



**Resolution Adopted at the 75<sup>th</sup> Annual General Meeting of the Malaysian Bar  
Held on 13 March 2021**

**Resolution to Support the Call to Abolish the Practice of Child Marriages in Malaysia**

**WHEREAS:**

- (1) It is recognised that Malaysia, being a signatory to the **Convention on the Rights of the Child**, has a critical obligation and duty to ensure the development and protection of all children in Malaysia.
- (2) Article 3 of the Convention on the Rights of the Child states, *inter alia*, that:
  - “1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
  2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.”
- (3) The Committee on the Rights of the Child (“CRC”) defines “child marriage” as any marriage where either one (or both) partners is (are) below 18 years of age. The CRC urges countries to set the minimum age for marriage for men and women (with or without parental consent) at 18 years. The United Nations Population Fund (“UNFPA”) and the United Nations Children’s Fund (“UNICEF”) define child marriage as “a formal marriage or informal union before age 18”.
- (4) The Center for Reproductive Rights’ “Briefing Paper on Child Marriage in **South Asia** — International and Constitutional Legal Standards and Jurisprudence for Promoting Accountability and Change” states:

*“Child marriage does not constitute a single rights violation; rather, every instance of child marriage triggers a continuum of violations that continues throughout a girl’s life. Child marriage endangers the survival and well-being of women and girls by exposing them to forced initiation into sex and ongoing sexual violence, as well as to early, unplanned, and frequent pregnancies. Further, women and girls married as children are often denied educational opportunities, are isolated from society, and face a lifetime of economic dependence. Together, child marriage and early pregnancy trap generations of women in cycles of poverty. These harms result in significant violations of girls’ rights, including their reproductive rights and their right to freedom from gender-based violence.*”

*Ensuring accountability for child marriage entails both holding responsible those officials who have failed to implement laws and policies against the practice, and addressing legal and social barriers that prevent married girls seeking to leave such marriages from being able to do so. It also requires the introduction of specific legal measures and remedies to address the particular needs of married girls.”*

- (5) Malaysia has committed to eliminating child marriage by 2030 in line with target 5.3 of the Sustainable Development Goals (“the SDGs”). The Government did not provide an update on progress towards this target during its Voluntary National Review at the 2017 United Nations High-Level Political Forum on Sustainable Development.
- (6) Malaysia acceded to the Convention on the Rights of the Child in 1995, which sets a minimum age of marriage of 18, and acceded to the Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”) in 1995, which obligates State Parties to ensure free and full consent to marriage.
- (7) Malaysia has committed to the ASEAN Declaration on the Elimination of Violence against Women and Elimination of Violence against Children (2013), which acknowledges the importance of strengthening ASEAN efforts to protect children from all forms of violence, including early marriage.
- (8) In 2018, the CEDAW Committee recommended that Malaysia raise the minimum age of marriage to 18 for women and men for both civil and Muslim marriages, and require the full consent of women for any marriage.
- (9) During its 2013 Universal Periodic Review, Malaysia agreed to examine recommendations to take steps to address trends in child marriage and adopt proper measures to discourage the practice.
- (10) It is recognised that child marriages are medically, socially and economically harmful to children of either gender and to society, with countries around the world, including Turkey and Indonesia, legislating measures to abolish child marriages. Child marriage has lasting consequences on girls that last well beyond adolescence, including:
  - (a) Women married in their teens or earlier struggle with the health effects of getting pregnant at a young age and often with little spacing between children. Early marriages followed by teen pregnancy also significantly increase birth complications and social isolation. The inability to interact with peers and the limitation of socialisation outside the family disturbs the normal identity development in the child;
  - (b) In Malaysia, marriage or pregnancy can limit or eliminate a woman’s education options, affecting her economic independence. The current position is that married or pregnant children are not allowed to attend government schools. Without education, girls and adult women have fewer opportunities to earn an income and financially provide for themselves and their children. This makes girls more vulnerable to persistent poverty if their spouses die, abandon, or divorce them;
  - (c) Girls in child marriages are more likely to suffer from domestic violence, child sexual abuse, and marital rape. This trauma may lead to the development of depression which subsequently increase the risk towards suicide or self-harm in the adolescent mothers. Maternal depression will also affect the children as the

toxic stress responses can have damaging effects on their learning, behaviour, and health, later in life;

- (d) Given that girls in child marriages are often significantly younger than their husbands, they become widowed earlier in life and may face associated economic and social challenges for a greater portion of their life than women who marry later. While there is not much research on the effects of child marriage on boys, it is clear that it forces boys out of education and into the workforce at an earlier age, thus limiting their educational, economic and social status; and
  - (e) High rates of child marriage negatively impact the economic development of countries because of the impact of early marriages on girls' education and labour market participation. Some researchers and activists note that high rates of child marriage prevent significant progress towards each of the eight Millennium Development Goals and global efforts to reduce poverty, due to the effects on educational attainment, economic and political participation, and health.
- (11) Child marriage continues to be practised in Malaysia. Statistics show that child marriage in Malaysia is not just a problem in Muslim communities, but one encountered in every community in Malaysia, including those of the Orang Asal.
  - (12) It is recognised that the triggers leading to child marriages in Malaysia include poverty, pre-marital sex, teenage pregnancies, lack of access to education, gender norms, traditional values, violence against girls, lack of adequate quality age-appropriate reproductive health and sexuality education for children, and lack of access to contraception and reproductive healthcare. It is further recognised that the problem of child marriages cannot be overcome unless and until these trigger factors are addressed.
  - (13) The Government, in attempting to find solutions to the problem of child marriages in Malaysia, unveiled on 16 January 2020, a five-year National Strategic Plan in Handling the Causes of Child Marriage, which the Malaysian Bar recognises as a step in the right direction.
  - (14) The Malaysian Bar notes that the preamble to the Child Act 2001 recognised that “... *a child is not only a crucial component of such a society but also the key to its survival, development and prosperity*”.
  - (15) The Malaysian Bar, however, recognises that despite all of the above, there is no Act of Parliament protecting children from child marriages or providing solutions and protection to victims of child marriages, or any children born out of such marriages.

**THEREFORE, the Malaysian Bar hereby resolves:**

- (A) That the Malaysian Bar calls upon the Government to enact an Act of Parliament:
  - (i) Abolishing the practice of child marriages;
  - (ii) Raising the legal age of marriage to 18 years of age for all children in Malaysia;
  - (iii) Providing protection to children against child marriages; and
  - (iv) Providing solutions and protection to victims of child marriages or any children born out of such marriages;

- (B) That the Malaysian Bar calls upon the Government to take immediate proactive steps and measures to advocate and ensure that the public is educated and advised that child marriages are medically, socially and economically harmful to children and society; and
- (C) That the Malaysian Bar calls upon the Government to adopt a multi-stakeholder approach and take immediate measures to address the trigger factors leading to child marriages in Malaysia, which include poverty, pre-marital sex, teenage pregnancies, lack of access to education, gender norms, traditional values, violence against girls, lack of adequate quality age-appropriate reproductive health and sexuality education for children, and lack of access to contraception and reproductive healthcare.