

December 13, 2013

Office of the United Nations High Commissioner for Human Rights
Women Human Rights and Gender Section
Via email: akufuor-owusu@ohchr.org

Re: Call for submissions on child, early and forced marriage

Dear Colleagues:

Thank you for collecting information from groups and organizations about early, child and forced marriage, in preparation for a report you will submit on this important subject to the Human Rights Council in June 2014.

Unchained At Last is pleased to provide this memorandum in the hopes that it will help you to prepare the report. Unchained is the only nonprofit in the United States that is dedicated to helping women leave arranged and forced marriages and rebuild their lives, and dedicated to preventing women from becoming trapped in such marriages – so, obviously, Unchained cares deeply about issues surrounding child, early and forced marriages. (More information about Unchained is at www.unchainedatlast.org.)

A PROBLEM IN THE U.S. TOO

In Unchained's experience, people tend to think of child, early and forced marriage as a problem affecting mostly Asia and Africa, not the United States.

Actually, though, the U.S. has no legislation criminalizing forced marriage, and its laws surrounding the minimum marriage age easily allow for parents to pressure, coerce or force children under the age of 18 into marriage.

Marriage laws in the U.S. typically differ from state to state, and, sure, in most U.S. states the minimum legal age to marry is 18 (see Appendix A). However, every U.S. state also allows for one or both of two exceptions to the minimum marriage age: "parental consent," which in most states decreases the minimum marriage age to 16 and in some states decreases it even more, and/or "judicial approval," which in half the U.S. states decreases the minimum marriage age to 0 (again, see Appendix A).

Anyone who is concerned about child, early and forced marriage should be concerned about these exceptions to the minimum marriage age laws in the U.S. Unchained has

seen and heard of numerous cases of “parental consent” masking “parental coercion” of a U.S. teenager into marriage. As for “judicial approval,” Unchained has seen numerous judicial decisions in which a court appeared to defy all logic in an effort to act “culturally sensitive,”¹ and Unchained fears that parents might be able to convince courts to approve the marriage of a child without the child’s full consent.

Unchained notes that, even without “parental consent” and “judicial approval” exceptions, two U.S. states allow children to marry before the age of 18: Nebraska, where the minimum marriage age is 17, and Wyoming, where the minimum age is a shocking 16.

CASE STUDY

Unchained has been operating for approximately two years and is mostly active in New York and New Jersey. To date, Unchained has not seen any cases of children married under the age of 18 through “judicial approval” but has seen several cases of clients who were married before the age of 18 through “parental consent.”

In one such case, Naomi (not her real name) was 17 when her parents gave her 30 minutes to meet the man they told her she was going to marry. They told her the ultimate decision was up to her, but they also made clear that her decision was going to be yes. The engagement party already had been planned before the 30-minute meeting.

Naomi did not want to marry the man – something about him bothered her – but she was young and inexperienced and she did not feel confident enough to defy her family and her entire community. “We were so taught to be under our parents’ care and their guidance that there really wasn’t any room for self-perception,” Naomi recently told Unchained. “My opinion wasn’t accounted for, because what did I know? I was 17.”

Naomi did not know that her home state, New York, required a parent to consent for her to marry due to her young age; she thought all parents signed for their children when the children got married.

Naomi’s husband not only raped her through the 10 years they were married; he also arranged for others to gang rape her while he watched. For a long time she told no one about the rapes, out of fear about how her parents would react.

¹ See, for example, the decision overturned in 2010 in *S.D. v M.J.R.*, Superior Court of New Jersey, Appellate Division, Docket No. A-6107-08T26107-08T2.

Now, at age 33, Naomi finally is in the process of divorcing her husband and rebuilding her life, with help from Unchained.

CONCLUSIONS AND RECOMMENDATIONS

Early, child and forced marriage is a serious problem around the world, including in the U.S., where state marriage laws allow parents to pressure, coerce or force children into marriage. Based on the facts presented in this memorandum, Unchained strongly recommends two next steps to address the problem in the U.S.:

1. Conduct the first-ever nationwide study in the U.S. on how often children under age 18 have been and are getting married in the U.S. under the “parental consent” or “judicial approval” exceptions or under state law in Nebraska and Wyoming; and
2. Enact federal legislation or state-by-state legislation eliminating the two exceptions, raising the minimum marriage age in Nebraska and Wyoming, and establishing 18 as the minimum age to marry anywhere in the US.

Thank you again for this opportunity to assist in the preparation of the report to the Human Rights Council.

Respectfully,
Fraidy Reiss
Executive Director

Attachment: Appendix A

APPENDIX A
Minimum Marriage Ages in the US

By: Unchained At Last²

December 2013

STATE	MINIMUM AGE TO MARRY	MINIMUM AGE TO MARRY W/ PARENTAL CONSENT	MINIMUM AGE TO MARRY W/ JUDICIAL APPROVAL
Alabama	18	16	--
Alaska	18	16	14
Arizona	18	16	0 w/ parental consent
Arkansas	18	17 males; 16 females	0 w/ parental consent + pregnancy
California	18	--	0 w/ parental consent
Colorado	18	16	0 w/ parental consent
Connecticut	18	16	0 w/ parental consent
Delaware	18	--	0 w/ parental consent
Florida	18	16	0 if pregnancy or parenthood
Georgia	18	16	16 w/ parental consent
Hawaii	18	16	15
Idaho	18	16	0 w/ parental consent
Illinois	18	16	16 ³
Indiana	18	17	15 w/ parental consent + pregnancy or parenthood
Iowa	18	--	16
Kansas	18	16	15
Kentucky	18	16	0 if pregnancy

² Based on previous research by the AHA Foundation in August 2012.

³ Parental consent or judicial approval needed to marry in Illinois at age 16 or 17.

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Louisiana	18	16	0 w/ parental consent
Maine	18	16	0 w/ parental consent
Maryland	18	16	15 w/ consent + pregnancy or parenthood
Massachusetts	18	--	0 w/ parental consent
Michigan	18	16	0 w/ parental consent
Minnesota	18	--	16 w/ parental consent
Mississippi	21	17 males; 15 females	0 w/ parental consent
Missouri	18	15	0
Montana	18	--	16 w/ parental consent
Nebraska	17	0	--
Nevada	18	16	0 w/ parental consent
New Hampshire	18	--	14 male; 13 female
New Jersey	18	16	0
New Mexico	18	16	0 if pregnancy
New York	18	16	14 w/ parental consent
North Carolina	18	16	14 if pregnancy or parenthood
North Dakota	18	16	--
Ohio	18	--	18 males; 16 females
Oklahoma	18	16	0 if pregnancy or parenthood
Oregon	18	17	--
Pennsylvania	18	16	0
Rhode Island	18	16 (females only)	0 w/ parental consent
South Carolina	18	16	--
South Dakota	18	16	--
Tennessee	18	16	0 w/ parental consent

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Texas	18	16	0 w/ parental consent
Utah	18	16	15 w/ parental consent
Vermont	18	16	--
Virginia	18	16; 0 w/ pregnancy or parenthood + consent	--
Washington	18	--	17
West Virginia	18	16	0 w/ parental consent
Wisconsin	18	16	--
Wyoming	16	--	0 w/ parental consent
Washington D.C.	18	16	--