

Publication status: Preprint has been submitted for publication in journal

Young Brazilian Wives: Child Marriage, Girls' Marginalisation, and Agency

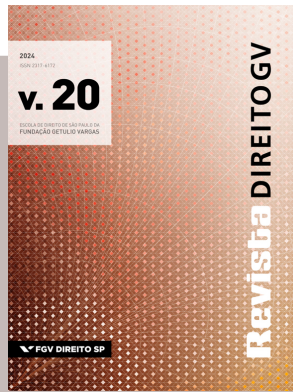
Larissa Cristina Margarido

<https://doi.org/10.1590/2317-6172202435>

Submitted on: 2024-10-04

Posted on: 2024-10-04 (version 1)

(YYYY-MM-DD)



Revista DIREITO GV (PREPRINT)

V. 20
2024

ISSN 2317-6172

FGV DIREITO SP

AVISO: ESTA É A VERSÃO ACEITA PARA PUBLICAÇÃO, APÓS REVISÃO POR PARES, MAS SEM FORMATAÇÃO OU EDITORAÇÃO FINAL DO TEXTO PELA REVISTA.

Esta ainda não é a versão final publicada na *Revista Direito GV* e pode não replicá-la exatamente. A versão final está/estará disponível em:

<https://doi.org/10.1590/2317-6172202435>

A publicação do manuscrito aceito é parte da iniciativa de Ciência Aberta, que visa tornar a pesquisa imediatamente acessível à comunidade acadêmica.

RECEBIDO: 13.10.2023

APROVADO: 22.05.2024

YOUNG BRAZILIAN WIVES: CHILD MARRIAGE, GIRLS' MARGINALISATION, AND AGENCY

JOVENS ESPOSAS BRASILEIRAS: CASAMENTO INFANTIL, MARGINALIZAÇÃO FEMININA E AGÊNCIA

JÓVENES ESPOSAS BRASILEÑAS: MATRIMONIO INFANTIL, MARGINACIÓN DE LAS NIÑAS Y AGENCIA

Larissa Cristina Margarido

PhD candidate at Fundação Getúlio Vargas, Escola de Direito de São Paulo, São Paulo, Brazil

(larimargarido@hotmail.com)

<https://orcid.org/0000-0003-3375-9737>



LARISSA CRISTINA MARGARIDO

Young Brazilian Wives: Child Marriage, Girls' Marginalisation, and Agency

JOVENS ESPOSAS BRASILEIRAS: CASAMENTO INFANTIL, MARGINALIZAÇÃO
FEMININA E AGÊNCIA

JÓVENES ESPOSAS BRASILEÑAS: MATRIMONIO INFANTIL, MARGINACIÓN DE
LAS NIÑAS Y AGENCIA

Larissa Cristina Margarido¹

ABSTRACT

In Brazil, legal and political discussions on childhood and adolescence are usually guided by the ideal of pure, innocent, and vulnerable girls. This construction has historically served to both censor the exercise of child and adolescent sexual agency and legitimize the exclusion of unruly girls who do not correspond to the envisioned profile that should be protected. That is the case for Brazilian young wives, a large but invisible group of girls continuously neglected by child protection discourses, services, and policies in the country. This paper aims to introduce and explore the current scenario of child marriage in Brazil by overviewing the national legal norms surrounding the practice, summarizing two relevant locally produced qualitative research on the subject, carried out by Instituto Promundo and Plan International Brasil, analysing available national quantitative data on the extent and key characteristics of early marriage, specifically IBGE's 2010 Demographic Census and 2021 Civil Registry Statistics, and problematizing what is understood as the young wives' agency. Its main proposition is that a more nuanced, dynamic, and critical understanding of children's agency is needed for truly comprehending the practice of child marriage in Brazil and developing public services and policies that both prevent it and aid young wives in their daily lives.

KEYWORDS

Child marriage; early marriage; vulnerability; girls marginalisation; agency.

RESUMO

No Brasil, as discussões jurídicas e políticas sobre infância e adolescência são frequentemente orientadas pelo ideal da pureza, inocência e vulnerabilidade feminina. Esta construção tem servido historicamente tanto para censurar o exercício da agência sexual de crianças e adolescentes, quanto para legitimar a exclusão das meninas que não correspondem ao perfil idealizado que deveria ser protegido. Esse é o caso das jovens esposas brasileiras, um grupo grande, mas invisibilizado, de meninas continuamente negligenciadas pelos discursos, serviços e políticas de proteção infantil no país. Este artigo visa apresentar e explorar o cenário atual do casamento infantil no Brasil, analisando as normas legais nacionais que cercam a prática, resumindo os achados de duas pesquisas qualitativas relevantes produzidas localmente sobre o assunto, desenvolvidas pelo Instituto Promundo e pela Plan International Brasil, analisando dados quantitativos nacionais sobre a extensão e as principais características do casamento infantil, especificamente o Censo Demográfico de 2010 e as Estatísticas do Registro Civil de 2021, ambos produzidos pelo IBGE, e problematizando o que se entende por agência das jovens esposas. A principal proposição do presente artigo é que necessitamos de uma compreensão mais matizada, dinâmica e crítica da agência infantil para compreender verdadeiramente o casamento infantil no Brasil e desenvolver serviços e políticas públicas que tanto o previnam a prática, quanto ajudem as jovens esposas.

PALAVRAS-CHAVE

Casamento infantil; casamento precoce; vulnerabilidade; marginalização feminina; agência.

RESUMEN

En Brasil, los debates jurídicos y políticos sobre la infancia y la adolescencia a menudo son guiados por el ideal de la pureza, inocencia y vulnerabilidad femenina. Esta construcción ha servido históricamente tanto para censurar el ejercicio de la agencia sexual por parte de niñas y adolescentes, como para legitimar la exclusión de aquellas que no corresponden al perfil idealizado que debe protegerse. Este es el caso de las jóvenes esposas brasileñas, un grupo grande pero invisible de niñas continuamente ignoradas por los discursos, servicios y políticas de protección infantil en el país. Este artículo tiene como objetivo presentar y explorar el escenario actual del matrimonio infantil en Brasil, analizando las normas legales nacionales que

rodean la práctica, resumiendo los hallazgos de dos investigaciones cualitativas relevantes producidas localmente sobre el tema, realizadas por el Instituto Promundo y Plan International Brasil, analizando datos cuantitativos nacionales sobre el alcance y las principales características del matrimonio infantil, específicamente el Censo Demográfico de 2010 y la Estadística del Registro Civil de 2021, ambos elaborados por el IBGE, y problematizar lo que se entiende por agencia de las esposas jóvenes. La propuesta principal de este artículo es que necesitamos una comprensión más matizada, dinámica y crítica de la agencia infantil para comprender verdaderamente el matrimonio temprano en Brasil y desarrollar servicios y políticas públicas que lo prevengan y ayuden a las esposas jóvenes.

PALABRAS CLAVE

Matrimonio infantil; matrimonio temprano; vulnerabilidad; marginación de las niñas; agencia.

INTRODUCTION

The status of ‘being a child and adolescent’ in Brazil is not, at least from the perspective of judicial and executive practices, a clear concept. Besides the fluctuating delimitations of age, there does not seem to be a consensus on what the boundaries of childhood and adolescence are, how much the adoption of certain behaviours by children and adolescents interferes with this definition and, consequently, what would justify their special protection by law.

When discussions – legal or political – on the topic arise, issues such as the (biological, emotional, and moral) developmental processes and especially the supposed inability to make informed decisions are usually raised. However, they tend to be guided not only by the technical and professional training of the people involved, but also by their level of reproduction of the ideal of pure, innocent, and vulnerable childhood, especially when the childhood in debate is female (LOWENKRON, 2015, p. 237).

Such an ideal is rooted in “the most pervasive and influential discourse around children and sexuality”, which represents them as being asexual, immature, and powerless, “incapable of understanding or dealing with ‘adult’ concepts such as sexuality and desire” (ROBINSON, 2005, p. 68). As denounced by many authors, this discourse is a Western, colonial, white, patriarchal, and classist construction (FAULKNER, 2011; GARLEN, 2019; CASTRO, 2020

and 2021) “exported elsewhere through, among other things, media, colonialism, academia, international aid as well as development discourses” (ABEBE, 2019, p. 83).

Affecting mainly girls, this construction does not account for perceptions anchored in local understandings and has historically served to both censor the exercise of child and adolescent sexual agency, justifying sometimes violent control in the name of protection (BETTIS & ADAMS, 2005, p. 11; LOWENKRON, 2016, p. 17), and legitimize the exclusion of unruly children who do not correspond to the envisioned profile that should be protected (EGAN & HAWKES, 2009; O’DELL *et al.*, 2018; GARLEN, 2019).

As explained by Mahati & Palmary (2018, p. 116), “by framing their vulnerability as essential to girlhood, rather than as a consequence of social and political structures”, the restraint of girls' agency and their liability in case of disobedience – rather than their protection – are seen as adequate social and legal treatment. That is the case for Brazilian young wives, a large but invisible group of girls continuously neglected by child protection discourses, services, and policies in the country.

Given the scant academic awareness of the topic in Brazil, this paper aims to introduce and explore the current scenario of child marriage in the country by (i) overviewing the national legal norms surrounding the practice; (ii) summarizing two of the most relevant locally produced qualitative research on the subject, which were carried out by Instituto Promundo in 2014 (TAYLOR *et al.*, 2015) and by Plan International Brasil between 2017 and 2018 (MAGALHÃES *et al.*, 2019); (iii) analysing available national quantitative data on the extent and key characteristics of early marriage, that is, IBGE's 2010 Demographic Census and 2021 Civil Registry Statistics (IBGE, 2010 and 2023); and (iv) problematizing what is understood as the young wives' agency.

By highlighting the complex and contradictory interactions between the ideal of pure female childhood and the real-life experiences of Brazilian girls, my main proposition is that a more nuanced, dynamic, and critical understanding of young wives' agency is needed for truly comprehending the practice of child marriage in the country and developing public services and policies that both prevent it and aid married girls in their daily lives.

After this introduction, part 1 presents the understanding and occurrence of child marriage in the international and Latin American scenarios. An overview of the legal norms surrounding child marriage in the country and their recent changes is developed in part 2. Part

3 summarises the findings of two locally produced qualitative studies on the subject. The analysis of national quantitative data findings of the extent and key characteristics of child marriage in Brazil is presented in part 4. Part 5 discusses the understanding, types, and moral evaluations of children's agency. Finally, in the last part, brief recommendations of what should be done to both recognize the young wives' agency and prevent more child unions in Brazil are presented.

1. CHILD MARRIAGE AS A RIGHTS VIOLATION PRACTICE

Internationally, child or early marriage is generally known to refer to marital unions (formal or not¹) involving at least one spouse under the age of 18 (UNFPA, 2012, p. 11), seen as a harmful traditional practice (WHO, 1993). Even though the international human rights arena has seen it as a 'problem' since the 1960s, denouncing such 'forced' and 'arranged' unions through multiple approaches – parallels to slavery, condemnation of the sexual exploitation of girls, feminist critiques of patriarchy, negative consequences on reproductive health, and human rights preoccupations with consent and choice (BUNTING & ENGLE, 2007, p. 324, 330) –, there had been virtually no attempts to examine the practice as a human rights violation in itself until very recently (UNICEF, 2001, p. 2-3).

Most countries lack evidence to document the prevalence and trends in child marriage – there is very little data on marriages for people under 14 years of age, and even less for those under 10 years of age (UNICEF, 2001, p. 4). Nonetheless, a study conducted in 2010 revealed that, worldwide, over 67 million women had gotten married before their 18th birthday (UNFPA, 2012, p. 6), of which around 8 million had become spouses when younger than 15 years (id., p. 22). Specifically for developing countries², it is estimated that one in three girls will marry before the age of 18, and one in nine before the age of 15 (id., p. 6).

Early marriage is considered a violation of the human rights of children and adolescents by various international treaties signed and ratified by Brazil, such as the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child (CRC), and the Plan of Action resulting from the United Nations International Conference on Population and

¹ In other words, it includes both civil marriages and consensual unions.

² Excluding China, for a lack of reliable data.

Development, held in Cairo, 1994. The eradication of this practice is also part of the United Nations Sustainable Development Goals.

Even so, investments to end child marriage are limited and the reduction of its incidence has been rather slow (WODON *et al.*, 2019, p. 2), as many countries continue not to effectively protect children and adolescents from it, either for lack of national legislation establishing a minimum age of 18 years to marriage (UNFPA, 2012, p. 11); by defining exceptions that hasten such an age; by the absence of real application and inspection of the rules; or because of its insufficiency in the absence of gender- and age-specific and transversal public policies (WODON *et al.*, 2017, p. 1).

Albeit the region that has made the most progress in increasing legal protection against early marriage between 2015 and 2017 is Latin America and the Caribbean – with the share of girls not legally protected decreasing from 36.6% in 2015 to 22.7% in 2017 (WODON *et al.*, 2019, p. 4) –, the proportion of illegal marriages of children and adolescents remains high, reaching 55.8% of unions of people under 18 years old (*id.*, p. 6). In this region, child marriages are marked by informality and consensuality, involving mostly girls and adult men (TAYLOR *et al.*, 2015, p. 11).

Worldwide³, Brazil is the fourth country with the highest absolute number of early marriages – in 2006, it was estimated that around 3 million women had been married before turning 18 years old (TAYLOR *et al.*, 2015, p. 11). In Latin America and the Caribbean, Brazil ranks as the third country with the highest percentage rates of child marriage (36%) (GIRLS NOT BRIDES, 2017, p. 2).

Still, such unions remain extremely poorly disclosed. Even though child marriage generates relevant social, legal, economic, and health effects for part of the Brazilian population, there are very few attempts to examine it from a socio-legal perspective. This invisibility prevented the phenomenon from being treated as a problem on the public agenda and becoming a political priority for many years (MAGALHÃES *et al.*, 2019, p. 90).

In 2015, the Committee on the Rights of the Child urged Brazil to (i) conduct a comprehensive study on the causes of child marriage and its consequences on girls' rights to education, health, and development; (ii) design a strategy to eradicate the practice; and (iii) undertake comprehensive awareness-raising programmes on the negative implications of early unions (CRC, 2015, p. 7). As of now, all recommendations have been disregarded by the

³ Once again, China was not considered in such mapping due to a lack of information.

government, and the theme has only recently entered the public sphere, albeit timidly, through public hearings organized by the Chamber of Deputies' committees focused on protecting women's rights⁴ and one of Agenda 227's public policy proposals⁵.

2. LEGAL NORMS REGARDING CHILD MARRIAGE IN BRAZIL

First, it is important to clarify that there is more than one type of marital union in Brazil. The only inherent formal union is the civil marriage (arts. 1,512 and 1,514 of the Civil Code – CC). Among the informal unions, there is the religious marriage, which, if properly regularized, has the same legal recognition as civil marriage (arts. 1,515 and 1,516, CC); the stable union, that is, legally recognized family entities marked by public, continuous and lasting coexistence that can be converted into civil marriage (arts. 1,723 and 1,726, CC); and the consensual union, in which the couple lives in an informal and unregistered relationship. In Brazil, child marriage happens in all union types.

Besides the international treaties in force in the country, Brazil has some regulations that propose to prohibit the occurrence of formal child marriages, as well as, until very recently, exceptions that allowed their realisation, which lead to several ambiguities and loopholes, especially concerning agency and consent (TAYLOR *et al.*, 2015, p. 29). These regulations spread disorderly over three legal areas: Child Rights, Family Law, and Criminal Law.

Regarding the first area, because of the pressing ratification of the CRC, in 1991, the Statute of Children and Adolescents (Law No. 8,069/1990 – ECA) was enacted, which is the main legal reference in the country regarding children and adolescents' rights. Notwithstanding, the only mention made of child marriages in the ECA refers to the competence of the Children and Youth Justice to supply the capacity or consent for marriage (art. 148) for children and adolescents whose rights are threatened or violated by the State, parents, or legal guardians (art. 98). The Youth Statute (Law No. 12,852/2013), on the other hand, omits the topic.

⁴ The first public hearing was held in November 2017 by the Commission for the Defence of Women's Rights at the request of federal deputies Erika Kokay and Carmen Zanotto (BRAZIL, 2017); the second was held in January 2022 by the External Commission on Domestic Violence Against Women at the request of federal deputies Tábata Amaral and Rosana Valle (BRAZIL, 2022); and the third was held in June 2023, again by the Commission for the Defence of Women's Rights, at the request of federal deputy Sâmia Bomfim (BRAZIL, 2023).

⁵ Agenda 227 is a non-partisan movement of Brazilian civil society that fights for the effective implementation and monitoring of public policy proposals for the protection of children and adolescents. One of them (no. 83) aims to reduce early pregnancy and child marriage rates in Brazil and improve care for girls exposed to these violations (AGENDA 227, 2022, p. 129).

As for Family Law, while the CC determines that the civil majority is reached only after 18 years of age (art. 5), it also establishes the marriageable age at 16 years old. For adolescents aged 16 to 17 years old, their marriage depends on the authorisation of both parents or legal representatives (art. 1,517) or a court order (art. 1,519)⁶; as soon as the adolescents reach 18 years of age, they become capable of marrying without anyone's approval. It is important to note, however, that, until very recently, the CC stipulated two exceptions that allowed the marriage of adolescents younger than 16 years old (art. 1,520).

The first exception was applied when a sexual aggressor sought to avoid the imposition or the fulfilment of a criminal penalty through his marriage to the victim. It was connected to one of the sexual crimes' punishment extinguishing hypotheses under the Criminal Code (art. 107), which was revoked in 2005, through Law No. 11,106, but not removed from the CC for another 14 years. The second exception, which was revoked in 2019, by Law No. 13,811, authorised the marriage of children and adolescents in the event of early pregnancy. Notwithstanding, between April 2019 (the month following the entry into force of this law) and December 2021, there were 364 girls and 30 boys younger than 16 years old involved in formal marriages across the country (IBGE, 2023).

Regarding the consequences of formal marriage, the most relevant one is the immediate reaching of the civil majority by the minor spouse (art. 5). As for the possibilities of annulment of the union, the CC presents the cases in which (at least) one spouse had not reached, on the date of celebration, the marriageable age (art. 1,550) or, even if one spouse was 16 or 17 years old, but the union had not been allowed by their legal representatives (art. 1,550); such possibilities, however, cannot be applied if the marriage resulted from early pregnancy (art. 1,551), even though, as previously highlighted, this exception that enabled child marriage was revoked in 2019.

Furthermore, there are no specific legal sanctions for those involved in child marriages, even though, in 2009, Law No. 12,015 included art. 217-A to the Criminal Code, introducing the crime of rape of a vulnerable person, which is the practice of a lewd act with a person under 14 years of age, regardless of the victim's consent or the fact that they had had sexual experiences before the crime. This law arose from a suggestion by the Joint Parliamentary

⁶ Such norm is similar to the joint recognition, by the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of the Child, of the exceptional permission for children of at least 16 years of age to marry, provided that the adolescent shows enough maturity and autonomy to do so and that such decision is made by a judge based on legitimate exceptional grounds defined by law, without deference to culture and tradition (CEDAW & CRC, 2014, p. 7).

Inquiry Commission (CPMI) created in 2003 by the National Congress to investigate the networks of sexual exploitation of children and adolescents in Brazil. According to the CPMI, people under 14 years old do not have discernment for the practice of sexual acts, so that, for their protection, they should be deemed legally incapable of sexual consent (BRAZIL, 2004, p. 330).

Additionally, at the executive level, the national plans relating to the protection and guarantee of the rights of children and adolescents, such as the National Plan to Combat Sexual Violence, the National Plan for Family and Community Coexistence, and the Decennial Plan, all under the responsibility of the National Council for the Rights of Children and Adolescents, remain silent on the issue.

Given these circumstances, the insufficiency of gender- and age-specific and transversal public programs and policies at federal, state, and municipal levels is not surprising. Although there are initiatives aimed, individually, at combating school truancy, preventing early pregnancy, and combating adult domestic violence, such initiatives are hardly transversal and disregard the specific needs of girls and the social context in which practices such as child marriage occur (BRUCE, 2006). Likewise, there is a noticeable absence of specific initiatives aimed at educating children and adolescents about the risks of child marriage and supporting those who have already contracted it (MAGALHÃES *et al.*, 2019, p. 81, 85).

3. WHAT WE ALREADY KNOW (QUALITATIVELY) ABOUT CHILD MARRIAGE IN BRAZIL

The few existing locally produced qualitative data on the reality of child marriage in Brazil resulted mostly from two relevant studies that aimed to contribute to the understanding of this practice in some states of the federation, identifying its causes and consequences to inspire interventions based on evidence.

The first of them, carried out by Instituto Promundo in 2014, focused on the low-income urban areas of Belém, in the state of Pará, and São Luís, in the state of Maranhão (TAYLOR *et al.*, 2015)⁷. The second was held by Plan International Brasil between 2017 and 2018 in the municipalities of Salvador, Camaçari, and Mata de São João, in the state of Bahia,

⁷ The research team carried out 60 in-depth semi-structured interviews, 50 key informant interviews, 6 focus group discussions, and a quantitative household survey with 145 men and 150 girls (TAYLOR *et al.*, 2015, p. 12).

and the municipality of Codó, in the state of Maranhão (MAGALHÃES *et al.*, 2019)⁸. Although carried out by different NGOs, in different locations and periods, both studies presented similar diagnoses.

One of the findings of the studies was a common understanding – among young wives, their husbands, and family members – that the process of ‘becoming a woman’ is linked to a girl's sexual initiation and/or puberty. Similarly, the conceptions of marriage eligibility present a gender bias: men must have a job and ‘responsibility’ before getting married, while girls may marry when their bodies begin to show signs of puberty and/or during their period of sexual initiation. For most young wives and husbands, the notions of female maturity and responsibility are closely associated with the passage of girls into adulthood through marriage, when they take on the care of the house, children, household expenses, etc. (TAYLOR *et al.*, 2015, p. 50-51; MAGALHÃES *et al.*, 2019, p. 37-38, 42-43).

The predominantly informal and supposedly consensual nature of child unions was confirmed by both studies, as well as the preponderance of girls – around 15 years old – marrying men on average nine years older. Couples often meet in informal, random circumstances, and the ensuing events in their relationships – in particular, pregnancy and marriage – occur without much planning and in a rather short period (TAYLOR *et al.*, 2015, p. 13, 50; MAGALHÃES *et al.*, 2019, p. 64-67, 92-93).

It is important to emphasize that young wives are victims of the patriarchal system and structural racism, and most of them were raised in a somewhat similar environment, having experienced the same difficulties, such as poverty; deficient education and/or school evasion; lack of sexual education, early sexual activity, and child pregnancy; weak family structures, sexual and domestic violence; living in peripheral and vulnerable communities, with poor infrastructure and weak enforcement of public policies; and, consequently, very limited opportunities (TAYLOR *et al.*, 2015, p. 73-74; UN WOMEN *et al.*, 2016, p. 7-11; MAGALHÃES *et al.*, 2019, p. 24-28; WIEDEMANN, 2021, p. 13).

Several overlapping factors motivate child marriage in Brazil, but some stand out (TAYLOR *et al.*, 2015, p. 59-72; MAGALHÃES *et al.*, 2019, p. 38-75). Regarding the girls' family members, their desire to, initially, control the girls' sexuality and limit perceived ‘risky’

⁸ The study included the collection and analysis of secondary data on child marriages and related topics at national and local levels; the analysis of national legal and institutional frameworks around the topic; and the conduction of 84 semi-structured interviews with key informants and 30 focus group discussions with 218 participants (MAGALHÃES *et al.*, 2019, p. 12-13).

behaviours, and, eventually, to protect their reputation because of an unwanted pregnancy or the girls' loss of virginity. Concerning the girls, their search for financial security and aspiration to leave home and escape parental control and abuse. For the husbands, their preference for marrying girls and their disproportionate decision-making power in such marriages. Finally, regarding external factors, the influence of religion (mostly Evangelical/neo-Pentecostal denominations) on gender attitudes and norms that enable child marriage, the role of the media, music, and television in spreading model behaviours that highly sexualize and objectify girls and women, and the exposure to urban violence and limited mobility were highlighted.

The major consequences of child marriage identified by both studies are the perpetuation of the cycle of domination and reproduction of gender roles, social norms, and marital inequality; early pregnancy and related maternal, new-born, and child health problems; the girls' school failure, truancy, and dropout; their disproportionate burden with care labour; their loss of freedom, mobility, and social networks; their lack of professional development and financial dependence on their husbands; their precarious and/or late entry into the labour market; their greater chances of suffering intimate partner violence and abuse; their emotional and psychological unpreparedness; their difficulties to judicially separate/divorce and lack of legal protection; and the limitation of their life projects (TAYLOR *et al.*, 2015, p. 79-114; MAGALHÃES *et al.*, 2019, p. 37-66).

Concerning judicial separation⁹ or divorce, Instituto Promundo's study showed that the end of a marriage brings about fewer changes for men, who benefit from larger social networks than their former spouses and barely provide financially for their children. The girls, however, are left with few to no education and employment prospects, limited social networks, complete responsibility for their children, and stigma from 'being left by their man' (TAYLOR *et al.*, 2015, p. 112-113).

In other cases, judicial separation or divorce "is not even possible due to fear of the spouse acting violently, or the girl being unable to provide for herself and her children". Either way, the girls' family members generally discourage separation, since they don't want to bear the economic and social burden of having to help the mothers and children. According to them, "despite being considered old enough to bear children and marry, girls are largely considered

⁹ A judicial separation is proposed, by one or both spouses, because of one or more acts that entail a serious violation of the marriage duties and make life together unbearable. When ratified, the judicial separation puts an end to the duties of cohabitation and reciprocal fidelity and the regime of property (arts. 1,572 and 1,576, CC).

not old enough to make other major decisions on their own, such as when to leave a marriage” (id., p. 113-114).

Considering the triplet ‘legislation–judicial decisions–institutions’ that must protect and offer support to married children and adolescents, the mentioned studies highlighted, regarding legislation, the insufficiency of enforcement and inspection of the existing norms, as well as their inability to consider the existing ambiguities and gaps. Regarding judicial decisions, the studies showed an absence of criticism and questioning by the judges who, having the legal decision-making power on the matter, hardly ever deny authorization to formal unions before the marriageable age, holding the girls fully accountable for their decision and its consequences.

Finally, regarding institutions, the studies revealed the inadequate and often discriminatory provision of services; the lack of professional training; the lack of knowledge, by the girls, of the existence and form of access to such institutions; a demand much higher than the service capacity of the institutions; and the absence of gender- and age-specific transversal public policies on the subject (TAYLOR *et al.*, 2015, p. 114-116; MAGALHÃES *et al.*, 2019, p. 87).

4. WHAT NATIONAL QUANTITATIVE DATA TELLS US ABOUT CHILD MARRIAGE IN BRAZIL

Considering Latin America and the Caribbean's prevalence of child marriage, one could expect its countries to be concerned over their participation in the matter, either out of legitimate worry or out of pressure from international organisations and conventions. In general, to compute the prevalence of child marriage, countries rely on data from Demographic and Health Surveys (DHS) and Multiple Indicators Cluster Surveys (MICS) that provide information on women's age at their first marriage (WODON *et al.*, 2019, p. 6).

Brazil has not yet taken part in any MICS and, even though the country's last national DHS was focused on child and women's health, it makes only a very brief mention of women's age when they entered their first union (MINISTRY OF HEALTH, 2008). Therefore, it is not surprising that the relevant literature and even the studies mentioned in the previous part cite only international estimations and not locally produced data.

To quantitatively identify the extent and key characteristics of child marriage in Brazil, I searched for the most recent and reliable sources of data on the subject, finding only two sources. The first one is the 2010 Demographic Census (hereinafter, Census), carried out by the Brazilian Institute of Geography and Statistics (IBGE), which enables the identification of formal and informal child marriages among many population groups. The second source is the IBGE's Civil Registry Statistics, which considers only formal marital unions in Brazil, that is, civil marriages.

Regarding the Census, even if Wondon *et al.*'s (2019, p. 6) concern that it might present lower responses compared to those achievable through the DHS or MICS is true, a lot of data has been collected on nuptiality, namely the marital union's nature and marital status of people from 10 to 17 years of age according to conjugality¹⁰, educational level, household monthly income, race, residence location, and sex (IBGE, 2010, p. 110-202). From all the available data, I will focus on the variables mostly mentioned in the previously cited national and international research on child marriage.

Table I – People from 10 to 17 years old living in a marital union in Brazil, by union's nature, according to sex, race, residence location, and household monthly income (2010)

Variables		Marital unions' nature		
		All	Formal marriages	Informal unions
All		655,935	68,601	587,334
Sex	Girls	554,091	56,241	497,850
	Boys	101,846	12,361	89,485
Race	White	228,546	30,361	198,185
	Black ¹¹	409,735	37,024	372,711
	Asian	7,998	694	7,304
	Indigenous	9,656	522	9,134
Residence location	Urban ¹²	489,173	52,771	436,402
	Rural	166,763	15,831	150,932
Household monthly income ¹³	No income	54,734	5,116	49,618
	Up to 144.96 USD	51,682	3,641	48,041

¹⁰ That is, whether people currently share, have done so or have never shared their household with their spouse or partner (IBGE, 2010, p. 33-34).

¹¹ In this article, I use 'Black' as referring to the Brazilian Portuguese word 'negro', which comprises both the notions of 'black' ('preto') and 'brown' ('pardo') used by IBGE.

¹² Areas urbanized or not within the urban perimeter of cities or isolated (IBGE, 2010, p. 26).

¹³ The minimum wage brackets were used to calculate the household monthly income, according to the amount in effect in 2010, which was 510.00 Brazilian reais (IBGE, 2010, p. 40). Those values were subsequently converted to US dollars in accordance with the average exchange rate in 2010, which was 0.5685 USD per 1 BRL (EXCHANGE RATES UK, 2023).

	144.97 – 289.93 USD	102,356	9,061	93,295
	289.94 – 579.87 USD	179,261	18,646	160,615
	579.88 – 869.80 USD	100,690	10,924	89,766
	869.81 – 1,449.67 USD	98,403	11,310	87,093
	1,449.68 – 2,899.35 USD	55,104	7,254	47,850
	2,899.36 – 5,798.70 USD	10,291	1,762	8,529
	More than 5,798.71 USD	2,795	827	1,968

Source: Adapted from IBGE, 2010, p. 111-112, 182-183, 198-202.

As displayed in Table I, according to the Census the number of girls involved in formal and informal marriages in Brazil is over five times bigger than the number of boys – 4% of the female population aged 10 to 17 years were in a marital union (1.36% of the total women married) versus 0.73% of the male population of the same age (0.25% of the total men married) (IBGE, 2010, p. 111; 2011, p. 114) –, which confirms the diagnosis that child marriage is a practice that affects mainly girls. Besides that, it is interesting to notice that informal unions correspond to 89.5% of child marriages in the country versus 39.4% of marriages involving only adults (IBGE, 2010, p. 111), which also validates the consensus of the child unions' informality.

The Census also displays the correlation between child marriage and race in Brazil. While marriages involving White children and adolescents represent 0.57% of this racial group's unions (encompassing 1.97% of its population between 10 and 17 years old), marriages involving Black children and adolescents represent 1.03% of those unions (encompassing 2.64% of its population), marriages involving Asian children and adolescents represent 0.83% of the unions (encompassing 2.99% of the population), and marriages involving Indigenous children and adolescents represent 3.06% of the unions (encompassing 6.6% of the population) (IBGE, 2010, p. 182; 2011, p. 132). Even if such results confirm the assessment that historically marginalized populations in Brazil – namely, the Black and Indigenous communities – are the main victims of rights violations, including child marriage, they also reveal that the Asian population is noticeably affected by such practice.

Regarding the young wives' and husbands' residence location, they represented 0.71% of the total urban marriages, involving 2.17% of the local population between 10 and 17 years old, and 1.28% of the total rural marriages, encompassing 3.28% of the local population of the same age (IBGE, 2010, p. 112; 2011, p. 114). Such results reveal that even though children and

adolescents residing in rural areas have a higher propensity to be part of child marriages, such unions also happen in urban areas.

Finally, concerning household monthly income, there is a noticeable correlation between poverty and child marriages, given the incidence of marriages involving people aged 10 to 17 years decreasing concurrently with the increase in income: such unions involving people with no income represented 2.02% of the total marriages; those with a monthly income of up to 144.96 USD represented 1.66%; those with an income of 144.97 to 289.93 USD represented 1.88%; those with an income of 289.94 to 579.87 USD represented 1.11%; those with a monthly income of 579.88 to 869.80 USD represented 0.76%; and so on until the unions involving people with a monthly income of more than 5,798.71 USD, who represented only 0.08% of the total marriages (IBGE, 2010, p. 198-202).

Focusing now on the Civil Registry Statistics, even though it has information only on formal marital unions between spouses of different sexes – that is, only civil marriages, which represent only 10.5% of the national child marriages (id., p. 111) – celebrated between 2003 and 2021¹⁴ by children and adolescents¹⁵, it specifies the nationality and marital status of the spouses, the place of registration (regions, federation units, and municipalities), and the months of the marriages' occurrence and registration. Once again, I will target the variables mostly mentioned in the research on child marriage.

Firstly, it is important to note that there has been a continuous decline in formal marriages involving children and adolescents in Brazil, both nationally (reduction of 66.9%) and in all its regions (43.4% for North, 75% for Northeast, 67.5% for Central-West, 58.7% for Southeast, and 71.2% for South), between 2003 and 2021, however, the lack of complementary data does not allow for the formulation of viable hypothesis for the reasons of this occurrence. Nonetheless, in 2021 Brazil still registered 16,572 formal child marriages, which, if only accounting for unions involving girls, means that 45.4 of them got formally married in the country per day (IBGE, 2023).

Going beyond absolute numbers – according to which the regions of Brazil with the highest rates of civil marriages for girls under 18 years of age in 2021 were Southeast (5,197 unions) and Northeast (4,713 unions) –, it is important to note that percentage-wise, the regions

¹⁴ When conducting the survey on the IBGE's Automatic Recovery System platform, August 8, 2023, 2021 was the last year with recorded data.

¹⁵ No specification is made regarding the starting age from which the data are collected, only the ending one (17 years old).

with the highest levels of child marriages involving girls were North (2.97% of the total marriages) and South (2.26% of the total marriages) (id.).

The Civil Registry Statistics also show that, as was the case in 2021, there is a tendency for girls to formally marry older men, which is not seen in the case of boys, who tend to marry women of a closer age (id.). While girls tend to marry men who are aged 20 to 24 years old (52%), followed by those aged 18 to 19 years old (23%) and by those aged 25 to 29 years old (15%); boys tend to marry women who are on their same age group (47%), followed by those aged 18 to 19 years old (31%) and by those aged 20 to 24 years old (17%).

Table II – People up to 17 years old living in a formal marital union in Brazil according to sex, place of registration of the union and the girls' marriages percentage compared to the total number of formal unions (2021)

Regions of Brazil	Federative units	Sex		Girls' marriages compared to the total number of unions
		Girls	Boys	
North	Rondônia	745	48	6.16%
	Acre	128	6	3.28%
	Amazonas	188	19	1.44%
	Roraima	45	0	2.05%
	Pará	942	60	2.73%
	Amapá	31	0	1.11%
	Tocantins	177	11	2.5%
Northeast	Maranhão	725	69	3.39%
	Piauí	194	22	2.28%
	Ceará	674	75	2.02%
	Rio Grande do Norte	198	26	1.51%
	Paraíba	384	32	2.4%
	Pernambuco	955	84	2.18%
	Alagoas	392	44	2.86%
	Sergipe	94	9	1.3%
Bahia	1,097	84	1.8%	
Central-West	Mato Grosso	463	36	2.68%
	Mato Grosso do Sul	381	72	2.69%
	Goiás	763	64	2.52%
	Distrito Federal	158	22	0.77%
Southeast	Minas Gerais	2,035	125	1.95%
	Espírito Santo	456	28	1.98%
	Rio de Janeiro	440	28	0.58%
	São Paulo	2,266	214	0.99%
South	Paraná	1,494	191	2.95%
	Santa Catarina	527	45	1.67%

	Rio Grande do Sul	620	86	1.81%
--	-------------------	-----	----	-------

Source: Adapted from IBGE, 2023.

Finally, as displayed in Table II, formal marital unions involving children and adolescents occur in all Brazilian states – and most municipalities (IBGE, 2023) –, even though it is particularly concentrated in the state of Rondônia (6.16% of the total state marriages). However, when focusing on unions involving girls up to 15 years old – which have been declared unexceptionally illegal since 2019 –, the states that stand out are Paraná (where every 6.1 days, a girl was formally married in 2021) and Mato Grosso do Sul (where, every 19.2 days, a girl was formally married in the same year).

5. THE OUTLINE OF GIRLS' MARGINALISATION IN BRAZIL

As previously mentioned, the modern ideal of pure, innocent, and vulnerable childhood usually guides legal and political discussions on female childhood and adolescence. When such an ideal is undermined by the admission of sexual and/or marital practices, these girls often have their child/adolescent status questioned, being deemed as unworthy of the special protections afforded to children and adolescents and held accountable for their ‘mistakes’ as adults.

In this regard, I highlight a collegiate decision from the Brazilian Superior Court of Justice (STJ), handed down in March 2024, that deals with a case of continued rape of a vulnerable person that led to the pregnancy of a 12-year-old girl by a 20-year-old man, who was acquitted on the grounds that he was unaware of the illegality of his practice. In the words of the minister reporting on the case, Reynaldo Soares da Fonseca, it is imperative to recognize the exceptionality of “situations in which life is greater than the law”, such as those “in which 12-year-old children enter into a union and, from that, babies are born”, so that these families and, especially, the babies, are not further harmed (BRAZIL, 2024).

It is worth noting that such judgments are extremely influenced by gender, social class, race, ethnicity, and culture – which is magnified in a country marked by patriarchy, racism, and colonization, in which child marriage happens in a complex social scenario marked by many incongruencies. When focusing specifically on sexual practices, the gender of the children and adolescents gains even more relevance considering the patriarchal system's different processes

of socialization and education of boys and girls. While boys' sexuality is generally valued and encouraged, not affecting their special legal protection because of age, girls' sexuality is a source of moral panic for families and public institutions (MAGALHÃES *et al.*, 2019, p. 55).

Therefore, in Brazil, the understanding that “childhood is a culturally formed and socially constructed concept that is subject to constant change” (BETZ, 2010, p. 13) and that the girls' social class, race, ethnicity, and culture intersect to inform their experience of the world (AMOAHA, 2007) are notably absent, perpetuating their marginalisation (TAEFI, 2009, p. 346). The complexity of such a scenario can be further observed in the discussion around the young wives' agency.

5.1 RECOGNIZING YOUNG WIVES' AGENCY

One hallmark of child marriage in Latin America and the Caribbean is the alleged agency of the young wives, which contradicts the international children's rights advocacy discourse on the inherent lack of consent in early marriages (UNICEF, 2001, p. 8; EQUALITY NOW, 2014, p. 13), whereupon, as highlighted by Karl Hanson (2016, p. 474), “even if girls under the acceptable age limit choose to marry, according to the current human rights regime, this choice cannot be, per definition, understood as an autonomous choice”.

According to Laura Ahearn (2001, p. 7), agency refers to “the culturally constrained capacity to act”. The author explains that agency “is a concept that *is itself context-dependent*”, being “tied up with culturally and historically variable notions of personhood that can be influenced by such things as capitalism”, Western development endeavours, colonialization, etc. (id., p. 54). It is important to recognize that agency is not synonymous with free will, since people's actions are always socially, culturally, and linguistically constrained, nor with resistance, since it “may also involve complicity with, accommodation to, or reinforcement of the status quo” (id., p. 55).

Concerning children's agency specifically, sociologists James & James (2012, p. 4) conceptualize it as their ability to have *some* control over their life direction and to play *some* part in the changes that take place in society. The amount and content of this ‘some’ then becomes a central query of the Sociology of Childhood, which, even after its 1990s paradigm shift, hasn't abandoned its paternalistic approach nor its universality (BORDONARO & PAYNE, 2012).

More recently, however, the examination of childhood in a historical context has shown that the experiences of children and adolescents are culturally specific, socially constructed, and contradictory (BUNTING, 2005, p. 21). Such recognition gave rise to research on the variety of children's agency types, as well as on its ambiguity and ambivalence (OSWELL, 2021, p. 35).

Table V – Types of Agency and Description by Authors

Type of Agency	Description	Author
Accommodating	Actions that do not challenge traditional norms but try to accommodate them as a subterfuge.	MacLeod (1992)
Opportunistic	Selection of the ends to suit the available means rather than the reverse, recognizing the difference between a promising and an unpromising offer.	Johnson-Hanks (2005)
Tactical	Actions designed to respond to the circumstances of one's immediate environment and maximize the effectiveness of that concrete response.	Honwana (2006)
Subtle	Informal strategies, often unnoticed, designed to quietly resist prevailing dominant power relations.	Bell (2007)
Thick	Having the latitude to act within a broad range of options.	Klocker (2007)
Thin	Decisions and everyday actions that are carried out within highly restrictive contexts, characterized by few viable alternatives.	Klocker (2007)
Transformative	One's ability to transform and remake traditional norms.	Bajaj (2009)
Everyday	Dealing with situations of so-called crisis and vulnerability that are frequently perceived to be a part of everyday life by children themselves.	Payne (2012)
Oppositional	Adoption of transgressive behaviours and engagement in directly oppositional and combative social practices.	Murphy-Graham & Leal (2015)

Source: Own authorship, 2023.

As shown in Table V, many types of agency have been empirically found present in the daily lives of children all over the globe. Their theorization aims to amplify the contours of what is generally understood as children's capacity to understand and act, by highlighting the social and economic constraints that limit them (e.g., accommodating, thin, and everyday agency), the ability to resist such constraints (e.g., thick, transformative, and oppositional

agency), and the complex space in between both extremes (e.g., opportunistic and tactical agency).

These concepts have been drawn by the authors' "reluctance to be dismissive of the pressures placed on" the children and adolescents, "by poverty and various socio-cultural factors, to enter (and to stay in) potentially appalling" situations (such as child marriages, child labour, sexual exploitation, among others), and, at the same time, recognition that "their agency in this process cannot be completely denied, as they understand and actively negotiate the expectations and power relations that surround them while making decisions aimed at improving their own lives and those of their families" (KLOCKER, 2007, p. 84-85).

All authors also recognize that children's agency can be modified "over time and space, and across their various relationships", contexts and structures so that such types seek to "convey a sense of the 'layering' or 'eroding' effects of the multiplicity of factors that affect" their agency (id., p. 85).

It is important to note, however, that, as denounced by Lorenzo Bordonaro (2012, p. 422), even if unintentionally, these types of agency may paradoxically reinforce the moral distinction between what is appropriate or not for children to do. Such division is highly employed by the international children's rights advocacy discourse, which, in the name of protecting children and adolescents against exploitation, deems their agency to engage in improper behaviour impossible by definition (HANSON, 2016, p. 474).

This is the case for girls involved in child marriage. Even though, on a conceptual level, both the action to marry and the decision to not do so can be seen as an outcome of exercising agency, when the one acting is a girl, this is not the case, for she has no recognized agency to do something that would, theoretically, go against her best interest (HORII, 2020, p. 255, 260). Such judgment, however, does not protect her interests – adequately or at all – and, on the contrary, inhibits young wives from calling for help when they need it.

A survey by Taylor *et al.* (2019, p. S47) found that in Latin America and the Caribbean countries – including Brazil –, the legal, social, and/or cultural systems of norms prescribing what girls and women should and should not do, and the reaction of such girls to them lead to child marriages. The authors conclude that social norms that sustain child marriage interact with the "girls' agency and the multiple actors influencing decisions about marriage, relationships, and sexuality" (p. S50). In Mowri *et al.*'s words (2020, p. 22), "consenting to marriage is almost

never free of degrees of socio-cultural obligations, control of sexuality, persuasion, pressure, threat and force from different actors”.

However, when listening to the girls' perspectives, it becomes clear that, very often, “they themselves made the decision to marry”, either for love, for belonging to the community, or for better life opportunities (HORII, 2020, p. 266). Therefore, the recognition of their agency is fundamental for comprehending the practice of child marriage and proposing public services and programs that both prevent it and aid the girls already married, allowing them to “lead the lives they wish to live” (id.).

Acknowledging young wives' agency in a more nuanced, dynamic, and critical way, without neglecting the historical, cultural, social, and economic forces that influence their decisions relies on a relational reconceptualization of children's agency, as suggested by Florian Esser (2016, p. 51). According to his approach, “agency cannot be separated from childhood, as an element of the generational hierarchy that defines that agency, and is itself defined through that agency”, and it is simultaneously understood as a social phenomenon, having always to be analysed in terms of concrete relationships of children (id., p. 58).

By being grounded in the conditions that factually and symbolically impact the occurrence and consequences of child marriage (BUNTING, 2005, p. 33), such an approach allows for the recognition of (im)balances of power, structures, and institutional force between the agents, without silencing them (HORII, 2020, p. 261).

FINAL REMARKS AND RECOMMENDATIONS

Guided by the modern ideal of pure, innocent, and vulnerable childhood, the children's rights advocacy discourse often tends to assume that young brides are ‘victims’ in need of liberation through induction into the progressive and morally proper social and legal norms. If, however, the girls claim that they do not need any help, even if internationally their agency is denied, in Brazil they will be deemed as unworthy of the special protections afforded to children and adolescents and held accountable for their decisions as adults.

It is evident that legally prohibiting and morally condemning child marriage has not stopped thousands of Brazilian girls from getting into such unions, now it is time to recognize that it has hindered their access to help and support through public services and programs for fear of judgment and punishment. Even though there are relevant differences between giving

in, consenting, and deciding, a more nuanced, dynamic, and critical understanding of children's agency in general – such as Esser's (2016) relational approach –, and young wives' agency specifically, is needed for truly comprehending the practice of early marriage in the country and developing public services and policies that both prevent it and aid married girls in their daily lives.

Therefore, specifically regarding the reality of Brazilian girls involved in child marriage, I suggest that a thorough consideration of their agency should start from the recognition that adopting a theoretical ideal of innocence does not guarantee their protection, but, contrariwise, places them at a greater social risk. Be it because it leads to their exclusion from legal guarantees, or because it disregards a series of economic, social, and cultural factors that simultaneously contextualise and constrain their life experiences, choices, and desires. Consequently, the legal and political understanding of these young wives' agency should consider their living conditions and be grounded in the provision of efficient and sufficient services and public policies capable of ensuring their general rights and specific needs.

However, for the later application of this approach to be possible, a series of other measures are necessary. First and foremost, it is about time that Brazil properly recognises the seriousness of the occurrence of child marriage in its territory and the State's responsibility in providing transversal public policies that aim at guaranteeing rights, knowledge, and sufficient opportunities so that all girls have many options in building their life projects even in face of the intricate national scenario and their gender- and age-specific marginalisation.

Given the recent legislative change removing any exceptions that legally permitted the marriage of adolescents under 16 years old, pushing for the rise of the marriageable age to 18 years old seems implausible and fruitless in the current political and social scenario. Nonetheless, understanding the permanence of such marriages regardless of legal reform and, mainly, the prevalence of informal unions – whether through the systematic collection and analysis of specific national and local data on the subject, preferably by DHS and MICS, or through the promotion and encouragement of research on the topic – is overdue.

Additionally, it is essential to not only include child marriage prevention and support for young wives in current public programs and actions, but also build a common agenda between the Judiciary and Executive bodies to ensure the implementation of intersectoral programs and actions, with specialized and integrated care in the areas of health, education, social assistance, and labour. Accordingly, promoting a significant change in the current school

programmatic curriculum, including issues linked to gender, race, discrimination, violence, and comprehensive sex education – subjects of extremely polarized discussions in Brazil –, and facilitating the access of children and adolescents to public health services is unavoidable.

Given the complexity of the practice, more and better data and new research on child marriage are needed to “drive evidence-based policies and programs and contribute to better measures of tracking progress toward change” (TAYLOR *et al.*, 2015, p. 127). For that, the recognition of children's agency becomes of paramount importance, as well as respecting and listening to young wives' experiences to understand the roots and consequences of their marriage. It is by listening to them that we can better protect and empower our children.

REFERENCES

ABEBE, Tatek. Reconceptualising Children's Agency as Continuum and Interdependence. *Social Sciences*, Basel, v. 8, n. 3, p. 81-96, 2019.

AGENDA 227. *Plano País para a Infância e para a Adolescência: Propostas de Políticas Públicas*. Brasília: Agenda 227, 2022.

AHEARN, Laura. Language and Agency. *Annual Review of Anthropology*, San Mateo, v. 30, n. 1, p. 109-137, 2001.

AMOAHA, Jewel. The World on Her Shoulders: The Rights of the Girl-Child in the Context of Culture and Identity. *Essex Human Rights Review*, Colchester, v. 4, n. 2, p. 1-23, 2007.

BAJAJ, Monisha. ‘I have big things planned for my future’: The Limits and Possibilities of Transformative Agency in Zambian Schools. *Compare*, Oxfordshire, v. 39, n. 4, p. 551-568, 2009.

BELL, Stephen. ‘The child drums and the elder dances’? Girlfriends and Boyfriends Negotiating Power Relations in Rural Uganda. In: PANELLI, R.; PUNCH, S.; ROBSON, E. (Eds.). *Global Perspectives on Rural Childhood and Youth: Young Rural Lives*. Oxfordshire: Routledge, 2007. p. 179-191.

BETTIS, Pamela; ADAMS, Natalie. Landscapes of Girlhood. In: BETTIS, P.; ADAMS, N. (Eds.). *Geographies of Girlhood: Identities In-Between*. Mahwah: Lawrence Erlbaum Associates, 2005. p. 1-16.

BETZ, Tanja. Modern Children and Their Well-Being: Dismantling an Ideal. In: ANDRESEN, S. *et al.* (Eds.). *Children and the Good Life: New Challenges for Research on Children*. Dordrecht: Springer Science+Business Media, 2010. p. 13-28.

BORDONARO, Lorenzo. Agency does not mean freedom. Cape Verdean street children and the politics of children's agency. *Children's Geographies*, Abingdon, v. 10, n. 4, p. 413-426, 2012.

BORDONARO, Lorenzo; PAYNE, Ruth. Ambiguous agency: critical perspectives on social interventions with children and youth in Africa. *Children's Geographies*, Abingdon, v. 10, n. 4, p. 365-372, 2012.

BRAZIL. Chamber of Deputies. Casamento precoce, suas implicações e a legislação nacional sobre o tema. *Audiências Interativas*, Brasília, November 8, 2017. Retrieved from: <https://edemocracia.camara.leg.br/audiencias/sala/554/>. Accessed in: August 8, 2023.

BRAZIL. Chamber of Deputies. Abuso Infantil e Casamento Infantil. *Audiências Interativas*, Brasília, February 23, 2022. Retrieved from: <https://edemocracia.camara.leg.br/audiencias/sala/2599/>. Accessed in: August 8, 2023.

BRAZIL. Chamber of Deputies. Casamento na infância e adolescência no Brasil. *YouTube*, Brasília, June 22, 2023. Retrieved from: https://www.youtube.com/watch?v=s-5T_YmNmE0. Accessed in: August 8, 2023.

BRAZIL. National Congress. *Relatório final da Comissão Parlamentar Mista de Inquérito com a finalidade investigar as situações de violência e redes de exploração sexual de crianças e adolescentes no Brasil*. Brasília: Congresso Nacional, 2004.

BRAZIL. Superior Court of Justice. Quinta Turma - STJ - 12/03/2024. *YouTube*, Brasília, March 12, 2024. Retrieved from: <https://www.youtube.com/watch?v=YlywnMoDmj8>. Accessed in: March 18, 2024.

BRUCE, Judith. A Note on the Social and Economic Development and Reproductive Health of Vulnerable Adolescent Girls. *Expert Group Meeting on the Elimination of All Forms of Discrimination and Violence Against the Girl Child*, Expert Paper n. 11. Florence: UNICEF Innocenti Research Centre, 2006.

BUNTING, Annie. Stages of Development: Marriage of Girls and Teens as an International Human Rights Issue. *Social & Legal Studies*, London, v. 14, n. 1, p. 17-38, 2005.

BUNTING, Annie; ENGLE, Merry Sally. Global Regulation and Local Political Struggles: Early Marriage in Northern Nigeria. In: VENKATESH, S. A.; KASSIMIR, R. (Eds.). *Youth, Globalization, and the Law*. Stanford: Stanford University Press, 2007. p. 321-353.

CASTRO, Lúcia. Why global? Children and Childhood from a Decolonial Perspective. *Childhood*, Thousand Oaks, v. 27, n. 1, p. 48-62, 2020.

CASTRO, Lúcia. Decolonising Child Studies: Development and Globalism as Orientalist Perspectives. *Third World Quarterly*, Oxfordshire, v. 42, n. 11, p. 2487-2504, 2021.

CEDAW, CRC. *Joint General Recommendation No. 31 of the CEDAW. General Comment No. 18 of the CRC on Harmful Practices*. Geneva: UN, 2014.

CRC. *Concluding Observations on the Combined Second to Fourth Periodic Reports of Brazil*. Geneva: UN, 2015.

EGAN, R. Danielle; HAWKES, Gail. The Problem with Protection: Or, Why We Need to Move Towards Recognition and the Sexual Agency of Children. *Continuum*, Oxfordshire, v. 23, n. 3, p. 389-400, 2009.

EQUALITY NOW. *Protecting the Girl Child: Using the law to end child, early and forced marriage and related human rights violations*. New York: Equality Now, 2014.

ESSER, Florian. Neither “thick” nor “thin”: reconceptualising agency and childhood relationally. In: ESSER, F. *et al.* (Eds.). *Reconceptualising Agency and Childhood: New Perspectives in Childhood Studies*. London: Routledge, 2016. p. 48-60.

EXCHANGE RATES UK. Brazilian Real to US Dollar Spot Exchange Rates for 2010, London, 2023. Retrieved from: <https://www.exchangerates.org.uk/BRL-USD-spot-exchange-rates-history-2010.html>. Accessed in: August 8, 2023.

FAULKNER, Joanne. *The Importance of Being Innocent: Why We Worry About Children*. Cambridge: Cambridge University Press, 2011.

GARLEN, Julie. Interrogating Innocence: “Childhood” as Exclusionary Social Practice. *Childhood*, Thousand Oaks, v. 26, n. 1, p. 54-67, 2019.

GIRLS NOT BRIDES. Child Marriage in Latin America and the Caribbean. *Girls Not Brides*, London, Aug. 2017. Retrieved from: <https://www.girlsnotbrides.org/documents/535/Child-marriage-in-LAC-01.2017.pdf>. Accessed in: August 8, 2023.

HONWANA, Alcinda. *Child Soldiers in Africa*. Philadelphia: University of Pennsylvania Press, 2006.

HORII, Hoko. Walking a thin line: Taking children’s decision to marry seriously? *Childhood*, Thousand Oaks, v. 27, n. 2, p. 254-270, 2020.

IBGE. *Censo Demográfico 2010: Nupcialidade, Fecundidade e Migração*. Rio de Janeiro: IBGE, 2010.

IBGE. *Censo Demográfico 2010: Características da População e dos Domicílios*. Rio de Janeiro: IBGE, 2011.

IBGE. Estatísticas do Registro Civil 2003/2019. *Sistema IBGE de Recuperação Automática*, Rio de Janeiro, 2023. Retrieved from: <https://sidra.ibge.gov.br/pesquisa/registro-civil/quadros/brasil/2021>. Accessed in: August 8, 2023.

JAMES, Allison; JAMES, Adrian. *Key Concepts in Childhood Studies*. 2. ed. London: Sage Publications, 2012.

JOHNSON-HANKS, Jennifer. When the Future Decides: Uncertainty and Intentional Action in Contemporary Cameroon. *Current Anthropology*, Chicago, v. 46, n. 3, p. 363-385, 2005.

KLOCKER, Natascha. An Example of 'Thin' Agency: Child Domestic Workers in Tanzania. In: PANELLI, R.; PUNCH, S.; ROBSON, E. (Eds.). *Global Perspectives on Rural Childhood and Youth: Young Rural Lives*. Oxfordshire: Routledge, 2007. p. 83-94.

LOWENKRON, Laura. Consentimento e Vulnerabilidade: Alguns Cruzamentos entre o Abuso Sexual Infantil e o Tráfico de Pessoas para Fim de Exploração Sexual. *Cadernos Pagu*, Campinas, v. 45, p. 225-258, 2015.

LOWENKRON, Laura. Menina ou Moça? Menoridade e Consentimento Sexual. *DESidades*, Rio de Janeiro, v. 4, n. 10, p. 9-18, 2016.

MACLEOD, Arlene. Hegemonic Relations and Gender Resistance: The New Veiling as Accommodating Protest in Cairo. *Signs*, Chicago, v. 17, n. 3, p. 533-557, 1992.

MAGALHÃES, Daniella; SANTIAGO, Viviana; DEBIQUE, Flávio. *Tirando o Véu: Estudo sobre Casamento Infantil no Brasil*. São Paulo: Plan International Brasil, 2019.

MAHATI, Stanford; PALMARY, Ingrid. Independent Migrant Children, Humanitarian Work and Statecraft: Mapping the Connections in South Africa. In: O'DELL, L.; BROWNLOW, C.; BERTILSDOTTER-ROSQVIST, H. (Eds.). *Different Childhoods: Non/Normative Development and Transgressive Trajectories*. Oxfordshire: Routledge, 2018. p. 105-118.

MINISTRY OF HEALTH. *Pesquisa Nacional de Demografia e Saúde da Mulher e da Criança – PNDS 2006*. Brasília: CEBRAP, 2008.

MOWRI, Seama *et al.* Binary Framing of Consent and Coercion of Child Marriage: A Critique. In: CRIVELLO, G.; MANN, G. (Eds.). *Dreaming of a Better Life: Child Marriage Through Adolescent Eyes*. Oxford: Young Lives, 2020. p. 21-32.

MURPHY-GRAHAM, Erin; LEAL, Graciela. Child Marriage, Agency, and Schooling in Rural Honduras. *Comparative Education Review*, Chicago, v. 59, n. 1, p. 24-49, 2015.

O'DELL, Lindsay; BROWNLOW, Charlotte; BERTILSDOTTER-ROSQVIST, Hanna (Eds.). *Different Childhoods: Non/Normative Development and Transgressive Trajectories*. Oxfordshire: Routledge, 2018.

OSWELL, David. Children's Agency. In: TOMÁS, C. *et al.* (Eds.). *Key Concepts on Sociology of Childhood: Global Perspectives*. Braga: UMinho, 2021. p. 29-35.

PAYNE, Ruth. 'Extraordinary survivors' or 'ordinary lives'? Embracing 'everyday agency' in social interventions with child-headed households in Zambia. *Children's Geographies*, Abingdon, v. 10, n. 4, p. 399-411, 2012.

ROBINSON, Kerry. Childhood and Sexuality: Adult Constructions and Silenced Children. In: MASON, J.; FATTORE, T. (Eds.). *Children Taken Seriously: In Theory, Policy and Practice*. London: Jessica Kingsley Publishers, 2005. p. 66-76.

TAEFI, Nura. The Synthesis of Age and Gender: Intersectionality, International Human Rights Law, and the Marginalisation of the Girl-Child. *The International Journal of Children's Rights*, Leiden, v. 17, n. 3, p. 345-376, 2009.

TAYLOR, Alice *et al.* “*She goes with me in my boat*”: Child and Adolescent Marriage in Brazil. Distrito Federal: Promundo, 2015.

TAYLOR, Alice *et al.* Child Marriages and Unions in Latin America: Understanding the Roles of Agency and Social Norms. *Journal of Adolescent Health*, Amsterdam, v. 64, n. 4, p. S45-S51, 2019.

UN WOMEN *et al.* *Reforming the Legislation on the Age of Marriage: Successful Experiences and Lessons Learned from Latin America and the Caribbean*. New York: UN Women, 2016.

UNFPA. *Marrying Too Young: End Child Marriage*. New York: UNFPA, 2012.

UNICEF. Early Marriage: Child Spouses. *Innocenti Digest*, Florence, n. 7, p. 1-28, 2001.

WIEDEMANN, Denise. Legal Progress and Socio-Economic Reflections on Child Marriage in Latin America. *International Journal of Law, Policy, and the Family*, Oxford, v. 35, n. 1, p. 1-16, 2021.

WODON, Quentin *et al.* *Ending Child Marriage: Child Marriage Laws and Their Limitations*. Washington, D.C.: World Bank: 2017.

WODON, Quentin *et al.* *Casamento na Infância e Adolescência: A Educação das Meninas e a Legislação Brasileira*. Washington, D.C.: Banco Mundial, 2019.

WHO. *Maternal and Child Health and Family Planning for Health (WHA46.18)*. Genève: World Health Organization, 1993.

EDITOR RESPONSÁVEL

Pedro Salomon Bezerra Mouallem

Editor-chefe

Lívia Gonçalves Buzolin

Editora Convidada

Siri Gloppen

Editora Convidada

DOSSIÊ ESPECIAL

Rethinking inequalities through voices from the South

COMO CITAR ESTE ARTIGO

MARGARIDO, Larissa Cristina. Young Brazilian Wives: Child Marriage, Girls' Marginalisation, and Agency. *Revista Direito GV*, São Paulo, v. 20, 2024.

<https://doi.org/10.1590/2317-6172202435>

DECLARAÇÃO DE CONFLITO DE INTERESSES:

A autora declara não haver conflitos de interesses.

AGRADECIMENTOS

This paper resulted from months of research and discussion, both in Brazil, at FGV Direito SP, and in Norway, at the Center on Law & Social Transformation – LawTransform and the Center for Research on Discretion and Paternalism – DIPA. I am immensely grateful to everyone who read and commented on previous versions and, in particular, to Lívia Buzolin, Siri Gloppen, Marit Skivenes, Lara Côrtes, Juliana Jaramillo, José Garcez Ghirardi, Natália Félix de Souza, Elizabeth Perry, Pantea Javidan and Pedro Henrique Marchi Boschetti

FINANCIAMENTO OU BENEFÍCIOS RECEBIDOS

This article results from research carried out with the support of Fundação Getúlio Vargas, through the Mario Henrique Simonsen Teaching and Research scholarship, and the Foundation Coordination for the Improvement of Higher Education Personnel (CAPES), through a doctoral stay scholarship from the Institutional Program of Internationalization (CAPES-PrInt).

Revista DIREITO GV
(PREPRINT)

V. 20
2024

ISSN 2317-6172

This preprint was submitted under the following conditions:

- The authors declare that they are aware that they are solely responsible for the content of the preprint and that the deposit in SciELO Preprints does not mean any commitment on the part of SciELO, except its preservation and dissemination.
- The authors declare that the necessary Terms of Free and Informed Consent of participants or patients in the research were obtained and are described in the manuscript, when applicable.
- The authors declare that the preparation of the manuscript followed the ethical norms of scientific communication.
- The authors declare that the data, applications, and other content underlying the manuscript are referenced.
- The deposited manuscript is in PDF format.
- The authors declare that the research that originated the manuscript followed good ethical practices and that the necessary approvals from research ethics committees, when applicable, are described in the manuscript.
- The authors declare that once a manuscript is posted on the SciELO Preprints server, it can only be taken down on request to the SciELO Preprints server Editorial Secretariat, who will post a retraction notice in its place.
- The authors agree that the approved manuscript will be made available under a [Creative Commons CC-BY](#) license.
- The submitting author declares that the contributions of all authors and conflict of interest statement are included explicitly and in specific sections of the manuscript.
- The authors declare that the manuscript was not deposited and/or previously made available on another preprint server or published by a journal.
- If the manuscript is being reviewed or being prepared for publishing but not yet published by a journal, the authors declare that they have received authorization from the journal to make this deposit.
- The submitting author declares that all authors of the manuscript agree with the submission to SciELO Preprints.