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

*JÓVENES ESPOSAS BRASILEÑAS: MATRIMONIO INFANTIL, MARGINACIÓN DE LAS NIÑAS Y AGENCIA**JOVENS ESPOSAS BRASILEIRAS: CASAMENTO INFANTIL, MARGINALIZAÇÃO FEMININA E AGÊNCIA**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 girlhood. This construction has historically served to both censor the exercise of child and adolescent sexual agency and legitimise the exclusion of unruly girls who do not correspond to the envisioned profile deemed worthy of protection. 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 pieces of 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 the 2021 Civil Registry Statistics, and problematising what is understood as 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.

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.

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Palabras clave

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

Resumo

No Brasil, as discussões jurídicas e políticas sobre infância e adolescência são frequentemente orientadas pelo ideal da pureza, da inocência e da vulnerabilidade feminina. Historicamente, essa construção tem servido 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 por 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, examinando 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 previnam a prática quanto ajudem as jovens esposas.

Palavras-chave

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



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INTRODUCTION¹

The status of “child” and “adolescent” in Brazil is not, at least from the perspective of judicial and executive practices, a clear concept. In addition to fluctuating delineations of age applied to the concepts, there does not seem to be a consensus on the definition of the boundaries of childhood and adolescence, 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, children and adolescents’ supposed inability to make informed decisions are usually raised. However, the discussions 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; 2021) that has been “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 occasional violent control in the name of protection (Bettis; Adams, 2005, p. 11; Lowenkron, 2016, p. 17), and legitimising the exclusion of unruly children who do not correspond to the ideal envisioned profile deemed worthy of being protected (Egan; Hawkes, 2009; O’Dell; Bronfelow; Bertilsdotter-Rosqvist, 2018; Garlen, 2019).

As explained by Mahati and 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

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– are seen as adequate social and legal treatments. 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 on 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 pieces of research on the subject, carried out by Instituto Promundo in 2014 (Taylor *et al.*, 2015) and by Plan International Brasil between 2017 and 2018 (Magalhães; Santiago; Debique, 2019); (iii) analysing available national quantitative data on the extent and key characteristics of early marriage, that is, IBGE’s 2010 Demographic Census and the 2021 Civil Registry Statistics (IBGE, 2010; 2023); and (iv) problematising what is understood as 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, the paper’s 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.

Following this introduction, section 1 presents the understanding and occurrence of child marriage in the international and Latin American and Caribbean scenarios. An overview of the legal norms surrounding child marriage in the country and their recent changes is developed in section 2. Section 3 summarises the findings of two locally produced qualitative studies on the subject. An analysis of national quantitative data findings of the extent and key characteristics of child marriage in Brazil is presented in section 4. Section 5 discusses understanding, types, and moral evaluations of children’s agency. Finally, in the last section, brief recommendations for both recognising young wives’ agency and preventing 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 not)² involving at least one spouse under the age of 18 (UNFPA, 2012, p. 11), and it is seen as a harmful, traditionalist practice (WHO, 1993). Even though the international human rights arena has seen it as a “problem” since the 1960s, denouncing such “forced” and

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² In other words, it includes both civil marriages and consensual unions.

“arranged” unions through multiple approaches – via 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 (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 eight million had become spouses while not yet 15 years old (UNFPA, 2012, p. 22). Specifically, for developing countries,³ it is estimated that one in three girls will marry before the age of 18, and one in nine will do so before turning 15 years old (UNFPA, 2012, p. 6).

Early marriage, as child marriage can also be described, 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 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 early or child marriage are limited and the reduction of its incidence has been rather slow (Wodon *et al.*, 2019, p. 2), as many countries continue to fail to effectively protect children and adolescents from the practice, either for lack of national legislation establishing a minimum age of 18 to marry (UNFPA, 2012, p. 11); by defining exceptions that drop the age below 18; due to the absence of real application and inspection of rules; or because of the legislation’s 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).

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³ Excluding China due to a lack of reliable data.

Worldwide,⁴ Brazil is the fourth country with the highest absolute number of early marriages – in 2006, it was estimated that around three million women had been married before turning 18 (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 in the public agenda and becoming a political priority for many years (Magalhães; Santiago; Debique, 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 marital union (CRC, 2015, p. 7). As of now, all recommendations have been disregarded by the government, and the theme has only recently entered the public sphere, albeit timidly, through public hearings organised by the Chamber of Deputies via committees focused on protecting women's rights⁵ and via a public policy proposal by civil society's "Agenda 227" movement.⁶

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 inherently formal union is the civil marriage (Brazil, 2002, arts. 1,512 and 1,514 [Civil Code – hereinafter, the CC]). Among informal unions, there is the religious marriage,

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- 4 Once again, China was not considered in such mapping due to a lack of information.
- 5 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).
- 6 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 its items (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).

which, if properly regularised, enjoys the same legal recognition as civil marriage (Brazil, 2002, arts. 1,515 and 1,516); the stable union, which refers to legally recognized family entities marked by public, continuous, and lasting coexistence that can be converted into civil marriage (Brazil, 2002, arts. 1,723 and 1,726); and the consensual union, in which the couple lives together in an informal and unregistered relationship. In Brazil, child marriage happens across all these union types.

In addition to the international treaties in force within the country, Brazilian law contains 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 are spread in a disorderly manner 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, known as ECA (Law No. 8,069/1990 [Brazil, 1990]), was enacted, which is the main legal reference in the country regarding child and adolescent rights. Notwithstanding, the only mention made of child marriage 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 [Brazil, 2013]), on the other hand, omits the issue.

As for Family Law, while the CC determines that the civil majority or adulthood is reached only upon an individual completing 18 (art. 5), it also establishes the marriageable age at 16. For adolescents aged 16 to 17, their marriage depends on the authorisation of both parents or legal representatives (art. 1,517) or a court order (art. 1,519);⁷ 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 under 16 years old (art. 1,520).

The first exception was applied when a sexual aggressor sought to avoid the imposition or fulfilment of a criminal penalty through marriage to the victim. This was connected to one of the sexual crimes' punishment extinguishing hypotheses under the CC (art. 107),

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7 Such a 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 old to marry, provided that the adolescent shows enough maturity and autonomy to do so and that such a 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).

which was revoked in 2005 by Law No. 11,106 but not removed from the CC for another 14 years. The second exception, 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 after this law came into effect) and December 2021, there were 364 girls and 30 boys under 16 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 or adulthood 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 if one spouse was 16 or 17 years old, but the union had not been permitted 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, the exception that enabled child marriage was revoked in 2019.

Furthermore, there are no specific legal sanctions for those involved in child marriages. However, in 2009, Law No. 12,015 added article 217-A into the CC, 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 prior sexual experiences. This law arose from a suggestion by the Joint Parliamentary Inquiry Commission (CPMI), created in 2003 by the National Congress to investigate the networks of sexual exploitation of children and adolescents present in Brazil. According to the CPMI, individuals under 14 years of age do not have the discernment necessary for the practice of sexual acts; therefore, for their protection, they should be deemed legally incapable of sexual consent (Brazil, 2004, p. 330).

Additionally, at the executive level, federal 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 into such unions (Magalhães; Santiago; Debique, 2019, p. 81, 85).

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

The few existing locally produced qualitative pieces of data on the reality of child marriage in Brazil come 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 with the aim to inspire interventions based on evidence.

The first of these studies, carried out by Instituto Promundo in 2014, focused on the low-income urban areas of Belém, Pará, and São Luís, Maranhão (Taylor *et al.*, 2015).⁸ The second was carried out by Plan International Brasil between 2017 and 2018 in the municipalities of Salvador, Camaçari, and Mata de São João, in the state of Bahia, and in the municipality of Codó, Maranhão (Magalhães; Santiago; Debique, 2019).⁹ Although carried out by different NGOs in distinct locations and periods, both studies presented similar diagnoses.

One of the findings of both 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 participants’ conceptions of marriage eligibility presented 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, assuming the responsibility of the house, children, household expenses, etc. (Taylor *et al.*, 2015, p. 50-51; Magalhães; Santiago; Debique, 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 who are, on average, nine years older. Couples were often found to meet in informal, random circumstances, and the ensuing events in their relationships – in particular, pregnancy and marriage – were found to occur without much planning and within a short period of time (Taylor *et al.*, 2015, p. 13, 50; Magalhães; Santiago; Debique, 2019, p. 64-67, 92-93).

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⁸ 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).

⁹ The study included collection and analysis of secondary data on child marriages and related topics at national and local levels; analysis of national legal and institutional frameworks around the topic; and the realisation of 84 semi-structured interviews with key informants and 30 focus group discussions with 218 participants (Magalhães; Santiago; Debique, 2019, p. 12-13).

It is important to emphasize that young wives are victims of the patriarchal system and structural racism, and most of these girls were raised in a somewhat similar environment, having experienced the same difficulties: 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; Santiago; Debique, 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; Santiago; Debique, 2019, p. 38-75). Regarding girls' family members, their desire is to, initially, control their sexuality, limit perceived "risky" behaviours, and, eventually, protect their reputation in case of an unwanted pregnancy or the loss of virginity. Concerning the girls studied, their motivations were found to be a search for financial security and aspirations to leave home and escape parental control and abuse. For the husbands, a preference for marrying girls and their disproportionate decision-making power in such marriages were detected. 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 exposure to urban violence and limited mobility were highlighted.

The major consequences of child marriage identified by both studies were found to be the perpetuation of the cycle of domination and reproduction of gender roles, social norms, and marital inequality; early pregnancy and related maternal, newborn, and child health problems; girls' failure at school, truancy, and dropout rates; a disproportionate burden placed upon girls via care labour; girls' loss of freedom, mobility, and social networks; lack of professional development and financial dependence on their husbands; precarious and/or late entry into the labour market; greater chances of suffering intimate partner violence and abuse; emotional and psychological unpreparedness; difficulties to judicially separate/divorce and lack of legal protections to do so; and limitation of their life projects (Taylor *et al.*, 2015, p. 79-114; Magalhães; Santiago; Debique, 2019, p. 37-66).

Concerning judicial separation¹⁰ or divorce, Instituto Promundo's Brazilian study showed that the end of a marriage brings about fewer changes for men, who benefit from larger

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¹⁰ A judicial separation is proposed by one or both spouses due to 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 of CC).

social networks than their former spouses and barely provide financially for their children. The girls, however, are left with few or no educational and employment prospects, limited social networks, complete responsibility for their children, and stigma of “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”. In either case, girls’ family members generally discourage separation, as they don’t want to bear the economic and social burdens of supporting these young mothers and their children. According to Instituto Promundo’s findings, “despite being considered old enough to bear children and marry, girls are largely considered not old enough to make other major decisions on their own, such as when to leave a marriage” (Taylor *et al.*, 2015, p. 113-114).

In examining the triple legislative, judicial decision, and institutional axis, which ought to provide protection and offer support to married children and adolescents, the aforementioned studies highlighted key insufficiencies. Regarding legislation, the inadequacy of enforcement and inspection of existing norms, as well as the norms’ inability to consider the existing ambiguities and gaps were stressed. 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 the decision to marry and its consequences. Finally, regarding institutions, the studies revealed inadequate and often discriminatory provision of services; lack of professional training; lack of knowledge among girls of the existence of and access to such institutions; a caseload that exceeds 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; Santiago; Debique, 2019, p. 87).

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

Considering the prevalence of child marriage in Latin America and the Caribbean, one could expect the region’s countries to be concerned over their inclusion in the statistics, whether out of legitimate concern or due to 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 Indicator 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 entering their first union (Ministry of Health, 2008). Therefore, it is not surprising that the relevant literature and the studies mentioned in the previous section cite only international estimations and fail to provide 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, but found only two. The first 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 populational groups. The second source is the IBGE's Civil Registry Statistics, which consider 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, significant data has been collected on nuptiality, namely, the marital union's nature and marital status of people between 10 and 17 years old according to conjugality,¹¹ educational level, household monthly income, race, residence location, and sex (IBGE, 2010, p. 110-202). From all the available data, this paper will focus on the variables mostly mentioned in the previously cited national and international research on child marriage.

TABLE 1 – **INDIVIDUALS BETWEEN 10 AND 17 YEARS OLD COEXISTING WITHIN A MARITAL UNION IN BRAZIL, BY UNION NATURE, ACCORDING TO SEX, RACE, RESIDENCE LOCATION, AND MONTHLY HOUSEHOLD INCOME (2010)**

VARIABLES	MARITAL UNION NATURE		
	ALL	FORMAL MARRIAGES	INFORMAL UNIONS
ALL	655,935	68,601	587,334
SEX	GIRLS	554,091	497,850
	BOYS	101,846	89,485
RACE	WHITE	228,546	198,185
	BLACK ¹²	409,735	372,711
	ASIAN	7,998	7,304
	INDIGENOUS	9,656	9,134

(continues...)

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

12 In this article, "Black" refers to the Brazilian Portuguese word *negro*, which comprises both the notions of "black" (*preto*) and "brown" (*pardo*) as used by the IBGE.

VARIABLES		MARITAL UNION NATURE		
		ALL	FORMAL MARRIAGES	INFORMAL UNIONS
RESIDENCE LOCATION	URBAN ¹³	489,173	52,771	436,402
	RURAL	166,763	15,831	150,932
MONTHLY HOUSEHOLD INCOME ¹⁴	NO INCOME	54,734	5,116	49,618
	UP TO 144.96 USD	51,682	3,641	48,041
	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
	ABOVE 5,798.71 USD	2,795	827	1,968

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

As shown in Table 1, according to the Census, the number of girls involved in formal and informal marriages in Brazil is over five times higher than the number of boys – 4% of the female population aged 10 to 17 were in a marital union (1.36% of total married women) versus 0.73% of the male population of the same age (0.25% of total married men) (IBGE, 2010, p. 111; 2011, p. 114) –, which confirms the diagnosis that child marriage is a practice that affects mainly girls. What's more, 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 that child marriage is an informal practice.

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

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¹³ Both urbanised and non-urbanised areas, within and outside the urban perimeters of cities (IBGE, 2010, p. 26).

¹⁴ The minimum wage brackets were used to calculate the monthly household income, according to the monthly minimum wage 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).

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 this group's population), marriages involving Asian children and adolescents represent 0.83% of the unions (encompassing 2.99% of that population), and marriages involving Indigenous children and adolescents represent 3.06% of the unions (encompassing 6.6% of this group) (IBGE, 2010, p. 182; 2011, p. 132). Even if such results confirm the assessment that historically marginalised 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 practices as well.

Regarding young wives' and husbands' residence locations, they represented 0.71% of total urban marriages, involving 2.17% of the local population between 10 and 17 years old, and 1.28% of 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 regions have a higher propensity to become involved in child marriages, such unions also happen in urban areas.

Finally, concerning monthly household income, there is a noticeable correlation between poverty and child marriage, with the incidence of marriages involving people aged 10 to 17 decreasing concurrently with an increase in income: such unions involving individuals with no income represented 2.02% of 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 above 5,798.71 USD, who represented only 0.08% of total marriages (IBGE, 2010, p. 198-202).

Focusing now on the Civil Registry Statistics, even though it contains information only on formal marital unions between spouses of different sexes – that is, only civil marriages, which represent only 10.5% of national child marriages (IBGE, 2010, p. 111) – celebrated between 2003 and 2021¹⁵ by children and adolescents,¹⁶ it specifies the nationality and marital status of spouses, place of registration (regions, states, and municipalities), and months of the marriages' occurrence and registration. Once again, this paper will target the variables mostly mentioned in the research on child marriage.

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¹⁵ When conducting the survey on the IBGE's Automatic Recovery System platform on August 8th, 2023, 2021 was the last year with recorded data.

¹⁶ No specification is made regarding the starting age from which the data are collected, only the ending age is provided (17 years old).

Firstly, it is important to note that there has been a continuous decline in formal marriages involving children and adolescents in Brazil, both nationally (a reduction of 66.9%), and across all its regions (43.4% for the North, 75% for the Northeast, 67.5% for the Centre-West, 58.7% for the Southeast, and 71.2% for the South), between 2003 and 2021; however, a lack of complementary data does not allow for the formulation of viable hypotheses regarding the reasons for this occurrence. Nonetheless, in 2021, Brazil still registered 16,572 formal child marriages, which, if accounting only for unions involving girls, means that 45.4 girls were formally married 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 the Southeast (5,197 unions) and the Northeast (4,713 unions) –, it is important to note that, in percentage terms, the regions with the highest levels of child marriages involving girls were the North (2.97% of total marriages) and the South (2.26% of total marriages) (IBGE, 2023).

The Civil Registry Statistics also show that, similar to 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 (52%), followed by those aged 18 to 19 (23%) and those aged 25 to 29 (15%); boys tend to marry women who are within their same age group (47%), followed by those 18 to 19 years old (31%) and those aged 20 to 24 (17%).

TABLE 2 – **INDIVIDUALS AGED UP TO 17 YEARS COEXISTING IN A FORMAL MARITAL UNION IN BRAZIL ACCORDING TO SEX, PLACE OF REGISTRATION OF THE UNION, AND THE GIRL MARRIAGE PERCENTAGE COMPARED TO THE TOTAL NUMBER OF FORMAL UNIONS (2021)**

REGION OF BRAZIL	STATE	SEX		GIRL 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%

(continues...)

REGION OF BRAZIL	STATE	SEX		GIRL MARRIAGES COMPARED TO THE TOTAL NUMBER OF UNIONS
		GIRLS	BOYS	
NORTHEAST	MARANHÃO	725	69	3.39%
	PIAUI	194	22	2.28%
	CEARA	674	75	2.02%
	RIO GRANDE DO NORTE	198	26	1.51%
	PARAIBA	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%
CENTRE-WEST	MATO GROSSO	463	36	2.68%
	MATO GROSSO DO SUL	381	72	2.69%
	GOIAS	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 2, formal marital unions involving children and adolescents occur in all Brazilian states – and most municipalities (IBGE, 2023) –, even though the practice is particularly concentrated in the state of Rondônia (6.16% of that state’s total 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 that same year).

5. OUTLINE OF GIRL 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, the girls involved often have their child/adolescent status questioned, are deemed unworthy of the special protections afforded to children and adolescents, and held accountable for their “mistakes” as if they were 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 – factors that are amplified 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 for 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; Santiago; Debique, 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 girls’ social class, race, ethnicity, and culture intersect to inform their experience of the world (Amoah, 2007) are notably absent, thereby perpetuating girls’ marginalisation (Taefi, 2009, p. 346). The complexity of such a scenario can be further observed in the discussion around 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. (Ahearn, 2001, p. 54). It is important to recognise that agency is not synonymous with free will, as 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” (Ahearn, 2001, p. 55).

Concerning children’s agency specifically, sociologists James and 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, has not abandoned its paternalistic approach nor its universality (Bordonaro; Payne, 2012).

More recently, however, 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 3 – **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, RECOGNISING 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 MAXIMISE 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)

(continues...)

TYPE OF AGENCY	DESCRIPTION	AUTHOR
THIN	DECISIONS AND EVERYDAY ACTIONS THAT ARE CARRIED OUT WITHIN HIGHLY RESTRICTIVE CONTEXTS, CHARACTERISED BY FEW VIABLE ALTERNATIVES.	KLOCKER (2007)
TRANSFORMATIVE	ONE'S ABILITY TO TRANSFORM AND REMAKE TRADITIONAL NORMS.	BAJAJ (2009)
EVERYDAY	DEALING WITH SITUATIONS OF THE 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 AND LEAL (2015)

Source: Author's own elaboration.

As shown in Table 3, many types of agency have been empirically found present in the daily lives of children all over the globe. Their theorisation 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 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" 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 (Klocker, 2007, 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 particularly true for girls involved in child marriage. Although, conceptually, both the decision to marry and the choice not to do so can be viewed as expressions of agency, this perspective does not hold when the individual in question is a girl. In such cases, she is often seen as lacking the recognised agency to make decisions that might, theoretically, not align with her best interests (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 American and 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 these prescripts, lead to child marriages. The authors conclude that social norms that sustain child marriage interact with “girls’ agency and the multiple actors influencing decisions about marriage, relationships, and sexuality” (Taylor *et al.*, 2019, 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 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, 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 who are already married, allowing them to “lead the lives they wish to live” (Horii, 2020, p. 266).

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 that must always be analysed in terms of concrete relationships of children (Esser, 2016, 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, 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. They will also be 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 recognise 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 already 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 as young wives should start from the recognition that adopting a theoretical ideal of innocence does not guarantee their protection; rather, it places them at a greater social risk – either because it leads to their exclusion from legal guarantees or 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 is 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 local 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 to raise the marriageable age to 18 seems implausible and fruitless in the current political and social climate. 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 to 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 curriculum, including issues linked to gender, race, discrimination, violence, and comprehensive sex education – subjects of extremely polarised discussion in Brazil –, and facilitating the access of children and adolescents to public health services is indispensable.

Given the complexity of the practice, more and better data as well as 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 are the acts of respecting and listening to young wives’ experiences to understand the roots and consequences of their involvement in marriage. By heeding the voice of these individuals, we can better protect and empower our children.

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