



Response to the Department of Finance consultation on changes to Marriage Law

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Summary: Children in Northern Ireland (CiNI) recommend that the Government raise the minimum age of marriage/civil partnership to 18 years, without exception, as soon as the legislative opportunity arises. Legal reform should be supported by targeted policies for education, awareness and community outreach to effectively safeguard children and support families.

Introduction

Children in Northern Ireland ([CiNI](#)) is the regional umbrella organisation for the children's sector providing policy, information, training and participation services to our 150 members across Northern Ireland. Our vision is to create a society where all children are valued, treated fairly and are able to flourish. To achieve this, we campaign for changes to legislation, policy and practice to promote and protect the rights and needs of children. We also provide advice and support directly to parents and carers through [Parentline](#) - our free, confidential and multi-channel regional parenting support helpline.

CiNI welcomes the opportunity to contribute to the consultation on proposed changes to Marriage Law. Our comments are confined to aspects that relate to raising the minimum age at which people can legally marry or enter into a civil partnership. The consultation document makes clear that there is no obligation on the Department of Finance (DoF) to legislate on minimum age of marriage, but that a decision to consult has been taken in recognition of the *“significant children's rights focus, particularly in the context of forced marriage.”* (p25) CiNI commend this decision and the determination to safeguard and protect children and their rights; reaffirming the Executive's commitment to ensuring children get the best start in life and live in safety and security.¹ As noted, the intention is to *‘assess views and opinions, with a view to further consideration that may or may not result in legislative change.’* (p25) On this basis, we would be grateful if officials could share indicative timescales for decision on next steps.

Comments

Q1. Should Government introduce legislation to raise the minimum marriage/civil partnership age to eighteen in line with the recommendation of

¹ [Children and Young People's Strategy 2020-2030](#)

the United Nations Committee responsible for the UN Convention on the Rights of the Child?

Yes. The Marriage (NI) Order 2003 and the Marriage Regulations (NI) 2003 enables child marriage, therein falling short of international standards. Beyond the UNCRC, the case for legal reform is supported by the UN Committee on the Elimination of Discrimination Against Women;² with the UN sustainable development goals requiring all countries to eliminate child, early and forced marriage by 2030.”³ The Republic of Ireland have already increased marriage age to 18; and following the Government’s commitment to revoke child marriage in England and Wales,⁴ the Marriage and Civil Partnership (Minimum Age) Bill⁵ is progressing. CiNI ask that similar measures to revoke conditions that enable marriage at 16 and 17 are progressed in Northern Ireland as soon as the legislative opportunity arises.

Q2. Should government continue to permit 16 and 17 year olds to marry or enter a civil partnership but either: (i) replace the current parental consent requirement with a requirement for the consent of an authoritative body such as a court or, (ii) make such unions conditional on both parental consent, as now, and the consent of an authoritative body such as a court?

No. In General Comment No.4⁶ and 20,⁷ the CRC Committee recommended setting the minimum age for marriage with and without parental consent to 18 years. CiNI agree with the proposed intention of the Marriage and Civil Partnership (Minimum Age) Bill in Westminster which seeks to revoke parental and judicial consent.

Q3. If this jurisdiction were to set its minimum marriage/civil partnership age at 18, should it refuse to recognise marriages/partnerships contracted outside the jurisdiction where one or both party is under eighteen?

Yes. The law should send a clear message that child marriage is not accepted or recognised in Northern Ireland. The anticipated effect of the Marriage and Civil Partnership (Minimum Age) Bill⁸ will mean that any marriages or civil partnerships

² [CEDAW/C/GBR/CO/8](#) (2019) UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI.

³ See target 5.3 of the [United Nation’s Global Goals 2015](#).

⁴ Home Office (2021) [Tackling Violence Against Women and Girls Strategy](#) (p42).

⁵ [Marriage and Civil Partnership \(Minimum Age\) Bill](#) as brought from the House of Commons on 16 June 2021.

⁶ [CRC/GC/2003/4](#) (2003) CRC General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child.

⁷ [CRC/C/GC/20](#) (2016) General comment No. 20 on the implementation of the rights of the child during adolescence.

⁸ [Marriage and Civil Partnership \(Minimum Age\) Bill](#) as brought from the House of Commons on 16 June 2021.

which take place overseas, or in Scotland or Northern Ireland, involving under 18s where one of the parties is domiciled in England and Wales, will not be legally recognised in England and Wales.⁹ We agree with this approach.

According to the consultation document, in a continuing trend the majority of the marriages here that involved under 18s were marriages where one or both parties were from outside the jurisdiction – accounting for 65 per cent of registered child marriages in 2018; rising to 71 per cent in 2019. There appears to be limited additional information, beyond the gender breakdown. In the immediate, we ask that more demographic and background data is collected and published to improve understanding and ensure that areas requiring remedial measures can be identified, including prevention programming.

Q4. Should Government make marriage/civil partnership, where one or other party is under the age of eighteen, a criminal offence?

Yes. We believe that the aim of changing the law should be educational rather than punitive; but we recognise that the law is the most powerful tool in challenging and changing social and cultural norms. CiNI draw your attention to the 2019 Human Rights Council Resolution on child, early and forced marriage¹⁰ which expresses concern that:

“....child, early and forced marriage is underrecognized and underreported, and often coincides with impunity and a lack of accountability and access to justice.” (p3)

It further states that:

“...the criminalization alone of child, early and forced marriage is insufficient when introduced without complementary measures and support programmes, and may instead contribute to the marginalization of and the loss of livelihoods for the families affected, and have the unintended effect of increasing the practice of informal unions or unregistered marriage.” (p4)

A strong legal framework for child marriage needs to be supported by targeted policies for education, awareness and community outreach to effectively protect children and support families. Measures to promote gender equality and safeguard children and their rights are areas associated with the upcoming Violence Against Women and Girls Strategy; refresh of the Domestic and Sexual Violence and Abuse

⁹ Marriage and Civil Partnership (Minimum Age) Bill [Explanatory Notes](#)

¹⁰ [A/HRC/RES/41/8](#) (2019) Resolution adopted by the Human Rights Council on consequences of child, early and forced marriage.

Strategy; and Gender Equality Strategy. Without doubt it is an opportune time for the Government to take action to amend the law and mobilise support through targeted education and awareness.

Q5. Do you believe that, by allowing marriage/civil partnership by people under the age of eighteen, there is a risk of forced marriage?

Yes. International human rights bodies define child marriage as:

“a form of forced marriage because children, given their age and lack of ability to give their full, free and informed consent to their marriage or its timing.”¹¹

In this context, find enclosed case study shared by our member organisation, [Barnardo’s Northern Ireland](#) who deliver the Syrian Vulnerable Persons Resettlement Scheme:

“Barnardo’s NI supported a refugee family in Northern Ireland for 4 years. The family struggled to settle into Northern Ireland due to racism. Their 17-year-old daughter was engaged to be married to a man at least 10 years older than her. The marriage was arranged by her parents in return for a financial settlement. The girl had dropped out of education due to racism she experienced in school and saw the marriage as a way out of poverty for her family and as the only option for her future. The support workers were very concerned about the marriage and felt that all the indications were that she was being coerced into it by her family.”¹²

The consultation document notes, *“there is no evidence that any of these marriages involving under-18s were forced marriages. Registrars and other General Register Office officials throughout this jurisdiction are typically alert to the possibility of forced marriage and the need to act to prevent it.”* (p29) CiNI are relieved that there is no evidence of forced marriages involving under 18s and we would like to learn more about the risk assessment framework.

Q6. What do you see as the principal risks of forced marriage?

Forced marriage is already illegal in Northern Ireland and if it involves anyone under the age of 18 it is also child abuse. International human rights bodies have repeatedly highlighted the associated risks,¹³ including increased likelihood of sexual and domestic abuse, early pregnancy, lack of access to education, increased

¹¹ See <https://www.ohchr.org/en/issues/women/wrgs/pages/childmarriage.aspx>

¹² Information provided to CiNI by Barnardo’s NI.

¹³ See, for example - [CRC/GC/2003/4](#); [CRC/C/GC/20](#); [CEDAW/C/GBR/CO/8](#); and [A/HRC/RES/41/8](#)

poverty and absence of livelihood opportunities. These risks are reflected in the Government's statutory guidance on forced marriage,¹⁴ and highlighted in the Safeguarding Board for Northern Ireland's (SBNI) 2016 guidance,¹⁵ which states that:

- A child/young person who is forced into marriage is likely to suffer Significant Harm through physical, sexual or emotional abuse. Forced marriage can have a negative impact on a child/young person's health and development, and can also result in sexual violence including rape. If a child/young person is forced to marry, he or she may be taken abroad for an extended period of time which could amount to child abduction. In addition, a child/young person in such a situation would be absent from school resulting in the loss of educational opportunities, and possibly also future employment opportunities. Even if the child/young person is not taken abroad, they are likely to be taken out of school so as to ensure that they do not talk about their situation with their peers;
- One serious consequence of forced marriage is the increased likelihood of domestic and sexual violence and abuse. Anyone forced into marriage faces an increased risk of rape and sexual abuse as they may not wish to consent, or may not be the legal age to consent to a sexual relationship. This in turn may result in unwanted pregnancies or enforced abortions;
- The risks of emotional abuse through being stigmatised by family wider community are also present; these in turn may lead to serious consequences for the individual in terms of their mental health or self-harming behaviour; and
- Children/young people are also deprived of the normal range of opportunities and experiences available to their peers when they are pressurised into marriage against their will.

Q7. Do you believe that marriage/civil partnership before the age of eighteen—before adulthood—can deprive young people, especially girls, of opportunities such as education?

Yes, please refer to Q6. It is clear from the data included in the consultation document that child marriage is a live issue in Northern Ireland, especially for girls. Specifically, in 2018, 35 girls under 18 married compared to 14 boys under 18; rising to 54 girls and 15 boys in 2019. (p28) CiNI are profoundly concerned that girls are disproportionately affected and ask that child marriage is included as a target area under the NI Executive's upcoming Violence Against Women and Girls Strategy.

¹⁴ The Right to Choose: Statutory guidance for dealing with forced marriage

¹⁵ See <https://www.safeguardingni.org/resources/forced-marriage>

We agree with the Department's assertion that "*minimum age regulations are intended, primarily, to protect children from being coaxed or coerced into marriage as well as to ensure that children can experience and enjoy their childhoods and fully avail of opportunities such as education.*" (p25) On this basis, we renew our ask for the Government to revoke conditions that enable marriage at 16 and 17.

Q8. Would you be concerned if this jurisdiction were the only jurisdiction on these islands that permitted marriage for 16 and 17 year olds?

Yes. Jurisdictional disparity will create confusion, fall short of international standards and mean that the rights and protections of our children lag behind neighbouring nations. Changes to the law in the Republic of Ireland and underway in England and Wales presents a loophole in our domestic law which could present a gateway for more registered child marriages, regardless of their legal recognition elsewhere.

Conclusion

We hope these comments are helpful to the Department and we look forward to working with officials when a decision on next steps is taken. For more discussion please contact Orla O'Hagan at orla@ci-ni.org.uk.