



University of
Nottingham
Rights Lab

Forced marriage in domestic legislation

An empirical analysis of national provisions globally



November 2024

Authorship and acknowledgements

This report was prepared by Katarina Schwarz with support from Helen McCabe and presents the initial findings from a study on the domestic legislation in place in 193 UN Member States governing forced marriage and related issues. The research was conducted by the project team identified below, with support from the named research assistances.

This work was supported by the Arts and Humanities Research Council grant number AH/S012788/1 and the University of Nottingham's AHRC Impact Acceleration Account (AH/X003027/1).

Project team

- Dr Helen McCabe, Associate Professor of Political Theory, School of Politics and International Relations, University of Nottingham
- Dr Hannah Baumeister, Lecturer in Law, Faculty of Business and Law, Liverpool John Moores University
- Dr Katarina Schwarz, Rights Lab Associate Director (Law and Policy) and Associate Professor in Antislavery Law and Policy, School of Law, University of Nottingham

Project research assistants

- Sara Ciucci, Rights Lab Research Associate in Antislavery Law and Policy
- Dishna Wilson, Rights Lab Research Associate in Antislavery Law and Policy

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



Contents

1. Introduction	3
2. The Forced Marriage in Domestic Legislation database	4
2.1. Coding legislation related to forced marriage	4
2.2. Limitations	5
3. International obligations relevant to forced marriage	6
3.1. Ratification of international instruments	8
4. Domestic legislation relevant to forced marriage	10
5. Forced marriage	11
5.1. International obligations	11
5.2. Domestic legislation	12
6. Consent to marriage	15
6.1. International obligations	15
6.2. Domestic legislation	17
7. Servile matrimonial transactions	19
7.1. International obligations	19
7.2. Domestic legislation	20
8. Marriage trafficking	22
8.1. International obligations	22
8.2. Domestic legislation	24
9. Minimum age for marriage	26
9.1. International obligations	26
9.2. Domestic legislation	27
10. Conclusion	31
Annex 1. Provision coding themes	32

Tables

Table 1. Summary of global instruments addressing forced marriage and related concerns	6
Table 2. Summary of regional instruments addressing forced marriage and related concerns	7

Figures

Figure 1. Number of States Parties to core international instruments addressing forced marriage and related concerns	8
Figure 2. Number of relevant international instruments ratified by States	9
Figure 3. Proportion of relevant international instruments ratified by States	9
Figure 4. Domestic legislation relevant to forced marriage: aggregate country scores	10
Figure 5. Sources of States' obligations related to forced marriage	11
Figure 6. Number of States with domestic legislative provisions related to forced marriage	12
Figure 7. Number of States with domestic legislative provisions related to each of the circumstances relevant for defining a forced marriage by scope of application by scope	13
Figure 8. Domestic legislation addressing forced marriage: country scores	14
Figure 9. Sources of States' obligations related to consent to marriage	15
Figure 10. Number of States with domestic legislative provisions related to consent to marriage	17
Figure 11. Domestic legislation addressing consent to marriage: country scores	18
Figure 12. Sources of States' obligations related to servile matrimonial transactions	19

Figure 13. Number of States with domestic legislative provisions related to servile matrimonial transactions	21
Figure 14. Domestic legislation addressing servile matrimonial transactions: country scores.....	21
Figure 15. Sources of States' obligations related to marriage trafficking.....	22
Figure 16. Number of States with domestic legislative provisions related to marriage trafficking	24
Figure 17. Domestic legislation addressing marriage trafficking: country scores	25
Figure 18. Sources of States' obligations related to minimum age for marriage	26
Figure 19. Minimum ages for marriage established in national legislation (number of States by age and gender differentiation)	27
Figure 20. Number of States with domestic legislative provisions establishing exceptions to the standard minimum age for marriage set in that country.....	28
Figure 21. Minimum ages for sub-minimum age marriages established in national legislation (number of States by age and gender differentiation)	29
Figure 22. Domestic legislation addressing the minimum age for marriage: country scores.....	30

Abbreviations

ACAT	ASEAN Convention Against Trafficking in Persons, Especially Women and Children
ACRWC	African Charter on the Rights and Welfare of the Child
American Convention	American Convention on Human Rights
ASEAN	Association of Southeast Asian Nations
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEFM	Child, early, and forced marriage
CoE	Council of Europe
CRC	Convention on the Rights of the Child
ECAT	Council of Europe Convention on Action against Trafficking in Human Beings
ECHR	European Convention on Human Rights
EU	European Union
Hague Convention	Convention on the Celebration and Recognition of the Validity of Marriages
HCCH	Hague Conference on Private International Law
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
Inter-American Convention	Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women
Istanbul Convention	Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence
LOAS	League of Arab States
Maputo Protocol	African Charter on Human and Peoples' Rights on the Rights of Women in Africa
Marriage Convention	1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
OAS	Organisation of American States
OAU	Organisation for African Unity
Palermo Protocol	Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime
Rome Statute	Rome Statute of the International Criminal Court
SADC	Southern African Development Community (SADC)
SDG	Sustainable Development Goal
Supplementary Convention	1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
UDHR	Universal Declaration of Human Rights
WFCLC	Worst Forms of Child Labour Convention

1. Introduction

In 2015, all UN Member States committed to eliminate child, early and forced marriage by 2030 under the auspices of Sustainable Development Goal (SDG) Target 5.3.¹ While the measured indicators associated with SDG 5.3 include an assessment of child marriage,² there is no indicator evaluating States' progress on eliminating early or forced marriage. In the Global Estimates of Modern Slavery, the International Labour Organisation, Walk Free, and International Organisation for Migration consider forced marriage as a form of modern slavery.³ In 2022, they estimated that 22 million people were living in situations of forced marriage on any given day in 2021. Yet, available data on child marriage suggests that this number may substantially undercount the phenomenon.⁴

The absence of a robust international legal regime governing forced marriage makes examination of States' efforts to eliminate the practice even more challenging. Where other comparable issues have robust international frameworks that provide clear benchmarks and guidance for domestic legislators, the expectations on States with regard to legislating against forced marriage remain ambiguous. In the absence of a universal instrument specifically addressing forced marriage, a tapestry of relevant international and regional frameworks coalesce to establish obligations related to ensuring consent to marriage, establishing a minimum age for marriage, and prohibiting servile matrimonial transactions, marriage trafficking, and (in limited circumstances) forced marriage. While some obligations within this domain are clearly prescribed, there is no clear benchmark for the construction of legislation that works towards the elimination of forced marriage effectively.

The Forced Marriage in Domestic Legislation database is intended to provide new evidence on the current state of national provisions addressing forced marriage and related concerns globally. It interrogates the current reality of States' national-level legislative frameworks for addressing forced marriage, consent to marriage, servile matrimonial transactions, marriage trafficking, and the minimum age for marriage. By conducting a global review of national legislation concerning forced marriage and related concerns, this project unearths the realities of State action to achieve SDG 5.3 and highlights key areas for action. It explores trends, successes, and failures in tackling forced marriage through legal frameworks and evaluates alignment between States' international undertakings and domestic action.

The collection of domestic legislation concerning forced marriage, consent to marriage, servile matrimonial transactions, marriage trafficking, and minimum age for marriage shows that national engagement with the commitment to eliminating forced marriage is irregular, inconsistent, and incomplete. The study demonstrates a lack of systematisation and harmonisation between States at both the regional and international levels, resulting in inconsistent protections from one State to the next. The database not only outlines large-scale shortcomings in the domestic response to forced marriage around the world, but also highlights examples of promising practice in legislating against forced marriage which may guide future reform. By identifying where and how progress has been made, and providing examples of good practice and different approaches, the database can inform efforts to improve the legal response to forced marriage and related concerns around the world.

¹ United Nations, 'Transforming Our World: The 2030 Agenda for Sustainable Development' (21 October 2015) A/RES/70/1, available [here](#).

² Namely, the proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18. UN Department of Economic and Social Affairs, 'Goal 5: Achieve Gender Equality and Empower All Women and Girls' available [here](#).

³ ILO, Walk Free, and IOM, 'Global Estimates of Modern Slavery: Forced Labour and Forced Marriage' (2022) available [here](#).

⁴ For instance, data on the proportion of women aged 20-24 years who were married or in a union by age 15 (%) shows as much as 30% of this population of young women in a country (Chad) to have been married under the age of fifteen. World Health Organisation, 'Proportion of women aged 20-24 years who were married or in a union by age 15 (%)' (The Global Health Observatory), available [here](#).

2. The Forced Marriage in Domestic Legislation database

To assess the extent to which forced marriage and related concerns have been addressed in domestic law, the Forced Marriage in Domestic Legislation database compiles the constitutional, criminal, labour, civil, and family law of all 193 UN Member States, drawing provisions related to the following practices and concerns from these texts:

- Forced marriage
- Servile matrimonial transactions
- Marriage trafficking
- Consent to marriage
- Minimum age for marriage

From over 550 domestic statutes, over 1,500 individual legislative provisions have been extracted and analysed to establish the extent to which each and every State has addressed these practices through national-level domestic legislation.

Within the Forced Marriage in Domestic Legislation database, legislative provisions are collated with a global mapping of States' commitments to relevant international instruments. This allows for consideration of States' international obligations with regard to forced marriage and related concerns, and the extent to which these have been realised through national law. The database also incorporates a range of additional instruments for analysis, including universal and regional human rights, women's rights, and children's rights treaties.

For each of the 193 UN Member States, relevant descriptive characteristics supplement information on international obligations and domestic legislation. These characteristics include the kind of legal system in place in the country, geographic region, and membership in regional organisations. Additional explanatory variables have been introduced to assess the extent to which different factors relate to States' international commitments and domestic legislation addressing forced marriage and related concerns.

Collectively, this information provides the foundation for our global quantitative analysis, as well as for the 193 Country Reports published on the online platform. Each Country Report sets out the international instruments to which the State is party, and the various international obligations on forced marriage and related concerns flowing from these undertakings. Each Report then provides analysis of the domestic legislation the State has enacted to fulfil these international commitments.

2.1. Coding legislation related to forced marriage

There is no international instrument of universal scope establishing a prohibition of forced marriage or defining the concept. Rather, a collection of international instruments establish obligations and standards in relation to consent to marriage, minimum age for marriage, and servile matrimonial transactions (see section 3). This means that there is no authoritative, international touchstone for determining which domestic legislative provisions are relevant to evaluating forced marriage in domestic legislation globally. However, a range of practices considered in international law are relevant for consideration of forced marriage.

In developing the Forced Marriage in Domestic Legislation Database, we sought to engage the range of practices relevant to forced marriage addressed in international legal frameworks, as well as the diversity of approaches adopted in domestic legal systems. Provisions were therefore first reviewed for relevance to recognising and protecting consent into marriage, establishing minimum ages for marriage, and prohibiting forced and child marriage, servile matrimonial transactions, and marriage trafficking. Data collection and screening were therefore over-inclusive at the outset, seeking to capture the various ways in which these concerns may be addressed in different jurisdictions.

A mixed deductive-inductive approach to coding domestic legislation allowed us to interrogate domestic legislation addressing the project's core areas of interest, while retaining flexibility to capture variation between systems. Coding was conducted in two phases: first at the provision level; and second at the country level (aggregating provision-level codes) An initial coding framework established *a priori* (deductive) included 48 variables organised into six thematic areas. This was supplemented with additional codes identified during analysis to reflect country practice (inductive), resulting in a final coding framework encompassing 370 variables organised into seventeen thematic areas (see Annex 1). These codes were then aggregated for country-level analysis of the five core thematic concerns considered in the study: forced marriage; servile matrimonial transactions; marriage trafficking; consent to marriage; and minimum age for marriage.

Several variables were combined to produce the assessment of State practice with regard to each of the five practices of concern for this study. The substance of each practice and parameters for scoring are set out for each practice in turn in sections 5-9 of this report.

The full methodology and codebook are available at antislaverylaw.ac.uk/fmld

2.2. Limitations

The Forced Marriage in Domestic Legislation database should be understood to reflect the legislation that the research team were able to locate and analyse within this study. While efforts were undertaken to identify the relevant legislation for each country, some legislation relevant for the inquiry may not be captured in the study.

Note: Legislative data for this study was collected from 2020-2021. The database therefore captures legislation adopted up to this point, but may not reflect new legislation and reform of existing legislation adopted from 2022-2024.

Although the database incorporates legislation from all 193 UN Member States, it should be recognised that there are challenges to the global collection and analysis of legislation faced in this process. Issues relating to the availability of legislation, languages of publication, difficulties in translating technical legal language, and differences in the structures of national legal systems should all be noted as inherent challenges to developing a global database of domestic legislation. These challenges have been offset by utilising key search terms in multiple languages, triangulating sources, and the use of translation software to translate material where necessary.

Further challenges arise in the attempt to create a quantitative metric for States' domestic provisions relating to the set of practices and concerns addressed in the database. The coding matrix adopts a categorical approach to understanding States' domestic legislation, assessing whether or not a specific kind of provision is in place within a given country. However, country scores necessarily entailed decisions being made about how to combine widely diverging provisions into a single number that best reflects the core of the relevant norms. The scoring methodology is explained in each section in turn to ensure transparency. However, alternative assessments of the relevant legislative provisions are possible and ongoing review and development of the methodology are planned.

Acknowledging the limitations of this data collection exercise, we invite States and other experts to contribute additional evidence and legislation to the database. This is a live project, which continuously seeks to improve the quality of the evidence available for analysis and use by stakeholders. New evidence is welcome and can be submitted (and gaps in existing evidence flagged) through the online portal.

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

3. International obligations relevant to forced marriage

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. For States in the Council of Europe, a prohibition against forced marriage is found in the Convention on Preventing and Combatting Violence against Women and Domestic Violence (the Istanbul Convention). At present, this appears to be the only major international instrument containing such a prohibition. Beyond this:

- One international instrument (the Rome Statute) has been interpreted to include forced marriage within the context of crimes against humanity as an ‘other inhumane act’.
- Five international and four regional instruments establish obligations related to consent to marriage.
- One international instrument establishes obligations related to servile matrimonial transactions generally, while one establishes obligations related to children under the umbrella of practices similar to slavery.
- Three international and three regional instruments establish obligations related to establishing a minimum age for marriage, and an additional two regional instruments foresee a ‘marriageable age’.
- One international and five regional instruments establish obligations related to trafficking in persons for the purpose of practices similar to slavery, which include servile matrimonial transactions. In one regional instrument (the EU Anti-Trafficking Directive as amended in 2024) specifically addresses trafficking for the purpose of forced marriage.

Table 1. Summary of global instruments addressing forced marriage and related concerns

Treaty	Obligations established for
1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (Supplementary Convention)	<ul style="list-style-type: none"> ▶ Consent to marriage ▶ Servile matrimonial transactions ▶ Minimum age for marriage
1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (Marriage Convention)	<ul style="list-style-type: none"> ▶ Consent to marriage ▶ Minimum age for marriage
1966 International Covenant on Civil and Political Rights (ICCPR)	<ul style="list-style-type: none"> ▶ Consent to marriage
1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)	<ul style="list-style-type: none"> ▶ Consent to marriage
1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	<ul style="list-style-type: none"> ▶ Consent to marriage ▶ Minimum age for marriage ▶ Marriage trafficking (women)
1989 Convention on the Rights of the Child (CRC)	<ul style="list-style-type: none"> ▶ Marriage trafficking (children)
1998 Rome Statute of the International Criminal Court (Rome Statute)	<ul style="list-style-type: none"> ▶ Forced marriage as an ‘other inhumane act’ within the definition of crimes against humanity
1999 Worst Forms of Child Labour Convention (WFCLC)	<ul style="list-style-type: none"> ▶ Servile matrimonial transactions (children) ▶ Marriage trafficking (children)
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol)	<ul style="list-style-type: none"> ▶ Marriage trafficking

Table 2. Summary of regional instruments addressing forced marriage and related concerns⁵

Treaty	Region	Obligations established for
1950 European Convention on Human Rights (ECHR)	CoE	▶ Right to marry at 'marriageable age' ▶ Marriage trafficking
1969 American Convention on Human Rights (American Convention)	OAS	▶ Consent to marriage ▶ Marriage trafficking
1978 Convention on the Celebration and Recognition of the Validity of Marriages	HCCH ⁶	▶ Consent to marriage ▶ Minimum age for marriage
1990 African Charter on the Rights and Welfare of the Child (ACRWC)	OAU	▶ Minimum age for marriage ▶ Marriage trafficking (children)
1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Inter-American Convention)	OAS	▶ Marriage trafficking
2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)	AU	▶ Consent to marriage ▶ Minimum age for marriage ▶ Marriage trafficking (women)
2004 Arab Charter on Human Rights	LOAS	▶ Consent to marriage ▶ Right to marry at 'marriageable age' ▶ Marriage trafficking
2005 Council of Europe Convention on Action against Trafficking in Human Beings (ECAT)	CoE	▶ Marriage trafficking
2011 Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (Istanbul Convention)	CoE	▶ Forced marriage ▶ Marriage trafficking
2011 EU Anti-Trafficking Directive (revised 2024)	EU	▶ Marriage trafficking
2015 ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACAT)	ASEAN	▶ Marriage trafficking

The scope, substance, and limitations of these instruments, as well as the current state of ratification, are addressed generally in section 3.1 and thematically in sections 5-9 alongside consideration of the relevant domestic legislation that States have enacted.

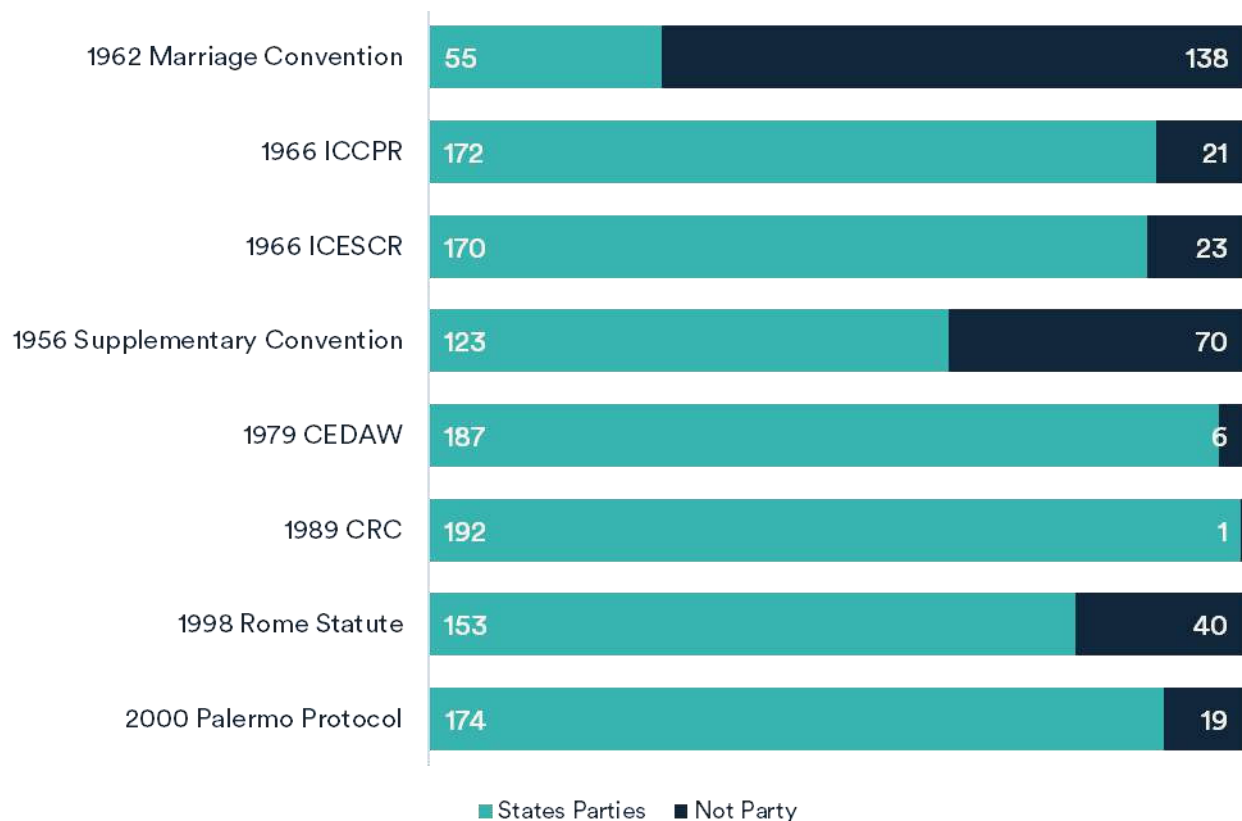
⁵ Note: The 1996 Council of Europe Convention on the Exercise of Children's Rights does not establish specific rights related to marriage or trafficking in persons. The 1981 African Charter on Human and Peoples' Rights establishes obligations related to the elimination of discrimination against women and the protection of rights of women and children as stipulated in international declarations and conventions (article 18(3)) but does not directly reference marriage or related practices. The 2002 SAARC Convention on Preventing and Combatting Trafficking specifically addresses trafficking for prostitution, rather than adopting the wider definition established in the Palermo Protocol.

⁶ Treaty adopted by the Hague Conference on Private International Law, which includes 90 Member States. List of Member States available [here](#).

3.1. Ratification of international instruments

Universal instruments including provisions relevant for addressing forced marriage as one element of a wider set of norms (such as the ICCPR, ICESCR, CEDAW, and CRC) generally have a wide membership. All States have committed to at least one of the relevant international instruments and the average number of instruments ratified by States is high (mean ratification by States is 6.36 out of 8 instruments or 80%). On the other hand, the international convention dealing specifically with marriage—the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages—has relatively limited membership, ratified by less than a third of UN Member States (55 out of 193 States or 29%).

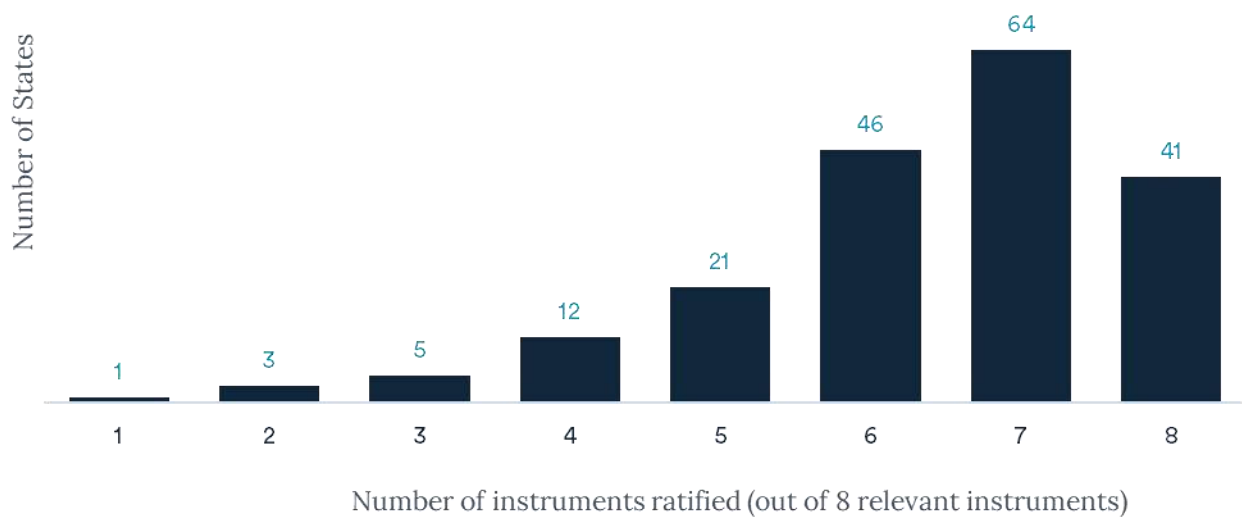
Figure 1. Number of States Parties to core international instruments addressing forced marriage and related concerns



All States have ratified at least one of the relevant international instruments (see Figure 2). This is notably driven by the almost universal ratification of the Convention on the Rights of the Child (only the United States have not ratified this instrument) and widespread ratification of the ICCPR, ICESCR, CEDAW, and the Palermo Protocol—all of which have at least 170 States Parties. Over one fifth of States have ratified all eight of the relevant universal instruments (41 States, 21% of UN Members), while an additional 64 (33%) have ratified seven of the instruments. One country (Tonga) has committed to only one relevant instrument—the Convention on the Rights of the Child—while an additional three States (Bhutan, Palau, and Tuvalu) have each ratified only two.⁷

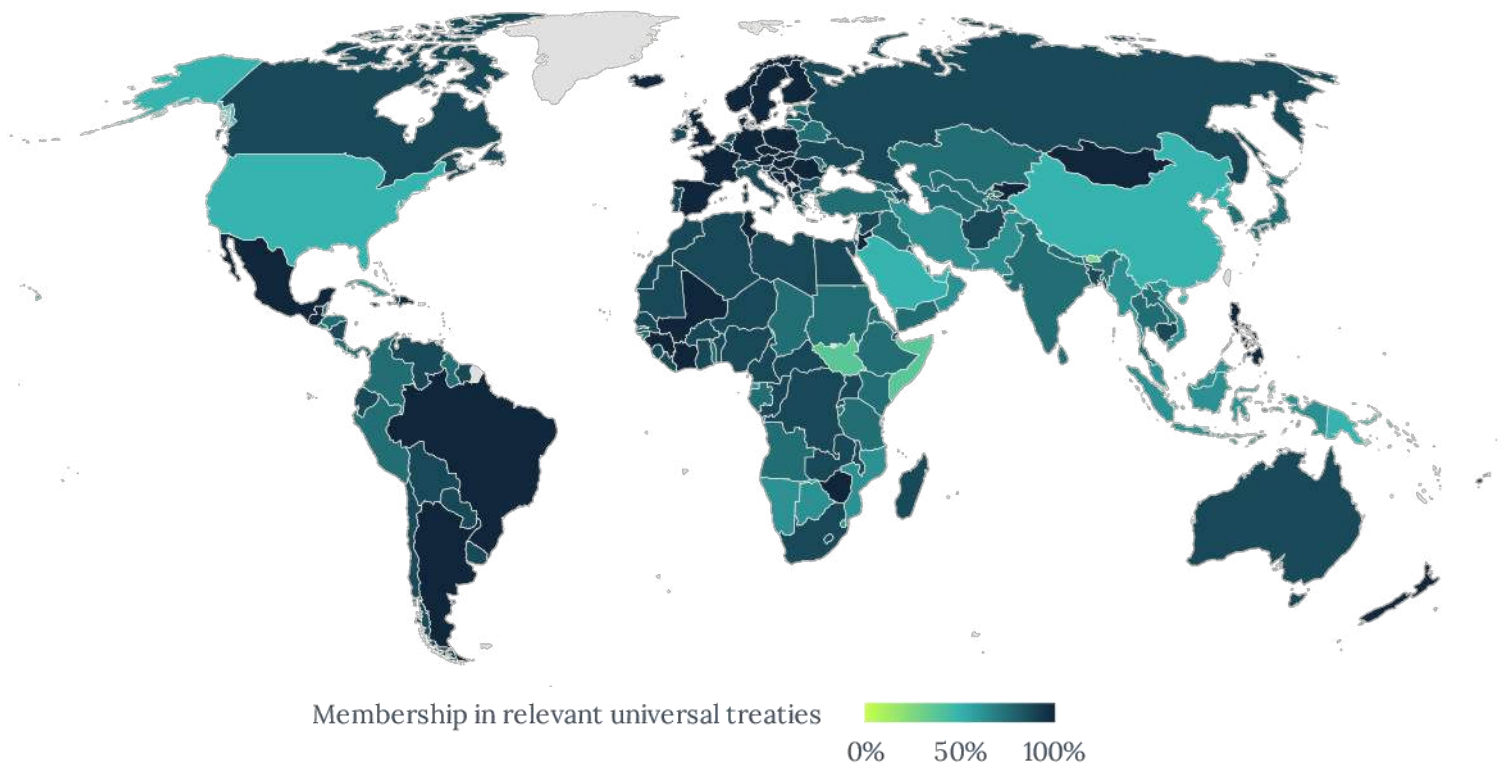
⁷ All three states have ratified the Convention on the Rights of the Child, as well as one additional instrument. In the case of Bhutan and Tuvalu, this is the Convention on the Elimination of All Forms of Discrimination Against Women, while in the case of Palau this is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Bhutan has also ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and pornography. Palau has signed but not yet ratified an additional two instruments (the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination Against Women).

Figure 2. Number of relevant international instruments ratified by States



Different levels of ratification of relevant instruments are distributed around the world, and there are no strong geographic trends with regard to ratifications. In general, geo-political regional groupings did not have a strong influence on the likelihood of a State having ratified relevant international instruments, with only one exception.⁸ Countries in the Asia-Pacific grouping were moderately less likely to have ratified the relevant instruments ($r = -0.45$) than any of their regional counterparts. Membership in the European Court of Human Rights also produced a slightly increased likelihood of ratification of a higher proportion of relevant international instruments ($r = 0.32$), and civil law systems were also slightly more likely to have ratified these instruments ($r = 0.30$).

Figure 3 .Proportion of relevant international instruments ratified by States



⁸ The five geo-political regional groups identified by the United Nations Department for General Assembly and Conference Management are used for this regional analysis, available [here](#).

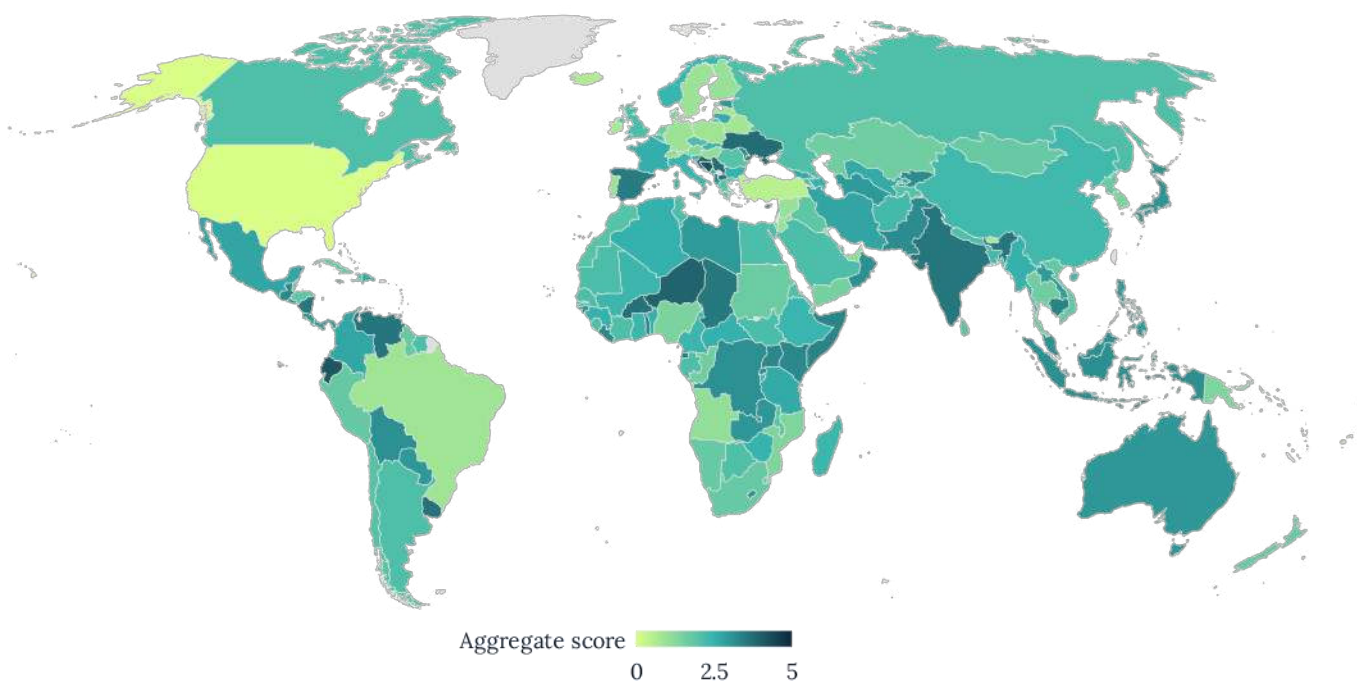
4. Domestic legislation relevant to forced marriage

Countries around the world have legislated to address forced marriage and other related practices to varying degrees and in a variety of different ways. No significant patterns or trends based on geography, legal system, or ratification of international instruments were revealed through the analysis of the Forced Marriage in Domestic Legislation database. Rather, the study 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.

Analysis of domestic legislation was conducted in two phases. The first phase considered individual legislative provisions to capture the dynamic interplay between the application, substance, and consequences of each article. For each provision, 370 unique variables were coded, organised into seventeen thematic areas (see Annex 1). This was then aggregated at the country level for consideration of the five core practices and concerns examined in this study. Country-level analysis provides general insights into the extent to which the five practices and concerns are addressed at the domestic level globally. **This country-level analysis is the focus of this report, and the current online interface for the Forced Marriage in Domestic Legislation database.** This, in turn, will be supplemented with more nuanced analysis of the construction of different provisions within States based on disaggregated, provision-level coding in future publications.

Country-level analysis shows States to have generally adopted some form of domestic legislation addressing the practices considered in the study. However, States seldom comprehensively addressed the five practices. No State achieved a perfect score, and the average aggregate score was 2.3 out of five. No region performed significantly better or worse than others, and ratification of relevant international instruments did not have a significant impact on aggregate legislative performance.

Figure 4. Domestic legislation relevant to forced marriage: aggregate country scores



Domestic legislative provisions addressing each of the five thematic areas of concern in this study are addressed in turn in sections 5-9 alongside consideration of the relevant international obligations that States have undertaken.

5. Forced marriage

5.1. International obligations

In total, 42 Council of Europe States have general obligations to establish domestic legislative provisions related to forced marriage as a result of membership in the 2011 Istanbul Convention. In addition, forced marriage is recognised by the International Criminal Court as an ‘other inhumane act’ within the definition of crimes against humanity, meaning that 153 States have obligations to address forced marriage when committed as part of a systematic or widespread attack against a civilian population.

Figure 5. Sources of States' obligations related to forced marriage



There is no universal international instrument specifically prohibiting forced marriage. Rather, there are a collection of instruments recognising the requirement of consent into marriage (see section 6). Within the regional context of the Council of Europe, forced marriage is specifically prohibited through the Convention on Preventing and Combatting Violence against Women and Domestic Violence (Istanbul Convention). Article 37 of the Istanbul Convention requires domestic criminalisation of forced marriage:

1. Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised.
2. Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised.

Article 32 further requires the establishment of civil consequences for forced marriages, namely that:

- Parties shall take the necessary legislative or other measures to ensure that marriages concluded under force may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim.

As a result of membership in the Istanbul Convention, 42 States have specific international legal obligations to ensure the criminalisation of forced marriage in their domestic law, covering both children and adults. However, the instrument does not specifically define forced marriage.

A more limited prohibition of forced marriage is established in international criminal law. While the Rome Statute of the International Criminal Court does not explicitly mention forced marriage, the International Criminal Court has recognised forced marriage as an ‘other inhumane act’ under article 7(1)(k), which may constitute a crime against humanity when committed as part of a widespread or systematic attack against a civilian population, with knowledge of the attack.⁹ Although this instrument is considered to establish obligations related to forced marriage for the purpose of this analysis, it should be noted that this is not a general prohibition of forced marriage as it applies only to

⁹ *The Prosecutor v Dominic Ongwen* (Decision on the Confirmation of Charges) No ICC-02/04-01/15 (23 March 2016), paras 87-95; *The Prosecutor v Dominic Ongwen* (Trial Judgement) No ICC-02/04-01/15 (04 February 2021), paras 2741-2753; *The Prosecutor v Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (Pre-Trial Chamber I Decision) No ICC-01/12-01/18 (13 November 2019), para 553.

acts crossing the scale threshold of crimes against humanity. As a result of membership in the Rome Statute, 153 States have obligations related to forced marriage when committed as a crime against humanity. However, consideration of crimes against humanity in domestic legislation is outside the scope of the current study.

5.2. Domestic legislation

Forced marriage has been addressed in States' domestic law in a wide variety of ways. Although relevant provisions have been identified in the Forced Marriage in Domestic Legislation database for a reasonable proportion of UN Member States, 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.

Provisions addressing forced marriage take various forms and were categorised against 38 distinct variables. In the first instance, three broad approaches are evident in legislation:

- (1) **Provisions prohibiting perpetration of acts related to forced marriage**, establishing sanctions for acts committed by persons that entail an exercise of force, compulsion, or coercion to influence someone to enter into, or remain in, a marriage.
- (2) **Provisions protecting consent into marriage (with associated consequences) as forced marriage**, typically entailing a consequence of voiding or voidability of the marriage rather than attaching sanctions to a perpetrator.
- (3) **Provisions establishing a general prohibition of forced marriage**, but without specific associated sanctions to punish perpetration or protections for consent. For instance, Zimbabwe's Constitution declares that 'no person may be compelled to enter into marriage against their will' (article 78(2)).

Provisions were also considered in light of their scope of application—whether they sought to govern the conditions of entry into a marriage or the conditions in which a marriage was maintained (or both). The specific forms of force, coercion, or compulsion addressed in provisions were each assessed independently, to evaluate the specific contours of relevant provisions. The various circumstances relevant for defining a forced marriage captured in the database include:

- | | | |
|----------------|-------------------------|------------------|
| (1) Force | (6) Detention | (11) Non-consent |
| (2) Compulsion | (7) Coercion | (12) Incapacity |
| (3) Threats | (8) Duress and fear | (13) Age |
| (4) Violence | (9) Deception and fraud | (14) Bribery |
| (5) Abduction | (10) Mistake | |

The related offences of receiving a person for forced marriage, being party to a forced marriage, taking someone abroad for forced marriage, and solemnising a forced or coerced marriage were also considered in the database.

Figure 6. Number of States with domestic legislative provisions related to forced marriage

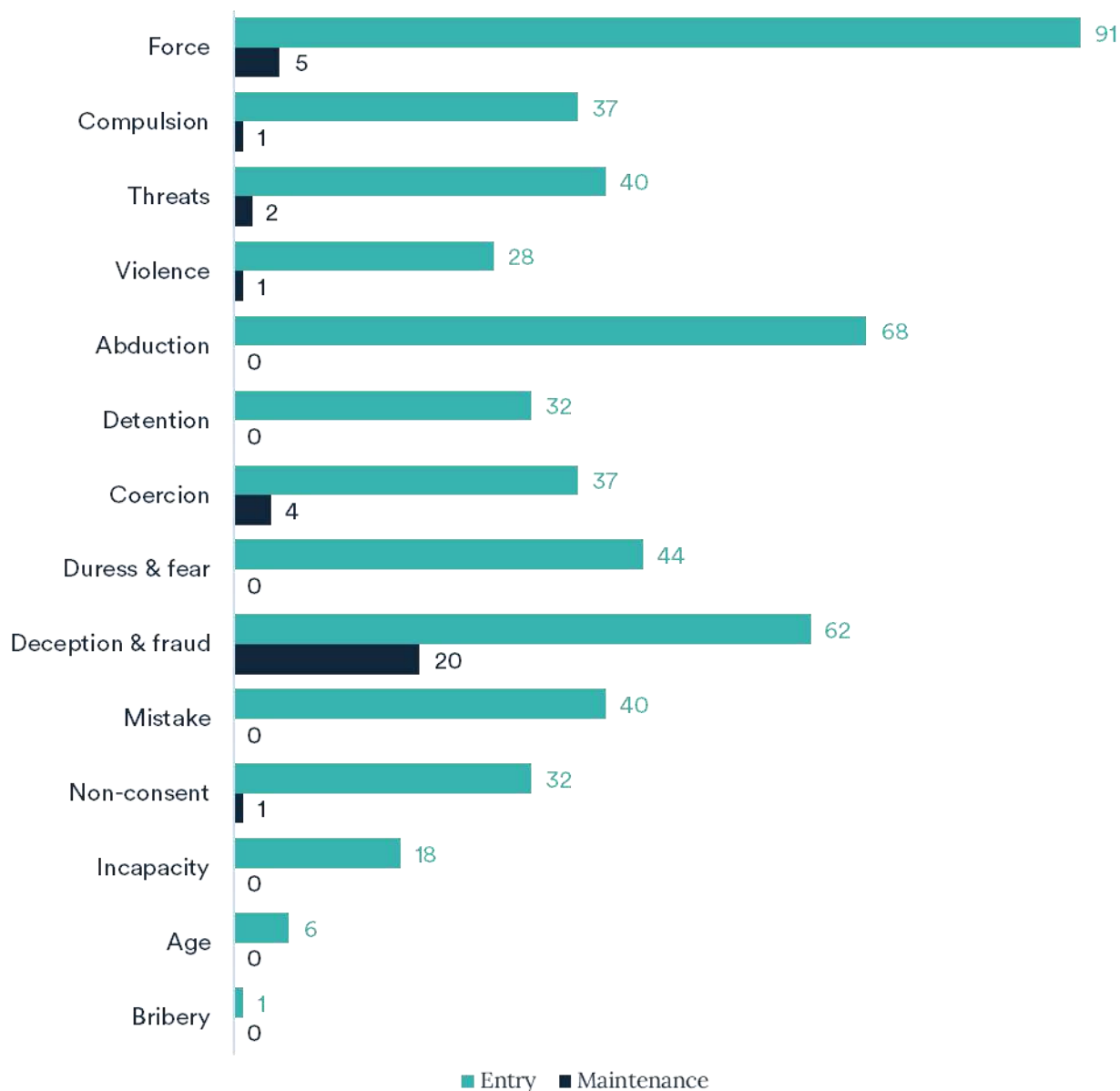


In total, 157 States (81%) were identified to have some form of legislative provision in place relevant to addressing forced marriage. In 114 States (59%), provisions prohibiting the perpetration of acts related to forced marriage were identified, while 102 States (53%) were found to have provisions protecting consent into marriage with associated consequences as forced marriage. Meanwhile, six States (3%) had provisions establishing a general prohibition of forced marriage in place.

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 were identified as having provisions addressing the use of coercion at the time of entry into marriage, only 29 States were found to have provisions addressing the use of coercion for the maintenance of marriages.

The language of force was the most commonly identified circumstance relevant for defining a forced marriage, evident in the provisions of 91 States. In each case, these provisions governed the exercise of force at the point of entry into marriage, while in five States the provisions also applied to the use of force for the maintenance of the marriage. Use of deception and fraud were also commonly addressed in domestic legislation, evident in 71 States (62 addressing entry and 20 addressing maintenance), as were provisions addressing abduction for marriage, found in 68 States.

Figure 7. Number of States with domestic legislative provisions related to each of the circumstances relevant for defining a forced marriage by scope of application by scope



With regard to related offences, receiving a person for forced marriage was addressed in the domestic legislation of three States, while being a party to a forced marriage was addressed in twelve (in eleven cases governing entry, while only one governed maintenance). Taking someone abroad for forced marriage was addressed in twelve States, and solemnisation of forced marriage in thirteen.

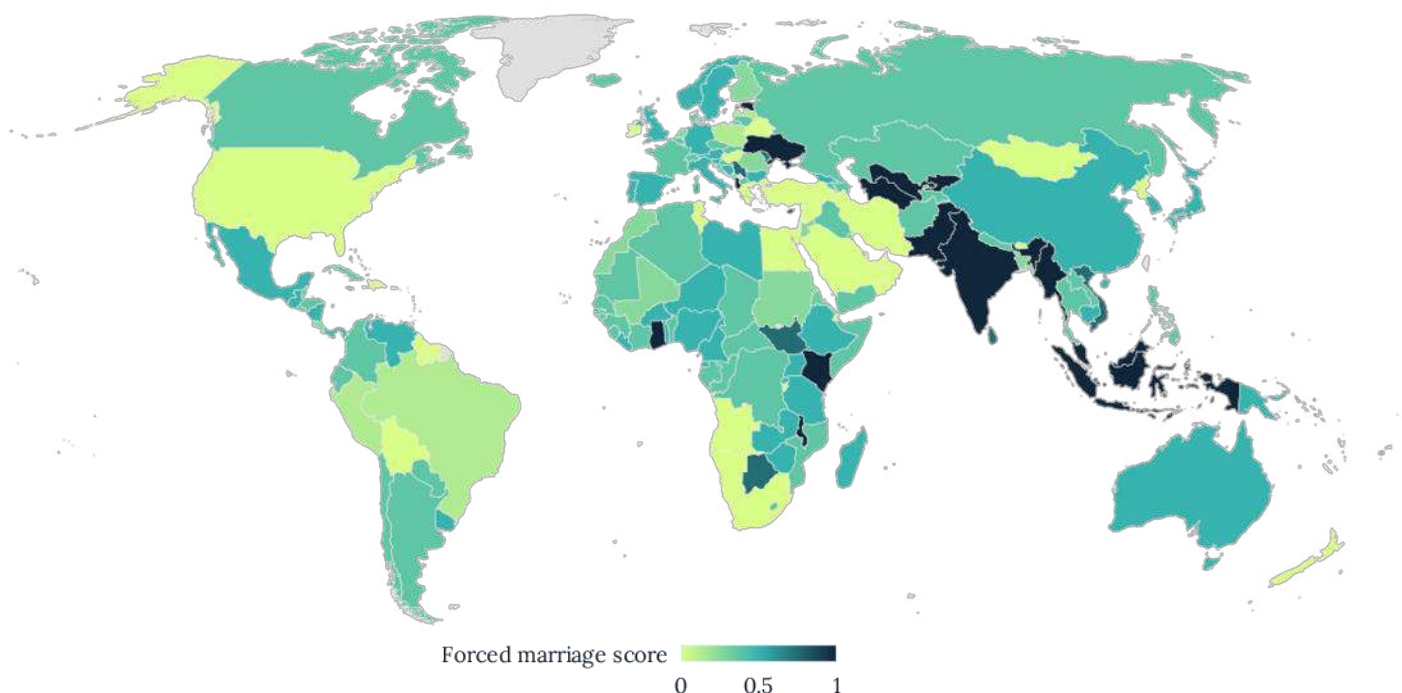
Within the Forced Marriage in Domestic Legislation database, forced marriage scores are generated based on consideration of the approach adopted, scope of application, and circumstances addressed. The absence of a clear international benchmark for the definition of forced marriage makes establishing a scoring system challenging. The approach outlined here represents a preliminary construction based on the coding conducted. However, this should be understood as constrained by the lack of an authoritative touchstone and the diversity of approaches employed in States' domestic legislation. Further research is being undertaken to inform and adapt the approach adopted here.

In terms of approach, the presence of any provisions was considered to produce half of a full score (0.5) while protection provisions and perpetration provisions each accounted for 0.25 points. This reflects the requirement in the Istanbul Convention that States adopt both criminalising provisions covering perpetration and provisions providing for measures to allow parties to a forced marriage to exit the marriage without undue burden. Scope of application and circumstances relevant for defining forced marriage were then considered to have the potential to maintain or reduce this score.

With regard to scope of application, both entry and maintenance were each considered to account for half of a country's overall score. This meant that if legislation covered both entry and maintenance a country could receive a full score (applying a multiplier of one), while only covering one of the two would apply a multiplier of 0.5. Where a provision did not include a clear delineation of scope of application, this was presumed to apply to both entry and maintenance and would not reduce a country's score.

Broadly constructed circumstances that could be understood as umbrellas for various different forms of coercion (force, compulsion, coercion, non-consent) were considered sufficiently encompassing as to produce a full score (therefore applying a multiplier of one). Other circumstances were understood as producing only a partial protection against forced marriage, yet when combined could produce extensive coverage. Defining the specific contours of force or coercion was outside the parameters of this study. Thus, it was assumed that coverage of at least three of the remaining circumstances would result in a country's score being maintained (applying a multiplier of one), while coverage of only two resulted in the application of multiplier of two thirds, and of only one a multiplier of one third.

Figure 8. Domestic legislation addressing forced marriage: country scores

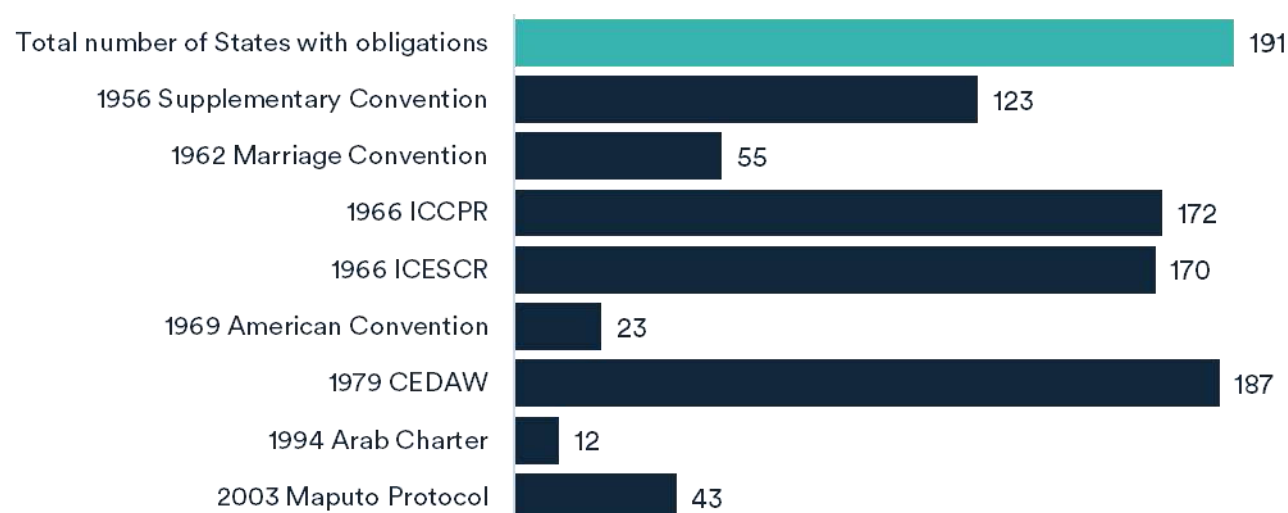


6. Consent to marriage

6.1. International obligations

In total, 191 States have obligations related to consent to marriage derived from membership in multiple international and regional instruments. These obligations most often derive from membership in instruments addressing consent to marriage as one concern in a wider set of human rights, rather than from instruments establishing rights related to marriage comprehensively or in detail.

Figure 9. Sources of States' obligations related to consent to marriage



While the prohibition of forced marriage is not evident in universal international instruments and scarcely found in regional frameworks, the recognition of a requirement of consent to marriage is relatively pervasive. In 1948, article 16(2) of the Universal Declaration of Human Rights (UDHR) affirmed that:

Marriage shall be entered into only with the free and full consent of the intending spouses.

This declaration was followed by a series of international and regional instruments recognising the requirement of consent as the foundation of marriage.

The 1956 Supplementary Convention obliged States Parties to ‘encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority’ (article 2). This requirement, alongside the requirement for a minimum age for marriage (see section 9), was designed to aid in the prohibition of the servile matrimonial transactions recognised as institutions and practices similar to slavery in that instrument.

The 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (Marriage Convention) built the ‘encouragement’ found in the 1956 Supplementary Convention into a mandatory requirement. Article 1(1) of the Marriage Convention affirmed:

No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person.

In 1966, the requirement of consent found voice in both of the International Covenants—the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 10(1) of the ICESCR adopted the same positive language employed in the UDHR: ‘Marriage must be entered into with the free consent of the

intending spouses'. Meanwhile, article 23(3) of the ICCPR adopted a negative framing aligned with the 1962 Marriage Convention: 'No marriage shall be entered into without the free and full consent of the intending spouses.'

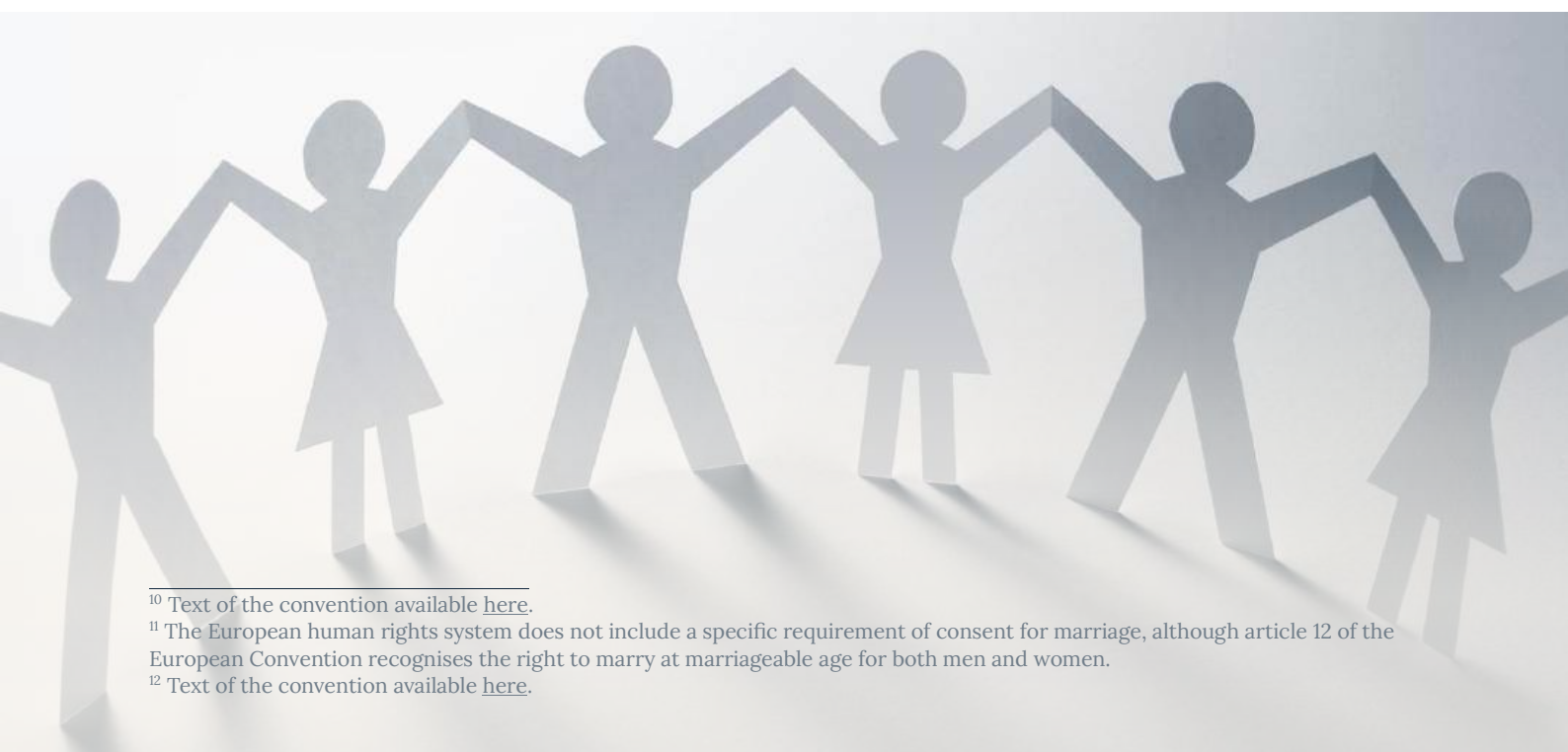
In 1979, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹⁰ adopted the positive framing employed in the UDHR and ICESCR, but within the context of recognising equality within marriage. Article 16 requires States Parties take all appropriate measures to eliminate discrimination against women in all matters relating to marriage, including ensuring the:

Same right freely to choose a spouse and to enter into marriage only with their free and full consent.

In regional human rights frameworks, recognition of the requirement of consent to marriage varies. Both the 1969 American Convention on Human Rights and the 1994 Arab Charter on Human Rights affirm that marriages require consent. Article 17(3) of the American Convention declares that 'No marriage shall be entered into without the free and full consent of the intending spouses', while article 33 of the Arab Charter states that 'No marriage can take place without the full and free consent of both parties.' While the core human rights instrument of the African system (the 1981 African Charter on Human and Peoples' Rights) does not establish such a requirement, this gap was filled by a subsequent Protocol. Article 6 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) requires States Parties enact appropriate national legislative measures to guarantee that 'No marriage shall take place without the free and full consent of both parties'.¹¹

While not establishing a strict requirement requiring consent to marriage, article 11 of the 1978 Convention on the Celebration and Recognition of the Validity of Marriages (Hague Convention) allows Contracting States to refuse to recognise the validity of marriages where 'one of the spouses did not freely consent to the marriage' or where 'one of the spouses did not have the mental capacity to consent'.¹²

Virtually all UN Member States—191 of the 193 States—have made a commitment to protecting the right to consent to marriage through membership of one of these treaties. Only Palau and Tonga have not made such commitments.



¹⁰ Text of the convention available [here](#).

¹¹ The European human rights system does not include a specific requirement of consent for marriage, although article 12 of the European Convention recognises the right to marry at marriageable age for both men and women.

¹² Text of the convention available [here](#).

6.2. Domestic legislation

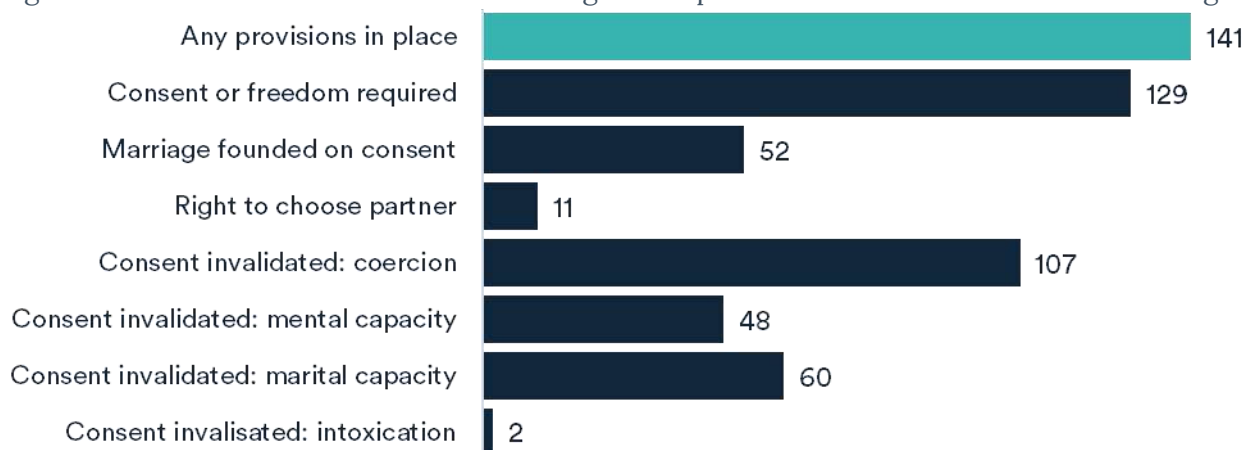
Consent to marriage has been relatively extensively addressed in States' domestic law, with almost three quarters of UN Member States having some form of relevant legislation in place. Close analysis of the Forced Marriage in Domestic Legislation database reveals that consent or freedom is recognised as a foundational requirement of marriage in two thirds of States, while more than half of States explicitly recognise consent to marriage as being 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.

Provisions protecting consent as a foundational element of marriage take various forms. Within the FMLD, provisions protecting consent to marriage were divided into three categories:

- (1) **Provisions requiring consent or freedom in marriage**, making freedom or consent a mandatory element for marriage. For instance, Andorra's Qualified Marriage Act declares that 'There is no valid civil marriage without marital consent' (article 26).
- (2) **Provisions recognising marriage as founded on consent**, making consent or voluntariness a foundational principle of marriage but not expressed in mandatory language. For instance, Georgia's Civil Code recognises that 'Marriage is a voluntary Union' (article 1106).
- (3) **Provisions protecting the right to choose a partner**, recognising the right of people to choose, or freely choose, their partner, spouse, husband, or wife.

These fundamental provisions related to consent to marriage are also supplemented by provisions recognising that consent to marriage may be invalidated on the basis of various factors, including coercion, mental capacity, marital capacity, and intoxication. These factors were also coded within the consent to marriage theme.

Figure 10. Number of States with domestic legislative provisions related to consent to marriage



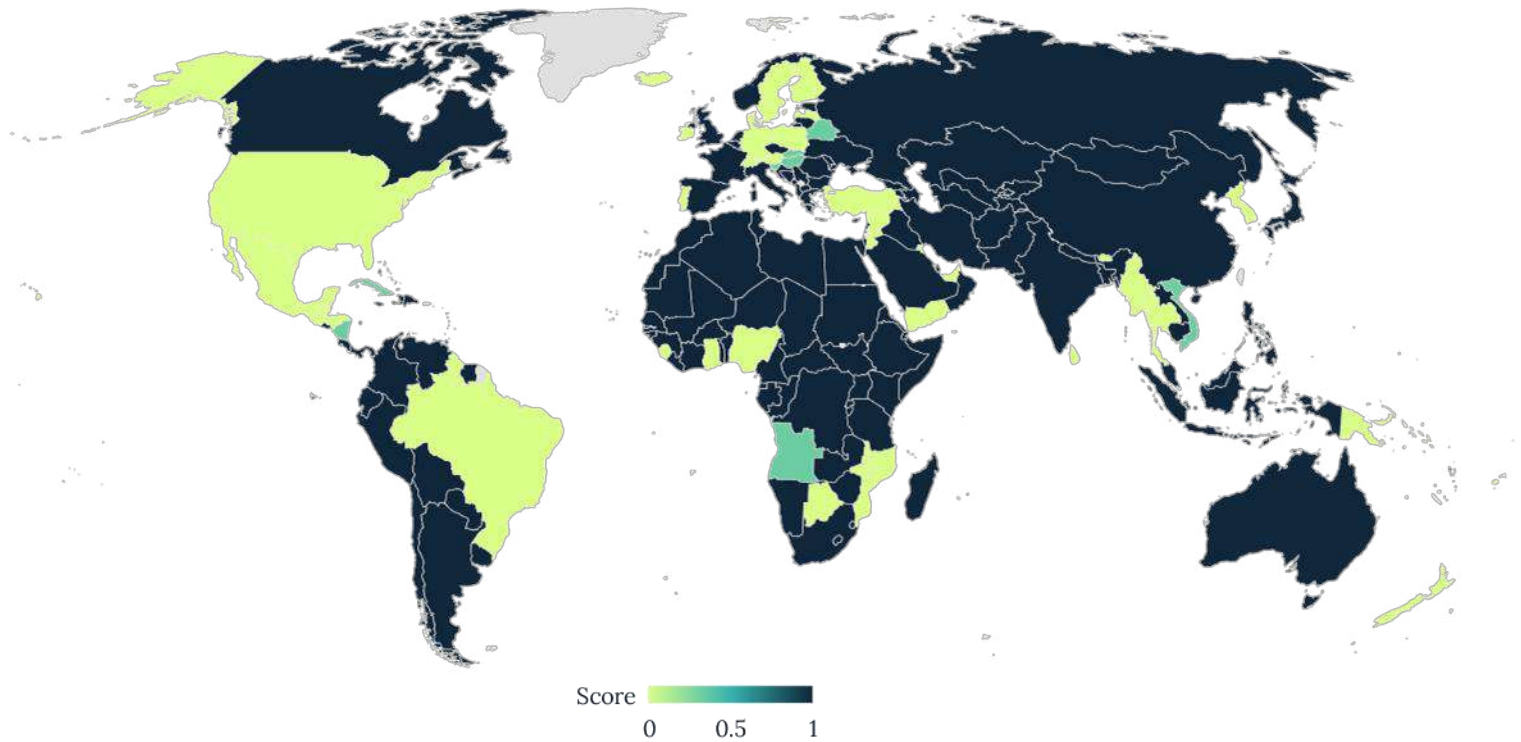
Almost three quarters of UN Member States were identified to have some form of domestic legislation in place addressing consent to marriage—in total 141 States (73%) were found to have at least one of the provision types examined. Provisions requiring consent or freedom for marriage were the most common, establishing strict standards for the protection of freedom into marriage in 129 States (67%). However, these were often located in laws without strict consequences, whether protected through the country's constitution without associated sanctions or through legislation where the only possible consequence of a violation was that a marriage would be declared void.

Country scores for consent to marriage were a result of consideration of the three types identified above, and did not factor in the specific circumstances invalidating consent that might also be recognised in domestic law. Provisions requiring consent or freedom in marriage resulted in a full score of one, while both provisions recognising marriage as being founded or based on consent and

those protecting the right to choose a partner each accounted for one third of a full score. This assessment resulted in 52 States (27% of UN Member States) scoring 0, twelve scoring 0.33 (6%), none scoring 0.66, and 129 scoring 1 (67%).

Membership in any of the relevant international instruments did not have a significant impact on domestic legislation. Other factors considered in the study likewise did not have a significant correlation with the presence or type of domestic legislation adopted related to consent to marriage, with one exception: Eastern European States were slightly more likely to have adopted domestic legislative provisions recognising marriage as founded or based on consent than States in all other regions ($r = 0.34$).

Figure 11. Domestic legislation addressing consent to marriage: country scores



7. Servile matrimonial transactions

7.1. International obligations

States have general obligations to criminalise servile matrimonial transactions as a result of membership in the 1956 Supplementary Convention, to which 123 States are party. In addition, practices similar to slavery are recognised as one of the worst forms of child labour. Interpreted consistently with the 1956 Convention, this can be understood to encompass servile matrimonial transactions when committed in relation to children. This brings the total number of States with obligations related to servile matrimonial transactions up to 186.

Figure 12. Sources of States' obligations related to servile matrimonial transactions



The 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Supplementary Convention) reaffirmed States' commitments to the prohibition of slavery and the slave trade. It also set out four newly recognised 'institutions and practices similar to slavery' that were to be prohibited. Article 1—which defines institutions and practices similar to slavery—includes a set of practices relating to the transfer of women in the context of marriage, namely:

- c. Any institution or practice whereby:
 - i. A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
 - ii. The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or
 - iii. A woman on the death of her husband is liable to be inherited by another person;

These three institutions and practices similar to slavery are described as 'servile matrimonial transactions' in the database. States Parties to the Supplementary Convention are obligated to establish criminal offences in their domestic law recognising each of the institutions and practices similar to slavery as crimes including accessory liability, attempt, and conspiracy (article 6).

As a result of membership in the 1956 Supplementary Convention, 123 States have specific international legal obligations to criminalise servile matrimonial transactions of the three types specified in the convention. The 1999 Worst Forms of Child Labour Convention (WFCLC)—to which 186 UN Member States are Party—also recognises practices similar to slavery under the umbrella of the worst forms of child labour (article 3(a)). Although the WFCLC does not specifically define practices similar to slavery, interpreting consistently with the Supplementary Convention brings servile matrimonial transactions within its remit. An additional obligation to criminalise trafficking in persons for the purpose of practices similar to slavery (which includes servile matrimonial transactions) is found in the Palermo Protocol (see section 8).

Note: the marriage-related practices in the Supplementary Convention are often described by the broad label ‘servile marriage’, consistent with the reference to the institutions and practices producing ‘servile status’ (article 7(b)). However, the marriage practices delineated are specific to the circumstances set out in article 1(c) related not to marriage itself, but to the transfer of women in the context of marriage. The more specific language of servile matrimonial transactions is therefore used in the database.

7.2. Domestic legislation

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.¹³ 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.**

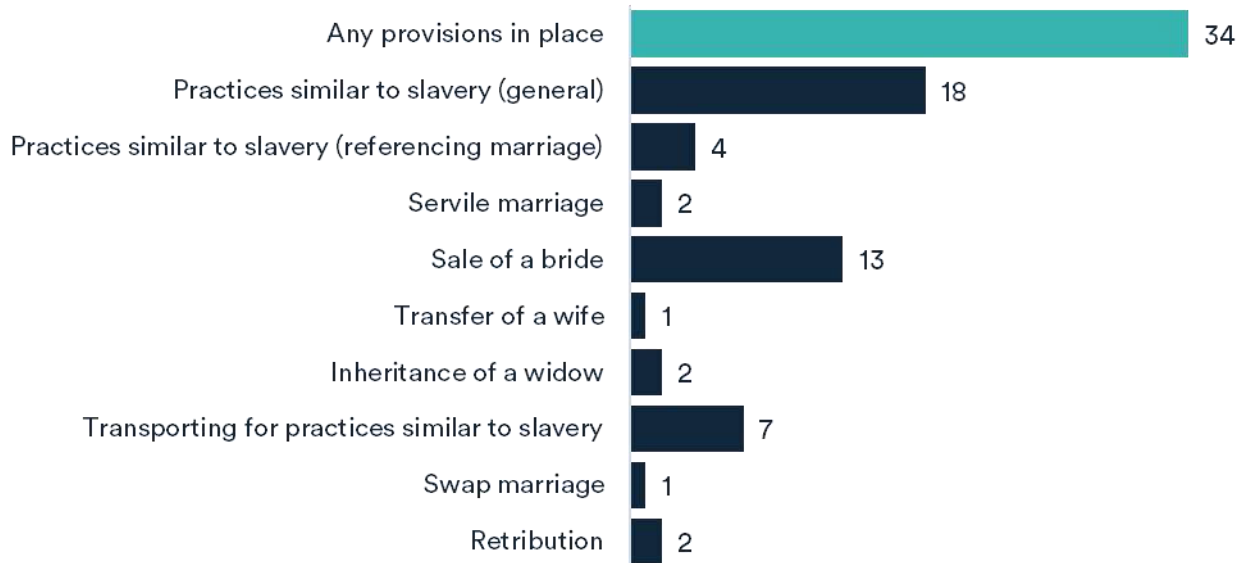
The Forced Marriage in Domestic Legislation database considered provisions relating to servile matrimonial transactions in nine specific forms:

Provisions prohibiting practices similar to slavery without explicit reference to marriage or the servile matrimonial transactions set out in the 1956 Supplementary Convention. By interpreting these provisions consistently with international law, they can be understood as encompassing the servile matrimonial transactions. However, marriage is not specifically mentioned in the text.

- (1) Provisions prohibiting practices similar to slavery with explicit reference to marriage or the servile matrimonial transactions set out in the 1956 Supplementary Convention.
- (2) Provisions prohibiting ‘servile marriage’, which interpreted consistently with international law can be understood as encompassing the servile matrimonial transactions.
- (3) Provisions addressing the first of the servile matrimonial transactions listed in the 1956 Supplementary Convention, (in brief) sale of a bride.
- (4) Provisions addressing the second of the servile matrimonial transactions listed in the 1956 Supplementary Convention, (in brief) transfer of a wife.
- (5) Provisions addressing the third of the servile matrimonial transactions listed in the 1956 Supplementary Convention, (in brief) inheritance of a widow.
- (6) Provisions specifically prohibiting transporting of persons for the purpose of practices similar to slavery, servile marriage, or any of the servile matrimonial transactions.
- (7) Provisions prohibiting ‘swap marriage’. Although not specifically addressed in the 1956 Supplementary Convention, this practice involves the commodification and transfer of persons within the context of marriage in a manner consistent with the framing of the Convention.
- (8) Provisions prohibiting transfer of persons in the context of marriage for retributive purposes. Although not specifically addressed in the 1956 Supplementary Convention, this practice involves the commodification and transfer of persons within the context of marriage in a manner consistent with the framing of the Convention.

¹³ Katarina Schwarz and Jean Allain, ‘Antislavery in Domestic Legislation: An Empirical Analysis of National Prohibition Globally’ (The Rights Lab and Castan Centre for Human Rights Law, 2020), p 20.

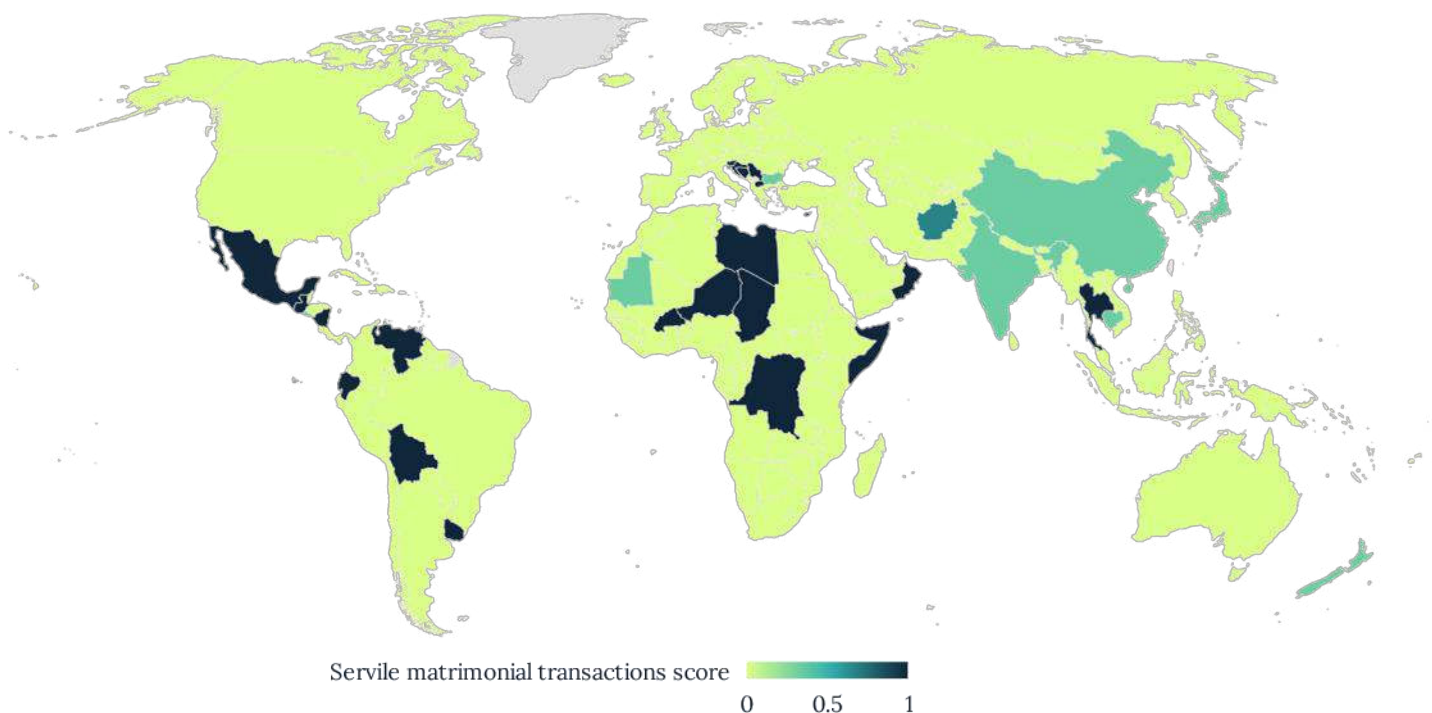
Figure 13. Number of States with domestic legislative provisions related to servile matrimonial transactions



Overall, 34 States were identified to have provisions in place addressing any one of the nine practices addressed within the broad category 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% of UN Member States).

Country scores for servile matrimonial transactions were a result of consideration of the first six of the provisions listed above. Provisions addressing practices similar to slavery—whether with (2) or without (1) specific reference to marriage—and those addressing servile marriage broadly resulted in a full score of one, while each of the three practices independently accounted for one third of a full score. This assessment resulted in 164 States (85% of UN Member States) scoring 0, six scoring 0.33 (3%), one scoring 0.66 (1%), and 22 scoring 1 (11%). This pattern holds true for States Party to the 1956 Supplementary Convention, membership of which did not have a significant impact on the likelihood of a State having enacted domestic legislation.

Figure 14. Domestic legislation addressing servile matrimonial transactions: country scores

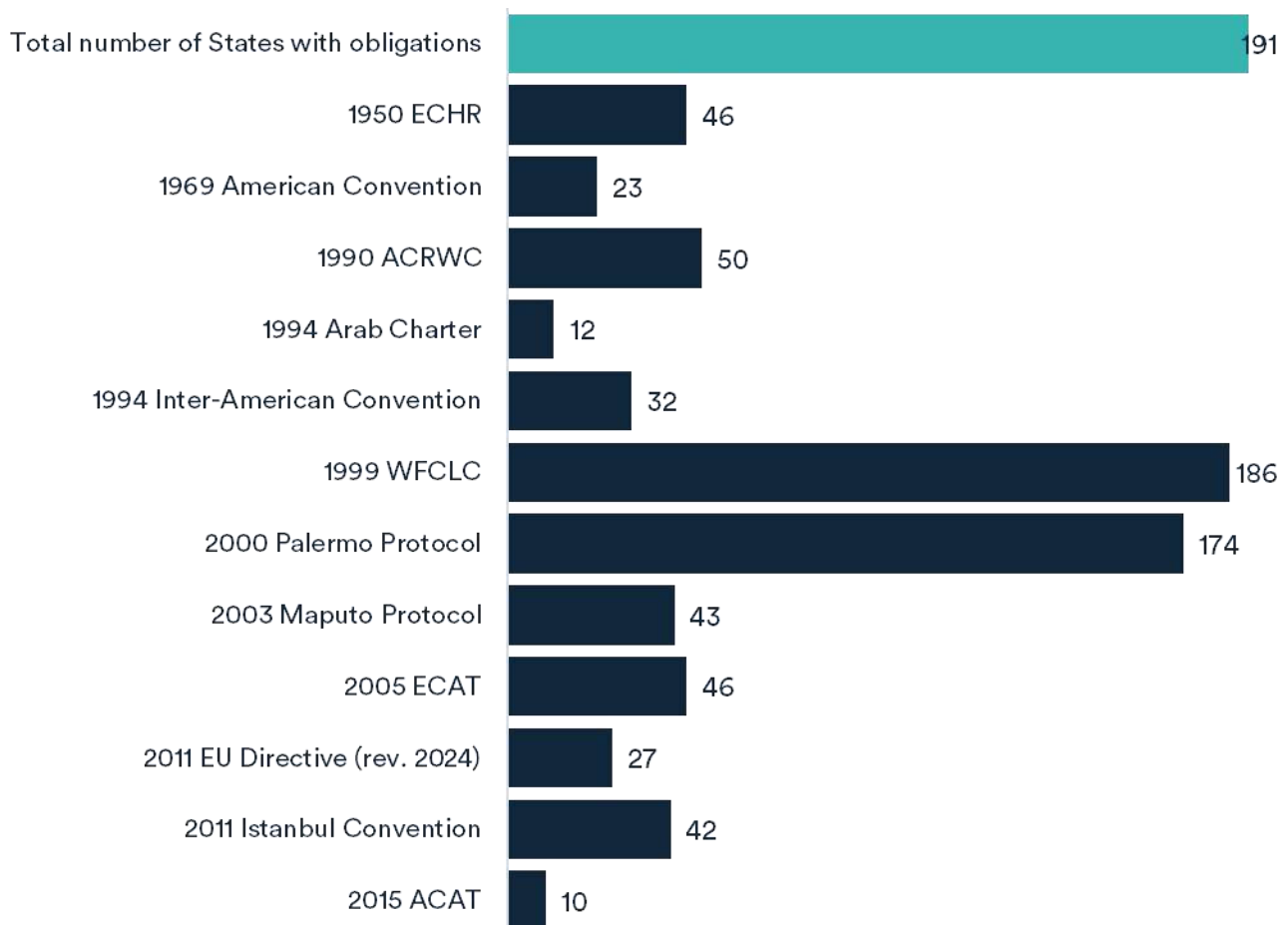


8. Marriage trafficking

8.1. International obligations

In total, 179 States have obligations related to marriage trafficking in some form, although these typically require States to address trafficking for the purpose of practices similar to slavery (which, interpreted consistently with the 1956 Supplementary Convention includes servile matrimonial transactions) rather than explicitly mentioning marriage. The exception to this is the EU Anti-Trafficking Directive, the 2024 amendments to which specifically included forced marriage as a form of exploitation within the definition of trafficking in persons.

Figure 15. Sources of States' obligations related to marriage trafficking



The primary international instrument governing trafficking in persons—the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (Palermo Protocol)—does not explicitly reference marriage as a potential exploitative purpose within the definition of trafficking. However, it does include practices similar to slavery within the listed exploitative practices that (as a minimum) must be included in States' domestic criminalisation of trafficking. Interpreted consistently with the 1956 Supplementary Convention (see section 7), this encapsulates the servile matrimonial transactions within the definition of trafficking. Further, the Palermo Protocol allows for States to extend the list of exploitative practices recognised as constituent elements of trafficking in their domestic laws.

The Palermo Protocol definition of trafficking was replicated in the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) article 4 and ASEAN Convention Against

Trafficking in Persons, Especially Women and Children (ACAT) article 2. The Arab Charter on Human Rights also prohibits trafficking in human beings under article 10 and declares it 'punishable by law', while the American Convention prohibits 'traffic in women' under article 6(1). Neither of these instruments specifically defined trafficking, although the Inter-American Court of Human Rights has interpreted the definition in line with the Palermo Protocol and confirmed that the application of the norm is not limited to women.¹⁴ The European Court of Human Rights has also declared the prohibition of slavery, servitude and forced labour under article 4 of the European Convention of Human Rights to include trafficking in persons.¹⁵

The 2011 EU Anti-Trafficking Directive extended on the Palermo Protocol definition of trafficking, adding begging and exploitation of criminal activities to the listed minimum forms of exploitation, but did not extend coverage to a wider range of marriage practices than already included in 'practices similar to slavery'.¹⁶ However, in 2024 the European Parliament revised this Directive, specifically including 'exploitation of surrogacy, of forced marriage, or of illegal adoption' as forms of exploitation within the trafficking crime.¹⁷

Members of the EU are therefore obligated to specifically criminalise trafficking for the purpose of forced marriage. Within the context of the Council of Europe, States Parties to the Istanbul Convention are also obligated to criminalise the 'intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage' (article 37(2)).

Provisions protecting specific populations from trafficking are also found in international instruments, specifically in relation to both women and children as distinct groups. These instruments do not define trafficking within their texts. However, by understanding these frameworks consistent with the body of international law (and specifically the Palermo Protocol) they can be understood as encompassing trafficking for the purpose of practices similar to slavery, including the servile matrimonial transactions.

The Convention on the Rights of the Child requires States Parties take all appropriate national, bilateral, and multilateral measures to prevent the sale of, or traffic in children for any purpose or in any form (article 35). The African Charter on the Rights and Welfare of the Child (ACRWC) likewise requires States Parties take all appropriate measures to prevent the sale of, or traffic in children for any purpose or in any form (article 29). Although not typically conceived as a labour rights concern, trafficking also falls within the remit of the 1999 Worst Forms of Child Labour Convention (WFCLC), which identifies the sale and trafficking of children as coming under the umbrella of the worst forms of child labour.

For its part, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires States Parties take all appropriate measures, including legislation, to suppress all forms of traffic in women (article 6). The Maputo Protocol requires appropriate and effective measures to prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking, and protect those women most at risk (article 4(g)). The Istanbul Convention does not contain a standalone provision on, or prohibition of, trafficking in women. However, the preamble text refers directly to ECAT and the definitions of violence against women and gender-based violence in the instrument are framed broadly (article 3(a)). Read in conjunction with the preamble, they can reasonably be interpreted as including trafficking.

¹⁴ *Case of the Hacienda Brasil Verde Workers v Brazil* (Preliminary Objections, Merits, Reparations and Costs) IACHR Series C No 318 (20 October 2016), para 289.

¹⁵ *Rantsev v Cyprus and Russia* (Judgement) Application No 25965/04 (07 January 2010), paras 281-282.

¹⁶ Text of the 2011 Directive available [here](#).

¹⁷ Text of the 2024 amendments to the Directive available [here](#).

8.2. Domestic legislation

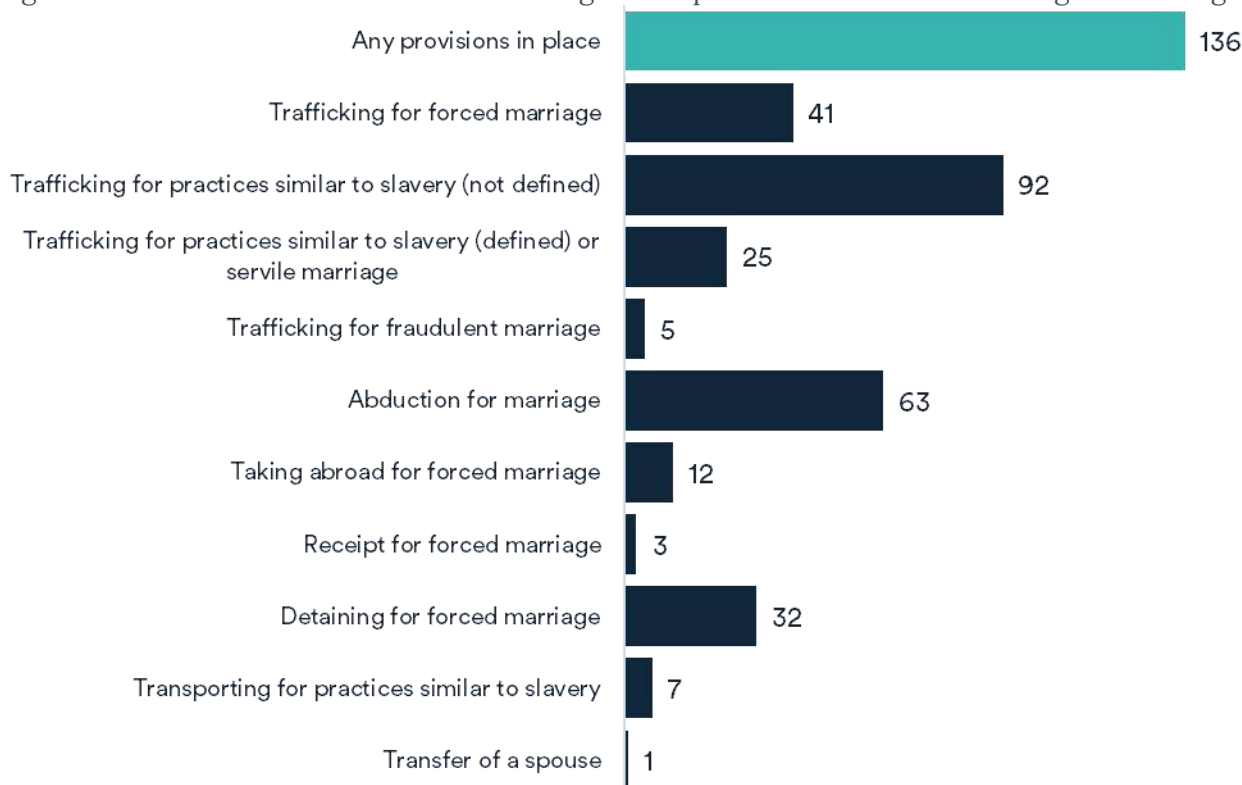
The vast majority of States have established domestic legislative provisions criminalising trafficking in persons,¹⁸ typically defined to include practices similar to slavery and therefore encompass the servile matrimonial transactions. However, in a small subset of States, forced marriage has been explicitly 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 related to marriage trafficking took four key forms, each of which was specifically coded and considered in the Forced Marriage in Domestic Legislation database:

- (1) Trafficking in persons, defined to include forced marriage as a listed form of exploitation.
- (2) Trafficking in persons, defined to include practices similar to slavery as a listed form of exploitation (with or without a specific definition of practices similar to slavery within the text). Interpreted in line with the 1956 Supplementary Convention, this is understood to encompass servile matrimonial transactions.
- (3) Trafficking in persons, defined to include practices similar to slavery with a specific definition of practices similar to slavery that includes reference to marriage or including servile marriage as a listed form of exploitation.
- (4) Trafficking in persons, defined to include illicit, illegal, or fraudulent marriage as a listed form of exploitation.

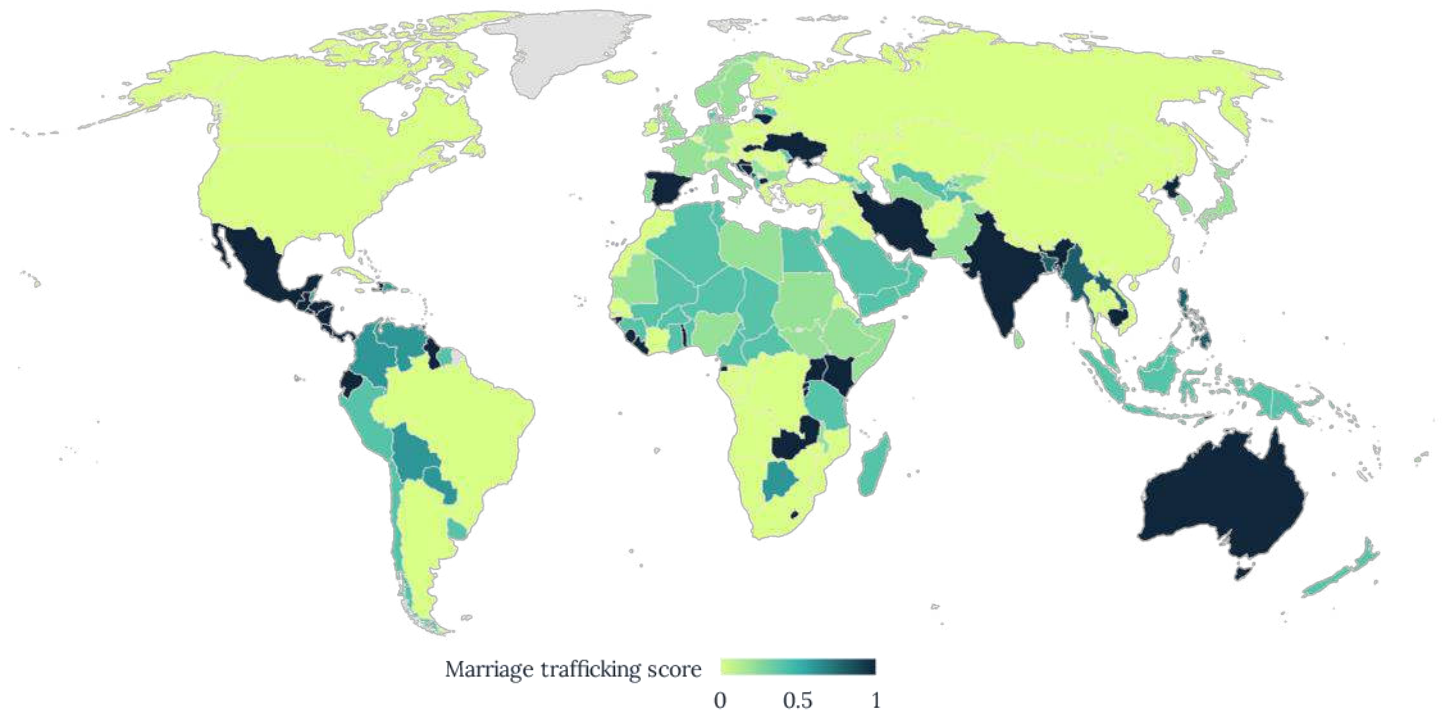
Other practices that were considered relevant to marriage trafficking were also included in consideration of provisions related to forced marriage or servile matrimonial transactions. These intersectional concerns included abduction for marriage, taking abroad for forced marriage, receipt for forced marriage, transporting a person for the purpose of a practice similar to slavery, and transfer of a spouse.

Figure 16. Number of States with domestic legislative provisions related to marriage trafficking



¹⁸ This was demonstrated in 2020 – Katarina Schwarz and Jean Allain, ‘Antislavery in Domestic Legislation: An Empirical Analysis of National Prohibition Globally’ (The Rights Lab and Castan Centre for Human Rights Law, 2020), pp 22-23.

Figure 17. Domestic legislation addressing marriage trafficking: country scores



Overall, 136 States were identified to have provisions in place addressing any one of the ten practices addressed within the broad category of marriage trafficking. General provisions addressing trafficking in persons for the purpose of practices similar to slavery without a specific definition of practices similar to slavery referencing marriage were the most common (found in 92 States, 48% of UN Member States).

Country scores for marriage trafficking were a result of consideration of provisions specifically constructed as trafficking crimes (the first four of the provisions listed above) considered in a ranked order. The presence of provisions specifically addressing trafficking for forced marriage resulted in a full score of one, followed by trafficking for fraudulent marriage (0.8), trafficking for practices similar to slavery with a definition referencing marriage (0.6), and trafficking for practices similar to slavery without a definition referencing marriage (0.4). In the absence of one of these four provision types, the existence of any of the remaining six provision types considered relevant to marriage trafficking resulted in a score of 0.2. This assessment resulted in 57 States (30% of UN Member States) scoring zero, 29 (15%) scoring 0.2, 53 (27%) scoring 0.4, 8 (4%) scoring 0.6, five (3%) scoring 0.8, and 41 (21%) scoring a full score of one.

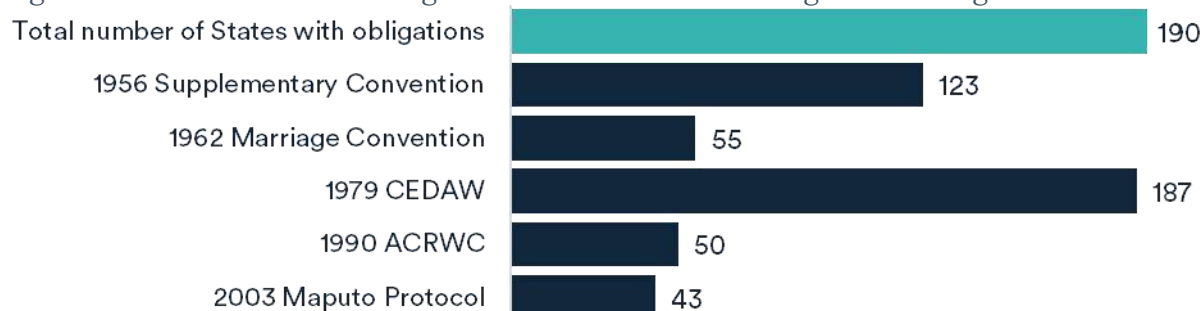


9. Minimum age for marriage

9.1. International obligations

In total, 190 States have international obligations related to establishing a minimum age for marriage. These obligations most commonly derive from membership in CEDAW, although also derive from the 1956 Supplementary Convention and 1962 Marriage Convention. For States in the African Union, the ACRWC and Maputo Protocol also address the minimum age for marriage.

Figure 18. Sources of States' obligations related to minimum age for marriage



States have obligations to establish minimum ages for marriage under several international instruments. Article 2 of the 1956 Supplementary Convention obliges States Parties to 'prescribe, where appropriate, suitable minimum ages of marriage'. Article 2 of the 1962 Marriage Convention requires legislative action of States Parties to set a minimum age for marriage:

States Parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.

For its part, article 16(2) of CEDAW states that 'The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.' While 'child' is not defined in CEDAW itself, this can be understood through reference to article 1 of the Convention on the Rights of the Child as all persons below the age of eighteen years (unless under the law applicable to the child, majority is attained earlier).

Regional human rights systems are largely silent on the requirement for States to set minimum ages for marriages. The exception to this is the African system, which establishes such requirements through both its specialised child rights and women's rights instruments. Article 21(1) of the African Charter on the Rights and Welfare of the Child (ACRWC) states:

Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be eighteen years and make registration of all marriages in an official registry compulsory.

Article 6 of the Maputo Protocol requires States Parties enact appropriate national legislative measures to guarantee that the 'minimum age of marriage for women shall be 18 years'.

While not establishing a strict requirement requiring the establishment of a minimum age for marriage, article 11(3) of the 1978 Hague Convention allows Contracting States to refuse to recognise the validity of marriages where 'one of the spouses had not attained the minimum age required for marriage, nor had obtained the necessary dispensation'.

9.2. Domestic legislation

The minimum age for marriage has been extensively addressed in States' domestic law. 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 Forced Marriage in Domestic Legislation database considered provisions relating to minimum age for marriage in two basic forms:

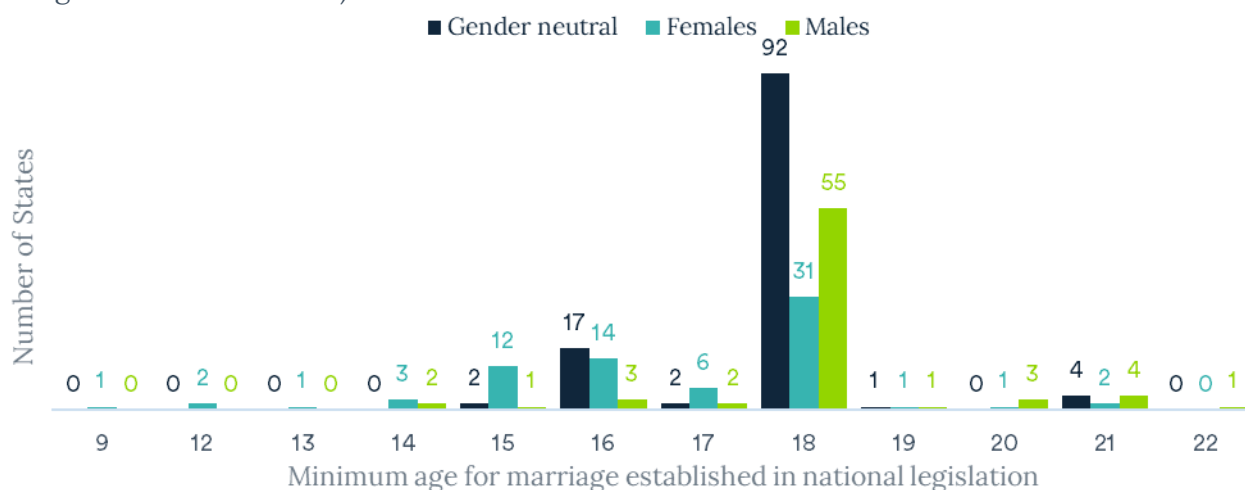
- (1) Provisions establishing a minimum age for marriage, under which age marriages were not permitted.
- (2) Provisions that anticipated or assumed a minimum age for marriage existing in the country, but which did not themselves establish such. These provisions were considered as indicators that minimum ages for marriage were established in the country. In some contexts, these were identified alongside provisions establishing a minimum age, while in other cases the former was not found for the country in question.

Additionally, the database examined:

- (1) The minimum ages for marriage specified in the country.
- (2) Whether the minimum ages specified were aligned for males and females, or if there were different ages set depending on the gender of the person.
- (3) Whether the legislation established exceptions, allowing marriages to occur under the minimum age (sub-minimum age marriages) in prescribed circumstances.
- (4) What circumstances were identified in the law as allowing for sub-minimum age marriages to occur, at what ages these circumstances enabled marriages to occur, and whether these ages aligned for both males and females or if there were different ages set depending on the gender of the person.

Minimum age for marriage provisions were identified in the national legislation of every UN Member State, with only one exception. National-level provisions were not identified in the United States, as minimum age provisions are addressed in state-level legislation in this context rather than at the federal level. Sub-national legislation is outside the scope of this study, and therefore not considered here.

Figure 19. Minimum ages for marriage established in national legislation (number of States by age and gender differentiation)

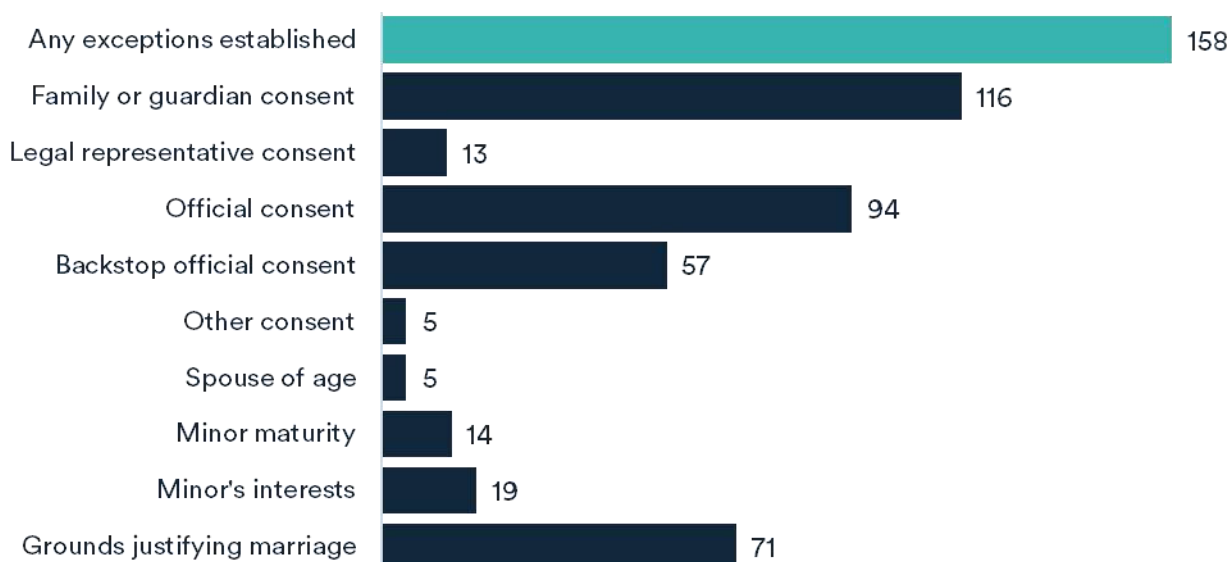


While the presence of minimum age provisions was identified for 192 States, it was not always possible to identify the specific minimum age set by the law. This may be the case where the law specifies an age based on (for instance) the age of majority in the country, and the age of majority was not set in the legislation. The specific age at which marriage was permitted or below which marriage was prohibited was identified for 183 States.

While minimum ages for marriage are often set using gender-neutral language applying equally to all people irrespective of gender, almost a quarter of all States (48 States, 25%) have established gender-differentiated minimum ages. These provisions almost always permit marriage of females at younger ages than males—this is true in 43 of the 48 States for which ages were identified, whereas only five of these States establish younger minimum ages for males.

Most States establishing minimum ages for marriage do so in line with the international definition of a child established in the Convention on the Rights of the Child, allowing marriage for those that have reached eighteen years of age and prohibiting or restricting marriage for those under this age. Among States adopting a gender-neutral minimum age, 78% (92 States) set this at eighteen years, with an additional five States setting the minimum age higher (one at nineteen years, and four at 21 years of age). On the other hand, two of these States decreased the minimum age to seventeen years, seventeen decreased to sixteen years, and two brought the age down to fifteen years (see Figure 19).

Figure 20. Number of States with domestic legislative provisions establishing exceptions to the standard minimum age for marriage set in that country

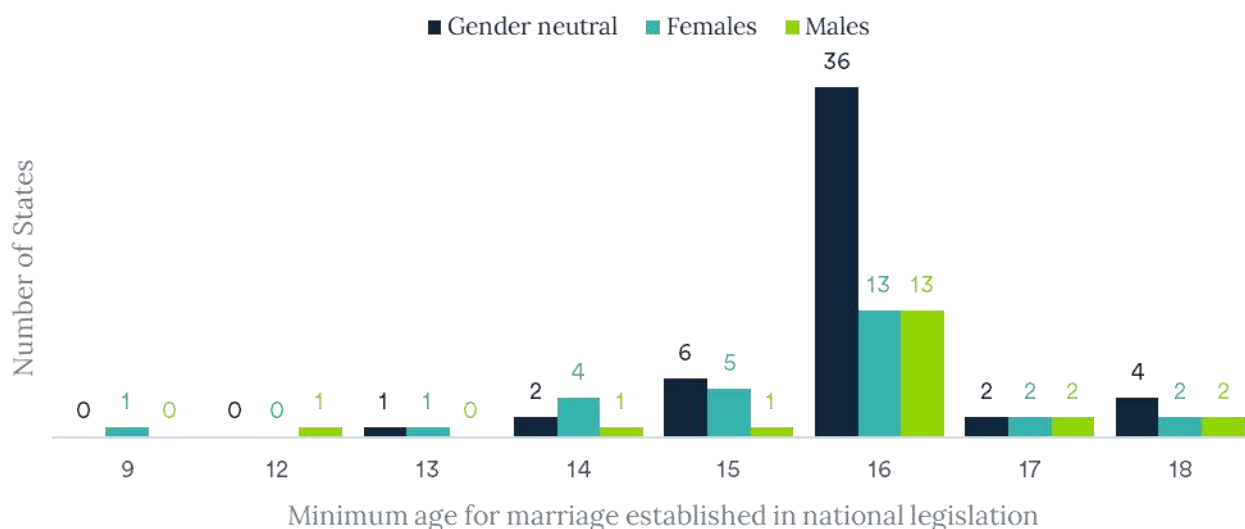


While virtually all States have national-level minimum ages for marriage specified in their domestic laws, over 80% of States have set out exceptions in their laws permitting sub-minimum age marriages under certain circumstances (158 States, 82%). These provisions erode the protections provided by minimum age laws and allow marriages to occur potentially as young as nine years old. The most common exception allows sub-minimum age marriages where the family or guardian of the child consent to the marriage, found in 116 States (60%). More than half of all States therefore allow for family or guardians to consent to a child marriage where the law recognises that the child cannot consent for themselves.

Several States also allow relevant officials (94 States, 49%) or legal representatives (13 States, 7%) to consent on behalf of the child, and thereby allow sub-minimum age marriage to occur. In 57 cases (30% of States), provision is also made for backstop official consent. This applies where family or guardian consent is the presumed mechanism for allowing sub-minimum age marriage, but such consent is being unreasonably withheld by the family, cannot practicably be secured, or would not be appropriate. In some cases, the requirement that the intended spouse is of legal age is also specified in the law (this is the case in five States, 3%).

Other circumstances in which a court, tribunal, or other official body may permit a sub-minimum age marriage recognised in domestic law include situations where the minor is deemed sufficiently 'mature' for marriage, where it is deemed in the minor's interest for them to be married, or where there are relevant grounds justifying the marriage. In some cases, the potential grounds justifying marriage are narrow and specific. For instance, section 32(2) of Guyana's Marriage Act allows a female under the age of sixteen years to petition to be married if she becomes pregnant or delivers a child. However, in most cases these provisions leave broad discretion to those responsible for decision-making to allow a minor to be married under the minimum age.

Figure 21. Minimum ages for sub-minimum age marriages established in national legislation (number of States by age and gender differentiation)

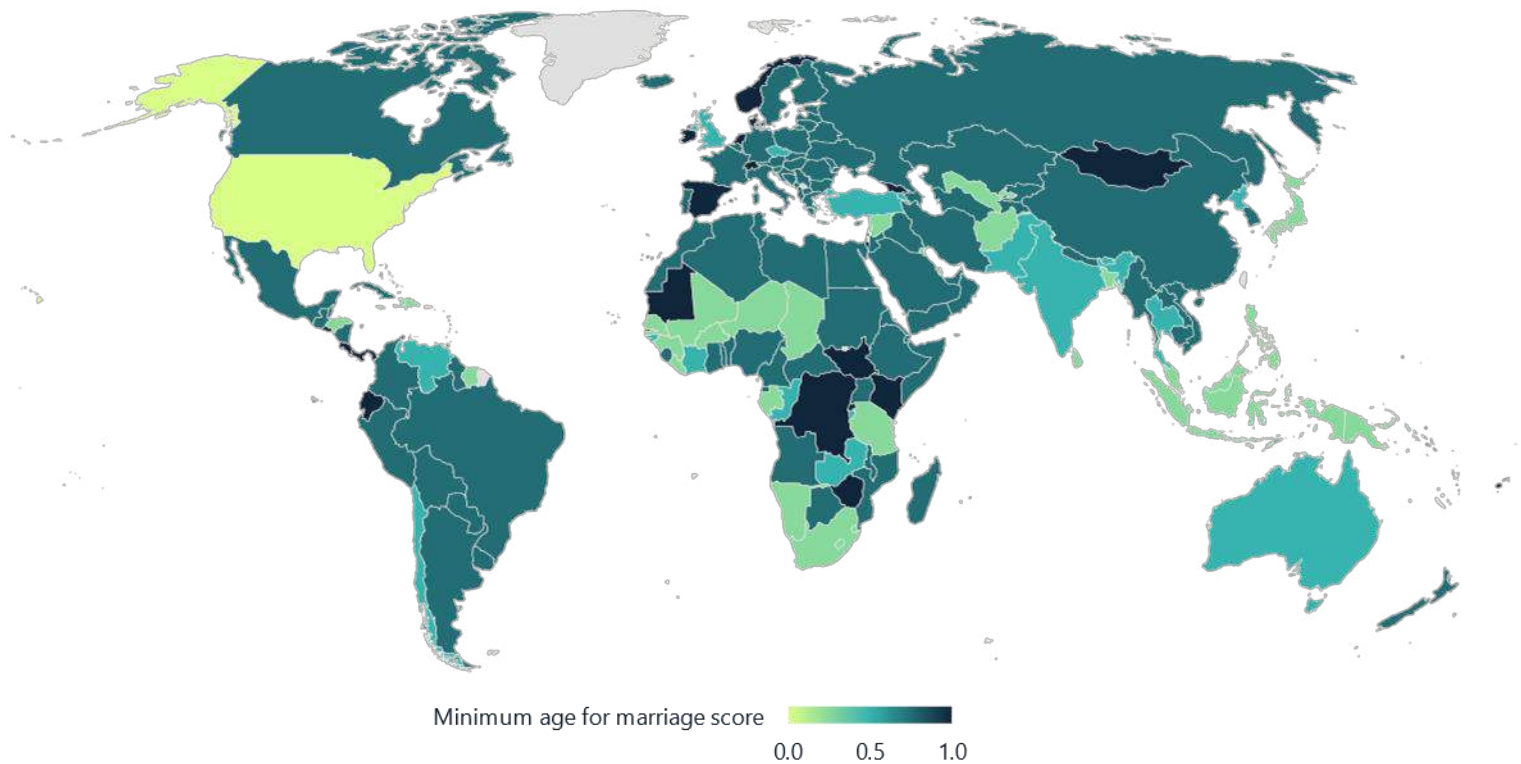


Like minimum age provisions themselves, exceptions permitting sub-minimum age marriage were not able to be identified for all States in which exceptions were identified. In total, the specific age at which sub-minimum age marriages were permitted was identified in 79 of the 158 States in which exceptions were identified. In almost two thirds of cases (65%) these provisions were gender-neutral and did not differentiate between sub-minimum age marriages of males and females. However, in the remaining cases sub-minimum ages were gender differentiated. In six cases, sub-minimum marriage ages were identified for females and not males, while the overall distribution shows sub-minimum age marriages being permitted at younger ages for females than males. For the most part, sub-minimum age marriages were permitted at the age of sixteen years, although marriages as young as nine may be permitted under these provisions.

Country scores for minimum age for marriage were a result of consideration of both the presence a prescriptive minimum age, the age at which this was set, the presence of exceptions, and the age at which exceptions allowed sub-minimum age marriages. In the first instance, the presence of an established and prescriptive minimum age for marriage counted for a full score (one). However, minimum ages below eighteen years,¹⁹ exceptions, and gender inequality each had a subtractive effect (-0.25 in each case). As such, countries in which the minimum age was set at eighteen years (or older), applied equally irrespective of gender, and no exceptions allowing sub-minimum age marriage existed received a full score of one. Countries in which minimum ages were set, but which were set below eighteen years, were differentiated by gender, and established exceptions allowing sub-minimum age marriage received a score of 0.25.

¹⁹ Where the specific minimum age was not able to be identified for the country, this subtractor was not applied.

Figure 22. Domestic legislation addressing the minimum age for marriage: country scores



The average country score was 0.65, with the most common score being 0.75 (106 States, 55%). Only one State scored zero due to the absence of national-level legislation on minimum age for marriage, while 34 States scored 0.25 (18%), 29 scored 0.5 (15%), and 23 States received a full score of one (12%). Minimum age for marriage scores were distributed across regions, legal systems, and parties to the relevant instruments, and were not significantly correlated with any variable considered in the study. However, minimum ages below eighteen did correlate with gender inequality ($r = 0.65$), suggesting that where a State erodes the minimum age in one of these ways it is more likely to also diminish the norm in another. There is also a weak correlation between gender inequality and the existence of an exception related to family consent specifically ($r = 0.35$), indicating that countries in which minimum ages are differentiated for males and females are more likely to allow for families or guardians to consent to a marriage on behalf of a minor (and vice versa).



10. Conclusion

The Forced Marriage in Domestic Legislation database reveals significant gaps in States' efforts to prevent against child, early, and forced marriages and to protect those subjected to these practices. Virtually all States have committed to at least one instrument requiring them to address consent to marriage, establish a minimum age for marriage, or prohibit forced marriage, servile matrimonial transactions, or marriage trafficking. For most States, obligations are located across multiple international and regional legal frameworks. Yet, the current state of domestic legislation does not reflect these commitments in many States.

The lack of an international framework substantively and comprehensively addressing child, early, and forced marriage leaves States with no clear touchstone for domestic legislative efforts. Although all States have committed to eliminating child, early and forced marriage by 2030 (SDG Target 5.3), what is required to achieve this at the domestic level remains unclear. Robust legislative frameworks may be understood as a foundational step towards progress in this regard. Yet, the absence of authoritative guidance and standards on what these should look like (either at a regional or universal level) appears to hamper legal development within States and harmonisation of approaches between States.

In 2018, the Southern African Development Community (SADC) produced a Model Law on Child Marriage, which outlines a pathway for governmental action to end child marriage. The Model Law is intended to support the creation of a 'robust and uniform legal framework' across the SADC region, providing a yardstick and advocacy tool for legislators outlining best practice which can be adopted or adapted by States.²⁰ Yet, no such framework has been developed to support States' legislative efforts to tackle early or forced marriage. International initiatives broadly have often focused more extensively on child marriage, giving relatively less attention to combatting early and forced marriage.²¹ The stronger advancement of the commitment to ending child marriage (as compared to early or forced marriage) is also evident in the measured indicators for SDG Target 5.3, which assess progress on child marriage but entail no evaluation of early or forced marriage. Given the gaps in domestic legislation identified through the Forced Marriage in Domestic Legislation database, increased attention on the requirements of effective legal frameworks for addressing these practices has the potential to yield important advances in State action.

Forced marriage is a complex issue that sits at the intersection of a range of global challenges. Poverty, food insecurity, gender inequity, culture, tradition and religion, conflict and insecurity, access to education, and robust governance and the rule of law (among other factors) shape the dynamics and continuation of child, early, and forced marriages.²² This complexity requires dynamic and multifaceted responses, not limited to legislative frameworks. Yet, robust legislative protections can provide an important foundation for meaningful action to eliminate child, early, and forced marriage.

The Forced Marriage in Domestic Legislation database supports a more systematic and comprehensive conversation about the current state of domestic legal frameworks tackling forced marriage and the reforms needed. While this initial mapping provides an overarching review of the current state of national legislation globally, further research is needed to ensure that this project captures all relevant laws across every State. We therefore invite experts to contribute to the project by identifying laws not currently assessed in the database, sharing these details through the online platform to ensure a robust foundation from which advocacy and reforms may be advanced.

²⁰ SADC Parliamentary Forum, 'Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage' (2018), available [here](#), p 3.

²¹ Relevant initiatives are outlined in the Reports of the Secretary-General to the United Nations General Assembly on the 'Issue of child, early and forced marriage'. 2024 report, UN Doc A/79/308, available [here](#); 2022 report, UN Doc A/77/282, available [here](#); 2020 report, UN Doc A/75/262, available [here](#).

²² See for instance SADC, above n 20, p 2; UN Secretary-General reports, above n 21; N Lidubwi, 'Understanding Forced Marriage: A Critical Analysis' (BAWSO 2024), available [here](#).

Annex 1. Provision coding themes

	Theme	Description	Code count
1	Legislation	Date and type of legislation	8
2	Coverage	The specific potential populations against whom a violation may be committed	10
3	Minimum age for marriage	Provisions related to the establishment of minimum ages for marriage, divided into four sub-themes: Minimum ages set (7) Exceptions to minimum age requirements (15) Circumstances overriding exception requirements (5) Procedures associated with sub-minimum age marriages (3)	30
4	Requirements of marriage (consent and equal rights)	Provisions related to the foundational requirements or tenets associated with marriage	9
5	Procedural requirements and restrictions on marriage	Provisions related to circumstances in which freedom to marry may be curtailed or marriage may be deemed impermissible, or in which marriage may be required	15
6	Opposition to marriage	Provisions related to the potential for various actors to oppose a marriage	8
7	Forced marriage and marriage trafficking	Provisions related to forced, coerced, or compelled marriage and marriage trafficking	48
8	Servile matrimonial transactions	Provisions related to the servile matrimonial transactions addressed in the 1956 Supplementary Convention and related practices	9
9	Ancillary offences	Provisions establishing ancillary offences connected to forced marriage, consent to marriage, minimum age for marriage, servile matrimonial transactions, or marriage trafficking	11
10	Limitations	Captures the scope of protection a provision relating to marriage may offer, either by prescribing a limited group of potential offenders, specific types of ceremony to which the protections apply, or conditions in which an application must be made	12
11	Penalties	The consequences associated with a violation of the norm in question	15
12	Mitigating circumstances	Circumstances which may have a mitigating effect on the penalty to be applied in relation to the norm in question and the potential reduced penalties associated with these circumstances	45
13	Aggravating circumstances	Circumstances which may have an aggravating effect on the penalty to be applied in relation to the norm in question and the potential increased penalties associated with these circumstances	105
14	Defences	Specific defences that may attach to a provision to remove liability	4
15	Exceptions to the voiding of marriages	Circumstances in which the potential penalty of voiding of a marriage attached to a specific provision may be denied	15
16	Applicants to voiding of marriages	Identification of who may be eligible to apply for the voiding of a marriage in conjunction with a specific provision	7
17	Procedure associated with voiding of marriages	Specific aspects of procedure associated with applications for the voiding of a marriage in conjunction with a specific provision	19
		Total	370



University of
Nottingham
Rights Lab

Discover more about our
world-class research



nottingham.ac.uk/rights-lab



rightslab@nottingham.ac.uk



[@rightsbeacon](https://twitter.com/rightsbeacon)

Published in November 2024. The University of Nottingham has made every effort to ensure that the information in this report was accurate when published. Please note, however, that the nature of this content means that it is subject to change. Therefore consider it to be guiding rather than definitive. © The University of Nottingham 2024. All Rights Reserved.