Guilty by Association? Criminalising Guests, Religious Leaders and Communities at Child-Marriage Ceremonies

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Abstract

The Prohibition of Child Marriage Act 2024 does more than punish the adult spouse or parent who arranges a prohibited union. Sections 5 and 7 bring the ceremony itself within the criminal law. A person who conducts or presides over a child-marriage ceremony, and a person who merely attends it, may be sentenced to imprisonment for not less than ten years, a fine of not less than Le50,000, or both. In each case the Act presumes, unless the contrary is proved, that the person knew one or both parties were below eighteen. This article defends Parliament's decision to dismantle the communal machinery through which child marriage acquires religious, customary and social legitimacy.

A celebrant who knowingly converts exploitation into a publicly authorised union is not a neutral witness. Yet the article argues that sections 5 and 7 collapse materially different conduct, reverse the ordinary direction of proof, and risk punishing presence rather than culpable assistance. Attendance may reflect approval, but it may also reflect ignorance, mistake, coercion, kinship obligation, an attempt to protect the child, or accidental presence. Drawing on Sierra Leone's Constitution and criminal procedure, African child-rights jurisprudence and common-law decisions on reverse burdens, complicity, religious freedom and proportional sentencing, the article proposes a rights-consistent construction.

The prosecution must prove voluntary attendance or conduct beyond reasonable doubt and establish facts supporting knowledge; the statutory presumption should impose only an evidential burden upon the accused. Liability for celebrants should turn on actual knowledge or wilful blindness, while liability for guests should additionally require intentional encouragement or material support. Child marriage needs social denunciation, but collective silence cannot be cured by collective guilt.

Keywords: *child marriage; criminal participation; religious freedom; customary law; reverse burden; presumption of innocence; mens rea; ceremony; Sierra Leone; proportionality.*

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I. Introduction

A child-marriage ceremony is rarely private in the strict sense. There may be a religious leader, traditional authority, musicians, cooks, drivers, witnesses, neighbours and extended relatives. Some negotiate the union. Some pronounce blessings. Some provide money, transport or premises. Others sit in the crowd. The ceremony transforms a family arrangement into a social fact: it tells the child that the community recognises the adult's claim and expects her compliance. Sierra Leone's Prohibition of Child Marriage Act 2024 attacks that social architecture. It does not confine criminal responsibility to the adult who contracts the marriage. Section 5 prohibits a person from conducting or presiding over a child-marriage ceremony, while section 7 prohibits attendance.[2] Both provisions presume knowledge of minority unless and until the contrary is proved. Conviction exposes the celebrant or guest to imprisonment for not less than ten years, a fine of not less than Le50,000, or both.[3]

The policy is intelligible. A prohibition directed only at the groom would allow every institution that enabled the union to disclaim responsibility. Religious leaders could say they merely blessed what families decided; guests could say they merely attended what custom required; community leaders could say the law concerned private spouses, not public recognition. Parliament has refused that fragmentation. The ceremony is not background scenery. It can be the mechanism by which coercion is normalised. But the same provisions generate a serious constitutional problem. Criminal law ordinarily distinguishes the principal from the accessory, intentional assistance from mere presence, and guilty knowledge from innocent mistake. Section 7 appears to criminalise attendance without expressly requiring encouragement, agreement or benefit. It then shifts the burden concerning knowledge to the accused. A guest who cannot prove what he did not know may face the same ten-year custodial floor as a celebrant who deliberately ignored a child's school record.

The controversy is not whether communities should resist child marriage. They should. It is whether criminal law may convert a whole gathering into a class of presumptive offenders. The answer proposed here is qualified. Parliament may punish knowing ceremonial participation and may demand reasonable age verification from persons who claim authority to solemnise marriage. It should not, consistently with the presumption of innocence and proportionate culpability, treat unelaborated presence as equivalent to intentional facilitation.

[2] Prohibition of Child Marriage Act 2024, Act No 5 of 2024, ss 5(1) and 7(1), available at SierraLII.

[3] ibid ss 5(2)–(3) and 7(2)–(3).

Ii. The Statutory Design: Actus Reus, Presumed Knowledge and Penalty

The Act defines a child as a person below eighteen and child marriage as a union in which either contracting party is a child.[4] "Conduct" includes a child marriage presided over by traditional leaders, making clear that liability is not confined to formally licensed civil or religious officials.[5] The definition reflects Sierra Leone's legally plural landscape: a ceremony may derive authority from family, custom, faith or community recognition even where registration never occurs.

Section 5(1) supplies the conduct offence's actus reus: conducting or presiding over a child-marriage ceremony. Section 5(2) then provides that, unless and until the contrary is proved, the person is presumed to know that one or both parties is below eighteen.[6] Section 7 follows the same structure for a person who attends. The Act does not define "attend". It does not state how long a person must remain, whether a caterer or driver attends, whether a child guest is included, or whether a person who enters to remove the child has committed the external act.[7] These omissions matter because the penalty is severe. Ten years is not a regulatory inconvenience. It is a profound deprivation of liberty ordinarily associated with serious personal culpability. The statutory fine remains an alternative, so imprisonment is not automatic in every case; but once custody is selected the minimum appears to be ten years.[8] A broad actus reus, a reverse presumption and a high custodial floor therefore operate together.

Three propositions must be kept separate. First, the prosecution must prove that there was a child-marriage ceremony. Secondly, it must prove that the accused conducted, presided over or attended it. Thirdly, knowledge of age is affected by the statutory presumption. The presumption cannot rationally prove the first two propositions. Nor should it relieve the prosecution from proving voluntariness, identity and the physical acts constituting attendance or conduct beyond reasonable doubt.

The distinction between legal and evidential burdens is central. An evidential burden requires an accused to raise credible material capable of supporting lack of knowledge; the prosecution retains the ultimate obligation to prove guilt beyond reasonable doubt. A persuasive burden requires the accused to convince the court, on some standard, that knowledge was absent. The phrase "unless and until the contrary is proven" appears to contemplate the latter. Read literally, it risks conviction where the court remains genuinely uncertain whether the guest knew the child's age.

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[4] ibid s 1.

[5] ibid.

[6] ibid s 5.

[7] ibid s 7.

[8] ibid ss 5(3) and 7(3).

Iii. Why The Law Reaches The Celebrant?

The strongest case for liability concerns the person who conducts or presides. A celebrant is not merely present. The celebrant lends institutional language, authority and finality to the union. A religious leader may invoke sacred obligation; a traditional leader may embody customary legitimacy; a civil officer may produce documentary recognition. Each can transform family pressure into an apparently binding status.

International and African law leave little room for a religious or customary exception to the minimum age. Article 21 of the African Charter on the Rights and Welfare of the Child requires States to eliminate harmful social and cultural practices and prohibits child marriage.[9] Article 6(b) of the Maputo Protocol requires eighteen as the minimum age for women. In *APDF and IHRDA v Mali*, the African Court held that domestic rules permitting marriage below eighteen violated regional obligations; religious and social context did not displace the treaty standard.[10] In *Mudzuru v Minister of Justice*, Zimbabwe's Constitutional Court invalidated legal arrangements permitting child marriage and treated constitutional childhood as incompatible with matrimonial capacity below eighteen.[11] Nor can "culture" operate as an unexamined defence. In *Bhe v Magistrate, Khayelitsha*, the South African Constitutional Court held that customary law is living law but remains subject to constitutional equality and dignity.[12] The decision does not deny the value of tradition. It denies public authority to practices that subordinate rights. Sierra Leone's Act embodies the same hierarchy: religious and customary forms remain respected, but they cannot authorise what the law defines as exploitation of a child.

A duty of age verification is therefore defensible for celebrants. A person who assumes authority to solemnise marriage may reasonably be required to inspect reliable evidence of age, question inconsistent accounts and decline where doubt persists. The Act's amendments to civil, Christian, Muslim and customary-marriage legislation reinforce a unified minimum of eighteen.[13] Professional or institutional responsibility justifies a more demanding standard than that applied to an ordinary guest.

Yet strict liability is unnecessary. A celebrant may be deceived by forged records, confronted with an older-looking seventeen-year-old, or substituted at short notice after another official conducted the age checks. The criminal question should not be whether the celebrant made an error, but whether he knew, was wilfully blind, or failed so grossly in a defined statutory duty

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[9] African Charter on the Rights and Welfare of the Child 1990, art 21.

[10] *Association pour le Progrès et la Défense des Droits des Femmes Maliennes (APDF) and Institute for Human Rights and Development in Africa (IHRDA) v Republic of Mali* (Application No 046/2016) [2018] AfCHPR 2, available at AfricanLII.

[11] *Mudzuru and Another v Minister of Justice, Legal and Parliamentary Affairs and Others* (CCZ 12/2015) [2015] ZWCC 12, available at ZimLII.

[12] *Bhe and Others v Magistrate, Khayelitsha and Others* [2004] ZACC 17, 2005 (1) SA 580 (CC), available at SAFLII.

[13] Prohibition of Child Marriage Act 2024, s 28.

that criminal negligence is established. A ten-year minimum demands culpability more substantial than mere imperfection.

Iv. When Does Presence Become Participation?

Section 7 presents the harder case because attendance is morally ambiguous. Presence may endorse a ceremony, especially where guests applaud, present gifts, sign as witnesses or publicly urge the child to obey the spouse. But the criminal law has traditionally resisted the proposition that presence alone establishes complicity. In *R v Jogee*, the United Kingdom Supreme Court corrected the law of secondary liability and reaffirmed that assistance or encouragement must be accompanied by the necessary intent; foresight is evidence from which intent may be inferred, not a substitute for it.[14] The case concerned participation in violence, not ceremonial attendance, but its conceptual warning is directly relevant. Association with a wrongdoer cannot itself become the mens rea of another offence.

Canadian jurisprudence similarly distinguishes presence from intentional assistance. In *R v Dunlop and Sylvester*, the Supreme Court of Canada held that mere presence at the scene of an offence and passive acquiescence were insufficient for aiding and abetting without purposeful encouragement or assistance.[15] Presence may become culpable where it is intended to lend support, prevent interference or embolden the principal. The missing element is not physical proximity; it is participatory purpose.

The social context of Sierra Leone complicates the inquiry. An elderly relative may attend because refusing a summons from a chief or family head carries serious consequences. A woman economically dependent upon the organisers may believe absence will expose her children to retaliation. A neighbour may arrive believing the event is an engagement or naming ceremony. A photographer or cook may discover the parties' ages only after work has begun. A teacher may attend in order to locate and protect the child. A police officer may attend covertly. The verb "attend" is capable of covering all of them.

Criminal liability should consequently require more than bodily presence. The prosecution should prove voluntary attendance with knowledge or wilful blindness and conduct intended to approve, encourage or materially support the prohibited union. Gifts, speeches, signing, organising transport, guarding the venue, concealing the child or obstructing intervention may provide evidence. Silent presence, without more, should not trigger ten years' imprisonment.

This does not make section 7 redundant. Public ceremonies depend upon an audience. A guest's intentional performance of communal approval can encourage both organisers and the child's

[14] *R v Jogee; Ruddock v The Queen* [2016] UKSC 8, [2017] AC 387, available at BAILII.

[15] *Dunlop and Sylvester v The Queen* [1979] 2 SCR 881, available at CanLII.

continued submission. The offence may properly reach that harm. Its legitimate target is knowing solidarity with the prohibited marriage, not the metaphysical fact of being in the same place.

V. Reverse Burdens and The Constitutional Presumption of Innocence

Section 23(4) of Sierra Leone's Constitution guarantees that every person charged with a criminal offence shall be presumed innocent until proved guilty.[16] That guarantee does not prohibit every statutory presumption. Legislatures may allocate limited evidential burdens where a fact lies peculiarly within the accused's knowledge and the interference is rational and proportionate. But the more serious the offence and penalty, the stronger the justification required.

The common-law starting point remains *Woolmington v Director of Public Prosecutions*: subject to recognised exceptions, the prosecution bears the burden of proving guilt.[17] Modern decisions have adapted that principle to rights instruments. In *R v Lambert*, the House of Lords interpreted a statutory reverse burden as evidential rather than persuasive where a legal burden would unjustifiably impair the presumption of innocence.[18] In *Sheldrake v DPP; Attorney-General's Reference (No 4 of 2002)*, the House emphasised proportionality, asking whether the legislative objective justified the particular transfer of proof.[19]

South African authority is especially instructive. In *S v Coetzee*, the Constitutional Court invalidated reverse-onus provisions that risked conviction despite reasonable doubt.[20] *S v Manamela* accepted that combating serious crime is a legitimate objective but held that the chosen reverse burden must remain proportionate and closely tailored.[21] Canada's *R v Oakes* likewise treated a presumption that could convict despite reasonable doubt as an infringement requiring exacting justification.[22]

Sections 5(2) and 7(2) pursue a legitimate objective. Age knowledge is difficult to prove; organisers may conceal records; participants may coordinate denials; and the child's appearance may be contested. Without an inference, the Act could be evaded through rehearsed ignorance. But convenience of prosecution is not sufficient by itself. The statutory presumption must be rationally connected to the proved fact. Conducting a marriage may support an inference of knowledge because the celebrant ordinarily interacts with the parties and assumes a verification role. Mere attendance supports a much weaker inference.

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[16] Constitution of Sierra Leone 1991, s 23(4).

[17] *Woolmington v Director of Public Prosecutions* [1935] AC 462 (HL).

[18] *R v Lambert* [2001] UKHL 37, [2002] 2 AC 545, available at BAILII.

[19] *Sheldrake v Director of Public Prosecutions; Attorney-General's Reference (No 4 of 2002)* [2004] UKHL 43, [2005] 1 AC 264, available at BAILII.

[20] *S v Coetzee and Others* [1997] ZACC 2, 1997 (3) SA 527 (CC), available at SAFLII.

[21] *S v Manamela and Another (Director-General of Justice Intervening)* [2000] ZACC 5, 2000 (3) SA 1 (CC), available at SAFLII.

[22] *R v Oakes* [1986] 1 SCR 103, available at CanLII.

A rights-consistent court should therefore construe both provisions as imposing only an evidential burden. Once the prosecution proves the ceremony and voluntary participation, the accused must point to evidence capable of raising lack of knowledge: what he was told, what records were produced, when he arrived, what role he performed, or why reasonable verification was impossible. The prosecution must then satisfy the court beyond reasonable doubt that knowledge or wilful blindness existed. If the evidence leaves a reasonable possibility of innocent mistake, conviction should not follow.

That construction reverence's legislative purpose without rewriting the offences into strict liability. It also avoids the perverse result that the weakest defendant, illiterate, unrepresented or unable to obtain records bears the greatest risk of conviction simply because he cannot "prove" a negative.

Vi. Religion, Conscience and The Limits of Ceremonial Autonomy

The prosecution of pastors, imams and traditional leaders engages constitutional freedoms of conscience, religion, assembly and association under sections 24 and 25.[23] Those freedoms protect belief, worship, teaching and communal organisation. They do not confer power to alter the legal age of marriage.

The key distinction is between belief and harmful conduct. In *Christian Education South Africa v Minister of Education*, the South African Constitutional Court rejected a religious exemption from the prohibition of corporal punishment in independent schools, while taking the community's beliefs seriously in the proportionality analysis.[24] The State could protect children through a general law notwithstanding sincere religious conviction. *Prince v President of the Law Society of the Cape of Good Hope* similarly illustrates that religiously motivated conduct may be limited by a law serving a sufficiently important public purpose, though the proportionality of the burden remains contestable.[25]

Canada's *R v Big M Drug Mart Ltd* identifies freedom of religion as protection against coercion in matters of belief.[26] It does not constitutionalise every act associated with religion. A celebrant remains free to teach a faith's understanding of marriage, but not to solemnise a union that domestic law validly prohibits. The line is not hostile to religion. It protects the child from being made subject to an adult institution before legal capacity exists.

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[23] Constitution of Sierra Leone 1991, ss 24–25.

[24] *Christian Education South Africa v Minister of Education* [2000] ZACC 11, 2000 (4) SA 757 (CC), available at SAFLII.

[25] *Prince v President of the Law Society of the Cape of Good Hope and Others* [2002] ZACC 1, 2002 (2) SA 794 (CC), available at SAFLII.

[26] *R v Big M Drug Mart Ltd* [1985] 1 SCR 295, available at CanLII.

At the same time, criminal enforcement must remain religiously neutral. The Act applies to civil registrars, pastors, imams and traditional leaders alike. Selective prosecution of one faith or ethnic community would raise serious equality and legitimacy concerns. Training, verification protocols and enforcement should be applied across institutional forms. The State should enlist religious leaders as child-protection partners rather than approach every faith community as a presumptive criminal network.

Vii. Community Coercion, Mistake and Possible Defences

The Act contains no detailed defence for a guest who attends under duress or reasonable mistake. General criminal-law principles should therefore retain importance. A person physically compelled to enter or remain does not voluntarily attend. A person threatened with serious harm may invoke duress where the legal requirements are satisfied. A person who reasonably believes both parties are adults raises the very issue that sections 5(2) and 7(2) presume; under a rights-consistent evidential reading, credible mistake requires the prosecution to negate it beyond reasonable doubt.

The threshold should differ by role. A celebrant who accepts an oral assurance despite obvious youth, school uniform, contradictory records or a direct warning may be wilfully blind. A guest who has never met the parties and is told the bride is nineteen may have no equivalent duty. Equality does not require identical verification obligations for people with unequal responsibility and access to information.

Withdrawal also deserves recognition. A person who arrives innocently, discovers a party is a child and immediately leaves should not be treated as a completed offender merely because attendance occurred for several minutes. The law should encourage withdrawal, reporting and assistance, not create an incentive to remain silent because liability is already complete. Section 26's duty to report information leading to child marriage confirms Parliament's interest in intervention.[27] A protective attendee presents an even clearer case. A social worker, relative or community member who remains to secure evidence, prevent removal of the child or await police assistance does not share the ceremony's purpose. Purpose may therefore be relevant both to actus reus and necessity. Criminal law should never punish the person who enters the danger in order to end it.

These distinctions are not loopholes. They define culpability. The adult spouse, organising parent, celebrant, active promoter and approving guest may each contribute to the harm, but they do so through different acts and intentions. Drafting that recognises those differences strengthens

[27] Prohibition of Child Marriage Act 2024, s 26.

rather than weakens enforcement because convictions become easier to defend as morally deserved.

Viii. Ten Years and The Principle of Proportionality

The penalty intensifies every ambiguity in the offence. A modest regulatory fine might tolerate a broader definition of attendance; a ten-year custodial minimum cannot. Proportionality requires attention to the offence, the offender and society's interests.

In *S v Dodo*, the South African Constitutional Court held that punishment grossly disproportionate to culpability violates constitutional principle and compromises the judicial function.[28] *S v Malgas* upheld legislative minimum sentencing while preserving departure where substantial and compelling circumstances make the prescribed punishment unjust.[29] Kenya's *Francis Karioko Muruatetu v Republic* objected to a mandatory death sentence because it rendered mitigation meaningless, while the Court's later directions cautioned against treating the decision as a general invalidation of all minimum sentences.[30] Uganda's *Attorney-General v Susan Kigula* similarly rejected automatic capital punishment and preserved individualised sentencing.[31]

Sierra Leonean law supplies its own foundation. In *Sesay and Kamara v State*, the Supreme Court treated sentencing as a reasoned judicial task and intervened where cumulative punishment was manifestly excessive.[32] The several decisions in *Abraham Lavaly and Others v State* demonstrate that the seriousness of allegations does not displace constitutional fairness.[33] In *State v Amadu Makah Jalloh*, procedural defects could not be dismissed merely because the alleged offence was grave.[34] These cases concern different questions, but together they reject the notion that penal severity validates itself.

The statutory fine means a court is not compelled to imprison every guest. Yet the choice between Le50,000 and at least ten years creates an unstable sentencing cliff. A wealthy organiser may pay; an indigent guest may be unable. If custody is chosen, the court lacks an express power to impose a proportionate term below ten years. The result may invert culpability.

Parliament should replace the minimum custodial term for simple attendance with a graded maximum and reserve severe minima for intentional organisers, repeat offenders or participants

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[28] *S v Dodo* [2001] ZACC 16, 2001 (3) SA 382 (CC), available at SAFLII.

[29] *S v Malgas* [2001] ZASCA 30, 2001 (1) SACR 469 (SCA), available at SAFLII.

[30] *Francis Karioko Muruatetu and Another v Republic* [2017] KESC 2 (KLR), available at Kenya Law; Supreme Court of Kenya, *Directions of the Court in Muruatetu* (6 July 2021).

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[32] *Sesay and Kamara v State* (SC Crim App 7 of 1982) [1984] SLSC 6 (12 December 1984), available at SheriaHub.

[33] *Abraham Lavaly and Others v State* (SC 1 of 2017) [2020] SLSC 12 (3 August 2020), indexed by SierraLII; *State v Abraham Lavaly and Others* (SC 1 of 2017) [2020] SLSC 10 (10 August 2020), available at JibuDocs.

[34] *State v Amadu Makah Jalloh* (Misc App 13 of 2020) [2021] SLSC 35 (16 June 2021), available at JibuDocs; *Amadu M Jalloh v Attorney-General and Minister of Justice* (Misc App 13 of 2020) [2021] SLSC 37 (16 June 2021), available at JibuDocs.

whose conduct materially enabled exploitation. At minimum, a "substantial and compelling circumstances" clause should permit departure with written reasons subject to appellate review.

Ix. Evidence, Investigation and The Danger of Mass Prosecution

A ceremony may yield photographs, videos, invitations, payment records, phone messages and witness testimony. These materials can prove presence and role, but they do not automatically prove age knowledge. A photograph shows that a person was in a room; it may not show when the person learned the child's age or why the person remained.

The Criminal Procedure Act 2024 strengthens disclosure and modernises criminal process.[35] Prosecutors should disclose the records on which age and knowledge are inferred, including exculpatory material. Police should record each suspect's role individually rather than produce a collective charge sheet describing "all guests" as knowing participants. Identification evidence requires care where video is poor or witnesses know only nicknames. The risk of mass prosecution is not theoretical in communal offences. Arresting an entire gathering may appear decisive, but it can dilute evidence against organisers, overwhelm courts, encourage collective silence and expose children to retaliation. Prosecutorial discretion should prioritise adult spouses, organisers, coercive parents, knowing celebrants and persons providing material assistance. Guests should be charged only where individual evidence supports culpable participation. The child's evidence must be obtained through the protective framework of the Child Rights Act 2025 and the Criminal Procedure Act, avoiding repeated interviews and intimidation.[36] A prosecution undertaken in the child's name should not make the child responsible for identifying every face in a crowded ceremony. Documentary age evidence, official records and admissions should be used wherever available.

X. Reforming Sections 5 and 7 Without Normalising Child Marriage

The Act should be amended, but not retreated from. Section 5 should expressly require that a person knowingly or recklessly conducts or presides over a ceremony involving a child. It should impose a defined due-diligence obligation upon professional, religious, civil and traditional celebrants to inspect reliable age documentation and record verification. Wilful blindness should satisfy mens rea; reasonable reliance upon apparently authentic records should be a defence. Section 7 should be narrower. Attendance should become criminal only where the accused knows or is wilfully blind to minority and intentionally encourages, endorses or materially supports the ceremony. The law may identify signing as witness, making a ceremonial speech,

[35] Criminal Procedure Act 2024, ss 110–125 and 138, enacted text available at Lanbuk.

[36] Child Rights Act 2025, ss 3–5 and 46–59, official enacted text available from the Ministry of Gender and Children's Affairs.

giving a marriage-directed gift, guarding the venue or obstructing intervention as relevant evidence, without making any single fact irrebuttably conclusive.

Both presumptions should be expressly classified as evidential. The prosecution must always bear the legal burden of proving every element beyond reasonable doubt. Duress, involuntary presence, reasonable mistake, protective purpose and prompt withdrawal should be addressed in legislation or authoritative prosecutorial guidance. Sentencing should be graded. Courts should distinguish leadership from attendance, profit from kinship pressure, repeated professional conduct from an isolated mistake, and obstruction from cooperation. A guest who knowingly applauds is culpable, but not identically culpable to the celebrant who ignored forged documents or the organiser who concealed the child. Community service, compulsory child-rights education, probation and restorative measures may be appropriate for lower-level participation where victim safety is secured; long imprisonment should respond to serious facilitation.

Finally, the Ministry should publish multilingual guidance and train religious leaders, chiefs, registrars and event-service providers. Every celebrant should know what documents to demand and where to report doubt. Every community should understand that departure and reporting protect rather than betray the child. Criminal law is most effective when the boundary of liability is clear before the ceremony begins.

Xi. Conclusion

Child marriage survives through social permission. The adult spouse may initiate the union, but ceremony supplies witnesses, legitimacy and pressure. Sierra Leone is therefore justified in looking beyond the couple and asking who made the marriage possible. Religious leaders and traditional authorities cannot claim neutrality where they knowingly transform exploitation into publicly recognised status. Guests who intentionally encourage the union may also contribute to the harm.

But collective responsibility is not collective guilt. Section 7's prohibition of attendance, combined with a presumption of knowledge and a ten-year custodial floor, risks criminalising association rather than culpable participation. Section 5's presumption is more defensible because celebrants possess authority and opportunities for verification, but even there the ultimate burden of proof should remain upon the State. The Constitution's presumption of innocence requires a narrow construction. The prosecution must prove a child-marriage ceremony, the accused's voluntary conduct or attendance, and ultimately knowledge or wilful blindness beyond reasonable doubt. The statutory presumption should do no more than require the accused to raise credible evidence of mistake. For guests, intentional encouragement or material support should be an additional element.

The deeper lesson is institutional. A criminal law that treats every person in a room as morally interchangeable may secure arrests while losing legitimacy. A law that distinguishes the

organiser, celebrant, coerced relative, protective attendee and ignorant guest can condemn child marriage more precisely and more powerfully. The State should dismantle the community machinery of child marriage, but it must do so through individual proof. The child is not protected when one inherited presumption, customary authority, is replaced by another: guilt by association.

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