

Modern Slavery Issue Brief

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Modern Slavery and Forced Marriage: Examining the relationship

An estimated 22 million people in the world are living in forced marriages, two-third of whom are women and girls.¹ Countries in Asia and the Pacific region account for nearly 14.2 million of all forced marriages, followed by 3.2 million in Africa and 2.3 million in Europe and Central Asia. Nonetheless, wealthier nations are not immune to this phenomenon: almost 26% of forced marriages worldwide take place in high or upper-middle income countries.

People forced into marriage are often subject to abuses and exploitative practices – including sexual and reproductive violence, domestic servitude, forced labour, enslavement and the loss of bodily autonomy and movement – similar to those experienced by victims of modern slavery. Moreover, some of the key underlying structural causes of forced marriage - e.g., poverty, illiteracy and/or lack of access to education opportunities, gender discrimination and power imbalances between men and women, and irregular migration status - are also strongly correlated with modern slavery victimisation.² However, the connection between the two phenomena is quite complex and relatively under-studied. While some experts argue for the recognition of forced marriage – and, in particular of child marriage – as a form of modern slavery,³ others note that not all instances of forced marriage involve the type of practices typified as modern slavery.⁴

Disagreements and debates around the relationship between forced marriage and modern slavery are not restricted to the academic sphere, but affect how governments, law enforcement authorities and organisations working on modern slavery “deal” with forced marriage. Forced marriage is not explicitly

Key Findings and Recommendations

- Although the drivers and consequences of forced marriage are correlated with those of modern slavery, the relationship between the two phenomena remains understudied.
- As a result, there is little consensus as to whether and to what extent forced marriage should be distinguished from modern slavery from a legal and policy perspective.
- Definitions and analyses concerning forced marriage typically focus on whether spouses gave their free and full consent to the union.
- This emphasis on consent obscures the fact that people forced into marriage are often subject to abuses and exploitative practices that are indistinguishable from those suffered by victims of modern slavery.
- Nonetheless, available research and evidence indicate that not every forced marriage is or becomes a form of modern slavery.
- Understanding the commonalities, differences and linkages between forced marriage and modern slavery has fundamental implications for crime prevention, legislation, investigation and prosecution, for victim protection and assistance, and for the design and international coordination of relevant policies.
- As a first step in this direction, researchers, practitioners, organisations and authorities should agree on, and operationalise, a clear definition of forced marriage and the conditions under which such unions overlap with modern slavery.

included in the Palermo Protocol (2000)'s definition of modern slavery and is thus not included in the statistics by some authorities and NGOs,ⁱ while others – most notably Walk Free – understand it as a key component of modern slavery. The inherent difficulties in precisely defining forced marriage, the fact that this phenomenon is seen by some scholars and organisations as a cultural practice, and the fear to equate criticisms of forced marriage to academic or cultural colonialism, are among the factors that have contributed to the ambiguous treatment that forced marriage receives by scholars, practitioners and organisations in the modern slavery space.

In this issue brief, we seek to examine the “problematic” relationship between forced marriage and modern slavery, to review the literature and empirical evidence around the inconsistent treatment of this practice, and to clarify when and under what conditions forced marriage leads – or is more likely to lead to – modern slavery. Ultimately, our goal is to point to future work governments, researchers, NGOs and other relevant stakeholders should undertake to better understand the connection between modern slavery and forced marriage and to enhance policy responses to this issue.

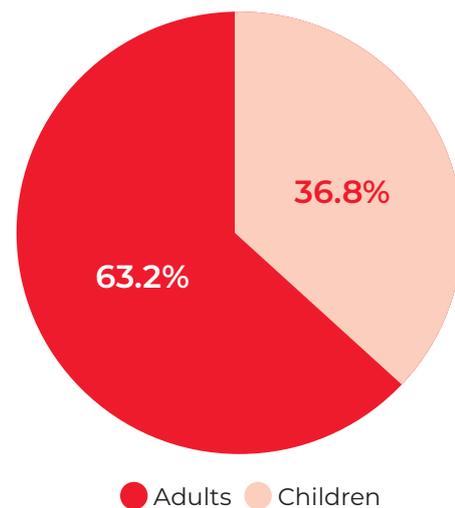
Forced marriage and its relationship with modern slavery: Definitional and conceptual issues

Although there is no internationally agreed definition of forced marriage, the term can be understood as a marriage in which one or both parties have not expressed free and informed consent to the union. The issue of consent occupies a central place in academic and legal definitions of this concept: the United Nations Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage (1964), the various international declarations and conventions calling for action against forced marriage, and the domestic legislation of the fifty-two countries that have criminalised this practice focus primarily on whether both spouses gave their full and free consent to the marriage or, on the contrary, whether abuse, coercion,

deception, force and/or threat were used to pressure the parties into giving ostensible consent.

Under this definition, all child marriages - i.e., any formal or informal union in which at least one of the parties is under 18 years of age or under the relevant age of consent in their country - are considered to be forced marriages. Child marriage is in fact a relatively frequent phenomenon in some regions of the world. For instance, it is estimated that more than half - and, based on some reports, as many as two-thirds - of the Bangladeshi women entered into marriages before reaching the age of 18.⁵ A large proportion of forced marriages worldwide, however, involve adults who did not give their full and free consent: according to the ILO (2017), most people living in forced marriages are over the age of 18.⁶

Distribution of people in forced marriages, by age group



Source: Own elaboration based on data from ILO (2017).

Note: Children are defined here as individuals under 18 years of age or under the age of consent in their country.

The emphasis placed by legal instruments on the issue of consent obscures the many types of exploitation that people forced into marriage experience before, during and after the matrimony. There is considerable evidence that individuals (women, in particular) in forced marriages are often subject to a range of physical and emotional harms. These include forms of abuses –

ⁱ The Palermo Protocol does mention “practices similar to slavery” as a form of exploitation. According to the United Nations Supplementary Convention on the Abolition of Slavery (1956), “practices similar to slavery” encompass - among others - the sale of children for exploitation and servile forms of marriage. However, this definition of slavery-like practices does not include forced marriage - understood as a union of two persons of whom at least one has not given their full and free consent to the marriage.

like forced labour, domestic servitude, trafficking and sexual exploitation – that fall within the “umbrella term” of modern slavery. For instance, a sizeable fraction of the narratives analysed by McCabe and Eglen (2022) includes testimonials by women and girls who were purchased, trafficked and/or abducted by their husbands with the explicit goal of forcing them to carry out free, non-consensual domestic and agricultural labour to the financial and personal benefit of the husband and his family, or to be trafficked into prostitution. In such cases, forced domestic labour or sexual exploitation is the “end purpose” of forced marriage, rendering forced marriage conceptually identical to modern slavery.⁷

In other circumstances, forced marriage may be a “gateway” to modern slavery. Asymmetric power relationships between men and women and the prevalence of traditional and patriarchal gender roles in some societies determine that women and girls forced into marriage are subject to physical, emotional, psychological, sexual and even financial exploitation. Hence, even in instances in which modern slavery was not – at least not explicitly - the “end purpose” of forced marriage, the harms and abuses suffered by individuals (women, in particular) forced into marriage are in practice indistinguishable from those experienced by victims of modern slavery. Moreover, extant research shows that experiencing forced marriage increases vulnerability to, and the risk of falling prey to, other forms of exploitation, including modern slavery. For instance, girls and women trying to escape their forced marriages often end up being trafficked e.g. into sexual exploitation, or are coerced into domestic servitude or survival sex work after being abandoned by the family or the men who forced them into marriage.⁸

For these reasons, organisations like the ILO and Walk Free highlight that forced labour and the loss of sexual autonomy is inherent in many forced marriages, and authors like Kakar and Yousaf (2021) even claim that “if we understand the dimensions of exploitation involved in forced marriage from the perspective of the victims, we cannot separate forced marriage from labour and/or sex trafficking”.⁹

“Problematising” the link between forced marriage and modern slavery

The paragraphs above highlight that forced marriage can be intimately linked or lead to the sort of practices and exploitative patterns usually included in the notion of modern slavery. However, not every forced marriage is or becomes a form of modern slavery.

As an illustration, McCabe and Eglen (2022) discuss the case of two children in Nepal whose marriage was arranged when they were both less than 2 years old, following customary practice in their caste. The couple did not see each other until they were 16, at which point a marriage ceremony took place. Although neither spouse had the capacity to give their full and free consent, the analysis of the narrative corresponding to this case uncovered no evidence of exploitation. In this situation, the two children’s rights were violated, but it is not clear that this instance constitutes an example of modern slavery. The practice of arranged infant marriages is quite prevalent in Nepal, motivated by economic and social pressures and not necessarily involving any form of labour or sexual exploitation.¹⁰

Similarly, in some very traditional Roma communities in Romania, child marriages are seen as a way for parents to ensure their girls’ “integrity” and to protect their children from “outsiders”. From the perspective of the community, this practice – which is followed by roughly 20% of the Roma population in Romania - is considered a “valuable custom” that contributes to preserve its identity, keeping it united and compact and preventing assimilation.¹¹

These cases underscore the complexities surrounding the link between forced marriage and modern slavery and the conditioning influence that local cultural, religious and economic marriage practices exert on such relationships.

More generally, 6% of the narratives examined by McCabe and Eglen (2022) do not detail the experience of any form of exploitation or abuse inside forced marriages.ⁱⁱ This suggests that although one or both spouses were forced to marry, forced marriage is not

ⁱⁱ It is worth noting that the narratives analysed by McCabe and Eglen (2022) focus specifically on modern slavery cases. Hence, the fact that a non-negligible fraction of the testimonials from people forced into marriage included in this data set make no reference to modern slavery suggests that the overall proportion of forced marriages that do not involve instances of modern slavery might be considerably higher.

necessarily conflated with modern slavery.

A more controversial illustration of the “problematic” connection between forced labour and modern slavery emerges from a report by Human Rights Watch (2019).¹² This report focuses on the phenomenon of forced marriages for the express purposes of producing children – a relatively common practice in China associated with the country’s longstanding one-child policy, and the skewed sex distribution resulting from it. While forcing women to marry solely for their reproductive labour undoubtedly constitutes an abuse (and is recognised as such by international law), reproductive rights occupy a somewhat ambiguous place in the context of modern slavery, and it is unclear whether the exploitation of women and girl’s reproductive labour is indeed comprehended in its definition.¹³

These examples highlight that a more nuanced understanding of the precise – contextual, cultural, economic- conditions under which forced marriage may be equated to modern slavery is needed.

Clarifying the link between modern slavery and forced marriage: why does it matter?

Characterising the link between forced marriage and modern slavery, understanding the commonalities between the two phenomena and clearly delineating their boundaries, matters not only for academic or conceptual reasons. Importantly, it has relevant legal and policy implications for governments, researchers and practitioners working to tackle these issues.

From the legal standpoint, it is imperative to adopt a clear definition of forced marriage and to understand the conditions under which it may fall under the umbrella term of modern slavery. Currently, countries have differing criminal provisions on trafficking in persons and forced marriage. While some national legislations acknowledge some forms of marriage, such as child and forced marriage, as cases of modern slavery, other countries address these types of marriage as separate offences outside of the modern slavery framework.¹⁴ These legal “indeterminacies” influence law enforcement authorities’ decisions to investigate and prosecute a case under a certain criminal provision or

another in each jurisdiction, undercutting the possibility of developing cross-national collaborations aimed at improving the efficacy and impact of protective, preventive and deterrent approaches to counter cases involving interlinkages between trafficking in persons and forced marriage.

Additionally, the ambiguous legal and judicial treatment of forced marriage and modern slavery entail important repercussions for victims’ access to redress and rehabilitation. For instance, in many countries victims of trafficking are entitled to assistance and support services – often as a result of obligations included in international treaties against modern slavery – that might not be available for people in forced marriages. This will not only impact the implementation of victim support and assistance measures in different settings, but also limit the opportunities for sharing good practices and lessons learned regarding victim protection across governments, practitioners and organisations working in the field.

More generally, inconsistencies in the definition of the relationship and overlap between modern slavery and forced marriage also affect the collection of relevant data concerning the prevalence of these two phenomena and the calculation of meaningful prevalence estimates. The inability to distinguish between modern slavery and forced marriage, to measure the extent of their overlap and to identify the victims of these phenomena is not simply a matter of statistical accuracy. If governments, practitioners, international organisations and NGOs are unable to establish the magnitude of modern slavery resulting from forced marriage and to target the vulnerable populations their efforts will be severely undermined, including their ability to:

- implement policies to tackle these abuses;
- agree on and coordinate programmatic courses of action;
- evaluate the success of alternative strategies; and
- track the progress States make in meeting their international legal obligations in this area.¹⁵

Moving Forward

The question of whether and when forced marriage should be distinguished from modern slavery has

received relatively little attention from researchers and practitioners. Although both forced marriage and modern slavery undoubtedly constitute abusive practices, there is little consensus on whether the two phenomena should just be bundled or treated differently from a legal and policy perspective. Specifically, while some authors, organisations and governments maintain that forced marriage should be conceived of as modern slavery, others argue that the cultural and socio-economic context of forced marriages must be taken into account before equating the two phenomena.

Before settling on a position, it is critical that researchers, organisations and authorities working in this area agree on a clear framework aimed at identifying and precisely operationalising the conditions under which forced marriage and modern slavery overlap. Available evidence shows that people forced into marriage are likely to have been victims of a myriad of abuses and exploitations, some of which may fall within the notion of modern slavery. However, it also underscores that not all forced marriages can be conflated with modern

slavery.

Policy-makers, law enforcement agencies, scholars and practitioners must delve into the particular circumstances of forced marriages to be able to identify instances of human trafficking, sexual and labour exploitation that can be unequivocally classified as modern slavery. To that end, internationally harmonised guidelines that help clearly identify whether and when the two forms of exploitation intersect should be adopted by all relevant actors.

Enhancing our understanding of the interlinkages between forced marriage and modern slavery and adopting explicit criteria to delimit the extent to which the two phenomena overlap in practice has vital implications for issues around crime prevention, legislation, investigation and prosecution, victim protection and assistance, as well as fundamental programmatic consequences concerning the fight against these abuses.

¹ ILO, IOM, and Walk Free (2022). Global Estimates of Modern Slavery – Forced and Labour Marriage.

² UNODC (2020). Interlinkages between Trafficking in Persons and Marriage.

³ Kakar, Suman (2020). “Child/Forced/Servile Marriages Human Trafficking”. In J. Jones and J. Winderdyk (eds.), *The Palgrave International Handbook of Human Trafficking*, pp. 242- 258. Palgrave MacMillan.

⁴ McCabe, Helen, and Lauren Eglen (2022). “‘I bought you. You are my wife’: ‘Modern Slavery’ and Forced Marriage.” Forthcoming, *Journal of Human Trafficking*.

⁵ Plan International Bangladesh (2013). *Child Marriage - Findings from a National Survey in Bangladesh, 2013*; UNICEF (2017). *Ending child marriage - Towards evolution of social behaviour*.

⁶ ILO (2017). *Global Estimates of Modern Slavery – Forced and Labour Marriage*.

⁷ Quek, Kaye (2018). *Marriage trafficking: women in the forced wedlock*. Routledge

⁸ McCabe and Eglen (2022).

⁹ Kakar, Muhammad, and Farhan Yousaf (2021). “Gender, political and economic instability, and trafficking into forced marriage”. *Women & Criminal Justice* 32(1): 1-11.

¹⁰ Human Rights Watch (2016). “Our time to sing and play”: *Child Marriage in Nepal*.

¹¹ Velentza, Christina (2020). “Early Marriage and Education Drop Out in Traditional Roma Communities in Transylvania.” *Journal of Gypsy Studies* 2(1): 39-54.

¹² Human Rights Watch (2019). “Give us a baby and we’ll let you go”: *Trafficking of Kachin “Brides” from Myanmar to China*.

¹³ Quek (2018).

¹⁴ UNODC (2020).

¹⁵ European Parliament (2018). *Contemporary forms of modern slavery*.

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