

International Journal of Human Sciences Research

Acceptance date: 15/09/2024

“EARLY MARRIAGES AS A VIOLATION OF GIRLS’ HUMAN RIGHTS IN MOZAMBIQUE: A HUMAN DEVELOPMENT PROBLEM”

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Abstract: Early marriage is the union for marital purposes between two people of opposite sex, where one is a child and the other is usually an adult. In Mozambique, early marriages are an endemic socio-cultural practice, prevalent in rural areas and poor communities with high rates of achievement, affecting more female children. In addition to being a violation of human rights, this practice also represents a human development problem, as it jeopardizes the exercise of various rights of children and girls, including the right to life, health, education and personal security. Faced with this situation, the Mozambican state and various civil society organizations, acting in coordination, have been making efforts to guarantee respect for the human rights of children and girls, combating early marriages and eliminating them, with the aim of ensuring human development. In this context, this paper analyzes the causes and conditions of the process of child marriage, and looks at this phenomenon in the light of an articulate presentation of the foundations of human rights, with the aim of demonstrating, through legal instruments that protect children and girls from child marriage, that this practice systematically violates numerous human rights, with a significant impact on human development in society.

Keywords: Early Marriage, Girl, Human Rights, Human Development.

INTRODUCTION

Early marriages in Mozambique are a common phenomenon and have a major impact on the population, as it is a sociocultural practice that is often seen among people living in the central and northern areas of the country, most of whom still live by customary practices linked to tradition.

The situation is serious, and the country ranks tenth among the countries in the world most affected by PC, with a high prevalence in

which 14% of women between the ages of 20 and 24 were married before the age of 15, and 48% were married before the age of 18 (INE, IDS 2011). According to data from UNICEF (2015), more than half a million girls between the ages of 20 and 24 were married before the age of 18, 56,323 of whom were married before the age of 15. This phenomenon is even more prevalent in families living in rural areas, since the majority of them are poor with little financial power and, due to the economic pressure exerted on them, they often end up subjecting their daughters to early marriages.

This practice is a cause for concern in society as it violates the human rights of the child, specifically the rights of girls, with a negative impact not only on the life of the child, but also on the human development of society.

Recognizing this social scourge and with a view to guaranteeing respect for girls' human rights, the Mozambican state has adopted legislation to defend the human rights of children and women, having ratified the Convention on the Rights and Welfare of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, as well as approving the National Strategy to Prevent and Combat Child Marriage Mozambique 2015-2019 and the Law to Combat Child Marriage 2019, and in its Five-Year Plan 2020-2024, defined as one of its strategic objectives "*the promotion of gender equality and equity, social inclusion and protection of the most vulnerable segments of the population,*" and one of the priority actions to achieve this is "*preventing and combating premature unions*". In this sense, the present study includes, firstly, an analysis of the process that leads to early marriages, in order to demonstrate that early marriages constitute a violation of the girl's human rights, thus constituting a human development problem.

The study is pertinent because it will contribute to the debate on the impact of early marriages as a violation of human rights, and can shed light on the various disputes about the consequences of these unions for the country's development, thus stimulating decision-makers to draw up programs, policies, strategies and laws aimed at mitigating the negative impacts on the country's development.

The research used the qualitative method, since it analyzed and interpreted in-depth aspects of early marriage, human rights and development, thus providing a more detailed analysis of research, habits and trends (MARCONI and LAKATOS, 2010: 6). Bibliographical research was also used, based on works and studies already carried out.

PREMATURE MARRIAGES (CP)

The aim of this chapter is to briefly analyze the phenomenon of early marriages in order to identify the causes and conditions of the process, as well as the consequences of this social scourge on girls' lives.

PREMATURE MARRIAGES- DEFINITION

Divage, Divage and Marrengula (2010:18) define Early Marriage as a traditional marriage between adult males and girls in their adolescence and pre-adolescence who live in specific socio-cultural contexts (typically rural and poor).

The National Strategy for Preventing and Combating Child Marriage in Mozambique 2016 - 2019 defines child marriage simply as a material union involving children under 18 years of age.

For the purposes of this study, Premature Marriages (PM) are defined as informal unions from a legal point of view, celebrated with community rituals between individuals of opposite sexes, in which one of the parties

is under 18 years of age. It is important to note here that the term "premature marriages" is not legally provided for in the Mozambican legal system, but is a term commonly used by society to refer to this type of union. This is because, according to the Family Law in force, marriage is only considered to be a voluntary union between people of the opposite sex, provided that they are 18 years old, with an exception to the 18-year rule, which we will discuss later. Thus, because marriage is between parties where one of them is a minor, that is, a child, this type of union is called a premature and forced union, because, according to the law, the child does not have decision-making capacity, that is, they do not have the capacity to give their valid consent to start a family (ARTUR, 2010:410).

The approach to early marriages in this study focuses especially on female children, who are the most affected in this process, as they are more likely to be exposed to this situation than male children, due to relationships based on inequalities between the two sexes, the latter being doubly discriminated against, as they see their rights violated twice, in that:

1. Because the child occupies an almost invisible place in the family, justified by the fact that he or she is not yet considered a real member of the family with the capacity to express an opinion (MARCHI, 2008: p. 208);
2. Because she is a woman, who, according to the tradition and culture prevalent in our state, occupies an inferior position in decision-making to men.

MOTIVATIONS OR CAUSES OF PREMATURE MARRIAGES

There are several reasons why girls “marry” prematurely, the following in particular stand out:

Poverty

Since national independence, the Mozambican state has known a harsh reality, characterized by absolute poverty, which occurred after independence and later with the sixteen-year civil war that ended in 1992 and aggravated the situation of poverty in the country, devastating not only the population, but also a range of infrastructures, goods and services.

Despite several advances in terms of the population's standard of living, according to the United Nations Development Program (UNDP), Mozambique is among the eight countries in the world with the lowest Human Development Index (HDI), ranking 181st in 2019¹, which means that the country's population is among the most vulnerable in the world. This means that most of the Mozambican population lives on the edge of poverty. This is where the prevalence of PC occurs, since these families, due to their weak financial power, end up seeing their daughters/children as bargaining chips, subjecting them to marriages at an early age.

According to a study carried out by UNICEF² in 2015, for families with little financial power, subjecting a girl to early marriage not only brings an immediate material gain in the form of *lobolo*³, but also relieves the father or family of the pressure of having one less member to feed (LOFORTE, 161:1996). The study concluded that wealth is negatively associated with PC, or, on the other hand, that girls whose families have better living

1. UNDP Human Development Report (HDI) 2020.

2. UNICEF, *Early marriage and pregnancy in Mozambique, Analysis Brief*, 2015.

3. The term *lobolo* presupposes an offer of marriage compensation from the groom's family and its acceptance by the bride's family, LOFORTE, Ana Maria, género e poder entre os Tsongas de Moçambique, p. 161, 1996

4. UNICEF, *Premature Marriages and Early Pregnancy in Mozambique, Causes and Impact*, 2015.

conditions are less vulnerable to the practice; in urban areas where most children's rights can be guaranteed, there is a low prevalence of PC, because girls start marrying later than girls in rural areas.⁴

Having said that, it is clear that the problem of poverty in Mozambique is one of the factors behind early marriages.

Social relations of gender and power

Social gender relations are at the root of early unions, insofar as the social construction of the difference between men and women in Mozambican society, especially in rural areas, puts women in a position of inferiority to men, subjecting them to a discriminatory life that culminates in the restriction of their enjoyment of human rights. In certain cultures, this treatment is clearly visible in terms of the division of labour on the farm, which is organized according to concepts based on the specific definition of male and female opposition (SCOTT, 1989:23).

The definition of social roles in society has social implications for the representations of the roles of boys and girls, especially within families, which, due to the way girls are seen, leads to the realization of CP, because families, from the moment a female child is born, are already rooted in the idea that she will be given to a man, being educated and socialized for a future marital commitment and, above all, owing obedience to the man.

Gender relations are reproduced through the domination and power of men over women, and this is a major challenge in preventing, combating and eliminating IPC, as it is a form of violence against girls and a reflection of unequal relations of power and domination.

Cultural issues

Certain socio-cultural practices prevalent in Mozambican society are harmful to the dignity of girls, affecting their well-being, development and normal growth, and are seen as determinants of the PC.

Initiation rites are ceremonies that guide people's lives, defining the group and place to which they belong, in order to mark the passage from childhood to adulthood. Boys undergo the rites after the first signs of puberty and girls when their first menstruation occurs (OSÓRIO, 2008:526).

According to the Gender Profile drawn up by the Ministry of Gender in 2015, sociocultural practices such as the CP and initiation rites make it difficult to promote gender equality and equity, since they are closely linked to gender inequality and reproduce the model of the inferiority of women/girls, which legitimizes the culture of domination since they have their origins in the devaluation of women as subjects of rights.

Lack of schooling

For girls not to be victims and vulnerable to discrimination and humiliating treatment, they must be empowered and have a certain level of education and information to protect themselves and fight for their rights and freedoms. The level of schooling influences the achievement of PC.

According to the research on Early Marriage and Pregnancy in Mozambique, carried out by UNICEF, FANUAP and CECAP in 2015, it concluded that there is a strong and significant relationship between education and a girl's age at marriage, in that girls who have a certain level of education marry later than those who are less educated, since the latter are more capable.

A girl who attends school is better able to know and access her rights, because she has knowledge as an important tool in defending

her rights, training and access to education, and can choose and make decisions for herself, especially when it comes to sexuality, while a girl who doesn't attend school doesn't know her rights and is submissive to cultural practices that instill in her a subordinate social role as a woman within the family, subjecting her to various situations that jeopardize her normal development.

CONSEQUENCES OF PREMATURE MARRIAGES

Performing CP is one of the main factors affecting a girl's development, weakening her and closing off opportunities in her life. Among others, the following consequences have been identified:

Early pregnancy

In Mozambique, according to IDS data from 2011, 21% of girls become pregnant or already have a child by the age of 16 and more than 55% have become pregnant or already have a child by the age of 18. This is mostly due to having undergone CP, since when the child is brought into the home, sexual activity soon begins, often without the use of contraceptives, which consequently leads to early pregnancy. In addition, 39% of girls who married prematurely before the age of 15 also had children before the age of 15, making it clear that CP is closely related to having children earlier than is healthy.

Dropping out of school

According to a study carried out by UNICEF, UNFPA and CECAP in 2015, the CP is associated with a significant risk of the girl not completing elementary school or starting secondary school (UNICEF et alii), because after the CP, due to responsibilities and the new social role of woman and housewife, the child must take care of her husband, the house and later the children.

This child, who has not yet lived her childhood, becomes a mother and has to look after another child, thus being forced to abandon her studies, often because her husband forbids it, given the traditionalist cultural context in which PC is more widespread.

Contraction of the obstetric fistula (FO)

Obstetric Fistula consists of a communication between the vagina and the bladder resulting from tissue necrosis due to compression of the fetal head in a situation of prolonged labor.⁵ The contraction can appear at any age, but appears more frequently in adolescents, because they are more vulnerable to prolonged and obstructed labor due to the fact that their bodies are not prepared for pregnancy because of their young age.

Due to the age of the girls who are given to adults or young people as wives, there are many cases of FO with traumatic and surgical complications deriving from sexual abuse and rape of child victims of CP, even in the presence of a certain degree of consent.

According to Igor Vaz:

The high prevalence of obstetric fistulas is related not only to the low coverage of childbirth in the rural areas of the provinces, but also to the higher incidence of cultural factors, such as the case of PCs giving birth at a very early age (VAZ, 2011:23).

Psychological problems

In addition to having the right to their own childhood, the right to play, among other situations typical of their condition, children are not mature enough to deal with certain behaviors and issues in married life. A child who is subjected to early marriage suffers great psychological damage as she is forced to unite with a man who is usually much older than her, having to have sexual relations and living as a woman, with responsibilities towards the home and her husband.

5. Definition according to the National Strategy for the Prevention and Treatment of Obstetric Fistula

According to Maria José Arthur, the child is psychologically affected by the CP:

A child forced to unite with an older man to live as his wife ruins her childhood. Not only does she lose her freedom and possibilities for personal development, but she also suffers profound psychological and emotional consequences, some of which are not openly perceived. Because these unions are forced, the children or girls usually feel unhappy, often have no one to talk to and live in solitude (ARTHUR, 2013:412).

HUMAN RIGHTS (HR)

After analyzing the causes and conditions, as well as the consequences of early marriages, it is now important, in the light of an articulate presentation of the fundamentals of human rights, to demonstrate, through legal instruments that protect children and girls, that this practice systematically violates numerous human rights.

HUMAN RIGHTS

Human rights are a set of basic rights, freedoms and guarantees for all human beings. They are universal and immutable rights inherent to human dignity. They are eminently natural rights, relating to the quality and nature of the human being, and generally constitute a core of rights that protect the life and dignity of human beings. These rights are essentially born as negative rights, as an obligation for the state to omit or abstain from certain conduct by citizens (ALEXANDRINHO, 2011:18).

Flávia Piovesan defines them as the basic rights of all human beings, including civil, political, economic, social and cultural rights, as well as diffuse and collective rights (PIOVESAN, 2004:45).

These are basic rights inherent to all people without distinction as to color, race, sex, ethnic origin, place of birth, religion,

level of education, social position, parents' marital status, profession or political choice, and are rights acquired at birth, such as the right to life, equality, health, education, work, housing, freedom of movement, expression, association and worship, etc.

HUMAN RIGHTS PRINCIPLES

Human rights are guided by principles which, when analyzed, clearly show that the implementation of the PC violates these fundamental principles:

a) Principle of Human Dignity: According to this principle, every person has a natural value inherent in their quality as a human being and the dignity of the human person must be respected by all people and especially by the legal order of the State, which must ensure and protect human rights. It is the fundamental principle of human rights, since the dignity of the human person is the core of human rights, and is considered by most scholars to be the essential principle that governs the other principles of human rights.⁶

b) The Principle of Universality⁷ argues that human rights must be recognized everywhere in the world, in any state, poor or rich, large or small, regardless of the social and economic system, determining that human rights are applicable to everyone in any state and situation. The universality of human rights is reflected in the Preamble to the UDHR, which states that: “... *Member States undertake to develop in cooperation with the United Nations universal respect for human rights and fundamental freedoms...*”.

c) Principle of Equality⁸, according to this principle, everyone is equal in dignity before the law and has the same rights and duties regardless of differences. This means that “equal” people should be treated equally and “unequal” people unequally (MIRANDA, 2014:118), in other words, people in equal situations should be guaranteed their rights and obligations. It is important to mention that, within the scope of the Principle of Equality, we find in the Constitution of the Republic of Mozambique the Principle of Gender Equality, according to which “*Men and women are equal before the law in all areas of life, political, economic, social and cultural*”.

d) The Principle of Freedom⁹ is closely linked to the Principle of Equality, since without equal conditions between men and women, there can be no freedom, let alone respect for the dignity of the human person. According to this principle, every human being has an equal right to the most comprehensive system of basic freedoms. It follows from this principle that all people are born free and equal in dignity and rights.¹⁰

e) The Principle of Non-Discrimination¹¹ represents an expressive manifestation of equality, and is closely linked to the Principle of Equality in terms of equal rights and equal obligations. It is based on the equality of all human beings as a result of the equal dignity of all human beings, thus prohibiting discrimination between people, in the sense that people cannot be treated differently, more or less favorably, in particular because of their

6. The preamble to the UDHR clearly demonstrates that human dignity is the foundation of freedom, justice and peace in the world.

7. Article 1 of the UDHR

8. Enshrined in article 35 of the CRM

9. Article 1 of the UDHR

10. Article 1 of the UDHR

11. Article 2 of the UDHR, which clearly prohibits discrimination.

color, race, sex, ethnic origin, culture, profession, religious, political, social or economic situation.

PREMATURE MARRIAGES AS A VIOLATION OF HUMAN RIGHTS

This chapter presents the legal framework for the protection and promotion of children's and women's rights in Mozambique, with a view to demonstrating that the practice of PC constitutes a violation of the girl's human rights, since this cultural practice clashes with the human rights stipulated and in force in the Mozambican state.

It is important to note that we are talking specifically about the rights of children and women, because the girl is a child (defined as any human being under the age of 18) and she is also a woman whose rights are violated in the context of carrying out the PC.

Since national independence, the state has made significant legislative progress in promoting and protecting the rights of women and children, which can be analyzed through the ratification of international human rights legal instruments, as well as the approval of domestic legal instruments. Let's see

INTERNATIONAL LEGAL INSTRUMENTS

The Mozambican government, in the context of the promotion and protection of human rights, has unreservedly adhered to almost all the main international and regional normative texts relating to the rights of children and women:

- Universal Declaration of Human Rights 1948 ;¹²
- International Covenant on Civil and Political Rights (ICCPR) of 1966 ;¹³
- Declaration of the Rights of the Child 1959 ;¹⁴
- 1989 Convention on the Rights of the Child;
- 1997 Convention on the Elimination of All Forms of Discrimination against Women,
- 1981 African Charter on Human and Peoples' Rights¹⁵
- African Charter on the Rights and Welfare of the Child of 1998 ;¹⁶
- Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa of 2003 ;¹⁷
- 1995 Beijing Platform ;¹⁸

12. Article 16 stipulates the right of men and women to start a family from the age of marriage.

13. Article 3 states that a marriage cannot be celebrated if consent is not given.

14. Based on 10 principles, it recognizes children's right to a happy childhood and to enjoyment of their rights and freedoms, calling on men and women, as well as the state and society in general, to recognize these rights and to strive for their observance in accordance with the stipulated principles.

15. Article 18 stipulates that the state has the duty to ensure the protection of the rights of women and children as stipulated in international conventions and declarations.

16. Article 1 stipulates that any cultural and religious custom and tradition that is incompatible with the rights and duties contained in the Charter must be discouraged and further stipulates protection against harmful social and cultural practices that are detrimental to the life of the child, setting 18 years as the marriageable age.

17. Article 16, on marriage, establishes that men and women are equal in rights and duties, and that states must take measures to ensure that no marriage is contracted without the co-consent of the parties, and sets 18 as the marriageable age.

18. In its provisions, it enshrined three major innovations with the potential to transform the fight to promote women's rights, having introduced the concept of gender, the notion of empowerment and the focus on transversality.

Let's look in particular at the following international legal instruments:

1989 Convention on the Rights of the Child

Ratified by the Assembly of the Republic of Mozambique through Resolution 19/90 of October 23, it is an instrument that aims to ensure special protection and attention to children, due to their vulnerability, guaranteeing legal and non-legal protection of the child before and after birth, as well as respect for the cultural values of the child's community so that their rights are a reality. In this instrument, the following provisions stand out as being in conflict with the realization of the CP:

- Article 2 enshrines the state's duty to take measures to protect the child, stipulating that it must take all appropriate measures to ensure that the child is effectively protected against all forms of discrimination.
- Article 3 enshrines the Principle of the Best Interests of the Child, establishing that all decisions concerning children, adopted by public or private social protection institutions, courts, administrative authorities or legislative bodies, shall primarily take into account the best interests of the child;
- Article 9 enshrines the right not to be separated from one's parents by establishing that the child has the right to live with their parents unless such cohabitation is considered incompatible with their best interests;
- Article 31 enshrines the right to rest, leisure, recreational and cultural activities, stipulating that states recognize the right of the child to rest and leisure, the right to take part in games and recreational activities appropriate to his or her age;

- Article 34 enshrines the right against violence and sexual exploitation, and each state must protect children against violence and sexual exploitation, including prostitution and participation in any pornographic production.

1997 Convention on the Elimination of All Forms of Discrimination against Women,

Ratified by the Assembly of the Republic through Resolution 4/1993 of June 22, it is an instrument that establishes the rights of the female human being with a view to eliminating discrimination against women and ensuring equal rights for men and women. The following provisions stand out in particular:

- Article 2 enshrines the principle of non-discrimination, stipulating that states which ratify the Convention condemn discrimination against women in all its forms;
- Article 5, on the elimination of prejudices and customary practices, which states that states must take appropriate measures to modify or eliminate sociocultural patterns of conduct of men and women based on the idea of the inferiority or superiority of either sex;
- Article 16 enshrines marriage and stipulates that states shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relationships and, in particular;
- Article 2, which enshrines the principle of non-discrimination by stipulating that states that ratify the Convention condemn discrimination against women in all its forms;

- Article 5, on the elimination of prejudices and customary practices. States parties shall take all appropriate measures to modify the sociocultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary practices that are based on the idea of the inferiority or superiority of either sex or on stereotyped roles of men and women;
- Article 16, which deals with marriage, stipulates that states must take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and, in particular, enshrines the right to freely choose one's spouse and prohibits child marriage.

NATIONAL LEGAL INSTRUMENTS

In addition to the various international legal instruments to which Mozambique is a signatory, there are national legal instruments for the protection of women and children which must comply with their provisions¹⁹. We highlight the following instruments that can be used to combat and protect girls' rights:

- a) In this instrument, in addition to the rights to life, health and education provided for all citizens, we particularly highlight the following provisions:
 - The Principle of Equality and Universality - Article 35
 - The Principle of Gender Equality - Article 36
 - Rights of the Child, Article 47(1)

b) Family Law; here we highlight the following articles:

- Duties of the Family - Article 5(c) states that the family has a particular duty to ensure the growth and development of children and adolescents, as well as to ensure that situations of discrimination do not occur within the family.
- Concept of Marriage - Article 8 - establishes that marriage is the voluntary and singular union between a man and a woman for the purpose of creating a family, through full communion of life, stipulating that a promise of marriage is null and void if one of the parties is under 18 years of age.

c) The Basic Law on Child Protection, the realization of the CP, violates the following provisions:

- Principle of human dignity - Article 4 enshrines the principles of human dignity and non-discrimination by stipulating that the child enjoys all the fundamental rights inherent to the human person;
- Special rights - Article 5, the child has the right to grow up surrounded by love, affection and understanding, in an environment of happiness, security and peace, and to live in a family where respect for its members develops;
- Prohibition of negligent, discriminatory, violent and cruel treatment - Article 6, no child shall be subjected to negligent, discriminatory, violent or cruel treatment or be the object of any form of exploitation or oppression;
- Right to freedom, respect and dignity - Articles 2 and 3, the child has the right to freedom, respect and dignity as a human being in the process of

19.. It should be noted that there is no specific legislation on violence against girls, either at school, in the family or in society.

development and as a subject of human, civil and social rights;

- Right to family care - Article 28, every child has the right to be raised and educated within his or her family, and the state must take all measures to ensure that the child is not separated from his or her parents against their will.
- Exploitation at work - Article 46; all forms of exploitation of child labor are forbidden, and violations of this principle must be punishable by law.
- Prevention of threats or violations of rights - Article 48
- All citizens and institutions in general have a special duty to prevent threats to or violations of children's rights;
- Right to protection from prostitution and illicit sexual practices - Article 63, the State must adopt legislative and administrative measures to protect children from all forms of sexual exploitation and abuse;
- Right to protection from physical or psychological abuse - Article 68, the State must adopt special legislative and administrative measures to protect the child from any form of physical or psychological abuse, maltreatment and negligent treatment by parents, legal representatives or third parties.

d) Law on Domestic Violence against Women;

Approved by Law 29/2009 of September 29, this law establishes the legal regime that aims to prevent, sanction offenders and provide victims of domestic violence with the necessary protection, guaranteeing and introducing measures that provide state bodies with the necessary instruments to eliminate domestic violence, with a view to protecting women's

physical, moral, psychological, property and sexual integrity against violence practiced by their spouse, ex-spouse, boyfriend, ex-boyfriend and family members.

This law aims to combat gender-based violence by repressing situations of aggression in the domestic sphere resulting from unequal power between men and women in the family, committing the state to the fight against this form of violence, providing assistance to victims and introducing the criminalization of the aggressor.

e) Law to Prevent and Combat Premature Unions.

Approved by Law 19/2019, of October 22, this instrument is a real milestone in the prevention, combat and elimination of early marriages, being the legal instrument that in 48 articles, establishes the legal regime applicable to the prohibition, prevention, mitigation of early unions and penalization of their authors and accomplices, as well as the protection of children who are or were in these unions.

This law strongly prohibits minors under the age of 18 from getting involved in premature unions. It has preventive, prohibitive, sanctioning and punitive components for all those who directly or indirectly collaborate in premature unions:

- Age for union;
- Protection of personal and property rights;
- Establishment of legal mechanisms for the termination of premature unions and the application of precautionary measures; and
- Criminal offenses.

As can be seen from the above, the Mozambican state has a range of internal legislative provisions and has adhered to and ratified without reservation almost all the main interna-

tional instruments, including some specific to the African continent, relating to the protection and promotion of the rights of children and women. Therefore, having looked at these instruments, it is clear that Early Marriage is prohibited both at the level of the universal system for the protection of human rights, as well as in the regional and national system, which leads us to state that its realization violates not only the fundamental principles that guide human rights, but also the fundamental rights of the girl, namely the right to life, health, education, marriage, freedom, equality, to be free from all forms of discrimination and not to be subjected to torture and ill-treatment.

According to Bruce, J.2002, quoted by Maria José Artur (2013)²⁰ and guided by the Convention on the Rights of the Child, the following rights of girls can also be violated:

- The right to seek, receive and impart information and ideas (Article 13);
- The right not to be separated from their parents against their will;
- The right to be protected from all forms of physical and mental violence, harm or abuse, including sexual violence (Article 19);
- Right to educational and professional information (Article 28);
- The right to rest, leisure and to participate freely in cultural life (Article 31);
- The right to protection from all forms of exploitation that in any way affect the child's well-being (Article 36).

A HUMAN DEVELOPMENT PROBLEM

After demonstrating that early marriages systematically violate the human rights contained in the various national and international legal instruments, this chapter aims to explain that these unions constitute a human development problem in Mozambique.

HUMAN DEVELOPMENT

Human development is a concept based on the idea of the freedom of human beings, with a view to ensuring that they have the opportunities and capacity to live a quality life in accordance with their goals, and is directly related to people's satisfaction with the way they live their lives.

According to the United Nations Development Program (UNDP), the concept of Human Development analyzes the quality of life of the population, taking into account, in addition to economic aspects, other social, cultural and political characteristics that influence the quality of human life (www.br.undp.org).

The UNDP, through its annual Human Development Reports, analyzes each country's Human Development Index (HDI), which measures average achievements in three basic dimensions of human development, namely: a long and healthy life, knowledge and a decent standard of living. Each Human Development Report has argued that the purpose of development is to improve people's lives by increasing their choices, their freedom and their dignity.

According to the 2020 Human Development Report, the Mozambican state is the worst of the Portuguese-speaking countries in Africa, ranking 181st out of 189 countries analyzed. This means that the country is among the 10 countries in the world with the lowest human development index, one of the determining factors being poverty.

20. ARTHUR, Maria José - Memórias do Activismo II Volume, Casamento prematuro como violação de direitos humanos, published in "Outras Vozes", n.º31-32; Pag. 409, Maputo, WLSA 2013.

It is important to note here that, according to the Millennium Development Goals, poverty involves much more than the restrictions imposed by a lack of income, it also involves a lack of basic capacities to lead a full and creative life, such as when people suffer from poor health, education, are excluded from participating in decisions that affect their communities, or do not have the right to direct the course of their lives; these deprivations distinguish human poverty from income deprivation. In order to analyze the level of human development of a given group, one must look not only at income, but at all the conditions and opportunities that individuals have to be able to lead a life of dignity and quality.

PREMATURE MARRIAGES AS A HUMAN DEVELOPMENT PROBLEM

From the analysis carried out in this study, it is clear that early marriages violate human rights and have a negative impact on the development of society. It is therefore a human development problem that specifically affects girls, as it weakens them, closing off opportunities in their lives and putting their future at risk.

Thus, starting from the identification of the consequences of early marriages, namely:

- Early pregnancy;
- Dropping out of school;
- Contraction of the obstetric fistula (FO);
- Psychological problems.

These consequences of early marriage jeopardize the girl's enjoyment of her human rights:

- The right to life;
- The right to health;
- The right to education;

- The Right to Marriage;
- The right to freedom;
- The right to equality;
- The right to be free from all forms of discrimination; and
- The right not to be subjected to torture and ill-treatment.

Thus, based on the concept of human development, which is based on the idea of human freedom, with a view to ensuring that human beings have the opportunities and capacity to live with quality of life and in accordance with their objectives, having the right to a dignified life. Bearing in mind that, according to the UNDP, human development analyzes the quality of life of the population, taking into account, in addition to economic aspects, other characteristics, in this case cultural ones, which may influence the quality of human life, and bearing in mind that Mozambique is the worst country in Africa with a low human development index, ranking 181st.²¹ out of 189 countries analyzed²¹, we can say that early marriages in Mozambique are a human development problem.

FINAL CONSIDERATIONS

Generally speaking, if we look at early marriages and their consequences for girls' lives, and taking into account all the national and international legal instruments for the promotion and protection of children's and girls' rights, it can be seen unequivocally that these socio-cultural practices are based on gender violence and constitute a violation of human rights, with a direct impact on girls' lives, which is a human development problem in Mozambique, since this situation affects the whole of Mozambican society.

21. According to the 2020 Human Development Report.

Early marriage is one of the most serious human development problems in Mozambique, as it is one of the countries in the world with the highest prevalence rates. It is a major violation of girls' human rights, thus representing a human development problem with a direct impact on girls' quality of life, as it has implications for their well-being, health and education, and contributes to increasing poverty in Mozambican society.

However, despite the existence of a robust legal framework for the promotion and protection of the human rights of children and women, this harmful practice is still rife in Mozambique and is still largely ignored by government officials in the context of the development challenges that the country is pursuing. In fact, the endemic problem is

22. Society in general, namely civil society and non-governmental society.

more often treated simply as a socio-cultural problem from the point of view of the violation of women's human rights, with no emphasis on its impact on human development in society.

There is therefore a need for all those involved in this process²² of promoting and protecting the rights of children and girls, as well as preventing, combating and eliminating early marriages, to start highlighting this problem, not just in terms of human rights violations, to this end, requiring greater attention from political decision-makers and, above all, greater awareness among all parties that early marriages are not only a gender problem that violates human rights, but that they are, above all, a human development problem with an impact not only on the life of the girl, but also on society as a whole.

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