

DOCTRINAL DEBATE ON THE AGE OF CONTRACTING OF MARITAL IN IBERO-AMERICA

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Abstract: The United Nations 2030 Agenda for Sustainable Development, adopted in 2015, grants fundamental importance to the principles of equality and non-discrimination and aims to realize Human Rights for all. From this perspective, target 3 of Goal no. 5 admonishes States to eliminate harmful practices such as female genital mutilation and child and early marriages. Since adopting the SDGs, the U.N. has promoted raising the age of marriage: in nine countries, marriage is prohibited for children under 18 years; in the rest, it is allowed from the age of 16, with parental or judicial authorisation. This literature review article analyses the doctrinal debate on legislative reforms to raise the age of marriage in 21 Latin American countries, in addition to Spain and Portugal. The searches have been done in Dialnet, Scielo, Scopus, and Google Scholar; most records are in Spanish and Portuguese.

Keywords: Child marriage, forced marriage, early marriage.

SUMMARY: 1. CHILD MARRIAGE. 1.1. The theoretical foundations and conceptual of the age of marriage. 1.2 Early and forced child marriage. 1.3. From sociological reality. 2. METHODOLOGY FOR SEARCHING BIBLIOGRAPHIC REFERENCES. 3. SEARCH RESULTS. 3.1. On Dialnet. 3.2. On Scielo. 3.3. On Scopus. 3.4. Google Scholar. 4. DOCTRINAL DEBATE ON THE AGE OF CONTRACTING A MARRIAGE 4.1. Child marriage as a cross-sectoral reality. 4.2. Child Marriage and Human Rights. 4.3. Child marriage in the criminal field. 5. CONCLUSION.

1. CHILD MARRIAGE

The *ius connubi* is a right of all men, as stated in Article 16 of the Universal Declaration of Human Rights: men and women from the age of marriage have this right. This declaration does not establish age limits, so it does not specify when there is a child marriage.

This lack of specificity continues in *The International Covenant on Civil and Political Rights* (ICCPR) in Article 23. 2 recognizes the right of men and women of marriageable age to marry and find a family.

On the other hand, in the *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, the article 2 states:

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“States, (...), should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, among other things, complete freedom in the choice of a spouse, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded.”³

Therefore, the Convention does not expressly indicate any age but only speaks of the age of marriage and grants States parties a double power: to set the minimum age for marriage and to exempt them from the age requirement established in their domestic legislation.

In 2000, at the *Millennium Development Goals*, in third, n.20 says: “To promote gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable.”⁴ It made no explicit reference to child marriage. This lack of specificity made the goal difficult to achieve by 2015 (Morán Blanco 2022, p.110). The U.N. Secretary-General Ban Ki-moon, in the report on the Millennium Development Goals, recognized that despite the efforts, poverty persisted, and the report, therefore, suggested the need to concrete the fight against harmful practices that reflected gender inequality⁵.

To avoid the indeterminacy of the previous documents, in 2015, it was included in the Sustainable Development Goals (SDGs) -in Target 3 del ODS 5- the eradication of child marriage. This is considered a harmful practice, as it robs children of their childhood and risks their lives and health. Children who marry before the age of 18 are at higher risk of domestic violence and are less likely to continue attending school. Their health and economic prospects are worse than those that delay the age of marriage. Child marriage undermines a country's ability to provide quality health and education services⁶.

Child marriage is thus an example of gender inequality and discriminatory social and cultural norms and traditions that regulate the position of women in the family in the community and control women's freedom, including their sexuality (Cano Ruíz 2023, p.11).

Target 3 of the 5 SDGs results from the global movement to eradicate child marriage in which numerous governments, institutions, and NGOs participate, focused on finding its causes and promoting critical legislative changes to eliminate it (Vilán 2022, p. 227).

³ United Nations (1962). Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-consent-marriage-minimum-age-marriage-and> [Accessed: 2 February 2023].

⁴ United Nations, General Assembly (2000). Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/559/51/PDF/N0055951.pdf?OpenElement> [Accessed: 15 Mach 2023].

⁵ United Nations (2017) Available at: <https://www.undp.org/publications/millennium-development-goals-report-2015> [Accessed: 15 August 2023].

⁶ Unicef (2022). available at: <https://www.unicef.org/es/proteccion/matrimonio-infantil> [Accessed: 2 February 2023].

1.1. The theoretical foundations and conceptual of the age of marriage

It is well known that canonical doctrine conceives marriage as a natural institution before the law and the State, which appeared at the dawn of humanity, as far as its essence is concerned. This is how the stable affective-sexual union between a woman and a man is considered, which the State does not create but simply recognizes.

Marriage, as a natural and social reality, is a human right known as *ius connubii*. It is a right that connects with the person's dignity and that all legal systems must recognize, without prejudice to the possibility of establishing specific requirements for its exercise. Among its characteristics is that it is a universal, inalienable, eternal, and *erga omnes* right. But this right to marry or be married is not an absolute and unlimited right. Its exercise is an act of the autonomy of the will, the fruit of a free choice, which must be regulated by authority.

According to the Code of Canon Law in Canon 1058: “All those who are not forbidden by law may enter into marriage.” The limitations of *ius connubii* must, therefore, be exceptional, expressly stated, and interpreted strictly.

One of these limits — impediments — is the age of marriage, from which the physical and psychological capacity to marry is presupposed. This age limit, according to Nieto Cruz, A. (2020) reflects “the mentality of the society of the time about what conditions the subject who intends to marry must meet and what degree of maturity he or she must have. Moreover, it is also a reflection of the position of minors in society and the level of protection we want to confer on them» (p. 382).

In this regard, as we have seen, international treaties did not set an age limit for marriage but referred this aspect to the legislation of each country. However, child marriage is considered a global problem, prompting the United Nations General Assembly to recommend that states adopt legislative measures to establish a minimum age for marriage.

Since 2015. In the Development Goals (SDGs), the minimum age for marriage has been set at 18 years. This proposal has led to the reform of the laws of Latin America, as we will see later. However, it has also raised an interesting doctrinal question about the theoretical and conceptual foundations of child marriage. The searches – in the main databases – on the subject show this interesting and necessary doctrinal debate and, in short, allow us to consider child marriage in a threefold aspect: as a cross-cutting phenomenon that has multiple causes, as a harmful practice that violates human rights and as a phenomenon that can be included in the criminal sphere.

1.2. Early and forced child marriage

The United Nations defines child marriage as “any formal marriage or informal union between a child under the age of 18 and an adult or another child”. Child marriage is a global problem with lasting and damaging consequences for children's lives. The

incidence of child marriage in some areas means that 4 out of 10 Latin American women were married as children.

A global and transversal movement is working to eradicate child marriage (Vilán 2022, p. 227). One of its milestones was in 2015 when eradicating child marriage was incorporated into goal no. 5, Target 3, of the Sustainable Development Goals (SDGs). Since then, the U.N. has advocated for raising the age of marriage.

As a result of this initiative, since 2015, 9 countries in Latin America have prohibited marriage for children under 18 years of age. In 9 countries, it is allowed from the age of 16, with parental or judicial authorisation (UN. ECLAC 2021, p. 26). In the case of Argentina and Colombia, it is possible to marry for qualified reasons and with parental permission or judicial authorisation before the age of 14.

COUNTRY:	MAN / WOMAN	DISPENSABLE BY:	YEAR OF THE LAST REFORM⁷
Argentina	18/18	the judge for minors under 16 legal representatives from 16 to 18	Ley 26.994 of 2014
Bolivia	16/16	written authorization from the authority paternal/ judge	Ley 603 of 2014
Brazil	16/16	parents/the judge	Lei nº 13.811 of 2019
Colombia	18/18	written permission from parents from the age of 16	Ley 57 of 2020
Chile	16/16	the parents	Ley 19.947 of 2004
Costa Rica	18/18	without exceptions	Ley 9.406 of 2016
Cuba	18/18	without exceptions	Código Civil of 2022
Ecuador	18/18	without exceptions	Ley Reformativa al código civil of 2015
El Salvador	18/18	no exceptions	Decreto 754 of 2015
Guatemala	18/18	without exceptions	Decreto 13-of 2017
Haiti	25/21	permission: from 25 to 18 years old, parents before 18/15 the president	Code civil d'Haïti of 1826
Honduras	21/21	from the age of 18 with parent/judge permission	Decreto 44 of 2017
Mexico	18/18	without exceptions	Decreto DOF of 03/06/2019
Nicaragua	21/18	permission of your parents from the age of 16	Ley 870 of 2014
Paraguay	18/18	parent/judge permission	Ley 5.491, of 2015
Panama	18/18	parents' children's judge from the age of 16	ley 30 of 2015

⁷ CEPAL Leyes | Observatorio de Igualdad de Género (cepal.org). [Accessed: 22 February 2023].

COUNTRY:	MAN / WOMAN	DISPENSABLE BY:	YEAR OF THE LAST REFORM ⁷
Peru	18/18	express assent of the fathers	Decreto Legislativo 295 of 2020
Puerto Rico	21/21	from 18/18 with permission from the parents	Ley 55- of 2020
Portugal	16/16	permission of your parents from the age of 16	Código Civil of 1966
Republic Dominican	18/18	no exceptions	Ley 1 of 2021
España	16/16	If they are emancipated	Ley de Jurisdicción Voluntaria of 2015
Uruguay	16/16	from the age of 16 you do not need a permit	Ley 19.075 of 2013
Venezuela	16/16	from the age of 16 you do not need a permit	Sentencia TC 1353 of 2014

This literature review article analyses the doctrinal debate on legislative reforms to raise the age of marriage in the 21 countries of Latin America, Spain, and Portugal. This community of countries is called Ibero-America, and in many cases, shared not only language but also historical processes, internal complexities, and future challenges (Celis, A. M. & Domínguez, C. H. 2006, p. 12).

The research results in Spanish and Portuguese place us in Ibero-America, as they are the languages of this territory. Similarly, the French research refers to results for French-speaking Africa and France's overseas territories. Searches in English bring results from Anglo-Saxon countries, the USA, the U.K., the Commonwealth, and the Asian region.

SDG no. 5, in its target 3, proposes to “Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.” This is why the search for doctrinal debate should be extended to the terms early and forced marriage. The doctrine asks to what extent child marriage is always forced or whether minors lack the capacity in all cases to make their will to get married. “The consideration of forced marriage as a violation of human rights is determined by the recognition of the free and full consent of the contracting parties as the core element of the marriage contract” (Torres Rosell 2019, p.33). Therefore, it is not easy to distinguish between forced marriage and arranged marriage; in the latter there may be a certain degree of coercion, where persuasion is a grey area between consent and resignation.

Finally, in the criminal field, we cannot forget that forced marriage has been classified in some countries. For example, in Spain, Art. 178 of the Criminal Code establishes the crime of marriage with minors; in Portugal, art. 154.B of the Criminal Code classifies *casamento forçado* and art. 155 classifies forced marriage *contra pessoa*

particularmente indefesa em razão de idade. In Colombia, art. 18 of the Criminal Code includes servile marriage as a type of human trafficking.

The SDGs, specifically SDG 5 in its target 3, have promoted legislative reforms in Ibero-America to raise the age of marriage. As a result of this initiative, numerous studies have been published that attempt to answer important questions such as: What is the sociological reality of child marriage in Ibero-America? From which areas has child marriage been studied in Ibero-America? What has been the doctrinal debate on these legislative changes? Is child marriage always forced? Is forced marriage an autonomous offense or part of a broader offense such as human trafficking? The following study will attempt to answer all of these questions.

1.3. From sociological reality

As a starting point, there is an insurmountable need to analyse the sociological reality of child marriage in Ibero-America: knowing this actual situation will allow us to verify the breadth and seriousness of the problem and the degree of need for a response in the legal field. In order to understand the sociological reality of child marriage, we have the work carried out by the Economic Commission for Latin America and the Caribbean (ECLAC), *Child, early and forced marriage and unions: Harmful Practices that deepen gender inequality in Latin America and the Caribbean*, which states that “Child, early and forced marriage and unions (CEFMU) are a reality in Latin America and the Caribbean, albeit not a highly visible one” (2022, p. 5).

Latin America and the Caribbean is the only region in the world where child marriages have not decreased in the last 25 years. This is a complex phenomenon associated with gender inequalities, violence, poverty, school dropout, adolescent pregnancy, and inadequate, limited, or non-existent legal and political frameworks, and it puts the present and future of girls and adolescent girls in jeopardy (p. 25)⁸.

Prevalence rates in LAC region and case study countries (Taylor A.Y. et al.2019, p. 30):

COUNTRY:	MARRIED BY AGE 15 (%)	MARRIED BY AGE 18 (%)
Brazil	11	36
Guatemala	7	30
Honduras	8	34

⁸ Comisión Económica para América Latina y el Caribe (CEPAL). Available at: <https://www.cepal.org/es/publicaciones/47552-matrimonios-uniones-infantiles-tempranos-forzados-practicas-nocivas>. [Accessed: 21 February 2023].

Another source of information is *Mira que te Miro*⁹ website, in which different associations collaborate, and a section is dedicated to early child marriages and unions in Latin America. On this website, we can find the legal, political, and programmatic framework, resources, and awareness campaigns against child marriage. The countries analysed meet the standards in the first two areas but have yet to develop the programmatic framework, especially, the awareness campaigns to eradicate child marriage.

In 2019, the authors Infante, M. P., & Castro, S. (2019), presented the influence of child marriage in Cuba before the reform that was carried out in 2022. Child marriages or early unions, understood as de facto unions, are among the most harmful practices with the most significant negative impact on the future of children and adolescents. The rupture that is generated in the social fabric as a consequence of the impairment of the right to freedom and autonomy of minors, who end up being the most affected by this practice, is irreparable: girls married in childhood have few possibilities of attending school or concluding their schooling, they are treated as adult women without them having been able to decide about it. The authors consider that eradicating child marriage must be part of the political expression of citizenship to regenerate its social fabric (p. 1).

Another study is by Azicri, I., Montían, T., Riquez-Bark, B., & Yncio, R. (2020) on the *Problem of Child Marriage from the Centre for International Studies*. The authors consider, following UNICEF, that girls who marry before the age of 18 are at greater risk of domestic violence and are less likely to stay in school. Azicri, I., et al. survey the number of child marriages that take place. The impact of truancy and even expulsion from school is higher in these cases; the authors consider the domestic labour of young wives to be a form of exploitation. They provide data from Argentina: between 2011-2016, almost 40 % of young wives did not reach the last year of secondary school, mainly affecting the country's poorest regions where child marriage has an incidence of 60 %. In their conclusions, they call for a more significant commitment from States to address the problem of unpaid domestic work and child exploitation from a comprehensive approach. The international legal framework must be adopted and implemented, and “loopholes such as the possibility of child marriage with parental consent” must be avoided. “Girls should be in school and not in their husband's house” (Azicri, I., et al. 2020, p.11).

The Virtual Knowledge Centre to End Violence against Women and Girls, in January 2011, proposed that drafters of forced marriage laws should set the minimum age of marriage at 18¹⁰.

The *Committee on the Elimination of Discrimination against Women* (CEDAW) has a database of country reports.¹¹ In 2022, we find the reports of Guatemala, Honduras,

⁹ Available at: <https://miraquetemiro.org> [Accessed: 5 January 2023].

¹⁰ Fondo de Población de las Naciones Unidas (UNFPA). Available at: <https://www.unfpa.org/es/matrimonio-infantil> [Accessed: 12 February 2023].

¹¹ Comité para la Eliminación de la Discriminación contra la Mujer (CEDAW). Available at: <https://www.ohchr.org/es/treaty-bodies/cedaw> [Accessed: 23 January 2023].

Bolivia, Venezuela, and Chile. In 2021, the 10th report on Uruguay and the 8th report on Brazil were made. All of them include the latest legislative changes that have raised the age of marriage to 18, although some countries allow it, with parental or judicial authorisation from the age of 16. Each State is recommended to: “Effectively enforce the minimum legal age of marriage (18 years) for both girls and boys, without exception, and strengthen efforts to raise awareness of the harmful effects of child marriage and early unions on the health and development of girls”.

Maria Cristina Perceval, UNICEF Regional Director for Latin America and the Caribbean. “Girls who are forced to marry or be in union before the age of 18 are deprived of immediate and long-term opportunities that ultimately affect the fulfilment of their rights”¹².

2. METHODOLOGY FOR SEARCHING BIBLIOGRAPHIC REFERENCES

The term has been searched for: *matrimonio infantil/casamento infantil/child marriage y matrimonio forzado/casamento forçado/forced marriage* in the legal sciences section of the Dialnet, Scielo, Scopus, and Google Scholar databases. The searches start in 2015, the year of the adoption of the SDGs, until 2022. The 2030 Agenda, in target 3 of Goal no. 5, calls on States to eliminate harmful practices such as female genital mutilation and child and early marriages.

This study is territorially framed in Ibero-America: the 21 countries of the Americas, plus Spain and Portugal. The Caribbean and the Antilles are excluded because of their complexity: there are 13 independent nations, three French departments, and two colonies belonging to the Netherlands, six to the United Kingdom, and one to the USA; their particularity would require a specific study.

The sources' languages and doctrinal debate are Spanish and Portuguese. The search was extended to the terms child marriage, forced marriage, but the number of entries for articles published in English on child/forced marriage in Ibero-America is shallow (6 entries compared to 228 in Spanish and Portuguese).

Other terms have been excluded: *matrimonio precoz* in Dialnet, there are 26 documents; in Scielo there are no entries; in Scopus and Google Scholar there are 9 entries. They largely coincide with the term child marriage, which justifies their exclusion. The term *matrimonio de menor* has also been excluded from the search as it is confusing with the issue of filiation, parental authority, or the interests of the minor. The result in Dialnet is 470 records, duplicated with the entries for child marriage.

¹² UNICEF (10-April 2018). Available at: América Latina y el Caribe: una década perdida en la reducción del matrimonio infantil (unicef.org). [Accessed: 23 January 2023].

The searches in the 4 databases can be systematised in the following table:

	BOOKS	CHAPTERS	ARTICLES	THESES	EXCLUDED	TOTAL
Dialnet						
<i>matrimonio infantil</i>	2	8	17	6		33
<i>matrimonio forzado</i>	11	40	92	25		168
EXCLUIDOS	-4	-9	-31	-13	-57	
<i>matrimonio de menores</i>			470		Excluded	
<i>matrimonio servil</i>			26		Excluded	
<i>matrimonio precoz</i>			26		Excluded	
Scielo						
<i>matrimonio infantil,</i>			2			2
<i>matrimonio forzado</i>			3			3
<i>casamento infantil</i>			5			5
<i>Casamento forçado</i>					1	
<i>Children marriage</i>			Duplicated		28	
Scopus						
<i>Children marriage</i>			6			6
Scholar						
<i>matrimonio infantil</i>			11		4	11
<i>matrimonio forzado</i>						
TOTAL	13	48	136	31		228

Between 2020-22, 14 studies have been published on the sociological reality of child marriage, from the field of health and education. Regarding marriage and Human Rights, the debate was opened in 2015, with the legislative reforms to adapt them to SDG no. 5. There are entries from 2022, 2018, and 2015. Regarding forced marriage, most of the references correspond to Spain and Portugal since in 2015, they were classified (LJV 15/2015 and Lei 83/2015). In 2015 we found 3 articles; in 2019 another one, and the most recent is from 2022, which refers to Law 8/2021 of Spain, which establishes that child marriage is null and void. In 2022, Brazil and Mexico have presented initiatives to introduce the crime of forced marriage in their legislations, an issue that is being debated in their parliaments. The current trend is to include forced marriage as part of gender violence, addressed in 8 theses in 2022, and as a form of the crime of human trafficking or as a new form of slavery.

3. SEARCH RESULTS

3.1. On Dialnet

Firstly, the Dialnet search engine is used, as it is the primary resource in Spanish. The terms used are those used in the SDGs and the usual vocabulary of U.N. declarations, legal texts, and doctrine. As mentioned above, some terms have been excluded due to

confusion. For example, *matrimonio de menores* refers to filiation, to the protection of minors; other examples are *matrimonio servil* y el *matrimonio precoz*, since their influence is in the minority in the doctrine. So, the search has been done with child marriage and forced marriage.

In Dialnet we only found resources in Spanish, so we excluded searches in Portuguese and English. The time frame is 2015, the SDGs' approval date, and the territorial scope is Ibero-America.

The result for the term *matrimonio infantil*, in the field of legal sciences, is 33 documents: 2 books, 8 book chapters, 17 articles, and 6 doctoral theses. The results of the term forced marriage are 168 documents: 11 books, 40 book chapters, 92 journal articles, and 25 doctoral theses. Removing duplicate entries resulted in 111 entries, 7 books, 31 book articles, 61 journal articles, and 12 doctoral theses.

The movement to end child marriage is a transversal phenomenon. SDG no. 5, Target 3, is related to the rest of the SDGs. Therefore, the authors approach child marriage from the legal framework of its regulation in each country, but also from the health and education sectors.

The Dialnet results on child and forced marriage will be systematised in subsequent sections as a transversal reality that affects human rights and which, in some cases, is classified as a crime.

3.2. On Scielo

This database finds texts that address the issue, focusing on Latin America. The deadline is 2015. As the number of texts is small, they are described below.

With the term *matrimonio infantil*, in the Law section, two entries are found: the first, by Nares Hernández, J., Colín García, R., & García Suárez R. (2015), regarding the “Human Rights of girls and boys and the prohibition of child marriage in international treaties”. The second is by González Alcántara, J. L. (2020), on the constitutional issue of “child marriage and age exemption”. This article presents his vote in the unconstitutionality action of 22/2016, about eliminating the age exemption for severe and justified causes in Mexico. González Alcántara, against the majority of the court, withdraws from the argument concerning the distribution of competencies about establishing the “minimum age” for marriage. He considers that the age exemption and the institution of emancipation belong to the federal State and not to the federal States.

With the term *matrimonio forzado* three entries are found:

The first is from 2020 by Pérez, L., Nazar, J., Beutelspacher, A., Méndez, M.R., & Ramírez López, D. K., which shows the results of “Forced marriage and adolescent pregnancy in indigenous women in Amatenango del Valle, Chiapas. A glance at gender relations and reproductive change”, a thesis that provides data on the influence of

marriage in this area of Mexico, how it has been reduced by the increase in education and paid work.

The second entry is by Henao Trip, M. I. (2008), who considers eradicating child marriage as part of the “Fight against human trafficking: Challenge for Colombia in the 21st century”. She recalls that article 188-A of the Colombian Criminal Code includes servile marriage as a form of trafficking in persons. It was classified by Law 985 of 2005. Paragraph no. 3 of Art. 188 reads as follows. 3 of Art. 188 reads as follows: “For the purposes of this article, exploitation shall be understood as obtaining economic benefit (...), servile marriage”.

The third entry is the article by Casique, I. (2006), in which she asks: When can I say no? This is an approach from the perspective of female empowerment in Mexico. It deals with sexual violence within marriage.

The search for the term *casamento infantil* in Portuguese resulted in five entries, three from the field of health, one from education, and one from sociology.

The first three papers are Cardoso A. & Valério C. (2022), about child marriage from the health field. The second is by the authors Santos Cargnin, J.S., Luna, J.S., de Aguiar, D. M., Rodrigues, B. T.C., de Azevedo Filho A., D., & Rodrigo Pinheiro, S. (2021); A., D., & Rodrigo Pinheiro, S., which address the issue of violence against women in the Western Amazonia. The last is a paper by Silva A. J. C., Trindade R. F. C., & Oliveira L. L. F. (2020) regarding the presumption of sexual abuse in pregnancies in children under 14 years.

From education: Ferreira Pires, S. M. (2009), presents Romantic Love in children's literature as a gender issue.

From sociology: Veiga, M. V. A., & Loyola, V. M. Z. (2020), states that poverty is one of the reasons for child marriage. This publication provides testimonies of young wives who hope to improve their poverty situation because they are women and black. The authors consider that child marriage is part of the inequalities and discrimination women suffer because of their gender, class, and race.

The term *Casamento forçado* has only one entry from 2012 and is left out of this paper because it deals with the issue of paternity research, not child marriage.

If we expand the search in English, child marriage gives us 28 results, 5 duplicated with *casamento infantil*, and the rest are out of our field of study.

There are 11 entries in this repository, adding up all the searches in Spanish, Portuguese and English. Most of them deal with the topic of health (3) or sociology (3). There is one article from the perspective of education and one from criminology. Only two are of interest to our research from a legal perspective in terms of legislative reforms on the age of marriage, and they already appear in Dialnet.

3.3. On Scopus

In this search engine, we found a bibliography in English, so the term used was child marriage. There are 6 entries:

Two entries are of a historical character: Mccaa, R. (1994) and Mumford, J. R. (2020).

The third entry is the article by authors Kohno. A. et al. (2020), in which they searched nine English-language databases in areas such as public health, psychology, and social sciences between 2008 and 2018 for factors influencing child marriage. Twelve studies on the impact of human insecurity and conflict, as well as legal issues, were included. According to the authors of this article, there is a need for papers that address the issue of child marriage in Latin America, one of the areas where child marriage is most prevalent. The authors conclude that, despite global progress in expanding legislation against child marriage, the legal framework needs to be sufficiently enforced in many settings. Most studies are on the Middle East, Africa, and South Asia.

The same authors presented a study on the activities of adolescent girls in Malaysia on early marriage, which is outside the geographical framework of this study (Kohno, A. et al. 2021).

The article by Siddiqi & Greene (2022) systematically investigates the influence of child marriage. Searches were conducted in four languages (English, Spanish, Portuguese, and French), spanning 20 years (1 January 2000 to 31 December 2019) and including grey and peer-reviewed literature in all major geographic regions of the world. The review identified and analysed 1,068 publications from an initial 4,081 abstracts reviewed. They found studies on child marriage's influence, circumstances, and consequences. Including publications in Spanish and Portuguese brought results from Latin America and the Caribbean, Mozambique, and Europe. Results in French are from West Africa and the Maghreb. Searches in English include studies on the influence of child marriage in other areas, such as Asia.

Vilán, A. (2022) considers that although international and national laws prohibit child marriage, millions of girls are married yearly, a trend exacerbated by the COVID-19 pandemic. The movement to eradicate child marriage has increasingly gained momentum since adopting the SDGs. The article presents testimonies from victims of child marriage to generate empathy and mobilise commitment from political decision-makers to end the practice. Newspaper articles, reports, and interviews with activists in the United States and Latin America who have advocated for legislative reforms to raise the age of marriage in Ibero-America are included. It concludes by presenting the new challenges facing the movement.

Wiedemann, D. (2021) believes that although American countries have raised the legal age of marriage since the SDGs were adopted in 2015, the number of child marriages in Latin America does not reflect these reforms so far, as the legal age of marriage is only one factor among many. Legislative reforms only regulate civil or canonical marriage where it is recognised, leaving informal or indigenous unions out of the statistics. Legal

reforms have limited the ability of minors to marry before legal age but have not stopped the socio-economic factors that promote it.

Of the six entries described, the first two must be dismissed as being outside the time range of this study. Kohno, A. et al. (2020) present in their two papers the factors influencing child marriage from the sociology field. From the article by Siddiqi, M., & Greene, M. E. (2022), we are interested in the section dedicated to Latin America. Searches in French and English are beyond the territorial scope of this paper. The article by Vilán, A. (2022), which presents the movement for eradicating child marriage, is very interesting and shows how many agents are committed to SDG no. 5, target 3. Wiedemann, D. (2021) reminds us that the legislative reforms carried out in recent years are not enough.

3.4. Google Scholar

The term *matrimonio infantil* has 15 entries, which address the issue from different fields. For example, in the field of education, we can cite Fernández-Quiroga, A., Terrón-Caro, T., & Cárdenas-Rodríguez, R. (2022), “The role of education for the gender-based violence prevention” and the authors Soares, R. M. F., & Domingos, I. M. (2022) who raise the issue of Human Rights as a cultural experience.

Monedero, A. (2022) participates in the monograph entitled *social victims and victims of crime: personal and social promotion through intervention*, with his chapter on “Minors who are victims of child marriages: re-reading after the publication of Organic Law 8/2021”.

On the other hand, Squillacioti, C. (2021) considers “Child marriage: a gender issue. Underlying causes, consequences, legal forms and strategies for eradication”.

From sociology, Lee-Koo, K., & Gordon, E. (2022) analyse the causes and effects related to child marriage among adolescent girls in conflict contexts based on research in four crisis areas: Lake Chad (Niger, Nigeria, and Cameroon), South Sudan and Uganda, Lebanon (Beirut) and Bangladesh (Cox's Bazar). It is beyond the scope of this article. Other papers are outside this article's scope, such as that of Gamboa Ruíz, J. (2022).

As grey literature, we can quote the theses of Ignacio, S. (2022), *Public policies on child, adolescent and forced marriage: the cases of Chiapas and Oaxaca*, and that of Jiménez Rojas, B. (2022), *Vulnerability factors influencing child marriage and early unions among adolescents*.

As a Master's thesis from the University of Alcalá, directed by Cano Ruíz, I., there is the paper of Avis Morales, I. (2022), titled *Early and forced marriage. An analysis of the mechanism for its eradication*. At the Universidad de Santander de Colombia, we find (2022) *The Constitutional Rights of Girls to Decide About de Facto Marital Union of Tribal Peoples in Colombia: The Kankuamo Case*, by Fuentes Fuentes, Y. S., Quintero Álvarez, C. R., & Meza-Altamar F., M., directed by Medina Noriega E. J.

What stands out about these papers is, firstly, that they are very recent, and also that they seek to analyse the problem of child marriage and propose strategies for its eradication. There are theses from Spain, Mexico, and Colombia, which allow us to know the influence of marriage in specific areas such as the State of Chiapas, Oaxaca in Mexico, or the tribal peoples of Colombia.

With the term forced marriage, we found 17 entries, of which 9 must be excluded.

Galán, E. C. D. (2022) presents in his article “Forced Marriage and International Crime: A New Normative and Jurisprudential Trend”. Martínez, Y. (2022) discusses forced marriage from a sociological perspective in the Colombian Caribbean. On the other hand, Vidal Gallardo, M. (2022), proposes measures for “Comprehensive protection of children and adolescents from the violence of forced marriage,” and Ramos, M. J. S. (2022) presents “Comprehensive reparation of the damage in the crimes of human trafficking and smuggling”.

Finally, there are several entries of final degree papers: Sánchez Ángeles, V.G. (2022), *Forced marriages: violation of the human rights of girls, adolescents, and women in La Montaña and the Costa Chica of Guerrero*. Another example is Sánchez Piñero, E. (2022), “*Forced marriage as a type of human trafficking. Perspective of Andalusian social workers on the practice of forced marriage*”. Finally, we can quote Rincón García, E. (2022), “*Trafficking in human beings for the purpose of forced marriage and forced marriage: double classification*”. Although they are not texts published in journals, they show the interest that the subject arouses in university studies.

4. DOCTRINAL DEBATE ON THE AGE OF CONTRACTING A MARRIAGE

4.1. Child marriage as a cross-sectoral reality

As mentioned previously, the Sustainable Development Goals (SDGs) are not watertight compartments; progress on one implies progress on the others. Thus, SDG no. 5, in its target 3, is not a goal isolated from the other actions the U.N. promoted to achieve the SDGs by 2030.

The U.N. General Assembly, at its 29th session, adopted resolution 29/8 of 2 July 2015, which states:

“Deeply concerned also that poverty and lack of education are among the factors that contribute to the practice of early and forced child marriage, and recalling that child, early and forced marriage entail a significant obstacle for women and girls in terms of access to education or completion of their education.”¹³

¹³ Available at: <https://documents-ddsny.un.org/doc/UNDOC/GEN/G15/163/09/PDF/G1516309.pdf?OpenElement> [Accessed: 3 January 2023].

The SDGs are intertwined, so for SDG no. 3, promoting education can effectively end child marriage. The NGO Save the Children works to end child marriage transversally across all thematic areas through its education, health, and child protection plans. It is not enough to promote legislative changes; child protection systems must be strengthened. Ending child marriage will not only contribute to SDG target 5.3: “Eliminate harmful practices such as child, early and forced marriage...” but also to many other SDG targets, such as eradicating extreme poverty (target 1.1), reducing maternal death (target 3.1), eliminating gender inequalities in education (target 4.5), ending violence against all women and girls (target 5.2), universal access to sexual and reproductive health and rights (target 5.6), and end all forms of violence against children (target 16.2)”.

In this way, Veiga et al. (2020) considers that poverty is one of the causes of child marriage. In order to escape the poverty of the family of origin, child marriage cannot become the only way to improve the living conditions of minors. Therefore, poverty eradication tackles one of the roots of child marriage. “Com a decisao de casarem, as meninas esposas manifestam a esperanca de melhoranas condições de vida (p.74)”.

Similarly, SDG no. 3 plans to “Ensure healthy live and promote welfare for everyone at all ages”. Child marriage affects the health of minors. Thus, we have studies that address the issue of child marriage from the medical field. The article by Cassimiro, A.J., da Silva, T., CizinoR. hF., & Oliveira, L. L. F. (2020) do so from the nursing field. Cardoso, A. V. (2022) presents a study regarding collective health in Brazil. Luna, J. (2021) studies sexual violence in the Amazonia. The author Chamorro, F., Jiménez Rojas, B., & Hernández Miranda, G.C. (2020) address the issue of sexual and reproductive health among women aged 20-29 in Panama. Finally, we can quote Taylor, A. Y., Murphy-Graham, E., Van Horn, J., Vaitla, B., Del Valle, Á., & Cislighi, B. (2019) from the field of adolescent health.

All these studies take into account target no. 3.1: “By 2030, reduce the global maternal death ratio to below 70 per 100,000 live births”. In the case of pregnancy, child marriage poses a higher risk for minor girls. The *United Nations Population Fund* recognises this: “Child marriage puts girls' lives and health at risk and limits their future prospects. Girls who are forced into marriage often become pregnant while still being teenagers, increasing the risk of complications during pregnancy or childbirth. These complications are the leading cause of death among older adolescent girls.”¹⁴

SDG no. 4 in its target no. 4.1 aims for all children to complete primary and secondary education. Child marriage makes it more difficult for young husbands to continue their education. The website *girlsnotbrides* states: “Girls with no education are 3 times more likely to marry by the age of 18 than those with secondary or higher education. More than 60 % of women (20-24) with no education were married before the age of 18.”¹⁵ Authors Luna Pérez, J., Nazar Beutelspacher, A., Mariaca Méndez, R., &

¹⁴ Available at: <https://www.unfpa.org/es/matrimonio-infantil> [Accessed: 13 January 2023].

¹⁵ Available at: <https://www.girlsnotbrides.es/aprendizaje-recursos/matrimonio-infantil-y-educaci%C3%B3n/> [Accessed: 15 January 2023].

Ramírez López, D.K. (2020) in their article provide data on the influence of marriage in the Chiapas, located in Mexico, and how it has been reduced by the increase in education and paid work for minors. According to Chamorro F., et al. (2020), early unions deny girls and adolescents the right to make fundamental decisions about their own independence, education, and sexual and reproductive health. As stated by Peramato Martín, T. (2017): “Child marriage is a violation of human rights that affects mostly girls who, in addition to causing serious damage to their physical, psychological and reproductive health, reduces their opportunities for education and employment and makes them more vulnerable to intimate partner violence.”

In short, child marriage is a circular phenomenon that feeds back into other issues: child pregnancy, violence, and school dropout is an obstacle to sustainable development and contributes to perpetuating the cycle of poverty.¹⁶ These references show how SDG no. 5, in its target 3, is a target of the Millennium Development Goals (MDGs). 5, in its target 3, is interconnected like the rest of the SDGs. Authentic human development means expanding people's opportunities and increasing their capacities and liberties. The eradication of child marriage is a complex problem, so tackling its causes —poverty education— requires a transversal solution.

4.2. Child marriage and Human Rights

On 2 July 2015, the 29th session of the U.N. General Assembly adopted resolution 29/8: “Recognising that child, early and forced marriage is a harmful practice that violates, abuses and undermines human rights and is associated with other harmful practices and violations of Human Rights.”¹⁷

Most authors consider child marriage as a harmful practice for minors. Thus, Morán Blanco. S. (2022), in the third part of his study, analyses the legal, political, and social measures that, since the end of the 20th century, have been applied by States, International Organisations, and NGOs to eradicate child, early and forced marriage and female genital mutilation. The authors Vetus Zaganelli, M., Morais, J.A., Peterle, L.P., & Ferreira, L.A. (2021) consider child marriage a violation of Human Rights. Their article presents the international and Brazilian legal framework and exposes the consequences suffered by girls subjected to early unions.

However, some authors are critical of establishing the age of 18 as a universal absolute, as a Human Right. Thus, Álvarez Cozzi. M. (2018) reports the inconsistency of international sources. The United Nations Universal Declaration of Human Rights refers to the domestic legislation of States to establish the marriageable age. Similarly, the American Convention on Human Rights states in Art. 17: “the family is the natural

¹⁶ Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/163/09/PDF/G1516309.pdf?OpenElement> [Accessed: 3 January 2023].

¹⁷ Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/163/09/PDF/G1516309.pdf?OpenElement> [Accessed: 12 January 2023].

and fundamental group unit of society and the State”. No. 2 continues: “The right of men and women to marry and to found a family is recognised if they are of the age and meet the conditions required by domestic law, insofar as such laws do not affect the principle of non-discrimination established in the Convention”. Finally, reference may be made to the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages, which entered into force on 9 December 1964. In its Preamble, it rightly cites Art. 16 of the Universal Declaration of Human Rights, and its Art. 2 clearly states that the domestic law of the member States shall determine the minimum age of marriage for spouses. Finally, Art. 3 provides for the registration of marriages with the competent authority of each State (Álvarez Cozzi 2018, p. 586).

From Ecuador, Mosquera, Endara M. (2018) considers that the fundamental right to marriage, enshrined in the Republican Constitution, cannot be restricted by a lower norm, such as the Civil Code. The author proposes a return to the pre-2015 legislation, in which minors were allowed to marry their parents' authorisation (Mosquera, M. 2018, p.1270).

From Mexico, González Alcántara. J. L. (2020) considers that when a person is prohibited from marrying, he or she is deprived of a fundamental right and a series of fiscal, solidarity, and property benefits. He criticises the removal of the possibility of dispensation, as this is part of the legislator's competence. The purpose is justified in order to protect the minor and to take into account the progressive nature of rights. González Alcántara recalls that international treaties leave States free to set the minimum age for marriage; this is the same thesis as Álvarez Cozzi. The main argument that González raises is the conflict of competencies between the Congress of the Union and the Federal States. The question is whether the federative entities can restrict, through a local law, the constitutional law to marry according to Art. 10, this can only be done under the conditions established by the Constitution. According to the author, the minimum age for marriage cannot be federalised (González Alcántara 2020, p. 468).

4.3. Child marriage and Human rights

Not every child marriage is a forced marriage. This section will present searches for the terms forced marriage/casamento forçado.

The entries refer mainly to Spain. The minimum age for marriage in Spain is 16 years. Art. 81 of the *Ley de jurisdicción voluntaria* 15/2015- removed the possibility of judicial waiver for minors under 16 years of age to marry. This way, Directive 2011/36 E.U. of 5 April is transposed.¹⁸

Regarding the classification of forced marriage, Art. 90 of the L.O. 15/2015 classified child marriage as a crime, as established in Art. 172(a) of the Criminal Code.

¹⁸ Ley 15/2015, de 2 de julio, de la Jurisdicción Voluntaria. Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2015-7391> [Accessed: 12 February 2023].

With OL 10/2022, section 4 has been included in Art. 172a, which refers to the nullity or dissolution of the marriage thus contracted. Article 177(a) of the Criminal Code, after the reform of 1/2015, incorporates the celebration of forced marriages as one of the forms of trafficking in human beings.

Forced marriage has been classified in Spain as a form of coercion (Article 172a) and as part of trafficking in persons. According to Art. 172 bis of the Criminal Code, there are different types of actions. “El que obligue a otra persona a contraer matrimonio mediante intimidación o violencia graves, será reprimido con pena privativa de libertad de seis meses a tres años y seis meses o con multa de doce a veinticuatro meses, según la gravedad o extensión de la coacción¹⁹”. The first part will focus on attacks on the fundamental right to enter into marriage in complete freedom and equality; it considers that violence or intimidation against a victim need not be severe but is understandable as long as the violence or intimidation is sufficient to cause harm to the victim. The subject's will is affected, weakening his or her willingness to make decisions.

In Portugal, the Lei no. 83/2015 of 05/08, categorise *Casamento forçado* in Article 154.º-B: “Quem constranger outra pessoa a contrair casamento ou união equiparável à do casamento é punido com pena de prisão até 5 anos”²⁰. It is an autonomous crime of art 154—coercion—there does not need to be violence or threat, it is enough that the marriage or equivalent union is forced (Ferreira Monte 2016, p.81).

In the joint work by Nieto Cabrera, M. E., & Nieto-Morales, C. (coords.) (2022) entitled: *Social victims and victims of crime: personal and social promotion through intervention*, intervenes Abascal, P. J. (2022) with a paper on “Ley orgánica 8/2021 on minors who are victims of child marriages”.

The second entry is from Villacampa Estiarte, C. (coord.) (2019); the work is divided into three parts: the first, phenomenological analysis; the second, legal analysis; and the third, assistance and compensation to victims. It is a crucial work on this subject; although it does not have a section dedicated to Latin America, there are comparative studies of the UK, Spain, Italy, and Germany. Torres Rosell, N. (2019) collaborates in this book with the chapter “Forced marriage in Spain. An empirical approach” (pp. 99-113), in which she provides a table with the influence of forced marriage in Spain and presents the age of marriage, nationality, and ethnicity of the victims. In 2015, this author presented two works: *Child marriage as an attack on the dignity and indemnity of minors* and “Forced marriage: a phenomenological approach and analysis of the incrimination processes” (2015b).

¹⁹ Art. 172: bis “1. Whoever forces another person to enter into marriage by means of serious intimidation or violence shall be punished with imprisonment of six months to three years and six months or with a fine of twelve to twenty-four months, depending on the seriousness or extent of the coercion”.

²⁰ Art. 154 B: “Whoever causes another person to enter into a marriage or a union comparable to marriage is punished with a prison sentence of up to 5 years.

Another author who addresses the issue is Igareda González, N already in 2013, before the classification of forced marriage, she presented the “Debates on autonomy and consent in forced marriages,” and in 2015, she considered “Forced marriages: another opportunity for symbolic criminal law?”. The same author, in 2017, presented forced marriage as a phenomenon imported to Europe.

In the criminal field, forced marriage is included as part of human trafficking; this is the thesis of Navarrete, J.A., from 2017 *The crime of trafficking in persons, a comparative law analysis from a Mexican perspective*. Another proposal is that of Hernao Trip M. I. (2008), “Fight against human trafficking: A challenge for Colombia in the XXI Century”. The last contribution is that of Torres Rosell N. (2022) with her article “The intersection between trafficking in human beings and forced marriage. An approach to the phenomenon and criminal law response”.

Some authors consider child marriage as a contemporary form of slavery; this is the thesis of Bedmar, E. (2022) *Criminal law in the face of contemporary forms of slavery*, in which he continues with what has already been exposed by García Sedano, T. (2019) in his article: “Contemporary forms of slavery in domestic employment”.

Another current of doctrine considers child/forced marriage as part of gender violence, thus, the aforementioned article by Squillacioti, C. (2021), “Child marriage: a gender issue. Underlying causes, consequences, legal forms and strategies for eradication”. Another author we can cite in this line is Zamora Manzano, J.L. (2021) “Early and forced marriage as a form of violence against women. From Rome to the digital age”. In the monograph *Women as drivers of legal and social innovation* in 2021, coordinated by Professor Tomás Martínez G., Tamayo, S. participates with the chapter “Child and forced marriage as a manifestation of power asymmetries.” In 2018, Sanz Mulas, N., presented the monograph: *Culturally motivated crimes*. Culturally motivated crimes, such as female genital mutilation or forced marriages, go beyond being a criminal offence. To eradicate them, it is not enough to classify them, it is necessary to intervene in the culture that motivates and justifies them. They reveal the new tensions and conflicts in the multicultural societies of our time, the confrontation of religious and cultural values with post-modernity values. It is therefore necessary to adopt a multiculturalist model for managing cultural diversity. A model with an unavoidable gender perspective since only inequality between the sexes reinforces and maintains the validity of these ancestral practices. Moreover, this can only be achieved through a calm, political and legal debate, with the opinion of women themselves as a starting point (Sanz Mulas 2018, p.1).

This proposal was already present in 2011 in the book by Rodríguez Luna, R., *Male violence against women*.

As for the search for the term forced marriage must be framed in the criminal field, so the doctrine focuses on Spain and Portugal, as they are the only countries in Ibero-America where forced marriage is classified as a crime.

The movement for eradicating child marriage promotes raising the legal age of marriage and the classification of child marriage. Therefore, the next step in implementing SDG no. 5, Target 3, will be including child marriage in the SDGs. 5, target 3, will include forced marriage in the Criminal Code of the countries of the Americas.

The debate has started in Brazil, a country with a high influence on child marriage. In Brazil, the Chamber of Deputies, on 27 April 2022²¹, has reformed Article 205(a) in the Federal Criminal Code, establishing as a crime: “coabitação forçada de pessoas menores de 18 anos que não têm a capacidade de entender o significado do ato ou de resistir a ele”²².

The second country debating the penalisation of marriage is Mexico. Congresswoman Eufroina Cruz, on 9 December 2021, proposed making forced marriages punishable by imprisonment. Her initiative envisaged including the crime of forced marriage in Chapter IX. The legislator pointed out that these unions are a form of violence and slavery that is hidden in “the tradition of our native people.”²³ The debate continues in Parliament; on 25 April 2022, the opinion to stop forced marriages was approved, so it is still an open issue.

5. CONCLUSION

This paper seeks to answer these questions: What is the sociological reality of child marriage in Ibero-America? From which fields has child marriage been studied in Ibero-America? What has been the doctrinal debate on these legislative changes?

Child marriage is an undeniable sociological reality in Ibero-America. The incidence of this issue in some Latin American countries is still very high. Its causes are very varied—as we have seen—so, to eradicate this practice, it is not enough to raise the legal age of marriage. In addition to these legislative reforms, it is necessary to go to the root of the problem, which in many cases is none other than poverty.

Many studies are devoted to the sociological reality of child marriage, analysing its causes and proposing measures for its eradication. SDG no. 5, Target 3, is interconnected like the other SDGs. Actual development means expanding people's opportunities increasing their capabilities and liberties. The eradication of child marriage is a complex problem, so tackling its causes—poverty education—requires a transversal solution. This is why studies that address the issue from the medical,

²¹ Available at: <http://www.espaciotv.es:2048/referer/secretcode/wire-feeds/prisao-por-casamento-forçadomantido/docview/2656615791/se-2?accountid=142712>. [Accessed: 22 January 2023].

²² Art. 205(a) forced cohabitation of persons under the age of 18 or who cannot understand the meaning of the act or to resist it.

²³ Cámara de Diputados México. (December 09, 2021) Available at: <https://comunicacionsocial.diputados.gob.mx/index.php/notilegis/prision-para-sancionar-matrimonios-forzados-propone-eufrosina-cruz> [Accessed: 13 January 2023].

educational, etc., perspective are found to resolve the causes of child marriage, which cannot be the only way to improve living conditions, a form of “social promotion” for girls from low-income families.

Child marriage is a harmful practice against human rights. Therefore, an international movement to eradicate it involves not only governments or international organisations, but is a transversal movement. The eradication of child marriage is one of the 2030 SDGs. The doctrine that has been presented in this study considers child marriage as a new slavery or part of gender-based violence. From 2015 to 2022, all the laws in Ibero-America have been reformed; in all of them, the age of marriage has been raised to 18, although in 9 countries, it is permitted—with parental or judicial authorisation—to marry from the age of 16. Despite this new legal framework, in practice, child marriage in the Americas has continued to grow, especially in the poorest and most vulnerable communities.

There are critical voices against the absolutisation of the age of 18 for marriage, not only because of questions of competence between the Central State and the Federal Entities, as it is understood that the Civil Code cannot limit the fundamental right to marry. The issue is the progressivity of the rights of minors and the ability of States to meet the needs of their population with legislation adapted to their social circumstances. In a way, the absolute prohibition leads some young people to cohabit as spouses but without the support of the institution of marriage. The canon law considers marriage to be a natural right. It caters to people's capacity and the progression of children's rights rather than setting an absolute, legalistic ban on child marriage. In the canonical sphere, the permission of the parents or the parish priest—necessary for minors to be able to contract—is intended to enable them to exercise *jus connubi*—a fundamental right—with sufficient maturity and due consideration.

The question has been raised about whether all child marriages are always forced. Because in addition to raising the age of marriage in all Ibero-American countries, forced marriage has been classified in some countries. This is the case in Spain and Portugal, perhaps to avoid “importing” this practice from immigrant communities that have settled in their territories. Brazil included it in its Federal Criminal Code in 2022, and in Mexico, the issue is part of the debates in the Chamber of Deputies.

In the Spanish and Portuguese fields, the doctrine questions whether the type of forced marriage is an autonomous crime or part of a broader crime such as human trafficking.

Although it may seem obvious, to understand the doctrinal debate on the legislative reforms made in Ibero-America to adapt to SDG no. 5, target 3, it is necessary to resort to the Spanish and Portuguese legal literature. 5, target 3, it is necessary to turn to the region's languages, Spanish and Portuguese. This article, published in English, plans to disseminate the bibliographical references of this debate in the English-speaking world. Therefore, the titles of the works have not been translated, so that they can be consulted in the repositories used.

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