



The Forced Marriage in Domestic Legislation database

Research summary and recommendations for use

The Forced Marriage in Domestic Legislation database is an important new resource in the global evidence base for tackling child, early and forced marriage (CEFM). It presents the domestic legislative provisions addressing forced marriage and related concerns to a global audience, analysing the domestic legislation in all UN Member States and making these laws accessible to all.

The Forced Marriage in Domestic Legislation database is freely accessible at antislaverylaw.ac.uk/fmld

Context

In 2015, all States committed to eliminating CEFM by 2030 through UN Sustainable Development Goal Target 5.3. While measured indicators associated with SDG 5.3 include an assessment of child marriage, there is no indicator evaluating States' progress on eliminating early or forced marriage. In 2022, the ILO estimated that 22 million people were living in situations of forced marriage on any given day in 2021. Available data on child marriage suggests that this number may substantially undercount the phenomenon. Yet, to date, there has been no systematic examination of the extent to which States are fulfilling their commitment to tackle CEFM through their domestic law.

About the database

The Forced Marriage in Domestic Legislation database maps all 193 UN Member States' national-level domestic legislation related to forced marriage, servile matrimonial transactions, marriage trafficking, consent to marriage, and minimum age for marriage. From over 550 domestic statutes, more than 1,500 individual provisions have been extracted and analysed to determine the extent to which States have fulfilled their commitment to eliminate CEFM through their domestic law. Data was collected from 2020-2021, and therefore captures legislation adopted up to this date. The full methodology and codebook are available at antislaverylaw.ac.uk/resources/methodology

States' international undertakings

There is no international convention prohibiting or comprehensively addressing forced marriage. Instead, a collection of treaties at the international and regional levels establish norms related to consent to marriage, minimum age for marriage, and servile matrimonial transactions, as well as forced marriage and marriage trafficking. All UN Member States have ratified at least one of the relevant international instruments, and most have obligations deriving from several. All States have obligations to address at least two of the five practices examined in the database, while the majority (79%) have obligations to tackle all five.

Figure 1. Proportion of relevant universal instruments ratified by States

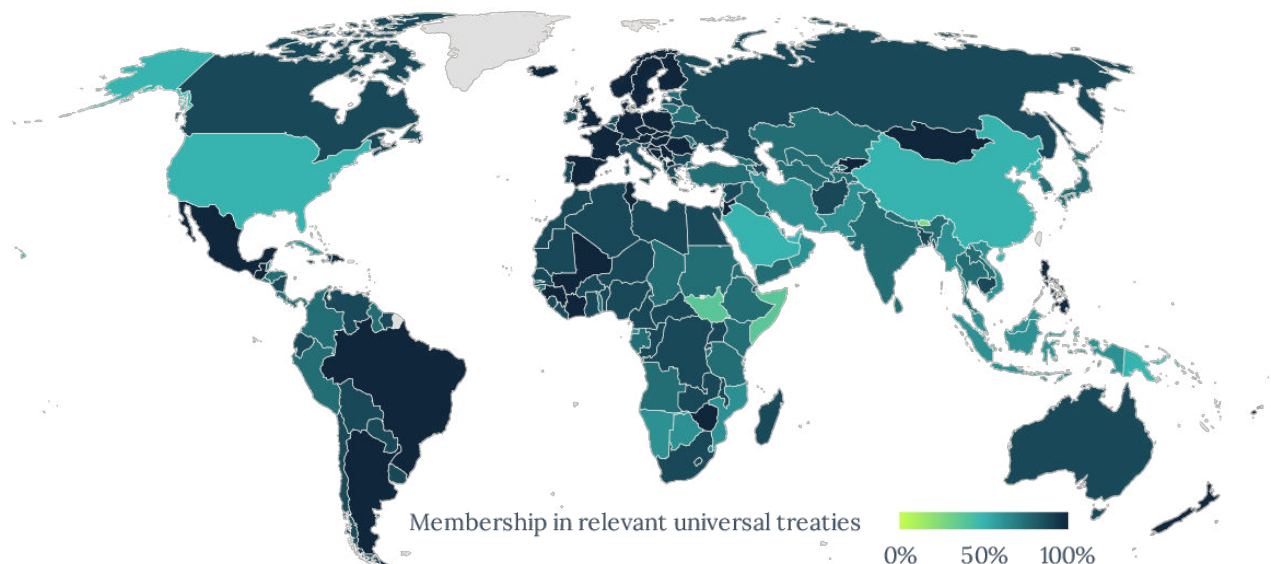
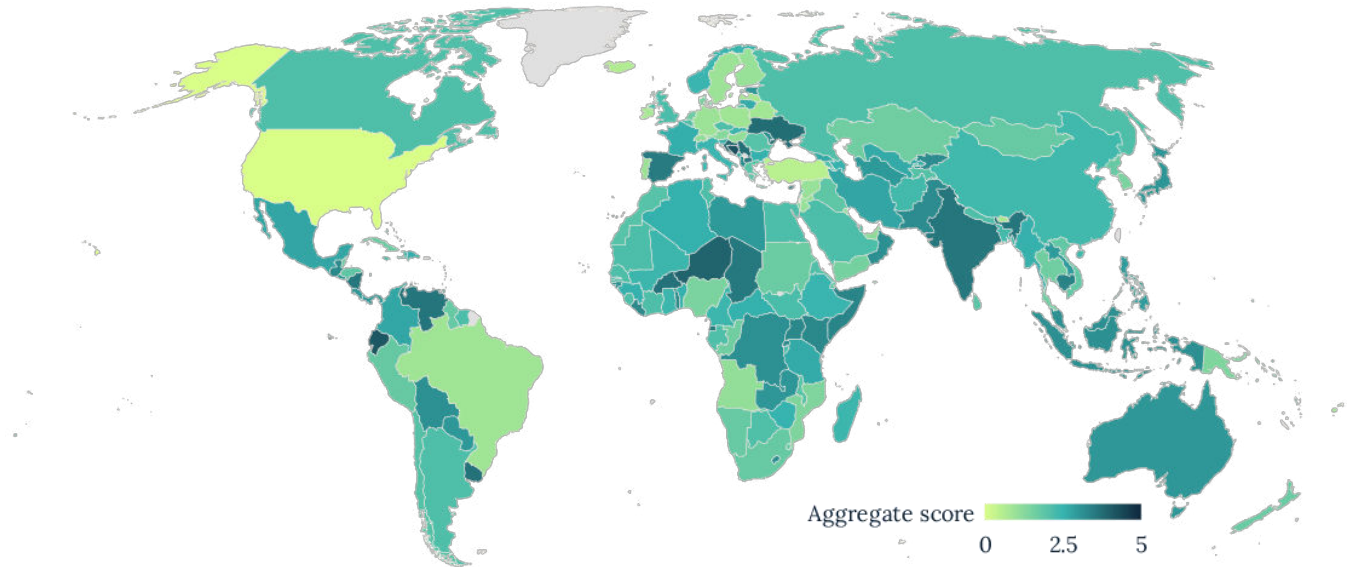


Figure 2. Domestic legislation on forced marriage and related concerns: aggregate country scores



Domestic legislation

Countries around the world have legislated to address forced marriage and other related practices to varying degrees and in a variety of different ways. Analysis of the Forced Marriage in Domestic Legislation database reveals a lack of systematisation in domestic legislative efforts to address forced marriage and related concerns at the regional or international level and limited harmonisation of approaches between different States. States have generally adopted some form of domestic legislation addressing the practices considered in the study. However, States seldom comprehensively addressed the five practices. No States achieved a perfect score, and only two achieved a score above 4/5. This leaves 99% of States without comprehensive legislation to ensure consent into marriage, establish an appropriate minimum age for marriage, and protect people from forced marriage, servile marriage, and marriage trafficking.

Forced marriage

Forced marriage has been addressed in States' domestic law in a wide variety of ways. Although relevant provisions have been identified in the database for 157 States (81%), the nature and consequences of these provisions vary substantially. In many cases, these provisions are limited in scope, applying to a specific subset of practices relevant for addressing forced marriage but falling short of a comprehensive or systematic approach. In particular, provisions related to forced marriage almost always govern the circumstances by which a marriage is entered into, without also addressing the circumstances by which a marriage is maintained. While 146 States (76%) were identified as having provisions addressing the use of coercion at the time of entry into marriage, only 29 States (15%) were found to have provisions addressing the use of coercion for the maintenance of marriages.

Consent to marriage

Consent to marriage has been relatively extensively addressed in States' domestic law, with almost three quarters of UN Member States (73%) having some form of relevant legislation in place. Close analysis

of the database reveals that consent or freedom is recognised as a foundational requirement of marriage in two thirds of States (67%), while more than half of States (55%) explicitly recognise consent to marriage as invalidated by coercion. However, the consequences of marriages in violation of this requirement remain limited in many States, restricting the possibilities for remedies and sanctions where violations of the right occur. In many cases, the only legal remedy associated with a non-consensual marriage is that the marriage may be annulled or voided. However, even in these cases, substantial restrictions may be placed on the circumstances in which a non-consensual marriage may be voided, for instance requiring applications for voiding within six months of the marriage.

Servile matrimonial transactions

Servile matrimonial transactions specifically, and institutions and practices similar to slavery more broadly, have not been extensively addressed in States' domestic law. In 2020, analysis showed only a small proportion of States having adopted domestic prohibitions addressing practices similar to Slavery, and even fewer with the required penal sanctions. Closer analysis in the Forced Marriage in



Domestic Legislation database echoes these findings, revealing that only a small proportion of States have enacted domestic legislative provisions addressing servile matrimonial transactions. Overall, 34 States (18%) were identified to have provisions in place addressing any aspect of servile matrimonial transactions. General provisions addressing practices similar to slavery without specific reference to marriage were the most common—found in 18 States (9%) while provisions specifically addressing the sale of a potential spouse were identified in 13 States (7%).

Marriage trafficking

The vast majority of States have established domestic legislative provisions criminalising trafficking in persons, typically defined to include practices similar to slavery and therefore encompass the servile matrimonial transactions (identified in 117 States, 61%). However, in a subset of States, forced marriage has been explicitly added to the listed forms of exploitation that may form an element of a trafficking offence, thereby expanding protections against marriage trafficking to encompass a wider set of coerced and exploitative marriages. Provisions addressing trafficking for forced marriage were identified in 41 States (21%), while a prohibition on trafficking for fraudulent marriage was identified in 5 States (3%).

Minimum age for marriage

Virtually all States have national-level legislation related to the minimum age for marriage. However, close analysis of the Forced Marriage in Domestic Legislation database reveals that these provisions often set the minimum age for marriage below eighteen years, establish exceptions permitting sub-minimum age marriages, and create different minimum ages for females and males (typically allowing marriage at a younger age for females). The database includes minimum age provisions for every UN Member States, with only one exception. National-level provisions were not identified in the United States, as minimum age provisions are addressed in state-level legislation rather than at the national level. The specific age at which marriage was permitted or below which marriage was prohibited was identified for 183 States (95%). In 60 of these States the standard minimum age allowed marriage under the age of 18 years, and 48 States set different minimum ages for males and females. These provisions almost always allowed the marriage of girls at a younger age than boys (true in 43 of the 48 cases). At the same time, 158 States set out exceptions permitting marriage below the minimum ages set by domestic law. These exceptions erode the protections provided by minimum age laws and allow marriages to occur potentially as young as 9 years old.

Recommendations for using the database

By examining existing legislation and gaps in implementation, the Forced Marriage in Domestic Legislation database sheds new light on the current state of domestic efforts to address CEFM through national law. It highlights different approaches, key trends, success, and gaps in domestic legislation globally. This makes the database a valuable new tool to support evidence-based action towards the goal of eliminating CEFM and ensuring effective remedies for the millions of people globally these practices affect. The following are examples of the various ways in which different actors can benefit from the database in their work. In presenting the current state of CEFM laws, critical gaps, and best practice, the database can be useful for:

- ▶ **States** assessing compliance with their international commitments (including SDG 5.3) and enacting and reforming legislation to effectively tackle CEFM.
- ▶ **Inter-governmental actors** with relevant mandates designing strategy and implementing their mandates—for example in informing country visits and shaping recommendations for national action to eliminate CEFM.
- ▶ **Treaty monitoring bodies** reviewing States' compliance with their international obligations and commitments to address CEFM.
- ▶ **Civil society and survivor support organisations** informing advocacy, strategies, political engagement, programming, and activism to tackle CEFM.
- ▶ **Development agencies** making programming decisions and assessing risk.

The Forced Marriage in Domestic Legislation database is an ongoing project. We invite States and other stakeholders to submit legislation not yet considered in the analysis through our website, to help us provide the most accurate and up-to-date information possible for use by stakeholders globally.

For more information about the Forced Marriage in Domestic Legislation database, contact: Katarina.Schwarz@nottingham.ac.uk