

Child Marriage in the Middle East and North Africa

WHITE PAPER



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Child Marriage in the Middle East and North Africa

A White Paper

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INTRODUCTION

Arwan was nine years old when her father sold her for \$2,000 to a 49-year-old stranger who sexually and physically abused her for seven months before she was granted a divorce.¹ Nujood Mohammed Ali was married off to a 30-year-old stranger at age eight and divorced by age ten.² At age 14, Asia is already a wife and mother of two daughters.³ Ilham Mahdi al Assi was only 13 when her much older husband tied her down, raped her repeatedly, and left her to bleed to death three days after their wedding.⁴ Bibi Aisha was just ten years old when she was sent to live with her future husband as payment for a debt. At his hands she suffered regular beatings and abuse – after running away she was caught and returned to her husband who brutally cut off her ears and nose as punishment.⁵ Twelve-year-old child bride Fawziya Abdullah Youssef endured three days of labor before dying during childbirth.⁶ Torpekay, married at age 13, tried to escape her early marriage by setting herself on fire.⁷

The tragic tales of child brides in the Middle East and North Africa are many, and these named victims represent only a small fraction of the children affected. Child marriage (also referred to as “early” or “forced” marriage⁸) is defined as “any marriage carried out below the age of 18 years, before the girl is physically, physiologically, and psychologically ready to shoulder the responsibilities of marriage and childbearing.”⁹ It is a global problem and is not limited to any one region, culture, or religion. Globally, more than 67 million women 20-24 years old in 2010 reported that they had been

¹ Jenny Cuffe, *Child Marriage and Divorce in Yemen*, BBC News, available at <http://news.bbc.co.uk/2/hi/7711554.stm> (last visited September 20, 2013).

² Nujood Ali, *I Am Nujood, Age 10 and Divorced* (2010).

³ Cynthia Gorney, *Too Young to Wed: The Secret Lives of Child Brides*, National Geographic, June 2011, at 86.

⁴ Fae Bidgoli, *Iran, Yemen and the Plague of Forced Marriages: Millions of Girls Are Made to Become Child Brides*, NY Daily News, available at <http://www.nydailynews.com/opinion/iran-yemen-plague-forced-marriages-millions-girls-made-child-brides-article-1.456314> (last visited September 20, 2013).

⁵ Aryn Baker, *Afghan Women and the Return of the Taliban*, Time Magazine, August 9, 2010, available at <http://content.time.com/time/magazine/article/0,9171,2007407,00.html> (last visited September 30, 2013).

⁶ Bidgoli, *supra* note 4.

⁷ Farangis Najibullah, *Afghanistan: Marriage Practice Victimized Young Girls*, Society, Radio Free Europe, available at <http://www.rferl.org/content/article/1079316.html> (last visited September 20, 2013).

⁸ While some publications use the terms “early marriage” and “forced marriage” interchangeably, there is a subtle distinction. Early marriage is generally defined as any marriage involving a party below the age of 18. Forced marriage, on the other hand, “takes place without the full and free consent of one or both of the parties,” and the lack of consent can be caused by, among other factors, the individual being a minor. Thus, while all child marriages can be properly deemed “forced,” not all forced marriages involve children. See Tahirih Justice Center, *Forced Marriage in Immigrant Communities in the United States: 2011 National Survey Results 2* (2011), available at <http://www.tahirih.org/site/wp-content/uploads/2011/09/REPORT-Tahirih-Survey-on-Forced-Marriage-in-Immigrant-Communities-in-the-United-States-September-2011.pdf> (last visited September 20, 2013).

⁹ The Inter-African Committee on Traditional Practices Affecting the Health of Women and Children, *Newsletter, Early Marriage in South Asia*, December 2003.

married before age 18.¹⁰ While accepted as a harmless tradition in many cultures, the practice of child marriage often “amounts to socially licensed sexual abuse and exploitation of a child.”¹¹ The combination of extreme poverty, civil unrest, and religious fundamentalism that plagues the Middle East and North Africa (hereafter, MENA) has created a fertile environment for the sexual exploitation of young girls, including child marriage.¹²

Steeped in cultural and religious acceptance, child marriage has become one of the most pervasive and enduring forms of sexual exploitation of young girls in the Middle East and North Africa.¹³ Within the region, child marriage takes many forms. Most commonly, these “marriages” resemble business transactions wherein very young girls are sold to much older men, often strangers, for a substantial dowry or forgiveness of a family debt.¹⁴ The practice of *baad* is a traditional method of settling disputes in Pakistan and Afghanistan where a young girl is traded as payment for a financial dispute.¹⁵ Some countries also recognize the Islamic practice of *siqueh*, or temporary marriages, and other forms of short-term contract marriages between young girls and wealthy older men.¹⁶ Often, these temporary “marriages” are used as a front for child prostitution, luring young girls away from their homes and into sexual and domestic slavery.¹⁷ In certain cultures, most prevalently in Afghanistan, Ethiopia, and Yemen, young girls are abducted and raped most often by young men and older widowers, and subsequently forced to marry their captors to protect their families’ honor.¹⁸ Child marriages also frequently take the form of betrothals, wherein interfamilial allegiances, and not child

¹⁰ *Marrying Too Young: End Child Marriage*, United Nations Population Fund (UNFPA), 2012 at 6, (Hereinafter “Marrying Too Young”), available at <http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/MarryingTooYoung.pdf> (last visited September 25, 2013).

¹¹ Forum on Marriage and the Rights of Women and Girls, *Early Marriage: Sexual Exploitation and the Human Rights of Girls*, London 2001, available at <http://www.crin.org/docs/resources/publications/1367EarlyMarriage.pdf> (last visited September 20, 2013).

¹² See Susanne Louis B. Mikhail, *Child Marriage and Child Prostitution: Two Forms of Sexual Exploitation*, 10 *Gender & Development* 43 (2002).

¹³ See Stephanie Sinclair, *Too Young to Wed*, Pulitzer Center on Crisis Reporting, available at <http://www.pulitzercenter.org/articles/child-marriage-brides-too-young-to-wed-afghanistan-ethiopia-india-yemen> (last visited September 15, 2013); Lisa Anderson, *Child Marriage a Scourge for Millions of Girls*, Reuters, available at <http://www.trust.org/item/?map=feature-child-marriage-a-scourge-for-millions-of-girls2/> (“A girl under the age of 18 is married every three seconds”) (last visited September 20, 2013).

¹⁴ See Elizabeth Warner, *Behind the Wedding Veil: Child Marriage as a Form of Trafficking in Girls*, 12 *J. of Gender, Social Pol’y & L* 233, 240 (2004), available at <http://www.wcl.american.edu/journal/genderlaw/12/warner.pdf>; Cynthia Gorney, *The Secret World of Child Brides*, National Geographic, June 2011, at 87.

¹⁵ Human Rights Watch, *Afghanistan: Stop Women Being Given as Compensation - Implement Elimination of Violence Against Women Law* (2011), available at <http://www.hrw.org/news/2011/03/08/afghanistan-stop-women-being-given-compensation> (last visited September 15, 2013). *Baad* is a criminal offence under article 517 of the 1976 Afghan Penal Code, but the article only applies to widows and women above age 18, and the sentence for perpetrators of *baad* cannot exceed two years.

¹⁶ See *Ending Child Marriage: A Guide for Global Policy Action*, International Planned Parenthood Federation at 7 (2006), available at http://www.unfpa.org/upload/lib_pub_file/662_filename_endchildmarriage.pdf (last visited September 20, 2013).

¹⁷ Bidgoli, *supra* note 4.

¹⁸ Gorney, *supra* note 3 at 87.

welfare, govern the arrangements.¹⁹ Whatever form the marital transaction takes, there are two characteristics common to nearly all child marriages: the bride is rarely included in the decision to marry, and she is almost always sold to the husband for some kind of financial benefit to her parents or guardians. It is this underlying economic exchange for the girls and their sexual services, along with the girls' lack of consent, which makes child marriage a form of sexual exploitation on par with child prostitution.²⁰

There is little empirical data available on child marriage in the Middle East and North Africa. In terms of scholarship and international attention, the region is often overshadowed by the child marriage "hotspots" of Sub-Saharan Africa and Southeast Asia. However, with some countries in the region reporting child marriage rates as high as 40 percent²¹, the MENA region can no longer be ignored. This paper will embark on a novel study of child marriage practices in MENA – compiling regional statistics, exploring underlying socioeconomic, cultural, and religious factors that perpetuate the practice, and making recommendations for future action in the region. Part I will explore the underlying causes and effects of child marriage. The international and regional legal responses to child marriage will be examined in Part II. This section will also highlight the regulatory gaps and barriers in a select sampling of countries to enforcement that allow child marriage to persevere. Part III will present country-specific profiles of child marriage throughout the Middle East and North Africa, examining available statistics, legal treatment of early marriage, and efforts, if any, to combat the practice. Recommendations for future action on the regional and international levels will be set forth in Part IV. Finally, descriptions of a sampling of initiatives that have been undertaken globally are provided in Part V.

I. THE CAUSES AND EFFECTS OF CHILD MARRIAGE IN MENA

A. An Environment of Exploitation

The combination of poverty, social and political instability, and cultural practices that exists in the Middle East and North Africa facilitates the practice of child marriage and greatly increases the exposure of girl children to sexual exploitation.

1. Poverty

Child marriage is, in part, a reaction to severe economic distress.²² The practice is generally concentrated in the poorest regions of the developing world, and in low-

¹⁹ See Mikhail, *supra* note 12.

²⁰ See, e.g., Mikhail, *supra* note 12; Warner, *supra* note 14 at 235, 262.

²¹ See Farzaneh Roudi-Fahimi, *Child Marriage in the Middle East and North Africa*, Population Reference Bureau, available at <http://www.prb.org/articles/2010/menachildmarriage.aspx> (last visited September 15, 2013). See also UNICEF Child Info, Percentage of women aged 20-24 who were first married/in union before the age of 18 (Jan. 2013), available at http://www.childinfo.org/marriage_countrydata.php (last visited September 15, 2013).

²² Early Marriage: Child Spouses, 7 UNICEF Innocenti Digest at 6 (2001) (Hereinafter "Child Spouses"); Saranga Jain & Kathleen Kurz, *New Insights on Preventing Child Marriage: A Global Analysis of Factors and Programs* 9 (April 2007).

income immigrant communities in developed countries.²³ Economic distress has even been shown to encourage child marriages in areas that do not traditionally accept the practice.²⁴ Particularly in the Middle East and North Africa, females possess a reduced social status with very limited rights, privileges, and opportunities in comparison to their male counterparts.²⁵ In many areas in the region, young girls are afforded few opportunities for education or economic development outside of the home. Perceived as financial burdens, female children are especially susceptible to economic and sexual exploitation at the hands of their relatives. Orphaned children may be particularly susceptible to early marriage in poverty-stricken areas, as struggling caregivers may view marriage to a financially established older man as an opportunity to better provide for their wards, or at least to relieve their costly caretaking obligations at a profit.²⁶

The financial incentives of child marriage provide impoverished families with the opportunity to relieve these burdens, and even generate income through dowries or other payments in exchange for the young bride. The dowry system that exists in many Middle Eastern and North African cultures further motivates families of young girls to marry off their daughters at an early age, as young girls are seen as more valuable and bring a higher bride price than post-pubescent girls.²⁷ In many agrarian communities, the traditional payment of cattle as a bride price for young girls makes “a daughter one of the only realistic sources of income.”²⁸ Young girls also have become a form of currency for the relief of family debts in times of economic crisis. In Afghanistan, for example, where the declining opium trade has left many in severe debt, farmers will marry off their young daughters as “opium brides” to their creditors as a means of satisfying their debts.²⁹ Because of this income potential, child marriage is justified as a means of survival for both the child and her family.³⁰

²³ Saranga Jain & Kathleen Kurz, *supra* note 22, (“A girl from the poorest household in Senegal, for example, is more than four times as likely to marry before age 18 as a girl in the richest household”).

²⁴ Child Spouses, *supra* note 22 at FN 50.

²⁵ See, e.g., Human Rights Watch, *Steps of the Devil: Denial of Women’s and Girls’ Rights to Sport in Saudi Arabia* (2012) (“The policy [of prohibiting female participation in sports] reflects the predominant conservative view that opening sports to women and girls will lead to immorality: ‘steps of the devil,’ as one prominent religious scholar put it”).

²⁶ Child Spouses, *supra* note 22 at FN 51.

²⁷ *Early Marriage: Whose Right to Choose*, Forum on Marriage and the Rights of Women and Girls at 12 (May 2000); Warner, *supra* note 14 at 234-35.

²⁸ UNICEF, *Sudan – Southern Sudan: Early Marriage Threatens Girls’ Education*, available at http://www.unicef.org/infobycountry/sudan_28206.html (last visited September 15, 2013); Katy Migiro, *Child ‘Drought Brides’ Sold Secretly in Kenya*, Trustlaw, available at <http://www.trust.org/trustlaw/news/feature-child-drought-brides-sold-secretly-in-kenya/> (last visited September 15, 2013).

²⁹ See Monischa Hoonsuwan, *Afghanistan’s Opium Child Brides*, *The Atlantic*, available at <http://www.theatlantic.com/international/archive/2012/02/afghanistans-opium-child-brides/252638/> (last visited September 15, 2013).

³⁰ Child Spouses, *supra* note 22 at 6; Stephanie Sinclair, *Child Marriage: Documenting Sorrow*, Pulitzer Center on Crisis Research, available at <http://www.pulitzercenter.org/articles/child-marriage-afghanistan-yemen-nepal-ethiopia-india> (last visited September 15, 2013) (“One mother in Afghanistan, upset about the engagement of her 8-year-old, exclaimed to me, ‘We are selling our daughters because we don’t have enough food to feed the rest of our children!’”).

2. Discriminatory Cultural and Religious Traditions

Deeply embedded cultural traditions that emphasize bridal purity and promoting early marriage, prevalent in the MENA region, allow the practice to thrive despite national and international condemnation.³¹ Throughout the region, child marriage is accepted, and even encouraged, as a means of protecting the virtue of young girls and preventing the premarital loss of virginity, both voluntary and involuntary.³² Particularly in Islam, “there are strong religious taboos...concerning female sexuality that mandate early marriage as a means of keeping a girl ‘pure’ and preventing her from having sex with men of her choosing.”³³ These same taboos can prevent child brides from leaving their husbands and create real danger for those who do choose to flee:

A child bride’s instinct to run away is often met with horrific consequences. If a child bride leaves her husband’s home, she risks retaliation from both her husband’s family and her birth family. For the bride’s family, having a daughter that has run away from her husband’s home brings shame into the entire family. The bride’s virtue is automatically called into question, and she is labeled as promiscuous and disobedient. Ultimately, the perceived shame for the birth family will become unbearable, until finally, a male in the family will seek to bring back the family’s honor by killing the source of the pain: the young bride.³⁴

Religious and traditional practices also limit the effectiveness of international and domestic legislation aimed at combating child marriages. The acceptance of child marriage under certain interpretations of Shariah has allowed the practice to continue in spite of numerous international human rights instruments as well as domestic legislation prohibiting child marriage. Many MENA countries have made specific reservations to these international conventions where their provisions would conflict with the principles of Islamic law, frequently in the area of child marriage.³⁵ Also, customary marriages under Shariah often go unregistered with the state, allowing underage marriages to circumvent domestic legislation that sets a minimum age for marriage at or near the age of 18.

Cultural perpetuation of child marriage is not limited to the MENA region, or even the developing world. Developed nations, including the United Kingdom, Australia, and the United States, are facing increased incidences of child marriage in immigrant

³¹ Bidgoli, *supra* note 4. (“Without the stamp of approval from religious leaders, such practices would not endure”).

³² See Gorney, *supra* note 3 at 87 (“Forced early marriage thrives to this day in many regions of the world...understood by whole communities as an appropriate way for a young woman to grow up when the alternatives, especially if they carry a risk of her losing her virginity to someone besides her husband, are unacceptable”); Mikhail, *supra* note 12 at 10. (“The honour [sic] attached to early marriage has traditionally been linked to its most central purpose: the assurance of virginity at the time of marriage”).

³³ Warner, *supra* note 14 at 235, 243.

³⁴ Bidgoli, *supra* note 4.

³⁵ See *infra* Part II.

communities within their borders. In these communities, traditional practices persist even many generations after resettlement, and child marriage can remain an accepted custom despite the influences of their new home country.³⁶ Female children of immigrant families that embrace the practice of child marriage are often sent back to their families' countries of origin to be married off or sold as brides to older men.³⁷

3. *Family Feuds, Social Unrest, and Civil War*

The civil and political unrest that plagues many countries in the Middle East and North Africa region creates a fertile environment for many forms of child exploitation, including child marriage.³⁸ In war-torn and politically unstable countries, young girls are often abducted from their homes and forced into marriages with local militia and rebel gang members, where they become victims of sexual abuse and domestic slavery.³⁹ In addition, civil and political conflicts can create the need for familial protection and interfamily alliances that can be accomplished more easily through child marriages.⁴⁰ By marrying their girl children off to occupying military leaders or an elder from a warring clan, families of child brides can forge bonds, broker truces, and otherwise guarantee protection for themselves and their daughters.⁴¹

B. *The Harmful Effects of Early Marriage*

Child marriage, like other forms of child sexual exploitation, has many physical, emotional, and mental implications for the young girls involved. For many young brides, early marriage begets early childbirth, exposing them to a wide range of maternal health complications, emotional stress, and developmental limitations.⁴² The bodies of young girls are physically unprepared for sexual activity and childbirth, greatly increasing the risks of physical harm such as tissue damage, disease, and infection, and complications in pregnancy and delivery, including obstetric fistula, hemorrhage, and obstructed labor.⁴³ Maternal mortality rates are five times higher for girls who give birth before age 15 than for women older than 20.⁴⁴ According to one report by UNICEF, worldwide approximately 70,000 girls aged 15-19 die each year during pregnancy or childbirth.⁴⁵ For babies born to underage girls, the odds of survival are no better – they are 60 percent more likely to die before the age of one than babies

³⁶ Tahirih Justice Center, *supra* note 8 at 1.

³⁷ *Id.* See also Shelia Jeffreys, *The Industrial Vagina: The Political Economy of the Global Sex Trade* (2009) at 56.

³⁸ See Mikhail, *supra* note 12 at 45; Warner, *supra* note 14 at 243.

³⁹ Mikhail, *supra* note 12 at 45.

⁴⁰ See Warner, *supra* note 14 at 243 (“The paramount objective is to end the cycle of revenge or bloodshed by forging new alliances and the delivery of females as brides to men of the opposing side is a critical part of the bargain”).

⁴¹ *Id.*

⁴² Anderson, *supra* note 13 (“‘Young children have babies – your life is ruined, your education is ruined,’ said Kanta Devi, who was 16 when she married in Badakakahera village in India’s Rajasthan state”).

⁴³ On Health Rights, International Women’s Health Coalition at 2 (June 2008).

⁴⁴ Anderson, *supra* note 13.

⁴⁵ UNICEF, *Progress for Children: A Report Card on Maternal Mortality*, No. 7 at 13 (2008).

born to women older than 19.⁴⁶ As children themselves, young mothers are simply physically and emotionally unable to care for their babies properly.⁴⁷ Married girls are also 75 percent more likely than their sexually active, yet unmarried, contemporaries to contract HIV/AIDS and other sexually transmitted diseases, further limiting their ability to care for themselves and their children.⁴⁸

Early marriage removes virtually all of the child brides' opportunities for economic, educational, and social development.⁴⁹ Child brides are rarely allowed to continue their education, but are instead expected to raise children and become domestic servants for their husbands and in-laws.⁵⁰ Isolated from their families and friends, these girls regularly suffer domestic violence and rape at the hands of their husbands, and are more likely than women who marry after age 19 to have violent and abusive relationships with their in-laws.⁵¹ With limited access to education and opportunities to earn independent income, child brides become financially and socially dependent on their husbands.⁵² This dependence can have devastating effects, especially when the child bride is divorced or widowed by her much older husband.⁵³

The consequences of child marriage are not limited to the bride; the effects of the practice also threaten the very regions that allow it to continue. Six of the eight United Nations Millennium Development Goals for developing countries, specifically "the eradication of extreme poverty and hunger; achievement of universal primary education; promotion of gender equality and empowerment of women; reduction in child mortality; improvement in maternal health; and combating HIV/AIDS, malaria and other diseases," cannot be fully realized so long as the practice of child marriage continues.⁵⁴

⁴⁶ Alexandra Hervish and Charlotte Feldman-Jacobs, *Who Speaks For Me? Ending Child Marriage*, Population Reference Bureau Policy Brief (April 2011) at 2, available at <http://www.prb.org/pdf11/ending-child-marriage.pdf> (last visited September 20, 2013).

⁴⁷ See Gorney, *supra* note 3; Anderson, *supra* note 13.

⁴⁸ Hervish, *supra* note 46.

⁴⁹ Anju Malhotra, et al., *Solutions to End Child Marriage: What the Evidence Shows*, International Center for Research on Women at 4 (2011).

⁵⁰ Anderson, *supra* note 13.

⁵¹ *Id.*

⁵² Malhotra, *supra* note 49 at 2.

⁵³ *Id.* at 3.

⁵⁴ Anderson, *supra* note 13; Atif Siddiqui, *Support of Imams Must Be Sought to Prevent Child Marriage, says Tutu*, Kuwait Times (September 2011), available at <http://news.pakistanisinkuwait.com/?p=4419> (last visited September 20, 2013).

II. INTERNATIONAL AND REGIONAL RESPONSES

The international community has taken a number of steps to protect the rights of children, but few human rights instruments offer explicit protection from early marriage.⁵⁵ As a result, these documents have had limited success combating the practice. Several international conventions explicitly highlight the importance of spousal consent to enter into marriage, but fall short of an outright prohibition on child marriage. For example, Article 16(2) of the Universal Declaration of Human Rights provides that “[m]arriages shall be entered into only with the free and full consent of the intending spouses,” but fails to expressly state that children are incapable of giving the requisite consent.⁵⁶ The International Covenant on Economic, Social, and Cultural Rights comes closer to providing explicit protection for child brides, requiring consent to enter into marriage and further providing that “[c]hildren and young persons should be protected from economic and social exploitation.”⁵⁷ However, the Covenant again avoids an outright prohibition on child marriage, and thus forgoes any explicit protection for child brides.

The United Nations’ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, while explicit in its condemnation of child marriage, is drastically hindered by limited ratification, especially within the MENA region. Article 2 of the Convention prohibits the marriage of children under the minimum age for marriage, “except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.”⁵⁸ However, Article 2 gives the States discretion in setting this minimum age for marriage, with no guidelines or recommended age.⁵⁹ The Convention has not been widely adopted. In the MENA region, only Israel, Jordan, Libya, Tunisia, and Yemen have signed or ratified the Convention.⁶⁰

Most surprisingly, the Convention on the Rights of the Child (CRC) is silent on the subject of child marriage. Although Article 36 requires that “States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare,” there is no specific mention anywhere in the CRC of early marriage.⁶¹ This

⁵⁵ According to UNICEF, “Despite the efforts of reformers in the early part of the 20th century, early marriage has received scant attention from the modern women’s rights and children’s rights movements. There has been virtually no attempt to examine the practice as a human rights violation *in itself*.” See Child Spouses, *supra* note 22 at 2-3 (emphasis original).

⁵⁶ Universal Declaration of Human Rights, U.N.G.A Res. 217A (III) U.N. Doc. A/810 (1948), Art. 16(2). The same applies to the International Covenant on Civil and Political Rights, 19 December 1966, 999 U.N.T.S. 171, Art. 23(3) (“No marriage shall be entered into without the free and full consent of the intending spouses”).

⁵⁷ International Covenant on Economic, Social, and Cultural Rights, 993 U.N.T.S. 3, Art. 10(3).

⁵⁸ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 521 U.N.T.S. 231 (Dec. 9, 1964), Art. 2.

⁵⁹ *Id.*

⁶⁰ See *Ratification Table: Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, United Nations Treaty Collection, available at http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVI-3&chapter=16&lang=en#9 (last visited September 20, 2013).

⁶¹ Convention on the Rights of the Child, 20 November 1989, 1577 U.N.T.S. 3, Art. 36.

Article is arguably without teeth when addressing child marriage, particularly when read in conjunction with Article 1, which defines a “child” as “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.”⁶² Many countries, especially in the MENA region, set the minimum age for marriage well below the age of 18, in some countries as low as 13.⁶³ The CRC’s deferential treatment of the age of majority allows States Parties to technically comply with Article 36 without taking steps to prevent early marriage. Recently, however, the Committee on the Rights of the Child has taken steps to correct the inadequacies in the CRC to better protect children from, among other pervasive forms of violence, early and forced marriage. In April 2011, the Committee released General Comment No. 13, which specifically identifies early marriage as a harmful practice tantamount to child prostitution and recommends corrective state action.⁶⁴ General Comment No. 13 also clarifies that the term “children” as used in the CRC does apply to children who have become emancipated through early marriage and are therefore considered to have reached majority under the laws of their home state.⁶⁵

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), on the other hand, is one of few international documents that expressly condemns child marriage. Article 16(2) of CEDAW states that “[t]he betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”⁶⁶ As child marriages go unregistered in many parts of the world to avoid detection and prosecution, the compulsory registration requirement contained in Article 16(2) is an important step toward policing and deterring early marriage.⁶⁷ However, the effectiveness of Article 16(2) in practice is questionable. Simply requiring States Parties to CEDAW to set an official minimum age for marriage, without specifying what an acceptable minimum age would be, offers little real protection for young girls because many MENA countries have incredibly low minimum legal ages for marriage, especially for girls. Thus, these countries can perpetuate the practice of child marriage while still complying with the provisions of CEDAW. And, as many states in the MENA region have made reservations to CEDAW where it conflicts with Islamic law, any protections afforded to child brides are lessened, especially in areas that accept child marriage as a religious tradition.⁶⁸

⁶² Id. at Art. 1.

⁶³ See Roudi-Fahimi, *supra* note 21.

⁶⁴ UN Committee on the Rights of the Child, General Comment 13 ¶¶ 25(d), 29(e), 72(g).

⁶⁵ UN Committee on the Rights of the Child, General Comment 13 at 12, FN 13.

⁶⁶ Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), 18 December 1979, U.N.T.S. 13, Art. 16(2).

⁶⁷ See Warner, *supra* note 14 at 238.

⁶⁸ Algeria: “The government of the People’s Democratic Republic of Algeria declares that it is prepared to apply the provisions of this article on condition that they do not conflict with the provisions of the Algerian Family Code”; Egypt: “The Arab Republic of Egypt is willing to comply with the content of [Article 2], provided that such compliance does not run counter to the Islamic Sharia”; Morocco: “The Government of the Kingdom of Morocco

In the Arab Charter on Human Rights 2004, The League of Arab States established regional legislation that though it does not explicitly protect children from entering into marriage, it does establish that men and women should be of a marriageable age in order to grant their consent to enter into marriage. While the Arab Charter does not address limitations to what constitutes an appropriate marriageable age, it does mandate in Article 33(1) that “no marriage can take place without the full and free consent of both parties.”⁶⁹ Through the Charter, The League of Arab States aligns regional legislation in the Middle East and North Africa with international legislation on spousal consent.

Attempting to initiate more localized provisions to protect the rights of at-risk children, the Arab Charter on Human Rights requires State Parties to serve the interests of children. While the Charter does not prohibit child marriages within the MENA region, Article 33(3) enforces that States Parties “take all appropriate legislative, administrative and judicial provisions to ensure the protection, survival and well-being of children in an atmosphere of freedom and dignity.”⁷⁰ Child marriage is not expressly identified as a threat to the welfare of children, but this legislation does make certain that Arab State members take into consideration the best interests of children in their administrative practices.

The African Charter on the Rights and Welfare of the Child (ACRWC) contains arguably the most explicit protections from child marriage. Article 2 of the ACRWC sets the age of majority at 18 without qualification or allowance for alternative state definitions.⁷¹ Using uniquely strict and explicit language, Article 21(2) identifies early marriage as a harmful social practice and states that “[c]hild marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.”⁷² Nearly all North African states have signed, if not ratified, the ACRWC, and only Egypt has lodged a reservation to the child marriage

expresses its readiness to apply the provisions of [Article 2] provided that [t]hey do not conflict with the provisions of the Islamic Sharia”; Oman: “The Sultanate of Oman makes reservation to [a]ll provisions of the Convention not in accordance with the provisions of the Islamic Sharia and legislation in force in the Sultanate of Oman”; Saudi Arabia: “In case of contradiction between any term of the Convention and norms of Islamic law, the Kingdom of Saudi Arabia is not under obligation to observe the contradictory terms of the Convention”; Syria: “The Government of the Syrian Arab Republic makes reservations to...Article 16....concerning the legal effect of the betrothal and the marriage of a child, inasmuch as this provision is incompatible with the provisions of the Islamic Sharia”; United Arab Emirates: “The United Arab Emirates will abide by the provisions of [Article 16] insofar as they are not in conflict with the principles of Sharia.” See *Declarations, Reservations, Objections and Notifications of Withdrawal of Reservations Relating to the Convention on the Elimination of Discrimination Against Women*, UN Doc. No. CEDAW/SP/2006/2.

⁶⁹ Dr. Mohammed Amin Al-Midani, and Mathilde Cabanettes, “Arab Charter on Human Rights 2004,” *Boston University International Law Journal*, 2006, Art. 33(1).

⁷⁰ *Id.* at Art. 33(3).

⁷¹ African Convention on the Rights and Welfare of the Child, 29 November 1999, OAU Doc. CAB/LEG/24.9/49 (1990), Art. 2.

⁷² *Id.* at Art. 21(2).

prohibition contained in Article 21.⁷³ As the African Union and the Committee of Experts on the Rights and Welfare of the Child are relatively new additions to the international human rights community, it will take some time before the success of the ACRWC can be measured. However, the express identification of child marriage as a harmful practice requiring remediation represents an important first step in combating child marriage in the region.

III. CHILD MARRIAGE BY COUNTRY

The following case studies will profile the practice of child marriage throughout the MENA region. The countries of Afghanistan, Egypt, Iran, and Yemen were chosen to reflect the wide diversity of political regimes, social stability, and economic development in the MENA region, and the differing legal treatment of child marriage.

Afghanistan

There is little official data on child marriage in Afghanistan, but it is estimated that slightly more than half of all Afghan marriages are child marriages.⁷⁴ And, by some estimates, nearly 80 percent of Afghan marriages are either forced or arranged.⁷⁵ Despite official condemnation, the practice of child marriage thrives mostly in rural areas because of extreme poverty, religious fundamentalism, and decades of war and social unrest.⁷⁶ According to the 2010 Mortality Survey conducted by the Afghan Ministry of Public Health, 53 percent of all women aged 25-49 were married by the age of 18 and 21 percent were married by age 15.⁷⁷ Afghanistan has been ranked as the most dangerous country in the world for women because of its high levels of child and forced marriage, female illiteracy, and maternal mortality.⁷⁸ Child brides are routinely subjected to physical abuse and torture at the hands of their in-laws and to “honor killings” by their families should they attempt to flee the marriage.⁷⁹ Girls who attempt to run away to escape an abusive marriage may be accused of *zina*, or running away, by family members and arrested; Afghan judges, prosecutors and police continue to treat running

⁷³ As of November 2010, all member states of the African Union have signed the ACRWC; all but 8 have also ratified. See *Ratifications Table*, ACERWC, available at <http://www.acerwc.org/ratifications> (last visited September 15, 2013).

⁷⁴ See Najibullah, *supra* note 7; S. Bahgam & W. Mukhatari, Study on Child Marriage in Afghanistan, *Medica Mondiale* (2004) at 2.

⁷⁵ Najibullah, *supra* note 7.

⁷⁶ See *Id.*; Andrew Bushell, *Child Marriage in Afghanistan and Pakistan*, *America*, available at http://www.americamagazine.org/content/article.cfm?article_id=1631 (last visited September 15, 2013).

⁷⁷ Afghan Ministry of Public Health et al., “Afghanistan Mortality Survey,” 2010, available at <http://www.measuredhs.com/pubs/pdf/FR248/FR248.pdf> (last visited September 15, 2013), Table 3.11 “Age at first marriage.” p. 52.

⁷⁸ *Factsheet – The World’s Most Dangerous Countries for Women*, Trustlaw, available at <http://www.trust.org/trustlaw/news/factsheet-the-worlds-most-dangerous-countries-for-women> (last visited September 15, 2013).

⁷⁹ See, e.g., Richard Hartley-Parkinson, *Remarkable Recovery of the Tortured Child Bride*, *Daily Mail*, available at <http://www.dailymail.co.uk/news/article-2141732/Tortured-child-bride-Sahur-Gul-speaks-time-husbands-family-jailed-years.html> (last visited September 15, 2013); Najibullah, *supra* note 7; Bushell, *supra* note 76.

away as a crime though there is no legal basis in Afghan statutory law.⁸⁰ One study estimated that more than 2,000 women and girls in Afghanistan attempted suicide each year by setting themselves on fire as a result of early/forced marriage and violence.⁸¹

Afghan civil law expressly prohibits child marriage, but a lack of widespread legal knowledge, poor recordkeeping, and conflicting customary laws severely limit the effectiveness of the official prohibitions. Under the Afghan Civil Code, the minimum age for marriage is 16 for girls, but the male guardian of a girl younger than 16 may contract for her marriage.⁸² However, marriage for children under age 15 is never permissible under the law.⁸³

These age restrictions, while meaningful in theory, provide little protection for young girls in practice. Births are rarely recorded in Afghanistan, making a bride's age difficult to establish with certainty.⁸⁴ The courts generally rely on parental estimates or dental exams to prove a child's age, both of which produce inexact results.⁸⁵ Marriages are also not typically registered with the government, limiting the authorities' knowledge of child marriages and limiting the enforcement of any civil protections child brides may have.⁸⁶

The minimally effective legal protections are further hindered by customary laws of Shariah, which allow for the marriage of children as young as nine under some interpretations.⁸⁷ Upon signing the Convention on the Rights of the Child, the Afghan government reserved the right to make future reservations on all provisions that it may determine to be incompatible with the laws of Islamic Shariah and the local legislation in effect.⁸⁸ Under Shariah as accepted in Afghanistan, a girl cannot be married until she

⁸⁰ Human Rights Watch, *Afghanistan: Ending Child Marriage and Domestic Violence 2009*, available at http://www.hrw.org/sites/default/files/related_material/Afghanistan_brochure_0913_09032013.pdf%20 (last visited September 15, 2013).

⁸¹ United Nations Mission in Afghanistan and the Office of the High Commissioner for Human Rights, "Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan," 2010, available at http://unama.unmissions.org/Portals/UNAMA/Publication/HTP%20REPORT_ENG.pdf (last visited September 15, 2013); "Afghanistan: Attempted suicide by women, girls on the rise?" IRIN, August 6, 2010, available at <http://www.irinnews.org/report/90083/afghanistan-attempted-suicide-by-women-girls-on-the-rise> (last visited September 15, 2013).

⁸² Civil Law of the Republic of Afghanistan, Arts. 70, 71(1).

⁸³ Id. at Art. 71(2).

⁸⁴ Bahgam & Mukhatari, *supra* note 74 at 5.

⁸⁵ Id.

⁸⁶ Id.

⁸⁷ While the Afghani constitution sets the age of marriage at 16 for girls, it also provides for the recognition of Shariah, which allows for marriage upon reaching the age of puberty. Social Institutions & Gender Index, *Afghanistan*, <http://genderindex.org/country/afghanistan> (last visited September 15, 2013). See also Frank Crimi, *Iranian Child Brides Get Younger – And More Numerous*, Front Page, available at <http://www.frontpagemag.com/2012/frank-crimi/iranian-child-brides-get-younger-and-more-numerous> (last visited September 15, 2013) (statement of Mohammad Ali Isfenani) ("We must regard nine as being the appropriate age for a girl to have reached puberty and qualified to get married. To do otherwise would be to contradict and challenge Islamic Sharia law").

⁸⁸ *Declarations and Reservations*, Convention on the Rights of the Child, 1577 UNTS 3, available at http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-11&chapter=4&lang=en (last visited September 15, 2013).

attains adulthood, which is widely accepted to coincide with menstruation.⁸⁹ Different sects of Islam set this age somewhere between nine and 17.⁹⁰ In addition, girls can be married off at the discretion of their male guardians at any time, even below the established age of adulthood and without her consent.⁹¹

Egypt

The social and political instability that has rocked Egypt in recent years has led to a rise in child marriages and the development of an international child bride market. Seventeen percent of Egyptian marriages involve brides aged 18 or below, with two percent involving children under age 15.⁹² The Director of the Child Anti-Trafficking Unit at the National Council for Childhood and Motherhood in Egypt reported that some girls have been married as many as 60 times by the time they turn 18 years of age and most of these marriages last only a few days or weeks.⁹³ According to a report by The Protection Project, wealthy Saudi businessmen regularly travel to Egypt to purchase young Egyptian brides for as little as 500 dollars.⁹⁴

Temporary and transactional marriages, such as *zawaj al-muta'a*⁹⁵ (pleasure marriage for as little as one day), *zawaj al-safka*⁹⁶ (a contract marriage based on benefits and interests) and *zawaj al-misyar*⁹⁷ (visitor marriage or summer marriage that last only a few months), that provide a means for circumventing the restrictions of Islamic law on pre-marital sex are on the rise in Egypt. Such short-term marriages are often used as a guise for human trafficking and child prostitution.⁹⁸ Marriage brokers often facilitate these temporary marriages, receiving a commission for convincing the girl's family of the benefits of the arrangement.⁹⁹

Within Egypt, the link between child marriage and physical abuse is empirically evident.¹⁰⁰ Nearly 30 percent of married children fall victim to violence at the hands of their husbands, and 41 percent report being beaten during pregnancy.¹⁰¹

⁸⁹ Bahgam & Mukhatari, *supra* note 74 at 5.

⁹⁰ Id.

⁹¹ Id.

⁹² See *At a Glance: Egypt – Statistics*, UNICEF, available at http://www.unicef.org/infobycountry/egypt_statistics.html (last visited September 15, 2013).

⁹³ Cam McGrath, *Underage Girls are Egypt's Summer Rentals*, Inter Press News Service Agency, August 5, 2013, available at <http://www.ipsnews.net/2013/08/underage-girls-are-egypts-summer-rentals/> (last visited 24 September 2013).

⁹⁴ A Human Rights Report on Trafficking in Persons, Especially Women and Children, Protection Project 2010, available at <http://www.protectionproject.org/wp-content/uploads/2010/09/Egypt.pdf> (last visited September 15, 2013).

⁹⁵ McGrath, *supra* note 93.

⁹⁶ Sarah El Masry, *A Business Deal Called Marriage*, Daily News Egypt, December 25, 2012, available at <http://www.dailynewsegypt.com/2012/12/25/a-business-deal-called-marriage/> (last visited September 24, 2013).

⁹⁷ McGrath, *supra* note 93.

⁹⁸ Id.

⁹⁹ S. El Masry, *supra* note 96.

¹⁰⁰ Bushell, *supra* note 76.

¹⁰¹ Id.

Egypt has taken few, if any, meaningful steps toward addressing its child marriage problem. Egypt is the only country in the African Union to have lodged a reservation against the child marriage prohibition contained in the African Charter on the Rights and Welfare of the Child.¹⁰² And, although the Child Law of 2008 sets the legal age for marriage at 18 for both boys and girls, in 2012 the Egyptian Parliament began drafting legislation to lower the marriage age to 14, a move that many observers consider a giant step backward in the fight to end child marriage.¹⁰³

Iran

Although there are few reliable statistics on point, child marriage is a common traditional and state sanctioned practice in Iran. Official statistics show that nearly one million children are married and 85 percent of these are girls.¹⁰⁴ In the recent past, the United Nations has censured Iran for “pervasive gender inequality and violence against women,” including the widespread acceptance of child marriage.¹⁰⁵ From March through June 2012, regime statistics reported that 1,805 children under the age of 15 were married legally and with the permission of the court; from March 2011 to March 2012 that number was 7,440. In 2010, 4.9 percent of all marriages in Iran were child marriages.¹⁰⁶

Under Iranian law, girls may marry at age 13 and boys at 15, though children under the age of ten may marry with the approval of their parents and the court.¹⁰⁷ In the more rural, traditional areas of the country, the requirement of court approval for child marriage provides little protection, as conservative judges generally tend to respect the decisions of parents to marry off their young daughters.¹⁰⁸

Like Afghanistan, Iran reserved the right not to implement provisions of the Convention on the Rights of the Child that conflict with its interpretation of Shariah. Under the popular interpretation of Shariah in Iran, the definition of a child is far more fluid than under the CRC, and varies from case to case.¹⁰⁹ Shariah allows a girl child to marry upon reaching the age of eight years and nine months, the age at which she is presumed to be

¹⁰² See ACRWC Ratifications Table, African Union, available at <http://www.au.int/pages/acerwc/pages/acerwc-ratifications-table> (“Egypt: Does not consider itself bound by Article 21(2) regarding child marriage”) (last visited September 15, 2013).

¹⁰³ See *Egypt: New Child Marriage Laws Are a Step Backwards*, AlertNet, available at <http://www.trust.org/alertnet/news/egypt-new-child-marriage-laws-are-a-step-backwards> (last visited September 15, 2013).

¹⁰⁴ Y. Mansharof and A. Savyon, *Gender and Society In Iran – Part 1: The Debate Over Child Marriage, Including Child Brides Wed To Adult Men*, The Middle East Media Research Institute, April 24, 2013, available at <http://www.memri.org/report/en/0/0/0/0/0/7147.htm> (last visited September 25, 2013).

¹⁰⁵ Bidgoli, *supra* note 4.

¹⁰⁶ Y. Mansharof and A. Savyon, *supra* note 104.

¹⁰⁷ 850,000 Young Iranian Girls, as Young as 9, Married, available at <http://www.wnd.com/2013/04/850000-young-iranian-girls-as-young-as-9-married/> (last visited September 25, 2013).

¹⁰⁸ *Id.*

¹⁰⁹ See Soraya Tremayne, *Modernity and Early Marriage in Iran: A View from Within*, 2 J. of Middle East Women’s Studies 65, 71 (2006).

capable of reproducing.¹¹⁰ Iranian Shariah also recognizes *muta'a* marriage, or “marriage for minutes,” a temporary arrangement allowing older men to “marry” young girls by performing a religious ritual that takes less than a minute to complete.¹¹¹ While much of the Islamic world has abandoned the practice of *muta'a* marriage, the Iranian Shia regime both accepts and vigorously promotes temporary marriage.¹¹² In practice, *muta'a* marriage is an attempt to legitimize child prostitution; it is not uncommon for *muta'a* marriages to last for a period of hours or less.¹¹³

Yemen

Yemen has the highest rate of child marriage in the MENA region – 52 percent of Yemeni marriages occur before the bride turns 18.¹¹⁴ It has the fourteenth highest rate in the world and is the only MENA country currently identified as a child marriage “hotspot.”¹¹⁵ There are a variety of factors that account for the country’s high rate of child marriage. Yemen is the poorest country in the Middle East and is currently besieged by widespread civil unrest.¹¹⁶ Nearly 80 percent of the population lives in rural areas of the country. Yemen has an extremely conservative and patriarchal society, and legal discrimination against women and girls is rampant in the country’s civil code.¹¹⁷ Illiteracy rates in Yemen are among the highest in the MENA region, especially among women. Only 67 percent of Yemeni girls under age 24 are literate, and the most recently reported secondary school enrollment rate for girls was 26 percent.¹¹⁸

There are almost no legal protections against child marriage in Yemeni law. In 1999, the Yemeni Parliament abolished the provision in Article 15 of the country’s Personal Status Law that set a minimum age for marriage. Eight years later, a majority of the Parliament voted to set the marriage age at 17, but the strong conservative minority was able to stall the law’s adoption and the recent civil uprising caused the effort to be shelved indefinitely.¹¹⁹ Absent a legally established minimum age, girls as young as eight are regularly married off to much older men, often close male relatives.¹²⁰ In recognition of the continuing problem of child marriage in Yemen, in September 2013 the Yemeni Minister of Human Rights, Ms. Huriya Mashhoor, announced that she will seek to

¹¹⁰ See Id.

¹¹¹ See Id. at 72.

¹¹² See Ziauddin Sardar, *Will You Marry Me – Temporarily*, New Statesman, available at <http://www.newstatesman.com/asia/2008/02/temporary-marriage-muta-iran> (last visited September 15, 2013).

¹¹³ Salah Uddin Shoaib Choudhury, *Marriage for Minutes Forces Children into Prostitution in Iran*, Sri Lanka Guardian, August 6, 2010, available at <http://www.srilankaguardian.org/2010/08/marriage-for-minutes-forces-children.html> (last visited September 15, 2013).

¹¹⁴ “How Come You Allow Little Girls to Get Married?” *Child Marriage in Yemen*, Human Rights Watch 2011 at 1 (Hereinafter “Child Marriage in Yemen”), available at http://www.hrw.org/sites/default/files/reports/yemen1211ForUpload_0.pdf (last visited September 20, 2013).

¹¹⁵ *Child Marriage Around the World* 2006, International Center for Research on Women, available at <http://www.icrw.org/publications/child-marriage-factsheets> (last visited September 15, 2013).

¹¹⁶ Child Marriage in Yemen, *supra* note 114 at 3.

¹¹⁷ Id. at 8.

¹¹⁸ Id. at 12-13.

¹¹⁹ Id.

¹²⁰ Id. at 16.

revive the Bill that has lain dormant since 2009 in order to raise the minimum age of marriage to 18, following the recent death of an eight year old Yemeni girl allegedly due to severe sexual injuries on the first night of her marriage.¹²¹

IV. RECOMMENDATIONS

As these country profiles illustrate, child marriage is not limited to any particular country, level of economic development, or interpretation of religious canon. There remains much to be done to combat child marriage throughout the MENA region. All countries in the region can benefit from requiring registration of all births and marriages, setting the minimum age for both legal and customary marriages at 18 for both sexes, raising community awareness of the harmful effects of child marriage, improving the availability of education to female children, eliminating the practice of temporary marriages, enacting domestic legislation that specifically prohibits child marriage, and enforcing the law through meaningful penalties.

A. Require Official Registration of All Births and Marriages

Limited registration of births and marriages in the MENA region makes the enforcement of existing child marriage laws nearly impossible. Without reliable birth records, it is difficult to determine a bride's age with any certainty. Instead, courts rely on parental estimates, which can be inaccurate at best and intentional, self-serving lies at worst. Allowing marriages to go unregistered permits child marriages to slip between the regulatory cracks, severely limiting the effectiveness of any marriage age restrictions. Faulty marriage records also prevent the collection of accurate data on child marriage in the region. By requiring all marriages and births to be officially recorded under penalty of law, such as is done in Qatar and the United Arab Emirates, countries in the MENA region can ensure enforcement of their minimum age laws and collect reliable statistics to track the successes and failures of various anti-child marriage campaigns.

B. Set the Legal Age for Marriage at Eighteen

As previously discussed, the effectiveness of most international instruments on child rights and early marriage is severely limited by their deference to state and customary minimum marriage age laws. The minimum age for marriage in the MENA region ranges from 21 for Algerian males down to 13 for females in Iran.¹²² In rural areas that recognize only customary law, girls as young as eight may be married. MENA countries should amend their marriage laws to set the minimum age for marriage at 18 for both sexes. Similarly, these countries should remove any reservations to international conventions concerning the definition of the term "child" or minimum marital ages.

¹²¹ Yemeni Minister to Seek Child Marriage Ban, Aljazeera.com, September 14, 2013, available at <http://www.aljazeera.com/news/middleeast/2013/09/201391413182157493.html> (last visited September 15, 2013).

¹²² Roudi-Fahimi, *supra* note 21.

C. Prohibit Temporary Marriages

The widespread traditional practice of temporary marriage allowed in many countries throughout the MENA region is extremely harmful to child brides and a major contributing factor to the resilience of child marriage in the region. The practice is most often a front for sex trafficking and child prostitution, and allows men who marry underage girls to delay registration of the marriage until the bride reaches the age of majority. The continued recognition of temporary marriages would undermine any efforts to raise the marital age, mandate registration of marriages, and limit the spread of sexually transmitted infections, and should therefore be eliminated.

D. Raise Community Awareness and Provide Resources

Child marriage persists in many communities in large part because of a lack of awareness of the negative effects of the practice. It is critical that efforts be undertaken to mobilize communities against child marriage by providing education about its negative physical, psychological and social impacts. Advocacy efforts must promote the empowerment of children, girls in particular, as a social norm. Successful community programs should provide financial incentives to families, develop resources such as hotlines and helplines for victims, and create shelters and other safe places for girls. The provision of training and education for law enforcement officers, prosecutors, judges, religious and community leaders, and other key actors on the harms caused by child marriage will further help to ensure that the practice does not continue.

E. Improve Access to Schools and Increase Compulsory Education

It is widely accepted that education is the most effective preventative measure against child marriage.¹²³ Countries in the region with the highest rates of primary school enrollment and literacy among girl children also report the lowest rates of child marriage. For example, Algeria reports a 94 percent enrollment rate for girl children in primary school and an 89 percent literacy rate for girls ages 15 to 24.¹²⁴ Algeria also has the lowest rate of child marriage, reporting that only 2 percent of all marriages involve a bride under the age of 18.¹²⁵ Conversely, only 72 percent of girl children in Yemen are literate and only 66 percent regularly attend primary school.¹²⁶ Yemen has the highest child marriage rate in the region, with 32 percent of all marriages involving underage brides.¹²⁷ Most countries in the region require, on average, nine years of compulsory education, three years less than in most developed countries.¹²⁸ Only Qatar requires 12 years of education, and Saudi Arabia requires as few as six years.¹²⁹

¹²³ Roudi-Fahimi, *supra* note 21.

¹²⁴ *At a Glance: Algeria - Statistics*, UNICEF, available at http://www.unicef.org/infobycountry/algeria_statistics.html (last visited September 15, 2013).

¹²⁵ *Id.*

¹²⁶ *At a Glance: Yemen – Statistics*, UNICEF, available at http://www.unicef.org/infobycountry/yemen_statistics.html (last visited September 15, 2013).

¹²⁷ *Id.*

¹²⁸ MENA: Education Sector Report, Al Masah Capital Limited (2011), available at http://almasahcapital.com/uploads/report/pdf/report_21.pdf (last visited September 20, 2013).

¹²⁹ *Id.* at 6.

Countries in the MENA region can most effectively combat child marriage by improving girls' access to education and increasing the period of compulsory education through high school. Ensuring education for female children through age 18 will limit the amount of time available for domestic service within the marital home, and therefore make them less available and less appealing to serve as child brides. Furthermore, educating young girls and providing them with professional skills will improve their viability in the job market and thereby provide economic and social support for themselves and their families, in addition to lessening the economic motivation for the sale of young brides.

F. Take Legislative Action

All countries can contribute to the fight against child marriage by ratifying all relevant international law and adopting domestic legislation condemning the practice and protecting the rights of children. Such legislation has been adopted in the United Kingdom¹³⁰, and is currently being explored by the United States and Australia.¹³¹ Effective legislation will establish a special law enforcement unit specifically trained to handle the complex cultural and familial issues surrounding child marriage, much like the United Kingdom's Forced Marriage Unit.¹³² It will also utilize existing legal mechanisms, such as civil protection orders and injunctions, to prevent child marriages, protect victims from trafficking, and provide support services for at-risk children to prevent future attempts at early marriage. Legislation should also recognize the importance of international and nongovernmental organizations in the prevention of child bride trafficking and recovery of trafficked brides, and should provide sustainable funding to such organizations.

Finally, legislation should prioritize the fight against child marriage throughout the world on national foreign policy agendas, not just on the international stage. By adopting such legislation, countries within the MENA region and around the world can establish a targeted, domestic framework for the prosecution of those who arrange and participate in child marriage and the protection of victims, while providing a viable foundation for promotion of an international agenda to end the practice completely.

¹³⁰ United Kingdom Forced Marriage (Civil Protection) Act, 2007, c. 20 (Eng.), available at <http://www.legislation.gov.uk/ukpga/2007/20> (last visited September 15, 2013).

¹³¹ The International Protecting Girls by Preventing Child Marriage Act of 2011, S. 414, 112th Cong. (2011), has been passed repeatedly by the United States Senate, but has yet to be passed by the House of Representatives, available at <http://www.govtrack.us/congress/bills/112/s414/text>.

¹³² Foreign & Commonwealth Office, *Forced Marriage*, available at <http://www.fco.gov.uk/en/travel-and-living-abroad/when-things-go-wrong/forced-marriage/> (last visited September 15, 2013).

The examples presented here are only some of the initiatives undertaken around the world to address child marriage, but they provide a sampling of approaches that may benefit other countries.

Legislative Action

It is important to develop strong laws to prevent forced and early marriages, and to provide protections for girls who are in, or at risk of, a forced marriage. The Penal Code of Norway punishes forced marriage as a felony against liberty with the penalty of imprisonment for a term up to six years.¹³³ The Forced Marriage Act of 2011 of Scotland criminalizes forced marriage and allows the courts to issue protection orders tailored to the needs of the victim – it is a criminal offense to breach such protection orders.¹³⁴ The Criminal Code of Germany considers forced marriage as an especially serious case of coercion punishable by imprisonment for six months to five years.¹³⁵ In 2011, Pakistan passed the Prevention of Anti-Women Practices Bill which makes it unlawful to compel, arrange or facilitate a women’s marriage, the violation of which is punishable with imprisonment of three to seven years and a possible fine.¹³⁶ The United Kingdom enacted the Forced Marriage Civil Protection Act in 2007, which does not specifically criminalize the practice of forced marriage, but provides for civil remedies and protections.¹³⁷ The law created the Forced Marriage Unit (FMU) to provide comprehensive guidelines for social workers, educators, police, and health workers on providing services in forced marriage cases.

Community Awareness and Resources

Developing a strategic awareness-raising campaign is crucial as a means of reaching the local populations and changing the view of child and forced marriage as socially acceptable. The UN Population Fund (UNFPA) launched an innovative ‘transmedia campaign’ in October 2012 on the International Day of the Girl Child called *Too Young to Wed*, seeking to raise awareness of child marriage. The traveling exhibition includes documentary photography and videos of child brides from around the world.¹³⁸ In Afghanistan, the UNFPA, along with the Ministry of Women’s Affairs, also helped to launch an awareness raising initiative called, “The Teacher of Malalai Adventures: Mina’s Early Marriage”, an animated depiction of the negative consequences of child

¹³³ Penal Code of Norway, Sec. 222(2) 2003.

¹³⁴ Scotland Forced Marriage Act of 2011.

¹³⁵ Criminal Code of Germany promulgated 13 November 1998, Federal Law Gazette [Bundesgesetzblatt] I p. 3322, last Amended by Article 3 of the Law of 2 October 2009, Federal Law Gazette I p. 3214, Section 240 (4).

¹³⁶ Prevention of Anti-Women Practices Bill, Act No, XXVI of 2011, amended the Pakistan Penal Code 1860, http://www.na.gov.pk/uploads/documents/1329729400_262.pdf.

¹³⁷ Forced Marriage (Civil Protection) Act 2007, United Kingdom, <http://www.justice.gov.uk/downloads/protecting-the-vulnerable/forced-marriage/forced-marriage.pdf>.

¹³⁸ Too Young to Wed, a traveling exhibition funded by the UN Population Fund, <http://tooyoungtowed.org/#/unexhibit>.

marriage on a 13-year-old girl who is forced to drop out of school because of an arranged marriage.¹³⁹

The Tahirih Justice Center's Forced Marriage Initiative in the U.S. is working to develop a national response to forced marriage in immigrant communities in the U.S.¹⁴⁰ Similar movements are happening around the world – for example the Foreign and Commonwealth Office's Forced Marriage Unit (FMU) in the U.K. is raising awareness about forced marriage across the public sector¹⁴¹; in Australia the National Children's and Youth Law Centre have drafted Best Practice Response Guidelines for Ending Child Marriage¹⁴²; and the Girls Not Brides Global Partnership to End Child Marriage is working to build a coalition of more than 250 partners around the world to take the issue at all levels¹⁴³.

Community-based programs that support and empower girls and provide resources to protect them are crucial. In Egypt, the "Ishraq" program launched in 2001 is making an impact on early marriage by empowering girls through literacy, life skills and sports and conducting community outreach. The project is run by Save the Children, the Population Council and the Egyptian government's National Council for Youth.¹⁴⁴ The MADRE Network supports the Nanyori Shelter Network in Kenya that maintains a group of six shelters for hundreds of girls who have escaped forced early marriage and female genital mutilation – the shelters provide a safe haven for girls so that they can pursue their education while receiving emotional support and mentorship.¹⁴⁵ Resources that make services and help available and accessible to girls who fear forced marriage, or who have been married against their will, are needed; for example, helplines for victims like those run by JAN Trust¹⁴⁶ and Karma Nirvana¹⁴⁷ in London and hotlines for forced marriage and honor-based violence such as those in Norway run by the Oslo Red

¹³⁹ UNFPA Afghanistan Presents "Teacher Malalai Adventures: Mina's Early Marriage", December 27, 2011, *available at* http://countryoffice.unfpa.org/afghanistan/2011/12/27/4389/unfpa_afghanistan_presents_teacher_malalai_adventures_mina_s_early_marriage/ (last visited September 27, 2013).

¹⁴⁰ Tahirih Justice Center, Forced Marriage Initiative, <http://www.tahirih.org/advocacy/policy-areas/forced-marriage-initiative/>.

¹⁴¹ Foreign & Commonwealth Office/Home Office, Forced Marriage Unit, United Kingdom, <https://www.gov.uk/forced-marriage>.

¹⁴² End Forced Child Marriage: Best Practice Response Guidelines Australia (draft), National Children's and Youth Law Centre, January 2013, *available at* http://www.equalityrightsalliance.org.au/sites/equalityrightsalliance.org.au/files/docs/ncylc_best_practice_response_guidelines_forced_child_marriage_version_1_2.pdf.

¹⁴³ Girls Not Brides: Global Partnership to End Child Marriage, <http://www.girlsnotbrides.org/>

¹⁴⁴ Ishraq: Bringing Marginalized Rural Girls into Safe Learning Spaces in Upper Egypt, Population Council, *available at* http://www.popcouncil.org/projects/40_IshraqSafeSpacesGirls.asp (last visited September 27, 2013).

¹⁴⁵ MADRE, Shelters for Kenyan Girls, <http://www.madre.org/index/meet-madre-1/our-projects-20/kenya-shelters-for-kenyan-girls-295.html>.

¹⁴⁶ Against Forced Marriages, JAN Trust, <http://againstforcedmarriages.org/helpline>.

¹⁴⁷ Honour Network Helpline, Karma Nirvana, <http://www.karmanirvana.org.uk/honour-network>.

Cross¹⁴⁸, as well as the MiRA Resource Centre that provides emergency assistance and guidance for girls.¹⁴⁹

Successful interventions often provide economic incentives to the families in order to delay the early marriage. One example of this type of program is the *Apni Beti Apna Dhan* program in India, which provides girls and their families with cash incentives that are conditioned upon the daughters remaining unmarried until age 18.¹⁵⁰ PLAN International approaches the issue of child marriage from a holistic perspective addressing poverty, supporting education, working to end child labor and early marriage and promoting the rights of girls globally.¹⁵¹

VI. CONCLUSION

If the current trend continues, 140 million girls will become child brides by the year 2020.¹⁵² Of these 140 million girls, 50 million will be under the age of 15.¹⁵³ It is currently estimated that 14.2 million girls enter into child marriage each year.¹⁵⁴ Although not a commonly identified “hot spot” of child marriage, the Middle East and North Africa region is widely affected by the practice. High poverty levels, social and political instability, and the widespread influence of fundamentalist religious practices have all made the region a fertile breeding ground for child exploitation in the form of early marriage.

The region faces an uphill struggle in the fight against child marriage, especially in light of recent political uprisings in a number of MENA countries. The impact on the individuals and local communities that practice/allow child marriage are far-reaching. By undertaking several recommended actions, including requiring birth and marriage registration; increasing the legal age of marriage to 18; improving awareness of the negative impacts of the practice; improving access to education for girls; prohibiting temporary marriages; and taking legislative action to fight child marriage, countries can begin to address the root of the practice and take meaningful steps toward eliminating it all together.

As we look to the future, the growing international awareness of the issue of child and early marriage is positive and necessary. On 27 September 2013, the UN Human Rights

¹⁴⁸ Forced Marriage Hotline, Oslo Red Cross, <http://www.udi.no/Norwegian-Directorate-of-Immigration/Central-topics/Forced-marriage/>.

¹⁴⁹ The MiRA Resource Centre, Forced Marriages, <http://www.mirasenteret.no/en/forced-marriages> (last visited September 27, 2013).

¹⁵⁰ Malhotra, *supra* note 49 at 6.

¹⁵¹ Because I am a Girl Campaign to Protect Girl's Rights, PLAN International, <http://www.planusa.org/content2964011>.

¹⁵² Girls Not Brides: The US Partnership to End Child Marriage, *Ending Child Marriage: What Will It Take?*, August 2013, available at <http://www.girlsnotbrides.org/wp-content/uploads/2013/08/Girls-Not-Brides-USA-Ending-Child-Marriage-What-Will-it-Take-FINAL.pdf> (last visited September 25, 2013).

¹⁵³ Marrying Too Young, *supra* note 10.

¹⁵⁴ See *Id.*; Child Marriage Facts and Figures, International Center for Research on Women, available at <http://www.icrw.org/child-marriage-facts-and-figures> (last visited September 25, 2013).

Council adopted the first-ever resolution on child marriage, with the support of more than 90 countries, recognizing child marriage as a human rights violation.¹⁵⁵ Movement of this kind shows willingness and commitment on behalf of the governments. Now it is time for that commitment to turn into action, with the goal of fully eliminating the practice of child and forced marriage around the globe.

¹⁵⁵ Girls Not Brides, *States Adopt First Ever Resolution on Child, Early and Forced Marriage at Human Rights Council*, September 27, 2013, available at: <http://www.girlsnotbrides.org/states-adopt-first-ever-resolution-on-child-marriage-at-human-rights-council/> (last visited September 27, 2013).



International Centre
FOR MISSING & EXPLOITED CHILDREN

1700 Diagonal Road, Suite 625 ♦ Alexandria, Virginia 22314-2844 ♦ USA
Tel +1 703 837 6313 ♦ Fax +1 703 549 4504 ♦ www.icmec.org