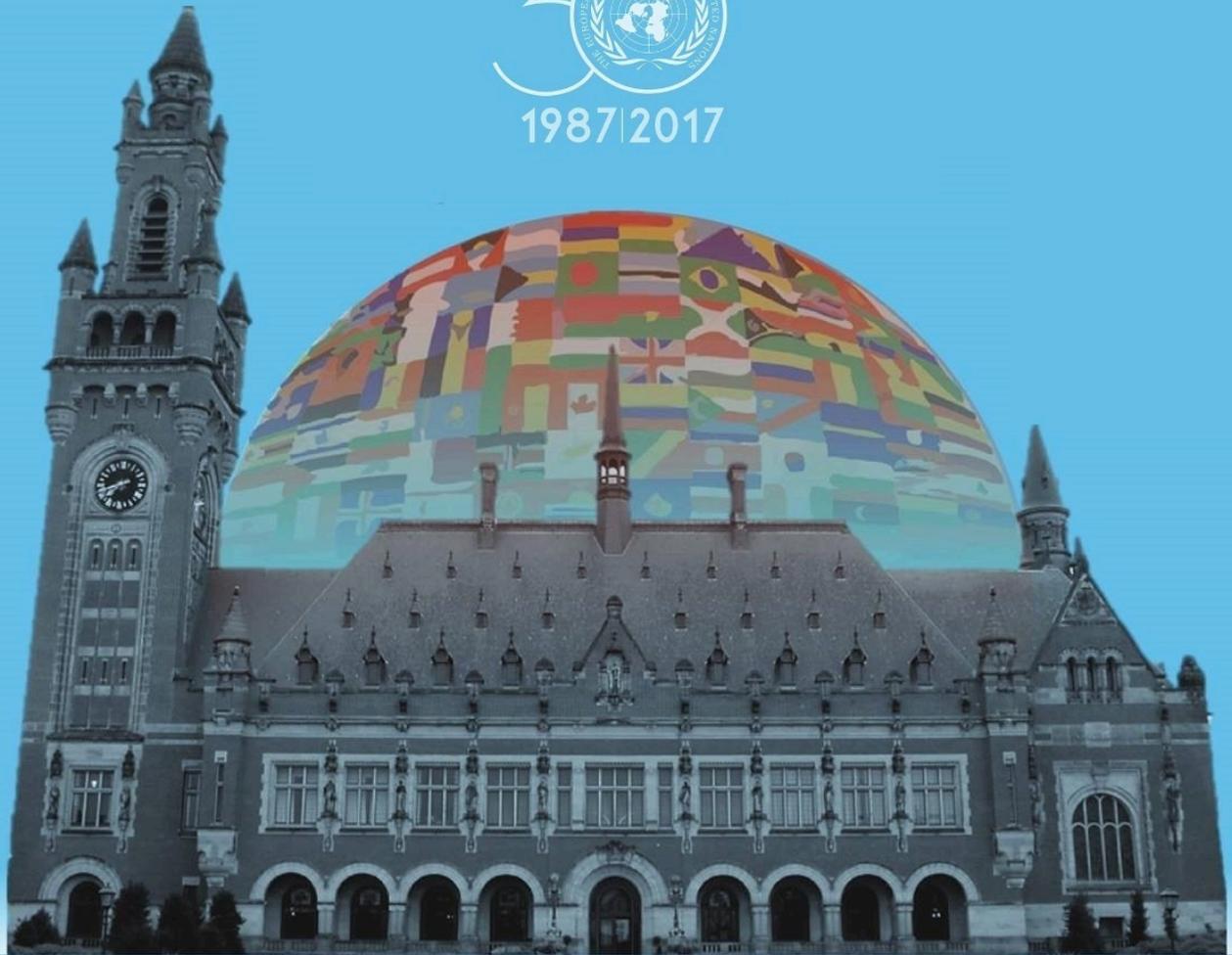


# TEIMUN

THE EUROPEAN INTERNATIONAL MODEL UNITED NATIONS

## HUMAN RIGHTS COUNCIL

TRADITIONAL PRACTICES AFFECTING WOMEN



## **Welcome Letter**

Esteemed delegates,

The European International Model United Nations (TEIMUN) will soon be underway, and we would like to welcome all of you to The Hague. No matter what your level of Model UN experience is, we hope you leave TEIMUN as a more experienced delegate with a better understanding of the United Nations. Prepare yourself to make new friends from all over the world and leave with stories to share.

Within the Human Rights Council, we will be discussing two topics: harmful traditional practices affecting women and statelessness. It is our sincere hope that you will depart from TEIMUN 2017 with a better understanding of, and excitement for, international affairs, as well as memories of thought-provoking debates. It is our promise to you, the delegates, that we will work tirelessly to meet your expectations of substantive excellence.

Any questions or comments should be directed towards us. Feel free to contact us at anytime throughout the week. We look forward to meeting you!

Your chairs,

Nariswari Khairanisa Nurjaman & Sandra Bucha  
*HRC@teimun.org*

## Introduction

Traditional practices reflect the values and beliefs held by certain cultures. While many of these traditions celebrate the unique differences in culture, some traditional practices inflict physical and mental harm on individuals and/or groups. Underpinning traditional practices are social or cultural motivations. However, some practices prove to be harmful to the parties involved and due to the vague and remote origins of the various practices and their sensitive cultural importance, they are often difficult to change or eliminate.

Harmful traditional practices affecting women include, but are not limited to, female genital mutilation (FGM), forced feeding of women, early marriage, traditional birth practices, son preference and its implications for the status of the girl child, female infanticide, early pregnancy, dowry price, virginity tests, and foot binding. These practices are often carried out before the child has reached physical or emotional maturity. While everyone has cultural rights, the HRC must carefully weigh the right to practice one's culture against protection from harmful practices, deciding the degree to which traditional practices have a negative impact on the lives of women, and whether protection from these practices can be incorporated into cultural rights.

## Common Harmful Traditional Practices Affecting Women

Cultural practices and traditions are synonymous with human history. However, it was not until the 1950's that the United Nations' specialized agencies considered the question of harmful traditional practices affecting the health of women and children.<sup>1</sup>

Female genital mutilation (FGM) is one of the most severe traditional practices practiced around the world. The UN defines FGM as anything which includes "altering or injuring the female genitalia for non-medical reasons."<sup>2</sup> According to statistics from UNICEF "more than 200 million girls and women alive today have been cut in 30 countries in Africa, the Middle East and Asia."<sup>3</sup> This particular practice is thus not isolated to specific areas. FGM is common and often

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<sup>1</sup> OHCHR, "Fact Sheet 23," accessed on December 9th. 2016, <http://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>

<sup>2</sup> "FGM, Genital Mutilation, Excision, Health, Human Rights, Women, Girls, UNFPA." *United Nations*. United Nations, n.d. Web. 28 May 2017. <<http://www.un.org/en/events/femalegenitalmutilationday/>>.

<sup>3</sup> "Female Genital Mutilation." *World Health Organization*. World Health Organization, n.d. Web. 28 May 2017. <<http://www.who.int/mediacentre/factsheets/fs241/en/>>. Fried, Daisy. "UNICEF's Data Work on FGM." *Poetry* 201.5 (2013): 577-79. *Unicef.org*. Web. 28 May 2017. <[https://www.unicef.org/media/files/FGMC\\_2016\\_brochure\\_final\\_UNICEF\\_SPREAD.pdf](https://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf)>.

undertaken as part of a variety of beliefs and/or customs. Hence, there is no one solution to solving the problem of stopping FGM as each community practice is based upon a different set of customs and beliefs. As a practice, FGM is an extension of gender inequalities and serves as a means to represent "society's control over women."<sup>4</sup> Both women and men in communities where the practice is prevalent often support its continuation as opposing the practice may lead to condemnation, distrust, and being ostracized by the rest of the community. Therefore if the problem of FGM is to be tackled, education about the harmful impact may not be enough. On the contrary, there must also be support systems for those within these communities who wish to oppose the practice so that they are not punished for their opposition.

Another common harmful practice that occurs around the world is to be found in early marriage. Although 18 is largely stated as the age of maturity, one in three girls will be married before the age of 18, and one in nine before the age of 15 in developing states.<sup>5</sup> Daughters can be viewed as an economic burden, and having them marry at a young age will help a family avoid the cost of an education and sometimes provide them with dowry. Marrying at a younger age also maximizes the child-bearing potential of the girl. However, the negative aspects of marrying before the age of maturity outweigh any purported benefits. Early marriages drastically alter the course of a girl's life, and have negative health implications. Having children is often the next step after marriage, and pregnancy complications are the leading cause of death among girls aged 15-19 years old.<sup>6</sup> Marrying young also limits the educational opportunities offered to girls, and this will decrease their economic independence and ability to earn a wage in the future.<sup>7</sup>

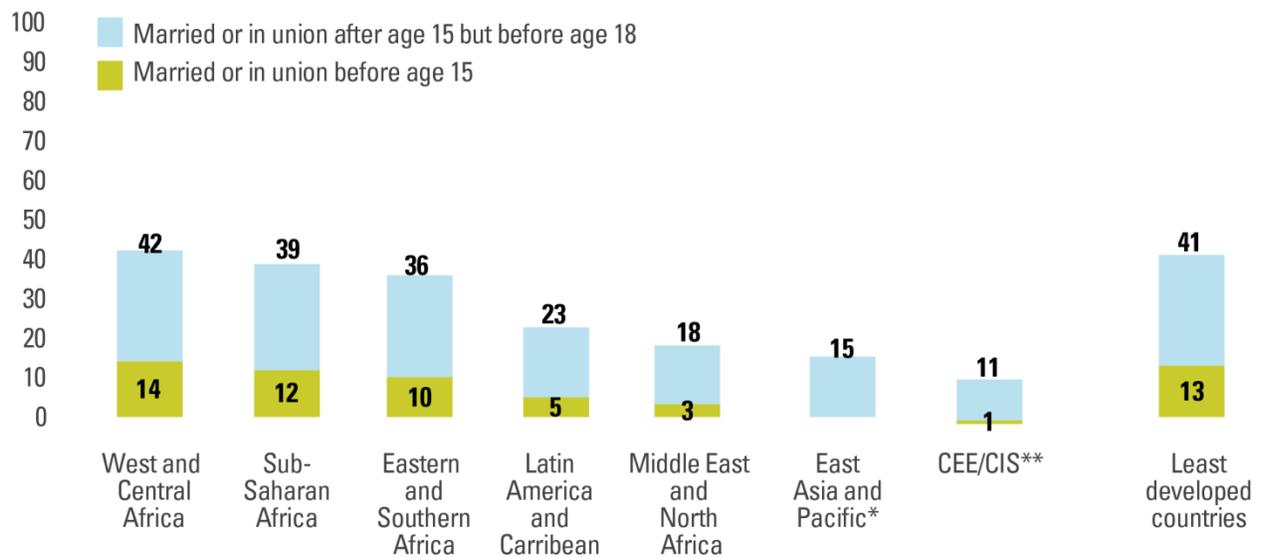
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<sup>4</sup> UNAIDS, OHCHR, UNIFEM, UNICEF, WHO, UNDP, UNECA, UNESCO, UNFPA, and UNHCR. "Eliminating Female Genital Mutilation." *SpringerReference* (n.d.): n. pag. *Un.org*. Web. 28 May 2017.  
<[http://www.un.org/womenwatch/daw/csw/csw52/statements\\_missions/Interagency\\_Statement\\_on\\_Eliminating\\_FGM.pdf](http://www.un.org/womenwatch/daw/csw/csw52/statements_missions/Interagency_Statement_on_Eliminating_FGM.pdf)>.

<sup>5</sup> "Child Marriage," Council on Foreign Relations, accessed December 6, 2016, [http://www.cfr.org/peace-conflict-and-human-rights/child-marriage/p32096#!/?cid=otr\\_marketing\\_use-child\\_marriage\\_Infoguide#!%2F](http://www.cfr.org/peace-conflict-and-human-rights/child-marriage/p32096#!/?cid=otr_marketing_use-child_marriage_Infoguide#!%2F).

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.



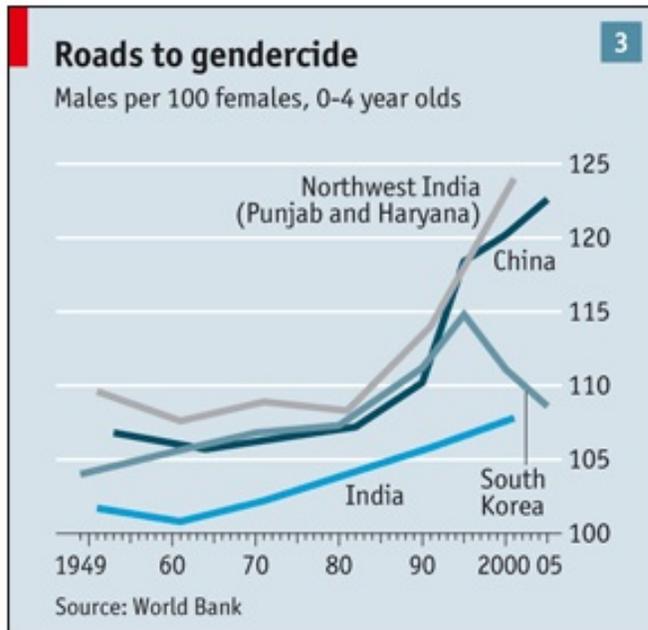
**Figure 1:** Percentage of Girls Married under the age of 18 per Region, UNICEF. Retrieved from <https://data.unicef.org/topic/child-protection/child-marriage/>

Some girls do not even live to the age where they will face the prospect of marriage. Gendercide is the systematic killing of members of a specific sex, and girls are disproportionately targeted.<sup>8</sup> Gendercide has its roots in institutionalized preferences for sons, and is influenced by modern desires for a smaller family and technologies that reveal gender before the child is born. Son preference is based upon social and economic conditions. In certain societies, only sons can inherit the land, or families are reliant upon sons as sources of physical labour. In addition, while married daughters leave the household, parents often look towards their sons to remain home and care for them in old age. All of these influences result in a desire for parents to have a son, and this translates into higher levels of female gendercide through abortion, neglect, or abandonment.

While child marriage affects impoverished developing states, gendercide is not halted by increases in wealth. Governments play a large role in influencing the degree of gendercide practiced. In the case of China, the government established a one-child policy in order to combat rising population. This law had the negative consequence of China's population becoming imbalanced in favor of males, as many Chinese families desired having a son for social and economic benefits.<sup>9</sup> To combat female gendercide, international organizations and national governments have to emphasize the value of women in society and economic spheres.

<sup>8</sup> Warren, Mary Anne, *Gendercide: The Implications of Sex Selection* (Lanham: Rowman & Allanfield Publishers, 1984).

<sup>9</sup> "Gendercide: The War on Baby Girls," *The Economist*, March 4, 2010, <http://www.economist.com/node/15606229>.



**Figure 2:** Proportion of Males per 100 Females, World Bank. Retrieved from <http://barebranchesccch9023project.weebly.com/causes.html>

## International Action

The actions initiated by the United Nations mostly center around: 1) resolutions from UN principal organs, 2) direct involvement of UNHRC's special rapporteur, and 3) collaboration among member states at the regional and global levels. The progress, albeit slow, has been noticeable as harmful traditional practices on women have become a recognized issue among the international community.

The United Nations Commission on Human Rights in resolution 1994/45, adopted on 4 March 1994, decided to appoint a Special Rapporteur on violence against women, including its causes and consequences.<sup>10</sup> The direct involvement of the UN special rapporteur is one of the UN's concrete contributions to examine all forms of traditional practices. The special rapporteur, being one of the most distinctive features of UNHRC, is mandated to seek information, recommend measures to eliminate violence, work with UNHRC's mechanisms, and continue a comprehensive approach in cultural, economic, political, and social spheres.<sup>11</sup>

<sup>10</sup> Morissanda Kouyate, "HARMFUL TRADITIONAL PRACTICES AGAINST WOMEN AND LEGISLATION", accessed on December 8th. 2016, [http://www.un.org/womenwatch/daw/egm/vaw\\_legislation\\_2009/Expert%20Paper%20EGMGPLHP%20\\_Morissanda%20Kouyate\\_.pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20_Morissanda%20Kouyate_.pdf)

<sup>11</sup> OHCHR, "Fact Sheet 23," accessed on December 9th. 2016, <http://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>

Furthermore, in conjunction with other stakeholders, the UN has drafted or played an instrumental part in the adoption of the following instruments aimed at combating harmful traditional practices: the 1995 Beijing Declaration and Plan of Action, the 1997 Regional World Health Organization (WHO) Plan for the Acceleration of the Elimination of FGM, the 1998 Joint declaration of the WHO, the United Nations Population Fund (UNFPA) and UNICEF for the Elimination of FGM, and the 2007 Inter Institution declaration on FGM. The General Assembly's Resolution 53/117 of 1999 on FGM outlines the United Nations' stance on the practice and is among the key guiding documents of UN Women, whose core mandate encompasses gender equality, achieved through the eradication of violence against women. The World Health Assembly followed up with its Resolution WHA61.16 on FGM. In order to actualise the resolution, its secretariat has been working with Member States, in collaboration with international, regional and national partners, towards the elimination of the practice of female genital mutilation.

Despite the aforementioned efforts, it is evident that more needs to be done at domestic, regional and international levels in order to fully address and combat harmful traditional practices targeted at women and girls.

### **Cross-Country Case Study: Forced Child Marriage**

The following section will illustrate how harmful traditional practices are prevalent worldwide through a case study focusing on the current situation with regards to forced child marriage. The case of forced child marriage is preferred as it is one of the most prevalent practices that frequently leads to other harmful traditional practices. Thus, there is a complex constitutive and causal mechanism implied in the practice of child marriage alone. It should be noted that by elaborating more on the case of forced child marriage, this paper does not discard the presence and prevalence of other harmful practices.

According to the Working Group on Forced Marriage, a forced marriage is a marriage conducted without the valid consent of both parties, where duress is a factor. It can take place for a variety of reasons, including: 1) economic incentives, as girls are exchanged as wives for goods or money; 2) conflict settlement, as women or girls are handed over from one family to another to settle a dispute; and 3) preservation of family 'honor', as women who are raped are sometimes forced to marry their rapist in order to retain the 'honor' of relatives.<sup>12</sup> Article 16(2) of The Convention on the Elimination of all Forms of Discrimination Against Women

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<sup>12</sup> "A Choice by Right," Working Group on Forced Marriage (London: Home Office Communications Directorate, 2000) [http://cdn.basw.co.uk/upload/basw\\_22604-2.pdf](http://cdn.basw.co.uk/upload/basw_22604-2.pdf).

(CEDAW) states that the “betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”<sup>13</sup> The remaining case study aims to shed light on the measures take on five different continents to address forced child marriage

In Africa, the case of Zimbabwe sets a remarkable example for the potential impact of non-governmental organisations on legislative changes. In 2013, Zimbabwe made child marriage illegal by adopting a new constitution setting the minimum age of marriage at 18 and calling on the state to ensure that no children are pledged into marriage. However, this Marriage Act clashed with the constitution’s new provision which allowed girls as young as 16 to marry with the consent of their parents. Starting from 2013, two former child brides, supported by local legal think tanks and the Girls Not Brides initiative, led a legal campaign to urge the government of Zimbabwe to review the discrepancy between the constitution and the provision. In 2016, the country’s Constitutional Court accepted the appeals of the two former child brides and made marriage under the age of 18 illegal.<sup>14</sup>

In North America, the United States is no exception to the prevailing practice of forced child marriage. In some states, it is officially legal for girls as young as 12 or 13 to be brought to a courthouse with evidence of a pregnancy and wed. In fact, 91 percent of the these children were married to adults, often at ages or with age differences that could have triggered statutory-rape charges.<sup>15</sup> Even though forced and child marriages happen almost everywhere, only 10 states or jurisdictions have specific laws that can be used to prevent or punish forced marriage.

In Australia, the issue of forced marriage is integrated with the issue of migration. Since forced marriage became a crime in 2013, the government has been investigating the movement of Australian citizens, uncovering a growing trend of young girls from Australia being taken overseas and forced to become child brides. This resulted in 70 calls for help to the government child welfare hotline. In 2016 alone, the Australian Federal Police investigated 69 incidents of forced marriage relating to the period between 2015 and 2016; more than double that

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<sup>13</sup> The Convention on the Elimination of All Forms of Discrimination against Women, accessed on December 20, 2016, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

<sup>14</sup> “ZIMBABWE: FORMER CHILD BRIDES WIN CASE TO MAKE CHILD MARRIAGE ILLEGAL,” Girls Not Brides, accessed on December 8, 2016, “<http://www.girlsnotbrides.org/zimbabwe-former-child-brides-win-case-to-make-child-marriage-illegal/>

<sup>15</sup> Fraidy Reiss, “America’s Child-Marriage Problem,” *New York Time*, October 13, 2015, accessed on December 8th 2016, <http://www.nytimes.com/2015/10/14/opinion/americas-child-marriage-problem.html>

investigated the previous year.<sup>16</sup> In response to this matter, the Australian Federal Government has been strengthening its collaboration with numerous international and national institutions, such as but not limited to, Anti-Slavery Australia, the Red Cross, and the national association of doctors and counsellors.<sup>17</sup>

In Asia, a high number of children are forced to marry for economic, cultural and family reasons. This case is most prevalent in South Asia, where statistically two out of five girls will become child brides.<sup>18</sup> The highest prevalence is found in Bangladesh (66 per cent), followed by India (47 per cent), Nepal (41 per cent) and Afghanistan (39 per cent).<sup>19</sup> To tackle this urgent matter, the UNFPA along with the respective governments initiated some prevention and mitigation measures in local communities. However, the lack of law enforcement is deemed as one of the main factors that continues to create frailties. In addition to that, religious conservatism often complicates attempts to change the law. An example for this can be found in Indonesia. In 2016, a civil society's petition to raise the minimum age of marriage from 16 to 18 was denied in its capital, Jakarta. The judges, quoting passages from the Koran, said that the change might lead to more girls having sex and children outside of marriage.<sup>20</sup>

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<sup>16</sup> SBS, "Number of Australian 'child bride' cases doubles in a year," accessed on December 8th 2016, <http://www.sbs.com.au/news/article/2016/09/20/number-australian-child-bride-cases-doubles-year>

<sup>17</sup> Marina Freri, "Child marriage: A closer look at the story behind the headlines," accessed on December 8th 2016, "<http://www.radioaustralia.net.au/international/2016-09-26/child-marriage-a-closer-look-at-the-story-behind-the-headlines/1620856>

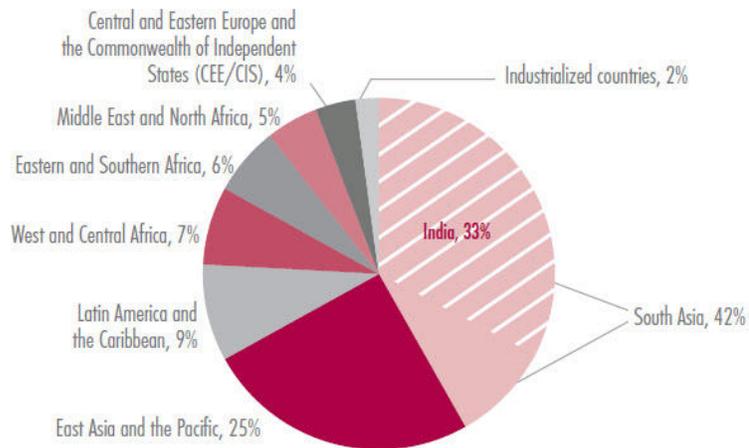
<sup>18</sup> UNFPA Asia Pacific, "Child Marriage," accessed on December 8th 2016, <http://asiapacific.unfpa.org/topics/child-marriage>

<sup>19</sup> Ibid.

<sup>20</sup> "Marrying minors in Indonesia: Islamic conservatism makes it harder to cut the number of child brides," *The Economist*, accessed on December 9th 2016, [www.economist.com/news/asia/21703456-islamic-conservatism-makes-it-harder-cut-number-child-brides-marrying-minors](http://www.economist.com/news/asia/21703456-islamic-conservatism-makes-it-harder-cut-number-child-brides-marrying-minors)

## Almost half of all child brides worldwide live in South Asia; 1 in 3 are in India

Percentage distribution of women aged 18 years and older who were married or in union before age 18, by region



Note: Estimates are based on a subset of countries covering around 50 per cent of the global population of women aged 18 years and older.

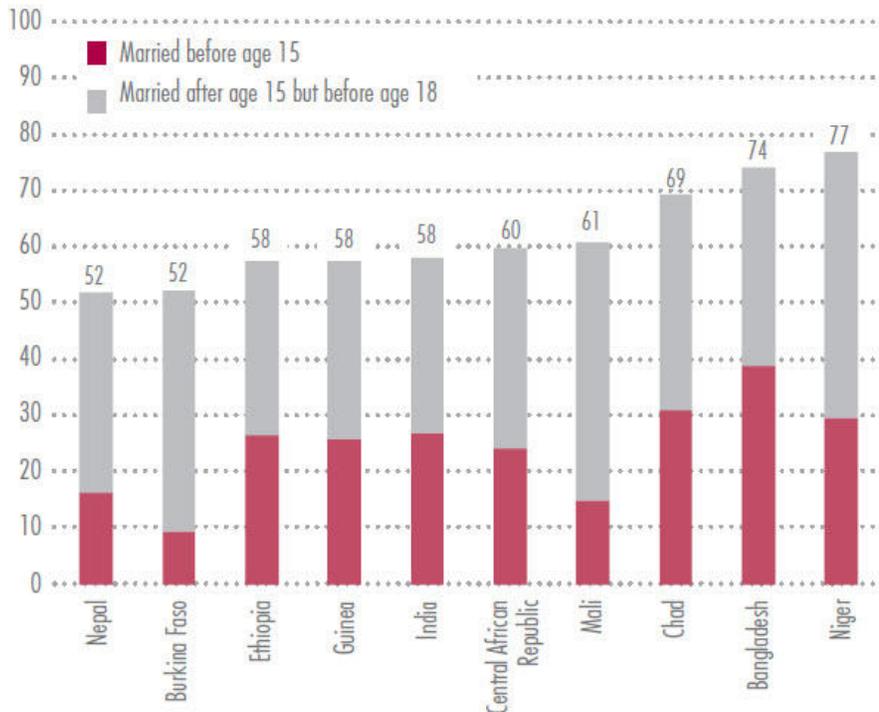
**Figure 4:** Percentage Distribution of Women Aged 18 Years and Older Who Were Married or in Union Before Age 18, by Region, SBS. Retrieved from <http://www.sbs.com.au/news/article/2014/10/10/my-name-thea-im-12-and-im-getting-married>

In Europe, the case of forced child marriage is less common than in other continents. However a higher prevalence of child marriage can be observed among migrants. The intertwining issues of migration and human rights violation have led to the creation of a variety of approaches. For example when it comes to refugees' administration processes, a German judge ruled a child bride legally married under sharia law,<sup>21</sup> while other states such as Denmark tend to separate the child and her husband on a legal basis. However, this can cause issues, especially when the child is reported to attempt suicide upon the separation. This is but one of the countless examples concerning the disjuncture between different cultural values in approaching such sensitive issues.

<sup>21</sup> Donna Rachel Edmunds, "Child Bride Legally Married Under Sharia Law, German Judge Rules," accessed on December 9th 2016, [www.breitbart.com/london/2016/06/11/child-bride-legally-married-sharia-law-german-judge-rules/](http://www.breitbart.com/london/2016/06/11/child-bride-legally-married-sharia-law-german-judge-rules/)

## The 10 countries with the highest rates of child marriage

Percentage of women aged 20 to 49 years who were married or in union before ages 15 and 18, in the 10 countries with the highest prevalence of child marriage



**Figure 4:** Countries with the Highest Rates of Child Marriage, *The Washington Post*. Retrieved from <http://knowmore.washingtonpost.com/wp-content/uploads/2015/03/Screen-Shot-2015-03-09-at-11.07.58-AM.png>.

As the case study has illustrated, the harmful traditional practice of forced early marriage in general can be considered as a transnational issue, as it has the following characteristic: 1) it happens in multiple states at the same time, 2) it can transcend borders, and 3) it is interlinked with the political, economic, and social aspects within society. The case study has also demonstrated the complex relationship between the cause and impact of harmful traditional practices on women regarding the minimum age of marriage. The practice of forced early marriage is seen everywhere, yet the traditional practices which lead to this may differ depending on the area.

## **Conclusion**

In the era of globalization, the clash between modern and traditional values remains the core of the debate on how to end harmful traditional practices affecting women. To map the ongoing debate, this paper sees that the current debates mostly center around: 1) the friction of universalism vs particularism, 2) the contestation of civil society's advocacy, state's authority and, international institution's autonomy, and 3) the prevention and mitigation strategy.

The friction of universalism and particularism is one of the most classic debates within human rights issue. As shown by the case study, the notion of universal human rights on the global level often contradicts with the practices of local levels. As the case in Europe illustrated, when the government tries to take a more proactive role in breaking the tie of a child marriage, the issue of self determination may prevent the government from doing so. The contestation among civil society, state, and international institutions illustrate that even when an international agreement has been made, the lack of state capacity in implementing the agreement may hamper the progress.

In addition, the role of civil society can be seen as the catalyst of social change as well as main perpetrator of the harmful traditional practices. Thus, it would be valuable to break down what are the possible roles that civil society, states, and international institutions can take in this practice, as well as what ways they may contribute in preserving the practice. This framework of thinking, albeit important, will still cause another debate on the practice in the form of the prevention and mitigation strategies. To address these issues, delegates are encouraged to research thoroughly on the past actions as well as their loopholes to come up with a more comprehensive resolutions.

## **Questions a Resolution Must Answer (QARMAs)**

1. How can this council determine the extent of human rights violations caused by traditional practices and what actions can be taken to reduce these violations?
2. To what extent can the international community be involved in regulating the traditional practices on women in national and local levels?
3. What are the defining characteristics of harmful traditional practices on women? Should the UN establish a universal definition, or should it be at the discretion of each member state?
4. What steps should be taken to end harmful traditional practices on women while simultaneously respecting local cultures and traditions?
5. What UN programs could be improved in addressing the harmful traditional practices affecting women?

## Additional readings

1. Winter, Bronwyn, Denise Thompson, and Sheila Jeffreys. "The UN approach to harmful traditional practices." *International Feminist Journal of Politics* 4, no. 1 (2002): 72-94.
2. Jeffreys, Sheila. *Beauty and misogyny: Harmful cultural practices in the West*. Routledge, 2014.

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## **Appendix**

1. Milestones on UN's initiative to end harmful traditional practices on women
2. The circumstances on marriage worldwide

1958

- The Economic and Social Council (ECOSOC) invited the World Health Organization (WHO) to undertake a study of the persistence of customs subjecting girls to ritual operations and to communicate the results of the study to the Commission on the Status of Women.
- This initiative involved UNICEF, UNESCO and WHO, as well as representatives of concerned NGOs, to coordinate the possible measures to end harmful traditional practices on women.

Source:  
OHCHR, 2005

1988

- UN Human Rights Council requested the Sub-Commission to consider measures to be taken at the national and international levels to eliminate the practices in question, and to report to the UNHRC on the subject.

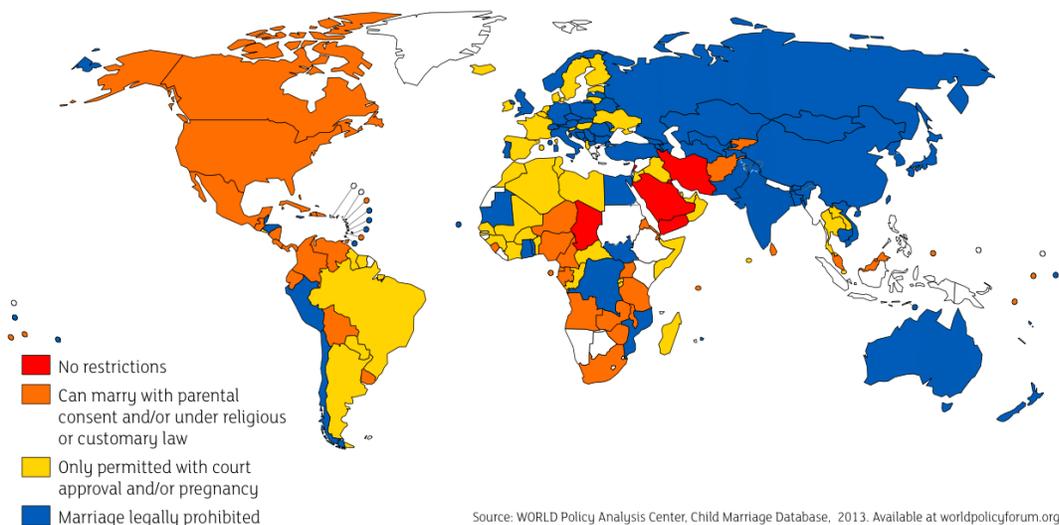
1993

- The slogan "Women's Rights are Human Rights" is adopted at the World Conference on Human Rights in Vienna the Declaration on the Elimination of Violence against Women in UN General Assembly.

1994

- The Plan of Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children was adopted.
- The resolution called upon the Secretary-General to transmit the Plan of Action to the International Conference on Population and Development, held at Cairo in September 1994, and to the Fourth World Conference on Women, held at Beijing in September 1995.

### Under what circumstances can 15-year old girls be married?



Source: <http://knowmore.washingtonpost.com/2015/03/09/one-thing-the-u-s-has-in-common-with-afghanistan-and-venezuela-laws-on-child-marriage/>