



# *Protecting The Girl Child*

*Using the law to end child, early  
and forced marriage and related  
human rights violations*



EQUALITY NOW



USING THE LAW TO END CHILD, EARLY  
AND FORCED MARRIAGE AND RELATED  
HUMAN RIGHTS VIOLATIONS

*“If every girl is valued and given the same opportunities as boys; if she is free from not only child marriage, but from all forms of violence and discrimination, amazing things can happen – not only for the girl whose life is changed forever but for the whole world which becomes safer, happier and more balanced.”*

Yasmeen Hassan  
Global Director  
Equality Now

## CONTENTS

- 5 Introduction
- 7 Prioritizing the Elimination of Child Marriage
- 13 Using International Law to End Child, Early and Forced Marriage
- 15 National Law – A Fundamental Tool to End Child, Early and Forced Marriage
- 16 National Surveys
- 49 Conclusion
- 50 What You Can Do
- 55 Acknowledgements



***When a young girl starts out in life, where will her journey take her?***

*What if instead of being treated as someone's property to be betrothed, raped, abused, sold, with no power over her destiny, **a girl is healthy, safe, educated, and empowered?** What if instead she has the ability to freely make informed decisions regarding whom, when and if she marries, and when and if she wants to have children? **What if instead she is respected and valued by her community and is educated, able to pursue a non-exploitative career, able to invest in the economy and participate politically in a non-discriminatory atmosphere, able to live her life to the fullest based on her own choices and abilities?***



**S**tudies show that girls and women who are educated and marry later are more likely to earn an income<sup>1</sup>. Women invest that income into **HEALTHCARE, FOOD, EDUCATION, CHILDCARE, and HOUSEHOLD DURABLES** – directly contributing to their country’s economy and development. Women who have their babies later in life are healthier, raise healthier<sup>2</sup>, educated children and help end the perpetual cycles of inequality, discrimination, abuse and poverty.

The reality, however, is that accepted social norms and, in many countries, discriminatory laws, provide a veneer of legitimacy to the harmful practices, such as child marriage, that shape a girl’s life and indeed the society in which she lives. These social norms are the fundamental drivers of discrimination and must be challenged everywhere.

Equality is the right of all people and more must be done globally for its achievement. In addition, gender equality is key to achieving progress in the post-2015 development framework and any and all global development goals: health, education, economic empowerment, the environment, and good governance, among them. And there is a direct correlation between higher minimum age of marriage laws and a lower incidence of child marriage<sup>3</sup>. Implementation of a strong legal framework at the national level based on human rights standards alongside a broad effort to transform gender relations is central to sustainable development.



## Prioritizing the Elimination of Child Marriage

*Child marriage legitimizes human rights violations and abuses of girls under the guise of culture, honor, tradition, and religion. It continues a sequence of discrimination that begins at a girl's birth and is reinforced in her community, in her marriage and which continues throughout her entire life. Child marriage, therefore, is a way of dealing with the perceived problems that girls represent for families, the problems that arise from the low value given to women and girls.*

**C**hild early or forced marriage<sup>4</sup> is a phenomenon that affects both the developed and the developing world. In some countries prevalence<sup>5</sup> is extremely high across the whole population. In others, overall prevalence might be low but early marriage is still widely practiced in particular communities that are marginalized from mainstream society because of race or religion, for example, and as a result the issue may be ignored by governments. Its far-reaching effects go beyond the individual, affecting the entire community, and even national and global development.

Child marriage is a human rights violation, often following from and leading to further human rights violations. As detailed in the case studies of this report, it is a violent and abusive practice that stems from and sustains discrimination against women and girls. It not only excludes girls from decisions regarding the timing of marriage and the choice of spouse and is an abrupt and violent initiation into sexual relations, but also subjects them to other human rights violations such as female genital mutilation (FGM), forced feeding to fatten a girl up for marriage, domestic violence, trafficking, exploitation, curtailed education and other violations detailed in this report. Child brides are often isolated and because of their marital status have little access to education and other services generally provided to children in the community. Further, once a girl marries, she is often considered to have reached the age of majority – thereby excluding her from any protection and programs afforded to children in the community.

Child marriage affects boys as well as girls but it is mainly girls who are subjected to it; indeed, marriage laws often promote this form of discrimination by allowing a lower legal marriage age for girls than boys. It is largely girls who suffer its devastating consequences. It is therefore girls, and what governments must do legally to protect them from child marriage, that are the focus of this report.

**THE CAUSES OF CHILD MARRIAGE** are various and complex. The examples in this report demonstrate that child marriage has a number of proximate causes and takes place within diverse cultural contexts. However, the common themes uniting the varying traditions are sex inequality and pervasive violence and discrimination against women and girls. The discrimination and violence manifest themselves in several ways. For example, in preparation for child marriage a girl may be subjected to FGM or forced feeding.

*Child marriage may be seen by families as a way of protecting young girls from premarital sex, pregnancy outside of marriage, rape and even prostitution. By marrying a girl off early, the risk of uncertainty to her prospects or damage to a family's honor is significantly removed, although not the physical, psychological and other risks to the girl herself. This justification for child marriage only makes sense where women and girls have no greater value than as repositories for family honor or where girls' potential sexuality is seen as a risk that must be monitored and contained.*

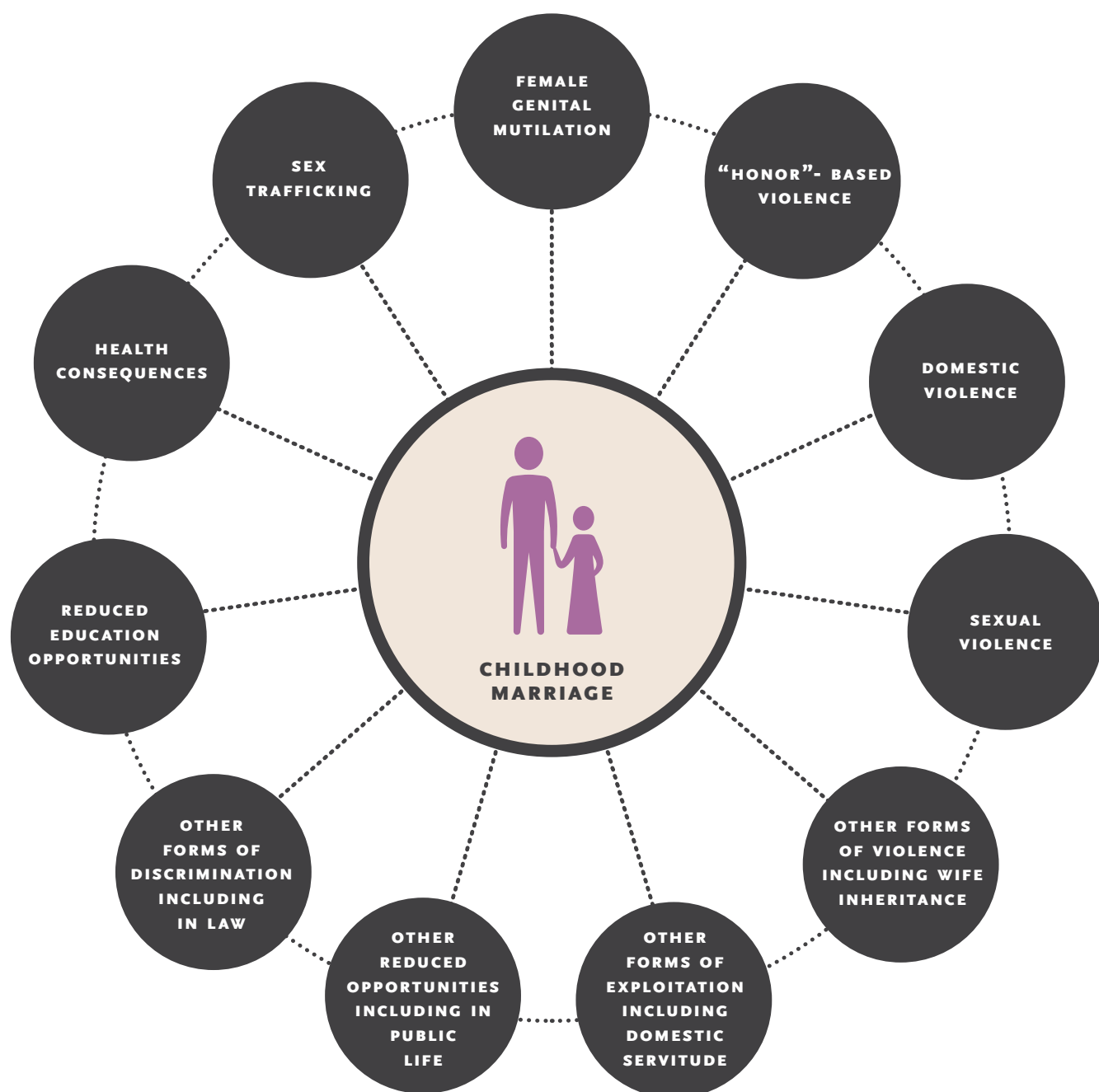
A photograph capturing a traditional Indian wedding ritual. A woman in a purple sari is applying henna to the arm of a woman in a blue sari. The woman in blue has intricate henna designs on her hand and arm. The woman in purple is holding a small container of henna. The background is dark and out of focus.

The United Nations  
Population Fund (UNFPA)  
estimates that over the next  
ten years **more than 140  
million girls** will be **married  
before their 18th birthday.**<sup>6</sup>

'Radha, 15, has the wedding ritual of henna painted on her arms the day before the festivities begin, Rajasthan, India, April 26, 2009.' Stephanie Sinclair/VII.



*We cannot tackle child marriage in isolation - it is inextricably linked to abuses that affect many girls and women throughout their lives*



**W**hile often a contributing factor, poverty by itself is not the cause of child marriage. Attitudes toward women and girls where there is no tradition of educating them, allowing them to exercise choice about their futures or expecting that they will work outside the home, mean that they are likely to be regarded as encumbrances unable to provide for themselves or contribute to family resources. In other scenarios, the family is less concerned with a daughter's wellbeing and more interested in her financial value: selling girls into a life of sexual exploitation, labor, or domestic violence under the guise of marriage.

The **CONSEQUENCES** of child marriage are severe and long-lasting, affecting girls' education, health, and physical and emotional well-being. These are well documented. In low- and middle- income countries, complications of early pregnancy and childbirth are the leading cause of death in girls aged 15–19 years.<sup>7</sup> *When a young girl is married and gives birth, the vicious cycle of poverty, poor health, curtailed education, violence, instability, disregard for rule of law and legal and other discrimination often continues into the next generation, especially for any daughters she may have.*<sup>8</sup> Very recently, the United Nations Human Rights Council issued a resolution which clearly summarizes the effects in stating that child marriage prevents girls from “living their lives free of all forms of violence and that it has adverse consequences on the enjoyment of human rights, such as the right to education, the right to the highest attainable standard of health, including sexual and reproductive health...”<sup>9</sup>

Across the globe there are examples of child marriage laws not being implemented, and, where child marriage laws exist, they are often entrenched in harmful social norms that allow these flagrant human rights violations of girls to continue with impunity. There has also been regress in several countries recently, including in Iran where the number of girls married off under the age of 15 has risen and adoptive parents can now marry their adopted children, which will mean adopted girls will be even more vulnerable to child marriage;<sup>10</sup> and in *Egypt*, where legislation was discussed to lower the minimum age of marriage to as low as nine years old.

This report builds on the body of Equality Now's work for protection of girls' rights – from successful advocacy in 1996 on behalf of *Fauziya Kasin-ga*, who fled a forced marriage in Togo at the age of 17 which would also have involved being subjected to FGM, to the current campaigns with grassroots

organizations calling for the institution of minimum age of marriage laws in *Saudi Arabia* and *Yemen*, the enforcement of anti-child marriage laws in *Kenya*, and the end of judicial discretion to allow child marriage in *Morocco* where girls are forced into marriage after being raped.<sup>11</sup> The lessons learned from a large body of work on girls' rights are reflected in our *Adolescent Girls' Legal Defense Fund report*. They include that: girls need knowledge of their rights before they can access them; girls need a supportive environment where they can voice their concerns/violations of rights without fear of stigma or disbelief; girls who are victims of sexual violence, in particular, need assurance that they will not be re-victimized throughout the legal system; girls need assurance that access to justice will be swift so that they can continue with their lives; girls need support services that are girl-centered and sensitive to their specific needs with a focus on empowering the victim and giving her agency and the ability to make her own decisions.

Equality Now's *Survivor Stories* series also showcases forced marriage in *Uganda*, promises of marriage from *traffickers*, and parents selling their children into prostitution and other forms of slavery through marriage. Amplifying the *voices of girls* whose rights are being violated and calling for the establishment and enforcement of strong national laws, based on the international human rights framework, are the cornerstones of our advocacy work. Our work in *Zambia* aims to make school a safe place for girls to pursue their education. Our work is also focused on securing for women the rights they need to ensure they have future choices and are seen as equal and valued members of the community. This means addressing all forms of discrimination against women and girls to remove obstacles that restrict their full participation in public life and society generally. Equality Now's work for the revocation of all *sex discriminatory laws* has included for example those that restrict a women's right to own land in *Uganda*, to control their own property in *Chile* or which limit access to the job market in *Bolivia*. We are encouraging governments to recognize how their actions in all these areas, and the national legal frameworks regarding child marriage, are affecting girls and women throughout their lives.



**A comprehensive approach needs to be taken to end child marriage and to advocate for governments to meet their international human rights obligations to protect girls including by:**

- instituting a minimum age of marriage law at 18 where none exists or is ambiguous
- amending laws with lower ages of marriage to bring them to at least 18
- raising awareness of and implementing good minimum age of marriage laws
- amending laws exempting punishment for rape (and statutory rape), including by disallowing judicial consent to marriage in sexual violence cases
- amending **discriminatory laws which allow difference in marriage age between males and females**
- prohibiting associated human rights violations such as FGM, force feeding and trafficking
- requiring and enforcing birth and marriage registration
- providing greater access to education
- undertaking a comprehensive review, in conjunction with women's groups, of existing laws to identify and amend any that continue to discriminate against women and girls, as well as those that have a discriminatory impact on women and girls.



## Ending Child Marriage Must be Included Within the Post-2015 Development Framework

**T**he measures opposite can be used as basic indicators for achieving the elimination of child marriage in the post-2015 framework being developed. As governments discuss how to end poverty and plan for sustainable development, ending child marriage has been identified by the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda as well as by UN Women as an important target under a freedom from violence component of a global goal on achieving gender equality, women's rights and women's empowerment. This idea was generally reinforced by the United Nations Secretary-General who in his report, "A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015," declares that, "The practice of child marriage must be ended everywhere."<sup>12</sup> A recent Human Rights Council Resolution, affirmed by over a hundred diverse countries, states that "the persistence of child, early and forced marriage contributes to impairing the achievement of the Millennium Development Goals and sustainable and inclusive economic growth and social cohesion, and that therefore the elimination of child, early and forced marriage should be considered in the discussion of the post-2015 development agenda."<sup>13</sup>

**As the urgency of focusing on child marriage is being increasingly recognized at the global level, evidence supports that reducing the prevalence of child marriage requires a comprehensive and strategic approach that promotes legal reform, healthcare, educational and economic opportunity, and behavior change.** The Human Rights Council recognized "the complex and challenging nature of child marriage necessitates the collective efforts of Governments, lawmakers, judicial authorities, law enforcement officials, traditional and religious leaders, civil society, media,

the private sector and other relevant stakeholders to address the root causes of this practice that exists in different economic, social and cultural settings."<sup>14</sup> Ending child marriage requires a committed focus, including specific goals and indicators, that should be included as crucial components of any international or bi-lateral development and assistance programs.

**STATES** have the ultimate responsibility for addressing child marriage. Recognizing child marriage as child abuse and developing and implementing child protection measures that address the sex discrimination at the root of child marriage is key. Introducing and enforcing laws and policies that promote equality for women and girls and prohibit violence against them, repealing laws that are discriminatory or have a discriminatory impact or serve to allow harmful cultural norms to continue is fundamental. *A comprehensive, joined-up approach linking the justice sector with healthcare, education, community and other leaders is imperative in addressing child marriage and the underlying discrimination and violence against women and girls.*<sup>15</sup> *Increasing girls' opportunities for equal education and non-exploitative work later on, are essential as they provide girls with the power and resources to make decisions for themselves.* Without such structural frameworks women and girls will remain vulnerable to child marriage and sexual abuse, have limited access to justice, and lack the support they need to seek redress.

## Using International Law to End Child, Early and Forced Marriage

**T**he specific right of the child (a person under 18 years old)<sup>16</sup>, and the girl-child in particular, to enjoy her human rights to the fullest extent, and therefore not to be married off, has been addressed by several major UN treaties and their corresponding treaty monitoring bodies. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by 187 countries (not including, Iran, Palau, Somalia, Sudan, Tonga and the United States), has the clearest and strongest language on this issue:

### ARTICLE 16

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

In addition, Article 16(1) (b) of CEDAW stipulates that women shall have the same right as men “freely to choose a spouse and to enter into marriage only with their free and full consent.”

Even where there is an established law setting a minimum age of marriage, many countries allow an exception with parental or other **CONSENT** or for customary law. While international law requires the consent of both parties to the marriage<sup>17</sup>, in practice it is her father (or parents), her guardian, or even the court, that provide under many laws the consent for her to marry, but rarely the girl herself. Even if a girl were to appear to give her consent, this should be seen in the context of societal norms, family pressure and lack of other options. In addition, in most other contexts, being a child would render a girl unable to give informed consent. **Consent of a child should never be accepted as a rationale for continuing to permit her ongoing abuse as a child bride.**

In many countries where Equality Now and our partners work, child marriage is linked to restoring or maintaining family honor, a source of financial gain or means to settle a debt – a negotiation among those who hold power over the value of the girl child.

*When a girl child is raped, the family or judge may order the marriage of the girl to her perpetrator as a way to restore the family's honor and lessen the shame.*

The UN Human Rights Committee has recognized that in sexual violence cases in particular, the child (or woman) should not be pressured to marry her rapist or abuser, which the Committee has pointed out may not only absolve the perpetrator of a violent crime but also effectively lower the minimum age of marriage of the victim allowed under the law.<sup>18</sup> Child marriage also occurs in societies with high rates of gender-based violence as an apparent way to avoid rape, or rape outside of marriage. A girl may be offered as a means of redress for a crime or to settle a debt, even when the girl was not involved. In many of these cases, the girl is subsequently used as little more than a slave and is also physically beaten and otherwise punished in blame for the original crime committed by a family member. Or in situations of extreme poverty, selling a girl into marriage allows a family to escape the burden of raising a girl, even when the “marriage” is a guise for sexual exploitation, sexual abuse, forced labor, or human trafficking. The bottom line is that girls are often treated as chattel, bought and sold by those who have power over them. Upon the girl child’s marriage, she again in effect becomes the property of another.

While child marriage is not explicitly mentioned in the Convention on the Rights of the Child (CRC), the UN Committee on the Rights of the Child, mandated with monitoring the Convention’s implementation, has stated that early marriage is a harmful practice that negatively affects girls’ sexual and reproductive health and strongly recommends that all States Parties have minimum age of marriage legislation setting the age at 18<sup>19</sup>. Governments are also accountable under Article 34 of the CRC, which mandates they protect the child from all forms of sexual exploitation and sexual abuse. Child marriage often

results in a violation of the child's right to education, as well. Principles of child protection have been confirmed repeatedly by the jurisprudence and recommendations to individual countries<sup>20</sup> by both the CRC Committee and the CEDAW Committee and other UN treaty-monitoring bodies.

Important regional treaties also emphasize the need to protect girls from child marriage. Article 6 of the Protocol on the Rights of Women in Africa to the African Charter on Human and Peoples' Rights, states that, "the minimum age of marriage for women shall be 18 years," and the full and free consent of both parties is required.<sup>21</sup> Article 17(3) of the Inter-American Convention on Human Rights requires full consent of both spouses to marry. While there are no current South Asian Association for Regional Cooperation (SAARC) instruments that specifically condemn child marriage, the SAARC Secretary General stated on the International Day of the Girl Child in 2013 that, "Child marriages limit opportunities and undermine [the] wellbeing of [c]hildren, particularly girls. This vulnerability in the South Asia region calls for a redoubled response in terms of survival, development, protection and the social disadvantages faced by ... girl children."<sup>22</sup>

*Child marriages often result in early and unwanted pregnancies, posing life-threatening risks for girls.*

Reports from non-governmental organizations (NGOs) to the treaty committees, asking them to raise child marriage as a human rights violation when a government comes before them, has been an effective strategy in advocating for implementation of international law at the local level. These reports can result in strong recommendations to the government concerned to take specific steps to combat child marriage, such as when Yemen came before the Human Rights Committee in 2012 and the Committee recommended the government set a minimum age of marriage.<sup>23</sup> Equality Now and our partners have also successfully

used the Commission on the Status of Women's Communications Procedure<sup>24</sup>, and other complaints procedures at the international and regional levels, to bring attention to the issue. Reports from NGOs can be especially useful in bringing attention to harmful social norms that allow the practice to continue even when legislation against child marriage is in place.



## National Law – A Fundamental Tool to End Child, Early and Forced Marriage

States are required to incorporate international laws they have ratified into their legal system or practice. State parties to CEDAW and the CRC have a responsibility to take all necessary legislative, judicial, administrative and other measures to ensure the full realization of women's and children's rights contained in them. State parties to the Conventions also have a due diligence obligation to prevent and ensure that private actors do not engage in discrimination against women, including gender-based violence, and in actions that impair the child's physical, mental, spiritual, moral, psychological and social development, including violence.

However, as several recent reports<sup>25</sup> in addition to this one highlight, even when a country has a law setting a minimum age of marriage in line with or closer to international standards, it is often not implemented or enforced. Or there may be provisions within the law, which, like consent, allow exceptions around strict enforcement. **Further, as the country and case studies illustrate, it is NGOs that are in the forefront of work against child marriage and it is frequently only as a consequence of NGO pressure that government agencies get involved.** Even with the involvement of the authorities, prosecutions rarely follow and there is little evidence of sustained government interventions on child marriage at a national level. While a few good practice examples do exist<sup>26</sup>, this lack of government focus and dedicated resource means that the onus is on individual girls to have the courage, the knowledge and the access to come forward or on NGOs to do what they can to help individual girls or to engage with the local community with very limited resources.

*Where child marriage takes place it is often entrenched and even encouraged by the existence of other associated practices. For example, female genital mutilation (FGM), or forced feeding, the exercise of which heralds a girl's marriageability, or the payment of a bride price or dowry, are practices which foster acceptance of the bartering of girls and women in marriage.* Because many of these practices are defined as cultural norms, traditions or viewed as religious practices, they are often tolerated by governments and in

some cases are explicitly permitted in law. Other practices such as giving girls in marriage to settle debts or feuds are sanctioned under customary law, which exists alongside statutory law in some countries, and therefore are condoned or even officially sanctioned by governments.

The effects of child marriage, including in relation to later participation in public and economic life, can continue after marriage and throughout the girl or woman's life. In addition, other forms of discrimination against women in law and practice, such as relating to citizenship, custody, inheritance, and land ownership can all have a devastating impact on a girl or woman's ability to move forward in the case of divorce or the death of her husband or in life generally. *Addressing child marriage in isolation will not be as successful as developing a range of strategies to combat other discriminatory practices and to undertake comprehensive law reform. There is a growing recognition that to effectively address child marriage, governments, lawmakers, healthcare workers, teachers, community and religious leaders, and civil society must address the discrimination and harmful family and community norms and stereotypes that lead to human rights violations of girls and women.* Recognizing that negative discriminatory stereotypical attitudes and behaviors have direct implications for the status and treatment of women and girls and that such negative stereotypes impede implementation of legislation and normative frameworks that guarantee equality and prohibit discrimination on the basis of sex,<sup>27</sup> the UN has recommended that countries undertake actions "to influence family and community norms related to delayed marriage".<sup>28</sup>

### Customary and Religious Laws

In many countries with a high prevalence of child marriage, marriages are sanctioned by the state, or under customary or religious law. Many national constitutions recognize these personal or family laws in situations where they do not contradict the constitution

or existing legislation. But the position is not always clear. The reality is that the formal legal system is often elusive to girls and women, especially those who live in rural areas. Even when the law clearly provides for a minimum age of marriage or equality of status, customary or religious laws often maintain and enforce women and girls' inferiority. **States must con-**

**duct a full review of customary and religious laws and traditional practices and evaluate how these laws and practices affect girls and women and perpetuate child marriage. They must ensure that girls and women have both legal and actual substantive equality with boys and men.**

## National Surveys

**T**his report was written in conjunction with pro bono support from TrustLaw Connect carried out by law firm Latham & Watkins, in many cases with the assistance of local counsel, into the legal position of child marriage and surrounding issues in 18 countries. Child marriage is practiced across the globe – these countries, a sampling from across continents, were chosen either because of the high prevalence of child marriage there, or because the legal system might provide some insights into the practice and how it can be successfully addressed. The reports, produced by Latham & Watkins, look at not only the pure legal provisions relating to age of marriage, but also the extent to which they have been enforced, if at all, and the law and practice of some related issues including laws relating to bride price/dowry; statutory rape laws that are circumvented through marriage; availability of child protection services when escaping child marriage; legal requirements for registration of birth and/or marriage; and, schooling for girls. They also identify the intersection between child marriage and other social and legal issues, such as gender-based violence, human trafficking, exploitation, nationality, FGM, forced feeding, etc. Many of the reports, though unfortunately not all, include the knowledge and insight of local counsel, which allow a glimpse into the realities of child marriage in various contexts and are essential in determining the status of a law. However, it is important to note the limitations of the surveys and that they will not fully reflect the situation in any given context. Key to revision of any laws will be the

collaboration of local NGOs working on child marriage and women's rights, the input of local lawyers experienced on the issues, and the willing participation of national governments.

The picture presented by this research is not encouraging. *It indicates that, once married, a girl is often trapped in a system where she is at risk of further violence and discrimination.* Provisions to void child marriage frequently exist in the law, but realistically will be difficult for a girl to access without knowledge of the law, education, material resources and support. Even if she manages to find a way out, a girl often ends up back in the vulnerable environment from which she started. *All these issues need to be addressed urgently. What is critical are concerted efforts by governments to prevent child marriage and stop the suffering and lost potential of millions of girls around the world.*

*By highlighting some of the obstacles to ending child marriage, we encourage governments and others concerned to end child marriage to look at the life cycle of a woman and develop legislation and policies to enable her to live a life based on her right to live free from violence and discrimination and to be the best she can be.* We pose the questions below to see what the world would be like for girls if instead of being someone's property to be betrothed, raped, abused, sold, with no power over her destiny a girl is healthy, safe, educated, and empowered. The analysis is based on the 18 countries reviewed by Latham & Watkins. The full text of the country reports is available in the *Annex* to this report.





'Young boy and girl attending primary school in Beoko, North-Western CAR, 19 May 2008.' Pierre Holtz for UNICEF | [www.hdptcar.net](http://www.hdptcar.net)





## *What if girls and boys were equally protected from child marriage?*

The minimum age of marriage for boys is nearly universally 18, when they have reached the legal age of majority and become men. It is a different story for girls; the legal age of marriage for girls is generally under 18 but even where it is 18 exceptions exist. In all but three countries surveyed marriage of underage girls is permitted, as young as 12 in Chad for example, under customary law. In Saudi Arabia, for instance, there is no minimum legal age for marriage, but a girl is in theory required to give her consent to marriage. In practice, however, under the existing male guardianship system she will be under the control of the person marrying her off, thereby effectively eliminating her ability to express any objections. Girls in Guatemala and Panama can be married at the age of 14 with parental consent.

In India, which has a high rate of child marriage, a 2011 decision by the Madras High Court illustrates the inadequate protections afforded to married children under the Child Marriage Act: In *G Saravanan v. The Commissioner of Police*, the Court held that the petitioner's marriage with his underage bride was neither void nor voidable because the petitioner's underage wife was the only person with standing to question the validity of the marriage, and she had refused to do so. However, we did find certain instances where the court did not accept the "consent" to marriage by a child. The Delhi High Court in India stated that "consent of a girl or boy below the age of 16 in most cases is a figment of imagination and mirage and will act as a cover up by those who are economically and/or socially powerful to pulverize the muted meek into submission."<sup>29</sup>



## Ayesha

Ayesha is 25 years old and comes from a family of four brothers and four sisters in Hyderabad. Her father was unable to provide enough food for his family so it was decided Ayesha would be sold off in marriage at aged 15.

Ayesha was first married to an Indian boy from a well-off family. The boy was mentally incapacitated. After 6 months of marriage Ayesha asked for a divorce as she was no longer able to cope with her husband's erratic behavior. Following this she met a woman who told her about Arab sheikhs willing to pay for her in marriage. Thinking of this as a solution to her domestic problems Ayesha left for Mumbai where she was sold to a broker by a woman acting as a go-between who would be involved in her next two "marriages". On both occasions the broker received money of which a small share was given to Ayesha which she then passed on to her family. Both the men she was married to subjected her to physical and sexual abuse and torture. Ayesha was also forced to get an abortion since her husband did not want the responsibility of a child and the risk of having to pay maintenance once

the marriage ended. When she was 16 years old she managed to escape her husband and returned to Hyderabad.

In the interim, Ayesha's father had remarried and abandoned his first wife and family to be with his second wife. Ayesha began working as a domestic help in order to contribute to the family income. At the age of 17, she was married again, for which the family received a meher or bride price of Rs.5,000 (about US\$100), although after a mere 20 days this marriage also ended.

As a result of all that she had endured Ayesha considered committing suicide. However she then met her current husband, an Omani national who is more than twice her age. She is currently living with him and his first wife. The Omani Government provides for the education of her daughters. Her husband also gives her some money which she sends back home to India. Ayesha is not happy in her marriage but continues in the relationship for the sake of her daughters, both from previous marriages.

## The Context

According to the United Nations Population Fund (UNFPA) 47% of girls in India are married before the legal minimum age of 18<sup>30</sup>. Gender inequality, poverty, lack of education, violence against women and girls and high rates of sex selective abortion leading to fewer girls in some parts of India, are all contributory factors in child marriage.

In some parts of India child marriage is used to cover up the trafficking of young girls. *Shaheen Women's Resource and Welfare Association* has been working to prevent the trafficking of young and minor girls from the Old City of Hyderabad in India since 2002 and in particular to address the practice of temporary marriages, under which girls from poor families are married to rich sheikhs on the pretext of a better life. The men involved however have no intention to enter into a lasting marriage and use Muslim Personal Laws<sup>31</sup> in order to enter into marriage with girls below the age of 18 and therefore legitimize sexual relations.

Although India's law against child marriage is applicable to all regardless of religion, personal laws, including the Muslim Personal Law, are sometimes used to assert religious identities. Since Muslim Personal Laws are based on Sharia which is largely uncodified, interpretation of the law is largely based on judicial precedent and partners have stated that this has become particularly complicated because of the disparate interpretations being given by courts, which have been known to interpret the age of marriage for Muslim girls as the age at which puberty starts. In addition, temporary marriages, or mut'ah marriages, are thought to be a legitimate form of marriage by some Shia Muslims. Girls are kept in sexual servitude for a short period of time, in some cases just a matter of days, before being left by their husbands only to be sold into marriage again to someone else. Age, sex, socio-economic factors, illiteracy and community identity are the key factors which make girls vulnerable to this form of sex trafficking.

Shaheen Women's Resource and Welfare Association describes how Sheikhs from the Gulf travel to parts of India in search of girls. Younger girls and those considered prettier can be sold for up to 1 lakh rupees (approx \$1760). Of this amount 50,000 rupees goes to the middle man, which includes the payment for the qazi (priest) and all the male leaders from the village. Shaheen Women's Resource and Welfare Association explains that in this way at least five households benefit financially from the "marriage". In 2011, it undertook research on temporary marriages and found that in Baba Nagar in Hyderabad, 33 out of 100 girls married this way ended up back home having been divorced by their husbands and were then remarried numerous times. Traditionally authorities had been reluctant to take action; however recently they have begun to stop such marriages when they have reliable advance information. As a consequence, girls are being married in secret and then taken to Mumbai in the middle of the night when no-one will see them.

Shaheen Women Resource and Welfare Association<sup>32</sup> is campaigning for changes in the law to ensure that those selling young girls in Hyderabad are caught and punished. It is also keen to bring about changes to the Muslim Personal Law to ensure that it is clearly stipulated that such temporary marriages are prohibited.

The issue of child marriage is compounded by the weakness of the Prohibition of Child Marriage Act 2006 under which child marriage is not illegal but merely voidable. Victims of child marriage have the option of voiding their marriage up to 2 years after reaching adulthood. All those involved in the commissioning of a child marriage can under the law be prosecuted if it is discovered before the marriage is solemnized. Punishment can be imprisonment and/or a fine, but in reality the law is seldom implemented. The Act also creates a mandate for a full time Child Marriage Prohibition Officer (CMPOS) in every State who is responsible for policing instances of child marriage. Officers have the authority to prevent child marriages, document violations, charge offenders (including parents) and remove children from dangerous situations. The Government of India has recently proposed a Draft National Action Plan to Prevent Child Marriage. The Action Plan is currently in its early stages of con-

sultation and it remains to be seen how effective it will be in tackling the problem.

*The HAQ: Centre for Child Rights* in New Delhi has been working to prevent child marriages in two districts in the states of Andhra Pradesh and West Bengal in partnership with local organizations – MV Foundation and Jabala - by monitoring the effective implementation of existing laws and the role of various governmental bodies involved and strengthening them. Its aim is to develop a model on how to implement the law against child marriage using existing mechanisms. In the areas where HAQ works the average age of girls being married is between 12 to 16. The practice of child marriage is a deep-rooted problem in society related to the existing norms on gender and social behavior. Other justifications given are lower dowry for younger girls; growing awareness of sexuality due to the belief that greater media access among the youth may lead to inappropriate behaviour, primarily self-selection of a partner or sexual activity. Marriage as a means of trafficking of girls is yet another cause in trafficking prone areas. HAQ believes that child marriage must be addressed as a violation of the protection of the rights of children. While child marriage by itself is a violation of rights of a child, it is the beginning of a cycle of rights violations, and this needs interventions in a multitude of ways across government departments and programs along with community mobilization.

According to HAQ, the most important strategy for tackling child marriage is ensuring convergence of efforts by different government and non-governmental agencies and persons at all levels of governance. It is campaigning to ensure that the law against child marriage is recognized as a violation of the protection of the rights of children and is properly implemented at a grassroots level to raise awareness about the harms of child marriage.

See the *Shaheen Women's Resource and Welfare Association's* video on child marriage in Urdu <https://www.youtube.com/watch?v=BIVRymBPdSM>.





## *What if violators of child marriage were prosecuted and convicted?*


About half of the countries surveyed have criminal penalties for breach of child marriage laws, although we found few instances of prosecution. In India, for example, while the vast majority of child marriages remain unreported, there have been small a number of cases brought for breaching the Prohibition of Child Marriage Act. Some of these cases are criminal prosecutions, in which the defendants are either the adult spouse, or, less frequently, the minor's family (parents, uncles or brothers). In 2010, of the 111 cases that were reported under the child marriage law, only 11 led to convictions. In some countries, such as Cambodia and Thailand, there are no criminal penalties for child marriage. Prosecution for other violations of girls' rights, such as FGM however, has had a significant deterrent effect on those crimes.



'Largest child abuse case in U.S. history, in San Angelo, Texas on April 18, 2008. More than 400 children were removed from the F.L.D.S. polygamist compound in West Texas.' -Stephanie Sinclair/VII





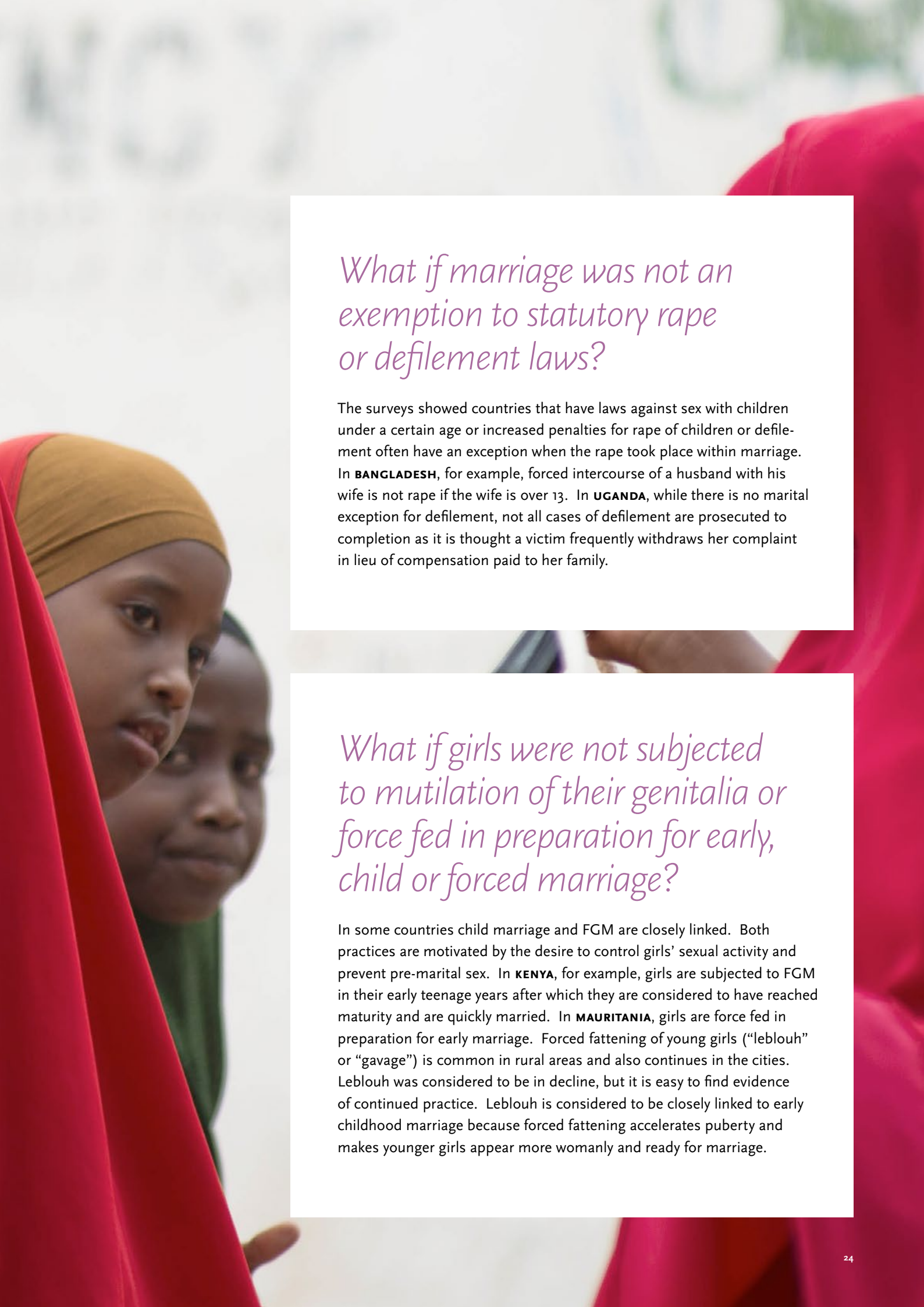


## *What if a girl who was raped had access to justice and health services instead of being forced to marry her perpetrator?*

Violence within the community is another contributing factor to child marriage. We found in several countries that forced marriage following rape allowed minimum age of marriage laws to be circumvented or fear of rape, which would lessen a girl's marital prospects or financial value, lead to families consenting to child marriage. In **BANGLADESH**, for example, the perceived economic burden of having a young daughter who could otherwise be provided for by a husband and thus free resources for other children, coupled with the relatively high risk of rape, often makes parents believe that marriage is the safest option. According to *Odhikar* (a Bangladesh-based human rights organization), from July 2011-July 2012 there were 801 incidents of rape from four districts alone among which 511 girl children aged below 18 were reportedly victims. However, according to human rights monitors the actual number of rape cases is believed to be much higher because many rape victims do not report the incidents due to social stigma or fear of further harassment. Laws that specifically exempt rapists from prosecution if they marry their victim can also contribute to child marriage. Although, for example, such a law in Ethiopia was revoked in 2005, anecdotal information given to Equality Now suggests that "bride"-kidnapping, essentially rape and forced marriage, ceased only when the perpetrators in a well-publicized case were given stiff sentences, only to resume with impunity when all perpetrators were released on appeal.<sup>33</sup>

Harmful social norms that are entrenched in law can leave women and girls with few options. For instance, in **MAURITANIA**, a woman who becomes pregnant as a result of a rape may be determined to have committed the crime of *zina* or adultery. Through international advocacy and political will these laws can be changed. For instance, in Argentina, in April 2012, the law was amended to remove the possibility of a settlement between a victim of sexual abuse and her perpetrator that allowed the perpetrator to go unprosecuted.<sup>34</sup>





## *What if marriage was not an exemption to statutory rape or defilement laws?*

The surveys showed countries that have laws against sex with children under a certain age or increased penalties for rape of children or defilement often have an exception when the rape took place within marriage. In **BANGLADESH**, for example, forced intercourse of a husband with his wife is not rape if the wife is over 13. In **UGANDA**, while there is no marital exception for defilement, not all cases of defilement are prosecuted to completion as it is thought a victim frequently withdraws her complaint in lieu of compensation paid to her family.

## *What if girls were not subjected to mutilation of their genitalia or force fed in preparation for early, child or forced marriage?*

In some countries child marriage and FGM are closely linked. Both practices are motivated by the desire to control girls' sexual activity and prevent pre-marital sex. In **KENYA**, for example, girls are subjected to FGM in their early teenage years after which they are considered to have reached maturity and are quickly married. In **MAURITANIA**, girls are force fed in preparation for early marriage. Forced fattening of young girls ("leblouh" or "gavage") is common in rural areas and also continues in the cities. Leblouh was considered to be in decline, but it is easy to find evidence of continued practice. Leblouh is considered to be closely linked to early childhood marriage because forced fattening accelerates puberty and makes younger girls appear more womanly and ready for marriage.



## Liloe

Liloe fled to the Tasaru Rescue Center run by the Tasaru Ntomonok Initiative (TNI) when she was 14 years old to escape female genital mutilation (FGM) and early marriage. TNI staff arranged a reconciliation with her family and her mother promised not to mutilate her. When Liloe was 16, her mother again tried to marry her off and Liloe again fled to Tasaru. FGM and early marriage are illegal in Kenya. This time TNI reported the case to the police who prosecuted Liloe's mother in court under the Children's Act 2001. Liloe's mother was found guilty and sentenced in 2013 to two years of community service. Liloe continues to attend school and has recently been reconciled with her relatives.

## The Context

In Kenya, among certain communities, girls face considerable pressures to marry early. One such community is the Maasai. There, once married, girls live with their husbands' families. This means that their own families are relieved of the economic burden of supporting them. For this reason also, families see little point in educating their daughters as it will not be them but the husbands' families that benefit. A very high proportion of Maasai girls are subject to FGM. It is seen as a rite of passage into womanhood and an immediate precursor to marriage. Therefore once a girl has undergone FGM she is under pressure to marry as soon as possible and in most cases the parents find a husband for her.

Kenya is one of the few countries that have taken steps to enforce the law against FGM. It has just appointed an anti-FGM advocate and former MP from an area with high FGM prevalence as new head of the government's anti-FGM Board. The Board has been set up to provide greater protection to girls who are at risk of falling victim to the illegal practice and it is hoped this will enhance and strengthen the government's resolve to end FGM and consequently child marriage.

The TNI project among the Maasai provides support for girls at risk of FGM and early marriage. As part of its approach, TNI promotes the enforcement of

the law against FGM and early marriage and has been involved in a number of court cases. It has had considerable success with this approach. TNI's work has resulted in many more Maasai girls staying in school for longer. As a result, more of them are making their own choices about marriage. With increased economic potential from better education and access to jobs, girls and women from the community are beginning to be seen differently, not as a burden, but as valuable contributors to family welfare.

TNI would like the government to:

- make funding readily available to private institutions such as Tasaru in support of girls who have run away from FGM and early marriage;
- provide logistical support and personnel to the county children offices so as to enable them efficiently carry out their duties. Currently the children offices are very short staffed and lack logistical support;
- upgrade gender desks in police stations with separate offices set up with qualified and trained personnel on women's and children's rights.

## Timera

Timera was born in 2002 and was force-fed from the age of 7. She was married, aged 8, in 2010 to one of her father's cousins, a man 10 years older than her father. Timera was seriously overweight at the time of her wedding. When she became pregnant, her health deteriorated quickly and her doctor made her follow a strict diet. She gave birth by cesarean section in order to save the life of the child.

Timera's mother valued her daughter's weight as the source of her beauty and could not accept her weight loss. She decided to give her medication, the effect of which is to inflame and swell parts of a woman's body, with many believing this is a sign of normal weight gain. Timera's sight deteriorated and her doctor diagnosed eyestrain. Twenty days after giving birth, on 22 June 2013, Timera died suddenly; she was 11 years old.

Since there is no law in Mauritania forbidding child marriage or force-feeding, no action is being taken against Timera's mother or anyone else who may have been involved in her force feeding and early marriage.

## The Context

The legal minimum age for marriage is 18 for both girls and boys in Mauritania. Under Mauritania's Personal Status Law, women and girls are under male guardianship throughout their lives, including with respect to marriage decisions. A guardian can even arrange the marriage of his "incapable" ward in her best interests. "Incapable" is not defined, but partners say it is used by the male guardian (who may be the girl's father) to marry off girl children. Child marriages account for over 35% of all marriages in Mauritania according to UNFPA. Kinship marriages are prevalent in Mauritania, with many girls being married under age with the stated aim of protecting them from rape and other sexual violence in a practice known as *maslaha*.

An element of child marriage in Mauritania has close association with the practice of fattening up or *gavage*. Generally practiced in more rural areas, it is believed that the heavier the girl, the more likely she comes from a more affluent family (being able to af-

## Mamadou

In 2013, 12 year old orphan Mamadou was forced into marriage with an 85-year old man. After the ceremony he waited until she fell asleep and then took her to his home. The next day she poisoned his glass of milk and ran home to her grandmother who alerted neighbors to take the man to hospital. On his recovery, Mamadou was arrested for attempted murder and sent to a detention center.

*L'Association des Femmes Chefs de Famille* (AFCF), an NGO working for women's and children's rights, managed to secure Mamadou's release from the detention center, following which she was given help and support including psychological counseling by The Center NEJDA, which provides assistance for girls who are victims of sexual violence or involved in the criminal justice system. Mamadou is now living with her grandmother. They both receive support from AFCF. Mamadou recently came first in her class for exams to gain entry into secondary school.

ford more food) and therefore the more desirable as a match. Traditionally *gavage* was achieved through the excess consumption of food however the modern day practice includes the taking of appetite-inducing corticoid tablets sometimes taken in the form of animal growth hormones. Problems associated with the practice include heart failure, diabetes and reproductive health problems.

AFCF in coalition with other groups which work on the issue has stated that it is difficult to stop the practice of *gavage*, which is considered a taboo subject for discussion and is not against the law. However, they are currently working:

- to get force feeding included as an offense under a new Bill on violence against women;
- for the removal of all sex discriminatory legal provisions in the Personal Status Law which includes male guardianship;
- for child marriage to be criminalized.



## Aminata

Born in France to Malian parents, Aminata went to school in Paris and had never visited Mali until her father sent her and her elder sister to a village in the Kayes region during the school holidays. She was 14 years old and her sister 16. It was not until the girls arrived at the village that they learned Aminata was to be married to her father's cousin and her sister to the local imam. Her father had taken away Aminata's passport and she was stranded in an unfamiliar place without support.

Female genital mutilation was a prerequisite for marriage, which both girls had managed to avoid in France, but were now subjected to. Aminata objected to the marriage so her husband bound her hands and feet in order that he could consummate their wedding, despite her resistance.

She managed to escape that night, but was caught near the village and returned to her husband. She tried a second time the next day, but was again found and brought back. She then pretended for a while to accept her lot, including accompanying the women of the village to the market. On one such trip, she told her story to a policeman who helped her call

schoolfriends in Paris. They contacted Groupe pour l'abolition des mutilations sexuelles (GAMS) who in turn contacted Malian NGO l'Association Malienne pour le Suivi et l'Orientation des Pratiques Traditionnelles (AMSOPT).

With the help of the policeman, Aminata was able to contact AMSOPT and escape to Bamako. AMSOPT was contacted by a French television station which in turn offered support with the French ambassador to get Aminata travel documents back to France. At the airport, the police and customs helped hide Aminata when it was discovered some of her family members and a close friend of Aminata's new "husband" were on the same flight.

Once she reached Paris, Aminata was taken by social services. She eventually got a job and got married. Her sister remains in Mali. It is not known whether any charges were brought against her father or if the authorities investigated any potential risk to any other daughters of child marriage.

## The Context


In Mali the legal age of marriage is 16 for girls and 18 for boys. A judge may give dispensation for serious reasons for marriage as young as 15. However, AMSOPT asserts that the law is not enforced. The Malian Lawyers Association tries to protect women and girls who come to it for help, but it is very rare that girls try to escape forced and early marriage because, apart from a few who have the benefit of education, most do not even know child marriage is a crime. This is particularly true among the Soninke population. According to UNICEF<sup>35</sup>, 55% of Malian girls are married or in a union before they reach 18 and 15% by the age of 15. AMSOPT did not alert the Malian government about the case, choosing instead to work with GAMS and the French consulate, fearing that social pressure would have prevented them from being able to remove Aminata to France.

- AMSOPT would like the Malian government to:
- pass better laws against child marriage, implement them effectively and properly investigate and prosecute any breaches;
  - put in place measures to protect, and provide support and shelter to, girls escaping child marriage.



'Young woman and child in market, Bamako, Mali.'  
Ruth Njeng'ere





*What if it is more honorable to protect and value the rights of girls than trade their bodies or lives to increase family income, or to settle a debt or fight?*

In some countries girls are given in marriage to settle debts or disputes between families. In **AFGHANISTAN** the practice, which is known as *baad*, is seen as a way of avoiding the use of violence to resolve conflict and may be deployed to compensate victims of serious crimes such as rape or murder.<sup>36</sup> A girl given in *baad* is often subject to severe mistreatment and violence as her husband's family takes out its desire for vengeance on her. The practice is against the criminal code but the law is rarely enforced. Decisions to settle disputes using *baad* are made by local tribal councils whose jurisdiction in such matters has wide popular acceptance.<sup>37</sup>

Dowry (money or goods that a bride takes with her when she gets married) and bride price (payment made by the groom's family to the parents of the bride on marriage) are explicitly outlawed in many countries and yet remain widely practiced.<sup>38</sup> Dowry is a problem in **BANGLADESH**, which creates heightened pressure to have young females married early because the payment is often less for young brides. Although there is a law against any gifts over a *de minimis* amount in connection with a marriage, the tradition continues and is a significant economic determinant in parental decisions regarding marriage. Dowry payments can be demanded in coercive circumstances and lead to women and girls being harassed, harmed or killed. According to Bangladeshi NGO Odhikar, between January 2001 and February 2012, 2338 women were killed, 1025 physically abused and 172 committed suicide in dowry-related violence.<sup>39</sup>





'Sunil, 13, is seen inside her bedroom at her home in rural Rajasthan, India on April 30, 2009.' Stephanie Sinclair/VII.



## Fareeha

Fareeha was 3 years old when her father killed a man. In order to avoid prison, he agreed in a *Jirga* (a tribal assembly of elders) to give his 3 year old daughter in *baad*, the traditional practice of giving away unmarried girls in marriage in order to settle disputes. The other family took Fareeha with them right away.

As a child she was beaten regularly and forced to do household chores. At the age of 10, she was brutally raped by her future husband's uncle. The severity of her injuries meant that she had to be taken to hospital. She said that not once did the doctors ask how she got her injuries. On returning home she was beaten badly. The uncle was angry at her inability to handle sexual intercourse. He beat her because she caused too much trouble for him.

Two weeks later she was forcibly married to her teenage husband. After a difficult start to the marriage, Fareeha began liking her husband. However, the husband's uncle and other males in the family continued to beat her and forced her to do all the household chores, including hand washing all of the clothes of the 15 member household. She was at times forced to sleep in the stable with the animals when her husband wasn't home. In the eyes of her in-laws, Fareeha represented the murder of their son. They were unable to exact any revenge on her father for their son's death and therefore took it out on her.

After a year of marriage, when Fareeha was 12, family members forced her husband to divorce her. She was then forced to marry the uncle who had raped her. He already had another wife and 6 children. He raped her every night, after which he would send her to sleep with the animals in the stables.

Six months after her marriage to the uncle she ran away from home and went to the police. The police sent her to the non-governmental organization *Women for Afghan Women* which arranged medical care for her and pressured the government to arrest and prosecute her rapist. He is now in prison serving a 13 year sentence for rape and for taking part in the practice of *baad*. *Women for Afghan Women* was also able to secure a divorce for Fareeha, who is now happily living with her parents after deciding to return home.

## Hasna

Hasna was just 12 years old when she was sold into marriage to a much older man by her brother. Treated by her in-laws as a servant, she was made to cook and clean for the family and regularly beaten. Hasna courageously told a neighbor about what was happening to her. The neighbor informed the police who made Hasna's husband sign a letter promising not to mistreat her. However, Hasna's situation worsened when she refused to prostitute herself to earn money for her in-laws. They regularly denied her adequate food, chained her in a basement bathroom, beat her, burned her with red-hot metal pipes and pulled her fingernails out. Six months into her ordeal she could no longer walk. After repeatedly trying to visit Hasna and being turned away by her-in-laws, Hasna's uncle became suspicious and demanded to inspect the house. He managed to free her from her basement prison with the help of a stepbrother and two police officers.

In 2012, after spending five months in hospital Hasna appeared in court to testify against her husband and in-laws. The court sentenced her mother-in-law, father-in-law and sister-in-law to 10 years' imprisonment. Her husband absconded and remains at large; police have said they are unable to trace him. The guilty verdicts were a major success in the fight for women's rights in Afghanistan. During this time Hasna was being supported by *Women for Afghan Women* (WAW), which also provided her with sheltered accommodation. However, in a major setback in July 2013 a court ordered the release of Hasna's in-laws saying there was no proof of attempted murder. The court stated that time served for the gender-based violence was enough. It had not informed Hasna's lawyer of any hearing and there was no representation from government prosecutors or Hasna's lawyer despite this being required by law. Any appeals process would normally have taken months and the fact the ruling was made so quickly calls into question due process and the legitimacy of the court's revised judgment.





'Faiz, 40, and Ghulam, 11, sit in her home prior to their wedding in rural Afghanistan, Sept. 11, 2005.' Stephanie Sinclair/VII.

## The Context

Although it is difficult to get accurate statistics in Afghanistan, UNICEF estimates that 46% of girls are married before the age of 18 and 15% of them before the age of 15 <sup>40</sup>.

Gender inequality, traditional practices, poverty, lack of education and rule of law, are all contributing factors in child marriage. Although advances have been made in promoting women's rights in Afghanistan, these changes have increasingly come under threat due to lack of rule of law, improper implementation and impunity of those in positions of power.

Child marriage as practiced in Afghanistan includes *baad* and *badal*. The United Nations Assistance Mission in Afghanistan (UNAMA) found that *baad* is practiced among communities throughout the country despite being illegal under Afghan law. *Badal* involves the exchange of daughters between families and is often carried out as a way of avoiding a dowry payment. It is common in *badal* for the exchanged girls to face similar treatment, so if one is beaten, the other is also beaten in revenge.

One girl describes her *badal* marriage: "I was not at the legal age for marriage but my father made me marry a man without my opinion and consent. My

husband abused me and beat me from the beginning of marriage. He was a drug addict for a long time; he currently uses the crystal method. He beats me and tells me to find money. He wants to force me into prostitution and to find some money this way. Once he beat me so much that I was hospitalized for two nights and the signs of beating and battering are vivid all over my body. I served as *badal* for my brother (I was made to marry my husband and my brother married my husband's sister) and I was oppressed as a result."

Fareeha and Hasna only escaped their brutal marriages with help from loved ones and a non-governmental organization putting pressure on law enforcement to prosecute the cases. Women for Afghan Women wants the Afghan government to:

- take child marriage cases seriously;
- prosecute fathers, who are often the ones arranging marriages, and husbands to the full extent of the law;
- publicize convictions in order to deter others;
- carry out a public information campaign on child marriage laws.



## Neema

Neema is a 17 year old Maasai girl from the Manyara region. She was subjected to genital mutilation at the age of 4. At 14, just after completing her primary education but before she received her results, she was forced into a polygamous marriage. When the school results came out, she was selected for a place at a government secondary school. Neema was keen to pursue her education but her father insisted she stay with her husband – he had been given 8 cows as his daughter’s bride price.

Neema was told she could undertake vocational training in a nearby center as an alternative to going back to school. But she knew from having attended several sessions run by the Network Against Female Genital Mutilation (NAFGEM) that she had certain rights and she returned to her family thinking they would let her go back to school. Instead, Neema’s father called her husband and told him she should be beaten severely for running away. The beating was carried out in front of Neema’s mother, siblings and neighbors. Neema was then forced to return to her

husband, but lay sick in bed for almost a month recovering from her wounds.

Once recovered, Neema sneaked into her parents’ house and took money for the fare to a community center for local pastoralists known as the Ilaramatak Center at Terrat where she sought protection. The center informed NAFGEM which helped Neema find a place at a vocational school in Moshi. NAFGEM works in collaboration with the local government and community institutions such as Ilaramatak. Community education and provision of safe shelter are among areas of networking with other partners in the region.

NAFGEM met with Neema’s parents who agreed to let the marriage go and pay the cows back for her to continue with her studies without disturbance. Neema’s father was strongly warned by the local government authorities on his violent behavior against Neema and her mother who had also been severely beaten. He promised to stop such behavior and begin to support them. NAFGEM intends to facilitate family reconciliation after the situation has stabilized.

## The Context

Tanzania’s marriage law allows girls to be married at the age of 14 with parental or a guardian’s consent. In such cases, there is no legal protection for girls like Neema, who must rely on their own courage and the support of thinly-stretched non-governmental organizations when they face FGM, which is outlawed but not enforced, and child marriage.

In this regard, NAFGEM recommends that the government of Tanzania:

- present a bill before parliament to review the Nation’s Marriage Act of 1971 which allows 14-year-old girls to marry with parental consent. The minimum age of marriage should be 18 years for both girls and boys;
- recognize 6 years of secondary education as compulsory for all children. This will contribute to keeping girls meaningfully occupied and protected against early marriage;
- support civil society organizations in promot-

ing girls protection against FGM and encourage girls’ education;

- strengthen systems and mechanisms to respond to the protection needs of girls at the family, school and community levels;
- create opportunities for vocational skills development for girls who complete their education so that they have alternatives to marriage.

## Ruth

In 2007 when Ruth was 12 her father passed away. The following year her mother also passed away leaving her younger brother, Thomas, and herself orphans. Since her father did not pay the bride price for her mother, Ruth became the center of a 4 year family dispute between her mother's family and her father's family. Her mother's family arranged a customary marriage with an older man so that they could receive the bride price as a debt owed to them since they did not receive bride price for her mother. The continuous disputes between her relatives caused Ruth so much distress that she would often have blackouts and fainting episodes.

She then escaped to live with her paternal uncle, but his wife wanted her to marry a man from a different province so she escaped again to her mother's sister who lived in Port Moresby at the Nine mile settlement. This aunt would often force her to work and would take all Ruth's earnings. She found work as

a live-in nanny. After six months of working as a live-in nanny for a family in a different suburb in Port Moresby, her aunt decided to remove Ruth from employment as she needed her to do domestic work for her. While living with her aunt she experienced verbal and emotional abuse from her aunt and the aunt's younger son, who often took marijuana and homebrew. On several occasions her cousin had attempted to rape her. On the evening of 5 June 2013 she escaped from her aunt's house. She now lives with a family which she had worked for previously.<sup>44</sup>

## The Context

Addressing child marriage is a challenge in Papua New Guinea as it is hard to ascertain the age of the girl child due to high levels of illiteracy and birth registers not being kept up to date. Elderly men with money often lure girls into marriage. *Voice for Change* works with adolescent girls to inform them about their rights and with parents to educate them on the harms of child marriage. It also works to raise awareness at the community level and with village leaders, but this work is difficult when people see no enforcement of the law against child marriage.

Voice for Change states that although the laws and international obligations are in place, there is no implementation and the government is not honoring commitments. The status of women and girls in the country is low. Law enforcement institutions are male dominated. The village courts and district courts comprise of men and often they do not act in favor of women so Voice for Women tries to target them too in its educational outreach on child marriage.

Girls may try to run away from forced/child marriage but there is no support in place to help them. It is extremely difficult in the male dominated culture for women and girls to seek a divorce even in circumstances of violence and abuse. They are required to pay back the bride price and to pay for the whole court process which makes it very expensive.

Voice for Change believes the government should:

- raise awareness about child marriage and that it is illegal;
- ensure enforcement of the law against child marriage;
- educate particularly at the community level about the harms of child marriage.

## *What if girls' schooling was mandatory and schools were safe places to learn?*

A high mandatory school age for girls should reduce the incidence of child marriage and can help produce a generation of more educated and healthy girls.<sup>45</sup> The WHO supports reducing marriage under 18 and pregnancy under the age of 20.<sup>46</sup> As mentioned, girls who are more educated marry later, have children later, and are more likely to earn an income and contribute to their nation's economy. Laws that do not prevent pregnant girls from being expelled from school, as in Papua New Guinea (**PNG**), serve to ensure a married child has virtually no chance of rising above her circumstances and the cycle is likely to continue for her daughters. In **SWAZILAND** it is reported that pregnant girls are suspended from school pursuant to the Education Rules No. 49 of 1977.

Discriminatory policies targeting victims of child marriage also persist in many states in **INDIA**. For instance, some states have policies that bar adult candidates from taking state civil service exams if they were married as children. In May 2012, it was reported that a young woman, Ratnashri Pandey, was forced by her family to marry before she turned 18, and was subsequently disqualified from taking the Madhya Pradesh state civil services examination because of her child marriage. Pandey filed a case against the government regulation in the Madhya Pradesh High Court, which upheld the rule. The case is currently on appeal to the Supreme Court, although press reports suggest the case led to the rule being overturned in April 2013. Another discriminatory government rule in India limits nutrition programs for pregnant mothers to women ages 19 and older.





## Carine

Although compelling anyone to marry is a crime in Cameroon, Carine was married off at birth to a man who was 30 years old. When Carine's mother was pregnant with her, her father received a bride price from Carine's future husband. Carine went to live with her husband when she was five years old. Seven years later, her case came to the attention of Equality Now local partner the *Inter-African Committee on Traditional Practices* (IAC) following visits to her village where neighbors asked if something could be done to help Carine.

Together with representatives from the Catholic church, the Ministry of Women's Empowerment and the broader family, the IAC visited her family to better understand the situation. The IAC and the Catholic church have been trying to sensitize the government on the problem of early marriage, but not all officials have been responsive. No action was pursued by the government in this case to prosecute the parents or the husband for the child marriage.

## The Context

The official minimum age of marriage in Cameroon is 18 years. The Cameroon Penal Code (Article 356) punishes the practice of child and forced marriage.

According to the IAC, however, in some cases a girl child is betrothed as early as two and even younger, sometimes when she is still in the womb. If the fetus betrothed from the womb turns out to be a boy, the man who had intended to marry waits for the next pregnancy. Girls are then handed over for marriage as early as nine with impunity.

Husbands are usually older than the girls' own fathers. Some girls are even given as gifts to strengthen friendships and some are used to settle debts. Many girls are also forced into polygamous marriages increasing the risk of infection of sexually transmitted disease.

Child, early and forced marriage is more commonly practiced in rural than urban areas and occurs in certain tribes in the Adamawa region, the North West region, the Far North region and the South West region. Akwaya, a division of the South West Region on Cameroon's border with Nigeria, is where Carine comes from. Child, early and forced marriage is a national problem in Cameroon whose impact is being

Carine was very interested in school, so her family agreed, despite opposition from Carine's husband, that the dowry should be paid back, the marriage annulled and Carine be allowed to complete her schooling. The IAC and the church conducted the negotiations and paid back the money out of their own funds, because the family was too poor to afford it. The same organizations paid for Carine's continued schooling. Now 20, Carine has completed secondary education and is looking forward to becoming a lawyer, so that she can defend the rights of other young girls, victims of child marriage and put an end to the practice in Cameroon.

The IAC reports that early and child marriage is very common in rural areas where registration offices for births and health centers are few and far between. It knows of about 50 cases like Carine's, but of these in only three cases was the girl successfully withdrawn from her husband.

widely ignored, according to the IAC. This hinders efforts to improve gender equality, health care, primary education and respect for human rights, among other issues.

The IAC recommends to the Cameroonian government that it:

- build birth registration centers in all areas to help protect girls from child marriage;
- publicize the law that bans forced and early marriage, both with the general public and with law enforcement personnel and make sure the law is implemented to punish parents who marry off their children and men who contract such marriages;
- develop women's empowerment centers, with classes on responsible parenting, family planning, hygiene and practical skills for girls and young women so they can support their own living;
- ban the bride price to send a signal that girls are not for sale;
- help address poverty by supporting income-generating programs, providing schools and health centers and other centers of social exchange.





## Flor

Flor's mother became a single mother at the age of 30 and spent long hours working in order to support the family. Flor was left in the care of a neighbor who acted as a godmother to her. When Flor was 8 years old her mother met her step-father and they moved in together with him. Flor was no longer able to see her godmother as often and did not get on well with her mother. The situation became worse after her step-father died in an accident and her mother became depressed.

Flor enjoyed school and dreamt about going to college but her mother told her that she could not afford to pay for her studies any longer and besides *"you are going to be nobody"*. At the age of 13 when Flor was in the 7<sup>th</sup> grade, her mother told her she could no longer support her education and that she needed to start working. During school vacation Flor began selling fruit in a stall where she met her husband to be. Flor was still only 13 years old. They began a romantic relationship which Flor's mother eventually found out about. She did not approve and worried that Flor would end up pregnant and unable to work. Six months later Flor and her boyfriend began having a sexual relationship. Flor did not want to become pregnant but did not know anything about contraception. Two months later she became pregnant- *"I felt life was over, my mother punished and hit me and she insulted me and made me feel so embarrassed. I was ashamed*

*of what people would say, and as predicted they were always criticizing me,"* she said.

Flor was able to hide her pregnancy during the first few months at school and studied during her vacations by which time she was five months pregnant and people began to notice. Her school was very supportive, which partners say is exceptional in Guatemala, and told her she was welcome to continue her education; however she ended up dropping out in order to work to support the baby.

By November that year at age 14 Flor married her boyfriend and moved in with him. They both worked and were economically stable but their relationship changed after marriage: *"there was no romance or passion anymore. He used to drink a lot and we were separated for a short time because of it."*

Flor never gave up on her dream of going to college and returned to studying on weekends. Her husband decided to support her by paying for her final year school education.

*"One day, with my godmother, we went to APROFAM and I started to plan my family. I asked in APROFAM if I could complete my internship there and they accepted. After my internship I stayed working as a cashier in APROFAM. Actually, I admire myself because of what I have done and I know I will reach so much more!"*

## Jennifer

Jennifer lived in a poor community in Izabal and at the age of 14 met a 34 year old man who she fell in love with and married with her parents' consent. When Jennifer was 15 years old, she fell pregnant and had a baby girl. Her husband was economically stable but he was emotionally abusive and physically and sexually violent towards Jennifer. At 17 years old she became pregnant for the second time and had a baby boy. A year later she became pregnant again. She was due to have a second girl but while she was on her hammock her husband cut the strings and Jennifer fell. He started hitting and kicking her until she passed out. When Jennifer woke up she discovered that she had miscarried.

Jennifer decided she could not take it anymore and ran away to Guatemala City leaving her two children with her mother in Izabal. Her mother and children did not have food or clothes so Jennifer began working hard to send her mother small amounts of money for her children. At this time she also divorced her husband. After some years Jennifer and her mother were able to buy a small house in Guatemala City and Jennifer was reunited with her children. When Jennifer was 20 years old she decided to return to education and completed high school. At the age of 30 she became a nurse. At no point was her husband prosecuted for the violence and abuse against Jennifer.



## The Context

The legal age for marriage in Guatemala is 16 for boys and 14 for girls with parental consent and 18 without parental consent. Parental consent is required to marry when an adolescent girl under 18 years of age is pregnant.<sup>47</sup>

According to the United Nations Population Fund (UNFPA) over 30% of women aged between 20 and 24 were married before the age of 18 in Guatemala.<sup>48</sup> Research carried out by the Population Council in 2007<sup>49</sup> found that this figure increases for indigenous Mayan adolescent girls, with 40% married by the time they are 18 years old. Poverty, lack of economic opportunities and the belief of parents that their daughter's future roles consist mainly of being a wife and mother has meant low education levels among adolescent girls and high instances of child and adolescent marriage.

**APROFAM** works on issues of sexual and reproductive health in Guatemala and supports the International Girl's Day initiative. Under this initiative, an official team was established nationally to support girls' needs and to advocate for them - *Mesa Interinstitucional de Coordinación a favor de las Niñas y Adolescentes*. APROFAM believes that sexual violence plays a part in early and forced marriage. Parents' fear of their daughters being sexually abused is leading to them opting to get their daughters married at a very young age as a way to "protect" them. But as these examples show, girls may even be at increased risk of violence in the home. According to UNFPA adolescent girls who marry before the age of 18 are more likely to experience violence within marriage than those who marry later<sup>50</sup>. Adolescent girls are less likely to be able to negotiate the use of contraception or to refuse sexual relations. Their lack of power within the relationship is often linked to domestic violence and can also result in unwanted pregnancies.<sup>51</sup>

APROFAM states that Guatemala is a country ruled by machismo and patriarchy, where abuse of power to control women's bodies is tolerated especially against those who are young, from indigenous communities and poor. It is currently working with the Department for Education to implement the Integral Sexual Education strategy at national level in schools in order to better educate adolescent girls about bodily integrity as well as the promotion of a pilot program

on Responsible Fatherhood and the New Masculinity which aims to educate adolescent boys on gender equality, parental responsibilities and having equal sexual relationships with a multi cultural approach.

APROFAM recommends that in order to effectively prevent and eradicate child and early marriage, the government needs to:

- raise the legal age of marriage to 18 for both men and women;
- fully implement laws against sexual violence, exploitation and trafficking of persons (Decree 9-2009);
- educate community leaders to ensure the rights of women and girls are promoted equally with those of men and boys;
- implement the Integral Sexual Education Strategy across the entire country in accordance with the agreement made between the Ministry of Health and Welfare and the Ministry of Education.









'Josephine Gambolipai, 13, is seen in northeastern Democratic Republic of the Congo on Aug. 15, 2010.' Marcus Bleasdale/VII.

## Alile

Alile was married and gave birth when she was just 14. Her ordeal began one afternoon in 2011, when she was taken to a house and repeatedly raped by two men before being held captive overnight. Alile's family was shocked that she had spent the night away from home and would not listen to her explanation. The family was afraid of being shamed in the community and did not report the rapes to the police due to fear of bringing disgrace and humiliation on the family. Instead, her family forced Alile into marrying one of the rapists.

Soon after the marriage, Alile discovered she was pregnant. She was abused at the hands of her husband who had never wanted her as a wife, and at 8 months pregnant when she could no longer take it,

she found her way back to her parents who reluctantly took her in. She gave birth to a baby boy who died aged 6 months. Alile was devastated, confused and severely depressed. Belatedly, and with assistance from the community, the non-governmental organization *Foundation for Children's Rights* (FCR) found out about the case and reported it to the police. FCR gave Alile counseling and encouraged her back to school, where she remains. Although FCR received promises from district officials that the two men would be brought to justice, over two years later no action has been taken.



## The Context


Child marriage is widespread in Malawi with high incidence rates in districts such as Mangochi, Machinga, Zomba (Southern Region); Karonga and Nkhatabay (Northern Region). Marriage of children between 15 and 18 years requires parental consent under the Constitution and while marriage below 15 is meant to be discouraged by government, some interpret that as implying that marriage under 15 is not expressly forbidden. Section 138 of the Penal Code provides that sexual intercourse with a girl under 13 is an offense; FCR believes that older men as a consequence are encouraged to marry girls early so as to avoid the criminal charge.

The case of Alile reveals a number of shortfalls and gaps in Malawi's child protection policy, its implementation and the community knowledge of both of these. FCR maintains that families have come to believe that keeping family ties and never suffering public shame are more important than protecting their own child. They would rather have their daughter stay in a bad marriage than be known to have had children out of wedlock. When children are raped or incested, cases are never reported in order to save the families' face. Official resources are severely stretched and inadequate to deal with childhood sexual violence – there is only one child protection officer in Alile's region to cover a radius of 20 kilometers. The same is true of the police. And governmental and other information programs, especially in remote areas, are lacking. With no criminal penalties for child marriage and a prevalent belief that a girl should marry as early as possible to maximize her fertility, child marriage is deeply entrenched.

The age of marriage has been debated on several platforms in Malawi over the past several years. In 2009, parliament discussed raising the age of marriage in the Constitution with parental consent to 16. However, the then President refused to support the change after pressure from various groups that the age should be raised even further. Currently, there seem to be positive moves in the Malawian government to address child marriage, including a commitment by President Joyce Banda. It is hoped therefore that legal and other provisions to protect girls will be enacted soon.

FCR recommends the government:

- sets 18 as the age of marriage in the Constitution which should also make clear that marriage can only take place with the free and full consent of the direct parties;
- develops, with traditional leaders and other relevant authorities, measures to discourage child marriage, including any practices that support early betrothal;
- puts in place and enforces laws to protect children from marriage, with appropriate punishments for parents, guardians and adults who contract marriage with children;
- improves access to education and continues to eliminate the gender gaps that still exist.



## *What if marriage were not a guise for child sexual exploitation or domestic servitude?*

Temporary marriage is a practice sometimes sanctioned by Shia Islam, which allows a man and a woman to marry for a fixed period of time and for an agreed amount of money. Such marriages are easy to transact as they require no witnesses and are often used by men as a way of having short-term sexual relationships without breaching religious codes. In **BANGLADESH**, temporary marriages are often used as a guise for transactional sexual exploitation. NGOs report that there is a rise in incidents of hostile groups, operating in the northern districts of Bangladesh, putting pressure on the poor to marry their children to older men. These children are then trafficked into India's sex trade. Large numbers of children are trafficked in this way from Bangladesh. In **MAURITANIA**, girls are married off to wealthy Middle Eastern men through "temporary" or "secret" marriages ("siriya"), which are not recorded. NGOs report that child marriage "was the main driver of trafficking" and highlight the problem of Mauritanian families marrying young daughters to wealthy Saudi Arabian men, noting that these prepubescent girls trafficked as "brides" are rejected once they reach puberty or become pregnant. In **PNG**, bigamy is prohibited under the Marriage Act of 1963 and the Criminal Code; however, it does not apply to customary marriages. Young girls are often entered into polygamous marriages and forced into domestic service for their husbands' extended families.





## *What if nationality laws did not discriminate and women and men could pass their nationality equally to their children and spouses?*

Discriminatory nationality laws that do not allow women to pass their nationality to their children can leave especially girl children at risk of early marriage through lack of access to state education, health services and jobs as their parents struggle to provide them a secure future. In Lebanon, for example, girls born to Lebanese mothers and foreign fathers have been married off to relatives in other countries because it is difficult for them to stay in their native land.<sup>52</sup> Problems can continue if the marriage ends or a girl is widowed leaving the girl at risk of further isolation and with very few options.

## *What if there were no barriers to girls escaping child marriage?*

The limited options for young girls escaping child marriage can serve to engrain the practice. We located almost no government child protection mechanisms for escaping child marriage, which presents a tremendous gap. In addition, there were several problematic provisions - in Afghanistan, prosecution of women for “running away,” oftentimes to escape violence, has been reported even though running away is not a crime under either statutory Afghan law or recognized under Sharia law. Recently, the Afghan Supreme Court issued an instruction to lower courts that “running away” is a crime when women flee to a stranger as opposed to a relative. The Supreme Court theorized that “running away” to a stranger, even in cases of abuse, “could cause crimes like adultery and prostitution and is against Sharia principles.”

While there are some NGOs trying to assist girls and women escaping child marriage, there exist tremendous obstacles. Frequently, human rights defenders who are speaking out on behalf of women and girls are being targeted<sup>53</sup> in Pakistan and Saudi Arabia for example. In Yemen, a girl would not have many options other than to return to her family after a divorce – shelters are minimal and of poor quality, and unless a relative or friend is willing to take in the girl, she will return to her parents’ home (from where she may have been coerced into marrying the older man in the first place).



'Mejgon, 16, participates in literacy classes, Herat, Afghanistan, June 19, 2004.' Stephanie Sinclair/VII



## Hadeel

Hadeel was born in 1993 into a family who married her off when she was sixteen. She was in ninth grade when the groom asked for her hand in marriage. Soon after, she was forced by her fiancé to leave school and stay at home until both families could decide on a marriage date, in accordance with the norms and traditions in her own community.

In preparation for the marriage ceremony, both Hadeel and her fiancé approached the judge in the Sharia Court, who refused to sign the marriage contract as she was below the age of 18. He commented that “she should go and play with her friends”, an expression used to indicate that she was a child. The fiancé then approached another judge who allegedly was bribed to authorize the marriage.

On the day of the marriage, Hadeel was beaten because her husband was impotent and couldn't consummate the marriage. Apparently to cover his shame, he accused her of not being a virgin. The next day, her mother took her to the forensic medicine department in a government hospital in Amman for examination to prove her virginity. The department provided her with a certificate confirming that that she was still a virgin. The examination process scared Hadeel who did not understand what was happening. She cried and felt hurt and confused.

## The Context

Religious courts have jurisdiction over all matters of “personal status” including most family law matters such as marriage, divorce, child custody etc. There is no civil marriage or divorce in Jordan, but the Personal Status Law sets a minimum age of marriage. Article 5 of law Number 61, 1976 stipulates “Requirement for marriage eligibility is to have both the fiancé and the fiancée mature, and at least eighteen years old. The judge may authorize the marriage below this age, if he/she is at least 15 years of age and wherever, he, the judge, finds in such marriage “interest” which is determined in accordance with instructions issued by the Chief Justice for this purpose.”

Her husband continued to psychologically and physically abuse Hadeel, refusing to visit a doctor himself for help. Hadeel decided to leave him and was divorced after two months.


Hadeel lived in a desperate situation, refusing to go back to school as she was feeling depressed and disappointed. Her father, who approached the *Jordanian Women's Union* for legal advice, convinced his daughter to join the Union's rehabilitation training course.

But Hadeel's suffering did not stop. Her family married her off for the second time when she was 19; as a result she has not completed her education. Hadeel continues to face abuse with her second husband and her family is not providing her with support to end the abusive relationship.

The Jordanian Women's Union believes the government of Jordan should:

- revise article 5 of the Personal Status Law to revoke judicial exceptions to marry off girls below the age of 18;
- draw up, in consultation with women's groups, a civil rights law to govern issues of marriage, divorce, child custody etc.



A close-up photograph of a woman wearing a black hijab with a white forehead band. She is looking directly at the camera with a neutral expression. In the lower right corner, a newborn baby is visible, wrapped in a light pink blanket and resting its head on the woman's shoulder. The background is slightly blurred, showing a window with white trim.

## *What if all births and marriages were registered?*

Registration of birth and marriage can be essential to combating child marriage by requiring documentation of the age of the prospective spouses prior to solemnization. However, even where registration is required, the law is often unenforced. In some cases, lack of registration means denial of access to schooling or other services. This, again, punishes the child. Governments should instead be working to provide greater access to registration centers and support for registration. Government failure to implement systems of birth and marriage registration makes it easier to avoid compliance with minimum age of marriage law. Marriage registration would also assist adult women to assert their rights in marriage and on divorce.

## Reem

Reem was born in 1997 into a family who married her off when she was fourteen in 2011. When she got married she was still at school and dreaming of becoming a nurse like her mother. Reem's eldest sister, Zeinah, was married on the same day. She was 15. The Sheikh who performed the ceremonies did not ask either girl if they wanted to be married. It was enough to have the consent of their father as their male guardian.

The main reason given for the marriages was the political situation in Syria, including the increased vulnerability of girls and women to sexual violence. After hearing of several cases of girls and women being raped in Homs and other neighboring areas, Reem's family thought that marrying her and her sister off would afford them some protection.

The shift from being a student in school to becoming a married woman in a strange family was difficult for Reem. She had no idea what marriage meant or of the responsibilities of having a daughter,

now a year and two months old. She felt restricted in her mobility, with few social connections, limited resources and no power in her own household. She says herself, "I miss going to school. All my life, I dreamt of becoming a nurse to serve my community, but now I cannot do much. I need to take care of my baby girl who needs attention and care."

The political situation forced Reem and her family to flee Syria to Jordan with limited financial resources. They depend upon the support of UNHCR (the UN Refugee agency), which has given them temporary identification documents, as well as the support of the local community.

Reem is frantic about her daughter not having a birth certificate because it means that her daughter is not legitimate and has no rights. Because she has UNHCR temporary ID, she has been able to get the essential vaccinations her daughter needs.

## The Context

Under the Personal Status Law of Syria, the minimum age of marriage is 18 for men and 17 for girls, but a judge can register the marriage of girls as young as 13 years old if the father or grandfather has given his consent. In Jordan, the minimum age of marriage is 18 but girls as young as 15 can be married off with the consent of a guardian and a judge.

Reports have shown that in times of conflict, girl child marriages often increase. Partners explain that in the Arab culture, when Muslim girls marry, a dowry is paid as is the custom and tradition as well as what is expected religiously. This however has been taken advantage of in some cases, where girls have been pushed to marry younger to enable their families to make use of the dowry (which is against the norm as the dowry is the right of the bride). Families do this in order to survive. Families marrying off their young daughters also do so purportedly to protect them and safeguard their and the family's honor.

The *Arab Women Organization (AWO)* has been working to support Syrian women refugees in two areas in one governorate in Jordan. In order to help protect Syrian girl refugees from child marriage

while in Jordan, and to support the rights of Syrian girl refugees already married it is calling for:

- Jordan to apply the legal age of marriage with no exceptions whatsoever and not to allow any judge or sheikh to abuse the law by using the exceptions for early marriage;
- the UN and local agencies to protect particularly girls from their additional vulnerability as displaced people, including their greater risk of child marriage and other forms of sexual violence, particularly in refugee camps;
- the UN and local agencies to provide all support to girls already married in terms of health services as well as health and legal awareness and encourage them to continue their education and facilitate that;
- Jordan to be provided funds by the international community to be able to carry out its work either through the UN agencies, local NGOs or as a government who has borne the brunt of the crisis in neighboring Syria by hosting its citizens.



## Conclusion

**C**hild marriage is a problem directly affecting approximately 14 million<sup>54</sup> girls a year and indirectly affecting many more girls and boys, women and men. It is a global human rights and development issue that has a disproportionate impact on girls. It is a cross-cutting human rights issue affecting children's and women's rights to health, education, equality, non-discrimination, and to live free from violence and exploitation, including slavery and servitude. It requires a holistic and comprehensive response by States working in collaboration and partnership with a range of stakeholders.

It is also important to understand the connectivity of laws and practices that discriminate against girls and women, including those regarding FGM, bride price, dowry, rape, family "honor", sexual exploitation, and other harmful social norms and legal provisions that contribute to and condone child marriage. In addition, understanding the underlying practical, physical and mental health needs connected to child marriage, for both the girl and any children she may have, must underpin any plans for development at the community, state, regional and international levels. When reviewing countries for development funding, a set of indicators that reflect the full ranges of issues surrounding child marriage should be reviewed by bi-lateral and multi-lateral donors. States should address the issue through a child protection framework and use a joined-up approach. Ending child marriage can and should be a global priority and included within the post-2015 development framework so that this and future generations of young girls will enjoy all their human rights.





## What You Can Do

- Take Action on all Equality Now country campaigns relating to child marriage mentioned in this report:
  - *Kenya*
  - *Saudi Arabia*
  - *Yemen*
  - *Morocco*

and others featured on our website:  
[www.equalitynow.org](http://www.equalitynow.org).

- Sign *our petition* to all governments urging that they support the addressing of child marriage in any post 2015 development framework.
- Write to your own government, asking it to support a comprehensive response to end child marriage which would require recognizing the points below.<sup>55</sup> Please send a copy of any correspondence, including any replies, to [info@equalitynow.org](mailto:info@equalitynow.org) with the subject “Child Marriage.”
- To help us continue our work, including to end child marriage please make a donation at:  
[www.equalitynow.org](http://www.equalitynow.org).

<sup>55</sup>Phiona Mutesi, a 14-year-old chess prodigy, at the Agape Church inside Katwe, the largest slum in Kampala, Uganda, Dec. 9, 2010.' Stephanie Sinclair/VII.



## Recommendations

**1. Child, early and forced marriage requires a holistic and comprehensive response.** It will require concerted action at all levels and from all sectors of society.

**2. Child, early and forced marriage must be addressed in any post 2015 development framework.** Tracking changes in the prevalence of the practice can be seen as a way to monitor progress against a range of development and human rights goals.

**3. On a structural level it requires supportive legal frameworks in countries where the practice is prevalent.**

i. Governments should **enact, enforce, and raise public awareness of legislation that sets 18 as the minimum legal age for marriage**, including by asserting the primacy of national law over other forms of law such as religious or customary laws. Safeguards must be included in the law and its implementation to ensure that ‘parental consent’ is not used to justify customary or religious practices that permit child, early or forced marriages. Children in marriages where they ‘ostensibly consented’ should have access to counseling, child protection, and other psycho-social support as well as being protected against violence or criminal punishment.

ii. Governments must protect women’s and girls’ rights (including property rights, access to remedies, support for those wishing to leave a marriage, protection from violence, access to health services and sexual and reproductive health, removing any requirements for spousal consent that restricts young women’s access to health) and **remove any reservations to international and regional human rights treaties** which allow discrimination against girls or women including within the context of marriage and family relations.

iii. **Governments should sign, ratify, uphold and implement international and regional human rights**

**standards to address child, early and forced marriage** (including the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination Against Women, the African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa), **including by asserting the primacy of international human rights law over national law.**

**4. Supportive policy frameworks with adequate resourcing and cooperation across Ministries (including justice, women and children, youth, education, health, social protection, security, etc.) is crucial, as child, early and forced marriage affects all of their areas of focus.**

i. **Governments should develop, support and implement comprehensive and integrated strategies to prevent child, early and forced marriage.**

ii. **Policies and measures targeting girls who are most vulnerable and at highest risk of child, early and forced marriage should be prioritised.** Governments should work in partnership with UN agencies, civil society organisations, NGOs, community leaders, and other relevant stakeholders to identify and target work in ‘hotspots’ with high concentrations of girls at risk of child, early and forced marriage.

iii. **Governments should strengthen civil registration systems including birth and marriage registration systems as well as by removing obstacles to gaining citizenship** and raise awareness of the importance of birth and marriage registration at the national, regional and local levels.

iv. **Governments should improve access to quality primary and secondary education including comprehensive sexuality education in formal and informal settings.** The provision of education should address factors threatening the confidence or ability of families to keep their children in school, such as safety concerns about school attendance for girls, transport difficulties and school-related gender based violence. Such education must aim to challenge and transform gender equalities, norms and stereotypes. Girls who are married should be allowed to stay in school or be

---

provided with options for re-entry into schooling or non-formal education opportunities.

v. Governments should mainstream child, early and forced marriage prevention into education, health, including adolescent sexual and reproductive health, law enforcement and other policies and programmes, including in training for legislative, judicial, and law enforcement officials to ensure that minimum age of marriage laws are understood, implemented and enforced.

vi. **Governments should take all necessary actions to realise the sexual and reproductive rights of adolescent girls**, both married and unmarried, including by investing in sexual and reproductive health and by providing comprehensive sexual and reproductive health information, education and services that are accessible to girls of all ages and empower them to realise their sexual and reproductive health and rights.

vii. **Greater investment in girls at risk of child, early and forced marriage and support for married and divorced girls is necessary**, for example by supporting programmes which equip girls with training, skills, information, safe spaces, shelters, support networks and counseling, providing access to justice for girls seeking to end their marriages, and empowering girls to make their own choices/control their own lives.

viii. Governments should work in partnership with UN agencies, civil society organisations, NGOs, community leaders, and other relevant stakeholders to **design and implement programmes to end child, early and forced marriage**, with an emphasis on scale and evaluation, where they don't already exist, and to scaling up successful programmes where they do exist.<sup>56</sup>

ix. Interventions to prevent child marriage and assist girls and young women in child, early and forced marriages should be devised **keeping in mind principles of child participation, best interests of the child, and the evolving capacity of the child**.<sup>57</sup>

**5.** Given the increased vulnerability of girls to child, early and forced marriage, trafficking and abduction in situations of crisis and instability, **child, early and forced marriage prevention should be mainstreamed into emergency and humanitarian responses.**

i. The **safety, counselling and care of adolescent girls** must be provided for.

ii. Governments must also ensure that young women and girls in child, early and forced marriages who have been trafficked or forced to migrate have **information and access to social, legal and health information and services, including sexual and reproductive health services.**

**6.** **Efforts at the community level should be supported.** Governments should work in partnership with civil society to engage and mobilise members of the community including boys, girls, parents, families, teachers, political, religious and community leaders, and community based organisations (including faith based organisations) to promote dialogue to change social norms and attitudes which perpetuate child, early and forced marriage.

**7.** **Young women and girls must be involved in developing policies and programmes to address their rights.** A special place should be given to **mobilising young people** as advocates to end child, early and forced marriage, as well as giving a voice to those at risk of or affected by child, early and forced marriage.

**8.** **The links between child, early and forced marriage and other harmful practices such as female genital mutilation, so-called honour killings, as well as sex trafficking and child labour should be recognised and highlighted.** Many of the root causes of these practices are the same – the low status of women in society, unequal power relations, desire to control women's sexuality and bodies, poverty – and must be addressed in order to address the practices in a comprehensive way.

**9.** **Efforts towards addressing child, early and forced marriages should not directly or indirectly punish girls and young women in child, early and forced marriages** by excluding them from health, education, employment or other services that protect, fulfil, and promote their human rights or access to justice.



# Endnotes

1. UNFPA, "Marrying Too Young, End Child Marriage," (2012), p. 13, available at <http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/MarryingTooYoung.pdf>
2. The World Health Organization supports reducing pregnancy under the age of 20. See Adolescent Pregnancy Fact sheet N°364, May 2012, accessible at <http://www.who.int/mediacentre/factsheets/fs364/en/>
3. See UN Women, 2011-2012 Progress of the World's Women, In Pursuit of Justice Report, (2011), p. 29, available at <http://progress.unwomen.org/>
4. Child, early and forced marriage includes any legal or customary union involving a boy or girl below the age of 18 or any marriage without the free and full consent of both the intended spouses. We have chosen to use the term "child" marriage primarily throughout this advocacy brief to reflect the language used in international human rights definitions. Child and early marriage by definition is also "forced" marriage and adult marriages are forced when there is no free and full consent of the people marrying.
5. See UNICEF, "The State of the World's Children 2013 – Children with Disabilities," (2013), pgs. 132-135 for country prevalence rates on child marriage rates before 15 and before 18 years of age.
6. See UNFPA, supra note 1, p. 6.
7. World Health Organization, *Early Marriage, Adolescent and Young Pregnancies*, 16 March 2012, A65/13
8. Council on Foreign Relations report, *Ending Child Marriage*, 1 May 2013, available at <http://www.cfr.org/children/ending-child-marriage/p30734>
9. Human Rights Council Resolution A/HRC/RES/24/23, "Strengthening efforts to prevent and eliminate child, early and forced marriage: challenges, achievements, best practices and implementation gaps," available at [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/24/23](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/24/23)).
10. See Justice for Iran, "Stolen Lives, Empty Classroom – An Overview on Girl Marriages in the Islamic Republic of Iran," Oct. 2013, pgs. 7-8, available at <http://justiceforiran.org/wp-content/uploads/2013/10/JFI-Girl-Marriage-in-Iran-EN.pdf>
11. All these campaigns can be found on our website at [www.equalitynow.org](http://www.equalitynow.org) in English, French, Spanish and Arabic.
12. A/68/202, para. 85, available at <http://www.un.org/millenniumgoals/pdf/A%20Life%20of%20Dignity%20for%20All.pdf>
13. Human Rights Council Resolution, supra note 9.
14. *Id.*
15. See *Tackling FGM in the UK*, Intercollegiate recommendations for identifying, recording and reporting, Nov. 2013, <http://www.rcm.org.uk/college/policy-practice/joint-statements-and-reports/> for a discussion on the United Kingdom's approach to addressing female genital mutilation as a good example of how this can work in practice.
16. Art. 1 of the Convention on the Rights of the Child states, "... a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." The age of majority, if it is lower than 18, should not be used to justify marrying off someone younger than 18.
17. The idea of marriage being entered into only with the free and full consent of the intending spouses is also contained in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.
18. See Human Rights Committee, CCPR/C/21/Rev.1/Add.10, General Comment No. 28, "Equality of rights between men and women (Article 3)," ¶24.
19. See Committee on the Rights of the Child, "General comment No. 4 (2003), Adolescent health and development in the context of the Convention on the Rights of the Child," CRC/GC/2003/4, ¶ 20. See also Equality Now and other NGO submission for a forthcoming joint CEDAW/CRC recommendation on harmful practices, available at <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/JointCEDAWandCRCRecommendation.aspx>.
20. Research available at [www.equalitynow.org/resources](http://www.equalitynow.org/resources)
21. See Equality Now, "A Guide to Using the Protocol on the Rights of Women in Africa for Legal Action," (2011), p. 23 for sample language for cases involving child or forced marriage.
22. Center for Reproductive Rights, "Child Marriage in South Asia, International and Constitutional Standards and Jurisprudence for Promoting Accountability and Change. Briefing Report," (Oct. 2013), available at [http://reproductiverights.org/sites/crr.civicactions.net/files/documents/ChildMarriage\\_BriefingPaper\\_Web.pdf](http://reproductiverights.org/sites/crr.civicactions.net/files/documents/ChildMarriage_BriefingPaper_Web.pdf)
23. In 2012, the UN Human Rights Committee in its examination of Yemen's compliance with the International Covenant on Civil and Political Rights (ICCPR) expressed its concern that "a minimum age for marriage has still not been set and encounters great resistance in the Parliament" and called on Yemen to "set a minimum age for marriage that complies with international standards." Equality Now and Yemen Women Union made a *written submission* on the issue and Equality Now also made an oral statement at the Human Rights Committee's session.
24. <http://www.unwomen.org/en/csw/communications-procedure>
25. Child Marriage in South Asia, supra note 23 and UNFPA, supra note 1.
26. See for example *A Childhood Lost*, a 2012 report by the UK's All-Party Parliamentary Group on Population, Development and Reproductive Health, available at <http://www.appg-popdevrh.org.uk/A%20Childhood%20Lost%20olowres.pdf>
27. A/RES/67/146 Resolution adopted by the General Assembly on 2- December 2012. Intensifying global efforts for the elimination of female genital mutilation.
28. WHO, *Early Marriage, Adolescent and Young Pregnancies*, Report by the Secretariat, A65/13, 16 March 2012, para. 17, available at [http://apps.who.int/ebwha/pdf\\_files/WHA65/A65\\_13-en.pdf](http://apps.who.int/ebwha/pdf_files/WHA65/A65_13-en.pdf)
29. See discussion in *Child Marriage in South Asia: Stop the Impunity*, Center for Reproductive Rights, supra note 23 at p. 47. COURT ON ITS OWN MOTION (LAJJA DEVI) V. STATE (GNCT OF DELHI) AND OTHERS (DELHI HIGH COURT, 2012).  
*Court on its own motion (Lajja Devi) v. State (GNCT of Delhi) and Others, which concerned the case of a 14-year-old Hindu girl who left home and got married without her parents' consent. Quoting the portions of the ASJR case detailing the severe risks of maternal mortality and morbidity as well as physical and sexual violence resulting from child marriage, the Delhi High Court again emphasized that child marriage is a violation of human rights, including the "right to lead a life of freedom and dignity." The Court particularly expressed concern as the practice involves young girls who lack status, power, and maturity, and leads to exposure to domestic violence, sexual abuse, and social isolation.*  
*The Delhi High Court emphasized that the Indian Penal Code, which at that*

- time criminalized sex with a girl under 16 outside of marriage and under 15 within marriage, legitimized child marriage by "keeping a lower age of consent for marital intercourse." The Court stated that "consent of a girl or boy below the age of 16 years in most cases [is] a figment of imagination [and] is an anomaly and a mirage and will act as a cover up by those who are economically and/or socially powerful to pulverize the muted meek into submission." The Court also noted that while it had not been requested to address the validity of India's Prohibition of Child Marriage Act (PCMA) and thus could not rule on weaknesses in the law, in its view three significant gaps permitted the practice to continue: (1) child marriages are voidable, not void, under the act; (2) the act does not mention whether it supersedes personal laws; and (3) the act itself does not require registration of marriage.*
30. See UNFPA, supra note 1.
  31. <http://indiankanoon.org/doc/1325952/>
  32. Khwab Chunne Ki Khwahish film by Shaheen Women Resource and Welfare Association: "People don't want to let girls have an education, they think that a girl's life is just 4 walls, she has no dreams or aspirations. Her dreams and wishes are quashed from a young age." Jameela Nishat: "When we first began doing this work we visited a woman in the old town. She had just received a phone call from her daughter and was crying uncontrollably. When we asked her what had happened, she said her daughter had called her to congratulate her on her 17th son-in-law."
  33. Equality Now, "The Impact of Discrimination in Law and Legal Processes on Women and Girls - some case examples", p. 6. See also Equality Now, "Learning from Cases of Girls Rights," p. 7.
  34. Equality Now, Action 16.12, Holding Governments Accountable in the Beijing + 15 Review Process, available at [http://www.equalitynow.org/take\\_action/discrimination\\_in\\_law\\_action1612](http://www.equalitynow.org/take_action/discrimination_in_law_action1612)
  35. supra note 5
  36. UNAMA and OHCHR (2012) Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan (p 11) [http://unama.unmissions.org/Portals/UNAMA/Publication/HTP%20REPORT\\_ENG.pdf](http://unama.unmissions.org/Portals/UNAMA/Publication/HTP%20REPORT_ENG.pdf)
  37. Institute for War and Peace Reporting, Afghan Girls Suffer for Sins of Male Relatives, 26 March 2009, ARR No. 317, available at: <http://www.unhcr.org/refworld/docid/49dc4b201c.html> [accessed 11 April 2013]
  38. <http://www.popcouncil.org/pdfs/wp/psy/012.pdf> (p9)
  39. <http://1dgyo51vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2012/09/Violence-women-exists-Event-report-2012.pdf> (p1)
  40. <http://cso.gov.af/en/page/6807>
  41. [http://unama.unmissions.org/Portals/UNAMA/Publication/HTP%20REPORT\\_ENG.pdf](http://unama.unmissions.org/Portals/UNAMA/Publication/HTP%20REPORT_ENG.pdf)
  42. In Afghanistan the groom's family is expected to provide a bride price.
  43. Afghanistan Independent Human Rights Commission Fifth Report, Situation of Economic and Social Rights in Afghanistan 2011 [http://www.aihrc.org.af/media/files/Reports/SECR/Report%20on%20ESCR\\_Final\\_English\\_12\\_2011.pdf](http://www.aihrc.org.af/media/files/Reports/SECR/Report%20on%20ESCR_Final_English_12_2011.pdf)
  44. Interview with "Ruth", Port Moresby, 18 October 2013
  45. See UNFPA, supra note 1 at 51-52.
  46. See WHO, supra note 2.
  47. Guatemala's Law of Integral Protection of Children and Adolescents defines a child as between 0 and 13 years of age and a teenage boy or girl as between 13 and 18 years of age.
  48. See UNFPA, supra note 1.
  49. [http://www.popcouncil.org/pdfs/TABriefs/PGY\\_Brief6\\_Guatemala.pdf](http://www.popcouncil.org/pdfs/TABriefs/PGY_Brief6_Guatemala.pdf)
  50. See UNFPA, supra note 1.
  51. UNFPA State of the World Population 2003 Making 1 Billion Count Investing in Adolescents' Health and Rights [http://www.unfpa.org/webdav/site/global/shared/documents/publications/2003/swp03\\_eng.pdf](http://www.unfpa.org/webdav/site/global/shared/documents/publications/2003/swp03_eng.pdf)
  52. See Equality Now, Action 36.1, Lebanon: Give women equal citizenship rights to men under the nationality law, available at [http://www.equalitynow.org/take\\_action/discrimination\\_in\\_law\\_action361](http://www.equalitynow.org/take_action/discrimination_in_law_action361)
  53. See for example Human Rights Council discussion of targeting of women human rights defenders, December 2013, available at <http://www.ohchr.org/EN/NewsEvents/Pages/UNDiscussionaddressesviolenceagainstawomenHRdefenders.aspx>
  54. See UNFPA, supra note 1.
  55. Developed by the Girls Not Brides global advocacy group (2013)
  56. A systematic review of child marriage prevention programmes with documented evaluations can be found at: <http://www.icrw.org/publications/solutions-end-child-marriage>
  57. UNESCO International Technical Guidance on Sexuality Education



## ACKNOWLEDGEMENTS

Equality Now would like to thank the following for their collaboration with and contribution to this report:

### CASE STUDIES

Afghanistan: Women for Afghan Women  
Cameroon: Inter-African Committee on Traditional Practices (IAC)  
Guatemala: APROFAM  
India: Shaheen Women's Resource and Welfare Association;  
HAQ: Centre for Child's Rights  
Jordan: The Jordanian Women Union  
Kenya: Tasaru Ntomonok Initiative  
Malawi: Foundation for Children's Rights  
Mali/France: L'Association Malienne pour le Suivi et l'Orientation des Pratiques Traditionnelles (AMSOPT) and Groupe pour l'abolition des mutilations sexuelles (GAMS)  
Mauritania: L'Association des Femmes Chefs de Famille (AFCF)  
Papua New Guinea: Moira Eka, and Voice for Change  
Syria: Arab Women Organization  
Tanzania: Network Against Female Genital Mutilation (NAFGEM)

### LEGAL STUDIES (ANNEX)

Thomson Reuters Foundation's global pro bono service, TrustLaw Connect, and the following law firms who contributed their time, skills and expertise on a pro bono basis to provide the legal research and commentary annexed to this report:

Latham & Watkins LLP  
Bangladesh: Dr Kamal Hossain & Associates (Sara Hossein)  
Cambodia: P&A Asia  
India: Kirthi Jayakumar  
Pakistan: AQLAAL Advocates  
Papua New Guinea: Ashurst Australia (Papua New Guinea)  
Saudi Arabia: Bafakih & Nassief Lawyers and Legal Consultants  
Swaziland: Webber Wentzel  
Thailand: Tilleke & Gibbins  
Uganda: MMAKS Advocates

A huge debt of thanks is owed also to Lily Harper-Hinton and Claire Mathellié who provided additional research.

Design by Advocacy International.  
Images by Stephanie Sinclair/VII, Marcus Bleasdale/VII, Suzanna Finley, A. Gichigi, Pierre Holtz, Piotr Lewandowski, Paul Munene, Ruth Njeng'ere and Russell Watkins.  
This publication was supported in part by Chime for Change, founded by GUCCI.



**EQUALITY NOW NEW YORK OFFICE**

PO Box 20646  
Columbus Circle Station  
New York, NY 10023  
USA  
Phone: +1-212-586-0906  
Fax: +1-212-586-1611  
Email: [info@equalitynow.org](mailto:info@equalitynow.org)

**EQUALITY NOW NAIROBI OFFICE**

PO Box 2018-00202  
Nairobi  
KENYA  
Phone: +254-20-271-9913/9832  
Fax: +254-20-271-9868  
Email: [equalitynownairobi@equalitynow.org](mailto:equalitynownairobi@equalitynow.org)

**EQUALITY NOW LONDON OFFICE**

1 Birdcage Walk  
London SW1H 9JJ  
UNITED KINGDOM  
Phone: +44 (0) 20 7304 6902  
Fax: +44 (0) 20 7973 1292  
Email: [ukinfo@equalitynow.org](mailto:ukinfo@equalitynow.org)  
Registered charity, number 1107613  
Company number 4926476

[www.equalitynow.org](http://www.equalitynow.org)