SUMMARY PAPER ON

CHILD, EARLY AND FORCED MARRIAGES AS A FORM OF, OR PATHWAY TO SEXUAL EXPLOITATION OF CHILDREN





ECPAT International is a global network of civil society organisations working together to end the sexual exploitation of children (SEC). ECPAT comprises member organisations in over 100 countries who generate knowledge, raise awareness, and advocate to protect children from all forms of sexual exploitation.

Key manifestations of SEC include the exploitation of children in prostitution, the sale and trafficking of children for sexual purposes, online child sexual exploitation (OCSE), the sexual exploitation of children in travel and tourism (SECTT) and some forms of child, early and forced marriages (CEFM). None of these contexts or manifestations are isolated, and any discussion of one must be a discussion of SEC altogether.

Notably, these contexts and manifestations of SEC are becoming increasingly complex and interlinked as a result of drivers like greater mobility of people, evolving digital technology and rapidly expanding access to communications. Now more than ever, the lines between different manifestations of SEC are blurred and children may be victimised in multiple ways.

The ECPAT Summary Papers explore each of these five manifestations but should be considered a set addressing this complex problem. This Summary Paper focuses attention on the ways that CEFM can be a form of, or a pathway to SEC.

'Child marriage' refers to a formal or informal union in which at least one of the parties is under 18 years of age. The term 'child marriage' should also be used to describe such circumstances, even in countries where majority age (i.e. adulthood) is legally attained earlier than 18 years of age or upon marriage.¹ 'Early marriage' is used to describe unions that are legal or customary and involve at least one person below 18 years of age in countries where the majority age is legally attained earlier than 18 years of age or upon marriage.² 'Forced marriage' is a term used to describe a legal or customary marriage which occurs without the full and free consent of one or both of the parties involved, or in which one or both of the parties are

¹ ECPAT International. (2016, June). Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Bangkok, Thailand: ECPAT International. 63.

^{2 &}quot;Early marriages can also refer to marriages where both spouses are 18 or older but other factors make them unready to consent to marriage, such as their level of physical, emotional, sexual and psychological development, or a lack of information regarding the person's life options". UN Human Rights Council. (2014, April 2). Preventing and eliminating child, early and forced marriage – Report of the Office of the United Nations High Commissioner for Human Rights. A/HRC/26/22. 3.

unable to end or leave the marriage.³ International law considers all child and early marriage as forms of forced marriage because children under 18 cannot provide full, free and informed consent. This is on account of insufficient maturity, as well as an inability to withstand adult social and family pressure.⁴ ECPAT International uses the umbrella term 'child, early and forced marriage' (CEFM) to capture these different circumstances as encouraged by the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (the 'Luxembourg Guidelines').

Defined as a "human rights crisis",⁵ CEFM is a problem of global proportion that requires urgent solutions. According to UNICEF, an estimated 700 million women alive today were married before the age of 18, one third of whom entered into a union before age 15. While CEFM overwhelmingly affects girls, it has also been estimated that currently, 115 million boys and men are married before the age of 18, out of whom 23 million were married before they turned 15 years of age.⁶ Boys and girls who marry in childhood are not impacted in the same way and risks are greater for girls. The risks and consequences boys and girls face from CEFM depend on gendered biological and social norms, which influence their role and status in society.⁷ Speaking generally, CEFM for girls may involve risks to wellbeing, safety and development such as sexual violence, domestic/family violence, early pregnancies and discontinued education.⁸ Boys who marry early face increased social pressure to play the role of the 'breadwinner' and take up responsibilities of the household. This ultimately brings their childhood to an early end⁹ but they are not likely to face risks of sexual violence in the way that girls do.

CEFM is often upheld by religious or cultural beliefs and practices, and grounded in culturally embedded sexual norms, gender norms and traditional customs. Underage unions may be viewed by parents and/or the wider community as a method of safeguarding against breaches of norms or customs (such as prohibitions on extra-marital sex) or to avoid sexual violence victimisation that unmarried girls or women may be targeted for.^{10,11} CEFM may also be viewed as an opportunity to lessen family economic burden or for daughters to



³ Ibid., 4.

United Nations, Committee on the Elimination of Discrimination against Women Committee on the Rights of the Child. (2014, November 14). Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices. CEDAW/C/GC/31-CRC/C/GC/18. 7.
 Center for Reproductive Rights. (2013). Accountability for child rights – key U.N. recommendations to governments in South Asia on reproductive, health and sexual violence. New York, USA: Center for Reproductive Rights. 3.

UN News. (2019, June 7). Around 23 million boys have married before reaching 15; 'We can end this violation' says UNICEF chief.
 Gaston, C., Misunas, C., Cappa, C. (2019). Child marriage among boys: A global overview of available data, vulnerable children and

youth studies. Vulnerable Children and Youth Studies. Vol. 14(3). 220.

⁸ CARE. (2018, June 29). Child, early, and forced marriage – CARE'S global experience. United Kingdom: CARE International. 1-2.

⁹ GreeneWorks and Promundo. (2015). Engaging men and boys to end the practice of child marriage. Washington DC, USA: Greeneworks and Promundo. 1.

¹⁰ Chae, S & Ngo, T. (2017, October). The global state of evidence on interventions to prevent child marriage. GIRL Center Research Brief No. 1. New York, USA: Population Council. 2.

¹¹ CARE International. (2015, May). "To Protect her Honour" – Child marriage in emergencies – the fatal confusion between protecting girls and sexual violence. United Kingdom: CARE International. 7.

access improved financial circumstances in more economically well-off families.^{12,13} Despite these aspirations, the consequences of CEFM for young brides can in fact be devastating for their wellbeing, safety and overall development.

The literature on the circumstances and effects of CEFM has grown in recent years with increased attention on the broad ramifications of the phenomenon. However, the specific implications of early unions in relation to sexual abuse and exploitation of the children involved is somewhat limited within the ongoing global discourse. This paper should be read in the context of the global literature on CEFM, but focusing on *CEFM as a form of, or pathway to sexual exploitation of children.*

CEFM can be understood as a form of sexual exploitation. When CEFM occurs in exchange for compensation, financial or otherwise, there is scope for classifying such transactions as sexual exploitation.¹⁴

In its General Comment No. 13, the Committee on the Rights of the Child explicitly supported this view by listing the sale of children for forced marriage as a manifestation of child sexual abuse and exploitation. In communities where child marriage is practiced, the union is often marked by a transfer of money, gifts or property through the payment of a 'dowry' or 'bride price'. Not all marriages involving a transaction automatically amount to child sexual exploitation. However, the exchange of benefits along with one party to the union (usually the bride) presents circumstances which may be manipulated to facilitate exploitation. The exchange may grant a presumption of ownership by the dominant party, which may in turn be perceived as a license to control or even commit violence against the weaker party.¹⁵

CEFM can also be understood as a *pathway to sexual exploitation* - such as trafficking for sexual purposes, exploitation in prostitution, online child sexual exploitation; or exposure to high levels of vulnerability that may result in sexual victimisation.¹⁶

Deprived of the organic protective structures of their families, schools and communities, children in early marital unions can be at the mercy of unfamiliar adults, who can take advantage of their vulnerability and abuse them. Power imbalances are present between the child and their new family members. Cultural, sexual and gender norms, and consequent disparities between the wed parties may result in various forms of abuse perpetrated against the child, including of a sexual nature.¹⁷ In the reality of children's lives, factors that may compel girls into marriage are often similar to those underpinning child sexual exploitation: poverty, gender discrimination, low educational levels, humanitarian crises and socio-economic factors among others.¹⁸ Such vulnerabilities are often taken advantage of by perpetrators of child sexual exploitation.

Deceptive marriage arrangements are among the most common tactics used by perpetrators to remove victims from the protection of their families into situations of trafficking, especially in regions where CEFM is prevalent.^{19,20} For instance, evidence suggests that in Bangladesh, women and children

ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 30-33.
 See for example, CARE International. (2016). The cultural context of child marriage in Nepal and Bangladesh: Findings from CARE's

See for example, CARE International. (2016). The cultural context of child marriage in Nepal and Bangladesh: Findings from CARE's tipping point project community participatory analysis. United Kingdom: CARE International.
 ECPAT International. (2016, June). Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual

Abuse. Bangkok, Thailand: ECPAT International. 58-64.
 ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of

children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 62.

¹⁶ *Ibid.*, 35.

¹⁷ *Ibid.*, 36-38.

¹⁸ *Ibid.*

¹⁹ Ibid., 41-45.

²⁰ UNODC. (2018). Global Report on Trafficking in Persons 2018. Vienna, Austria: UNODC. 12.

trapped in false marriage arrangements are subject to trafficking and sexual exploitation or later sold into brothels by their husband or inlaws.²¹ Furthermore, girls who decide to flee from exploitative situations in their marital homes, or those who may be abandoned or divorced by their husbands may, as a result, face the brunt of social exclusion and discrimination steeped in gender norms. This may consequently push them into various forms of sexual exploitation.²²

Where sexual violence is proliferating, parents can be prompted to 'protect' girls from sexual assault targeted at unmarried women and girls by marrying them as early as possible, regardless of their age.²³ For example, CEFM has been used in Iraq to protect girls from being abducted and forced into early marriages to armed militants or into sexual slavery. Religious and cultural norms in many places associate female sexuality and virginity with values such as family honour. An unmarried girl who is not a virgin may be subject to ostracism and stigmatisation, even if the loss of her virginity was the result of sexual violence.²⁴ These norms then encourage and motivate marriage as a way to prevent from these risks facing girls.

The following section outlines the key challenges and developments when viewing CEFM as a form of, or pathway to sexual exploitation of children. The final section identifies four priority areas for action.

²¹ Ministry of Home Affairs Government of the People's Republic of Bangladesh. (2016). Bangladesh Country Report, 2016 – Combating Human Trafficking. Dhaka, Bangladesh: Ministry of Home Affairs Government of the People's Republic of Bangladesh. 8, 61-62.

²² For instance, evidence suggests that Nigerian wahayu brides fleeing from forced marriages are vulnerable to traffickers who exploit them in commercial sex. See Bronwen Manby. (2015, June). Nationality, migration and statelessness in West Africa – A study by UNHCR and IOM. Dakar, Senegal: UNHCR and IOM. 79; UN Counter-Terrorism Committee Executive Directorate. (2019, February 9). Identifying and exploring the nexus between human trafficking, terrorism and terrorism financing. UNCTED. Footnote 18.

²³ Women's Refugee Commission. (2016). A girl no more: The changing norms of child marriage in conflict. New York, USA: Women's Refugee Commission. 14.

²⁴ ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 1.

KEY CHALLENGES AND TRENDS

Years of advocacy have resulted in many countries enacting legislation to eradicate CEFM, but persistent sexual and gender norms, religious beliefs and cultural practices and poor enforcement tend to undermine attempts that address the issue through legislative reform only.

any cultures and communities accept or even promote forms of CEFM,^{25,26} albeit sometimes as mitigations that prevent breaches of other norms about sexual activity and virginity, or as a way of protecting girls from sexual violence.²⁷ Such norms and belief systems may be manipulated by traffickers, unscrupulous marriage brokers or other perpetrators of sexual exploitation to convince parents into CEFM, to then subject them to trafficking or sexual abuse and exploitation. $^{\mbox{\tiny 28}}$

At times, CEFM is perceived by families through an economic lens due to customary payments of a bride price. The CEDAW and CRC Committees have expressed concern over these practices and the consequent increase of vulnerability of women and girls to violence and other harmful practices.²⁹ The bride price amount, which is a payment made by the groom to the bride's family, is often inversely proportional to age of the bride at marriage, which means that the lower the age of the bride, the higher is the bride price paid.³⁰ This system can implicitly encourage families to engage in CEFM from a younger age in order to increase the financial gain associated with the higher bride price of younger girls.^{31,32,33,34} Such customs can result in impoverished families perceiving CEFM as a coping mechanism to alleviate financial hardships and debts.³⁵ Perpetrators of child sexual exploitation may be willing to pay high bride prices to access children, either through deceitful means, or sadly sometimes in plain sight. Bride price and dowry practices essentially commodify children, with the

²⁵ UNFPA. (2020, June 30). State of the World Population 2020 – Against my will: Defying the practices that harm women and girls and undermine equality. UNFPA. 26.

²⁶ ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 5.

²⁷ Ibid.

²⁸ Ibid., 60-65

United Nations, Committee on the Elimination of Discrimination against Women Committee on the Rights of the Child. (2014, November 14). Joint general recommendation/general Comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices. CEDAW/C/GC/31-CRC/C/GC/18. 24.
 Corno, L & Voena, A. (2016, June 11). Selling daughters: age of marriage, income shocks and the bride price tradition. Institute of

<sup>Fiscal Studies, IFS Working Paper W16/08. 8.
International Center for Missing & Exploited Children. (2013). Child marriage in the Middle East and North Africa: A white paper.</sup> Alexandria, Virginia: ICMEC. 4.

³² UNFPA and UNICEF. (2018, September 10). Child Marriage – A Mapping of programmes and partners in twelve countries in East and Southern Africa. Africa: UNFPA and UNICEF. 35.

³³ UNICEF and UNFPA. (2018). Key drivers of the changing prevalence of child marriage in three countries in South Asia. Kathmandu, Nepal: UNICEF. 5.

³⁴ UNFPA. (2020, June 30). State of the World Population 2020 – Against my will: Defying the practices that harm women and girls and undermine equality. UNFPA. 103-105.

³⁵ ECPAT International. (2020). ECPAT Regional Overview: Sexual exploitation of children in the Middle East and North Africa. Bangkok, Thailand: ECPAT International. 36-37.

marriage transactions representing their sale.³⁶ For example, in Egypt, the trend of high bride prices offered by wealthy Gulf men (especially in so-called temporary marriages, detailed in box below), has increasingly contributed to the sexual exploitation of children in travel and tourism settings.³⁷ Similar instances have also been identified in Yemen.^{38,39} Conversely, due to the shortfall of women and girls eligible to marry in China due to the country's onechild policy and the resultant bride price inflation, there is evidence of Laotian women and girls being trafficked into the country for marriage.^{40,41} Finally, while this issue is often perceived as occurring in developing countries, it requires attention in developed countries too. For example, the UK Home Office's Forced Marriage Unit advises on more than 1000 cases within the country each year, with up to a third of these cases involving children.⁴²

In some cultures, payment is made by the bride's family to the groom in the form of dowry. The dowry paid is often directly proportional to the age

of the bride, and families with limited economic resources to raise a dowry may feel compelled to marry daughters early in order to keep the dowry within an affordable range, while also reducing the family's financial commitments in raising the child.⁴³

Parents from economically disadvantaged backgrounds may be specifically targeted by traffickers luring them with the promise of dowryfree marriages.⁴⁴ Such arrangements have been shown to be used by traffickers for domestic trafficking of Indian girls for the purposes of sexual exploitation.⁴⁵ Families may be approached by relatives, acquaintances, or unknown persons offering to marry their daughters for free or giving fraudulent assurances of introducing them to prospective bridegrooms without dowry.⁴⁶ Brokered marriages can represent a pathway to trafficking for the purposes of sexual exploitation, or exploitation through prostitution.⁴⁷

- 36 ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 57.
- 37 ECPAT International. (2016). Global study on sexual exploitation of children in travel and tourism Middle East and North Africa. Bangkok, Thailand: ECPAT International. 22.
- 38 Ibid.
- 39 UNICEF USA. (2017, December 13). After years of civil war, child marriage is on the rise in Yemen. USA: UNICEF.
- 40 ECPAT International. (2017). Global Monitoring Report Status of action against sexual exploitation of children in LAO PDR. Bangkok, Thailand: ECPAT International. 16-17.
- 41 UNICEF. (n.d.). Children on the Edge Protecting children from sexual exploitation and trafficking in East Asia and the Pacific. 13-14.
- 42 UK Home Office. (2020, April). Forced Marriage Unit Statistics 2018, London: UK. 3.
- 43 Commonwealth Lawyers Association. (2018). The role of the law in eliminating child marriage in the Commonwealth Why more action is needed. United Kingdom: Commonwealth Lawyers Association. 8.
- 44 ECPAT International. (2016, March). Power, Impunity and Anonymity Understanding the forces driving the demand for sexual exploitation of children. Bangkok, Thailand: ECPAT International. 33.
- 45 Population Council. (2014, August). Trafficking of minor girls for commercial sexual exploitation in India: A synthesis of available evidence. New Delhi, India: Population Council. 29.

46 ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 42.

- 47 Ibid., 44-45.
- 48 United Nations, Committee on the Elimination of Discrimination against Women Committee on the Rights of the Child. (2014, November 14). Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices. CEDAW/C/GC/31-CRC/C/GC/18. 7. 24.
- 49 ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 44.
- 50 Badran, S & Turnbull, B. (2019, January). Contemporary temporary marriage A blog-analysis of first-hand experiences. Journal of International Women's Studies. 20(2). 243.
- 51 ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 15.
 52 *Ibid.*, 42.
- 53 United Nations, Committee on the Elimination of Discrimination against Women Committee on the Rights of the Child. (2014, November 14). Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices. CEDAW/C/GC/31-CRC/C/GC/18. 24.

SEXUAL EXPLOITATION OF CHILDREN IN TEMPORARY **OR TOURIST MARRIAGES**

So called 'temporary marriages' sometimes enable SEC. For example, temporary marriages are tolerated in some Islamic communities (also there tends also to be opposition within these contexts) and referred to by names such as muta'a, misyar, urfi, fasliya or sigheh depending on the region. The unions last for a pre-determined period of time that is agreed upon by the bride and groom, usually in exchange for a bride price paid by the groom.^{48.49.50} Whether lasting for only a few days or years, the arrangements that involve children may constitute trafficking or exploitation through prostitution, while also exposing girls to other forms of sexual exploitation once the union is discontinued. Such unions are permitted in several countries on the basis of religious and customary rationale.⁵¹ These marriages are usually facilitated by brokers, who may request a commission for their role in actualising the transaction.⁵² The CEDAW Committee and CRC Committee have noted that temporary marriages may amount to a form of trafficking.53

Research shows evidence of wealthy businessmen from Gulf countries travelling to Egypt to sexually exploit girls under the guise of temporary or *misyar* marriages.⁵⁴ This has led to the emergence of an international 'child bride market' in Egypt.⁵⁵ The 2016 Global Study on SECTT also referred to a similar trend whereby men from Gulf States travelled to India to sexually exploit young girls through temporary marriages and then return to their country of origin. In Iran, temporary marriages or sigheh are not only legally permitted,⁵⁶ but are also endorsed by some religious leaders.⁵⁷ Temporary marriages lasting from an hour to a week are frequently seen around religious and pilgrimage zones.⁵⁸ In 2016, the CRC Committee expressed concerns over the issue of trafficking of children for sexual purposes from rural areas in Iran in the name of sigheh.59

Socio-cultural and economic vulnerabilities that contribute to the risk of CEFM can be exacerbated in situations of armed conflicts, natural disasters, or other emergency settings.⁶⁰ Children from impoverished households, belonging to marginalised social groups and residing in volatile regions may be more prone to victimisation.⁶¹ During periods of national emergencies when the social fabric of communities are adversely impacted causing a breakdown of child protection structures, parents may resort to early marriages as a way to

secure stability and protect their children.⁶² Thus, communities facing fragile, uncertain and volatile political environments also demonstrate high prevalence of CEFM.⁶³ For instance, UNFPA has reported that some studies have estimated that CEFM is four times higher among Syrian refugee communities compared to the rate in Syria prior to the crisis. Similarly, it has been reported that over two-thirds of girls are married in Yemen before they turn 18, compared to a rate of around half before the conflict escalated. Similar trends of CEFM

⁵⁴ Soliman, H et al. (2018, February 29). Is tourism marriage of young girls in Egypt a form of child sexual abuse? A family exploitation perspective. Journal of Child Sexual Abuse. 122-140.

⁵⁵ Ibid., 127.

The Civil Code of the Islamic Republic of Iran. Chapter 6, Arts 1075-1077. 56

United Kingdom Home Office. (2016, November 1). Country policy and information note - Iran adulterers. United Kingdom 57 Home Office. 20.

Yaghoobi, C. (2020, January). Temporary marriage in Iran gender and body politics in modern Iranian film and literature. Cam-58 bridge University Press. 45-74.

⁵⁹ Committee on the Rights of the Child. (2016, March 14). Concluding observations on the combined third and fourth periodic reports of the Islamic Republic of Iran. CRC/C/IRN/CO/3-4. 17.

Human Rights Council Resolution. (2017, July 12). Resolution adopted by the Human Rights Council on 22 June 2017 – 35/16-60 Child, early and forced marriage in humanitarian settings. A/HRC/RES/35/16.

⁶¹

Girls not Brides. (2018, August). Child marriage in humanitarian settings – Thematic brief. 5. UN OHCHR. (2020, January 14). "Let Girls be Girls": Joining efforts to eliminate harmful practices – Statement by Michelle Bachelet, 62 United Nations High Commissioner for Human Rights. Geneva, Switzerland: UN OHCHR.

⁶³ OECD. (2018). States of Fragility 2018. Paris, France: OECD Publishing. 103.

used as a coping mechanism were also observed in humanitarian settings in the Arab region.⁶⁴ The difficult economic conditions, as well as disruption to support systems, and changes to children's lives that have been generated by the global COVID-19 crisis will similarly result in exacerbating vulnerabilities to CEFM for many families.^{65,66}

CEFM AMONG DISPLACED POPULATIONS

Displacement is always a result of desperate circumstances for those involved. Displacement dramatically increases family vulnerability and forces more risks to be taken to survive. It alters the usual social processes, including those around marriage. Shorter engagement periods, lower bride prices and younger ages at marriage are commonly seen in displaced communities.⁶⁷ Girls living in refugee camps and internally displaced persons camps are therefore more vulnerable to CEFM. For example, a survey conducted in 2016 by UNFPA and American University of Beirut among 2400 refugee women and girls in Western Bekaa, Lebanon revealed that more than a third of those surveyed between the ages of 20 and 24 were married before the age of 18. A UNODC publication from 2018 reports that among the refugee populations settled in formal and informal settings in the Middle Eastern region, some families have felt compelled to marry their daughters in order to financially support their families with the bride price acquired. Some of these marriages have resulted in SEC, including trafficking for sexual purposes.

There is ample evidence that the vulnerability of displaced children is exploited by perpetrators via CEFM. For example, reports have revealed evidence of human traffickers forcing Syrian refugee girls in the Iraqi Kurdistan Region into temporary marriages with Iraqi or other refugee men.⁶⁸ Another example is the purported existence of a market for 'temporary brides' operating within Zaatari camp in Jordan.⁶⁹ Girls who are subject to such temporary marriages may later be forced into prostitution to help their families.⁷⁰

Sexual and gender-based violence such as rape, torture, sexual slavery and forced prostitution committed under the guise of marriage is often used as a weapon of war in conflict settings.⁷¹

Studies and focus group discussions conducted by CARE International in Uganda, Ethiopia and Lebanon with 50-80 participants in each country, revealed that families placed in humanitarian settings there perceived CEFM as a form of 'protection' for daughters.

⁶⁴ UNICEF et al. (2018). Child marriage in humanitarian settings: Spotlight on the situation in the Arab region. MENA: UNICEF et al. 4-5.

⁶⁵ UNICEF. (2020, July 2). Technical note on COVID-19 and harmful practices. 1.

⁶⁶ UNICEF. (2020, March 20). COVID-19: Children at heightened risk of abuse, neglect, exploitation and violence amidst intensifying containment measures.

⁶⁷ Girls not Brides. (2018, August). Child marriage in humanitarian settings – Thematic brief. 4.

⁶⁸ Terre des hommes. (2016). "Because we struggle to survive" – Child labour among refugees of the Syrian Conflict. Germany: Terre des hommes. 37.

⁶⁹ Peyroux, O. (2015, June). Trafficking in human beings in conflict and post-conflict situation. Caritas Research. 21-22.

⁷⁰ Ibid. 22-23.

⁷¹ Girls not Brides. (2018, August). Child marriage in humanitarian settings – Thematic brief. 2.

Legislative change alone is insufficient to counter CEFM, particularly when existing religious and cultural beliefs and practices play a significant role in supporting the practices. Communities must be engaged in the process of exploring and changing beliefs and practices alongside the legislative approaches.72

In fact, without this engagement, legislative changes alone may be viewed by communities (or framed by leaders) as targeting their religious and cultural beliefs and outright rejected. In other cases, legislative changes can have little impact as the law is not widely known, ignored, or unenforced.⁷³ For instance, the minimum age of marriage was raised to 18 in Morocco's 2004 Family Law, though it also provided for exceptions, with judges retaining discretion to authorise marriages of girls under 18.74 However, a report evaluating the implementation of the Family Law in 2014 found that there had actually been a marked increase in child marriage for both boys and girls, from 18,340 in 2004 to 35,152 in 2013.75 A 2017 UNICEF study on CEFM in Morocco identified that reforms brought about by the Family Law in 2004 were met with sharp resistance from communities and families who viewed the law as counter to culture and continued to marry daughters before 18.

In some countries, the legislation may allow the practice of CEFM to take place by making exceptions for religion and customary practices. For example, in South Africa, inconsistencies between the Marriage Act of 1961,⁷⁶ the Recognition of Customary Marriage Act of 199877 and the Children's Act of 2005 allow marriage before the age of 18 years under certain circumstances.⁷⁸ In South Africa, the tribal custom of Ukuthwala,⁷⁹ or bride kidnapping, is protected by the Customary Marriage Act and had mostly been used ceremonially in recent years. However, by subverting this ceremonial custom, Ukuthwala is now considered a growing risk for concealing SEC⁸⁰ and it has been penalised under the Prevention and Combating of Trafficking in Persons Act of 2013.81

⁷² ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 73

Ibid., 12.

⁷⁴ The Moroccan Family Code (Moudawana). (2004, February 5). Art. 19 and 20.

ECPAT International. (2020). ECPAT Regional Overview: Sexual exploitation of children in the Middle East and North Africa. Bangkok, 75 Thailand: ECPAT International. 38.

The Marriage Act provides that the minimum legal age for marriage as 18 years for boys and 15 years for girls. An exception can 76 be granted by the Minister or any authorized officer for younger ages. Marriage Act 25. (1961). Section 26(1) and (2)

⁷⁷ The Recognition of Customary Marriage Act prescribes the marriageable age of boys and girls at 18 years and the need for spouses to consent to be marriage, but provides for exceptions to the marriageable age. Recognition of Customary Marriages Act 120. (1998), Section 3.

ECPAT International. (2019). Sexual exploitation of children in South Africa- Briefing paper. Bangkok, Thailand: ECPAT International. 78

⁷⁹ 'Ukuthwala' is the abduction or kidnapping of a girl or a young woman by a man and his friends with the aim of forcing her family to accept a marriage. It is found in South Africa. While it had largely existed ceremoniously in recent years, this practice can be subverted with harmful consequences.

ECPAT International. (2019, October). The landscape of sexual exploitation of children in South Africa. Bangkok, Thailand: ECPAT 80 International, 23.

⁸¹ Prevention and Combating of Trafficking in Persons Act 7. (2013).

PRIORITY ACTIONS

CPAT International's approach to countering CEFM as a form of, or pathway to SEC is based on investigating the relationship of CEFM to SEC, and increasing knowledge and awareness and understanding.⁸²

Reflecting a growing general consensus towards holistic responses to CEFM, four key areas have been identified as priorities for action:



The following sections outline the justification for each priority area and provide examples of good practices in the field.

⁸² ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 2.

CHALLENGING SOCIAL AND CULTURAL NORMS THAT FACILITATE CEFM AS A FORM OF, OR PATHWAY TO SEC

We know that the vulnerabilities of families facing poor economic circumstances or living within fragile political contexts are often exploited by traffickers or marriage brokers - who may also use deception - to convince them into CEFM. While the marriages may be perceived as beneficial for the child or family, there can also be grave adverse consequences. Working with communities to create awareness of the risks requires engaging with and challenging social and cultural norms that may facilitate CEFM within communities.

EFM is often upheld by religious or cultural beliefs and practices that are grounded in sexual and gender norms and traditions. These beliefs and practices must therefore be engaged with, interrogated or changed in order to address CEFM. Education and genuine discourse about sexual and gender norms, as well as the potentially adverse effects on children of CEFM is vital. It is also important to engage religious and community leaders in behaviour change. Religious leaders

are uniquely placed to advocate for the rights of children and raise awareness on the harmful consequences of CEFM.⁸³ Religious and community leaders can reinforce traditional norms and hold prejudices against young people who deviate from the traditional norms.⁸⁴ But with genuine engagement and their own understanding broadened, they can be advocates for change – aligning with the humanist ideals inherent in religious traditions.⁸⁵

TOSTAN COMMUNITY EMPOWERMENT PROGRAM⁸⁶,⁸⁷

The NGO Tostan, conducted a Community Empowerment Program in West Africa, which aimed at raising awareness on CEFM among religious leaders by engaging in dialogue based on shared values of peace, security and good parental practices in communities. Between 2013 and 2016, Tostan implemented its transformational developmental model in 150 new communities in the regions of Guinea, Guinea Bissau, Mali and Mauritius where there is a high prevalence of CEFM and female genital mutilation.⁸⁸ Besides the awareness-raising initiatives, the programme also aimed at addressing sensitive issues that arose from inciting change in traditional practices associated with religious beliefs.⁸⁹ It has been reported that many religious leaders who participated in the programme are now supporting their communities in ending violence against women and girls, and have encouraged their respective communities to publicly declare the abandonment of harmful practices such as child marriage and female genital mutilation.⁹⁰

- 83 UNICEF. (2012, July). World Day of Prayer and action for children ABCs for action and advocacy. New York, USA: UNICEF. 8.
- 84 UNICEF. (2019). Ending child marriage in India Drivers and strategies. New Delhi, India: UNICEF. 35.

85 UNICEF. (2010, February). From action to commitment- What religious communities can do to eliminate violence against children. New York, USA: UNICEF. 25.

- 86 Tostan. (2016, June 7). Training religious leaders to become community changemakers.
- 87 Girls not Brides. (2017, September 28). Theory of change case studies Tostan's Community Empowerment Programme (CEP). Girls Not Brides.
- 88 Tostan. (2018, August 4). Tostan's Community Empowerment Program and the Sustainable Development Goals.
- 89 Tostan. (2016, June 7). Training religious leaders to become community changemakers.
- 90 Girls not Brides. (2019, April). Working with religious leaders to address child marriage. 9.

Comprehensive information campaigns about the risks of CEFM and benefits of delaying marriage should be prioritised. Long-term and sustained, rather than one-off or project-based campaigns are favoured. Information must be culturally sensitive and disseminated through media commonly engaged with by the population.⁹¹

While girls are at greater risks from CEFM, engaging boys and men in challenging social and cultural norms that facilitate it is essential. Patriarchal attitudes and behaviours often condone and

perpetuate CEFM.⁹² Engaging with boys at an early age helps them become aware of, but also question traditional gender roles, gender-based discrimination and harmful practices.93 Efforts taken to end CEFM must also challenge norms around sex and sexuality. Boys and men are commonly encouraged to act freely upon their sexual desires.94 Men who don't perpetuate such norms should be engaged in efforts to reduce CEFM.⁹⁵ Opportunities for dialogue about sexual and gender norms with adolescent boys and girls should also be facilitated to encourage self-awareness, empathy and understanding that challenge the social and cultural norms perpetuating CEFM. Potential husbands, fathers and other male members can be encouraged and supported to adopt behaviours that will delay child marriage and alleviate the negative impacts on child brides.96

93 Girls not Brides. (2018, November). Male engagement in ending child marriage. 4.

⁹¹ ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 71.

⁹² GreeneWorks and Promundo. (2015). Engaging men and boys to end the practice of child marriage. Washington DC, USA: Greeneworks and Promundo. 9.

⁹⁴ ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 69.

⁹⁵ Ibid.

BUILDING INSTITUTIONAL CAPACITIES TO IDENTIFY AND CURB CEFM AS A FORM OF, OR PATHWAY TO SEC

We know that training of frontline protection workers about the vulnerabilities and indicators of CEFM as a form of, or pathway to SEC will improve the access and efficiency of support to children affected.

n order to address CEFM as a form of, or pathway to SEC, the people responsible for the care and protection of children who may face these risks must have accurate and practical knowledge about the topic and its impacts.

> National governments and local authorities, particularly in areas where the practice is identified as prevalent, must prioritise technical and financial inputs that enable institutional responses. Sustained responses must make information available, engage communities and seek behaviour change, provide responses and support to children affected where the practice continues. Advocacy and awareness-raising initiatives must continue to be conducted with duty-bearers to highlight the impacts CEFM can have,⁹⁷ including as a form of, or pathway to SEC.

Frontline protection workers and duty-bearers need the knowledge and skills to identify, intervene and address sexual abuse and exploitation that may take place within the bounds of marriage. This can be complex as issues within marital unions can be considered 'private' or 'family matters' by outsiders. Those around the child who they may seek help from can ignore help-seeking as normal adjustments in an early union. These are ideas that must be challenged if children are to be protected.⁹⁸ Finally, when legislative and policy change is undertaken, frontline protection workers need to be trained in the relevant legal provisions that may be used to address CEFM.⁹⁹

SUMMARY PAPER ON CHILD, EARLY AND FORCED MARRIAGES AS A FORM OF, OR PATHWAY TO SEXUAL EXPLOITATION OF CHILDREN

⁹⁷ *Ibid.*, 23.

⁹⁸ Ibid., 74.

⁹⁹ ECPAT International. (2017, May). Barriers to compensation for child victims of sexual exploitation- A discussion paper based on a comparative legal study of selected countries. Bangkok, Thailand: ECPAT International. 51.

ESTABLISHING AND ENFORCING A CONSISTENT LEGAL FRAMEWORK TO COUNTER CEFM AS A FORM OF, OR PATHWAY TO SEC

We know that inconsistent legal frameworks regarding CEFM provide loopholes that perpetrators of sexual exploitation can use to evade the law. Therefore, it is necessary to establish legal frameworks consistent with international guidance to prevent CEFM.

nternational and regional human rights instruments offer an articulate legal framework to guide states to combat CEFM, including by requiring states to establish a minimum age for marriage,¹⁰⁰ highlighting the principle of free, full and informed consent to marriage and prohibiting all forms of violence, mistreatment and exploitation of children that may occur in the context of CEFM.

However, in many cases, loopholes exist as a result of inconsistencies between laws. These enduring exceptions contradict international legal instruments regarding child rights and child protection.¹⁰¹ Moreover, the enforcement of the law is often hindered by barriers such as discrepancies between formal law and religious or customary principles, low compliance with formal birth and marriage registration and limited awareness and capacities of professionals and communities.¹⁰²

Inconsistencies are especially prevalent in countries with a plural legal system where state law may

coexist with customary norms and religious law also holding authority. For example, the Syariah law in Malaysia governs some aspects of life for the Muslim-majority population.¹⁰³ The Law Reform (Marriage and Divorce (Act) of 1976 stipulates that the legal age of marriage is 18 years old,¹⁰⁴ with an exception for girls between 16 to 18.¹⁰⁵ A Syariah court can also grant permission to marry individuals below these ages.¹⁰⁶ Such legal discrepancies within the legal systems in Malaysia have led to controversies regarding CEFM in the country.¹⁰⁷

Legal harmonisation of statutory and customary laws should take place in order to set and enforce the legal minimum age of marriage at 18 years for all children, with no room for exceptions. National legislation should not only declare the illegality and illegitimacy of betrothal and marriage of a child but should also allow the scope for voidability or annulment of such unions, once contracted. Further, laws that condone sexual violence against children and women under conditions of marriage between the perpetrator and the victim should

¹⁰⁰ Interestingly, no international legal instrument explicitly sets a specific minimum legal age for marriage. Whilst, at the regional level, the African Charter on the Rights and Welfare of the Child imposes an obligation on state parties to CEFM and betrothal of girls and boys and to take actions to ensure that the legal minimum age of marriage is 18 years.

¹⁰¹ UN Human Rights Council. (2014, April 2). Preventing and eliminating child, early and forced marriage – Report of the Office of the United Nations High Commissioner for Human Rights. A/HRC/26/22. 14.

¹⁰² ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 22-26.

¹⁰³ ECPAT International. (2019). Briefing paper – Sexual exploitation of children in Malaysia. Bangkok, Thailand: ECPAT International. 3.

¹⁰⁴ Government of Malaysia. (2006). Laws of Malaysia – Act 164 – Law Reform (Marriage and Divorce) Act 1976. Art. 10 and 87.

¹⁰⁵ Ibid. Art. 21 and 69(b).

¹⁰⁶ Government of Malaysia. (2006). Laws of Malaysia – Act 303- Islamic Family Law (Federal Territories) Act 1984. Section 8.

¹⁰⁷ For instance, in 2018, the marriage of a 15-year old Malay girl and a 44-year old man was approved by the Syariah Court despite the young age of the girl. Therefore, the marriage was deemed legal. ECPAT International. (2019, October). ECPAT Country Overview – A report on the scale, scope and context of the sexual exploitation of children in Malaysia. Bangkok, Thailand: ECPAT International. 12.

be abolished.¹⁰⁸ For example, in 2016, the Turkish government introduced a Bill in the parliament that provided for postponement of sentences of convicted child abusers if they married their victims.¹⁰⁹ This Bill was subsequently withdrawn due to widespread opposition and public outcry.¹¹⁰ However, as recently as January 2020, the government announced plans to bring forth a similar Bill to the Turkish parliament which would not only legitimise CEFM and statutory rape, but would also increase the impunity of perpetrators and wrong perceptions that SEC can be excused under certain circumstances.¹¹¹

> While establishment of watertight comprehensive legislation is very important, it would be rendered futile if the implementation mechanisms are weak and inefficient. Therefore, it is important to simultaneously focus on devising and strengthening mechanisms to effectively implement and enforce the laws and monitor progress.

Communities, local government, judiciary and law enforcement institutions should play roles in enforcing formal marriage registration of all marriages in their constituencies, especially extending registrar services to areas where child marriage may be more prevalent. Migration of children and young brides should also be tracked and monitored in order to avert child trafficking and sale of children for marriage and other forms of sexual abuse and exploitation. Specific mechanisms could also prohibit bride price, dowry or other forms of financial transactions within marital contexts, in order to prevent the commodification of child brides.

Besides enforcing legal penalties against perpetrators, it is crucial to develop mechanisms to ensure protection and rehabilitation of victims by enhancing access of justice and legal remedies, protecting them from acts of retaliation. offering social and economic recovery services to prevent destitution, stigmatisation and further victimisation and offering psychosocial support. Child-friendly legal services should be developed in order to improve reporting on such issues.

¹⁰⁸ UN Human Rights Council. (2015, July 2). Resolution adopted by the Human Rights Council on 2 July 2015 29/8. Strengthening efforts to prevent and eliminate child, early and forced marriage. A/HRC/RES/29/8. 3.

<sup>BBC News. (2016, November 22). Turkey withdraws child rape bill after street protests.
ECPAT International. (2020, February, 26). Proposed Turkish bill legitimizes child marriage, statutory rape and impunity of offenders. Oppenheim, M. (2020, January). 'Marry-your-rapist' bill to be introduced by lawmakers in Turkey. The Independent.</sup>

¹¹¹ ECPAT International. (2020). Briefing paper – Sexual exploitation of children in Turkey. Bangkok, Thailand: ECPAT International. 3.

ADDRESSING ECONOMIC FACTORS TO COUNTER CEFM AS A FORM OF, OR PATHWAY TO SEC

We know that, in spite of establishing legal frameworks or work to change social and cultural norms to counter the practice of CEFM, families and communities may continue engaging in this practice due to economic factors and financial burdens. Addressing the economic factors facilitating CEFM would improve effectiveness of efforts.

Poverty is one of the most common push factors for CEFM, wherein families under difficult economic circumstances may feel compelled to use CEFM as a coping mechanism and economic strategy to alleviate their financial burden.¹¹² These economic circumstances may increase the vulnerability of children from economically disadvantaged families to be trafficked and/or sexually exploited through CEFM.

Despite the perceived short-term economic benefits of CEFM, families often fail to understand that the practice continues perpetuating poverty in the long run. The World Bank estimates that between 2014 and 2030, the economic impacts of ending the practice of CEFM could increase the global GDP by US\$4 Trillion.¹¹³ Ending CEFM in countries with the highest rates of the practice has been predicted to result in saving billions of dollars in welfare and education spending through increased earnings, combined with the socio-economic benefits of reductions in child mortality and early pregnancies.^{114,115} Incentive-based programmes could be used to encourage and enable families to postpone the age of marriage of their children. Immediate economic opportunities may provide an acceptable alternative to child marriage and increase the value and contribution of the daughter to her family.¹¹⁶ Economic investments may be tied to educational investments of children. in order to address two main drivers of CEFM - poverty and lack of adequate education. Economic opportunities should be targeted to impoverished or indebted families with daughters and those living in communities where CEFM is common.

CHANDRANNA PELLI KAANUKA SCHEME TO END CEFM IN ANDHRA PRADESH, INDIA

The 2015-16 National Family Health Survey indicated that 33% of women in Andhra Pradesh state in India between the ages of 20-24 were found to be married before the age of 18.¹¹⁷ 11.8% of women and girls between the ages of 15-19 years had already been pregnant at the time of survey.¹¹⁸ The government of Andhra Pradesh launched the *Chandranna Pelli Kaanuka* scheme in 2018 as an effort to counter CEFM in economically

 ¹¹² ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 30-33.
 112 The World Park et al. (2017, here 27). Second participation of the local device and the loca

¹¹³ The World Bank et al. (2017, June 27). Economic impacts of child marriage: Global Synthesis Report. Washington DC, USA: The World Bank. 39.

¹¹⁴ Ibid.

¹¹⁵ Save the Children. (2018, October 8). Working together to end child marriage. 3.

¹¹⁶ ICRW. (2011). Solutions to end child marriage – What evidence shows. ICRW. 18.

disadvantaged sections of the population.¹¹⁹ This scheme was specifically targeted to include brides belonging to scheduled caste, scheduled tribes and other communities which are educationally or socially disadvantaged in relation to expenses incurred with marriage. The scheme was created with three objectives: delaying the age at marriage, ensuring minimum high school education of the girl and legal protection of the marriage through compulsory registration of the marriage.¹²⁰ The scheme incentivised marriages on the condition that the bride is above the age of 18.¹²¹ Women accessing the scheme were required to submit their high school graduation certificate and Aadhar card (unique identification proof given to Indian residents) as proof of age. The cash transfer was only made to an account in the name of the bride.¹²²

Promoting employment and entrepreneurship opportunities can also motivate girls and women to pursue jobs as an alternative to CEFM for economic stability. Improving a girl's economic standing improves her quality of life and influence on decisions in her family.¹²³ Such initiatives can address concerns from parents about futures for daughters who don't marry.¹²⁴ Further, such opportunities can alleviate the economic and social pressures that can otherwise be push factors for CEFM. Access to gender transformative vocational training may also help in empowering young girls, developing their agency and improving their position in the family to negotiate and promote advocacy for their rights and choices.¹²⁵

125 Ibid., 30.

¹¹⁷ Ministry of Health and Family Welfare, Government of India. (2016). State fact sheet- Andhra Pradesh. 2. New Delhi, India: Ministry of Health and Family Welfare, Government of India.

¹¹⁸ Ibid.

¹¹⁹ Social Welfare Department, Government of Andhra Pradesh. (2018, April 18). Abstract – Chandranna Pelli Kaanuka. 1.

¹²⁰ Undurti, V & Nilanjana, R. (2019, April). Conditional cash transfer schemes and child marriages in Andhra Pradesh and

Telangana: An exploratory study. Mumbai, India: Tata Institute of Social Sciences. 6.

¹²¹ *Ibid.*, 13.

¹²² Ibid., 49.

¹²³ UNICEF. (2019). Ending child marriage in India – Drivers and strategies. New Delhi, India: UNICEF. 28.

¹²⁴ Ibid., 29.

CONCLUSION

The economic, cultural, religious and genderbased roots of CEFM must be addressed in countering the practices. Contextualised responses are key. Although global discourse on CEFM has grown in recent years, the specific implications of early unions for sexual abuse and exploitation are less well understood. However, CEFM can be a form of, or pathway to sexual exploitation of children in a range of ways.¹²⁶

Responses to CEFM need to address the way that perpetrators of sexual exploitation may subvert or exploit established practices as pathways to sexual exploitation. Aligning national legal frameworks with international law and addressing loopholes and exceptions to age limits is essential for this part of the response. However, legislative reform alone will not be successful without support for implementation and engagement with targeted communities. Responses must also challenge the persistent sexual and gender norms that justify and perpetuate CEFM, particularly as a potential form of sexual exploitation should financial transactions like dowry or bride price be involved. Religious beliefs and cultural practices that reinforce CEFM must also be challenged, and engaging community and religious leaders in these processes – using the humanist ideals of religion as a shared starting point are important. With estimates that more than 700 million women and 115 million men alive today were married as children, CEFM is a pervasive problem requiring urgent action.

126 ECPAT International and Plan International. (2015, October). Thematic Report: Unrecognised sexual abuse and exploitation of children in child, early and forced marriage. Bangkok, Thailand: ECPAT International and Plan International. 38-45.

Extracts from this publication may be reproduced only with permission from ECPAT International and acknowledgment of the source and ECPAT International. A copy of the relevant publication using extracted material must be provided to ECPAT.

Suggested citation:

ECPAT International. (2020). Summary Paper on Child, Early and Forced Marriages as a Form of, or Pathway to Sexual Exploitation of Children. Bangkok: ECPAT International.



328/1 Phaya Thai Road, Ratchathewi Bangkok, 10400 THAILAND Tel: +662 215 3388 Email: info@ecpat.org Website: www.ecpat.org

© ECPAT International, November 2020