



At what age? ...

**...are school-children
employed, married
and taken to court?**

Trends over time

Angela Melchiorre and Ed Atkins

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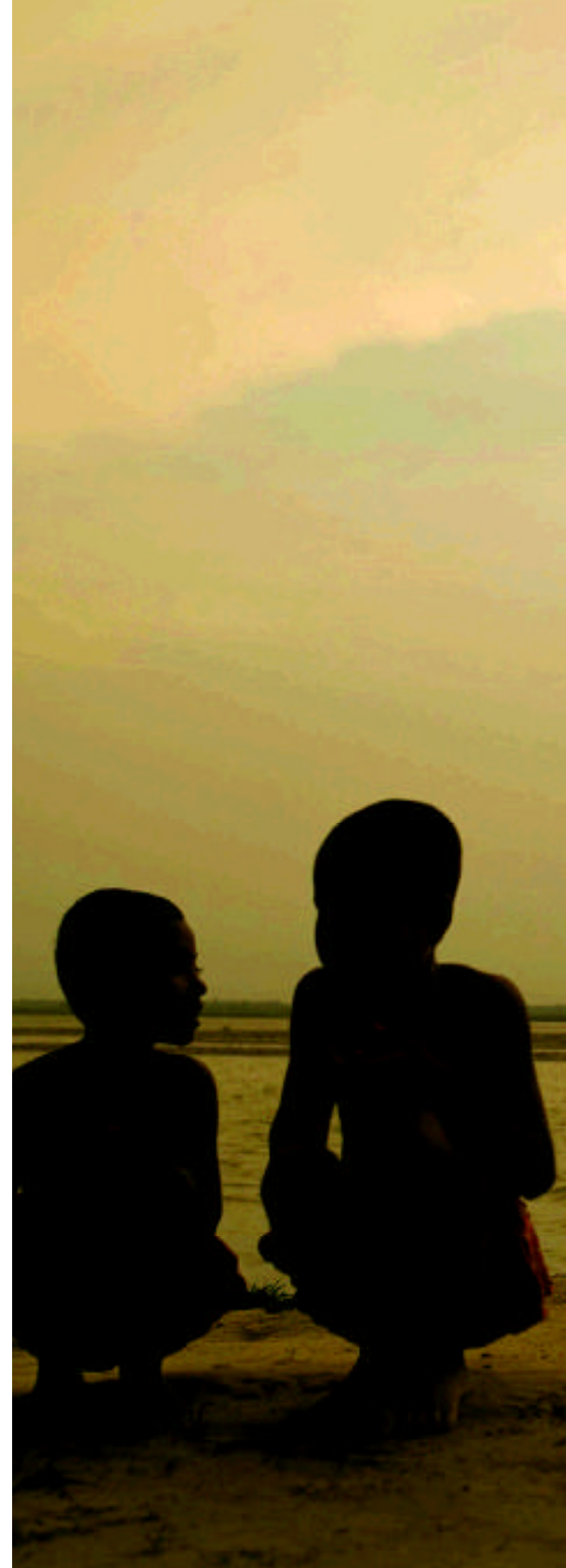
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We hope that this work will provide States, the CRC Committee, Inter-Governmental Organisations, NGOs, researchers and activists with an invaluable source of information, enabling them to hold duty bearers accountable, raise awareness on areas that require more attention and develop legislative and practical solutions that will improve both education and children's rights worldwide.



Tom Pietrasik/ActionAid

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Cover photograph: Tom Pietrasik/ActionAid

The definition of the child and the age limits related to specific rights are significant indicators of the quality of national child rights law and practice. Adjustments of such age limits are necessary in a State which takes child rights seriously.

When the Convention on the Rights of the Child (CRC) was being drafted, it seemed only logical to first provide a definition of the child. As noted by the drafters in the early drafting days, it was important to define "the child" and to say up to what age an individual may be considered to be one. The CRC is the first international treaty to do so. Its Article 1 defines the child as "every human being below the age of eighteen years, unless, under the law applicable to the child, majority is attained earlier." The clause on majority remains controversial to this day and is one of the most important factors impeding the full implementation of the CRC.

Initial inability of the States that were drafting the CRC to agree on a universal definition of the child cemented norms of national laws based on long histories of prejudice, ignorance and injustice against children. Nonetheless, soon after the entry into force of the CRC, the Committee on the Rights of the Child – the monitoring body of this treaty – started promoting the application of Article 1 of the CRC to all children, no matter whether they have capacities and responsibilities similar to those of adults. The fact that the child is not an adult before the age of 18 (in most countries) does not mean that the age limit prevents children from exercising some rights earlier, or protects them from taking responsibility too early. Although a child can, for example, begin to work at the age of 15 in some countries, and by doing so acquire some rights usually attributed to adults, this does not mean that he or she should not continue to be treated and protected as a child.

After twenty years of implementation of the CRC, it is obvious that States Parties to the CRC (an impressive 193), have all introduced new or changed old legislation in efforts to fully implement the CRC. However, building on a decade of research, the authors of this study indicate that such legislative changes in the States Parties to the CRC unfortunately have not yet resulted in a more substantive change to the definition of the child.

This study is very important because of the problems it identifies and the data it collects, but also because of the authors' holistic approach to the rights of the child: the study shows that no age limit can be observed and addressed in isolation. The authors have rightly chosen four minimum legal ages defined by national legislation of the States Parties to the CRC – on marriage, criminal responsibility, employment and compulsory education – to analyze relevant interconnections. Interestingly, they have found that in the last two decades of the implementation of the CRC few States have made improvements on these age limits. This is a very important result, since a general statement on improved legislation can actually overshadow areas which prove to be of concern, such as age limits.

We now have a comparative review of different ages for each State Party that has reported in the last 18 years. The authors have thoroughly searched through States' reports, using them as almost exclusive sources of information. Such an approach is justifiable, since States' reports not only serve as authoritative sources of information but also because they show that States Parties to the CRC have improved their capacities to provide accurate and clear information. Credit for this goes not only the States Parties, but also to the clear guidelines developed gradually by the Committee.

For all these reasons, this study is valuable and it can certainly assist other researchers, States Parties, the CRC Committee and other UN Treaty Bodies, as well as international organizations and academics in pursuing further research and identifying the causes of the apparent slow motion towards changes in the definition of the child. On the other hand, it is a good teaser: it should inspire further studies to include other sources such as alternative reports, reports of international organizations and direct research into national legislation. This will surely serve as an important tool for advocacy to further improve States Parties' efforts to implement the CRC.

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ACRONYMS

CRC	Convention on the Rights of the Child
EFA	Education for All
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organisation
MACR	Minimum age for criminal responsibility
MDGs	Millennium Development Goals
NGO	Non-Governmental Organisation
RTE Project	Right to Education Project
UDHR	Universal Declaration of Human Rights
UN	United Nations

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INTRODUCTION

Rationale

According to the UN Convention on the Rights of the Child (CRC),¹ national laws and policies concerning children must be directed to their best interests. They must also strike a balance between safeguarding children from abuse, exploitation or a premature end to their childhood, on one hand, and providing them with the skills, knowledge and learning necessary to live autonomously in dignity, on the other. Nowhere is this equilibrium more crucial to securing children's full development than in education, straddling – as it does – both protection and autonomy. By ensuring compulsory education, the State protects the child from the harmful consequences of risky or detrimental activities; through education, the State facilitates the child's full development and participation in social life and autonomous decision-making. Yet, such safeguards are frequently ignored and the right to education continues to be undermined by conflicting laws and policies.

What are the implications for children's development if the age at which they complete their compulsory schooling is 14 but the legal minimum age for employment is 12? Or vice versa? What happens if a girl can legally be married before finishing compulsory education? Will she return to school and develop her potential to the fullest? And who ensures that relevant education of good quality is in place to help prevent juvenile delinquency or to facilitate the reintegration into society of children who come into conflict with the law?

These are some of the questions at the basis of *At what age?... are school-children employed, married and taken to court? – Trends over time*. Updating information included in previous editions and covering 186 States Parties to the CRC reporting over a period of 18 years, this research confirms that the majority of States have not yet fully upheld the right to education in their legislation. Nor have they agreed standards for the transition from childhood to adulthood, either domestically or internationally.

Extensively based on States Parties' reports under the CRC, and therefore reflecting States' accounts of their own practice, *At what age?* brings to light problems that should be – but are not – effectively and urgently addressed. The main research question is concord or discord among the age at which children should be at school and the ages at which, instead, they are legally allowed (and sometimes compelled) to work, marry, or face criminal proceedings. The principal finding is that 18 years on from the beginning of the monitoring process, incoherence in domestic legislation governing the actions of children and young people remains the norm rather than the exception. Instead of safeguarding children's security and development, as they should, some laws on legal minimum ages actually pose serious threats to children's enjoyment of their universally recognised rights.

The data emerging from this research illustrate this point very clearly: in at least 35 countries of the world there is no specific age for the completion of compulsory education;² at least 25 States have no minimum age for employment;³ in 44 countries girls can be married earlier than boys;⁴ and in at least 142 States children may be taken to court for criminal acts at an age between 6 and 15, which often coincides with the age range for compulsory education.⁵ Moreover, in the same country, it is not rare to find that children are legally

obliged to go to school until they are 14 or 15 while a different law allows them to work at an earlier age or to be married at the age of 12.⁶ This widespread inconsistency between compulsory education and other related legislation jeopardises the development of the child's personality (which is the key aim of education according to human rights law)⁷ and leaves children more vulnerable to abuse or exploitation.

At what age? also raises questions about the extent of State compliance with the outcomes of the CRC monitoring process. Trends over time in this case show a few instances of progress, many cases where the status quo is maintained, and some retrogression, too. If minimum ages continue to be inconsistent or illogical, despite the Committee's persistent recommendations towards harmonisation and conformity with the thrust of the CRC, questions need to be asked as to what can be done better to ensure that children are protected, the right to education is fully upheld, and the Convention and its monitoring mechanism are taken seriously. This research offers some recommendations in this direction in order to encourage discussion on how to enhance the impact of the Convention and its Committee on States Parties' laws, policies and practices.

Sources and methodology

First published in 2002, *At what age?* drew on States Parties' reports submitted between January 1997 and August 2002. In 2004 it was revised to include reports from August 2002 to January 2004. The current analysis is an update of the previous findings, covering 18 years of monitoring (1993-2010). It therefore offers a timely occasion to assess whether or not the international children's rights community has “come of age” with respect to its treatment of minors.

State reports are the primary source for this research, accounting for more than 98% of the information harvested. Where clear minimum ages were not included in these reports, the interaction between States Parties and the Committee was consulted through Summary Records, Written Replies, and Concluding Observations issued for the relevant monitoring session. The decision to rely mainly on States Parties' reports was taken for two reasons. Firstly, these reports constitute public self-assessment by governments and are consequently



Tom Pitarak/Adrian Ali

¹ General Assembly resolution 44/25 of 20 November 1989. For the full text of the Convention and the functioning of its monitoring Committee, see www.right-to-education.org/node/91.

² *Infra*, p. 19.

³ *Infra*, p. 21.

⁴ *Infra*, p. 27.

⁵ *Infra*, p. 31.

⁶ *Infra*, Part 2 – Summary Table.

⁷ Art.29 CRC, art.26 Universal Declaration of Human Rights (UDHR) and art.13 International Covenant on Economic, Social and Cultural Rights (ICESCR).

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an authoritative source, emanating directly from those empowered to make critical decisions on domestic policy, i.e. the prime duty bearers. This type of analysis therefore permits a range of actors to hold governments accountable for the standards which they themselves report under the CRC. Secondly, using the interaction between States and the Committee allows both inter-national comparison and a world-wide overview of the global direction of children's rights implementation, as all States – except for Somalia and the US – are bound by the same process.

Whilst the reports of non-governmental organisations and UN agencies, as well as academic material or field work, would undoubtedly provide an important and insightful counterfoil to the sources used here, they have been omitted in the interests of uniformity. Not all reviews include alternative reports, nor do all States allow genuine NGO work and participation. Furthermore, examining only those countries for which additional reports are available would not do justice to the desire to develop inter-national comparison and global analysis. Ultimately, the rationale was to develop a methodology that could be applied universally.

That being said, it is important to explain that the applied research methodology did pose other challenges of interpretation. Comparing different ages across countries or even within the same country is a difficult task, and inferring a precise number from a general description is a dangerous exercise. Collecting, analysing and interpreting information from States Parties' reports requires a great deal of care, thought and patience. Individual country reports are often more than one hundred pages long, and written by diverse parts of the government (seemingly not always in close consultation with one another). Moreover, within some national legal systems there are various recognised sources of law which frequently generate conflicting minimum ages, further complicating the task of distilling a single age from the information provided.

Another equally serious challenge relates to transparency and/or lack of information. Firstly, there is a danger that those countries with a more honest engagement with the reporting process might come off worse when compared with those which would misrepresent the degree of compliance, whether wilfully or not. Secondly, failure to report on a particular area is

also difficult to interpret as it may indicate an indirect recognition of inconsistent practices (i.e. information on a specific age may at times not be included in an attempt to mask violations), a lacuna in domestic monitoring, or a simple oversight.

In order to maintain coherence, the following methodology has been followed uniformly to arrive at the interpretations presented in the summary table. Where no information is provided, this is indicated by a cross (X); where information is available but not sufficiently clear, or is self-contradictory, a question mark (?) is used. A star (*) indicates a proposed change in legislation, a division of competence in federal States, a particular exception or practice that begs closer scrutiny. Where the information comes from the Concluding Observations, Summary Records or Written Replies, a circle (°) is used. Otherwise, the information provided in the reports is translated into a precise number, or “no minimum”, for each specific case according to the guiding criteria explained in Part One.



Tom Petrus/Anadolu

Limitations

Compiling and writing States Parties' reports to UN Treaty Bodies is a cumbersome and rarely coordinated effort. Different institutions of the State Party are usually involved and even in the most efficient cases collecting comprehensive information from a variety of sources is still a very onerous task. Moreover, the periodic nature of UN report writing may result in a void in terms of continuity. It is not surprising therefore to find serious delays in the submission of reports to the Committee, as well as contradictory information contained in different sections, even on the same topic. The summary table and some excerpts from the reports testify to this.

UN report writing is a complicated matter. A variety of reasons (not all of which may be said to be 'in good faith') may influence a State in its reporting to the Committee, and the precision and comprehensiveness of the report it submits will reflect this. It is therefore rather complex to come to understand the degree to which these reports accurately reflect the realities of the reporting country. There is always a risk that they are not sufficiently self-critical but simply self-congratulatory and descriptive. Certainly, the reading and analysis of all the reports used in this research confirmed that only in few cases was there a sincere attempt at reflecting on reality and problems in a meaningful way, going beyond mere information sharing. This is a missed opportunity, however, as much could be gained by a fuller and better understanding of conditions within each State Party, especially those States which face the biggest obstacles in their attempts to secure children's rights. A fuller engagement with the Committee would provide a clearer sense of the (dis)connections with the real life of the direct subjects of children's rights, and would constitute an important step towards addressing the problems they face.

Discrepancies evidenced by this analysis are not limited to States, but include some aspects of the Committee's approach too. The latter emerge both from tensions caused by States parties' resistance to the Committee's recommendations that minimum ages should be harmonised, and from occasional inconsistencies among the Committee's Concluding Observations. According to the text of the CRC, the Committee's main role is to examine States Parties' reports in order to monitor and assess their implementation of the CRC. If the spirit of this exercise is to “foster the effective implementation of the Convention”,⁸ it is important that the Committee's recommendations should be both unambiguous and feasible. This is why the Committee's use in its Concluding Observations of vague language such as “in conformity with international standards” or “internationally acceptable level” seems confusing and leaves room for a variety of outcomes. It certainly undermines the clear stand taken elsewhere by the Committee when recommending that the CRC's protection measures should still apply to all children below 18 regardless of whether they have achieved majority otherwise (through marriage or criminal responsibility, for example).⁹ Another area of inconsistency arises when the call for a specific recommendation is advanced during the meetings with States, but then this is not systematically reflected in the Summary Records or Concluding Observations. While the reasons for this discrepancy are not clear, this constitutes another missed opportunity to hold States accountable as it offers them an easy way out when it comes to follow-up.

Undoubtedly, the efforts of the Committee in engaging with States are commendable. However, Concluding Observations are as yet the best instruments at the disposal of the Committee (as well as States and civil society) to make sure that concerns are addressed and that implementation is enforced. If they remain vague or inconsistent, they will be rendered void of any meaningful persuasive

⁸ CRC, art.45.

⁹ For marriage see CRC Committee, General Comment No. 4: *Adolescent health and development in the context of the Convention on the Rights of the Child*, UN document CRC/GC/2003/4, 2003, paragraphs 1, 9 and 20; Concluding Observations on Nepal (UN Doc. CRC/C/15/Add.261, 2005, paragraph 66) and Liberia (UN Doc. CRC/C/15/Add.236, 2004, paragraph 51); for criminal responsibility see CRC Committee, *General Comment No. 10: Children's rights in juvenile justice*, UN document CRC/GC/10, 2007, paragraphs 36-38.

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power. This is why it is important to foster a more accurate understanding of the Committee's practice, between innovation and constraints, especially in terms of how its recommendations are (perceived to be) related to local contexts. This publication contributes to building this understanding.

Despite these limitations, there is room for a more positive engagement. Even if it is difficult to discern reality from elusive language, what is affirmed in these reports is what the State itself has publicly declared and what makes it accountable to its citizens and to the international community at large. *At what age?* is only a starting point, but it is hoped that it can be a useful tool for advocacy and action aimed at bringing about change for children.



Tom Petroski/ActionAid

Structure and links

The research data and findings are presented in a multi-dimensional format which consists of detailed, country-specific information available on the pages of the Right to Education Project's website (www.right-to-education.org), and a pdf/hard copy divided into three sections: Introduction, Part One and Part Two.

Part One explains the theoretical and legal background of this review as well as the guiding criteria used for each area. The research rationale is also illustrated here by charts, tables and maps highlighting both the key issues of analysis and – in some cases – their geographical distribution. Part One then concludes with a first reading of trends over time and initial recommendations. The summary table in **Part Two** provides a user-friendly overview and comparison between and within States. It displays the chosen four different minimum ages for each country as well as the year of the most recent report to the Committee, to indicate the period covered. This is particularly important given the backlog in the reporting process and possible inconsistencies with the most recent legislation.

The online version reproduces the same material in the form of dedicated web-pages available at www.right-to-education.org/node/53. The comparative table is also available electronically at www.right-to-education.org/node/279.

In addition, the online version includes all the relevant excerpts from States Parties' reports or other documents of the interaction with the Committee in the shape of a country database available at www.right-to-education.org/node/272.



ANALYSIS

Part One

The Right to Education Project's perspective

Education is a human right and it should be recognised and adhered to as such by States and other duty-bearers. This recognition also entails the creation of structures, systems and opportunities that enable rights-holders to know and claim their rights. When the right to education is confronted with, or even undermined by, adverse structures, systems and opportunities, it becomes necessary to mobilise action for greater respect, protection and fulfilment of this fundamental right, and to do so by involving a diverse range of actors working across disciplines.

The Right to Education Project (RTE Project) is based on the premise that, in addition to being an internationally-recognised human right in itself, education is an *enabling* right, the full enjoyment of which is fundamental to securing wider social and economic justice, and the best possible conditions to achieve a life in dignity. For children in particular, it is key to "the development of the child's personality, talents and mental and physical abilities to their fullest potential."¹⁰ It is therefore imperative to expose and oppose threats or obstacles to this and ensure that children's rights are respected, protected and fulfilled *in, to, and through* education.

A strong body of international human rights law and standards on education already exists. Increased awareness of the content of these rights and standards, how they impact on each other and how they can and must be implemented at national, regional and international levels can only enhance the work of duty-bearers as well as human rights, development and education activists.

In particular, the focus on education as a legal entitlement is necessary for the sustainable achievement of the objectives of Education for All (EFA) and the Millennium Development Goals (MDGs), because these policy frameworks do not include enforceability and accountability measures. In some respects they also lack an appreciation of how they can be achieved for the most marginalised groups, such as for example minorities, persons with disabilities, indigenous people and people living in extreme poverty, all of whom are often among the prime victims of violations of the right to education.

By looking at legal frameworks for the protection of children's rights and how they impact on the right to education, the RTE Project fosters not only better understanding of the CRC, necessary for enhanced implementation, but also a more holistic approach to the child 'as a whole' and to the indivisible and interdependent nature of all human rights. This perspective offers multiple entry points for potential advocacy and change: from partnerships with civil society groups to strengthening the capacity of States; from lobbying to law implementation; from research to action.

Figure 1. The right to education space



10 CRC, art.29.1(a).

The 4A approach to education

The RTE Project was created in 2000 by the then Special Rapporteur on the Right to Education, Dr. Katarina Tomaševski. Central to her work, and subsequently to how education rights have come to be viewed and understood by all actors, are the 4As, which operationalise both the obligations of duty-bearers and the entitlements of rights-holders: **Availability, Accessibility, Acceptability and Adaptability.**¹¹

The 4A framework guides the RTE Project's work and captures the multiple interactions between fulfilling the right to education and eliminating threats to children's rights. Children for whom education is available and accessible are more likely to be protected from situations of domestic or child labour, child marriage or juvenile delinquency, which bring with them greater risks of suffering abuse or exploitation; acceptable education can guarantee children a space free from threats to their physical and

psychological integrity in which to develop to their full potential, and gain the skills and knowledge to resist and to report mistreatment; and finally adaptable education moulds itself to the specific needs of each community and child, for example through offering a timetable compatible with permitted working activities, ensuring working children the opportunity to acquire the same fundamental skills and knowledge as their peers.

The interconnection between the 4As is also important: if one is missing, the risks for children increase. For instance, it is not sufficient merely to ensure that children attend school (availability and accessibility) if they face violence and abuse in and around that school (lack of acceptability). Equally, the minimum age for the end of compulsory education may well be aligned with the minimum age for employment, and all children be in school rather than at work, but if the education they receive is not acceptable or adaptable they may find it more difficult to stay in school and access all types/levels of further education. If what they learn is not relevant for their future development or for their work prospects, they may also be more prone to drop out and not make the most of the education that is available to them.

All the above prompts us to think about education in broader terms than simply those of enrolment and provision of infrastructures and services: each aspect of education must be assessed – from intake to learning outcomes and from the suitability of curricula to levels of participation in the governance of schools. It forces us to reflect on quality, non-discrimination, the best interests of the child, participation and accountability, not just *to* education, but also *in* and *through* education. In situations where child labour, child marriage or juvenile delinquency are more likely to occur, it is important to clearly identify causes and consequences: are these practices and situations making it impossible for children to attend school and receive education? Or is the lack of educational opportunities and of quality learning pushing them out of the system? Are curricula and learning methodologies and outcomes acceptable and conducive to children's full development? Or are they perpetuating discrimination, disadvantage and stereotypes? Do children and their parents have a say in the educational process? Are there accountability mechanisms in place to redress situations of abuse, violence, or similar distortions of the right?

Both the 4A framework and the children's rights perspective support such an exploration.

Box 1. The 4 As

Availability: human, material and budgetary resources should be sufficient and adequate to ensure education for all. Individuals should also be free to choose or found schools in accordance with their religious and moral convictions and with minimum standards set by the State.

Accessibility: education systems should not discriminate on any ground and positive steps should be taken to reach the most marginalised. It includes physical and economic accessibility.

Acceptability: the content of education and teaching methods should be relevant, culturally appropriate and of quality. The human rights of all those involved should be upheld in education.

Adaptability: education should be flexible to respond to the needs and abilities of students, meet the best interests of the child, and adapt to different contexts.

11 Tomaševski K., 1999, *Preliminary Report of the Special Rapporteur on the right to education*, UN document E/CN.4/1999/49, 1999, paragraphs 42-74; UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13: the right to education*, UN document E/C.12/1999/10, 1999, paragraph 6.

The right to education in the CRC

All the main international human rights treaties contain provisions on the right to education.¹² However, the CRC offers the broadest approach to date, devoting two specific provisions to the right to education and including a number of other articles that are directly or indirectly related to it. The comprehensive nature of the CRC's provisions on education and the focus on the enhancement of opportunities for the child's full development are powerful tools for the protection of children from abuse and exploitation.

Art.28 of the CRC refers to:

- free, compulsory primary education for all;
- different forms of secondary education available and accessible to all;
- higher education made accessible on the basis of capacity;
- vocational education and guidance;
- access to scientific and technical knowledge;
- modern teaching methods.

As for the aims of education, art.29 of the CRC among other aspects focuses in particular on:

- the full development of the child's personality;
- his or her talents and abilities, requiring that these too are developed to their full potential.

Additional articles particularly relevant to education are those dealing with child labour (art.32) and, perhaps slightly less directly, criminal responsibility (art.40) and harmful traditional practices (art.24.3), given their detrimental impact on the completion of education, especially at the compulsory level.

Focusing on compulsory education is necessary for several reasons. Firstly, it is a State obligation under the CRC (and other widely-ratified human rights instruments)¹³ to ensure that education is free and compulsory at least at the primary level. The fact that the interpretation of the compulsory nature of

education has evolved over time to extend beyond primary education in the majority of countries in the world bodes well for the future. However, this is less encouraging if enforcement and implementation are threatened by other factors and if legislation itself presents lacunae or overlaps that heighten risks for children's full development. True, the CRC does not mention enforcement, but it does require States to "take measures to encourage regular attendance at schools and the reduction of drop-out rates".¹⁴ Exploring the extent to which States comply or not with this requirement is not just a matter of statistics. Root causes, obstacles and constraints need to be considered, too.

Secondly, compulsory education is not only an obligation for States but also a duty for parents and, indirectly, for children too. It is therefore important to factor in their own views of education and its relevance for them, in order to assess challenges to the actual implementation of compulsory education. Here it is also useful to question the intended and unintended consequences of compulsory education: does it imply the criminalisation of parents who cannot afford to send their children to school? Or does it make children themselves liable for non-attendance through elevating truancy to the level of a punishable offence? And how do these questions square with potentially contradictory laws and policies about expulsion from school (for pregnancy, for instance)? The excerpts from State Parties' reports illustrate a variety of opinions on these aspects.

Thirdly, compulsory education can also be seen as a key factor in combating discrimination and in ensuring that the child is at the centre of educational laws and policies (compelling attendance implies that education is in the best interest of the child, though further questions need to be raised here, as suggested throughout this research). This reinforces the need to look at practices that contravene these approaches (for gender discrimination the issue of child marriage is a case in point). Further support in this sense is provided by the holistic nature of the Convention and the links between the right to education, the CRC general principles (non-discrimination; best interests of the child; life, survival and development; view of the child) and the respect for the evolving capacities of the child (art.5). This is particularly evident when looking at the definition of the child (art.1) and minimum ages.

Minimum ages and the CRC

At the level of practical law implementation, setting age limits is no easy task. Any decision on this matter requires balancing at least two principal concerns: 1) to protect children from prematurely assuming responsibilities and engaging in activities that would harm their full development; 2) to empower children in accordance with their maturity and capacities (art. 5). In addition, there is also the need to respect the general principles of the Convention: non-discrimination (art.2); the best interests of the child (art.3); the right to life, survival and development (art.6) and respect for the views of the child (art.12). How to achieve this concretely within national measures of implementation is very complex and requires an equally complex response.

It is standard practice that national laws set at least an age of majority above which any individual is considered an adult, fully capable of making autonomous decisions. The majority of States also use their legislation to set additional age thresholds for particular purposes, with or without qualifications. This can certainly be useful in terms of clarity if it is done in a coherent way. However, if national laws contradict each other and their purposes are not supported by a solid justification, the results can be confusing and counterproductive: instead of protecting children and their rights or recognising their autonomy in exercising rights, developing their potential and assuming responsibilities, the law may in fact jeopardise them further. If domestic legislation does not provide for the implementation of birth registration, for example, the concepts of minimum ages and majority are deprived of any meaning. In addition, majority can vary depending on whether it concerns civil, penal, political or other spheres. The same person could thus be considered a child for one purpose but an adult for another

– a confusion which would compound the difficulties in assessing his or her actual situation and pose a serious threat to his or her physical and psychological integrity, as well as to the enjoyment of his or her rights, including the right to education.

The CRC does not offer much clarity here. In fact, art.1 – which defines a child as "every human being below the age of eighteen years *unless, under the law applicable to the child, majority is attained earlier*" [emphasis added] – proves to be particularly critical in situations in which children acquire majority through marriage or criminal responsibility. Such cases, paradoxically, would not seem to be in breach of the Convention. At the same time, though, if majority is acquired at a very young age, the whole thrust of the CRC loses its meaning. Indeed, the status of these girls and boys is not clear: they are still children from a strictly psychological and physical point of view, but are already considered 'adults' according to the law of their country. Their childhood is denied, and so are their corresponding rights.

The language of art.1, therefore, leaves room for confusion over the definition of the child, the notion of majority, and the different legal minimum ages. This alone can have a prejudicial impact on children and on their development and generates a legitimate concern for coherence, both between art.1, the CRC general principles and possible age thresholds, and among those thresholds themselves.

This research shows that the CRC ideal definition is still at odds with a reality in which the concept of who a child is and the notion of protecting and promoting the corresponding rights and capacities vary significantly, leading to a great deal of inconsistency. A cursory look at our summary table confirms this, showing that a huge variety of minimum ages exist under the law, even in the same area. Moreover, not only do these ages vary from country to country, but at times also within the same country. They also vary over time according to changing circumstances, decision-making powers, social perceptions and cultural and social developments. In addition, while legislation on minimum ages can sometimes intend to ensure protection, at others it aims to respect autonomy and the child's capacity to act and make decisions. These variations reflect

¹² For a list of these treaties, what they entail and how to use them, visit www.right-to-education.org.

¹³ See for example art.26 UDHR and art.13 ICESCR.

¹⁴ CRC, art.28.1.e.

a lack of national and international consensus and indicate an apparent perplexity about the idea of universal minimum age standards and their purpose.

Each of the minimum ages considered in this research encompasses both protection and autonomy as they can all be set in order to protect the child from risks and premature responsibility, but also to recognise that there are situations in which the child is actually willing and able to make an independent decision. Setting a minimum age then becomes a matter of finding the 'right' balance: it is not so much a matter of the 'right' age, but rather of the 'right' approach. This is why it is important to examine them in their own merit but also in connection with each other, as explained in the following sections.

Box 2.

Relevant articles of the Convention on the Rights of the Child (1989)

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

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 [...]

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child [...].

Article 24.3

States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children [...]

Article 28

1. State Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
(a) Make primary education compulsory and available free to all;
(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
(c) Make higher education accessible to all on the basis of capacity by every appropriate means;
(d) Make educational and vocational information and guidance available and accessible to all children;
(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. State Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child human dignity and in conformity with the present Convention.
3. State Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:
(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
(c) The development of respect for the child's parents, his or her own cultural identity, language

and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
(e) The development of respect for the natural environment.
2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. State Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
a) Provide for a minimum age or minimum ages for admission to employment [...]

Article 40.3

States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of or recognized as having infringed the penal law, and, in particular:
a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law [...]

End of compulsory education

Art.28 of the CRC requires States to ensure that primary education is free and compulsory. However, the Convention neither mentions an explicit minimum age for the completion of compulsory education, nor recommends a specific compulsory length. This is understandable given that the text of each article needed to be agreed by consensus and that the choice of particular ages had already raised

debates and difficulties in the case of art.1 (definition of the child) and art.38 (children in armed conflicts).¹⁵ A more flexible formulation may have seemed more amenable to agreement. This flexibility and vagueness, however, allows a variety of implementation measures and entails the risk of significant disparities in the application of one of the core elements of the right to education.

Figure 2. Length of compulsory education (by starting and finishing age)¹⁶

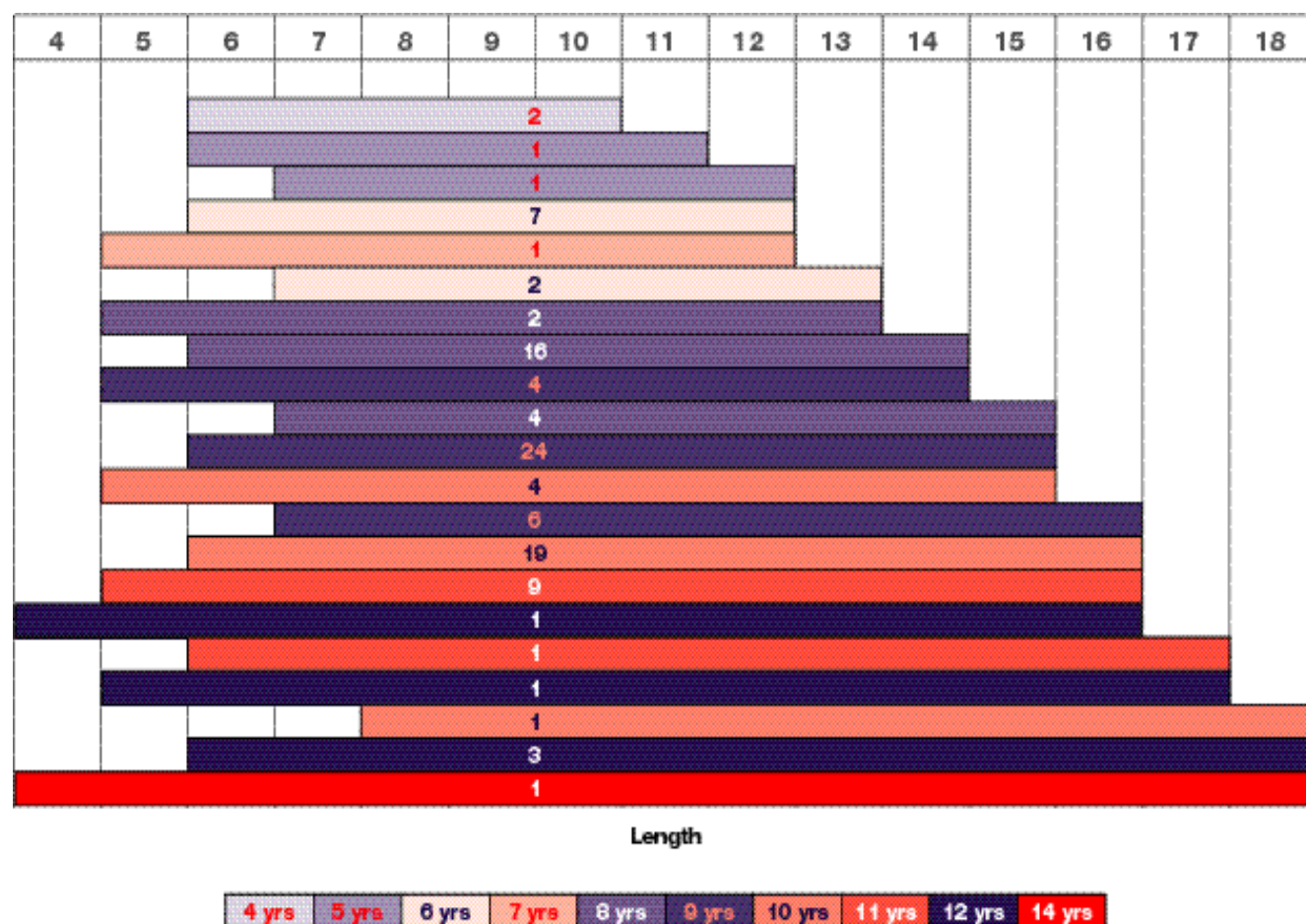
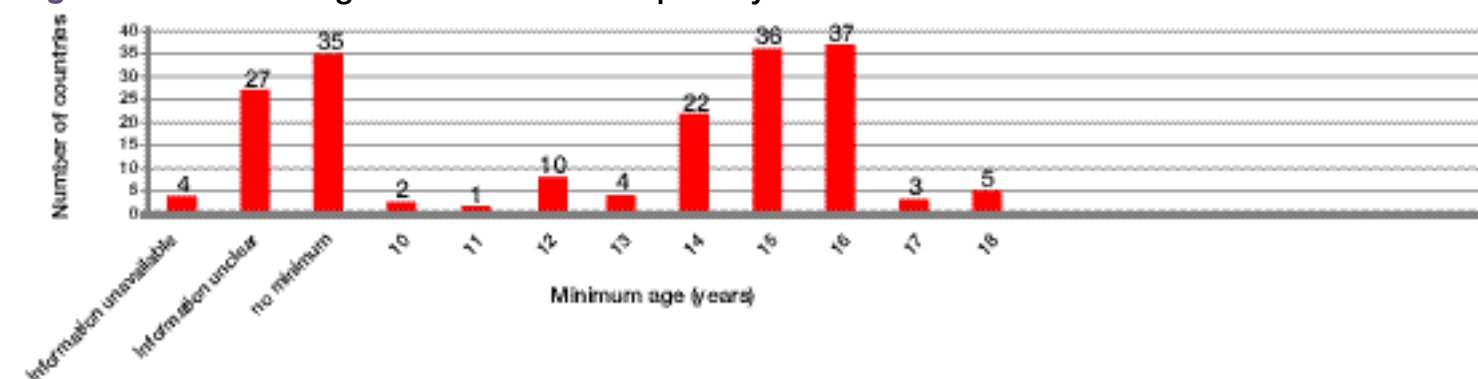


Figure 3. Minimum age for the end of compulsory education



Despite the lack of a defined age for the end of compulsory education in the CRC, the Committee has indicated that States should establish clear limits. The first set of Guidelines for Periodic Reports, for instance, required States to “indicate the particular measures adopted to make primary education compulsory and available free for all, particularly children, indicating the minimum age for enrolment in primary school, the minimum and maximum ages for compulsory education”¹⁷ [emphasis added].

In this respect, it is worth noting that it is no longer valid to assume that the length of compulsory education maps exactly onto that of primary education. The vast majority of countries considered here have in fact extended compulsory education beyond primary schooling and some have also included early childhood education at the other end of the spectrum.

Figure 2 shows that the highest number of States considered in this review (24) set compulsory education between 6 and 15 years of age, thus ensuring it for 9 years. However, variations in the starting or finishing age should alert us to the fact that compulsory education still seems subject to the vagaries of national systems and resources. As briefly mentioned above, additional concerns may arise from the difficulties in some States of relying on birth registration and census for the implementation and monitoring of the right to compulsory education for all the children who are supposed to receive it. Such difficulties are of particular relevance for remote or neglected geographical areas or other situations in which such indicators may be lacking or unavailable, thus posing severe threats to the provision of available and accessible education.

Research findings also show that education is still not compulsory in at least 35 countries. This figure can be assumed to be even higher in practice given the number of countries which fail to report at all whether or not education is compulsory, or report unclear information (an additional 31 countries, as indicated in Figure 3). There are a number of different situations

which are categorised as “not compulsory”. For example, in their reports certain States acknowledge outright that education is not compulsory. Others affirm that the right to education is enshrined in the Constitution or other legal instruments but the report fails to specify an age range between enrolment and completion through which it is possible to verify compliance and make education truly available to all. Whether this is a gap in the legislation itself or a fault in reporting, the case remains that the State is not providing the necessary parameters as required by the CRC Committee, hence the age falls under the “not compulsory” category. In very few instances there are also exceptions or exemptions from the obligation of compulsory education. In such cases compulsory education is equated with public/State schooling, whereas in other countries it is clearly a far broader concept encompassing all educational establishments regulated by public authorities, including those which are privately administered, or even in some cases “home schooling”. Some States cite economic or social conditions as obstacles to the full realization of free and compulsory primary education, and as factors which impede accessibility, availability and adaptability. As the 4A framework indicates, declarations that education is compulsory are not in themselves sufficient guarantees that human rights requirements are being met. Nor do they ensure protection from abusive or exploitative situations. This is why the gap between principles and reality needs to be evaluated more accurately.

In terms of specific ages: when indicated, they range from 10 to 18, with the majority of countries setting the end of compulsory education between the ages of 14 and 16. This age bracket is broadly aligned with the minimum age for employment (see next section), however, this positive correlation is overshadowed by the fact that education is not compulsory in 35 countries. The issue, then is how to bring those 35 countries to the other side of the graph and make sure that the relationship between the end of compulsory education and other minimum ages is made more coherent, as indicated in the following sections.

¹⁵ For the full discussions see Office of the United Nations High Commissioner for Human Rights, *Legislative History of the Convention on the Rights of the Child* (New York and Geneva: United Nations, 2007), pp. 301-313 and 775-799.

¹⁶ The number inside each bar represents the number of countries with the corresponding length, starting and finishing ages for compulsory education.

¹⁷ CRC Committee, *General Guidelines regarding the form and contents of periodic reports to be submitted by States Parties under article 44, paragraph 1(b), of the Convention*, UN document CRC/C/58, 1996, paragraph 107.

Employment

The guiding principle for the minimum age of employment in the CRC is article 32. Its paragraph 2(a) does not require the establishment of a single minimum age for admission to employment which is uniformly applicable without exception to all minors and to all kinds of employment. It simply requires States to “provide for a minimum age or minimum ages for admission to employment”. This potentially vague approach in the CRC is however supplemented and clarified by more specific standards set by the International Labour Organisation (ILO). Reciprocal support and action is key in this area.

While the CRC itself does not prescribe a precise age for admission to employment, the Committee has consistently indicated and recommended that minimum ages should be set in the light of the provisions of other international instruments and in particular of ILO Minimum Age Convention N. 138. The analysis of States Parties’ reports discloses that almost all governments do in fact base their reporting on the ILO standards. Therefore the guiding principles and rules of interpretation of this review follow the same pattern.

The thrust of the ILO principles is that the general minimum age for admission to any employment should not be lower than the age of completion of compulsory schooling and should, in any case, be no less than 15; where the economy and educational facilities of a country are insufficiently developed, it may be initially reduced by one year to 14. There are various exceptions to this general rule. The main ones concern: (a) light work, which is permissible on a set of conditions and for which the minimum age may be set at 12 or 13 years; (b) hazardous work for which a higher minimum age is required (18); (c) other activities (Table 1).

A significant number of countries have established legislation that prohibits the employment of children below a certain age. In those cases where children are legally permitted to work, States often specify the conditions under which this can happen (in line with ILO standards): the work should not be harmful to the child’s health or development, should not interfere with school instruction,

should not take place during school hours and should not be for more than specifically prescribed hours of work. These achievements notwithstanding, a great deal of ambiguity, as well as inconsistency with compulsory education standards, remains in many States Parties’ reports.

Many countries have not established a general minimum age for admission to any employment. Indications refer either to a basic minimum age limited to specified sectors or occupations, or to different minimum ages according to various economic activities. In some other cases the exceptions are broader than those falling under ILO standards. As such situations do not accord sufficient protection and have a detrimental impact on the accessibility and adaptability of education, they are recorded as “no minimum”. Difficulties relating to the definition of light work or referring to the conditions under which such work is permitted, as well as varying long lists of categories for limited application or particular exceptions, also constitute a major concern for a coherent interpretation of reports. In order to aim at the maximum consistency possible, only the generally determined minimum age is cited here.

Table 1. Definition of child labour¹⁸

WHAT IS CHILD LABOUR?	
■	All forms of slavery, or practices similar to slavery, (e.g. bonded labour, sale and trafficking of children) and forced recruitment for use in armed conflict.
■	The use, procuring or offering of a child for prostitution.
■	The use of children for illicit activities (e.g. trafficking of drugs).
■	Work that is likely to harm the health, safety or morals of a child.
■	Work that prejudices a child’s education and training.
WHAT ISN’T?	
■	Light work that is not harmful to the child’s health and development.
■	Light work that does not prejudice the child’s attendance at school, or in vocational and training programmes.
■	Work within family and small-scale holdings producing for local consumption (non-commercial).
■	Work done in schools for general, vocational or technical education.

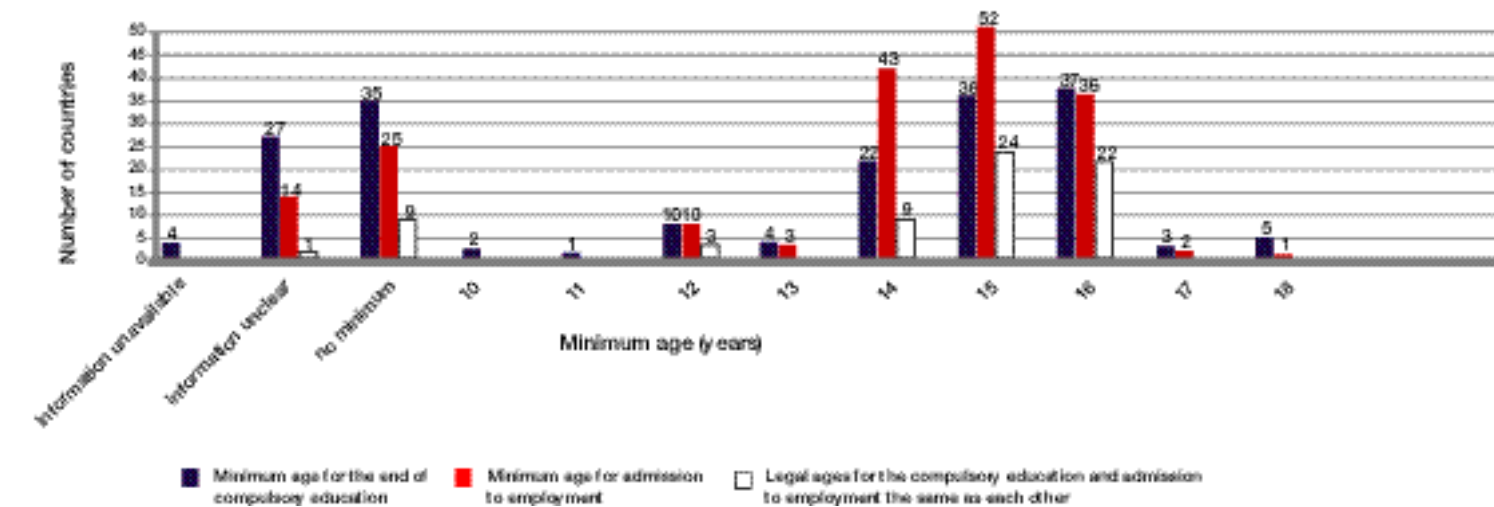
The link between the minimum age for completion of compulsory education and the minimum age of employment

The goals of universal education and the elimination of child labour are inextricably linked. Free and compulsory education of good quality secured until the minimum age for entry to employment is a critical factor in the struggle against the economic exploitation of children, while child labour constitutes a fundamental obstacle to the development and implementation of compulsory education strategies. Minimum age labour laws and compulsory education laws are therefore interdependent: the enforcement of one contributes to the enforcement of the other. Equally, even if one of the two areas is well-legislated, it is necessary to ensure that this strength is not undermined by the weakness of the other. This is why it is crucial to establish a link between school and labour authorities, legislation and practice.

In law, the connection is clear: article 32 of the CRC requires States to protect the child from performing any work that is likely to interfere with his or her education. As mentioned above, ILO standards are even more explicit and state that the minimum age for employment should not be lower than the age of completion of compulsory education. In addition, the Guidelines for Periodic Reports reinforce the link by requesting States to indicate “how the minimum age for employment relates to the age of completion of compulsory schooling”.¹⁹

As shown in Figure 4 and Table 2, almost a third (58) of the countries analysed in this research have already aligned the two ages. However, the table also illustrates that discrepancies are still prevalent and a cause of serious concern. In 17 cases the minimum age for the end of compulsory education is up to four years lower than the minimum age for employment, which sounds alarm bells at the risk of exploitation of those children ‘in limbo’, beyond the age of compulsory education but too young to be legally employed. Conversely, in another 23 cases, there is an overlap, with the age for the end of compulsory education higher than the minimum age for employment: a further indication that compulsory education standards may not be reflected in practice. Moreover, 20 states have no minimum ages for either area and a troubling 66 countries have a minimum age only for one of the two areas. In terms of

Figure 4. Minimum ages for education and for employment



¹⁸ ILO, *Guidelines for combating Child Labour Among Indigenous Peoples* (Geneva: International Labour Office, 2006), p. 9.

¹⁹ CRC Committee, *General Guidelines regarding the form and contents of periodic reports to be submitted by States Parties under article 44, paragraph 1(b), of the Convention*, UN document CRC/C/58, 1996, paragraph 24.

Table 2. Comparison between minimum ages for education/employment

geographical distribution, Africa is the region most affected by the lack of clear minimum ages and corresponding alignments. While Europe is the region with the highest number of countries where the two ages are the same, the need for further harmonization is also present there too. Clearly, the necessity to align these standards remains urgent and goes hand in hand with the need to focus more attention on secondary education, as the school-leaving age still tends to be too low in many countries when it is set below the minimum age for employment (Table 2). Future analysis should focus on the exceptions to the general minimum age, in order to expose where these may in fact signify a barrier to the realisation of the right to education and represent a danger for the protection of children from exploitation and abuse. Moreover, attention should also focus on the role of part-time or full-time employment and the negative impact that these practices could have on the development of the child and opportunities for making education accessible and adaptable.

Total Countries

No minimum age for education or employment	20
No minimum age for only one area (education/employment)	66
Minimum age for education lower than employment	17
Minimum age for education higher than employment	23
Minimum age for education and employment the same	60

AFRICA			
No minimum age for education or employment	Côte D'Ivoire	n.c./No min*	12
	Ethiopia	n.c./No min*	
	Gambia	n.c./No min°	
	Guinea-Bissau	X/No min*	
	Kenya	n.c./?	
	Lesotho	X/No min*	
	Papua New Guinea	n.c./No min	
	Sierra Leone	?/No min*	
	Swaziland	n.c./No min	
	Uganda	?/No min*	
	Zambia	n.c./No min	
	Zimbabwe	n.c./No min	
Minimum age for only one area (education/employment)	Benin	?/14	24
	Botswana	n.c./15	
	Burkina Faso	n.c./14*	
	Cameroon	n.c./14	
	Cape Verde	16/?	
	Central African Rep.	?/14	
	Chad	15/No min*	
	Comoros	14/No min*	
	DRC	?/16*	
	Djibouti	?/16	
	Equatorial Guinea	12/No min*	
	Guinea	16/?	
	Liberia	?/16	
	Madagascar	?/14	
	Malawi	n.c./14	
	Mozambique	?/15*	
	Namibia	?/14	
	Nigeria	15/No min	
	Rwanda	12/No min*	
	Sao Tome & Princ.	n.c./14	
	South Africa	15/No min*	
	Sudan	n.c./16	
	Togo	n.c./14	
	Un. Rep. of Tanzania	?/14°	
Minimum age for education lower than employment	Eritrea	13/14	2
	Mauritius	12/15	
Minimum age for education higher than employment	Mali	15/14	3
	Niger	16/14	
	Senegal	16/15	
Minimum age for education and employment the same	Angola	14	6
	Burundi	12*	
	Congo	16	
	Gabon	16*	
	Ghana	15	
	Seychelles	15	
Total			47

MIDDLE EAST & NORTH AFRICA			
No minimum age for education or employment	Saudi Arabia	?/No min*	1
Minimum age for only one area (education/employment)	Bahrain	n.c./14*	5
	Iraq	?/15	
	Morocco	13*/?	
	Oman	n.c. °/15	
	Yemen	?/14	
Minimum age for education lower than employment	Lebanon	12*/13*	3
	Qatar	15/16	
	United Arab Emirates	12/15	
Minimum age for education higher than employment	None		
Minimum age for education and employment the same	Algeria	16*	9
	Egypt	14	
	Israel	15*	
	Jordan	16	
	Kuwait	14	
	Libyan Arab Jamahiriya	15	
	Mauritania	14	
	Syrian Arab Republic	12*	
	Tunisia	16	
Total			18
AMERICAS			
No minimum age for education or employment	Guatemala	?/No min*	3
	Panama	?/?	
	Saint Vincent & Gren.	n.c./?	
Minimum age for only one area (education/employment)	Bahamas	16/?	15
	Barbados	16/?	
	Canada	X*/17*	
	Chile	?/15	
	Costa Rica	?/15	
	Cuba	?/17*	
	Dominica	16/?	
	Ecuador	?/15	
	Guyana	?/14	
	Haiti	X/15	
	Nicaragua	?/14	
	Paraguay	12*/?	
	Peru	18/?	
	Saint Lucia	?/16	
	Suriname	?/14	
Minimum age for education lower than employment	Brazil	14/16	3
	Honduras	13/14	
	Uruguay	14*/15	
Minimum age for education higher than employment	Argentina	15/14*	5
	Bolivia	16/14	
	Colombia	15/14	
	El Salvador	15/14	
	Jamaica	14/12	
Minimum age for education and employment the same	Antigua & Barbuda	16*	8
	Belize	14*	
	Dominican Republic	14	
	Grenada	14	
	Mexico	14*	
	St. Kitts & Nevis	16	
	Trinidad & Tobago	12	
	Venezuela	14	
Total			34

Key: X = information unavailable ? = information unclear * = see report for details n/c = not compulsory ° = information from dialogue

Key: X = information unavailable ? = information unclear * = see report for details n/c = not compulsory ° = information from dialogue

Table 2. Comparison between minimum ages for education/employment (cont.)

ASIA PACIFIC			EUROPE				
No minimum age for education or employment	Bhutan	?/No min*	No minimum age for education or employment	None			
	Brunei Darussalam	n.c./?		Minimum age for only one area (education/employment)	Armenia	?/15*	
	Indonesia	n.c./No min*			Azerbaijan	?/15	
	Pakistan	n.c./No min*			Bosnia & Herzegovina	?/15	
		Kazakhstan	?/15				
Minimum age for only one area (education/employment)	Australia	15*/No min*	Tajikistan	?/14	6		
	Cambodia	n.c./16	Turkmenistan	?/16			
	Fiji	n.c./12	Albania	14/16		3	
	Lao PDR	?/15	Georgia	14/16			
	Maldives	n.c./14	Serbia	14/15			
	Micronesia	14/No min*	Minimum age for education higher than employment	Belarus	15/14*	13	
	Myanmar	?/13		Denmark	16/13		
	Nepal	n.c./14		Finland	16/15		
	New Zealand	16*/?		Hungary	18/16		
	Palau	17/No min		Kyrgyzstan	16*/14		
	Philippines	?/15*		Malta	16/15*		
	Singapore	?/12		Netherlands	18*/16		
	Solomon Islands	n.c./12		Norway	16/15		
	Timor-Leste	n.c./15		Republic of Moldova	16/15		
	Vanuatu	n.c./12		Romania	18/15*		
	Vietnam	10/?		Turkey	14/12		
Minimum age for education lower than employment	Bangladesh	10/14		Ukraine	17/16*		6
	China	15/16		Uzbekistan	18/16		
	Iran	11/12°	Minimum age for education and employment the same	Andorra	16	31	
	Malaysia	12/15		Austria	15		
	Marshall Islands	14*/18		Belgium	15		
	Samoa	13/15		Bulgaria	16		
		Croatia		15			
		Cyprus		15			
Minimum age for education higher than employment	Mongolia	17/14*		Czech Republic	15		
	Sri Lanka	14*/10		Estonia	15		
Minimum age for education and employment the same	DPR Korea	16		France	16		
	India	14*		Germany	15		
	Japan	15		Greece	15		
	Kiribati	14		Iceland	16		
	Republic of Korea	15		Ireland	16		
	Thailand	15	Italy	16			
		Latvia	15				
		Liechtenstein	15				
		Lithuania	16				
		Luxembourg	15				
		Monaco	16				
		Montenegro	15				
		Poland	15				
		Portugal	15				
		Russian Fed.	15				
		San Marino	16				
		Slovakia	16				
		Slovenia	15				
		Spain	16				
		Sweden	16				
		Switzerland	15				
		FYR of Macedonia	15				
		United Kingdom	16				
Total 34			Total 53				

Marriage

Child marriage is repeatedly analysed not only as a harmful traditional practice involving great risks for children's health and often exposing them to sexual abuse, but also as a significant factor impeding the realisation of the right to education. However, questions should also be raised about the impact of irrelevant or bad quality education on child marriage. The interconnections between the two areas demand a more accurate analysis that takes into account broader issues including: consent; cultural, religious, economic and customary factors; the role of parents and families; and gender/power dynamics. Furthermore, it is not uncommon for majority to be reached upon marriage, which raises the question of the applicability of the CRC to married children (especially girls who are often married at a younger age and therefore risk losing the protection of the Convention before boys). The need for effective protection of children is redoubled in such scenarios.

Marriage is not considered directly in the CRC. One must look to other rights (health, education, life, development and survival...) or the CRC general principles for guidance on this. Nevertheless, it is clear that the Committee places a great deal of importance on ensuring that marriage should not be concluded too early. In fact, in its approach, the monitoring body has consistently recommended that States increase the minimum age for marriage when it is too low, and has advocated that it "should be the same for boys and girls and closely reflect the recognition of the status of human beings under 18 years of age as rights holders, in accordance with their evolving capacity, age and maturity".²⁰ In its General Comment No. 4 the Committee has also specifically recommended that this minimum age should be set at 18.²¹ In this they are also aided by the most recent Guidelines for Periodic Reports which require that "[t]he State party should indicate the minimum marriage age for girls and boys".²²

In general terms, States do indicate minimum ages for marriage in their reports. However, this is the area in which precise or clear information is most lacking: almost half of the world's countries – 91 in total – are currently unable to ensure the respect of the best interest of the child or the child's point of view and consent when it comes to marriage, one of the most important steps in the transition from childhood to adulthood. Looking at the breakdown: 17 countries provide no or unclear information and 74 countries (almost two in five) have no minimum age set for marriage. Additionally, analysis of those reports with clear responses shows that:

- 18 is a much more common minimum age for marriage for boys than for girls;
- 16 is the most common minimum age for marriage for girls and for boys (Figure 5).

Given the emphasis on 18 as the age limit for the end of childhood in the CRC and the CRC Committee's General Comments and Concluding Observations, it is interesting to explore further how this ideal is implemented in reality with regard to marriage. From a geographical point of view, one can notice a prevalence of no minimum ages or ages below 18 all around the world. Only a handful of States set this age at 18 (again, in disparate regions) and only China stands out for setting

²⁰ Committee, *General Comment No. 4: adolescent health and development in the context of the Convention on the rights of the Child*, 2003, UN document CRC/GC/2003/4, paragraph 9.

²¹ *Idem*, paragraph 20.

²² CRC Committee, *Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child*, UN document CRC/C/58/Rev.2, 2010, paragraph 22.

Key: X = information unavailable ? = information unclear * = see report for details n/c = not compulsory ° = information from dialogue

Figure 5. Minimum age for marriage (by gender)

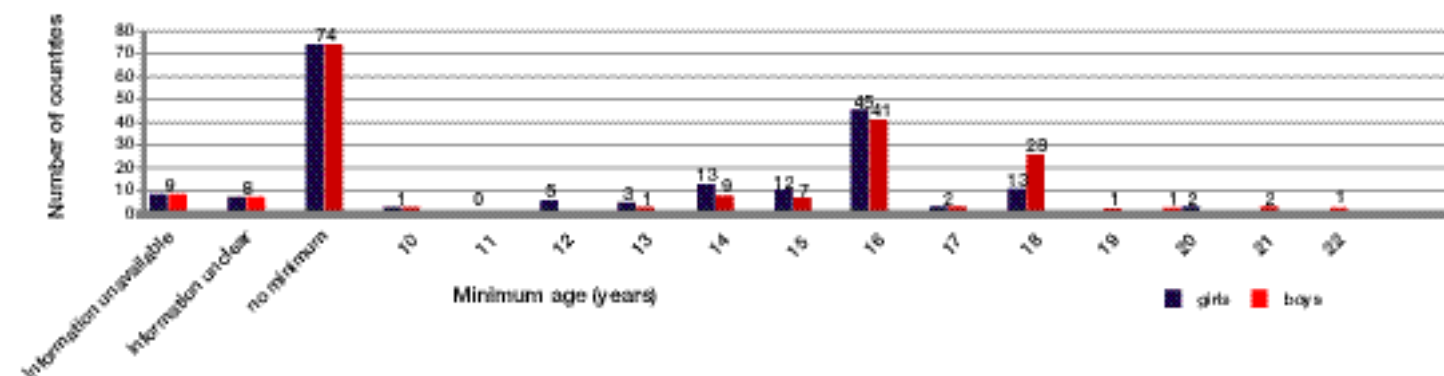
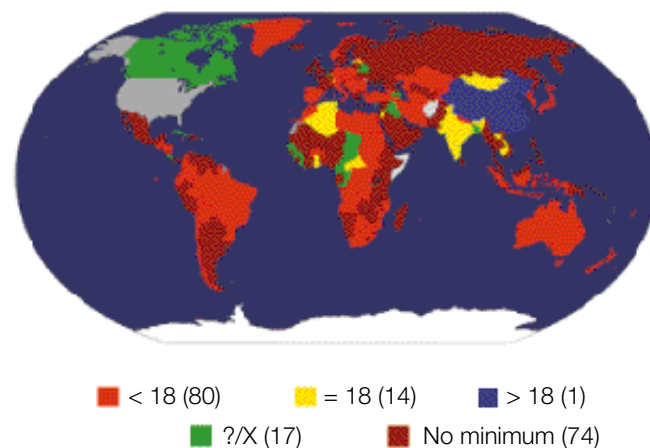


Figure 6. World map of minimum ages for marriage



it above 18, for both girls and boys (Figure 6). From a more conceptual point of view, one cannot avoid wondering if the discrepancy between ideal and reality has to do with contextual conditions, practices and perceptions of both ‘the child’ and ‘marriage’. In common with notions of child/childhood, conceptions of marriage are constructed and influenced by social, cultural, religious, economic and political factors. Differences pertain to the typology of marriage but also to institutional, societal and interpersonal relationships. Meanings and perceptions of marriage are not homogeneous (either in space or time) and are tightly linked to structural power dynamics and, frequently, inequalities, not only between men and women but also between adults and children.

What this research shows is that more attention to contextual particularities is needed to go beyond prevalent conceptions of child marriage and really understand it from a bottom-up perspective. While there is no denying the need for protection, and while there is no single form of autonomy within and/or outside marriage, the variations in both areas need to be carefully evaluated. Figuring protection and autonomy, as well as marriage and context, as complementary allows a more balanced consideration. Understanding the role of education in such a space then becomes essential.

Research findings also make clear that in this area there are a large number of variables, with many countries having a plethora of rules but a lack of effective protection. This is especially important for girls, as shown in Figure 7. It is concerning to note that the number of countries in which the minimum age for marriage is different between girls and boys is almost the same as the number of States where such a

difference does not exist. A closer look at the data also shows that gender discrimination is widespread all around the world, with 44 countries still specifying a lower age for girls (Table 3).

In addition, data show that many problems arise not from general minimum ages but from exceptions to these, which are frequently very complex and rarely protective. Religious or other norms based on puberty or other such flexible criteria lack the necessary legal clarity to be considered protective. Similarly, parental consent is not protective when it is not regulated to ensure that it is applied in keeping with the principle of the best interests of the child. Dispensation by a competent administrative or judicial authority appears, prima facie, to pass a due process test, and it has here been interpolated that this is in fact based on the best interests of the child. However, when no absolute minimum age is clearly indicated, even this exception proves insufficient to protect the child and has therefore been interpreted as “no minimum”. Where pregnancy can act as an exception to allow child

Table 3. Gender discrimination in marriageable age (for girls/for boys)

Europe, North America & Central Asia		Asia-Pacific		Middle East & Northern Africa		Africa		Latin America & the Caribbean	
Albania	16/18	Cambodia	18/20	Algeria	18/21	Angola	15/16	Bolivia	14/16
Austria	16/18	China	20/22	Egypt	16/18	Benin	15/18	Colombia	12/14°
Kyrgyzstan	17/18	DPRK	17/18	Iran	13/15°	Botswana	14/16	Ecuador	12/14
Luxembourg	16/18	Fiji	16/18	Kuwait	15/17	Burkina Faso	15/18*	Guatemala	14/16*
Poland	16/18	India	18/21*	Morocco	15/18	DRC	15/18	Nicaragua	14/15
Rep. Moldova	14/16	Indonesia	16/19			Sao Tome & Pri.	14/16	Panama	14/16
Romania	15/18	Japan	16/18			Senegal	16/?*	Peru	14/16
Turkey	14/15	Myanmar	14/No min.°			South Africa	12/14	St. Vinc. & Gren.	15/16
Uzbekistan	16/17	Nepal	16/18					Suriname	13/15*
		Rep. Korea	16/18					Trinidad & Tob.	12/14
		Timor-Leste	15/18					Uruguay	12/14°
		Vanuatu	16/18						
		Vietnam	18/20						

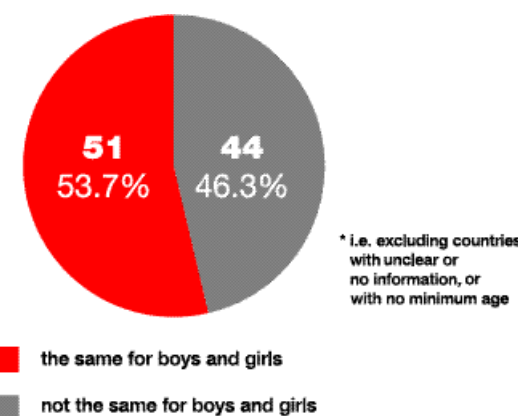
9 13 5 8 11
 Key: ? = information unclear * = see country report for details ° = information from dialogue

marriage, it is extremely difficult to discern whether this criterion is protective or non-protective, and indeed it may be both, as the best interests of both mother and child must be considered. Marriage may better protect the interest of the pregnant adolescent, and it would bear analysis whether pregnant girls are permitted to continue their education or not.

Adding to this complexity is the fact that civil, religious, customary and traditional laws often exist side-by-side, with no clear hierarchy between them. Moreover, marriages may not be registered, which renders the relevance of law doubtful.

While our comparative table does not indicate whether minimum ages are regulated by customary, religious, common or statutory law, or whether exceptions refers to pregnancy, court or parental consent or puberty, further explanation is provided in the excerpts from the reports. In the interests of consistency, interpretation has been given according to the indication of further guarantees. If a lower absolute minimum age was set and if it was explicitly mentioned that the CRC general principles were applied in decision making, then that lower age is recorded. Where no such guarantees are reported, “no minimum” is quoted in the summary table.

Figure 7. Gender discrimination in marriageable age (%)*



What emerges clearly is that while exceptions to a general minimum age for marriage may be valid, these should coexist with an absolute minimum age below which marriage is never permitted. The complexity of these experiences demands rigorous analysis of the multiple factors mentioned above, as well as attention to exceptions and their link with both protection and autonomy. In addition, it is important to recognise that quantitative data on the statutory minimum age for marriage reveal only one part of the legal landscape. Human rights standards for education and marriage demand attention to qualitative aspects, too. For instance, the fact that this is the only area under study in which there is widespread legalized gender discrimination raises important questions concerning the impact that this could have on gender equality in education and power dynamics in specific contexts.

The link between the minimum age for completion of compulsory education and the minimum age for marriage

Almost all studies, surveys, statistics and research²³ dealing with child marriage confirm that the practice entails the abandonment or denial of education, especially for girls. This may happen for a variety of reasons, including religious or cultural views, negative perceptions of education or simply economic necessity. Boys, too, may be married at a young age due to societal and cultural pressures and consequently pushed out of the education system prematurely in order to cater for their new family. Whatever the reasons, the impact is always the same: these children's mental, social and emotional development is halted or impaired and with it their future, too. This is why it is important to understand how cultural and social perceptions of both marriage and education interact with each other.

Whether child marriage involves a girl, a boy, or both, if it results in a lack of education, removal from school or limited access to educational opportunities, the affected children's prospects of securing an adult life in dignity are severely threatened. Even more than that, child marriage often amounts to a denial of opportunities for children to develop their intellectual and social skills and to blossom in their own sense of self and autonomy, which are arguably the principal aims of education. On the other hand, if children are given educational and vocational opportunities, they will tend to delay marriage, postpone and space child-bearing and develop increasingly fuller participation in the life of the local and wider community. Therefore, as for the case of employment, here too it is important to acknowledge the inherent interconnectedness of the different factors, attitudes, and values which affect the impact that schooling and early marriage have on each other. What needs to be discussed and understood further in this case is the fact that this relationship does not always follow a one way path.

Firstly, gender discrimination in this area has a particularly detrimental impact on the education of girls. If girls can marry at a younger age than boys, and if this age is below the end of compulsory education, their development is placed at greater risk than boys. As shown in Table 4, out of 27 countries that report clear ages for the end of compulsory education and marriage (with a difference between girls and boys), only 8 set the former higher than the latter, thus guaranteeing nominally more protection against child marriage. However, questions in this case arise with regard to the concrete enforcement of school attendance as actual practices of child marriage may indeed contravene the law on the ground. What signal is the State giving to parents and children if they are supposed to comply with compulsory education until 18 but another law allows marriage at 14 for a girl and 16 for a boy? Those families who cannot afford to maintain their children in school for so long or who do not believe in the value of education would find in child marriage a more immediate solution to economic or societal pressures. This is where child marriage impacts as a pull factor on compulsory education.

At the other end of the spectrum, 19 countries set the age for marriage higher than the age for the end of compulsory education. A higher age for marriage in principle could be

Table 4.

Comparison between education (E) and marriage (M) when the latter is different for girls/boys

	Minimum age for the end of compulsory education lower than minimum age for marriage		Minimum age for the end of compulsory education higher than minimum age for marriage		Education not compulsory		Minimum age for the end of compulsory education unclear				
	E	M	E	M	E	M	E	M			
Albania	14	16/18	Bolivia	16	14/16	Botswana	n/c	14/16	Benin	?	15/18
Algeria	16	18/21	Colombia	15	12/14	Burkina Faso	n/c*	15/18*	DRC	?	15/18
Angola	12	15/16	Peru	18	14/16	Cambodia	n/c	18/20	Ecuador	?	12/14
Austria	15	16/18	Rep. Moldova	16/18	14/16	Fiji	n/c	16/18	Guatemala	?	14/16*
China	15	20/22	Romania	18	15/18	Indonesia	n/c	16/19	Myanmar	?	14/no min
DPRK	16	17/18	South Africa	15	12/14	Nepal	n/c	16/18	Nicaragua	?	14/15
Egypt	14	16/18	Uruguay	14	12/14	St. Vincent & Gren.	n/c	15/16	Panama	?	14/16
India	14	18/21	Uzbekistan	18	16/17	Sao Tome & Princ.	n/c*	14/16	Suriname	?	13/15*
Iran	11	13/15				Timor-Leste	n/c	15/18			
Japan	15	16/18				Vanuatu	n/c	16/18			
Kuwait	14	15/17									
Kyrgyzstan	16	17/18									
Luxembourg	15	15/18									
Morocco	13	15/18									
Poland	15	16/18									
Rep. Korea	15	16/18									
Trinidad & Tob.	12	12/14									
Turkey	14	14/15									
Vietnam	10	18/20									
	19		8		10		8				

Key: X = information unavailable ? = information unclear * = see report for details n/c = not compulsory ° = information from dialogue

protective, but in reality it could also put children, especially girls, at risk of being married illegally. What are the prospects for a girl who finishes compulsory education at 10 but cannot marry before she is 18? Or, in the same country for a boy who completes his compulsory education at the same age and cannot marry until he is 20? And, even worse, what happens if education is not compulsory at all or there is no clear age for its completion (as is the case in another 18 countries)? It is in such situations as these that the lack of availability, accessibility and acceptability of education impacts as a push factor into child marriage. This is also where the role of relevant, good quality post-compulsory education is fundamental.

While there is near-universal consensus on the negative impact of child marriage on education, especially for girls, little has been said about the negative impact of bad education or lack of educational prospects on the choice of getting married before 18 years of age. By looking at the positive, ideal side

only (of good quality education as a prevention strategy) one risks neglecting negative educational practices that are currently taking place. Moreover, in the case of girls, many other elements need to be examined, especially in terms of parental attitudes towards their daughters' education. In families where investing in school for a daughter is still seen as a waste of money and time if the girl will in any case only become a wife and mother, it is not so much education but rather the perceptions and beliefs of gender roles that need to be challenged and changed. Once again, quantitative analysis is important but not sufficient to identify strategies and action for change.

Looking at the issue through the 4A framework allows a better and more nuanced understanding: when availability and accessibility of education are supplemented with acceptability and adaptability, the relationship between education and child marriage can be understood and addressed in a more comprehensive manner.

²³ UNICEF, *Early Marriage: Child Spouses*, Innocenti Digest No. 7 (Florence: Innocenti Research Centre, 2001); Office of the United Nations High Commissioner for Human Rights, *Harmful Traditional Practices Affecting the Health of Women and Children*, Fact Sheet No.23 (Geneva: OHCHR); S. Mathur, M. Greene, A. Malhotra, *Too Young to Wed: The Lives, Rights, and Health of Young Married Girls* (Washington: International Center for Research on Women, 2003); International Planned Parenthood Federation, *Ending Child Marriage: A Guide for Global Policy Action* (London: International Planned Parenthood Federation, 2006); A. Bunting, 'Stages of Development: Marriage of Girls and Teens as an International Human Rights Issue', *Social and Legal Studies* 14(1): 17-38, 2005.

Criminal responsibility

Article 40.3 of the CRC requires States to promote “the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe penal law”. While the CRC does not establish a desirable minimum age for criminal responsibility, other international standards (such as the Beijing Rules) do however recommend that this age be based on emotional, mental and intellectual maturity, and not be too low.²⁴ The Committee’s Guidelines for Periodic Reports also require States Parties to indicate “the applicable minimum age of criminal responsibility”.²⁵ More recently, the Committee has further clarified that “a minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable”.²⁶ However, variations and confusion about this age remain prevalent and further research is necessary to explore and expose the impact this has on the right to education, as well as on other children’s rights.

Assessing the developing maturity or capacity of the child to commit a criminal offence is somewhat subjective, and there are no agreed indicators (for example, while some countries use puberty as an indicator of maturity, others rely on psychological assessments). Moreover, the issue is complicated by a lack of clarity in art.40 of the CRC itself. It is not immediately clear how to interpret “a minimum age” since many countries have more than one minimum age for criminal responsibility. In fact, the range of ages generally follows this pattern:

- a) an absolute minimum below which the child is conclusively presumed to lack capacity to commit a crime (*doli incapax*);
- b) a minimum age for deprivation of liberty;
- c) an age of criminal or penal majority above which there is a rebuttable presumption of capacity and therefore the possibility of being tried as an adult (below this age and above the absolute minimum there is a burden of proof on the prosecution to show that the accused child had developed sufficient capacity).

In order to clarify the issue, the CRC Committee developed, not without difficulties,²⁷ General Comment No. 10 with a detailed section on the minimum age for criminal responsibility (MACR). Here States Parties are encouraged “to increase their lower MACR to the age of 12 years as the absolute minimum age and to continue to increase it to a higher age level”.²⁸ Furthermore, the Committee expressed its concern at the practice of setting exceptions allowing a lower minimum age for serious crimes and recommended that “States parties set a MACR that does not allow, by way of exception, the use of a lower age”.²⁹

The data presented in this research reflect to a certain extent the confusion that still exists over this topic despite the guiding opinions of the Committee. Some countries provide information on what appears to be the absolute minimum age of criminal responsibility and nevertheless continue to provide details on the administration of justice which seem to contradict or undermine the effective establishment of such an age (i.e. where children below this age may be arrested or temporarily detained or otherwise brought before a juvenile court). Many countries report that children can be held criminally responsible for serious crimes at a younger age than

for minor offences. Often the lists of these serious crimes are somewhat elastic and range from murder to malicious hooliganism or from terrorism to minor traffic offences, thus adding to the mystification of the issue.

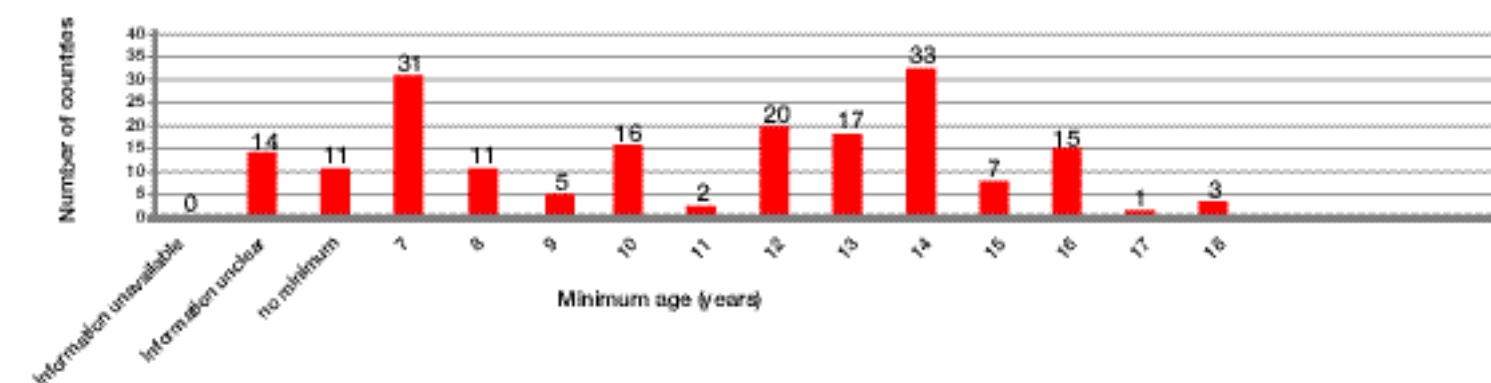
This research focuses on the absolute minimum age of criminal responsibility (case (a) above), and does not deal with the complexities of other ages (cases (b) and (c) above). The rule of interpretation is to record only the age below which there is no possibility for evidence to show that the child fulfils the criteria for criminal responsibility, that is to say that below that age he or she is fully exempt from being criminally liable. Overall, the research shows that this is the most complete area in terms of established minimum ages: in fact there are only 11 countries with no minimum age for criminal responsibility and only 14 with no or unclear information. Compared to the other areas under study this is commendable. On the other hand, though, it is troubling to notice that 31 countries still consider a child criminally responsible at 7. When this information is analysed in combination with the end of compulsory education, numbers become even more worrisome.

The link between the minimum age for completion of compulsory education and the minimum age for criminal responsibility

In a large number of countries, children are considered mature enough to take responsibility for their actions at or near the age at which they are required to begin their compulsory education. As shown in Figure 8, at least 142 countries hold children criminally responsible for at least some deviant behaviour during the age of compulsory education (often taken as 6-15).

One important area for future research would be to investigate the various measures of custody, reform, correction or protection that children in conflict with the law may be exposed to, and the extent to which these measures include adequate educational provision in full respect of the 4As.³⁰ The establishment of a very low minimum age for

Figure 8. Minimum age for criminal responsibility



24 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), General Assembly resolution 40/33, annex, paragraph 4.1.
 25 CRC Committee, Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child, UN document CRC/C/58/Rev.2, 2010, paragraph 39 (e)(i)
 26 CRC Committee, General Comment No. 10: children’s rights in juvenile justice, UN document CRC/C/GC/10, 2007, paragraph 32.
 27 As for the minimum ages of criminal responsibility (MACRs): “When the Committee on the Rights of the Child considered issuing a General Comment specifically on MACRs in 2002, consensus proved impossible”. D. Cipriani, *Children’s Rights and the Minimum Age of Criminal Responsibility* (Farnham: Ashgate, 2009), p. xiv.
 28 CRC Committee, General Comment No. 10: children’s rights in juvenile justice, UN document CRC/C/GC/10, 2007, paragraph 32.
 29 *Ibid.*, paragraph 34.

30 On this, see *The right to education of persons in detention*, Report of the Special Rapporteur on the right to education, UN document A/HRC/11/8, 2 April 2009, especially paragraphs 37-46.

TRENDS OVER TIME

criminal responsibility could have a detrimental impact on the child and on his or her educational process and development. This would not only go against the principle of respect for the child's life, survival and development, but also against one of the principal aims of the right to education according to which the child's respect for the human rights and freedoms of others should be reinforced (acceptability). As poignantly put by the Committee, "if the key actors in juvenile justice, such as police officers, prosecutors, judges and probation officers, do not fully respect and protect these guarantees, how can they expect that with such poor examples the child will respect the human rights and fundamental freedom of others?"³¹

This also leads to the key question of education as a preventative measure for safeguarding children from entering into conflict with the law. Successful socialisation and integration of all children into society very much depends on their ability not simply to access education but to enjoy an education that is acceptable, relevant and adaptable, and which responds to their special needs, interests and concerns. This is all the more true for those children who are at the greatest risk of becoming involved in criminal activities. Setting a minimum age for criminal responsibility which clashes with compulsory education sends confusing signals both about the value of education and about the capacity of society to offer children a proper preparation for adult life and participation in the development of their society.



This research has brought to light the fact that as yet, only a small minority of States Parties to the CRC have thoroughly revised their legislation to bring it into line with the standards laid down in the Convention. Despite the Committee's repeated recommendations that governments increase minimum ages and eradicate disharmony among them with a view to guaranteeing all the rights enshrined in the Convention to all human beings under 18 years of age, most countries still have a long way to progress in this regard. While the complex process of harmonizing laws and policies around childhood cannot be expected to take place overnight, developing a collective understanding and awareness of the impact that disparate minimum ages have on the right to education (and on the child 'as a whole') is of immediate and far-reaching importance. Tangentially, such analysis is also useful to assess the extent of the impact of the CRC monitoring mechanism on States' performance.

Previous editions of this research revealed that the movement towards harmonization among the four minimum ages studied was sporadic at best. In a number of cases changes in legislative measures even appeared to move in the opposite direction. Having now completed a review of 18 years of the reporting process, it is possible to say that these trends remain to some extent, while others have emerged. Before going into details, however, it is important to introduce some important caveats.

Firstly, certain factors which exert significant influence over the reporting process to the CRC fall outside the scope of the research undertaken for *At what age?*. For example, a new government from a different political party in a reporting State may engage more openly with the Committee, where its predecessor had preferred to submit reports which did not highlight important shortcomings. In such a scenario the reported minimum ages might decrease, but the depiction of the situation in the country is more reflective of reality. There is clearly also a danger that governments may be tempted to omit those statistics which reflect least well on them, in order to avoid international criticism. A further complication in interpreting changes over time in domestic legislation stems from refinements in the methodology applied to this research, brought about by feedback and the related learning process. As detailed above, the sources consulted for this third update

31 *Ibid.*, paragraph 13

are somewhat broader than those used for the 2002 and 2004 editions. While this expansion of the methodology has increased the accuracy and comprehensiveness of the research, at the same time it has rendered like-with-like comparison impossible. That being said, *At what age?* is in a unique position to offer some observations on trends over time as derived not only from a country-by-country analysis, but also from a cross-country reading:

- There has been a very small decrease in the number of countries in which education is not compulsory. This may indicate an evolution in the interpretation and importance attributed to compulsory education over the years. In proportionate terms, however, the difference over time is minimal and seems to confirm the lack of progress in this regard. It is true that the vast majority of States have introduced and even extended compulsory education, but to be in full compliance with human rights norms, education should be made universally free and compulsory, firstly at the primary level and then progressively at the secondary and higher levels. Even when considering economic or administrative obstacles, the slow pace at which some countries are reacting to this requirement and the corresponding concerns of the Committee is a worrisome trend.
- This situation may be even worse in those States that have neither a minimum age for compulsory education nor a minimum age for admission to employment. This research indicates only a minimal decrease in the number of countries falling under this category.
- Linked to the above point and on a more positive note, a good signal comes from the fact that the number of countries with the same age for both compulsory education and admission to employment is on the increase. It remains to be seen if the quality of education and the conditions for employment are compatible and guaranteed. However, it is encouraging to see countries following the integrated approach of both the CRC and ILO standards by moving towards harmonisation in these two areas
- As far as the minimum age for marriage is concerned, maintenance of the status quo seems to be the rule,

especially in terms of legalised discrimination between girls and boys. Here neither the passing of time nor the Committee's recommendations seem to have made much impact: the number of countries in which girls can marry at a younger age than boys remains proportionately close to 50% and is still at odds with some minimum ages for the end of compulsory education. Compounding this negative outlook is the fact that the majority of States still find it difficult to regulate exceptions to the minimum age for marriage in a clear and unequivocal manner. There is still no indication of a trend to ensure the establishment of an absolute minimum age for marriage (with or without exceptions).

- It is also interesting to note the little progress in changing the minimum age for criminal responsibility in those countries where it is still set very low. Together with marriage, this is perhaps the area which records the most persistent reluctance to implement the Concluding Observations of the Committee. Whether this is due to cultural and social resistance to such changes or to lack of will or resources on the side of the government, the fact remains that the maintenance of this state of affairs constitutes a threat to the right to education in a substantive number of countries.

Overall, a look at the four areas under study shows that the tendency is to concentrate the corresponding minimum ages between 14 and 16 years of age: 14 is the most common minimum age for criminal responsibility; 15 is the most common minimum age for admission to employment and 16 is the most common minimum age for both marriage and the end of compulsory education. This, however, does not necessarily indicate that the general trend is moving towards harmonisation. One needs to look at the detailed figures to check if this is happening in terms of absolute majority (for marriage, for example, the majority of States fall under the 'no minimum' category). What this research shows is that more work needs to be done to level up all the minimum ages under review here. More interestingly, it also shows how far we still are from 18 as the universal age for the beginning of adulthood across all areas of life. Whether this 'forced'

levelling exercise is desirable and will succeed remains to be seen and is a key issue to discuss in future work, especially in view of a parallel balancing exercise between protection and autonomy. For the time being, it is worth highlighting two positive trends:

- Failure on the part of reporting countries to provide clear information about minimum ages seems to be diminishing: reports in which the information is unavailable (indicated by an X) are becoming increasingly rare and in two areas – employment and criminal responsibility – not a single X has been registered this time. This appears to indicate a better understanding of the necessity for States and civil society to report on these minimum ages and for the Committee to stress the fact that failing to do so is unacceptable. Whether the ages reported are faithfully reflective of reality is a different matter. However, the pressure of complying with the requirement of the monitoring process seems to have had an impact at least in these two areas.
- The availability of more information, the clarity of the guidelines for States Parties' reports and the possibility to learn from 18 years of monitoring have certainly facilitated the task of some countries reporting for the first time. In several cases, their reports are more precise, complete and in line with the requirements of the process. This certainly shows the potential of the Committee's jurisprudence and practice to influence and guide States' implementation of the CRC. It also pinpoints the willingness of those same States to follow the Committee's guidelines and the thrust of the Convention.

A final remark needs to be made regarding the impact of the Committee's Concluding Observations on States' practice. If the majority of the new reporting States have been more diligent in following the guidelines and reporting more clearly on the various minimum ages, many periodic reports instead have shown no further reaction to the Committee's recommendations. If States have responded, it has not always been in the desired direction: while some have changed the laws and increased minimum ages, others have

actually decreased some ages under the 'justification' that this was done to eliminate discrimination between boys and girls. This illustrates the importance for the Committee to be unequivocal in its Concluding Observations and to reiterate the need to respect all general principles together.

Given the diversity of reasons for changes over time, this research limits itself to highlighting changes and raising questions about the rationale behind them, in the hope that this information will be used by children's rights advocates to build advocacy and lobbying efforts around a better understanding of domestic legislation and the use of international law (in this case the CRC) and the mechanisms that it affords. It is hoped that highlighting the intended and unintended consequences of existing inconsistencies in laws and policies, as well as the risks these pose to children, will contribute towards a more effective protection of their rights.

CONCLUSIONS

Awareness of the legal situation of children around the world is necessary for designing effective measures to improve it. Laws concerning the definition of the child in any one country are a key element in this process. However, if legislation itself presents gaps or contradictions that undermine the full spectrum of children's rights, it becomes important to look deeper and perhaps think of more effective approaches.

Universally considered to be the guarantor of childhood until 18, the CRC in fact acknowledges in art.1 that the age of majority is not the same in all countries. Moreover, in some cases, while requesting States to set certain minimum ages, it does not indicate with any precision what these ages should be. Its flexibility is both an asset and an obstacle: while this approach allows a more tailored implementation according to context, it also permits a variety of interpretations that challenge the alleged universality of its application. It is not surprising, therefore, that implementing a universal definition of the child at the national level is still problematic.

By looking at four minimum ages, concord or discord among them, and their impact on the right to education, this research has illustrated how complex the situation remains. A fresh look into the CRC, its influence and that of its Committee is needed. In fact, this analysis shows not only the sheer number and variety of different minimum ages within and between each area, but also the implicit recognition that the age of 18 as included in the CRC is still only an ideal target. It will still take a considerable amount of time to bring national laws to a level that fully conforms to the CRC. In the meantime, however, children and their rights cannot wait. If we are to find a way of distinguishing under the law who can claim what rights, and ensuring that children are afforded in practice the rights they are entitled to on paper, it becomes important to identify some limit(s). This is where minimum ages can help as they are a useful sorting mechanism. However, in setting an age as a legal minimum, it is important for the legislator and the decision-making authorities to be very clear both about the reasons for doing so and about possible additional qualifications or exceptions. In order for the law to be applicable and efficient, it must be grounded in a sound justification of need, purpose, and interests. In particular, more needs to be explored and explained about the links between the various minimum ages analysed here

and their reciprocal impact. Ironically, it is not sufficient to ask 'at what age?' More questions need to be posed and answered before coming to the definite establishment of a specific age, and more attention to the 'right' approach is needed. As shown by this research, an exclusive focus on ages or statistics can indicate apparent progress but hide real patterns of discrimination, exploitation and disadvantage. Analysis needs to ask relevant questions about each area but also about interconnections and cross-cutting issues. As explored below, a human rights approach to education allows us to do so.

Under international law, education is a human right with corresponding obligations. Its features and dimensions, exemplified by the 4As, are very useful frames for both quantitative and qualitative analysis. The 4A scheme also clearly illustrates the inherent interlinks and indivisibility, not only of all the elements of education but also of the other three areas under review (employment, marriage and criminal responsibility).

When considering availability, it is not sufficient to look at the number of schools or teachers per pupil. Attention should also focus on the compulsory nature of education and its effective application. Is compulsory education available to children who have entered in conflict with the law? Can married children still be enrolled in compulsory education? If children are involved in permitted forms of work, how does that relate to the obligation to attend compulsory education? Are laws and policies enhancing or hindering efforts to make compulsory education available to all? When the minimum age for the end of compulsory education clashes with the minimum ages for employment, marriage and criminal responsibility, the important and transformative role of education risks being undermined. If a State is to recognise and guarantee the availability of compulsory education, it must also ensure that nothing interferes with it and that correlated laws are in harmony with each other and with the thrust of the CRC.

In terms of accessibility, it is not enough to eliminate obstacles and make sure that all children are in school. Firstly, it is important to understand the reasons why children should be in school up to a certain age. Secondly, it is equally important to be aware of and recognise the evolving

capacities of the child and to balance access to education with other opportunities and prospects as the child grows older. Lastly, it is also important to guarantee the quality of the education that children have access to. Even if all minimum ages are aligned, States still have the duty to ensure that the learning experience is acceptable and adaptable to the pupil.

Indeed, acceptability requires education to be actually relevant and useful for the child, not only in terms of employability but also for the protection of his/her development, health, personality, integration in society, and respect for all without discrimination (especially based on gender). Acceptability recognises education as a multiplier of other rights and a space in which human rights should be taught but also upheld and transmitted. This is why it is fundamental to eliminate contradictory signals and practices such as legalised gender discrimination in the minimum age for marriage, interference of work with education or limited provision and poor quality of education within the juvenile justice system.

Adaptability is another essential element without which the jigsaw would not be complete. It offers a revolutionary approach since it lays down that education must adapt to the child, rather than the child to any education. This requires education to be more inclusive of all children, regardless of the situation they are in (including whether or not they are employed, married or taken to court). If adaptability is fully upheld, it may make governments, teachers, parents and other relevant actors less likely to fall into the trap of detrimental practices and instead more likely to appreciate the full value and power of education.

All of the above demonstrates the benefits of looking at education as a human right rather than just as a need or a good investment for economic returns, and the necessity for a more comprehensive and articulated approach to minimum ages and children's rights in general. Concretely, such an approach entails:

- raising awareness of what education means as a human right, what can be demanded and improved and what is needed to build the capacity of all those involved to work on the law in order to give legitimacy to claims, affect changes and improve the situation of children;

- looking at the child 'as a whole' and at rights in, to and through education. For instance, attention should focus on good but also bad quality education and its intended and unintended consequences. Compelling attendance is not sufficient or even necessary in the child's best interest if abuse, violence and exploitation occur in the school environment and if the human rights of learners are not upheld in and through education;
- thinking more about cross-cutting issues and seeing all four areas and their actors and decision-making processes as complementary rather than separated silos in order to encourage cross-sectoral coordination;
- working at different levels: laws are key but not a panacea, they need to be accompanied by work in the community, advocacy and campaigning strategies, more focused indicators, budget tracking, etc.;
- going beyond an antagonistic approach: governments hold the primary responsibility for education, but cannot succeed on their own without the engaged participation and constructive criticism of active citizens, civil society actors, independent bodies and agencies, and the international community as a whole. It is necessary to think about creating opportunities, not only to highlight gaps and violations, but also to engage in finding constructive solutions together.

Difficult? Maybe. But the fact that it is difficult should encourage us further to make sure that it be done properly and promptly. *At what age?* is a first step towards such a critical but constructive approach, one that hopes to engage all actors in an open and ongoing discussion about the protection and fulfilment of both the right to education and children's rights.

RECOMMENDATIONS

This research shows the complexity and the challenges of dealing with education, children's rights and minimum ages. It is therefore equally complex and challenging to come to some prescribed solutions. Nonetheless, it is worth putting forward some illustrative recommendations for:

States Parties to:

- Eliminate inconsistencies between different sources of domestic law concerning the minimum ages for the end of compulsory education, admission to employment, marriage and criminal responsibility.
- Promulgate and enact new and clearer laws where needed, ensuring that any changes introduced to relevant domestic legislation are towards, not further away from, coherence among minimum ages and are in keeping with the CRC and its Committee's Concluding Observations.
- Be more rigorous in providing information on the minimum ages for the four areas considered in this research, and in particular provide initial and finishing ages for compulsory education.
- Ensure that reports submitted do not contradict either themselves or the information supplied during the exchange with the Committee.
- Include national civil society in both preparing States Parties' reports and discussing the implementation of the Committee's recommendations.

The Committee on the Rights of the Child to:

- Consider preparing a General Comment on the importance of coherence among the minimum ages for the end of compulsory education, admission to employment, marriage and criminal responsibility.
- Ensure that the Summary Records and Concluding Observations fully reflect the issues and the recommendations raised during the direct interaction with States Parties.
- Ensure more concrete and coherent language in the Concluding Observations in order to make follow-up and implementation more tangible and achievable (avoiding such vaguely-worded recommendations as 'to an internationally acceptable standard', for instance).

- Systematically and consistently follow up previous Concluding Observations in the following reporting sessions.
- Strengthen cooperation with the relevant UN Special Procedures, such as the Special Rapporteur on the right to education and other UN bodies, to ensure consistency in reviews and recommendations.

Global civil society to:

- Make the most of the opportunities presented by the monitoring process by:
 - participating in the preparation of country reports (or pressing for such participation if it is not currently enjoyed);
 - preparing and submitting alternative reports;
 - using the outcomes of the dialogue as campaigning and lobbying tools.
- Check that the minimum ages reported by governments actually correspond to reality:
 - if governments have reported minimum ages that are either higher than de facto ones or which do not have any tangible effect, make the discrepancy known:
 - nationally, drawing public attention to the issue and pushing for real implementation;
 - internationally, by submitting a shadow report to the CRC Committee and other UN bodies.
- Echo and amplify the Committee's recommendations in the domestic sphere in order to shame the government into implementing such changes promptly, especially if changes are reported by the State as 'planned' or 'imminent'.



SUMMARY

Table Part Two

SUMMARY

SUMMARY TABLE

Country	Information as of	Minimum ages for				
		End of compulsory education	Admission to employment	Marriage		Criminal responsibility
				General girl/boy	Exception girl/boy	
Albania	2004	14	16	16/18		14
Algeria	2005	16	16*	18/21		13
Andorra	2001	16	16	16	14	16
Angola	2004	12	14	18	15/16	16
Antigua & Barb.	2003	16	16*	No min.		8
Argentina	2002	15	14*	16/18*	No min.	16
Armenia	2003	?	15*	17/18	?	14
Australia	2004	15*	No min.*	18	16	10
Austria	2004	15	15	18	16/18	14
Azerbaijan	2005	?	15	X		14
Bahamas	2004	16	?	15	13	10
Bahrain	2001	n/c	14*	X		?
Bangladesh	2008	10	14	18/21	No min.	9
Barbados	1997	16	?	18	16	7
Belarus	2001	15	14*	18	No min.	14
Belgium	1994	15	15	18	No min.	16*
Belize	2004	14*	14*	18	14	9
Benin	2005	?	14	15/18		No min.°
Bhutan	2007	?	No min.*	18		10
Bolivia	2009	16	14	14/16		16*
Bosnia & Herz.	2004	?	15	18	16	14
Botswana	2004	n/c	15	14/16		8
Brazil	2003	14	16	18	16	12
Brunei Daruss.	2003	n/c	?	No min.		7
Bulgaria	2007	16	16	18	16	No min.*
Burkina Faso	2002	n/c*	?	17/20	15/18*	13
Burundi	1998	12	12*	?	No min.	13
Cambodia	1999	n/c	16	18/20		No min.
Cameroon	2001	n/c	14	15/18*	No min.	10
Canada	2003	X*	17*	X*		12
Cape Verde	2001	16	?	?		16
Central Afr. Rep.	1999	?	14	18		13
Chad	2007	15	No min.*	?		13
Chile	2005	?	15	16		14*
China	2005	15	16	20/22		14
Colombia	2005	15	14	18	12/14°	?
Comoros	1998	14	No min.*	?		13
Congo	2006	16	16	X		No min.*
Costa Rica	2004	?	15	X		No min.
Côte D'Ivoire	2000	n/c	No min.*	21	No min.	10
Croatia	2003	15	15	18	16	14
Cuba	1996	?	17*	X		16
Cyprus	2002	15	15	16/18°	No min.°	10
Czech Republic	2002	15	15	18	16	15
DPR Korea	2008	16	16	17/18		14
DRC	2008	?	16*	15/18		?
Denmark	2005	16	13	18	15	15
Djibouti	2007	?	16	18	No min.	13
Dominica	2004	16	?	18	16	12

Country	Information as of	Minimum ages for				
		End of compulsory education	Admission to employment	Marriage		Criminal responsibility
				General girl/boy	Exception girl/boy	
Dominican Rep.	2007	14	14	?	No min.	13
Ecuador	2004	?	15	18	12/14	12
Egypt	1999	14	14	16/18		7
El Salvador	2003	15	14	18	No min.	12
Equatorial Guinea	2004	12	No min.*	?		No min.°
Eritrea	2007	13	14	No min.		12
Estonia	2002	15	15	18	15	13
Ethiopia	2005	n/c	No min.*	No min.*		9
Fiji	1996	n/c	12	21	16/18	10
Finland	2005	16	15	18	No min.	15
France	2008	16	16	18	No min.	No min.*
Gabon	2001	16	16*	?	No min.	13
Gambia	2000	n/c*	No min.°	X		7
Georgia	2007	14	16	18	16	12°
Germany	2003	15	15	16		14
Ghana	2005	15	15	18		12
Greece	2001	15	15	18	No min.	12
Grenada	1997	14	14	21	No min.	7*
Guatemala	2000	?	No min.*	14/16*		12
Guinea	1997	16	?	17/18	?	18
Guinea-Bissau	2001	X	No min.*	No min.		16
Guyana	2003	?	14	16	No min.	10
Haiti	2002	X	15	18	No min.	13*
Honduras	2006	13	14	18	16	12
Hungary	2005	18	16	18	16	14
Iceland	2002	16	16	18	No min.	15
India	2003	14*	14*	18/21*		7
Indonesia	2003	n/c*	No min.*	21	16/19	8
Iran	2003	11	12°	13/15°		No min.
Iraq	1996	?	15	X		No min.*
Ireland	2005	16	16	18	No min.	7*
Israel	2002	15*	15*	No min.*		?
Italy	2002	16	16	18	16	14*
Jamaica	2003	14	12	18	16	12
Japan	2003	15	15	16/18		12*
Jordan	2006	16	16	18		7*
Kazakhstan	2006	?	15	18	16	14
Kenya	2006	n/c	?	No min.		8
Kiribati	2005	14	14	16		10
Kuwait	1996	14	14	15/17		7
Kyrgyzstan	2004	16*	14	18	17/18	14
Lao PDR	1996	?	15	18		15
Latvia	2005	15	15	18		16
Lebanon	2005	12*	13*	No min.		7
Lesotho	1998	X	No min.*	?	No min.	7
Liberia	2003	?	16	?		16
Libyan Arab Jam.	2002	15	15	20	15	14
Liechtenstein	2005	15	15	18	No min.	14
Lithuania	2005	16	16	18	No min.*	14

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SUMMARY

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Country	Information as of	Minimum ages for				
		End of compulsory education	Admission to employment	Marriage		Criminal responsibility
				General girl/boy	Exception girl/boy	
Luxembourg	1997	15	15	16/18		16
Madagascar	2003	?	14	18	No min.	13
Malawi	2008	n/c	14	No min.		7
Malaysia	2006	12	15	18	No min.	?
Maldives	2006	n/c*	14	18	No min.	?
Mali	2006	15	14	15/18	No min.	13
Malta	1998	16	15*	16		9
Marshall Islands	2005	14*	18	18		10
Mauritania	2008	14	14	18	No min.	7
Mauritius	2005	12	15	18	16	No min.
Mexico	2005	14	14*	14/16	No min.	11
Micronesia	1996	14	No min.*	No min.		?
Monaco	2000	16	16	15/18	No min.	13
Mongolia	2004	17	14*	18		14
Montenegro	2010	15	15	18	16	16*
Morocco	2003	13*	?	15/18		12*
Mozambique	2009	?	15*	18	16	16
Myanmar	2003	?	13	14/ No min.°		?
Namibia	1993	?	14	21	No min.*	7
Nepal	2004	n/c	14	21/18	16/18	10
Netherlands	2008	18*	16	18	No min.	12
New Zealand	2003	16*	?	20	16	10
Nicaragua	2004	?	14	18/21	14/15	13
Niger	2008	16	14	?	No min.	13
Nigeria	2004	15	No min.	18*	No min.°	No min.
Norway	2004	16	15	18	16	15
Oman	2006	n/c°	15	18	No min.	9
Pakistan	2009	n/c*	No min.*	16/18*	No min.	7
Palau	2000	17	No min.	No min.		10
Panama	2003	?	?	14/16		14
Papua New Guinea	2003	n/c	No min.	No min.		7
Paraguay	2001	14	14	16	14	14
Peru	2005	18	?	18	14/16	12
Philippines	2009	?	15*	No min.		?
Poland	2002	15	15	18	16/18	10
Portugal	2001	15	15	18	16	16
Qatar	2008	15	16	16/18	No min.	7
Republic of Korea	2002	15	15	16/18		?
Rep. of Moldova	2008	16	15	16/18	14/16	14
Romania	2008	18	15*	16/18	15/18	14
Russian Federat.	2004	15	15	18	No min.	14
Rwanda	2003	12	No min.*	21	No min.	14
St. Kitts & Nevis	1997	16	16	16		8
Saint Lucia	2004	?	16	18	No min.	?
St. Vincent & Gren.	2001	n/c	?	15/16		8
Samoa	2006	13	15	19/21	No min.	8
San Marino	2003	16	16	18	16	12
Sao Tome & Princ.	2003	n/c*	14	18	14/16	17
Saudi Arabia	2005	?	No min.*	No min.		7°

Country	Information as of	Minimum ages for				
		End of compulsory education	Admission to employment	Marriage		Criminal responsibility
				General girl/boy	Exception girl/boy	
Senegal	2006	16	15	16/?*		?
Serbia	2007	14	15	16		14
Seychelles	2002	15	15	18	No min.	7
Sierra Leone	2006	?	No min.*	No min.		16
Singapore	2003	?	12	18	No min.	7
Slovakia	2006	16	16	18	16	14
Slovenia	2003	15	15	18	No min.	14
Solomon Islands	2002	n/c	12	No min.		8
South Africa	1999	15	No min.*	21	12/14	7
Spain	2001	16	16	14		12
Sri Lanka	2002	14*	14	18	No min.	8
Sudan	2001	n/c*	14*	21	10	7*
Suriname	2005	?	14	13/15*		10*
Swaziland	2006	n/c	No min.	21	No min.	7
Sweden	2004	16	16	?	No min.	15
Switzerland	2001	15	15	18		7*
Syrian Arab Rep.	2002	12*	12	17/18	No min.	7
Tajikistan	1998	16	14	17	16	14
Thailand	2005	15	15	17	No min.	7
FYR of Macedonia	1997	15	15	18	16	14
Timor-Leste	2007	n/c	15	15/18		12
Togo	2004	n/c°	14	No min.°		°
Trinidad & Tobago	2004	12	12	12/14		7
Tunisia	2001	16	16	18		?
Turkey	2000	14	12	18	14/15	11
Turkmenistan	2005	?	16	18	16	14
Uganda	2004	?	No min.*	No min.		7*
Ukraine	2001	17	16*	17/18	No min.	14
United Arab Em.	2001	12	15	X		7
United Kingdom	2008	16	16	16*		8
Un. Rep. Tanzania	2005	?	14°	15/18	No min.	12
Uruguay	2006	14*	15	12/14°		18
Uzbekistan	2005	18	16	17/18	16/17	13
Vanuatu	1997	n/c	12	21	16/18	10
Venezuela	2007	14	14	18	No min.	18
Vietnam	2002	10	?	18/20		14
Yemen	2004	?	14	15	No min.°	7
Zambia	2002	n/c	No min.	No min.		8
Zimbabwe	1995	n/c	No min.	16/18	No min.	7

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