



Submission to the Office of the High Commissioner for Human Rights

By the Commonwealth Human Rights Initiative and Commonwealth 8.7 Network members:
Anti-Slavery Australia, KIWOHEDE Tanzania, My Choices Foundation India
and MUWADA Uganda

31 October 2022

Introduction

Anti-Slavery Australia (ASA) at the University of Technology Sydney, the Commonwealth Human Rights Initiative (CHRI), KIWOHEDE Tanzania, My Choices Foundation India and MUWADA Uganda welcome this opportunity to respond to a call for inputs from the Office of the High Commissioner for Human Rights (OHCHR), to inform the upcoming report on the adverse impact of forced marriage on the full and effective enjoyment of all human rights by all women and girls, pursuant to Human Rights Council resolution 48/6.

Forced marriage is defined as *"a marriage in which one and/or both parties have not personally expressed their full and free consent to the union"*,¹ whereas child marriage is *"a marriage before the age of 18"*.² Child marriage is also considered a form of forced marriage, which often entails - amongst others - early pregnancy, maternal morbidity, and school dropout.^{3 4}

Forced marriage and child marriage are forms of modern slavery,⁵ that violate human rights.⁶ According to the 2021 Global Estimates,⁷ of the 49.6 million people experiencing modern

¹ OHCHR, [Child and forced marriage, including in humanitarian settings](#) [accessed 18/10/22]

² UNICEF (2022), [Child Marriage](#) [accessed 18/10/22]

³ Committee on the Elimination of Discrimination Against Women (CEDAW) and Committee on the Rights of the Child (CRC) (2014), [Joint general recommendation No. 31 on harmful practices](#), UN Doc. CEDAW/C/GC/31-CRC/C/GC/18, Para. 20-22 [accessed 18/10/22]

⁴ The following quote expresses how child marriage impacts girls: *"I did not sit for my Primary Leaving Examination in 2009. My parents arranged my marriage without my consent with a stranger. I gave birth to my first born when I was 15. I have two children with my husband who is a peasant with little income to support the family since all of us have no better paying jobs. I wanted to go back to school after giving birth but I had no one to leave my child with."* Yuniya Kamaliya, former pupil at Kasisi Primary School, Rutete Sub County Kabarole district, Uganda.

⁵ Girls not brides (2021), [Child Marriage and Modern Slavery position paper](#) [accessed 18/10/22]; Anti-Slavery International (2017), [Official: forced marriage is slavery](#) [accessed 18/10/22]

⁶ OHCHR, [Child and forced marriage, including in humanitarian settings](#) [accessed 18/10/22]

⁷ International Labour Organisation (ILO), International Organisation for Migration (IOM) and Walk Free (2022), [Global Estimates of Modern Slavery: Forced Labour and Forced Marriage](#)

slavery across the globe, 22 million are facing forced marriage.⁸ Moreover, UNICEF concludes that approximately 12 million girls per year are subjected to child marriage.⁹ The 2021 Global Estimates also highlight that the majority of victims of forced marriage are women and girls, and that its drivers are related to “*longstanding patriarchal attitudes and practices*”.¹⁰

This submission is based on the views and expertise of CHRI, and of Anti-Slavery Australia, University of Technology Sydney, KIWOHEDE, My Choices Foundation and MUWADA, non-governmental organisations (NGOs) who are members of the Commonwealth 8.7 Network,¹¹ a global network of over 70 civil society organisations from across the globe united by a shared vision to eradicate contemporary forms of slavery and human trafficking. This submission reflects local experiences of forced marriage and its impact on the rights of women and girls in Australia, India, Tanzania and Uganda. It underscores how women and girls are particularly vulnerable to forced marriage, highlights the root causes as well as good practices, and proposes recommendations to ensure States comply with their human rights obligations.

Criminalisation and Marriageable Age Contexts

- Australia

Forced marriage in Australia is considered a form of modern slavery, as well as family violence, and is currently the most common form of modern slavery reported to the Australian Federal Police.¹² The forced marriage offence¹³ applies to the moment in time when the marriage is entered into. In Australian law, a forced marriage is one when a person gets married without fully and freely consenting because they have been either coerced, threatened or deceived, or because they are incapable of understanding the nature and effect of the marriage ceremony, for reasons that include age and capacity.¹⁴ The forced marriage offence applies to legally recognised marriages, cultural or religious ceremonies and registered relationships. The offence extends to marriages conducted in Australia and to marriages outside Australia if there is an Australian nexus to the offence. Any person who exercises coercion, threat or deception over a person to obtain consent may be charged with the offence - this includes family members,

⁸ ILO, IOM and Walk Free (2022), [Global Estimates of Modern Slavery: Forced Labour and Forced Marriage](#), p. 2 [accessed 18/10/22]

⁹ UNICEF (2022), [Child Marriage](#) [accessed 18/10/22]

¹⁰ Ibid, p. 5.

¹¹ See generally: Commonwealth 8.7 Network, <https://www.commonwealth-87.org/> [accessed 18/10/22]

¹² See: AFP (2022), [Reports of Human Trafficking and Slavery to AFP reach new high | Australian Federal Police](#) [accessed 30/10/22]

¹³ The criminalisation of forced marriage followed the release of an Australian government discussion paper in 2010 that considered how the law could respond to forced and servile marriage within Australia, and to cases where Australian citizens and residents were taken overseas for a forced marriage. See: Attorney-General's Department (Cth) (2010), [Forced and Servile Marriage, Discussion Paper](#) [accessed 30/10/22]

¹⁴ Australia Criminal Code Act 1995 section 270.7A - forced marriage offence.

friends, marriage celebrants, and religious leaders. In Australia, forcing someone to marry is punishable by up to nine years imprisonment if the person forced into the marriage is a child.¹⁵ With the exception of the Family Law Act, there are currently few or limited provisions regarding forced marriage in Australian civil legislation, including in areas related to migration, family law, domestic and family violence, personal safety and victim support (with the exception of Victoria). Australia does not have a specific offence of 'servile marriage'¹⁶ although conduct that involves the transfer of a woman or the treatment of a woman as 'chattel' to be sold, transferred, or inherited' may be covered by the slavery offences in the Commonwealth Criminal Code (1994).¹⁷

The marriageable age in Australia is 18 years¹⁸ but in 'exceptional and unusual circumstances' the court can approve a marriage where a person is 16 or 17 years old-¹⁹ if appropriate consent has been provided.^{20 21}

- India

In India, the right to marriage is recognised as a fundamental right of every person under the umbrella of 'right to life' as envisaged under Article 21 of the Constitution. Forced marriage is a clear violation of this fundamental right and the Indian legislature has put in place laws and regulations to ensure this right is not breached. Marriage is considered a contract under the Indian Contract Act (1872), and Section 2 (i) therein relates to voidable contracts, with forced marriage considered null and void due to lack of free consent and the existence of coercion.

Under the Protection of Women from Domestic Violence Act (2005), forced marriage is deemed to be a form of abuse, and any woman forced into marriage can initiate criminal proceedings against her husband and his family members in a court of law. There are other civil legal provisions that aid victims of forced marriage, such as: the Prohibition of Child Marriage Act (2006); the Guardian and Wards Act (1890); the Majority Act (1875) and the Family Courts Act (1984).

There is currently a proposal to increase the minimum age of marriage to 21 years for both girls and boys. Currently, it is 18 for girls and 21 for boys.

¹⁵ Australia Criminal Code Act 1995 sections 270.7B, 270.8.

¹⁶ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. Entered into Force 1957.

¹⁷ Commonwealth Criminal Code Section 270.3 Slavery Offences.

¹⁸ Australia Marriage Act 1961 (Cth), section 11 – Marriageable age.

¹⁹ Australia Marriage Act 1961(Cth) Section 12 – Authorisation of marriage of person in exceptional circumstances.

²⁰ Australia Marriage Act 1961 (Cth) Schedule 1 - Consent to the marriage of a minor.

²¹ It is important to note that, according to the Australia Marriage Act 1961 (Cth) Section 23B (Grounds on which marriages are void), a marriage may be declared void if the consent to the marriage was not a real consent because it was obtained by duress or fraud or if either of the parties is not of marriageable age. In addition, while the marriageable age is 18, the age of sexual consent is different across the States and Territories (16 years old in most jurisdictions, with the exception of South Australia and Tasmania where the age of consent is 17 years old).

- Tanzania

The Law of Marriage Act (1971)²² allows boys to marry at 18 years and girls at 15 years old, with parental consent; and allows girls and boys to marry at 14 with a court's permission.²³ However, in a landmark case in 2016, the High Court concluded that this law should be revised; that Section 13 of the Law of Marriage Act is unconstitutional; and that it is prohibited that children below 18 years old get married.^{24 25} In 2019, following an appeal by the government, the High Court upheld the decision.²⁶ The Government now needs to implement the decision of the High Court and rectify the inequality in the law.

- Uganda

According to Article 31 (1) of the Constitution of Uganda (1995), men and women of the age of 18 years and above have the right to marry and to found a family, and are entitled to equal rights in marriage, during marriage and at its dissolution. According to the Children Act (2016), any child marriage constitutes forced marriage, in recognition that anyone below the age of 18 is not able to make a fully informed choice whether or not to marry.

Causes and consequences of forced marriage

- Australia

Addressing the root causes of forced marriage requires visibility of and proximity to issues at the community level. There are currently no known large-scale community-led initiatives addressing forced marriage in Australia. An example of a program that seeks to work with families, and particularly parents, arriving in Australia as refugees or asylum seekers is the STARTTS (NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors) 'Families in Cultural Transition' program.

In addition, the NGO Anti-Slavery Australia runs a national forced marriage support service, [My Blue Sky](#), which provides access to free and confidential information, legal advice, and support for people directly at risk of forced marriage or already in a forced marriage, or those wanting to

²² Tanzania [Law of Marriage Act](#) (1971) [accessed 18/10/22]

²³ UNFPA (2018), [Fact Sheet on Child Marriage](#) [accessed 18/10/22]

²⁴ One of the key paragraphs of the decision reads: "[W]e have no option but to find that the two provisions i.e. sections 13 and 17 of the Law of Marriage Act, Cap 29 RE 2002 are unconstitutional... Consequently, ...we direct the Government through the Attorney General within a period of one (1) year from the date of this order to correct the complained anomalies within the provisions of section 13 and 17 of the Law of Marriage Act and in lieu thereof put 18 years as the eligible age for marriage in respect of both boys and girls."

²⁵ Girls Not Brides (2016), [High Court judgment in Tanzania rules age of marriage laws discriminatory and unconstitutional](#) [accessed 18/10/22]; HRW (2016), [Dispatches: Tanzanian High Court Rules Against Child Marriage](#) [accessed 18/10/22]

²⁶ Human Rights Watch (2019), [Victory Against Child Marriage in Tanzania](#) [accessed 18/10/22]; Plan International (2019), [Tanzanian top court upholds child marriage ban](#) [accessed 31/10/22]

assist someone in this situation, including friends, family or frontline workers. Those at risk of forced marriage, in a forced marriage, or looking to support someone in this situation can access confidential advice via online chat or a private message room.²⁷

To address the gap in primary prevention efforts in Australia,²⁸ Anti-Slavery Australia is currently implementing the 'Speak Now' project - which includes research, efforts to raise awareness about forced marriage in Australia and its underlying drivers, and the provision of support to victims and survivors.²⁹ There are several other key organisations and government-funded initiatives focused on identifying and responding to cases of forced marriage in Australia.³⁰

²⁷ For more information, see: <https://mybluesky.org.au/free-help-mbs> [accessed 18/10/22]; <https://mybluesky.org.au/about-forced-marriage/resource-library> [accessed 18/10/22]

²⁸ Simmons & Burn (2013). [Without Consent: Forced Marriage in Australia](#). *Melbourne University Law Review*, 36, 970-1008 [accessed 18/10/22]

²⁹ This project is funded by the Australian Government Department of Social Services. The project is targeted at frontline communities, especially young people, and frontline workers from diverse sectors across each of the eight Australian States and Territories.

³⁰ These include the Salvation Army Trafficking and Slavery Safe House, Lighthouse Foundation, Good Shepherd, the Support for Trafficked People Program (funded by the Department of Social Services and delivered by Australian Red Cross), and Anti-Slavery Australia.

- India

In India, root causes vary across the country's different regions.³¹ Most marriages in Indian villages are still arranged by parents. It is important to understand state-wise factors that lead to forced marriages, as India is a diverse country - culturally, geographically and socio-economically.

The NGO My Choices Foundation addresses root causes of forced marriage in India at the grassroots level by building capacity of stakeholders and sensitising communities about root causes and possible indications of forced marriage. Education is the most important factor for prevention. In its education programmes, they address girls' and boys' continuing education and avoiding school dropouts. The NGO also points out how forced marriage and its complications often lead to weak families and societies and might result in domestic violence. The NGO also sensitises parents on the illegality of forcefully marrying off a child.³²

³¹ In **West Bengal**, root causes include: 1. Poverty; 2. Lack of awareness that forced marriage is illegal; 3. Greediness - parents fall for money offered and expenses for the wedding being contributed by the boy's side; 4. Loss of job opportunities - marrying off the girl would mean one less mouth to feed and parents resort to forced marriages; 5. Intercaste problem/stigma, as parents fear that their child might elope with a person from another caste and fearing social stigma, they tend to marry off their child early; 6. Parents fall for the trafficker's trap - traffickers assure that their child will have a great life.

In **Maharashtra, Andhra Pradesh and Telangana**, root causes include: 1. Poverty; 2. Social sigma, as people feel it is better to get the girl married off early as they fear that she might fall in love with someone and might elope and bring shame to the family; 3. Greediness, as some girls' families accept money for marriage; 4. Lack of education facilities in villages; 5. Some communities have fewer girls - leading to demand for girls from neighbouring villages and states, thus increasing the risk of forced marriages; 6. Addiction- some parents are addicted to alcohol and other substances and unable to support more family members, the girls are married off; 7. Tradition - in some areas , it's an age-old tradition to marry off the girl as soon as she attains puberty.

In **Karnataka**, root causes include: 1. There is a fear that girls acquiring higher education will not get a suitably/matching educated boy in their community; 2. Fear that not marrying the child early would lead to inter-caste marriage; 3. Priority of education is gender-based within families. Boys are sent to private school and girls to government school. Girls are married off if they get marriage proposals.

In **Bihar**, root causes include: 1. Poverty; 2. Lack of education; 3. Insecurities regarding their girl child - considered as part of another family and one who will anyways go away to other families; 4. Old traditions. Especially in Dom and Nat communities in Bihar; 5. Social pressure; 6. Unawareness of the harmful effects of child marriage.

In **Jharkhand**, root causes include: 1. Lack of education; 2. Insecurities regarding their girl child; 3. Society pressures; 4. Old tradition of early marriage.

In **North Bengal**, there are fewer cases of forced marriage. Root causes are: 1. Poverty; 2. Lack of knowledge; 3. Lack of Livelihood opportunities; 4. Lack of trust in their own children (fear that they might elope); 5. Greediness - falling for the lure or offer of money.

³² My Choices Foundation has a Safe Village Program focused on preventing forced marriage through awareness raising. As part of this programme, My Choices Foundation: explains the ill effects of child marriage and forced marriage to parents and in schools. Regular testimonials from volunteers and partners on the ground suggest that these awareness raising programmes have reduced the instances of child marriage.

My Choices Foundation also distributes helpline and emergency numbers with schools and communities in case of an emergency. Through the helpline calls, the NGO was able to stop over 300 forced child marriages. Indeed, their programs are empowering people to seek help, with the majority of callers being volunteers or the girls themselves.

- Tanzania

Tanzania has legislation to ensure the agency of, and guarantee the respect of the economic rights of, women and girls, specifically in regard to access to land, as evinced by the National Land Policy and land laws of 1999 which contain strong safeguards for women's land rights.

Furthermore, the Government of Tanzania has shown its commitment to ending child marriage through the promotion of girl's education at all levels, reflected in efforts to increase access to secondary education including through re-entry of pregnant girls to school.

- Uganda

There are various root causes of child marriage in Uganda, including: poverty,³³ traditional beliefs,³⁴ and socio-cultural and religious values.³⁵ There are also some challenges to the effective implementation of policies.

Both government and civil society organisations conduct awareness raising on issues of early and forced child marriage through local radio stations across the country, as the majority of rural communities use radio as the main media source. Radio programmes are usually offered in the local dialect, so that everyone easily understands the information and is able to contribute towards the debate. Muwanga Development Association in partnership with Reach a Hand, conducts talk shows on local radio stations in Kiboga district. Civil society organisations and the government also run programmes in schools aimed at reducing and eliminating early and forced marriage.

³³ High levels of poverty in Uganda have contributed to the persistent existence of cases of child marriage. According to the World Bank, by 2016 8.9 million people were below the national poverty line in Uganda. See: World Bank (2020), [Poverty and Equality Brief: Uganda](#) [accessed 31/10/22].

³⁴ In traditional societies in Uganda, if the first wife has died or has disabilities, the man is 'given' another wife who is a sister to the first wife. It is common for girls in Rwebisengo Sub-county Ntoroko district to be married at a very young age due to such traditions. In other traditional societies, where infant mortality is very high and survival depends on a family's ability to produce its own food or goods for sale, child marriage helps to maximize the number of pregnancies and ensure enough surviving children to meet household labour needs (Mathur 2003).

³⁵ The marriage or betrothal of children in some parts of Uganda is valued as a means of consolidating powerful relations between families, for sealing deals over land or other property, or even for settling disputes (UNFPA, 2006).

Other positive programs include the “Good School” Programme by Muwanga Development Association,³⁶ the “Girl Child Accessing School” programme by Kaana Foundation,³⁷ the programme to empower young women implemented by Agape of Hope Female Youth Development Association,³⁸ the Girls Education Movement (GEM) by UNICEF,³⁹ and the campaign “Go Back to School” launched by the Ministry of Education and Sports in partnership with other NGOs.⁴⁰ At national level, the Girls Not Brides Uganda (GNBU) alliance campaigns against child, early and forced marriage.⁴¹

In addition, several civil society organisations in Uganda commemorate special days for children, especially girls.⁴²

It is a common phenomenon in Uganda that the policies, bylaws and programmes created by local governments remain on paper. Most local governments and some NGOs facilitate workshops and retreats on how to develop public policies and do not facilitate the

³⁶ The “Good School” Programme runs in schools in the Ruwenzori region. The schools are mobilised to start child rights clubs, which aim to sensitise children, teachers, parents and the community about the violation of children rights. In these sensitisation initiatives, child marriage is at the centre, as it is a major cause for school dropouts - especially amongst girls in the region.

³⁷ Kaana Foundation is a local NGO based in the Rwenzori region. The program “Girl Child Accessing School” is an inclusive program where the community, teachers, and the school administration are encouraged to routinely monitor the girls that enrol in their schools until completion of their studies. The school children are also involved in the activities of the program.

³⁸ Agape of Hope Female Youth Development Association is a local NGO operating in the Kasese district. This NGO is working to improve the lives of the young women by empowering them with non-formal skills, and by educating them about their reproductive health rights as well as other rights.

³⁹ In 2001, UNICEF introduced the Girls Education Movement (GEM), spearheaded by the Ministry of Education and Sports, in all the primary schools in Uganda. GEM is a child-centred, girl-led global movement of children and young people whose goal is to bring about positive social transformation by empowering girls through education. The programme focuses on improving access to water and sanitation in schools, ensuring girls’ school enrollment and reducing dropout rates. As a result of GEM, schools are increasingly providing special facilities for girls, such as separate latrines, bathrooms and sanitary materials for menstruation. There are also more open discussions of hygiene, sexuality, and HIV/AIDS. The government recently allowed schools to use part of the Universal Primary Education funds to support GEM.

⁴⁰ In 2007, the Ministry of Education and Sports, in partnership with other NGOs, launched a campaign in schools across the country called “Go Back to School, Stay in School, and Complete”. This campaign aimed to address school dropouts of children - especially girls, to ensure they went back to school, stayed in school and completed the primary cycle. Activities included: advocacy; community mobilisation and sensitization of stakeholders; and the introduction of by-laws making primary education compulsory. This was done, amongst others, by ensuring parents sent their children to school and by promoting sports and games in schools. This was accompanied through raising awareness programmes on human rights, conducted alongside child support programmes in schools and communities.

⁴¹ The alliance was formed through partnership and networking between non-governmental organisations with similar agendas and programmes that aim to eliminate the practice of forced marriage. There is a need to widen the scope and interventions of the Girls Not Brides network through research, coordination, and advocacy activities in order to reach out to communities in districts with the highest prevalence of child marriage.

⁴² This includes: the Day of African Child (DAC), commemorated on 16th June; and the International Day of the Girl Child, commemorated on 11th October. During these days, mass sensitisation activities about violence against children - and in particular about child marriage- are organized.

implementation processes. Policies and bylaws are not well known to the local communities and this escalates the problem. For instance, most local people do not know the laws in the constitution of Uganda as it was not translated in local languages or the communities are unable to read.

Accountability, access to justice, support, and reparations

- Australia

In Australia, there is lack of knowledge and awareness of forced marriage amongst frontline service providers. The 'Speak Now' project reached out to approximately 500 stakeholder contacts, and involved focus groups with over 50 frontline workers across seven Australian States and Territories in 2021. This project found that forced marriage is still often viewed by frontline workers as a 'cultural problem' that should be left to families and communities to address.⁴³

The affected communities are often marginalised due to social, economic, cultural, linguistic, geographical and political factors, making them more susceptible to forced marriage, as well as hindering their ability to seek support to address it.

In Australia, while forced marriage has been criminalised in the Commonwealth Criminal Code Act, some States and Territories consider forced marriage as a specific form of domestic and family violence, and respond to the issue as such, although state responses are not consistent across Australia.⁴⁴

⁴³ Other findings include:

- Frontline workers often have limited understandings of the different meanings, values, traditions, rituals, expectations and pressures related to marriage across different communities.
- Frontline workers often do not know the difference between arranged marriages and forced marriages and find it challenging to identify and distinguish them in practice.
- Focus group participants reported that people from affected communities also do not differentiate – due to language, gender and or cultural norms, emotional and psychological abuse and other factors – the concepts of arranged marriage and forced marriage. That is to say, they may consider them to be the same or similar, and therefore may not self-identify their situation as forced marriage. As a result, they do not seek help.

⁴⁴ Indeed, consideration of forced marriage as a specific form of domestic and family violence is patchy across Australia's States and Territories. Simmons and Wong noted that the recent Commonwealth parliamentary inquiry recommended a nationally consistent approach to family, domestic and sexual violence, including recognition of specific forms of violence including forced marriage. Source: Simmons, F., & Wong, G. (2021), [Learning from lived experience: Australia's legal response to forced marriage](#), UNSW Law Journal, 44 (4), 1619-1662 [accessed 30/10/22]

The Australian Government has been consulting on and is developing a model for Forced Marriage Protection Orders (FMPOs), but it is unknown when this will come into effect, and how effective it will be in practice.⁴⁵

As one of the frontline worker groups that is highly likely to come across forced marriage, State/Territory law enforcement require sensitisation, education and greater awareness of forced marriage and other slavery offences. Child protection systems in most States and Territories in Australia either do not explicitly articulate or do not in practice consider a risk of forced marriage as a risk of significant harm. Alternative, individual models of support for those in or at risk of forced marriage need to be developed separately from the current criminal justice approach. Family-oriented practice is in its infancy in Australia, with a family mediation program currently being trialled in NSW and Victoria by Good Shepherd.

- Tanzania

With the aim of empowering women and girls in Tanzania, CSOs advocate for legislation that provides a legal protection framework for policymakers to tackle the financial, social and cultural drivers behind child marriage. At national level and in regions and districts, there have been a combination of strategies that target socio-cultural and economic lives of people.⁴⁶ In addition, the Government of Tanzania has adopted policies that advance gender equality and youth inclusion in a supportive enabling environment.

Nevertheless, there is a deficiency in domestic legislation that fails to adequately criminalise gender crimes such as rape and sexual violence. Women who are in conflict with the law normally encounter challenges that originate from lack of institutional mechanisms, policies and facilities. However, there is relatively quick and professional identification of survivors, as well as consistent follow-up in regard to survivors' wellbeing, and appropriate referrals for expertise including medical, legal and education.⁴⁷ Services are also available for the rehabilitation of both women and child survivors of forced marriage, which include economic strengthening through income-generating activities and livestock pass-on programs.⁴⁸

⁴⁵ This model may provide protection of various kinds, including preventing people from being taken overseas for the purposes of forced marriage.

⁴⁶ This includes poverty reduction, improved access to education and life skills, enforcement of legal frameworks, registration of marriages, awareness creation through sex education, accessible adolescent reproductive health friendly services.

⁴⁷ Another positive development includes the utilisation of crisis and case management shelters for survivors and continuous psychosocial counselling services, and the provision of short- and long-term services including education, health, mental health and livelihood programs.

⁴⁸ Other services include: 1. Psychosocial support for children rescued from child marriage; 2. Vocational or educational support for children rescued from - or at risk of - child marriage; 3. Skilful parenting assistance for families and sexual reproductive health, family planning and nutrition; 4. Enhance girls' access to a high-quality education and the provision of scholastic materials.

For more information, see: Ministry of Health (2019), [Community Development, Gender, Elderly and Children, National Guideline for Implementation of Community Rehabilitation Programme](#) [accessed 30/10/22]

Data Collection

- Australia

The key support sectors that interact with affected communities in Australia do not have adequate knowledge about forced marriage and best practice responses.⁴⁹ At-risk communities have little to no awareness of their rights and responsibilities in Australia when it comes to marriage, including newly arrived migrants and refugees and therefore may not self-identify, report or seek help.

Some States and Territories, and regional areas in Australia, do not seem to have coordinated networks responding to forced marriage specifically.⁵⁰ People and communities affected by forced marriage have little to no peer support, and little to no opportunities to contribute to the solutions that aim to address the issues affecting them. People and communities affected by forced marriage may be in Australia on temporary visas and this may limit access to support, or create a barrier to seeking assistance, for fear of repercussions due to their visa status. In addition, those involved in convening weddings (celebrants, etc.) are not necessarily trained in, bound by or practising consent-affirming approaches to marriage (prior to, during or after ceremonies). School and educational programs about consent generally do not incorporate the issue of consent around marriage.

- India

Child marriage is increasing at alarming levels across India. The COVID-19 pandemic has worsened the situation and made the lives of millions of girls even more difficult.⁵¹ Recent data from the National Family Health Survey (NFHS-5, from 2019-2021) indicates the percentage of women aged 20-24 married off before the age of 18 remains high at 42%, the same figures as in the NFHS-4 survey (2014-2016). According to global estimates by UNFPA, the COVID-19 pandemic could force 13 million children into marriage over the next decade and India is one of the countries which will be most affected.

In India, there are various challenges related to the identification of cases, which include: 1. Many child marriages are unnoticed by officials or even neighbours because they happen in closed rooms with fewer participants; 2. Lack of access to legal recourse; 3. Law enforcement

⁴⁹ This includes counselling, schools, universities, faith leaders / communities.

⁵⁰ It must be noted that QLD, SA, NT, Tasmania have anti-trafficking networks, but not networks focusing on the issue of forced marriage.

⁵¹ *“The pandemic has created a severe economic strain on [family] income and this has forced them to marry off their daughters at an early age. Girls are vulnerable and at high risk, and the COVID-19 is too harsh on them. Since January 2020, we have received 5,326 calls on our anti-sex trafficking helpline from the state of West Bengal. We work closely in communities to change perceptions and attitudes towards child marriage”,* said Vivian Isaac, Programme Director of My Choices Foundation.

are not registering cases; 4. While cases of child marriage are reported, cases relating to the forced marriage of adults is hardly reported.⁵²

- Tanzania

In Tanzania, there is a lack of coordination with regards to the national plan of action on Trafficking in Person (2021), which includes multiple sectoral ministries which have very limited resources both human and financial. Thus, there is a need to increase identification of trafficking in persons cases and create more awareness to key duty bearers on Standard of Operations (SOP). This means focusing on girls' needs and coordinating action across all sectors. There is some progress in efforts to facilitate smooth identification including through Toll number 116, Women and Child Protection Committees, Police gender desk and media. All key sectors must resume efforts to work together including with development actors, from the earliest stages of identification processes. Key actors include governments, UN agencies and civil society organisations.

- Uganda

Uganda is one of the countries with the highest number of cases of early and forced marriage.⁵³ 10% of girls are married off before the age of 15 and 40% of girls remarry before their 18th birthday (UNICEF 2011). Around 46 % of all women are married by the age of 18, according to UNICEF 2011 figures despite the law setting 18 as the legal age of marriage.

⁵² Other challenges include: 1. While child marriages are reported, forced marriages of adults are hardly reported; 2. The pandemic and other natural calamities provoke the loss of livelihood options, which is one of the main drivers of forced marriages. They also negatively impact the economic condition of families, resulting in child forced marriages; 3. Experts and officials point out that most child marriages occur largely due to poverty, illiteracy, superstition, or to ease (what elders see as) their burden of having a girl child.

⁵³ For example, Biira Annet (not real name), 14 years old, did not sit for her Primary Leaving Examination in 2013 at Nyarukamba Primary School in Karangura Sub County. This was because her parents arranged her marriage, without her consent, in exchange for two goats in a nearby community. The Head Teacher reported the case to the police, but the parents insisted that their daughter went to visit her relatives in another district.

Recommendations

To address the current challenges and barriers with respect to the issue of forced marriage, we make the following recommendations.

- Australia

1. Meaningful opportunities for survivors to play a role in forced marriage policy and response.⁵⁴
2. Forced marriage protection orders to come into effect as soon as possible to improve civil protection measures.
3. Expansion of community led, community engagement initiatives around forced marriage and healthy relationships.
4. Increased focus on prevention of forced marriage.
5. Support of national forced marriage legal and information services, such as My Blue Sky.

- India

The government should:

1. Enact legislation to specifically include forced marriage in the definition of contemporary forms of slavery.
2. Create awareness about the issues of forced marriage - of both children and adults - in collaboration with NGOs.
3. Include information about forced marriage as part of the school curriculum.

- Tanzania

The government should:

1. Fulfil its obligation by enforcing the High Court's 2016 and 2019 decision that concluded Section 13 of the Law of Marriage Act is unconstitutional,⁵⁵ ultimately changing the Law of Marriage Act.
2. Reinforce trainings on gender based violence, targeting national child and women committees, established under the National Action Plan for the Elimination of Violence Against Women and Children (MTAKUWWA).

⁵⁴ Simmons, F., & Burn, J. (2022). [Beyond Storytelling: Towards Survivor-Informed Responses to Modern Slavery, University of Technology Sydney](#) [accessed 30/10/22]

⁵⁵ Plan International (2019), [Tanzanian top court upholds child marriage ban](#) [accessed 31/10/22]

3. Increase the number of girls that re-join school after their pregnancy.
4. Increase offerings of adolescent sexual reproductive / health rights education.

- Uganda

1. As child and forced marriage is common among illiterates and marginalised groups, community networks and vigilant groups should be formed and mobilized to intervene in programmes to end child marriage.
2. Stakeholders should empower the youth in regard to sexual and reproductive health through different approaches, including: peer-to-peer approach, comprehensive sexuality education in schools, life skills-based education, and youth information centers.
3. Programmes such as “Go Back to School” focusing on enrolling and retaining girls in schools until completion and attaining quality learning outcomes, should be maintained within communities.
4. Ending child marriage requires coordinated efforts of all organisations and stake holders - including government, NGOs, faith-based organisations and community-based organisations-, coordination and collaboration amongst such stakeholders from community to national level should be strengthened.
5. There is an urgent need to roll out policies, bylaws and programmes, and strengthen the linkage between local governments at village level to the district level to enforce protection of children from all forms of abuse and exploitation.
6. There is a need to strengthen networking, operationalisation, systematic documentation, referral and follow up on cases of abuse, as well as improve coordination among key actors and advocates for the protection of children.
7. The government and other organisations should put an emphasis on supporting schools with relevant curriculum and materials, and carry out refresher training for teachers and other programs that create conducive learning environments for the retention of girls in schools.
8. The government should implement a comprehensive national school feeding programme to improve primary school enrolment and regular attendance, and reduce dropout rates.
9. The government should support women-led enterprise development programmes, by establishing a targeted fund for women to address credit access constraints, so that they can support the education of their daughters.

10. The government should increase support for Universal Primary and Secondary Education and provide equal access to quality primary and secondary education for both girls and boys.
11. Stakeholders should mobilise girls, boys, parents and leaders to change practices that discriminate against girls and to create social, economic, and civic opportunities for girls and young women.
12. The government should provide girls who are already married with options for schooling, employment and livelihood skills, sexual and reproductive health information and services (including HIV prevention), and offer recourse from violence in the home.
13. The government should address the root causes of child marriage, including poverty, gender inequality and discrimination, the low value placed on girls, and violence against girls.

For more information, contact:

Commonwealth Human Rights Initiative

london@humanrightsinitiative.org