



HIDDEN COSTS OF FORCED MARRIAGE

AND ITS IMPACT ON WOMEN
AND GIRLS GLOBALLY

"Child and forced marriage represents a violation of virtually all human rights. It deprives women and girls of autonomy and choice over their bodies and their lives."

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With your support and resilience, we are committed to creating a safer and more equitable future for all Californians.

“I am mine before I am ever anyone else’s.”
— *Nayyirah Waheed*

EXECUTIVE SUMMARY

In this paper, we will use a human rights approach to examine the impacts of forced marriage on an international level. This paper will define forced marriage and child marriage while analyzing the economic impacts on women and girls in relation to the social determinants of health. California will be our case study, providing insights into local legal remedies available to victims, and providing a potential framework from which other areas can build in order to uplift gender equity and safety for all. This paper will conclude with policy recommendations for all states and nations, including financial, educational and legal remedies such as forced marriage protective orders, a tool allowing for early intervention and prevention which may circumvent existing legal loopholes that currently exist globally for customary and religious marriages that allow incidents of forced marriage to fly under the radar.



INTRODUCTION

Under the large umbrella of gender-based violence falls a narrow but nuanced human rights violation of bodily-autonomy, in the form of forced marriage. Globally, a girl is forced into marriage every three seconds; in the time that it takes to read this paper, 4,270 young girls will have been forced into marriage. Forced marriage impacts 650 millions girls and women globally and the numbers are expected to rise exponentially.¹ By 2030, 950 million women and girls are expected to be impacted by forced marriage. Forced marriage predominantly impacts girls of color, accounting for 83% of child marriages internationally.² While forced and child marriage is often viewed as an issue faced only by developing countries, in this project we will examine the impacts of forced marriage at the global level, using the State of California as a case study. With almost 8,000 children forced into marriage in California annually, young girls are pulled away from accessing education, directly disrupting their economic mobility and independence. Applying a human rights framework we will define **forced** and **child** marriage, and examine its effects on women and girls in relation to education, employment, sexual and reproductive health. This project will conclude with potential legal options for California as well as global actors to explore as a means to uplift gender equity and safety for all. In order to truly achieve gender equity, women and girls must have full autonomy in determining when, if, and with whom they will create a family.

¹ "Child and forced marriage, including in humanitarian settings" United Nations Human Rights Office of the High Commissioner accessed April 18, 2024

<https://www.ohchr.org/en/women/child-and-forced-marriage-including-humanitarian-settings>

² "Child and forced marriage: a violation of human rights" United Nations Human Rights Office of the High Commissioner, accessed July 18, 2024, <https://www.ohchr.org/en/stories/2016/11/child-and-forced-marriage-violation-human-rights>

I. UNDERSTANDING FORCED MARRIAGE

Marriage equity is the concept that marriage is a fundamental right that should be available to all people regardless of their sexual orientation. In the United States, marriage equity was deemed a constitutionally protected right under the United States Supreme Court ruling in *Obergefell v. Hodges*, 576 United States 644 (2015).³

This concept has evolved and grown over time to expand human rights across the globe, from defining rights for women in heteronormative marriages to protecting those with disabilities or who are in same sex marriages in the 36 countries that have adopted some form of marriage equality laws.^{4,5}

However, in the quest to expand marriage equity and ensure that all people have the right to marry, what has gone ignored is the right to not marry, or to be free of forced marriage.

Forced marriage is a global phenomenon that is gradually rising across the globe, including in places not associated with issues like forced marriage such as California. The United States Department of State defines forced marriage as a marriage that takes place without the consent of one or both people. The United Nations Human Rights Commission identifies forced marriage as a human rights violation and has recorded its impact on over **650 million girls and women globally**.⁶ While men and boys are also impacted, forced marriage predominantly impacts women and girls of color, who account for 83% of child marriages internationally.⁷

In its simplest terms, forced marriage violates the human rights of one or more persons by forcing them into a marriage. In a more nuanced view, one must acknowledge that forced marriage is not simply a violation of some arbitrary set of rules governed by the United Nations, but instead a complete violation of a person's ability to preserve self, financial stability, education, medical support, and to make decisions regarding reproductive desires. Forced marriages are rooted in a complex set of circumstances including cultural pressure, religious pressure, poverty, sex or labor trafficking, and in opposition of an individual's sexual orientation or gender identity, as described herein.

³ "Obergefell v. Hodges," ACLU of Ohio, accessed September 9, 2024, <https://www.acluohio.org/en/cases/obergefell-v-hodges>.

⁴ "Marriage Equality Around the World," Human Rights Campaign, accessed February 14, 2024, <https://www.hrc.org/resources/marriage-equality-around-the-world>.

⁵ "Obergefell v. Hodges."

⁶ "Child and Forced Marriage, Including in Humanitarian Settings." United Nations Human Rights Office of the High Commissioner, accessed September 9, 2024, <https://www.ohchr.org/en/women/child-and-forced-marriage-including-humanitarian-settings>.

⁷ "Child Marriage," UNICEF, June 2023, accessed September 18, 2024, <https://data.unicef.org/topic/child-protection/child-marriage/>.

Arranged Marriage v. Forced Marriage

In order to better understand forced marriage, one must understand the key distinctions that separate forced marriage from arranged marriage as well as the gray area that tips arranged marriages into the territory of forced marriage. Marriage and domestic unions have taken many forms throughout history – marriages of convenience, political marriages to save kingdoms or familial lands, or arranged marriages dating back to biblical and historical texts. Arranged and forced marriages have existed for thousands of years and **over time have become synonymous in certain parts of the world, but in fact they are different and bring different implications.** Importantly, consent is what separates arranged marriage from forced marriage.⁸

In an arranged marriage, one or both parties may refuse and walk away from the proposed union, a significant distinction between forced and arranged marriage. The problem we discuss today does not lie with arranged marriages, which are fundamentally rooted in the sociological principles of collective belonging, parental guardianship and the protective, provident authority of elders in match making.⁹ Arranged marriage is and has always been no different than the concept of setting up a friend on a blind date, where two consenting adults meet for a chance to get to know each other, with the potential to meet again if the two parties so choose, or to walk away knowing that this meeting just was not right for the two. Arranging the meeting of two consenting individuals is a concept that has existed for years and is practiced in some form or fashion across the globe; it is a practice that can be supported by friends setting up friends, family members setting up loved ones or even coworkers helping coworkers meet new people, with the potential of dating, marriage or neither.

The problem lies instead with **marriages that lack consent of one or both parties.** Forced marriages often include elements of familial pressures, manipulation of religion, and/or cultural pressures. Familial, cultural or religious pressure are often used to manipulate victims of forced marriage, resulting in guilt or shame that limits their ability to speak up, report their experience, or seek help. Particularly in Western countries, the question of whether a marriage is forced has become muddled, where girls facing pressure to marry the father of their child due to fear of a child being born out of wedlock is seen simply as allowing the union to start on a strong foundation. One such example of a marriage with a muddled sense of “choice” for the survivor is the story of Jen Kiaba, who details her experience in a Huffington Post article *“I Agreed To An Arranged Marriage With A Stranger. It Turned My Life Upside Down.”* In this article, she states, “This is the part that so many struggle to understand. If I had said, ‘I choose to come home,’ my mom likely would have driven down to pick me up, no

8 Aguiar, Marian, *Arranging Marriage: Conjugal Agency in the South Asian Diaspora*, (University of Minnesota Press, 2018), (n 1) 11, 67, <https://www.jstor.org/stable/10.5749/j.ctt1z27hrq>.

9 Naema N Tahir, “Understanding Arranged Marriage: An Unbiased Analysis of a Traditional Marital Institution,” *International Journal of Law, Policy and the Family*, 35, no. 1 (2021): ebab005, <https://doi.org/10.1093/lawfam/ebab005>.

matter the hour. But I was afraid. The weight of a lifetime's worth of indoctrination crushed me into compliance, believing that I would lose everything I held dear if I walked away. Sociologist Dr. Janja Lalich might have identified this as an instance of 'bounded choice',¹⁰ or the illusion of choice created by a high-demand environment."¹¹ Many such marriages hold a similar false sense of agency on part of the victim when in reality they are bound by a choice forced onto them.

Moreover, it is often assumed that forced marriages only impact victims under the age of eighteen, but like Jen, there are thousands of victims both in the United States and across the globe who are legal adults at the time of their forced marriage. Jen experienced years of indoctrination and religious manipulation, paired with the possibility of losing her family, friends, and her life as she knew it if she refused to marry. While forced marriage does not fall into the category of human trafficking, the experience of survivors is similar. Victims can be transported across state lines or to their parents' homeland and held against their will until the marriage contract is signed and the marriage is consummated. Forced marriage also can involve withholding financial or other necessities, manipulation of information, withholding access to loved ones, verbal threats, physical abuse, and/or being taken to jurisdictions where laws may be more relaxed around forced (and child) marriages. Victims have been forced into marriage in their home country or transported to other countries for the marriage to take place. It is all too common for American citizens to return to their family's country of origin under the pretext of visiting family only to be held against their will until they agree to marry someone their family chose.

American citizens can find themselves locked into a marriage domestically just as easily as overseas. Unfortunately, the U.S. does not document or actively combat the rising number of forced marriages. In fact, the U.S. focuses the majority of its efforts around forced marriage towards providing financial support globally to other countries combating child, early and forced marriage and fails to acknowledge the dire impacts domestically.

Due to lack of resources, far too many victims of forced marriage, especially those who are raped and/or forced into parenthood, concluded that it is easier to remain in the forced marriage and have some level of financial security compared to becoming a single parent and starting completely over, and losing access to family, or community.

¹⁰ Janja Lalich, "Bounded Choice: True Believers And Charismatic Cults," *Nova Religio: The Journal of Alternative and Emergent Religions* 9 (2006), <https://online.ucpress.edu/nr/article-abstract/9/4/117/95504/Bounded-Choice-True-Believers-And-Charismatic?redirectedFrom=fulltext>, 117-120.

¹¹ Jen Kiaba, "I Agreed To An Arranged Marriage With A Stranger. It Turned My Life Upside Down," *HuffPost*, November 11, 2022, https://www.huffpost.com/entry/arranged-marriage-blessing-moonies-unification-church_n_63629bcce4b0ae77bc20853f.

True Story:¹²

Sara¹³ was in her late twenties when her family began pressuring her to accept a marriage with Elyas,¹⁴ who had just turned twenty himself. Sara grew up in Pakistan and she hardly knew Elias. However, her family insisted she marry him so she would have the opportunity to resettle in the United States as his wife. Elyas himself was forced to travel to Pakistan where the wedding was held against the wishes of both parties, and the marriage was consummated through rape the night of the wedding.

Sara soon moved to the United States and eventually gained her citizenship. During her time living with Elyas and his family in the United States, she was treated as a maid who was unable to leave the house, and she was ridiculed and disrespected daily while also being expected to maintain the upkeep of Elyas' extended family. Sara spent days going from one house to the next until all four homes were spotless and meals were cooked at each home.

Against the wishes of her family, Sara eventually obtained a divorce and moved in with a family member who helped her enroll in college and taught her how to drive. She obtained a drivers license, her degree and found a full time job to support herself.

Eventually, Sara's parents were able to move to the United States to live with her. However, two years later, they tricked her into traveling to Pakistan for her brother's wedding; upon returning to Pakistan her parents forced her to marry a man she had never met. She attempted to protest the marriage multiple times but was locked in a room by her family. Her father had chosen a man for her to marry and her father threatened to commit suicide if she did not marry. Sara reluctantly participated in the wedding. She now has two children and remains married.

Child and Early Marriage

Forced marriage by definition encompasses the issue of child and early marriages, wherein one or both parties are coerced, manipulated, or forced to accept a marriage to which they do not consent. As with human trafficking, globally there is greater interest in focusing on children who are forced into marriage versus adults who are forced into marriage; and the general public can more easily understand how a child can be forced into marriage. Forced marriage of minors exacerbates the human rights offense as it adds on satatory rape, early child baring, prevents a child from completing secondary education, and sets a child on the path to life-long poverty and victimization. This leaves scarce resources or support for adult victims of forced marriage.

¹² Survivor story of client served by Choose Your Path Foundation. See their Instagram account @foundationcyp.

¹³ This pseudonym is used to protect the identity of the survivor.

¹⁴ This pseudonym is used to protect the identity of the survivor.



An example of child marriage is detailed in a 2018 USA Today article which discusses how nine year old Sherry Johnson was raped by a church deacon and became pregnant, and at ten years old she gave birth and became a mother. Her family's church pressured Sherrys mother into consenting to a marriage between Sherry and the Deacon who raped and fathered her child. The marriage was approved by a judge and Sherry became a wife at eleven years old, leading to the birth of five more children before Sherry was able to break free. During the time she was married and forced into childbearing, Sherry was unable to attend school, leading to a string of dependent, abusive relationships in the years to come. Forty-seven years later, Sherry set out to change the laws in her home state that allowed this abuse to take place, stating, "It would have changed my life by not allowing me to get married, to continue to have children, to continue to have my downfall. I would have been a single mother and I think I would have done well." The adopted Florida bill would limit marriages before the age of seventeen without parental consent and would require spouses to be no more than two years apart in age.

Prior to Sherry's advocacy to adopt this bill, thousands of forced child marriages took place in Florida, with 1,828 documented cases between 2012 and 2016, including that of a sixteen year-old who was married to a ninety year-old man. Much like Sherry, those victims face rape, lack of access to reproductive healthcare, an early end to educational access, and forced early parenthood. Survivors-turned-activists like Sherry have helped repeal rape marriage laws across the United States, but these laws still

Graph: The U.S Sun article My child Bride Hell Girl 'forced to marry minister rapist at 11 after he got her pregnant aged 9 – and went on to have 6 kids by 16,' Photo credit Sherry Johnson and CNN

exist across the globe. Currently nine countries allow a perpetrator of rape to escape punishment by marrying their victim, including Mexico, Russia, Thailand, Serbia, Iran, Jordan, Kuwait and the Philippines. In Greece, a survivor who marries their rapist may no longer pursue criminal prosecution; however, if the survivor seeks an annulment they can reopen criminal proceedings.¹⁵ Rape marriage laws reward rapists for violence against children. As Sherry stated, “No one actually protected me. They protected him by putting the handcuffs on me, instead of putting the handcuffs on him, and he was the rapist.”¹⁶ In an effort to combat forced marriage across the globe, it is imperative that rape marriage laws are also addressed as they can be the easiest way for abusers to bypass laws prohibiting child or forced marriages.

Approach to Forced Marriage Globally

Forced marriage on a global scale is not limited to any one group of people, religion or nation. Globally, 41% of girls under the age of eighteen are married in East and Central Africa, 40% in South Asia, followed by 29% in Latin America and the Caribbean, and 15% in North Africa and the Middle East.^{17,18} Nations have made both individual attempts to ban or criminalize forced marriage as well as pushing for collective efforts. Historically, attempts to prevent forced marriage and create legislative responses to it date back to 1215 through the Magna Carta, wherein the forced marriage of widows was banned throughout England.¹⁹ In 1724, Russia was the first nation to ban forced marriage. Afghanistan banned forced marriage in 1978 and criminalized it in 2009.^{20,21} It was only in 2004 that Benin, Morocco, and Ethiopia all banned forced marriage while Georgia banned bride kidnapping. In 2005, Saudi Arabia banned forced marriages, and Germany made forced marriage a criminal offense. In 2007, Pakistan, Sierra Leone, and Togo all banned forced marriage and Belgium criminalized the act. Denmark and Luxembourg both criminalized the act in 2008, Scotland made it a criminal offense in 2011 and Zambia banned it. In 2013 Australian, Switzerland, Hungary, France, and Kyrgyzstan, all criminalized forced marriage, followed by Malta in 2014. The United Kingdom followed suit in 2014 by making it a criminal offense to force someone to marry in England, Wales and Scotland. Gambia, Cameroon, and New Zealand, all banned forced marriage in 2016. In July of 2015, the Human Rights Council adopted its first substantive resolution recognizing within which it recognized forced and child

¹⁵ Yasmeen Hassan, “The World’s Shame – The Global Rape Epidemic: How Laws Around the World are Failing to Protect Women and Girls from Sexual Violence,” Equality Now, November 7, 2017, <https://equalitynow.org/resource/the-worlds-shame-the-global-rape-epidemic/>.

¹⁶ Caitlin Nolan, “Sherry Johnson, Florida Woman Forced to Marry Her Rapist, Helps Change Law,” INSIDE Edition, March 12, 2018, <https://www.insideedition.com/sherry-johnson-florida-woman-forced-marry-her-rapist-helps-change-law-41431>.

¹⁷ “Child, Early, and Forced Marriage,” citing “Marrying Too Young: End Child Marriage,” UNFPA, 2012.

¹⁸ “Child, Early, and Forced Marriage,” citing “Progress for Children: A Report Card on Adolescents,” UNICEF, 2012.

¹⁹ “Magna Carta,” Michigan Legislature, accessed September 9, 2024, <https://www.legislature.mi.gov/documents/historical/magnacarta.html>.

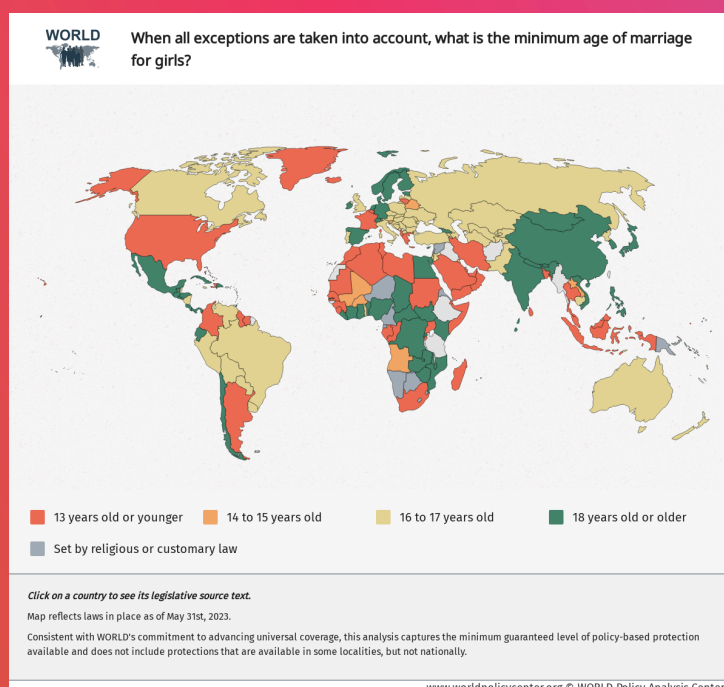
²⁰ Mark Sedra, ed., “Brief 28, Confronting Afghanistan’s Security Dilemma: Reforming the Security Scene,” Bonn International Center for Conversion, September 2003, accessed September 9, 2024, <https://idl-bnc-idrc.dspacedirect.org/server/api/core/bitstreams/ed7a9398-d165-477c-876f-b9dfc085b507/content>.

²¹ “Afghanistan: Child Marriage, Domestic Violence Harm Progress,” Human Rights Watch, September 4, 2013, accessed September 9, 2024, <https://www.hrw.org/news/2013/09/04/afghanistan-child-marriage-domestic-violence-harm-progress>.

marriage as a human rights violation.²² Morocco made forced marriages a criminal offense in 2018, followed by Indonesia in 2022.

Also in 2022, Canada and Zambia brought forth a resolution to the United Nations General Assembly's Third Committee to create comprehensive, gender responsive and victim centered responses and strategies to prevent child and early forced marriage. In it came calls to enact, enforce and uphold laws and policies that prevent and/or end child and early forced marriage, raise awareness of the harmful effects of forced marriage particularly those impacting children and to recognize that education is one of the most effective ways to address child and early forced marriage. It is encouraging that 125 countries signed onto the resolution, and in fact many of these nations have also set laws creating minimum ages of marriage. Four nations have set their minimum age to be under fifteen years old; forty-seven nations have set a minimum age between fifteen and seventeen years of age; 128 countries have set a minimum of eighteen, and ten nations have set the age as nineteen years or older. There are only eight nations that do not have any laws that create a minimum age of marriage.

However, laws creating a minimum age of marriage hold very little power if the nations creating these laws also create exceptions to the rule. In fact, of the 185 nations to have a law creating a minimum age of marriage to be at least fifteen years or older, 124 have laws that also create exceptions to the rule. What is most concerning is the fact that of the 190+ counties across the globe, **more than 152 have documented cases of forced marriage, including those involving minors, some as young as six years old.**



According to the United Nations, within the next six years over 950 million girls will be forced into marriages due to the slow pace at which global actors are addressing the issue of forced marriage.²³ The COVID-19 pandemic exacerbated and created even more challenges in efforts to prevent forced marriages, and the impacts of the pandemic alone are expected to result in an additional ten million girls being forced into marriage by 2030.²⁴ As the data shows, current global efforts to address and prevent forced marriage fall short. Forced marriage is an issue that has for decades been kept at arm's length as a foreign and taboo topic. Efforts on the global front must become more assertive in order to prevent us from failing millions of women and girls.

Approach to Forced Marriage in The United States

The United States has committed funding in the amount of \$5.3 million towards the prevention of child, early and forced marriages (CEFM) and is also one of 193 countries to sign on to the United Nations Sustainable Development goals pledge to end child marriage by 2030.²⁵ However, the issue of forced marriage has long been held at arm's length within the United States, approached as if it was an issue brought to the United States by immigrant communities rather than one actively taking place within United States borders. United States funding is provided externally to Ethiopia, Tanzania and Burkina Faso for the purposes of studying the effectiveness of community based approaches to forced marriage. In India and Haryana, this funding is used to evaluate government-run conditional cash transfer programs that encourage girls education, it also assesses the impact of delaying forced marriages of minors and young adults. In Yemen, Nepal and Bangladesh this funding is used to reduce the prevalence of forced marriages by addressing legal, social and economic drivers of such practices. However, the United States commits little to no funds to end the issue of forced marriage within its own borders.

The United States Agency on International Development (USAID) notes the lackluster support offered to United States citizens experiencing forced marriage even as it lists detrimental impacts of child and early forced marriage (including that forced marriage impedes education and increases malnutrition, increases early pregnancy, increases odds of maternal and infant mortality, increases the chance of obstetric complications, HIV/AIDS, and increases the odds of facing gender-based violence.^{26 27}

²³ "Child and Forced Marriage: a Violation of Human Rights," United Nations Human Rights Office of the High Commissioner, November 3, 2016, accessed September 9, 2024, <https://www.ohchr.org/en/stories/2016/11/child-and-forced-marriage-violation-human-rights>.

²⁴ "The Sustainable Development Goals Report 2023: Special Edition," 5: Gender Equality, United Nations Department of Economic and Social Affairs, Statistics Division, accessed September 10, 2024, <https://unstats.un.org/sdgs/report/2023/Goal-05/>.

²⁵ "Child, Early, and Forced Marriage: United States Government's Response | Fact Sheet," United States Agency for International Development, accessed March 24, 2024, https://www.usaid.gov/news-information/fact-sheets/child-early-and-forced-marriage-usg-response#_ftnref1.

²⁶ Saranga Jain & Kathleen Kurz, "New Insights on Preventing Child Marriage: A Global Analysis of Factors and Programs," April 2007, International Center for Research on Women, accessed September 9, 2024, <https://www.icrw.org/publications/new-insights-on-preventing-child-marriage/>.

²⁷ "Child, Early, and Forced Marriage," citing "Early Marriage," International Women's Health Program, 2009.

Citizens who are still within the United States are encouraged to contact local authorities for assistance, and those who are abroad are encouraged to contact a local embassy and consulates.

Federally, the United States Department of Health and Human Services (HHS) supports community-based programs in areas around the United States and within populations where girls are at risk for forced marriage through programs like the Ethnic Community Self-Help Program and the Family Violence Prevention and Services Program; however, both programs are severely lacking and presume the issue impacts the immigrant community within the United States only. Not once does the Ethnic Community Self-Help website mention forced marriage or how to obtain help should an individual find themselves in that position.²⁸ The United States embassy lists extensive resources for any United States citizens who find themselves abroad and at risk of being forced into marriage; however, they fail to list what one should do should they find themselves being forced into a marriage while on United States soil. Within the various United States governmental agencies, only Foreign Affairs Manual (USFAM) Policy 7 FAM 1740 details policies and procedures in relation to forced marriage. While the USFAM begins by stating that most cases of forced marriage often involve women and girls between the ages of thirteen and thirty it surprisingly does not list any resources or guidelines for state employees to follow should an adult victim seek support for a forced marriage.²⁹ Both resources list a number of actions that can be taken by United States government employees to assist minors who have been forced to marry within another country or those who are unmarried but are at threat of being married within another country, but neither of these policies provide any resources for survivors upon their return to the United States.

At the state level, what we find is that only twelve states have set the minimum age of marriage at eighteen years old, while twenty-two states have set the minimum age to sixteen years of age, and four states, including California, have no minimum age of marriage. What draws much concern for advocates against forced marriage is that only nine states and two United States jurisdictions have criminal statutes on forced marriage: California, Florida, Indiana, Maryland, Mississippi, Nevada, Oklahoma, Virginia, West Virginia, District of Columbia, and the United States Virgin Islands. Additionally, three states (Massachusetts, Michigan, Minnesota) have criminal statutes on abduction for marriage of certain minors; these do not include elements that marriage was forced or against the will of a party. The focus of these statutes lies solely in the parents rights to the custody and control of a minor child, and do not focus on the right of the minor to choose with whom, when and if the minor wants to be married. However, the statutes could be applied to someone other than the minor's parents should they be attempting to force the minor into marriage.

²⁸ "Ethnic Community Self-Help," The Administration for Children and Families, December 8, 2023, accessed September 9, 2024, <https://www.acf.hhs.gov/orr/programs/refugees/ethnic-community-self-help>

²⁹ "7 FAM 1740: Forced Marriage Of Minors," United States Department of State Foreign Affairs Manual, accessed April 26, 2024, <https://fam.state.gov/fam/07fam/07fam1740.html>.

What is most troubling is that of the nine United States or its Territories to have a criminal statute against forced marriage, only five have language that supports enforcement of the law prior to the forced marriage taking place. Of the nine, the statute adopted by Maryland is the only one to include language that criminalizes aiding, abetting, conspiring or benefiting financially from the forced or attempted forced marriage. This statute could potentially apply to the groom/bride, his/her parents, the wedding officiant, or any other third party who knows that the groom/bride does not consent, but nonetheless aids, abets, or conspires to force him/her to marry. The provision addressing persons who knowingly benefit financially could possibly apply to parents, guardians, relatives or other individuals who may receive a dowry and/or bride price in circumstances involving the unwilling bride. While the intent language in this statute appears to empower authorities to intervene before a victim is forced into marriage, a defendant's intent can be difficult to prove. Additionally, of the nine jurisdictions only four (Maryland, Nevada, Virginia, and Washington D.C.) use language that is open and inclusive with the use of the words "persons" or "individual" whereas California, Oklahoma and the Virgin Island include language only applicable to "women" leaving out all minors and men. Mississippi's statute applies to persons over the age of fourteen, leaving minors under the age of fourteen unprotected, whereas Minnesota's statute applies only to persons under the age of eighteen.

In the absence of effective Federal and State laws protecting against forced marriage throughout the United States, victims and advocates are forced to turn to States' family and dependency courts to find protection. However, they find that current civil laws, restraining orders and legal institutions were not designed to protect victims of forced marriage or attempted forced marriages, and direct service and early responders are unaware of and/or untrained on the nuances of supporting an individual facing forced marriage.

Approach to Forced Marriage in California

While California is often the leader in progressive policies, the state fails drastically in the area of forced marriage, and its laws and data are woefully inadequate. California law defines statutory rape (a felony or misdemeanor depending on the age difference) as an adult having sex with someone under the age of eighteen if they are not married. A 2018 law required Family Court Services, the court agency providing family and child custody mediation, evaluation and other related services, to interview both parties involved and a guardian to ensure coercion, child abuse and trafficking was not taking place. This bill required local registrars to report the number of certificates issued to minors, which led to a report of fewer than twenty child marriages in 2019, a clear undercount, as according to an analysis of the United States Census Bureau, 8,800 fifteen to seventeen year olds were reported as being married in 2021 alone.

California does not have a minimum age of marriage. Compounding this horror, those who are forced into marriage as minors must wait until they reach the age of majority to file for divorce. Additionally, due to the statute of limitations on annulment and divorce due to forced marriage, a survivor who was twelve years old at the time

of marriage would automatically be unable to file for divorce due to the current four year statute limitation. In 2017, then-Senator Jerry Hill proposed to ban marriages for anyone under the age of eighteen. However, facing opposition from the American Civil Liberties Union, Planned Parenthood, and the Children’s Law Center, the bill was changed and amended to just add minimal safeguards for child marriage victims.

In speaking with California lawmakers and proposing possible solutions, we have found an unwillingness to adopt protective orders that are unique and specific to forced marriage. Most lawmakers argue that California has robust restraining orders including a civil harassment restraining order (CHO) as well as a domestic violence restraining order (DVRO). However, existing DVRO laws are insufficient, as they are enforceable only against an individual, while in most forced marriages there is often the presence of third party individuals who threaten, coerce or force an individual into the marriage. Additionally, violation of protective orders within the United States can result in incarceration, or in the case of a non-citizen removal from the United States, and victims may be unwilling to cause their parents, relatives or loved ones to face such outcomes, particularly if they rely on those people for financial support and housing.

II. FORCED MARRIAGE AND THE SOCIAL DETERMINANTS OF HEALTH

Social determinants of health (SDH) are the non-medical factors that influence health outcomes; they are the conditions in which people are born, grow, work, live, and age, and the wider set of forces and systems shaping the conditions of daily life.³⁰ SDH can be divided into five general categories: Neighborhood and Environment, Social and Community Context, Health Care, Education, and Economic Stability. For survivors of forced marriage, some or all social SDH categories are impacted as a result of the forced or attempted forced marriage, as described below.

Neighborhood and Environment

Isolation, control, economic abuse, immigration related threats, withholding of legal documents, deception, stalking, kidnapping or being held under house arrest, threats of and/or actual physical violence, death threats, and/or murder attempts from family are just some of the risks inherent in forced marriage, and these circumstances create an environment leading to anxiety, depression, PTSD and/or other mental health struggles.

Social and Community Context

The social and community context includes emotional blackmail, stalking,

³⁰ “Social Determinants of Health,” World Health Organization (WHO), accessed July 16, 2024, https://www.who.int/health-topics/social-determinants-of-health#tab=tab_1.

kidnapping, threats of and/or actual physical violence, death threats, and/or murder attempts from family/spouse or relatives are just some of the elements of a forced marriage. Stalking, surveillance, limiting access to friends, family or the outside world are tactics also deployed in forced marriages. For example, at nineteen, Karin was forced to marry a man twelve years her senior, and when she arrived at his London-based home after the ceremony, she was informed that she would no longer have access to her phone, social media and/or any other communication applications. There would be no access to internet in the home and Karin was not to leave the home without the permission of her husband, who made it clear on day one that she would only be allowed to accompany him to the grocery store and would otherwise remain at home and tend to their future children. Karin would not be allowed to continue her education after her marriage.³¹

Health Care

Girls who marry before the age of fifteen are 50% more likely to suffer from intimate partner violence than those who marry later.³² Sexual assault and rape are often serve as an impetus for families to force and cases observed in the United States have found survivors forced to marry perpetrators in attempts to shield them from criminal consequences, particularly in states with statutory rape laws. Such conditions create the conditions within which the sexual and reproductive health of a survivor is controlled or denied. The health and wellbeing of survivors is further risked by restriction of reproductive rights and access to healthcare. The compounded trauma of being forced into a marriage (often times with a stranger with a large age gap), being sexually assaulted and raped, and being forced into parenthood far too early, sets the perfect trap to keep women and girls locked into a life of poverty and abuse.

Education

Women with higher levels of education are more likely to be healthier and live longer. School environments should be supportive and nurturing because youth who routinely experience forms of social discrimination are more likely to struggle with math and reading. Sexism and patriarchy are forms of social discrimination and are likely to negatively impact girls' math and reading skills. Furthermore, this social discrimination in schools decreases the likelihood of high school graduation and college entrance, impacting access to high-paying jobs. Addressing inequality in social determinants of health accelerates progress

³¹ Survivor served by Choose Your Path Foundation, Pseudonym is used to protect survivor identity. See their Instagram accounts at @foundationcyp.

³² "Gender-Based Violence and Child Marriage," Girls Not Brides, citing Kidman, "Child Marriage and Intimate Partner Violence: a Comparative Study of 34 Countries, *International Journal of Epidemiology*, 46, No. 2, 1 (April 2017), 662–675, accessed September 18, 2024, <https://www.girlsnotbrides.org/learning-resources/child-marriage-and-health/gender-based-violence-and-child-marriage/>.

toward health equity, a state in which every person has the opportunity to attain their highest level of health.

Economic Stability

Forced marriage impacts economic empowerment of women and girls and their social and economic development. Forced marriage creates an environment in which a disproportionate share of unpaid care and domestic work is shouldered by survivors. Entering the workforce, making advancements and remaining in the labor market are all hampered by forced marriage. The economic autonomy of women and girls is often the best tool to safeguard against violence and ability to leave such abusive relationships.

III. RACIAL AND ECONOMIC DISPARITIES IMPACTING SURVIVORS OF FORCED MARRIAGE

In order to understand the economic costs of forced and child marriage to victims, this research considers economic inequalities for women and girls within the United States and across the globe. The United Nations Human Rights Office of the High Commissioner estimates that, “worldwide more than 650 million women alive today were married as children. Each year, at least twelve million girls are married before they reach the age of eighteen.”³³ “Gender inequality in the economy costs women in developing countries \$9 trillion a year – a sum which would not only give new spending power to women and benefit their families and communities, but would also provide a massive boost to the economy as a whole.”³⁴

At a basic level, Economics is the study of the distribution of scarce resources: “economics is a social science that focuses on the production, distribution, and consumption of goods and services.”³⁵ Marriage, as an institution, has economic costs and benefits that can operate as a public good that many people can enjoy. On the other hand, the particulars of how it is practiced becomes both a public and a private matter. The case of forced and child marriage requires government intervention and social conditioning to eliminate the economic harms caused by the loss of personal autonomy.

Economic inequality can be understood as an unequal and oftentimes biased allocation of scarce resources among various groups in a society: “inequality is an unfair and significant difference in the availability, accessibility or possession of opportunities, power, money status, rights, etc., among people, groups, regions,

³³ “Child and Forced Marriage.”

³⁴ “Why the Majority of the World’s Poor are Women,” Oxfam International, accessed June 29, 2024, <https://www.oxfam.org/en/why-majority-worlds-poor-are-women>.

³⁵ Adam Hayes, “Economics Defined with Types, Indicators and Systems,” Investopedia, June 28, 2024, accessed July 7, 2024, <https://www.investopedia.com/terms/e/economics.asp>

countries, or continents.”³⁶ Two major indicators of economic inequality are unequal distribution of income (the amount of money or wages earned) and wealth (the value of unencumbered resources owned, or the accumulation of scarce resources).³⁷ By nature, scarce resources will produce inequality and wealth may accumulate in the hands of a few individuals, excluding a majority of others. Furthermore, wealth inequality is hastened by income inequality when high-paying jobs held by an exclusive group lead to additional wealth accumulation. “A big driver of economic inequality is a persistent wealth and income gap observed between men and women and with whites and non-whites. While these gaps have been closing in recent years, pervasive racism beginning with slavery and continuing through the Jim Crow era has led to enormous inequalities between white and black households that remain to this day.”³⁸ Gender-based income inequality is reflected in women’s lower pay in jobs irrespective of qualification when compared to their male counterparts.

These economic disparities become a social problem when they occur as a result of systemic inequities and biases that consistently harm specific groups. For example, racial disparities in hiring result in unequal access to jobs for underrepresented groups, negatively impacting the economic stability of that group. In the United States, “systemic racism...prevents people from making the most of their economic potential,” which often means Black families do not have as much financial flexibility as white families.³⁹ Persistent, systemic racism results in a loss in productivity because those with the most talent or skills may not be deployed in the most effective roles, or may not be employed at all, and that loss in productivity and economic efficiency is replicated across the economy in multiple sectors and leads to lower production overall. Consider for example, that there is a significant wealth gap among various groups: “the wealth gap between American whites and Blacks is projected to cost the United States economy between \$1 trillion and \$1.5 trillion in lost consumption and investment between 2019 and 2028.”⁴⁰ Those trillions of dollars are a financial loss that is not accounted for on any company’s books or by the IRS in lost tax revenues, but the lower GDP and rise in inequality captures some of that story. Moreover, the intersectional experience for many women of color suggests that the double burden of being a woman and a non-white person has detrimental financial impacts. “Income disparities have always been clearly visible for women and people of color. It’s widely acknowledged that, for example, male employees typically earn more than

³⁶ Virendra Kamalvanshi & Saket Kushwaha, (2021). “Economic Inequality: Measures and Causes,” in *Reduced Inequalities: Encyclopedia of the UN Sustainable Development Goals*, eds. W. Leah Filho, A. Marisa Azul, L. Brandli, A. Lange Salvia, P. Gökçin Özuyar, T. Wall (Springer, Cham, 2021), https://doi.org/10.1007/978-3-319-95882-8_27.

³⁷ Robert Kelly & Pete Rathburn, “Understanding Wealth: How it is Defined and Measured?” Investopedia, August 20, 2024, accessed September 17, 2024, <https://www.investopedia.com/terms/w/wealth.asp>.

³⁸ Amy Fontinelle, “What is Economic Inequality? Definition, Causes, Key Statistics,” Investopedia, June 20, 2024, accessed July 7, 2024, <https://www.investopedia.com/economic-inequality-4845459>.

³⁹ Joseph D. Losavio, “What Racism Costs Us All,” *Finance and Development*, 57 (2020), 35.

⁴⁰ *Ibid*

female employees in the same job positions. Likewise, white males earn more than non-white males.”⁴¹

These racial dynamics also impact the global issue of forced and child marriage, as the majority of those suffering from this social problem are women and girls from the global south. “In the past decade, twenty-five million child marriages have been prevented globally thanks to the increased rate of girls’ education, the proactive investment of governments in adolescent girls and greater public awareness of the harms of child marriage. Despite this, the prevalence rate of child and forced marriage remains high, in particular in some regions, such as sub-Saharan Africa and South Asia, which represent eighteen percent and forty-four percent, respectively, of the global burden.”⁴² These women and girls tend to be the most vulnerable to forced and child marriage, and have the least access to resources for exiting these abusive circumstances.

Education and Employment Impacts of Forced Marriage

Child and forced marriage impacts girls and women significantly in the correlated lack of education, which tends to increase health, safety, and empowerment outcomes for girls because when girls are exposed to information, their life choices expand. “Apart from leading to higher expected earnings for working women, a higher level of educational attainment may also increase their labor force participation or the number of hours that women work.”⁴³ Once young girls move into adulthood, if they have more education, they are more likely to be in the workforce and earn money for themselves. The other thing to consider is the contrapositive, “Lower earnings for women in adulthood due to low educational attainment lead to losses in human capital wealth defined as the present value of the future earnings of the labor force.”⁴⁴ There is a cumulative negative effect of reducing girls’ earning potential by not educating them that becomes a macro-level economic burden for the country that extends into the future. A single girl’s reduced earnings may seem insignificant, but hundreds of thousands of girls not earning to their full potential can be disastrous to an economy in the long-term. “[Educating] girls has implications not only for individuals and households, but also for nations and the world. By raising standards of living through higher earning and lower population growth, educating girls would lead to reductions in poverty.”⁴⁵

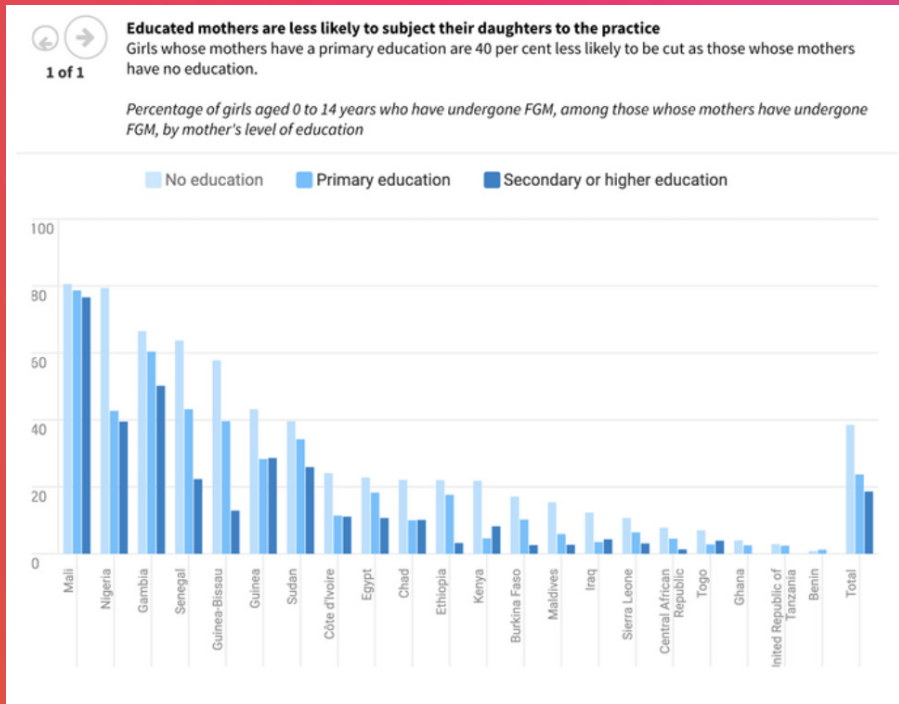
⁴¹ Carol Kopp, “Income Inequality Definition: Examples and How It’s Measured,” Investopedia, June 20, 2024, accessed July 7, 2024, <https://www.investopedia.com/terms/i/income-inequality.asp>.

⁴² “Child and Forced Marriage.”

⁴³ *Ibid.*, 10

⁴⁴ *Ibid.*, 5

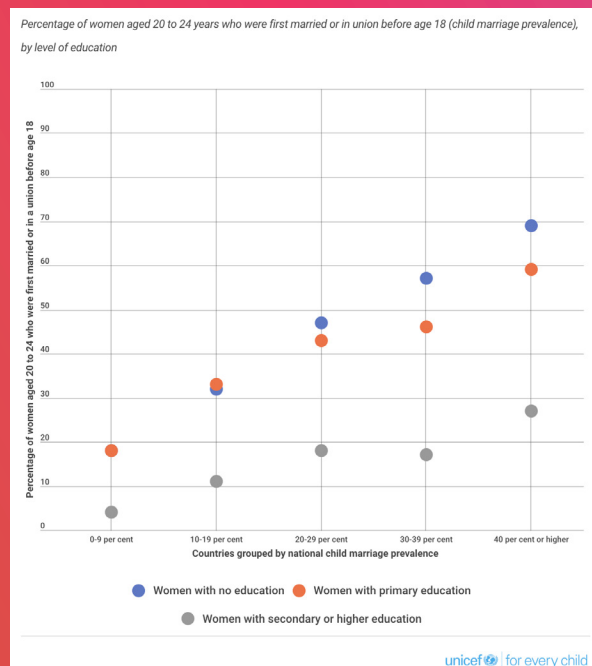
⁴⁵ Wodon, “Missed Opportunities,” 10.



Notably, these issues are not limited to developing countries; girls in the developed world who experience forced or child marriage are also subject to the same or similar economic impacts. According to the Tahirih Justice Center, a United States gender-based violence legal advocacy and services organization, “Girl’s education can be interrupted or discontinued when she marries, limiting ability to become financially independent...Girls married before age 19 are 50% more likely to drop out of high school and four times less likely to graduate from college.”⁴⁶ Education and labor force participation are also often protective factors when it comes to domestic violence. “95% of cases of domestic abuse involve economic abuse. This type of abuse is designed to create economic instability and/or make one partner economically dependent, which limits their freedom. Without access to money and the things that money can buy, it is difficult to leave an abuser and access safety.”⁴⁷

⁴⁶ “Falling Through the Cracks: How Laws Allow Child Marriage to Happen in Today’s America,” Tahirih Justice Center, August 2017, <https://www.tahirih.org/pubs/falling-through-the-cracks-how-laws-allow-child-marriage-to-happen-in-todays-america/>, 4.

⁴⁷ “What is Economic Abuse?” Surviving Economic Abuse, accessed July 1, 2024, <https://survivingeconomicabuse.org/what-is-economic-abuse/#:~:text=95%25%20of%20cases%20of%20domestic,an%20abuser%20and%20access%20safety.>



Child-bearing and Health impacts

Early marriage can be life-altering because her sexual and reproductive health choices are severely limited in many cases, and because in many countries, the health care system is not responsive to the needs of girls or women, leading to tragic results. “Child marriage can lead to girls having sex before they are physically and emotionally ready, and when they know little about their own sexual and reproductive health and rights...Child marriage is a key driver of adolescent pregnancy – which carries serious health risk—and can increase the risk of contracting sexually transmitted infections and experiencing gender-based violence (GBV).”⁴⁸

Girls’ education, including reproductive and sexual health education, has a positive effect by increasing women and girls’ life choices and their ability to exercise their rights, and these expanded choices have a multiplier effect across women and girls’ lifespan in addition to the positive impacts on their families. Girls who have been educated tend to give birth fewer times, live longer, and likely grow up as women who support educating their children.

In contrast, having children at an early age can be harmful to girls. “A study of US women who married as children found that they experienced significantly higher rates of psychiatric disorders and other research has shown they are more likely to experience

Graph: The Child Marriage Data Portal, accessed July 18, 2024, <https://childmarriagedata.org>.

⁴⁸ “Child Marriage and Health.”

a range of serious medical problems.”⁴⁹ The trauma that can be associated with early marriage, sexual assault, and early childbirth is disruptive to adolescent development. It is also important to recognize that very young girls’ bodies may not be prepared for sex or childbirth and they can die in childbirth or contract sexually transmitted infections at higher rates as a result of forced intercourse. “The risk factors for both child marriage and HIV infection include poverty, low levels of education and gender inequalities which limit girls’ ability to make decisions about their own health, sexual partners and marriage.”⁵⁰ Victimization of women and girls also increases their risk of contracting HIV because they lack bodily autonomy. “A study in South Africa found that the association of intimate partner violence and HIV was stronger in the presence of controlling behavior and high HIV prevalence.”⁵¹ Another concern for women and girls forced to marry is forced pregnancy and lack of access to contraception or safe abortions, reducing their options for limiting or spacing their pregnancies.⁵² Barriers to accessing safe abortion or contraception can be harmful to a young girl or a woman because it restricts her choices for family planning. An additional concern for women and girls in rural areas are other barriers to accessing healthcare. “Barriers include judgment by health care providers and physical barriers – like distance and restricted mobility – to accessing clinics.”⁵³ Women and girls in rural areas are already politically and economically vulnerable because they are isolated from information and services. Forced marriage and pregnancy serve to further isolate them and prevent them from making informed choices.

⁴⁹ “Falling Through the Cracks,” 4.

⁵⁰ “HIV and Child Marriage” Girls Not Brides. website accessed 7/6/2024 <https://www.girlsnotbrides.org/learning-resources/child-marriage-and-health/hiv-and-child-marriage/>

⁵¹ “On the Fast-Track to end AIDS by 2030: Focus on Location and Population” UNAIDS (2015) World AIDS Day 2015 report. p. 76 ; and Durevall D (2015) “Intimate partner violence and HIV in ten sub-Saharan African countries: what do the Demographic and Health Surveys tell us?” Lancet Glob Health 2015 Volume 3, No. 1: p. e41 Published online 21 November 2014.

⁵² “Adolescent Pregnancy and Child Brides,” Girls Not Brides, accessed July 6, 2024, <https://www.girlsnotbrides.org/learning-resources/child-marriage-and-health/adolescent-pregnancy-and-child-marriage>.

⁵³ Ibid.

Economic Agency and Political Autonomy Impacts

According to a 2018 report, *The Cost of Not Educating Girls*, “The loss in human capital wealth incurred today because many adult women did not benefit in their youth from universal secondary education is estimated to range between U.S. \$15 trillion to U.S. \$30 trillion globally.”⁵⁴ “Between 70-80% of marriages involving individuals under eighteen end in divorce. For teen mothers, getting married and later divorced can more than double their likelihood of poverty.”⁵⁵ The statistics on divorce and poverty are not limited to women in the developing world; they hold true for the United States as well. Divorce is expensive, emotionally and physically draining, and in some countries divorce may not be available or is not easily obtained. There are also costs beyond the divorce itself including impact to credit history, ability to rent, opportunity costs for building wealth, and the time lost from starting over. There is also a multiplier effect on the amount of money lost in prime earning years when married and not permitted to work outside the home, or are relegated to particular types of work.

Society also pays a cost in terms of loss of women’s voice in politics, and there is evidence of women’s lost political agency from the disempowering experience of child and forced marriage. That lost political agency correlates to less economic autonomy for women and girls. Women’s collective action and organizing is a proven factor in improving their rights, including key aspects of economic empowerment.⁵⁶ “Research and empirical studies provide robust support for the idea that as women attain higher levels of education, they are more inclined to postpone marriage, a phenomenon observed in various regions, including Pakistan [a subject of this research]. This delay in marriage holds significant benefits, allowing women to pursue educational and career aspirations, contributing to their empowerment and overall well-being.”⁵⁷ Despite this progress, the global pandemic and political inertia have slowed the pace of progress and may have reversed some gains.

⁵⁴ Wodon, “Missed Opportunities,” 5.

⁵⁵ “Falling Through the Cracks,” 4.

⁵⁶ Wodon, “Missed Opportunities,” 12.

⁵⁷ Umar Daraz, Younas Khan, Ann Mousa Alnajdawi, Rula Odeh Alsawalqa, “Empowering Hearts and Shaping Destinies: Unveiling the Profound Influence of Education on Women’s Mate Selection in Pakistan,” *Frontiers in Sociology*, 8 (December 20, 2023).

IV. PROPOSING POLICY SOLUTIONS FOR STATES AND NATIONS

Government Support for Economic Intervention

In order to address inequality experienced by women and girls as a result of forced and child marriage, governments must value the efficacy of women and girls as economic participants. In order to remedy gender-based economic disparities, public sector actors must engage successful approaches to ending gender disparities including public sector investment and interventions. “If rising social spending has been used to combat inequality, then fiscal policy is a key instrument available to governments to achieve distribution objectives.”⁵⁸

Fiscal policy involves the use of government taxing and spending to eliminate barriers for those harmed by market forces or other intentional biases present in the economy. Rising social spending has been used to combat inequality. Fiscal policy is a key policy instrument available to governments to achieve their distributional objectives. “In advanced economies, taxes and transfers decreased income inequality by one-third, with most of this being achieved via public social spending; [to achieve results,] social spending must be adequate, effective, and sustainable.”⁵⁹ Governments must spend more resources on the social sector and intentionally invest in human capital in ways that develop women and girls’ capacity to be participants in the economy long-term. Buy-in looks like progressive tax structures that tax the lowest incomes at very low rates or not at all. Government should follow up on the taxation with creative spending plans that transfer income to vulnerable individuals and households, with a particular focus on women and girls. An example of this in practice in a developed economy are shallow housing subsidies and guaranteed income. Other progressive tax-based programs in the US, include the child tax credit or earned income credit; both are aimed at low and middle income families and aim to transfer income to vulnerable families.

⁵⁸ “Income Inequality: Introduction to Inequality” International Monetary Fund website accessed 6/28/24 <https://www.imf.org/en/Topics/Inequality/introduction-to-inequality>

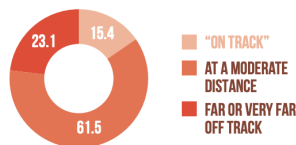
⁵⁹ Ibid.



ACHIEVE GENDER EQUALITY AND EMPOWER ALL WOMEN AND GIRLS

THE WORLD IS
NOT ON TRACK TO ACHIEVE
GENDER EQUALITY BY 2030

OUT OF GOAL 5 INDICATORS:



AT THE CURRENT RATE, IT WILL TAKE



300 YEARS
TO END CHILD
MARRIAGE



286 YEARS TO CLOSE GAPS
IN LEGAL PROTECTION AND
REMOVE DISCRIMINATORY LAWS



140 YEARS TO ACHIEVE
EQUAL REPRESENTATION IN
LEADERSHIP IN THE WORKPLACE

Government Support for Education as Prevention

Governments must invest in girls' education because education of girls has consistently been shown to improve the outcomes overall for a society. Investing in girls' education transforms communities, countries and the entire world. Girls who receive an education are less likely to marry young and more likely to lead healthy, productive lives. They earn higher incomes, participate in the decisions that most affect them, and build better futures for themselves and their families. "Countries with higher levels of gender equality tend to have higher income levels, and evidence from a number of regions and countries shows closing the gap leads to a reduction in poverty."⁶⁰ As a concrete example, "In Latin America for instance, an increase in the number of women in paid work between 2000 and 2010 accounted for around 30 percent of the overall reduction in poverty and income inequality."⁶¹ Girls' education strengthens economies and reduces inequality. It contributes to more stable, resilient societies that give all individuals – including boys and men – the opportunity to fulfill their potential.

Supporting compulsory and free primary and secondary education for girls is a great way to prevent child and forced marriage. "Not educating girls is especially costly in part because of the relationships between educational attainment, child marriage, and early childbearing, and the risks that they entail for young mothers and their children."⁶² One of the benefits of educating women and girls is the increase in lifetime earning potential as women and girls obtain more education. "For women with primary education, the average expected gain in earning vs. noeducation is 19.3 percent...for women with secondary education, the average gain is much larger and at 96.6 percent... for women with tertiary education, the average gain is at 323.4 percent."⁶³ Additionally, the GDP for the country is greatly increased by having a larger, more educated, and highly skilled labor force.

Graphic Image: n.d. not on track gender equality by 2030. Accessed July 18, 2024. https://www.un.org/sustainabledevelopment/wp-content/uploads/2023/08/2309739_E_SDC_2023_infographics-5-5.pdf

⁶⁰ "Why the Majority of the World's Poor are Women."

⁶¹ *Ibid.*

⁶² Wodon, "Missed Opportunities," 3.

Government and Social Sector Incentives as Prevention

One prevention measure against forced and child marriage involves the use of cash incentives for families. Conditional Cash Transfers (CCT) are incentive programs where vulnerable families may receive cash benefits based on complying with a desired behavior change. In the case of forced and child marriage, the CCT would offer monetary incentives to families based on girls' regular school attendance and remaining unmarried until age eighteen. The incentives encourage families to protect girls from early marriage. For the girls, the benefit of waiting until the age of majority makes it highly likely that girls will continue with education and achieve more economic stability. A secondary effect is that parents will increase hopes and aspirations for their daughters. At a macroeconomic level, the outcomes in health, education, political agency, poverty, and inequality are improved across the country because so many girls will move out of abject poverty. Those who obtain additional years of education will earn higher incomes and transfer those resources to their families in ways that uplift the entire community.

Another benefit of the CCT is that female household members experience gains that are internal and external to the household. Female recipients of the funds invest in the family and exercise more financial autonomy than would typically be possible. "Most CCT programs have been designed with the assumption that women will be better stewards of the cash because they tend to prioritize household spending on children's educational, nutritional and health needs as well as the overall wellbeing of the family."⁶⁴ "Based on their review of CCTs in Latin America...[researchers] note that cash transfers are also intended to compensate mothers for their traditional domestic and care work role ...and seen as a way to promote their control over household resources and increase their bargaining power at home."⁶⁵ The CCTs provide women a guaranteed income and permits them to exercise financial control over a set of resources. "[Researchers] identify several benefits emerging out of women's participation in conditional cash transfer programs and the ability to directly handle the cash it confers. These include higher self-esteem, decision-making ability and political participation, greater bargaining power within the household and reduced incidence of some forms of intimate partner of violence."⁶⁶

Social and Public Sector Intervention

Government and non-governmental organizations must invest in women's economic participation in order to improve long-term outcomes for women and girls. One example of investing in women's economic participation is to create pathways for women and girls to enter previously inaccessible spaces. In the United States for example, Black women are carrying a huge education debt load as a result of structural racism and discrimination. Black families have less wealth and less access to capital therefore those families are unable to pass on that wealth to subsequent

⁶³ Ibid. p. 12

⁶⁴ Das, Priya Nitin Datta, Elina Pradhan, Priya Nanda, and Sneha Lamba. "Making Change with Cash? Impact of a Conditional Cash Transfer Program on Age of Marriage in India: Findings on Marriage." International Center for Research on Women (ICRW). 2016. p. 4

⁶⁵ Ibid.

⁶⁶ Ibid.

generations to use for acquiring knowledge and skills via higher education. Black women are then relegated to taking on higher student loan debt loads “According to the American Association of University Women, Black women graduate with the most debt — \$37,558, on average — compared to \$31,346 for white women and \$29,862 for white men.”⁶⁷ In general, women who comprise just over half of college students, are graduating at high rates but hold nearly two-thirds of outstanding student loan debt. “Black borrowers are particularly burdened by student debt. Compared to their White counterparts, Black students are more likely to borrow to finance their education, carry more debt, and struggle with repayment for longer because they have less household wealth and lower earnings.”⁶⁸ Carrying a higher debt burden will not achieve the proposed economic outcomes for women and girls of color because servicing the debt will become an albatross and rather than pulling themselves out of poverty they will be burdened by debt payments. While student loan burdens have grown significantly for all racial groups, they are particularly heavy for Black students— especially women. One solution is loan forgiveness for borrowers. Loan forgiveness programs typically require some type of work commitment in order to forgive the debt; including military or government service, working in nonprofits, volunteering in distressed communities, etc. Student loan forgiveness is a great way to extend opportunities to marginalized communities by making education more affordable.

Policy Recommendations for California

In 2021, there were 8,800 documented cases of child marriage alone, with far more going unreported given that California does not collect data on forced marriages involving adults. What makes this issue even more horrifying is that those who are forced into marriage as minors must wait until they have reached the age of majority to file for divorce; until then, they have no protections or resources available to them in order to escape. In partnership with Choose Your Path Foundation (CYP Foundation) we propose the following policy recommendations for the California Legislature to adopt:

Adopt Protective Orders

Adopt a Forced Marriage Protective Order to create protective and preventive measures to end forced marriage in California. This protective order would expand on California's current Domestic Violence and Civil Harassment Restraining Orders, both of which currently fail to address the nuanced forced marriage. A great example of how to draft a forced marriage protective order would be the United Kingdom's FMPO.

Statute of Limitations

Lift the four year statute of limitations on annulment and divorce of forced marriage. Currently, California places a four year statute of limitation on anyone seeking an annulment or divorce for the reason of forced marriage, leaving children married before the age of fourteen unprotected.

⁶⁷ Black Student Debt Hub, Ed Trust, accessed July 2, 2024, <https://edtrust.org/blackstudentdebthub>.

⁶⁸ *Ibid.*

Create Inclusive Language

Amend California Penal Code § 265 to include all survivors of forced marriage and remove gendered language. It is imperative that we protect the bodily autonomy and human rights of all individuals regardless of their age, or gender identity.

Data Collection

California must create a database system to track the number of forced marriages taking place within state boundaries, as well as those involving the transportation of residents to other jurisdictions within and outside of the United States. California currently only tracks data on when a marriage involving one or more minor(s) is officiated; however the data often sits with county registrars and nothing comes of it. The data remains unanalyzed, and as such prevents state officials from reckoning how prevalent the issue is within the state of CA. Additionally, it does not track any information in relation to forced marriage of young adults or survivors who are not minors. This failure also prevents direct service agencies from being able to provide comprehensive support to survivors or those facing attempts of forced marriage.

Narrative Change

California lawmakers must take a proactive effort through the Office of Violence Prevention to inform residents of their rights, how to seek help and offer support through court appointed self help stations. The current taboo around forced marriage leaves thousands of survivors across California isolated and unable to seek the nuanced support they need. When things become taboo or shameful it becomes even harder for survivors to speak up. The push to focus only on minors who are forced into marriage leaves out a large number of survivors, creating shame and guilt for adult survivors as well as creating a sense of isolation.

Ultimately, these bills and proposals would empower survivors to define for themselves the protection they need, define from whom they need protection, and finally, offer both prevention and intervention. Policymakers can begin with the creation of social services, education and crisis support centers for those at risk.

Conclusion

Forced and child marriage is a huge burden that predominantly impacts girls of color, and has ripple effects throughout economies. Although forced and child marriage tends to be viewed as a challenge for the developing world to solve, globalization means this issue impacts developed and developing nations. Immigration and trafficking persons are not the only ways that individuals and families are impacted. Global labor force participation and the GDP of individual countries are all impacted by women and girls around the world not accessing jobs, information and services. California as a state has an economy larger than most countries, and has almost 8,000 child marriages on the books, but has not used policy change as a tool to address this issue. The Legislative proposals suggested above are just some of the ways in which California can begin to empower survivors. It is imperative to take a proactive and intentional effort to fight forced marriage head on instead of as a “cause of immigration” or as an extension of “cultural” practices. To do so would be a disservice to the millions of women and girls facing the compounded violence that is forced marriage. Achieving gender equity requires women and girls to have full autonomy in determining when, if and with whom they will create a family.

Addendum

The following laws have been pulled so that detailed analysis can be provided on how each state can update and/or strengthen the current laws.

California

- ◆ *Cal. Penal Code § 265: Every person who takes any woman unlawfully, against her will, and by force, menace or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison. This law went into effect in 1872 and was last amended in 2011.*
- ◆ This penal code sets the penalties for violating this law as imprisonment for two to three years. Due to the ambiguous wording and lack of definition on certain terms (such as “takes” or “unlawful”), it is unclear whether forced marriage based on the merits of other aspects like forced marriage by familial pressure apply. In addition, the use of the word “woman” leaves a gaping hole in protection for minors, who would not be included amongst this law’s wording.

Florida

- ◆ *Flo. Stat. § 787.06: Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking. Under Penal Code 787.06 Human trafficking is defined as follows: transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person. And Services is defined as: any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.*
- ◆ This law went into effect in 2004 and was last amended in 2016. Penalties for violating this law: A person guilty of a life felony may be sentenced to life in prison, or at least 25 years in prison, followed by probation for the rest of the offender’s natural life. A person guilty of a felony of the first degree may be sentenced to imprisonment not exceeding 30 years. While this law does anticipate the possibility of parents or family who have forced their children into marriage, it does leave a bit of a gap in wording. For instance, the statute states that the perpetrator subjects the victim to forced marriage “for the purpose of exploitation.” This purpose may be difficult to prove for cases where families force marriage because they believe it is in the child’s best interests.

Indiana

- ◆ *Ind. Code Ann. § 35-42.3.5-1.1: A person who knowingly or intentionally uses force, threat of force, coercion, or fraud to recruit, entice, harbor, or transport an individual with the intent of causing the individual to: (1) marry another person; (2) engage in prostitution; or (3) participate in sexual conduct; commits promotion of human sexual trafficking, a Level 4 felony.*

This law went into effect in 2006 and was last amended in 2018 and lays out Penalties for violating this law as follows : A person who commits a Level 4 felony shall be imprisoned for a term between 2 and 12 years. In addition, the person may be fined not more than \$10,000. In addition, a “victim’s assistance fee” of between \$500 and \$5,000 shall be assessed against a person convicted of promotion of human sexual trafficking. See Ind. Code Ann. § 33-37-5-23. This law does protect those who are forced or coerced by family to marry when they are young. Furthermore, this statute notes the following:

- ◆ “[F]orce,” “threat of force,” “coercion,” or “fraud” means but is not limited to a person:
 1. causing or threatening to cause physical harm to a human trafficking victim;
 2. physically restraining or threatening to physically restrain a human trafficking victim;
 3. abusing or threatening to abuse the law or legal process to further the act of human trafficking;
 4. knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of the human trafficking victim;
 5. using blackmail or threatening to cause financial harm for the purpose of exercising financial control over the human trafficking victim; or
 6. facilitating or controlling a human trafficking victim’s access to a controlled substance. See Ind. Code Ann. § 35-42-3.5-0.5.
- ◆ The statute also provides another way that parents who have forced the marriage of a child might be subject to prosecution: *A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution, juvenile prostitution, or participating in sexual conduct commits child sexual trafficking, a Level 2 felony, which defines a possible*

sentence of between 10 and 30 years, with a possible fine not more than \$10,000. See *Ind. Code Ann. § 35-42-3.5-1.3*. Indiana civil law also defines a child who is “recruited, harbored, transported, or engaged in” marriage, unless authorized by a court, as a “victim of human or sexual trafficking” for the purposes of determining whether a child is in need of “services,” which means the “care, treatment and rehabilitation” of that the child. See *Ind. Code Ann. §§ 31-9-2-133.1, 31-34-1-3.5*.

Maryland

- ◆ *Md. Code Ann., Crim. Law § 3-1103: A person may not knowingly take or detain another with the intent to use force, threat, coercion, or fraud to compel the other to marry any person.* This law went into effect in 2002 and was last amended in 2019. Penalties for violating this law: A person shall be guilty of the felony of forced marriage and subject to: (1) imprisonment not exceeding 25 years; (2) or a fine not exceeding \$15,000; (3) or both.
- ◆ The statute also provides the same penalties, which can be applied to a person who knowingly “aid[s], abet[s], or conspire[s] with another to violate this subsection” or who “receive[s] a financial benefit or thing of value” in connection to a violation of the subsection. Additionally, it states that a person who violates the section can be “charged, tried, and sentenced in any county in or through which the person transported or attempted to transport the victim.”

Mississippi

- ◆ *Miss. Code Ann. § 97-3-1: Every person who shall take any person over the age of fourteen (14) years unlawfully, against his or her will, and by force, menace, fraud, deceit, stratagem or duress, compel or induce him or her to marry such person or to marry any other person, or to be defiled, and shall be thereof duly convicted, shall be punished by imprisonment in the penitentiary not less than five (5) years and not more than fifteen (15) years.*
- ◆ This law went into effect in 1980 and has no amendments to update the language. Penalties for violating this law: Imprisonment in the penitentiary not less than five (5) years and not more than fifteen (15) years. It is unclear whether these laws can be applicable to those whose familial relations force them into marriage. The terms “take” and “unlawfully” are not defined. In addition, use of the phrase “persons over the age of 14” means that persons under age 14 are not protected by this statute.

Nevada

- ◆ *Nev. Rev. Stat. § 201.300: A person is guilty of sex trafficking if the person takes or detains a person with the intent to compel the person by force, violence, threats or duress to marry him or her or any other person.* This law

went into effect in 1913 and was last amended in 2019. Penalties for violating this law: Penalties depend on whether the victim was an adult or a child, and the age of the child at the time the offense was committed.

- a. If the victim of the sex trafficking is an adult: - the person is guilty of a category B felony; - shall be punished by 3-10 years' imprisonment in the state prison; and - may be fined not more than \$10,000.
- b. If the victim of the sex trafficking is a child under 14 years old: - the person is guilty of a category A felony; - shall be punished by imprisonment in the state prison for life with the possibility of parole (eligible only after serving 15 years); and - may be fined not more than \$20,000.
- c. If the victim of the sex trafficking is a child 14-16 years old: - the person is guilty of a category A felony; - shall be punished by imprisonment for life in the state prison with the possibility of parole (eligible only after serving 10 years); and - may be fined not more than \$10,000.
- d. If the victim of the sex trafficking is a child 16-18 years old: - the person is guilty of a category A felony; - shall be punished by imprisonment for life in the state prison with the possibility of parole (eligible only after serving 5 years); and - may be fined not more than \$10,000.

The court may impose an additional penalty for the primary offense—a fine of up to \$500,000—where physical force or violence or the immediate threat of physical force or violence was used on a child. (Nev. Rev. Stat. § 201.352). The statute prohibits probation or suspended sentences for anyone convicted of sex trafficking a child (i.e., would prohibit the same for anyone convicted under the forced marriage provision if the victim were a child). In addition, the statute also notes that receiving anything of value with the intent of violating this section is also considered sex trafficking. A related statute also provides that even if any part of such act or acts are committed out of state, the offense can be deemed committed, and the offender tried and punished, in any county in which any overt act to further the offense was committed (Nev. Rev. Stat. § 201.350).

Oklahoma

- ◆ Okla. Stat. Ann. tit. 21, §§ 1117, 1118, & 1119:
§1117, Compelling woman to marry: Any person who takes any woman against her will, and by force, menace or duress, compels her to marry him or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not less than ten (10) years. Penalties for violating this law are as follows: §1117, Compelling woman to marry: Any person who takes any woman against her will, and by force, menace or duress, compels her to marry him or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not less than ten (10) years.

§1118, Intent to compel woman to marry: Any person who takes any woman unlawfully against her will, with the intent to compel her by force, menace or duress to marry him, or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding (10) years. Penalties for violating this law are as follows: §1118, Intent to compel woman to marry: Any person who takes any woman unlawfully against her will, with the intent to compel her by force, menace or duress to marry him, or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding (10) years.

§1119, Abduction of person under fifteen: Every person who takes away or induces to leave any person under the age of fifteen (15) years, from a parent, guardian or other person having the legal charge of the person, without the consent of said parent, guardian, or other person having legal charge, for the purpose of marriage . . . shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. Penalties for violating this law are as follows: §1119, Abduction of person under fifteen: Every person who takes away or induces to leave any person under the age of fifteen (15) years, from a parent, guardian or other person having the legal charge of the person, without the consent of said parent, guardian, or other person having legal charge, for the purpose of marriage . . . shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. This law went into effect in 1910 and was last amended in 1999. The statute does provide protections against those who are compelled to marry against their will, however it should be noted that the language can also lead to ambiguity in terms of gender. For instance, many of the above sections make reference to a “woman” in this particular situation. A broader scope should be taken to avoid victims (regardless of gender) from falling prey to forced marriage.

Virginia

- ◆ *Va. Code Ann. § 18.2-355: Any person who takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled . . . is guilty of pandering.* This law went into effect in 1975 and was amended in 2015. Penalties for violating this law: Violation of this provision constitutes a Class 4 felony, subject to: (1) Imprisonment of not less than two years nor more than 10 years; and (2) a fine of not more than \$100,000. This statute is careful to protect those who are compelled to marry, even if the force or coercion is done through family members.

It is interesting to look at the terminology used, with “pandering” again harkening to prostitution of the victim.

West Virginia

- ◆ *W. Va. Code § 61-2-14: Any person who takes away another person, or detains another person against such person’s will, with intent to marry or defile the person, or to cause the person to be married or defiled by another person; or takes away a child under the age of sixteen years from any person having lawful charge of such child, for the purpose of prostitution or concubinage, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than three nor more than ten years.* This law went into effect in 1882 and was last amended in 1984. Penalties for violating this law: Violators will be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than three nor more than ten years. This statute’s non-gendered terminology seems to allow for wider protections against anyone in violation of this law.

District of Columbia

- ◆ *D.C. Code Ann. § 22-2705: It is unlawful for any person, within the District of Columbia to:
Take or detain an individual against the individual’s will, with intent to compel such individual by force, threats, menace, or duress to marry the abductor or to marry any other person.* This law went into effect in 1910 and was last amended in 2013. Penalties for violating this law: A person shall be guilty of a felony and subject to: (1) imprisonment for not more than 5 years; (2) or a fine of “not more than the amount set forth in [the Criminal Fine Proportionality Amendment Act of 2012],” i.e., not more than \$12,500 for offenses punishable by imprisonment for 5 years or less but more than one year; or both. If the victim is under 18 years of age, a person shall be guilty of a felony and subject to: (1) imprisonment for not more than 20 years; (2) or a fine of “not more than the amount set forth in [the Criminal Fine Proportionality Amendment Act of 2012],” i.e., not more than \$50,000 for offenses punishable by imprisonment for 20 years or less but more than 15 years; (3) or both. The language used in this statute is clear and succinct and leaves room for cases in which family or religion compels the individual to enter into forced marriage.

U.S. Virgin Islands

- ◆ *V.I. Code Ann. tit. 14, § 1301: Whoever takes any woman unlawfully, against her will, and by force, menace or duress, compels her— (1) to marry him; (2) to marry any other person; or (3) to be defiled— Shall be imprisoned not more than 10 years.* This law went into effect in 1921 and has since never been amended. Penalties for violating this law: Violators will be imprisoned

for more than 10 years. This statute leaves room for debate as to whether the family can be held culpable for forcing someone into marriage due to unclear language. The terms “takes” and “unlawfully” are not defined in the statute. In addition, use of the term “woman” likely means that a minor child is not protected.

The following content will cover the criminal statutes in depth, as laid out above:

Massachusetts

- ◆ *Mass. Gen. Laws ch. 272, § 1: Whoever fraudulently and deceitfully entices or takes away an unmarried person under sixteen from the house of such person's parents or elsewhere, without the consent of the parent or guardian, if any, under whose care and custody such person is living, for the purpose of effecting a clandestine marriage of such person without the consent of such parent or guardian, shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars, or both.* This law went into effect in 1852 and was amended in 1978. Penalties for violating the law: Violators will be subject to imprisonment for not more than one year or by a fine of not more than one thousand dollars, or both. This statute does not protect those whose families force them into marriage. The language itself suggests that it is looking specifically for minors (under sixteen) who elope with someone older, leaving those whose families coax/force the victim into marrying in a situation where they are not protected under the law.

Minnesota

- ◆ *Minn. Stat. Ann. § 609.265: Whoever, for the purpose of marriage, takes a person under the age of 18 years, without the consent of the parents, guardian, or other person having legal custody of such person is guilty of abduction and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.* This law went into effect in 1963 and was amended in 1984. Penalties for violating this law: A person who is guilty of abduction may be sentenced to: (1) imprisonment for not more than one year; (2) or payment of a fine of not more than \$3,000; (3) or both. This statute again does not protect those whose families force them into marriage. The language itself suggests that it is looking specifically for minors (under eighteen) who elope with someone older, leaving those whose families coax/force the victim into marrying in a situation where they are not protected under the law.

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