

# The 'Right' Balance: the Minimum Age for Marriage and the Convention on the Rights of the Child

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The international community's recommendation to set 18 as the minimum age for marriage is based on the 'right' premise that children need protection. However, when 16- or 17-year-olds destabilise such premise by taking an autonomous decision to marry, the recommendation seems unfit for purpose and out of synch with the principle of the evolving capacities of the child. Moreover, when national responses to such recommendation reveal substantial difficulties in implementation, the outcome is a worrisome disconnection between international norms, national practices and children's experiences.

This thesis discusses in what ways the international community can identify a minimum age for marriage that effectively upholds the rights of the child. Instead of perpetuating the alleged dichotomies between adults and children, protection and autonomy, universal and contextual, it explores the spaces between these poles. In so doing, it exposes and challenges prevalent assumptions surrounding both 'the child' and 'marriage' in international settings.

Firstly, the thesis uses the lack of a provision on marriage in the Convention on the Rights of the Child, the definition of the child contained therein, and the notion of minimum ages to propose a more nuanced understanding of protection and autonomy. It then looks at marriage through new 'lenses' (the spouses, their will, the type of relationship and the time factor), highlighting the importance of recasting conceptions of marriage and context in more articulated ways. Lastly, it scrutinises the Convention's monitoring process to assess worldwide criteria and practices in this area through a conceptual framework based on four elements: Cogency, Conformity, Consistency and Context.

While acknowledging that flexible minimum ages are as difficult to implement as fixed limits, the thesis argues that an age range between 16 and 18, supplemented by rigorous guarantees, is a more suitable formula for a minimum age for marriage that provides the 'right' balance.