



**Doc. 14574**

11 June 2018

## Forced marriage in Europe

### Report<sup>1</sup>

Committee on Equality and Non-Discrimination

Rapporteur: Ms Béatrice FRESKO-ROLFO, Monaco, Alliance of Liberals and Democrats for Europe

### Summary

Forced marriage is a form of violence against women that entails serious violations of fundamental rights, and in particular of women's and girls' rights to physical integrity, physical and mental health, sexual and reproductive health, education, private life, freedom and autonomy. Men and boys who are victims of forced marriage face many similar violations of their rights. Neither culture, custom, religion, tradition nor so-called "honour" can justify such violations.

Forced marriage can affect people in all Council of Europe member States. All States must therefore adopt integrated policies and take measures to prevent forced marriages, protect victims and prosecute those responsible for these harmful practices.

States must ensure that potential victims have access to effective prevention mechanisms, and provide comprehensive support to victims. They should work to empower girls and women and support grassroots organisations working to change mindsets in their communities. States must provide strong civil law mechanisms for preventing forced marriages; they must moreover criminalise forced marriage and prohibit all marriages involving persons under the age of 18. If States fail to act now, and act effectively, to put an end to forced marriage, they will continue to be accomplices to harming generations of women and girls.

---

1. Reference to committee: Doc. [14115](#), Reference 4241 of 14 October 2016.



<b>Contents</b>	<b>Page</b>
A. Draft resolution .....	3
B. Explanatory memorandum by Ms Béatrice Fresko-Rolfo, rapporteur .....	5
1. Introduction .....	5
2. International law .....	5
3. Definitions and scope of this report .....	7
4. Who is affected by forced marriages, and in what circumstances? .....	8
5. Consent .....	9
6. Minimum age for marriage .....	9
7. Prevention of forced marriages and protection of victims .....	11
8. Prosecution of perpetrators .....	14
9. Integrated policies and data collection .....	15
10. Conclusions .....	17

## A. Draft resolution<sup>2</sup>

1. Every day throughout the world, 39 000 young girls are married before reaching the age of majority. More than one third of them are younger than 15. Forced marriages between adults are also frequent. All countries in Europe are affected by these harmful practices, whether in the form of forced marriages concluded in Europe, forced marriages of European nationals or residents concluded elsewhere, or persons forced to marry before arriving in Europe. These harmful practices affect above all women and girls, but they also affect men and boys.
2. Many ruined lives, much wasted potential and serious health risks lie behind these figures. For young girls, marrying often means dropping out of school, separation from their families, transitioning too quickly from childhood to adult life, domestic slavery, unprotected and forced sexual relations and unwanted pregnancies that endanger their health. Forced marriages during adulthood deprive women of the possibility of determining all matters relating to their life choices, their sexuality and sexual and reproductive health freely and without coercion, discrimination or violation of their rights. For women and girls, forced marriage is often synonymous with violence and repeated sexual assault and rape.
3. The Assembly condemned these practices in its [Resolution 1468 \(2005\)](#) on forced marriages and child marriages, in which it defined forced marriage as the union of two persons, at least one of whom has not given their full and free consent to the marriage, and child marriage as the union of two persons, at least one of whom is under 18 years of age. These definitions remain valid today, with child marriage being one form of forced marriage.
4. Forced marriage is not simply a question of being forced to accept a spouse but involves a series of violent acts against women. It violates an entire series of other rights, including their rights to physical integrity, physical and mental health, sexual and reproductive health, education, private life, freedom and autonomy.
5. International standards to prevent and combat forced marriages have existed for a long time. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, "Istanbul Convention") moreover defines forced marriage as a form of violence and calls on States Parties to criminalise them. However, the measures put in place thus far have proved inadequate to stem this harmful practice within our member States.
6. The Assembly considers it essential for member States to step up their efforts to prevent and combat forced marriages and put an end to the violence and violation of rights that they entail. These efforts must include all those concerned, such as the communities in which forced marriages are practised, grassroots organisations, social and education services, the police, the justice system and health-care professionals. Awareness and education campaigns must involve both women and men in the communities concerned and sever the link between these harmful practices and gender stereotypes, culture and traditions, including the concept of so-called "honour", which help ensure that they continue.
7. In the light of the above, the Assembly calls on member States of the Council of Europe to:
  - 7.1. include the fight against forced marriages in their national policies and practices to prevent and combat violence against women and girls, and set up a specific body within their administrative authorities dedicated to the fight against forced marriages;
  - 7.2. run public awareness and information campaigns to combat forced marriages and support the initiatives of non-governmental organisations in this field;
  - 7.3. further develop and strengthen the structures put in place to assist victims and those at risk of forced marriage, including telephone helplines for urgent calls and accommodation and shelters for women and girls who have had to leave their homes;
  - 7.4. enhance the empowerment of women and girls, in particular by guaranteeing their access to education and to the labour market;
  - 7.5. with regard to domestic law:
    - 7.5.1. criminalise conduct forcing an adult or a child to enter into a marriage, as well as luring an adult or a child abroad for the purpose of forcing him or her to enter into a marriage, and provide for effective sanctions against the perpetrators of such offences;

---

2. Draft resolution adopted unanimously by the committee on 5 June 2018.

- 7.5.2. prohibit, without exception, child marriage and abolish differences between girls and boys in terms of the minimum age for marriage;
  - 7.5.3. put in place mechanisms to verify, prior to the marriage, that there is true consent on the part of both spouses, bearing in mind that each party must be free to refuse to go ahead with the marriage without suffering any negative consequences;
  - 7.5.4. adopt civil law measures, such as protection orders against forced marriage, together where appropriate with a ban on leaving the country, in order to prevent forced marriages when cases involving persons at risk are reported;
  - 7.5.5. ensure that births and marriages are registered and that anyone forced to conclude an unregistered marriage and any children resulting from that marriage are given the same level of protection as if the marriage had been registered;
  - 7.5.6. take measures to ensure that forced marriages may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim;
  - 7.6. in order to ensure the effective application of criminal and civil law provisions to prevent and punish forced marriage, improve the conditions for enabling the reporting of cases of forced marriage and guarantee the protection of victims, whistle-blowers and other witnesses as long as required to ensure their safety;
  - 7.7. with regard to their commitments under international law:
    - 7.7.1. sign and/or ratify and fully implement the relevant Council of Europe instruments, in particular the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence;
    - 7.7.2. sign and/or ratify the United Nations Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, and the Amendment and Protocol to the United Nations Convention on the Elimination of All Forms of Discrimination against Women;
  - 7.8. recognise forced marriage as a ground for international protection;
  - 7.9. collect accurate and comparable data on forced marriages, broken down by sex and age, and carry out detailed studies on the causes and frequency of these practices and on the associated risk factors;
  - 7.10. in order to guarantee the protection of victims and persons at risk from the very moment when their situation is reported, provide detailed training for professionals working in the social and education services, the police and the justice system and health-care professionals;
  - 7.11. establish effective co-ordination mechanisms and mechanisms for monitoring victims and those at risk, and promote exchanges of good practices, referring in particular in this connection to the Guide to good and promising practices aimed at preventing and combating female genital mutilation and forced marriage drawn up by the Steering Committee for Human Rights.
8. The Assembly encourages national parliaments to support action to prevent forced marriage at national level and through their international co-operation activities.
  9. The Assembly welcomes and supports the Sustainable Development Goals adopted by the United Nations, which include the elimination of forced marriage by 2030, and encourages all Council of Europe member States to make an active contribution to the implementation of those goals.
  10. Finally, the Assembly acknowledges that forced marriages are linked to other harmful practices, such as female genital mutilation, the subject of its [Resolution 2135 \(2016\)](#), and so-called “honour crimes”, which the member States of the Council of Europe must also combat firmly and resolutely.

## B. Explanatory memorandum by Ms Béatrice Fresko-Rolfo, rapporteur

### 1. Introduction

*"I was 14 years old when I came home from school one day, a normal schoolkid in England, and my mother sat me down and she presented me with a photograph of the man I was to learn I was promised to from the age of 8 ... I remember looking at this picture and thinking as a 14-year-old girl, 'He's shorter than me,' and then thinking about homework and things. My mother was very matter-of-fact and jovial, did this with all my sisters, and by the way, none of my sisters protested. Not one said no ... I was allowed to go back to school, but the pressure really mounted when I was 15½. And I really protested. So my family took me out of education, they held me a prisoner in my own home ... locked in a room, and the padlock [was] on the outside ... and I was made to stay there until I agreed to the marriage. In the end I agreed to the marriage purely to buy back my freedom ... I ran away from home when I was 16 years old, in my final year of school, the most important year of school, during my exams. I ran away over 150 miles from where I lived. I thought it would be safe there ... My mother was very clear. She said, 'You either come home and marry who we say or from this day forward you are dead in our eyes.'"*

*Jasvinder Sanghera, survivor of an attempted forced marriage in the United Kingdom<sup>3</sup>*

1. Every day, 39 000 young girls across the world are married before reaching the age of majority. More than a third are younger than 15 years old.<sup>4</sup> Behind these alarming figures lie many ruined lives, much wasted potential and serious health risks. For young girls, marrying often means dropping out of school, separation from their families, transitioning too quickly from childhood to adult life, domestic slavery, forced and unprotected sexual relations and unwanted pregnancies that endanger their health.<sup>5</sup> Such realities violate their rights to physical integrity, physical and mental health, sexual and reproductive health and education.
2. Few figures concerning forced marriages between adults are available. Studies carried out in Germany and the United Kingdom have however shown that, of the women and girls who have sought advice on forced marriage in these countries, around two thirds were over 18 years of age.<sup>6</sup> Forced marriages during adulthood undermine women's right to private life, freedom and autonomy, depriving women of the possibility to determine all matters relating to their sexuality and their sexual and reproductive health freely and without coercion, discrimination or violation of their rights. For women and girls, forced marriage is often synonymous with violence and repeated sexual assault and rape.
3. These human rights violations have been recognised and international standards aimed at preventing and combating them have existed for a long time. Yet such violations persist today and affect many women in our member States.
4. The above should be of concern to us and prompt us to address these issues urgently. This is why I wish, through my report, to highlight measures and practices that enable us to understand this problem, prevent forced marriage in our member States and protect victims effectively. In this context, it is also particularly important to understand the sometimes very complex cultural, traditional and socio-economic factors that enable these practices to endure.

### 2. International law

#### *United Nations*

5. As far back as 1948, the United Nations declared that men and women have equal rights as regards marriage and that the latter "shall be entered into only with the free and full consent of the intending spouses".<sup>7</sup> The need for free and full consent, without which no marriage can take place legally, has been

3. Jasvinder Sanghera, founder and Director of the association Karma Nirvana, "Fighting forced marriages and honour-based abuse", TEDxGöteborg, video posted on 28 November 2013, [https://www.youtube.com/watch?v=h\\_Xh5MXA7yY](https://www.youtube.com/watch?v=h_Xh5MXA7yY).

4. United Nations Population Fund (UNFPA), *Marrying Too Young: End Child Marriage*, New York, 2012, p. 6.

5. UNFPA (2012), p. 11; Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/ (CEDAW) and General Comment No.18 of the Committee on the Rights of the Child (CRC) on harmful practices, CEDAW/C/GC/31/CRC/C/GC/18, paragraph 22.

6. Fundamental Rights Agency (FRA) of the European Union, *Addressing forced marriage in the EU: legal provisions and promising practices*, Luxembourg, 2014, pp. 12-13.

7. Universal Declaration of Human Rights, Article 16.

reiterated on several occasions in treaties that have been widely ratified. In addition, according to the Convention on the Elimination of All Forms of Discrimination against Women, ratified by all Council of Europe member States, “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>8</sup>

6. In accordance with the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (hereinafter: “Convention on Consent to Marriage”) States must ensure complete freedom in the choice of a spouse, eliminate completely child marriages and the betrothal of young girls before the age of puberty, establish appropriate penalties and create a civil or other register in which all marriages are recorded. Under the terms of this Convention, no marriage can be legally entered into without the full and free consent of both parties and States Parties are required to take legislative action to specify a minimum age for marriage. Twenty-three Council of Europe member States are today Parties to this Convention and two others have signed it.<sup>9</sup> The most recent ratification, by France, was in 2010.

7. The elimination of forced marriage is one of the United Nations Sustainable Development Goals for 2030.<sup>10</sup>

### *Council of Europe*

8. In 2002, the Committee of Ministers adopted Recommendation Rec(2002)5 on the protection of women against violence. The forms of violence covered include traditional practices that are harmful to women, such as forced marriage. This recommendation calls on member States to “prohibit forced marriages, concluded without the consent of the persons concerned”. By 2013, 21 States had a policy addressing forced or early marriage (as compared with 11 in 2005).<sup>11</sup>

9. In 2005, the Parliamentary Assembly defined forced marriage as the union of two persons, at least one of whom has not given their full and free consent to the marriage, and resolutely condemned the practice. It further condemned child marriage, defined as the union of two persons, at least one of whom is under 18 years of age.<sup>12</sup>

10. In 2011, the Committee of Ministers adopted the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, “Istanbul Convention”). Today, 30 Council of Europe member States are Parties to this convention and 15 have signed it. The European Union has also signed it.<sup>13</sup>

11. The Istanbul Convention describes forced marriage as “a serious violation of the human rights of women and girls” and “a major obstacle to the achievement of equality between men and women”. It requires States Parties to criminalise both conduct forcing an adult or a child to enter into a marriage, and the act of luring an adult or a child abroad for the purpose of forcing him or her to enter into a marriage – even if the marriage is not concluded.<sup>14</sup>

---

8. International Covenant on Civil and Political Rights (1966), Article 23; International Covenant on Economic, Social and Cultural Rights (1966), Article 10; Convention on the Elimination of All Forms of Discrimination against Women (1979), Article 16.

9. States Parties: Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Iceland, Montenegro, the Netherlands, Norway, Poland, Romania, Serbia, the Slovak Republic, Spain, Sweden, “the former Yugoslav Republic of Macedonia” and the United Kingdom; signatory States: Greece and Italy.

10. Goal 5 (“Achieve gender equality and empower all women and girls”), Target 3, available at <https://www.un.org/sustainabledevelopment/gender-equality/>.

11. See the Appendix to the recommendation, paragraphs 1.a and 84; see also the [Analytical study of the results of the 4th cycle of monitoring of the implementation of Recommendation Rec\(2002\)5](#), published in 2014.

12. [Resolution 1468 \(2005\)](#) on forced marriages and child marriages.

13. States Parties as at 1 April 2018: Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Iceland, Italy, Malta, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovenia, Spain, Sweden, Switzerland, “the former Yugoslav Republic of Macedonia” and Turkey. The signatory States which have not yet ratified the Istanbul Convention: Armenia, Bulgaria, Czech Republic, Greece, Hungary, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, Republic of Moldova, Slovak Republic, Ukraine and the United Kingdom. On 13 April 2018, the Croatian Parliament ratified the convention. However, at the time of finalising the present document, the instrument of ratification had not yet been deposited in Strasbourg. The two States which have neither signed nor ratified the convention are Azerbaijan and the Russian Federation.

14. Istanbul Convention, Preamble, Article 37 and relevant parts of the explanatory memorandum.

12. With regard to the civil consequences of forced marriage, the Istanbul Convention requires States Parties to take the necessary measures to ensure that forced marriages may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim. It also requires Parties to take measures to ensure that the fact of leaving their country of residence for the purpose of a forced marriage or the dissolution of such a marriage has no effect on the residence status of victims.<sup>15</sup>

13. On 13 September 2017, the Committee of Ministers adopted a declaration on the need to intensify the efforts to prevent and combat female genital mutilation and forced marriage in Europe. Underlining the severe, often irreparable and irreversible consequences of these practices, it called on member States to take a wide range of measures to ensure that they were combated more effectively. To this end, the Steering Committee for Human Rights has also drawn up a Guide to good and promising practices aimed at preventing and combating and female genital mutilation and forced marriage.<sup>16</sup>

### 3. Definitions and scope of this report

*“I was about to turn 18 ... One evening, my mother ... told me that at the beginning of July, I would be marrying a man from a good family and caste ... I wasn’t ready, and more than anything, I have always wanted to marry the man I love ... I begged her with all my heart to change her decision ... No one could stand up to my mother, not even my father ... Opposite [the man] was a young virgin ... I lost everything that mattered most to me, in terrible suffering ... I was in a living hell [by this man’s side], and there was no one to share my distress with.”*

*Odélyya, forced to marry in France shortly after obtaining her baccalauréat<sup>17</sup>*

14. The sources cited above show that the defining characteristic of forced marriage is the lack of consent of at least one of the two parties. Accordingly, if at least one of the spouses has not given his or her full, free and informed consent, the marriage is a forced marriage. A marriage in which (at least) one of the parties is not free to put an end to the marriage or to leave his or her spouse is also a forced marriage.<sup>18</sup>

15. The terms “child marriage” or “early marriage” refer to a marriage in which (at least) one of the parties is a minor. In line with the position adopted not only by the Assembly in 2005 but also by the United Nations Committee on the Elimination of Discrimination against Women and the United Nations Committee on the Rights of the Child, I consider child marriage to be a form of forced marriage, since by definition one or both parties have not expressed full, free and informed consent.<sup>19</sup> I believe it is important to emphasise that a minor cannot give his or her free and full consent to such flagrant violations of his or her basic rights. A child aged 16 or 17 remains a child, and has neither the same rights as an adult nor the same capacity to resist pressure to go ahead with a marriage against his or her will. Moreover, dividing this phenomenon into subcategories such as child, early and forced marriage, as is sometimes done, risks opening the door to exception based on culture or religion or other practices or traditions.<sup>20</sup>

16. Accordingly, in this report, the term “forced marriage” should be understood as encompassing both marriages between adults to which consent has not been given and marriages involving at least one minor. I use the terms “child marriage” or “early marriage” only where this is necessary to shed light on certain features specific to these types of forced marriage.

17. I wish to emphasise here the distinction between arranged marriages – referring to marriages to which both parties freely consent, even if they are not the instigators, and which are therefore legal – and forced marriages (to which at least one party does not consent).

---

15. Istanbul Convention, Articles 32 and 59.

16. Declaration of the Committee of Ministers on the need to intensify the efforts to prevent and combat female genital mutilation and forced marriage in Europe, adopted by the Committee of Ministers on 13 September 2017 at the 1293rd meeting of the Ministers’ Deputies, Decl(13/09/2017).

17. Odélyya, “Témoignage: le jour où on m’a mariée de force”, 3 March 2017, <http://femmedinfluence.fr/mariage-force/>.

18. CEDAW/C/GC/31/CRC/C/GC/18, paragraph 23.

19. “A child marriage is considered to be a form of forced marriage, given that one or both parties have not expressed full, free and informed consent”, CEDAW/C/GC/31/CRC/C/GC/18, paragraph 20.

20. See [Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies](#), adopted by the Committee of Ministers on 2 March 2016 at its 1249th meeting, Guideline No. 44.

18. Lastly, forced marriages are often closely linked to concepts of “honour” or so-called “honour crimes”. This is a key aspect which I shall also address in this report. It should be pointed out straightaway in this context that the Istanbul Convention states that neither culture, custom, religion, tradition nor so-called “honour” may be considered as justification for any acts of violence against women (see in particular Articles 12 and 42).

#### 4. Who is affected by forced marriages, and in what circumstances?

19. There is a lack of accurate and comparable data on forced marriage; this is a major shortcoming in the fight against this harmful practice.<sup>21</sup> However, all sources agree that the main victims of forced marriage are young (sometimes very young) women. Nevertheless I believe it important to make it clear that boys are also affected by forced marriages, as are LGBT persons, whose families may attempt to get them “back onto the straight and narrow”.<sup>22</sup> Similarly, persons with an intellectual disability are very vulnerable to forced marriage.

20. Forced marriages may be a means of escaping poverty, especially following armed conflicts; they may take the form of exchange or trade-off marriages, alliances agreed between families in order to guarantee property rights or for immigration purposes, forcing a victim of rape to marry the perpetrator, levirate marriage or servile marriage (the aim of which is exploitation).

21. The impact of forced marriage is particularly serious when one of the parties is a minor, or indeed if both are. However, many cases concern young adults who have barely grown out of adolescence or two more mature adults.

22. Many instances of forced marriage have an international dimension, with the person concerned or his or her parents having come from another country. In the United Kingdom, the Foreign Office’s Forced Marriages Unit (FMU) has since 2005 dealt with cases concerning over 90 countries in Asia, the Middle East, Africa, Europe and North America. In 2017, the countries most often concerned were Pakistan (36.7% of cases), Bangladesh (10.8%), Somalia (7.6%), India (6.9%), Afghanistan (1.6%), Egypt (1.5%), Iraq (1.2%), Nigeria (1%), Romania (0.9%) and Saudi Arabia (0.9%). In France, the majority of countries concerned are in the Indian sub-continent, Turkey and the Russian Federation (in particular Chechnya), while in Germany, cases primarily concern Turkey and the western Balkan countries (Serbia, Kosovo\*<sup>23</sup> and Montenegro).<sup>24</sup>

23. In her report on “Protecting refugee women and girls from gender-based violence”, our colleague Gisela Wurm highlighted another scenario with an international dimension, occurring particularly in the context of the arrival in Europe of a large number of people fleeing from countries torn apart by war and persecution. Syrian girls have been married by their parents in refugee camps or in transit. Sometimes families decide to marry their daughter to an older man to ensure she has his protection and/or is spared violence at the hands of several men. This defence strategy is nevertheless a violation of women’s rights and of the rights of the child.<sup>25</sup>

24. Nonetheless, a large number of forced marriages have no international dimension, with all aspects of the situation occurring in the country in which the person concerned is resident. This was true of 10% of the cases dealt with by the United Kingdom’s Forced Marriages Unit in 2017. This situation more frequently occurs among people belonging to minorities, such as those belonging to national, ethnic or religious minorities living in certain regions of Georgia, Azerbaijan or Turkey, or in Chechnya, or among Roma and Travellers in several European countries. Less well-known, cases of forced marriage among people belonging to Christian minority communities in certain regions of Norway were also referred to in our discussions in committee. I wish to emphasise here the fact that no religion prescribes forced marriage but that all faiths are affected.

25. We were also informed that while the majority of victims of forced marriage in France are under 20 years of age, women forced into marriage “later”, at about 24 or 25 years of age, have often been subject to pressure from the time of their adolescence or childhood. In this way, the idea of forced marriage is instilled in

---

21. Steering Committee for Human Rights (CDDH), Guide to good and promising practices aimed at preventing and combating female genital mutilation and forced marriage, 4 August 2017, CM(2017)92-add2, paragraph 88.

22. FRA (2014), pp. 14 and 16, and information provided at the hearing held on 7 December 2017.

23. \*All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council [Resolution 1244](#) and without prejudice to the status of Kosovo.

24. See Home Office and Foreign and Commonwealth Office, Forced Marriage Unit Statistics 2017, 16 March 2018; FRA (2014) and information provided at the hearing held on 7 December 2017. All these figures cover only situations in which one of the people concerned requested help.

25. [Doc. 14284](#).

them from a very early age and it is difficult for women to object, even when they have reached adulthood. The women who do resist forced marriage are often frowned upon by those around them, made to feel guilty for disobeying their parents, or even excluded from their community. Overcoming such pressure takes time. Accordingly, it is vital for victims to be given sustained, long-term support.<sup>26</sup>

26. It is also important to be aware that forced marriage is not just a matter of being forced to accept a spouse: on the contrary, it is often practised in a context of repeated violence within the family, and resisting can expose the victim to constant violence or to so-called “honour crimes”.

## 5. Consent

*“I had no choice but to go ahead with it. It was just me against so many of them.”*

*Sajida, forced to marry at age 16 in the United Kingdom<sup>27</sup>*

27. While the lack of consent is central to the concept of “forced” marriage, guidelines are rarely given on how to verify this consent. However, it is not always easy to prove whether or not there has been consent. The fact that one of the parties to the marriage has never expressed any objection should not be deemed sufficient in itself to establish consent. Furthermore, in the light of the personal stories cited in this report, there is no doubt that it would be worthwhile to consider the consent issue from the angle of freedom to say “no”: is (or was) each party in the marriage free to refuse it without suffering any negative consequences?

28. Some States have introduced procedures to facilitate verification by registrars prior to the marriage that the persons concerned have given their consent. In Germany, parties to a marriage must declare before a registrar that they wish to marry. Registrars may insist on talking to both spouses individually if they suspect a lack of consent and are obliged to refuse to proceed with the marriage if it turns out that one of the parties is acting under threat or duress.<sup>28</sup>

29. Once a forced marriage has taken place, it may be difficult for the victim to prove absence of consent. I have nevertheless been informed of two Swedish cases in which those responsible were convicted by a criminal court. In both cases, the parents of the future wife had forced their adult daughter (23 years old in one case and 19 in the other) to marry a man they had chosen during a visit to their country of origin.<sup>29</sup> In the first case, the lack of consent was demonstrated by witness statements and messages proving that the woman had wished to marry her boyfriend in Sweden and not the husband chosen by the family. Once she had been taken abroad, she could neither leave the place she was staying nor contact the local authorities. Her father must also have been aware of his daughter’s opposition to the marriage. The court found that all the facts gathered clearly showed that it was a forced marriage. The father, who had also assaulted his daughter’s boyfriend, was given a four-year prison sentence.<sup>30</sup>

## 6. Minimum age for marriage

30. Under the Convention on Consent to Marriage (Article 2), States Parties are required to take legislative action to specify a minimum age for marriage. However, this convention does allow some derogations from the minimum legal age, but stipulates that only a competent authority may grant a dispensation from this limit, for serious reasons, in the interest of the intending spouses. Accordingly, authorisation by the parents alone is insufficient. The United Nations Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child emphasise that “as a matter of respecting the child’s evolving capacities and autonomy in making decisions that affect her or his life, a marriage of a mature, capable child below the

---

26. Hearing held by the committee in Paris on 7 December 2017 with Ms Christine-Sarah Jama and Ms Dominique Barthe-Bougenaux from the association “Voix de Femmes” (based in Seine-Saint-Denis), which has for many years been committed to combating forced marriages.

27. Testimony of Sajida, documentary “Forced Marriage Cops”, director Anna Hall, 2015.

28. FRA (2014), p. 20.

29. “Swedish Court Jails Dad over Forced Marriage”, *The Local*, 15 July 2016, [www.thelocal.se/20160715/swedish-court-jails-dad-over-forced-marriage](http://www.thelocal.se/20160715/swedish-court-jails-dad-over-forced-marriage); “Couple sentenced to jail over daughter’s forced marriage”, *The Local*, 5 October 2017, [www.thelocal.se/20160715/swedish-court-jails-dad-over-forced-marriage](http://www.thelocal.se/20160715/swedish-court-jails-dad-over-forced-marriage).

30. According to Section 4 kap. 4c § BrB (Swedish Criminal Code) to prove that a marriage is a forced marriage, it must be proved either that the victim has been subjected to a direct illegal threat or that advantage has been taken of the victim’s vulnerability. Straightforward manipulation or coercion is considered to be immoral but not illegal. Elin Hofberg, “Sweden: First Sentence for ‘Forced Marriage’ Upheld by Appellate Court”, *Global Legal Monitor*, 9 November 2016, [www.loc.gov/law/foreign-news/article/sweden-first-sentence-for-forced-marriage-upheld-by-appellate-court/](http://www.loc.gov/law/foreign-news/article/sweden-first-sentence-for-forced-marriage-upheld-by-appellate-court/).

age of 18 may be allowed in exceptional circumstances, provided that the child is at least 16 years of age and that such decisions are made by a judge based on legitimate exceptional grounds defined by law and on the evidence of maturity, without deference to culture and tradition".<sup>31</sup>

31. The Assembly took a position on the minimum age for marriage as early as 2005, strongly condemning all child marriages, defined as the union of two persons, at least one of whom is under 18 years of age.<sup>32</sup> I would like to reiterate here the reasons which led to the adoption of this position, based on the extremely serious consequences for children who are married too early. For both boys and girls, early marriage has far-reaching psychological, physical, intellectual, emotional and practical consequences. It cuts short access to education and personal development. For girls, early marriage often goes hand in hand with multiple pregnancies – resulting in high rates of maternal mortality – and pre-term deliveries. Girls married at too young an age often find themselves in situations of domestic and sexual subjugation, exposing them, because of unprotected sexual intercourse, to sexually transmitted diseases. Early marriage is a major obstacle to the fulfilment of children's rights and of gender equality and violates the rights to personal freedom and growth. It impedes the future autonomy of women and reduces access to employment. Early marriage immediately and drastically changes the course of a person's life. For all these reasons, no child should be able to marry before reaching full maturity and having the capacity to act.<sup>33</sup> In this connection, pregnancy should under no circumstances be considered as a legitimate and sufficient reason for authorising an early marriage: firstly, being pregnant does not change the fact that a minor is less able than an adult to resist an unwanted marriage; and secondly, young girls who marry while pregnant are more likely than unmarried young mothers to have a second child very quickly – reducing still further their educational and financial prospects. Even when it is an exceptional measure, authorising the marriage of pregnant minors can, paradoxically, encourage some families, who wish to marry off their daughter to pressure her into getting pregnant in order to increase the chances of their request for an exemption to be approved.<sup>34</sup>

32. Unfortunately, the situation in Council of Europe member States is still far from compliant with the recommendations made by the Assembly in 2005. Some States (for example Andorra, Malta and the United Kingdom) have set the minimum age for marriage at 16; the Andorran courts may even authorise marriage as early as 14.<sup>35</sup> While many other States set the minimum age at 18, a large number of them authorise exceptions to this rule.<sup>36</sup> In Turkey for example, the minimum age for marriage is 18 but, in exceptional cases, marrying children aged 16 may be authorised by a court. Furthermore, the recent enactment of a law authorising muftis to celebrate civil marriages is seen as creating conditions that may be more conducive to early marriage. Yet even now, 15% of women in Turkey are already married at the age of 18.<sup>37</sup>

33. Where there is a difference between boys and girls in terms of the minimum age for marriage (girls being allowed to marry earlier than boys), this exposes girls to a greater risk of being forced into marriage. In France, when this age difference was eliminated in 2005, the need to step up the fight against forced marriage was given as one of the reasons for this change. I welcome the fact that in recent years, several other States have eliminated this difference by raising the minimum age to 18 for girls.<sup>38</sup>

---

31. CEDAW/C/GC/31/CRC/C/GC/18, paragraph 20.

32. [Resolution 1468 \(2005\)](#) on forced marriages and child marriages; see also the report with the same title, [Doc. 10590](#).

33. CEDAW, General [Recommendation No. 21](#), CEDAW/C/GC/21.

34. Human Rights Watch, "Florida Hits Child Marriage Bump", 5 February 2018; Sweden, Stronger protection against forced marriages and child marriages, SOU 2012:35 (Stärkt skydd mot tvångsäktenskap och barnäktenskap, SOU 2012:35), p. 44, quoted in FRA (2014), p. 22.

35. Information provided by the States concerned in their periodic reports relating to the Convention on the Rights of the Child and/or the International Covenant on Civil and Political Rights. See also the Andorran Marriage Act (1985), Article 20; UK Marriage Act 1949, s2.

36. Information provided by the States concerned (Albania, Armenia, Azerbaijan, Croatia, Cyprus, the Czech Republic, Estonia, France, Germany, Hungary, Ireland, Latvia, Netherlands, Norway, Portugal, Romania, San Marino, Sweden, "the former Yugoslav Republic of Macedonia", Turkey and Ukraine) in their individual periodic reports relating to the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and/or the International Covenant on Civil and Political Rights; see also FRA (2014), p. 21.

37. Raf Sanchez, "New Turkish Marriage Law Prompts Fears of Child Weddings", *Telegraph*, 3 November 2017, [www.telegraph.co.uk/news/2017/11/03/new-turkish-marriage-law-prompts-fears-child-weddings/](http://www.telegraph.co.uk/news/2017/11/03/new-turkish-marriage-law-prompts-fears-child-weddings/); UNICEF Global Databases, Child Marriage, last update: November 2017, [https://data.unicef.org/wp-content/uploads/2015/12/Child-marriage-database\\_Nov-2017.xlsx](https://data.unicef.org/wp-content/uploads/2015/12/Child-marriage-database_Nov-2017.xlsx).

38. Information provided by Albania, Armenia, Luxembourg, Monaco, Romania and Ukraine in their periodic reports relating to the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and/or the International Covenant on Civil and Political Rights; Bill to establish the same minimum age for men and women with regard to marriage, document No. 222, French Senate, ordinary session 2004-2005.

34. Marriages in which at least one of the parties has not reached the minimum age may not be entered into a registrar, or recorded in the civil register, since they are illegal. In practice, however, this does not prevent families from going ahead with religious or traditional ceremonies, or even simply considering those concerned as spouses. No attempt will be made to register these marriages, since they are punishable by law.<sup>39</sup> For the victims, however, it is essential that their situation be recognised as a forced marriage and that they have access to the same means of support as those whose marriage has been registered.

35. In this context, the situation of Roma and Travellers warrants special attention as marriage between boys and girls aged between 15 and 17 (or even as early as 12, 13 or 14 years of age) can be frequent in some more traditional communities and are not necessarily seen by those communities as early marriages. Such early marriages can concern 25%-50% of young people in certain communities. Various factors can come into play: the girl's virginity at the time of marriage is highly valued; marriage, whether or not it is official, is seen as offering a degree of security to the spouses; a marriage between Roma families is regarded as helping to preserve traditions; little importance is given to the administrative registration of the marriage. However, the impact of early marriage on the rights of minors is just as devastating for Roma and Traveller children as for others: school drop-out, early pregnancies, transitioning too quickly to adult responsibilities, poorer financial prospects, risk of exploitation, or indeed trafficking, etc. Furthermore, the fact that the marriage is not registered often has detrimental consequences for the persons concerned and their children in terms of their administrative status. It can be extremely difficult to address these issues when relations between these communities and the authorities are tense or based on mutual mistrust. Nonetheless, it is essential to take action to prevent these early marriages, in consultation and close co-operation with the communities concerned.<sup>40</sup>

## 7. Prevention of forced marriages and protection of victims

*“Some of the times it was in the living room that he raped me, or in the bedroom ... It was like I was his shoe and he would wear it just whenever he felt like it ... He made me believe that my family loved him more than they loved me ... [that] he could do anything with me, as he liked ... Because he had kicked me so much in the head, my lips were bleeding, my ears were bleeding ... I was brainwashed into, like, how I would be putting shame onto the family if I got divorced or separated from him ... All of the family sat down ... I had no other choice but to go back to him.”*

*Banaz Mahmud, forced to marry at age 17: statement to the police after eventually leaving her husband, three months prior to her murder by her family for having fallen in love with another man<sup>41</sup>*

36. Resisting a forced marriage entails extricating oneself from family expectations and pressure, which may be extremely strong and have weighed on the victim for many years. Assistance to victims therefore entails listening to them, giving them a say and supporting them in their efforts to resist and gain independence. A further aim is to prevent violence, or prevent it from becoming worse, and to find suitable accommodation for the victim in the event of a family breakdown. A move away from the family may sometimes be required if there is a risk of violent retaliation (so-called “honour crimes”).

### *The importance of providing accommodation*

37. One of the obligations arising under the Istanbul Convention is to establish a sufficient number of suitable and easily accessible shelters. Accommodation indeed plays a crucial role in promoting the emotional independence and emancipation of young women who are confronted with forced marriage. However, the number of shelters for young women without children, who are prey to sexist violence such as forced marriage or so-called “honour crimes”, is often inadequate. Consequently, young women who resist marriage run the risk of finding themselves homeless, or even in some cases forced to prostitute themselves in order to survive. Some eventually submit to the forced marriage, without however giving their consent.

39. See, for example, CEDAW/C/ALB/3 (2008), paragraph 425; CEDAW/C/AZE/5 (2013), paragraphs 180-181; information provided at the joint hearing held on 28 September 2015 by the sub-committees on gender equality and on the rights of minorities.

40. CAHROM, Study visit to the UK Forced Marriage Unit, Final version of the report for discussion at the 15th CAHROM Plenary Meeting (Athens, Greece, 22-25 May 2018, CAHROM(2017)33, passim; UNDP/World Bank [Regional Roma Survey 2017 Country Fact Sheets](#); Hearing of 28 September 2015.

41. Banaz Mahmud (6 December 1985-24 January 2006), statement to the police on 10 October 2005, three months before she was murdered by her family, extract taken from the documentary “Banaz: A Love Story”, directed by Deeyah Khan, 2012.

38. The accommodation centre in Geneva, “Au Cœur des Grottes”, whose former Director we met at a hearing held by the Parliamentary Network Women Free from Violence in Strasbourg on 11 October 2017, offers an example of best practice to follow. This centre places the emphasis on empowering victims and enabling them to put dependency and violence behind them, on a lasting basis. This empowerment requires not only that they have access to accommodation but often also that they receive training leading to a qualification. The centre has a multidisciplinary support team and provides psychosocial assistance and accommodation for an open-ended duration. There is a close partnership with various bodies working in the field of violence, including the police and hospitals, which are often entry points into the centre. Partnerships with training centres make it possible to offer victims short vocational training leading to a qualification, or university courses.

#### *Mediation is not an appropriate response*

39. Where professionals are not sufficiently familiar with the issues at stake in forced marriage, they have a tendency to advise mediation, in the hope of reconciling the families. However, mediation must be avoided because it (again) exposes the woman to her parents’ domination and in some cases to domestic violence. The Istanbul Convention (Article 48) is moreover clear in this respect.

#### *Preventing forced marriages within the country of residence*

40. In the United Kingdom, extensive measures have been put in place in order to prevent forced marriages from being concluded and they constitute a good practice to follow. The 2007 Forced Marriage (Civil Protection) Act established Forced Marriage Protection Orders (FMPOs), which can be used to protect victims from being forced into marriage, whether religious or otherwise. Breaching an FMPO constitutes contempt of court and is subject to a sentence of two years’ imprisonment. To avoid another member of the family being forcibly married instead of the person protected by an FMPO, similar orders can be issued at the same time with respect to other persons who are considered, in the light of the facts of the case, to be at risk. The youngest person for whom an FMPO has so far been issued was 5 years old; the oldest was aged 55. Moreover, since 16 June 2014 forced marriage has been a criminal offence (Anti-Social Behaviour, Crime and Policing Act 2014).<sup>42</sup>

41. Similar measures exist in France: a protection order may be issued by the juvenile court upon the request of the Public Prosecutor’s Office; this will include a placement order with respect to the child. In the case of persons who are of age, a protection order must be sought from a family court under Article 515-13 of the Civil Code. However, the victims need to know of the existence of these mechanisms or be able to have assistance in gaining access to them.

#### *Preventing departures abroad*

42. The potentially international dimension of forced marriages must be taken into account in any strategy to combat this phenomenon. These marriages often take place in the country of origin of the person concerned or of his or her parents, rather than in the country where he or she is resident. For example, in France, 92% of forced marriages take place in another country.<sup>43</sup> The possibility provided for by law of issuing a ban on leaving the country together with a placement or protection order is thus a key element in combating forced marriage.

43. Likewise, in the United Kingdom, FMPOs can be used to prevent persons at risk of forced marriage from being taken overseas. Moreover, using deception with the intention of causing another person to leave the country for the purpose of forcing that person to enter into marriage was criminalised in 2014.

44. In order to succeed in preventing departures, it is of course essential that professionals in the relevant fields (education, specialised prevention, integration, judges, law-enforcement officials) and associations in contact with young people in difficulty or who have dropped out of school, receive better training to help detect violence prior to forced marriage and avoid recourse to mediation.

45. Very useful handbooks have been drawn up in this field, for example the “EU FEM Roadmap” (currently available in five languages), which are intended to help the relevant professionals in some European Union countries to provide better guidance to victims, and, in France, the MIPROF and ADRIC/dF handbooks.<sup>44</sup>

---

42. Nazir Afzal, former prosecutor in the United Kingdom, “[Nazir Afzal OBE speaks out against forced marriage and honour-based violence](#)”, Fuuse, video uploaded on 24 January 2016.

43. CDDH (2017), paragraph 71; hearing of 7 December 2017.

*Where it has not been possible to prevent departure*

46. Where it has not been possible to prevent departure, consulates play an important role in detecting forced marriages concluded abroad and in repatriating victims. However, their means of action are not unlimited. This is why preventing departure is so vitally important. The number of girls and women actually affected by forced marriage overseas is no doubt much higher than the number who have been able to seek help from a consulate. Those who do not manage to contact a consulate are very isolated. Parents sometimes deliberately keep their daughters far away from consulates to prevent them from seeking help. Consulates are also powerless when the age of majority is higher in the victim's country of origin: persons with dual nationality who have reached the age of majority in their usual country of residence (for example, aged 18 and living in France) will remain under their parents' authority and will be subject to their families' prohibition on returning to that country if their parents take them to their country of origin where the age of majority is higher (for example, 19 as in Algeria, or 21 as in Mali).

47. With regard to the measures adopted by the United Kingdom, protection orders play a vital role in cases where the victim is in a country in which the Forced Marriages Unit cannot assist, if she is not a British national, where the freedom of movement is restricted, or where the Unit has no contact address. The Forced Marriages Unit also works in close collaboration with United Kingdom High Commissions and Embassies to ensure the safe return to the United Kingdom of persons who have fled from a situation of forced marriage; its work can cover issuing emergency travel documents, arranging flights and safe transport to the airport, providing emergency accommodation or simply offering advice and support.<sup>45</sup>

*Prevention of return*

48. Article 37 of the Istanbul Convention calls on member States to criminalise the use of force to make a person leave his or her country of residence for the purpose of marriage abroad. Some NGOs consider that it is necessary to go even further, however, by also making it a criminal offence to prevent persons from returning to their usual country of residence. Preventing young women from returning means that they are kept in a situation of considerable vulnerability (rape, forced pregnancy and forced marriage). Such situations – if they are reported to the justice system – require excellent judicial co-operation.

*Victims arriving in Europe for the first time, having been forced to marry in another country*

49. According to a recent Swedish Immigration Agency study on child marriage among refugees and asylum seekers, 132 married children were living in reception centres, almost all of whom arrived in Sweden in 2016. In March 2017, the Swedish Government launched an inquiry to determine how to provide greater protection against forced marriages and so-called "honour crimes" in Sweden. One of its objectives was to study and put forward recommendations on how to limit the recognition of child marriages contracted in other countries. The minimum age for marriage in Sweden is 18; however, child marriages contracted in other countries are recognised if neither of the two parties is of Swedish nationality.<sup>46</sup>

50. In late 2017, the investigator presented her conclusions on this point, suggesting that marriages in which one of the two spouses was under 18 at the time of arrival in Sweden should not be recognised but that the exception under which marriages legally contracted by minor EU citizens in countries where the minimum age for marriage is 16 years are recognised in Sweden should be maintained. Although these proposals were aimed at enhancing the protection of children, they have been criticised as insufficient by a number of NGOs. However, the investigator claims that it would be impossible to adopt more restrictive provisions (such as not recognising early marriages in which both parties were aged 18 or more when they arrived in Sweden) without violating European law, given that several EU countries authorise marriage as of 16 years of age.<sup>47</sup> This example highlights once again why it is so important for all European countries to raise the minimum age of marriage to 18, for both boys and girls.

---

44. See <http://femroadmap.eu/index.html>, <http://stop-violences-femmes.gouv.fr/Suis-je-concernee,355.html> and [http://adric.eu/images/guides/Adric\\_VdF\\_Guide\\_Lutter\\_contre\\_le\\_mariage\\_forc%C3%A9.pdf](http://adric.eu/images/guides/Adric_VdF_Guide_Lutter_contre_le_mariage_forc%C3%A9.pdf).

45. Hearing of 23 April 2015.

46. See [www.government.se/press-releases/2017/03/stronger-protection-against-child-marriage-forced-marriage-and-honour-crimes/](http://www.government.se/press-releases/2017/03/stronger-protection-against-child-marriage-forced-marriage-and-honour-crimes/); [www.thelocal.se/20171206/sweden-to-crack-down-on-child-marriages](http://www.thelocal.se/20171206/sweden-to-crack-down-on-child-marriages).

47. Ibid.

### *Annulment or dissolution of a forced marriage*

51. Victims of a forced marriage must be able to ask for the annulment or dissolution of their marriage without the process placing an undue financial or administrative burden on them. With regard to the provisions of the Istanbul Convention, considerable flexibility is nevertheless left to States regarding the implementation of this principle.<sup>48</sup>

52. Imposing excessively strict conditions on requests for an annulment of an early marriage runs the risk of seriously undermining the rights of victims. In San Marino, a legal action for annulment must be brought no later than six months after the minor who entered into a marriage becomes an adult, which leaves little time for a young woman, pressured into marriage by her relatives, to understand and assert her rights. In Latvia, a marriage entered into by two parties who are not of legal age is not valid – but the marriage will not be annulled if it has led to pregnancy or if the spouses are of legal age when the judgment is delivered. In this field, my country offers a more positive example: in Monaco, the victim has five years following the marriage or from the moment when she recovers complete freedom in which to introduce an action for nullity.<sup>49</sup>

53. Annulment or dissolution of the marriage must not leave the girl or woman concerned in a vulnerable situation. If it was a young girl's parents who forced her to marry, placing her back under their parental authority after the annulment of her marriage will not provide her with effective protection. If she was forced to leave school early, she will probably not have the means to provide for her own needs independently. In addition, when there is reason to fear a so-called "honour crime", it is imperative to place the victim out of danger, providing her with safe accommodation which is sufficiently far away from the source of that danger.

### *Residence status*

54. Forced marriage may involve a non-national, whose residence status could be called into question if the marriage is annulled or dissolved. The principle established by the Istanbul Convention is however clear (Article 59): States Parties must take measures to ensure that, in forced marriage cases, the residence status of the victim is not affected where the victim has left their country of residence for the purpose of this marriage or where the marriage is dissolved.

### *Asylum*

55. Today, asylum is also a relevant aspect for Europe as regards forced marriage. In order to adequately protect and support persons vulnerable to forced marriage, any comprehensive protection strategy should, in accordance with the Istanbul Convention (Article 18), include the right to international protection. Three main points should be taken into account in this context. First, ensuring the legal recognition of violence against women, including forced marriage, for the purposes of determining refugee status, and the correct interpretation of the law; second, effectively implementing the protection arising from this status, and third, establishing gender-sensitive reception conditions for the persons concerned.<sup>50</sup>

## **8. Prosecution of perpetrators**

56. As stated above, the Istanbul Convention requires the intentional forcing of an adult or child to enter into a marriage to be made a criminal offence.

57. Some States have established a specific criminal offence that makes it possible to prosecute the perpetrators of forced marriages independently of whether other offences have been committed. The list of States includes Austria, Azerbaijan, Belgium, Croatia, Cyprus, Denmark, Germany, Monaco, Switzerland and the United Kingdom.<sup>51</sup> In Bulgaria, marriage of under-16s is a criminal offence.<sup>52</sup> Criminalising this specific act is a powerful deterrent to and means of combating forced marriage, and clearly reflects the fact that this practice is inherently wrong. To be effective, however, it is essential that these provisions are applied.

---

48. Istanbul Convention, Article 32 and paragraphs 177-178 of the explanatory memorandum.

49. CCPR/C/SMR/2 (2007), paragraph 177; CEDAW/C/LVA/1-3 (2003), paragraph 302; Article 148 of the Civil Code as modified by Law No. 1.382 of 20 July 2011.

50. See CDDH (2017), paragraphs 341-389.

51. Article 274-1 of the Criminal Code of Monaco, inserted by Article 16 of Law No. 1.382 of 20 July 2011. With regard to member States of the European Union, see FRA (2014), p. 18. With regard to Azerbaijan and Switzerland, see Committee on the Elimination of Discrimination against Women, fifth periodic reports of States Parties due in 2013, Azerbaijan, CEDAW/C/AZE/5, paragraph 6.1.c, and Concluding Observations on the fifth periodic report of Azerbaijan,

58. In the United Kingdom, action can be taken against those responsible for a forced marriage through both the criminal and the civil courts. In cases where a person lacks the capacity to consent or is under the age of 16, conduct carried out for the purpose of causing the victim to marry, whether or not it amounts to violence, threats or any other form of coercion, also constitutes an offence. Since the criminalisation of forced marriage in 2014, two cases have led to criminal convictions.<sup>53</sup> The prosecution service pursues a very active policy to ensure media coverage of these cases and prosecutions of the perpetrators of so-called “honour crimes” in order to reinforce the dissuasive effect of the law.

59. In other States, there is no specific criminal offence and forced marriage may be punished in criminal law only if another offence is committed (rape, attempted rape, physical, psychological or sexual violence, ill-treatment, offences against freedom, etc.).<sup>54</sup> However, these offences are not always easy to prove and therefore do not have the same dissuasive effect; furthermore, some States still do not recognise marital rape.

60. It should also be pointed out that, according to the Istanbul Convention (Article 32), the term “forcing” involves the exercise of physical and psychological force where coercion or duress is employed. Although physical threats and emotional pressure meet these criteria, more general factors, which may have particular weight in some communities – such as cultural or gendered notions of respect or shame, or the fear of being ostracised – seem to be clearly excluded from criminal law. Researchers have found that it would be difficult for the courts to consider these factors alone as proof of coercion or duress within the meaning of criminal law.<sup>55</sup>

61. However, there is no doubt that many young girls and women marry under pressure from cultural factors or traditions and without any real possibility of refusing the marriage – in other words, without their consent. Sometimes they enter into a marriage out of fear of becoming a victim of a so-called “honour crime” if they refuse. They may have objective reasons to fear for their safety, or indeed their life, even if no-one has specifically threatened them or placed particular pressure on them, as they will be aware of what happened when a sister or cousin tried to resist a forced marriage. Moreover, when specific threats are made or pressure is placed, it generally comes from the parents and other members of the victim’s close family. The victim is often very reticent about the idea of sending her relatives to prison or has objective reasons to fear violent retaliation. Consequently, the number of criminal complaints filed is much lower than the number of requests for assistance received.

62. In short, while criminal law measures are essential in combating forced marriage, they do not provide all the necessary legal solutions to combat this harmful practice effectively. Even when criminal legislation is comprehensive, civil law provisions such as the protection orders described above will also be necessary.

63. Lastly, in cases where the victim does wish to file a complaint but she and/or a witness fears violent retaliation, and especially where there is a risk of a so-called “honour crime”, it is essential for those at risk to be given appropriate protection, for as long as is required to guarantee their security. Without this guarantee, these persons will not be able to trust the police or the other authorities concerned and will not be able to testify in any prosecution, which will compromise the chances of securing a conviction.

## 9. Integrated policies and data collection

*“I was 14 years old and my sister was dating this boy. She eventually ran away with him a year later. And my parents actually thought that I was going to run away because I had a boyfriend myself, and they took me to Bangladesh and got me married to a man that was twice as old as me... My family at that time – there was a lot of domestic violence going on, so we did have social services involved... the doctors were aware of this also. I started to bunk off school quite a lot and they wouldn’t question why I was... I feel like this build-up of red flags was not really looked at all. So when I did actually go away for*

---

CEDAW/C/AZE/CO/5, paragraph 4.b; Fourth and fifth periodic reports of States Parties due in 2014, Switzerland CEDAW/C/CHE/4-5, paragraph 68, and Concluding Observations on the combined fourth and fifth periodic reports of Switzerland, CEDAW/C/CHE/CO/4-5, paragraph 4.a.

52. Information provided by Ms Cerasela Bănică, at the joint hearing held on 28 September 2015 by the Sub-committees on Gender Equality and on the Rights of Minorities.

53. Sentences of the Merthyr Crown Court (Wales): see “Businessman is the first person jailed under forced marriage laws”, *The Guardian*, 11 June 2005, and of the Birmingham Crown Court (England): see “Birmingham woman jailed for duping daughter into forced marriage”, *The Guardian*, 23 May 2018.

54. See FRA (2014), pp. 18-19.

55. Sundari A. and Gill A. (2009), “Coercion, consent and the forced marriage debate in the UK”, *Feminist Legal Studies*, Vol. 17, p. 175, cited in FRA (2014), p. 19.

*a year, nobody bothered to say, 'Oh well this was going on before, why did we not pick up on it?'... that if the school system and GPs and social services actually communicated with each other, it could have been prevented."*

*Rubie, born in the United Kingdom, taken to Bangladesh and forced to marry at age 16<sup>56</sup>*

64. The lack of accurate and comparable data on forced marriage, broken down according to sex and age, is an obstacle to the introduction of effective policies to combat this harmful practice, since it is not possible to properly target such policies if there is a lack of information on the frequency and nature of this form of violence. Bearing in mind the international dimension of forced marriage, I believe it is important for States to adopt a co-ordinated approach in this area, in order to produce comparable data at both national and international level. Detailed population-based research and surveys are also essential, since we know that data based solely on complaints or requests from victims for assistance will be very incomplete. The collection of administrative data relating to the interaction of victims with the various relevant stakeholders (education and health services, legal and law-enforcement services, immigration services, etc.) is, moreover, a key means of gaining greater insight into the situation on the ground and of improving existing support measures. Lastly, research and data collection should make it possible to assess the impact of the measures already taken and should be carried out on a regular and long-term basis in order to understand trends and be able to react by adapting the policies pursued.<sup>57</sup>

65. To be effective, policies to combat forced marriages must not only provide assistance to victims and ensure their files are properly processed, but must also seek to prevent new cases in order to put an end to this harmful practice. In the United Kingdom, the Forced Marriages Unit is the authorities' main delivery arm in this area, and takes a holistic approach to its work. It helps victims through a national helpline and email service by providing them with advice and support. It works with the police, social workers, teachers, welfare officers, health professionals and many others in the United Kingdom to protect people at risk; it also helps to arrange safe accommodation for victims in the United Kingdom with the support of NGOs and charities. The Forced Marriages Unit also organises around 100 different outreach events each year in schools and universities and provides training to the police, social workers, teachers and other professionals.

66. NGOs are also very active in the fight against forced marriages and so-called "honour crimes", working not only alongside victims but also hand in hand with the authorities to raise awareness among and train those professionals who may come into contact with victims. They also have a very important role insofar as these organisations have often developed from within the communities most affected by forced marriage and understand the specific cultural issues at stake in each community. Moreover, they know how to tackle the subject of forced marriage within their community without offending the cultural sensitivities of their target audience. For example, in some more traditional Roma and Traveller communities, in which marriages from the age of 13 or 14 years are not always seen as early marriages, the angle of health and well-being can be used as a way to broach the subject of forced marriage, free of the cultural baggage which can otherwise make dialogue on this issue difficult. It is essential that member States support these NGOs, which are often more credible than other actors in the eyes of the communities affected by forced marriage, which will be more ready to listen to them.

67. Often, the victims do not dare alert the police directly, for fear of causing problems for their family. Whoever it is they speak to (police, teacher or another person in authority at school, an association, social services, doctor, etc.), it is essential that this person listens to the victim, believes them and places priority on their safety, since failure to take account of what they have said could have very serious, if not fatal consequences. All such people should, moreover, be made aware of the warning signs of a forced marriage. As shown by the testimonies in this report, seeking to find out the reason for a young girl's repeated absence from school is, for example, paramount in this matter.

68. To prevent forced marriage and ensure effective protection for victims, it is vital to raise the awareness of the public at large and of all professionals potentially concerned (in particular in the fields of education, health, social services, and judicial and law-enforcement services) to the consequences of forced marriage, to the signs making it possible to identify those at risk, and to what can be done when in contact with a person at risk or already a victim of a forced marriage. In the case of professionals, detailed training in the subject will be indispensable.

---

56. "Rubie's Story – Forced Marriages and Honour-Based Abuse", University of Derby, video uploaded on 26 July 2016, <https://www.youtube.com/watch?v=hOblCnCK-Fc>.

57. See [Resolution 2101 \(2016\)](#) on the systematic collection of data on violence against women; Council of Europe (2016), Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention; CDDH (2017).

69. In this connection, I wish, once more, to emphasise the links between forced marriage and so-called “honour”. In social systems in which the concept of “honour” is supposed to dictate the conduct by which to abide, this concept concerns the whole family, which may be interpreted very broadly. Men and women play different roles in this respect: men are responsible for ensuring the codes in question are observed, but it is through the behaviour of women that the “honour” of the family will be measured. This places a huge burden on the shoulders of girls and women, whose behaviour can come under the close scrutiny of their whole community, and can expose these girls and women to intra-family violence if they are suspected of harming their family’s reputation. This is in particular the case if they refuse or attempt to put an end to a forced marriage. Policies to combat forced marriage must take account of this; if not, they may not only prove ineffective, but also and above all they may betray victims.

## 10. Conclusions

*“When I first started talking about this, people said, ‘Nazir, why are you taking on a subject which will give the racists a stick to beat your community with? – My answer to that is simple. One in four violent crimes take place in the home. That a young woman growing up in this country has more to fear from what’s happening in the home than she has to fear from anything that’s happening outside. [Community leaders] must focus on that. Because ultimately this is an issue of human rights.”*

*Nazir Afzal OBE, former Chief Public Prosecutor and lead prosecutor for forced marriages, United Kingdom<sup>58</sup>*

70. Forced marriage is not simply a question of being forced to accept a spouse but involves a series of violent acts against (primarily) women and girls, but sometimes also men and boys. All Council of Europe member States are affected by forced marriage, which may occur in many different ways. Such marriages may be concluded in Europe, there may be forced marriages of European nationals or residents concluded elsewhere, or persons may have been forced to marry before arriving in Europe. Forced marriage entails serious violations of the victim’s fundamental rights, and in particular violations of women’s rights to physical integrity, physical and mental health, sexual and reproductive health, education, private life, freedom and autonomy. Such violations can under no circumstances be justified on the ground of respect for cultural traditions, customs or religious beliefs, nor by so-called “honour”.

71. States must adopt integrated policies and take all necessary measures to prevent forced marriages, protect victims and prosecute those who commit these harmful practices. The failure of the authorities to act on this issue is unacceptable, especially as each case leads to a chain of other human rights violations. Yet in many countries, forced marriage is not a criminal offence; the problem also persists where laws on the minimum marriageable age are not enforced, and where the authorities fail to show the necessary will to tackle such cases. Questions of cultural identity must be taken into account in finding ways to broach the subject of forced marriage, but must not take precedence over the protection of human rights. Governments must take action or they will continue to be accomplices to harming generations of women and girls, men and boys.

---

58. Nazir Afzal, [“Nazir Afzal OBE speaks out against forced marriage and honour-based violence”](#), Fuuse, video uploaded on 24 January 2016; [“Forced marriages and honour killings, Part 2”](#), video uploaded on 4 October 2014.