countries and depend on individual conditions and social settings. Girls Not Brides and ICRW (2016) <sup>[10]</sup> propose

that causes of child marriage in all settings are rooted in gender disparities and detrimental social norms that diminish and limit women's and girls' choices. Gender disparities will result in gender-based violence (GBV) and detrimental practices such as child marriages, and female genital mutilation (Girls Not Brides & ICRW, 2016) [10]. The discussion of the marriage system in Zimbabwe clearly shows how it re-enforces child marriage and violation of girls' rights.

Besides lack of policy enforcement, regressive cultural and marriage practices have made it difficult to stop child marriages in Zimbabwe (Chitakure, 2016) [6]. Since culture and marriage are very important to the people of Zimbabwe, certain cultural and marriage practices harmed girls (Psaki, 2021) [24]. The practices reduce the chances of girls reaching their full potential and their dreams thus increasing their vulnerability to child marriage as it will be the only option left for them to do. As a result, certain cultural and marriage practices have to be diminished or amended to successfully reduce the extent of child marriage in Zimbabwe. Below is a discussion of cultural and marriage practices that influence child marriage practices in both rural and urban areas in Zimbabwe.

#### 4. Legal instruments Meant to Minimise Child Marriage in Zimbabwe

Hallfors *et al.* (2016) [12] advocate the view that lack of policy enforcement has greatly affected efforts in fighting against child marriages in Zimbabwe. For instance, Zimbabwe's Constitution forbids child marriages, but the enforcement part is lacking. Regardless of Zimbabwe being a signatory to the international and regional human rights frameworks that forbids harmful practices such as child marriages, there is a lack of effective actions to monitor the progress towards eradicating child marriages (Avogo & Somefun, 2021) [2].

Furthermore, the country has some contradicting laws. The example are the Zimbabwean *Marriage Act* [Chapter 5:11] of 1964 and The *Customary Marriage Act of 1951* which do not have the same minimum age for marriage. The two were never harmonized with the Constitution, up until 27 May 2022 when the Marriage Act was amended. The former Act delivered for different ages of marriage for boys and girls and permits the marriage of girls from the age of 16 (or lowers with ministerial consent) (Plan, 2016) [23]. More so, the *Customary Marriage Act 1951* does not have any minimum age for the conclusion of a valid customary marriage, leading to the inference that marriages from puberty are possible.

Under those circumstances, Section 81 (1) of the Constitution of Zimbabwe ushered in a new era, and clearly defines a child as anyone under the age of 18 (The Republic of Zimbabwe constitution, 2013). The Zimbabwean Constitutional Court judgment of 20 January 2016 forbade child marriages and Section 22 (1) of the *Marriage Act* [Chapter 5:11] and The *Customary Marriage Act 1951* which used to allow children below the age of 18 to marry are now void (Chikwinya, 2020) [5]. The Constitutional Court judgment of January 2016 directly made it official that child marriages are unlawful and illegal in Zimbabwe. This was a big milestone achieved in the history of child rights, law, and jurisprudence of Zimbabwe in ending child marriages (Mushohwe, 2017) [21].

Zimbabwe's Marriage Amendment Bill was successfully passed into law on 27 May 2022. The Act presents the opportunity to clarify on gaps that *Marriage Act* [Chapter 5:11] and The *Customary Marriage Act 1951* have before. The Marriage Act addressed issues that used to undermine the protection of the rights of married women, being unable to recognize queer marriages, and the disparities in marriages. An important clause that is the centre of reference in this paper is clause 4 which explains the establishment of gender equality. The clause goes on to clarify the issue of free and full consent of both parties for a marriage to happen unlike in the previous *Customary Marriage Act 1951* and *Marriage Act* [Chapter 5:11].

As noted in the literature on the causes of child marriages in Zimbabwe, religious, social norms and cultural practices are among the perpetrators of child marriages. The unions are a result of force and lack of consent from women and girls. This is clearly shown on the system of marriage in Zimbabwe. The passing of The Marriage Act marked the end of early, forced, and child marriage in Zimbabwe. The need to seek consent in the registering of marriage marks an opportunity to cement fairness in marriage by applying the foundation of marriages to be agreed to by both parties equally.

Article 16 (2) of CEDAW alludes that marriage of a child won't be legally recognized, States must therefore take steps to specify a legal age for marriage. This has marked the harmonization of Zimbabwe's international obligation to protect children against forced unions. Furthermore, the new Zimbabwean Marriage Act states that any marriage officer to solemnize any marriage has to do so after the bride and bridegroom have shown proof of age. This is done to make sure that both parties are above 18 years or older since this is a minimum age of an individual to be legally allowed to marry. The Marriage Act goes on to clarify the conflicting definitions of a child between the Children's Act of 2001 and the Constitution of Zimbabwe. Clause 48 has amended the Children's Act to define a child as any person who is under the age of 18 years. Hence, clause 42(1) (a) prohibits any marriage of a minor who is below the age of 18. The Bill also puts the criminal obligation on any person marrying a minor (below the age of 18). This also gave the opportunity to children to complete their primary and secondary school undisturbed, without pressure for early marriage and live a full life out of marriage.

#### 5. Prevalence of Child Marriage in Zimbabwe

Zimbabwe National Statistics Agency (ZIMSTAT) and UNICEF (2019) [33] indicate that 33.7% of girls being married before they attain the age of 18 years as required by law. This translates to one in three girls married below the age of 18. The same research revealed that 2% of boys get married before they reach 18 years. Within the African continent, Zimbabwe is found among 20 African countries with a high occurrence of child marriages. This is attributed to the marriage system of the country as discussed above. The practices promote child marriage and violation of girls/women's rights in marriage process.

Below is a table of the top 20 African countries with a high occurrence of child marriages.

**Table 1:** Occurrence of child marriage in Africa.

Country	Girls married by 15	Girls married by 18	Boys married by 18
Niger	28%	76%	6%

The Central African Republic	26%	61%	17%
Chad	24%	61%	8%
Mali	16%	54%	2%
Mozambique	17%	53%	10%
Burkina Faso	10%	52%	4%
South Sudan	9%	52%	-
Guinea	17%	47%	2%
Nigeria	16%	43%	3%
Malawi	9%	42%	7%
Eritrea	13%	41%	2%
Ethiopia	14%	40%	5%
Madagascar	13%	40%	12%
Mauritania	18%	37%	2%
Somalia	17%	36%	6%
Liberia	9%	36%	9%
Sudan	12%	34%	-
Uganda	7%	34%	6%
Zimbabwe	5%	34%	2%
Senegal	9%	31%	1%
Tanzania	5%	31%	4%

Source: UNICEF data, updated February 2021

### Occurrence of Child Marriage by Geographical Location in Zimbabwe

Zimbabwe has ten provinces that have both rural and urban setups. Of ten provinces found in Zimbabwe, four provinces have the highest occurrence of child marriage with 40% and above. The province with the lowest occurrence of child marriage is Bulawayo with 10%. ZIMSTAT and UNICEF's (2019) [33] data suggest that rural girls are twice mostly likely to be married before reaching the age of 18 as compared to their urban counterparts. This is mostly due to the fact that traditional and cultural practices which promote child marriage are common in rural areas in Zimbabwe. Below is a table illustrating child marriage by province in Zimbabwe, Mashonaland West province is among the top four provinces with the highest percentage of child marriages as illustrated below. As a result of that, it is among the motivations that made the researcher undertake the study in this province.

**Table 2:** Provincial percentage of child marriage in Zimbabwe

Province	Share of Girls Married before 18
Mashonaland Central	52.1%
Mashonaland East	45.1%
Masvingo	43.4%
Mashonaland West	42.2%
Manicaland	38.1%
Midlands	30.3%
Matabeleland North	29.4%
Harare	23%
Matabeleland South	20.3%
Bulawayo	10.9%

Source: Zimstat MICS 2019

UNICEF's (2014) [27] report postulates that 31 percent of girls in Zimbabwe are married before they reach their 18<sup>th</sup> birthday putting Zimbabwe amongst the five countries in the SADC region with the uppermost rates of child marriages. Girls who reside in rural areas of Zimbabwe are mostly affected by child

marriages, with 20 percent coming from poor households, and are four times more likely to be married before they reach 18 years compared to their urban counterparts (UNICEF, 2016) [28]. Even though Zimbabwe is a member of various human rights instruments and has domestic legislation that seeks to stop child marriages, the practice is skyrocketing in Zimbabwe (Kurebwa & Kurebwa, 2018) [15]. The top 6 provinces on child marriage as shown on the table above are from Mashonaland. This is where the above discussed marriage systems are accepted and practiced. It is a clear indication that these cultural practices contribute much to the increase of child marriage cases.

### 6. Conclusion

Various marriage practices are found among the Shona people in Zimbabwe. These traditional, cultural and social norms seem to go against the legal requirements in marriage. Human Rights activists, especially those in the feminism fraternity are advocating for the abolishment of the marriage system which they consider to be barbaric and outdated as the disadvantage a girl child and violate her rights. It is considered that a strong legal system is required to abolish the primitive marriage system among Shona people in Zimbabwe.

In this paper, we argue that the government concerned should engage the local leadership in the concerned areas on the drawbacks of the practices. More so, we considered education to be taken serious as it has proved to be a strong tool in fighting the poisonous and detrimental systems. The analysis of all discussed marriage practices among Shonas shows that no system is better. This therefore, it calls for the legal frameworks to introduce new system which will respect and protect the rights of every individual in the society, especially girls who have been at the receiving end for long.

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