

Republic of the Philippines
HOUSE OF REPRESENTATIVES

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. _____

8440



**Introduced by Representative Bernadette Herrera-Dy
and Representative Edcel Lagman**

EXPLANATORY NOTE

Violence against Women and Girls (VAWG) is one of the most systematic and widespread human rights violations. One of the expressions of VAWG is child, early and forced marriages (CEFM). According to the 2016 State of the World's Population Report of UNFPA, 47,000 girls around the world are married before the age of 18 every day. In developing countries such as the Philippines, 1 in 4 girls will be married before they are 18. In the Philippines, 15% of women aged 20-24 years old were first married or in union before 18 (NDHS 2013).

The practice of CEFM has serious impacts and poses risks on women and girls' health and development. CEFM also perpetrates violence and gender inequality. The UNFPA states that in developing countries, 9 out of 10 births to adolescent girls occur within a marriage or union and these girls are vulnerable to pregnancy-related complications which are among the leading causes of mortality among adolescents around the world. Women and girls' development is hindered by CEFM as married girls most likely drop out of school and lose the chance to be educated and gain skills and knowledge which will help her gain a good job and earn for herself and her family (UNICEF 2016). The perpetration of violence and gender inequality is another negative impact of CEFM. According to PSA, in 2013, 20% of ever-married women aged 15-49 have experienced domestic and/or intimate-partner violence since age 15; while the National Baseline Survey on Violence against Children reported eighty percent prevalence of all forms of violence against children.

Violence against women and girls also has severe consequences on social and economic outcomes. A research by the World Bank stated that ending CEFM by 2030 would gain \$500 billion annually from lower population growth, \$90 billion annually from lower under-five mortality and malnutrition, and will save 5% of governments' budget for education.

Several international instruments explicitly prohibiting CEFM were ratified by the Philippines. It happens to young girls and boys aged 17 years old and below who are not yet able to give free, prior and informed consent – requisites of a binding marriage as guaranteed by the Universal Declaration of Human Rights (UDHR, 1948). The UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Elimination of all Forms of Violence against Women (CEDAW) released Joint Recommendation no. 31 which highlights that a minimum legal age of marriage for girls and boys, with or without parental consent, is established at 18 years old. When a marriage at an earlier age is allowed in exceptional circumstances, the absolute minimum age must not be below 16 years, the grounds for obtaining permission must be legitimate and strictly defined by law and the marriage must be permitted only by a court of law upon the full, free and informed consent of the child or both children, who must appear in person before the court (Joint General Recommendation No 31, 2014).

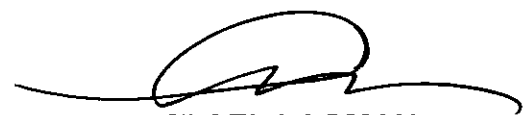
Locally, the Family Code of the Philippines sets the legal age of marriage at 18 years old and above and highlights that consent must be freely given by both parties. PLCPD anchored its campaign on these international instruments and national legal frameworks such as the Family Code of the Philippines, Magna Carta for Women, Special Protection of Children against Abuse, Exploitation and Discrimination. All these national laws safeguard the rights of women and girls and protect them from child, early and forced marriage.

Despite these international and national legal frameworks, CEFM is still practiced in the Philippines, for example among indigenous cultural communities. Child marriages in indigenous communities are higher due to limited access to resources and basic services, few educational and economic opportunities, and higher rates of poverty than in non-indigenous communities. Among Muslim communities, the Code of Muslim Personal Laws (CMPL) allow marriage at the onset of puberty which is presumed to be at 15 years old but can be younger.

Hence, the enactment of this bill is earnestly sought as it seeks to: 1) Fulfill the Philippine's commitment to International Agreements ratified by the Senate; 2) Call for the nationwide strengthened implementation of the provisions of the Family Code of the Philippines (EO 209) and the Magna Carta of Women (RA 9710) setting 18 years old as the legal age of marriage, effectively repealing contradictory laws; 3) Protect children from all forms of violence and abuse such as child marriage; 4) Provide a comprehensive program (prevention, social protection/response) to prevent and respond to child abuse, including child, early and forced marriages.



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**AN ACT PROTECTING CHILDREN
BY PROHIBITING AND DECLARING CHILD MARRIAGE AS ILLEGAL
AND PROVIDING PROGRAMS AND PENALTIES THEREOF**

1 Be it enacted by the Senate and House of Representatives of the Philippines in
2 Congress assembled:

3 **Section 1. Declaration of State Policy.** The State recognizes the role of women and
4 children in nation building and shall therefore protect and promote their empowerment
5 which entails the abolition of the unequal structures and practices that perpetuate
6 discrimination and inequality. To realize this, the State shall address discrimination and
7 inequality in the economic, political, social, cultural and civil life of women even in their
8 young age and provide the necessary programs and services.

9 The State affirms children's rights as part of women's rights and human rights and shall
10 intensify its efforts to fulfil its duties under the UN Convention on the Rights of Child
11 and the Special Protection of Children Against Child Abuse, Exploitation and
12 Discrimination Act to recognize, respect, protect, fulfil, and promote all human rights
13 and fundamental freedoms of women and children, especially the girls, in the
14 economic, social, political, cultural, and other fields without distinction or discrimination
15 on account of class, age, sex, gender, language, ethnicity, religion, ideology, disability,
16 education, and status.

17
18 The State condemns discrimination against women and children in all its forms and
19 pursues by all appropriate means and without delay the policy of eliminating
20 discrimination against women and girls in keeping with the Convention on the
21 Elimination of All Forms of Discrimination Against Women (CEDAW) clearly enabled by
22 the Magna Carta of Women and other international instruments consistent with
23 Philippine law.

24
25 **Section 2. Affirmation of the Principles of Human Rights of Women and children.**
26 – Human rights are universal and inalienable. Human rights are indivisible. Human
27 rights are inherent to the dignity of every human being regardless of age and gender
28 whether they relate to civil, cultural, economic, political, or social issues.

29
30 Child Marriage is an act of child abuse as it debases, degrades and demeans the
31 intrinsic worth and dignity of children under the Special Protection of Children Against
32 Child Abuse, Exploitation and Discrimination Act (RA 7610) It is likewise considered
33 discrimination relating to marriage and family relations sought to be eliminated by the
34 Convention on the Elimination of Discrimination Against Women (CEDAW).

35
36 Human rights are interdependent and interrelated. The fulfilment of one right often
37 depends, wholly or in part, upon the fulfilment of others. All individuals are equal as
38 human beings by virtue of the inherent dignity of each human person. No one, therefore,
39 should suffer discrimination on the basis of ethnicity, gender, age, language, sexual
40 orientation, race, color, religion, political, or other opinion, national, social, or

geographical origin, disability, property, birth, or other status as established by human rights standards.

The state, in recognition of the International Agreements entered into for the protection of the children's rights, always take and give primary consideration the best interests of the child. The State likewise recognize resolutions on the intensification of efforts to eliminate all forms of violence against women and children. It now endeavours to have this enabling law to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse and the abolition of traditional or cultural practices prejudicial to the health of children which includes, among other practices, the child marriage and betrothal.

The state affirms that marriage shall be entered into only with the free and full consent of the intending spouses and that betrothal and child marriages shall have no legal effect.

The state, through this law now eliminates child marriage to strictly enforce Articles 2-5 of the Family Code providing that marriage is entered into only with the free and full consent of intending spouses who should be at least 18 years of age at the time of marriage.

Section 3. DEFINITION OF TERMS:

Children – refers to persons below 18 years of age, or those unable to fully take care of themselves or protect themselves from abuse, exploitation or discrimination because of a physical or mental disability or condition as defined by the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.

Child Abuse – refers to any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or any circumstance which gravely threatens or endangers the life, survival, safety and normal development of children as defined by the Special Protection of `children Against Child Abuse, Exploitation and Discrimination Act.

Child Marriage – any marriage entered into where one or both parties are below 18 years of age or unable to fully take care or protect themselves because of a physical or mental disability or condition, solemnized in civil, church or in any recognized traditional, cultural or customary manner and it shall be considered as Child Abuse.

Solemnizing officer – any person authorized by law as defined in Article 7 of the Family Code or recognized by reason of religion, tradition, culture or customs, to solemnize marriage.

Parents – refer to biological parents or those legally adopting parents.

Guardians – refer to relatives taking custody of the child or minor in the absence of the parents; or anyone to whom a child or minor was given or left for care or custody.

Facilitation of child marriage – any person, who caused, fixed, facilitated or arranged the child marriage shall be considered to have committed abuse of the child under RA7610.

Solemnization of child marriage – the person who officiated and performed the formal rites of child marriage shall be considered to have committed abuse of the child under RA7610.

Section 4. The prohibited act. It is hereby declared that the prohibited act of child marriage, its facilitation and solemnization are considered public crimes. These acts are grave form of child abuse and exploitation as they gravely threaten and endanger the survival and normal development of children physically, emotionally and psychologically and can be initiated by any concerned individual.

Section 5. Legal Effect of Child Marriage. Child Marriage is considered as **void ab initio**, hence, the action for annulment of child marriage does not prescribe as provided for by Article 39 of the Family Code. The legal effect of Child Marriage insofar as Support, Property Relations and Custody shall be governed by Articles 50-55 of the Family Code.

Section 6. Programs and Services. There shall be a comprehensive program and services to be formulated by the Department of Social Welfare and Development in coordination with other government agencies identified herein as duty-bearers and with the concerned CSOs and NGOs. This shall be made and initiated by the DSWD within six (6) months from the effectivity of this Code to ensure the over-all support, health and development of the children.

Section 7. Penalties for Violators:

Section 7.1. The Solemnizing Officer who solemnized child marriage shall be meted the following penalties:

- a) First offense - fine in the amount of P25,000, suspension of license for a period of 6 months; to attend seminar and learning sessions on human rights, child's rights and marriage and this law during the suspension period. Unless complied with, the suspension of license shall not be lifted or the solemnizing officer shall not be allowed to resume his office.
- b) Second Offense - fine in the amount of P50,000; and forfeiture of license.
- c) Third Offense - Fine and Imprisonment as provided for by RA 7610.

Section 7.2. Parents or Guardians of children who caused, facilitated, arranged and consented to a child marriage shall be meted the following penalties:

- a) First Offense - suspension of parental authority for a period of 6 months to 1 year, subject to the determination and written recommendation of DSWD considering the best interest of the child.
- b) Second Offense - Permanent Protection Order in favour of the child.
- c) Third Offense - Imprisonment as provided for by RA7610. The custody of the children shall be transferred to the Department of Social Welfare until the child reaches the age of majority or able to protect herself/himself.

Section 7.3. All others who caused the facilitation and solemnization of child marriage shall be meted a penalty in accordance with the provision of RA 7610.

Section 7.4. The adult who contracted a child marriage with a minor 12 years and under or who is 10 years or more or his junior shall be meted a penalty of Prison Mayor in its maximum period as provided for in Article VI of the RA7610.

Section 8. Duty-Bearers and Responsibilities. In order to prevent and eventually end child marriages and protect the children from this form of abuse and exploitation, the following government offices shall be responsible to take the necessary actions:

Department of Social Welfare and Development (DSWD) - Shall take the lead in the implementation of this Act and create programs that will address the prevalence of child marriage and provide appropriate services to children who were forced to enter into child marriage. It shall ensure the the information drive in the communities on child marriage as a form of abuse and violence, its impacts and effects, the roles of parents and guardians; and include the same in its existing programs such as pre-marriage counselling sessions, family development sessions, and parenting effectiveness seminar.

Council for the Welfare of Children (CWC) - Shall work closely with the DSWD in strengthening policies to prohibit and end child marriage. It shall include the advocacy to prevent child marriage in the Philippine plan of action to end violence against children.

Department of Justice (DOJ) - Shall assume responsibility in ensuring that the penal provisions of this Act are carried out and provide access to justice and legal services to those who suffered the consequence of child marriage.

Department of the Interior and Local Government (DILG) - Shall ensure that LGUs are monitoring the implementation of the law by maintaining a Children's Desk in all PNP headquarters and Barangay offices through the Local/Barangay Council for the Protection of Children.

Department of Education (DepEd) - Shall include the discussion on the impact and effects of child marriage in the comprehensive sexuality education curriculum.

Department of Health (DOH) - shall ensure access to health services for the prevention of child marriage and services for boys and girls who experienced child marriage.

Family And Executive Courts' Judges - must undergo trainings on the impacts and effects of child marriage to the over-all health and development of children and hall ensure strict application and implementation of the law

Philippine Commission on Women (PCW) - Shall integrate dissemination of the provisions of this Act in programs on public awareness and behaviour-change communications.

1 **Commission on Human Rights (CHR)** - Shall monitor the implementation of this Act
2 as Gender Ombud and through its Child Rights Center/Desk.

3 **National Commission on Muslim Filipinos (NCMF)** - Shall include in its program of
4 action the awareness of Muslim communities on the impacts and effects of child
5 marriage in the over-all health and development of children; the provisions of this law;
6 ensure the implementation of this Act; monitor and report cases of child marriages in
7 communities of jurisdiction.

8 **National Commission for Indigenous People (NCIP)** - Shall include in its program of
9 action, national conferences and gatherings the awareness of the indigenous people
10 communities on the impacts and effects of child marriage in the over-all health and
11 development of children; the provisions of this law; ensure the implementation of this
12 Act; monitor and report cases of child marriages in the communities of jurisdiction.

13 **Sec. 9. Implementing Rules and Regulations.** Within ninety (90) days from the
14 effectivity of this Act, the Department of Social Welfare, The Department of Education
15 and the Department of Health in coordination with other concerned government
16 agencies and women and children organizations, shall promulgate the necessary rules
17 and regulations for the effective implementation of this Act. They shall likewise
18 incorporate the resources for programs and services in their Annual Budget.

19 **Sec. 10. Repealing Clause.** All other laws, decrees, executive orders, issuances, rules
20 and regulations or parts thereof inconsistent with the provisions of this Act are hereby
21 repealed or modified accordingly.

22 **Sec. 11. Effectivity.** This Act shall take effect fifteen (15) days after is complete
23 publication in the Official Gazette or in at least two (2) national papers of general
24 circulation.

25
26 Approved,