

# The Government's response to COVID-19: human rights implications related to child, early and forced marriage

Submission by the Rights Lab, University of Nottingham

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The COVID-19 pandemic and the measures being undertaken to slow its pace and effect have short, medium and long term impacts on the problem of modern slavery. We have developed an early-stage research agenda for anti-slavery responses to COVID-19, and a call for a coordinated, systematic and inter-disciplinary research effort. Our research agenda for COVID-19 is available at: [www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/covid-19/index.aspx](http://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/covid-19/index.aspx).

## Overview

Victims of child, early, and forced marriage (CEFM), and those vulnerable to CEFM, face additional risks due to the COVID-19 outbreak, as a result of isolation, economic instability, and reduced access to support services. In particular, opportunities for reporting and identification are diminished by restrictions on movement, and victims confined to the home face increased risk of exploitation and abuse within existing marriages.

Government efforts should focus on ensuring that victims of child, early, and forced marriages are identified and supported during the outbreak, and take steps to mitigate the risks to vulnerable people of Government response measures. This will allow the UK to continue to give effect to its human rights obligations and ongoing commitment to tackling CEFM, as well as modern slavery more broadly.

This submission covers the following key issues:

1. Steps the Government must take to ensure measures to address COVID-19 are compliant with human rights related to CEFM
  - Human rights obligations related to child, early, and forced marriage
  - Derogation in times of emergency
2. Impacts of Government measures to address COVID-19 on CEFM in the UK
  - Impact on CEFM ceremonies
  - Impact on facilitation and risks of CEFM
  - Impact on identification and reporting
  - Impact on support and assistance
3. Groups disproportionately affected by Government measures to address COVID-19
4. Recommendations

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## What steps will need to be taken to ensure that Government measures to address COVID-19 are human rights compliant?

1. The human rights implications of the Government's response to COVID-19 are myriad, and vary significantly with regard to different rights. To ensure the measures taken by the Government to address COVID-19 are human rights compliant, they must be consistent both with domestic human rights law, and with regional and international human rights instruments to which the UK is party. This submission will focus specifically on the implications of COVID-19 response measures on marriage practices that breach human rights, and specifically child, early, and forced marriages (CEFM).

### Human rights obligations related to child, early, and forced marriage

2. Protections against CEFM are found in a variety of human rights instruments. Alongside protections for the institution of marriage, the UDHR, ICCPR, ICESCR, and CEDAW prohibit marriage without the free and full consent of parties.<sup>1</sup> British courts have also indicated that the right to marry contained in article 12 of the ECHR, domesticated in UK law in the HRA, may also be interpreted as entailing a right not to marry.<sup>2</sup> The CVAW further requires State Parties enact domestic measures to void and criminalise forced marriages.<sup>3</sup>

3. Situations of CEFM also engage a range of other human rights. Those forced into marriages may experience violations of virtually all other rights, from the rights to education, privacy, and health, to the rights to freedom of movement, security of person, and freedom from inhuman or degrading treatment. Rights specific to vulnerable groups—and in particular women and children—are also violated in cases of CEFM. The right to enter freely into marriage is central to life, dignity, and equality.<sup>4</sup> CEFM also overlaps with slavery, servitude, or forced labour, as victims are often expected to undertake domestic labour, are subjected to exploitation and abuse, and in some instances treated as if they were the property of their spouse or spouse's family.

### Derogation in times of emergency

4. Article 4 of the ICCPR and article 15 of the ECHR permit State Parties to derogate from the human rights obligations enshrined in those conventions in times of public emergency threatening the life of the nation, to the extent 'strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law'. However, even in times of emergency, no derogation from obligations related to the rights to be free from slavery and servitude, and from inhuman or degrading treatment, are permitted under either the ECHR or ICCPR. Permission to derogate is not found in CEDAW, CRC, CVAW, or SCAS, meaning that obligations under these conventions ought to be considered as 'other obligations under international law' when assessing derogations.

5. The Government should therefore continue to consider its obligations to prevent CEFM, protect people who have been subjected to the practice, and enforce responsibility for perpetrators, particularly where situations also involve slavery, servitude, and/or

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<sup>1</sup> Article 16(2), UDHR; article 23(3), ICCPR; article 10(1) ICESCR.

<sup>2</sup> *Pretty v Director of Public Prosecutions and Secretary of State for the Home Department* [2001] UKHL 61.

<sup>3</sup> Articles 32 and 37.

<sup>4</sup> UN Committee on the Elimination of Discrimination Against Women, *CEDAW General Recommendation No 21: Equality in Marriage and Family Relations*.

inhuman or degrading treatment. The Government should consider the **increased risks that some people will face** as a result of Government measures responding to COVID-19 and the pandemic itself, and **build in measures for prevention and protection against CEFM**.

## **What will the impact of specific Government measures to address the COVID-19 pandemic be on human rights in the UK?**

6. Government response measures will have impacts on people's vulnerability to, experience of, and ability to exit CEFM, as well as affecting the Government's ability to address the practice. Social-distancing measures, and particularly the closure of schools, FE-colleges, and University campuses, restrictions on movement and advice to 'Stay Home' in particular will be considered below as measures with marked impacts on CEFM.

### **Impact on CEFM ceremonies**

7. Travel restrictions and social isolation diminish some risks related to CEFM—most obviously the immediate risk of being taken abroad for the purpose of CEFM, or being forced to marry a spouse arriving from abroad within the UK. Most registry offices, and many religious premises, remain closed and restrictions on movement and gatherings with people outside one's own household may also decrease risks of marriage ceremonies without an overseas element being conducted. Where marriage culturally necessitates a big event or payment of dowry, limits on the number of people permitted to gather and economic hardship caused by COVID-19 may lead to a decrease in weddings.

8. Despite registry office closures, religious ceremonies—which can be more meaningful and binding for particular communities—may still proceed in some contexts. Disengagement from registry offices in such cases can remove an important external safeguard against coercion.

### **Impact on facilitation and risks of CEFM**

9. Non-consensual marriages may still be arranged through digital and telephone communications networks. Although community pressure may decrease with social isolation, people following government advice to 'Stay home' and abiding by restrictions on movement are likely to be placed under increased familial pressure. Arrangements made during 'lockdown' are therefore likely to result in coercion towards marriage, and ultimately CEFM, when restrictions on movement end.

10. School closures significantly impact the risk of CEFM, as it is sometimes only culturally appropriate for girls not to be married after reaching puberty and/or age 16 because they are still in school. In normal circumstances, FMU statistics show a definite spike in cases in July and December, during school holidays. With schools closed, and increasing concern as to whether education establishments will re-open as normal in September, there is a fear that girls who would otherwise not be vulnerable to forced marriage will become vulnerable during the pandemic.

11. Economic precarity resulting from COVID-19 and Government response measures is likely to impact CEFM, as reduced family and household incomes results in increased pressure to enter CEFM for financial reasons. People vulnerable to CEFM may also become more dependent on their families because of job losses, wage-cuts, and the low value of statutory sick-pay relative to wages which might have been earned. This adds to pressure

and closes down viable alternatives. Those who have already been forced into marriage will also be impacted by the narrowing-down of alternative options, making it more difficult for them to leave an exploitative situation.

### Impact on identification and reporting

12. Victims and potential victims of CEFM have less privacy to report from home as family members spend less time away and victims have fewer 'legitimate' reasons to be out themselves (e.g. studying or work). People may also have less access to means of communication, as they are unlikely to be able to access a public phone box, use a computer at the local library, or visit friends who might lend a mobile, laptop or landline.

13. Local networks that might usually look out for signs of, and protect people from, CEFM, have also been cut away by social-distancing measures. Victims confined to the home are isolated from networks who might have offered support (e.g. friends, extended family, wider community), and cut off from people who might have noted signs of CEFM (e.g. teachers noting absences from school). The most obvious signs of abuse will be harder to spot because of social distancing, and the normalcy of people who might be at risk not leaving their homes, and the inability of others to visit (and spot signs of abuse within the home) increases vulnerability. This is particularly concerning given that 60% of FMU referrals come from professionals and third parties, and 20% from friends, family, and colleagues.

14. Government measures are also likely to impact the stage of the violation at which cases are identified and reported. In normal circumstances, the majority of cases are reported while arrangements are being made but before the ceremony takes place. However, COVID-19 restrictions reduce opportunities for people in this critical pre-violation phase to seek and access support, or be identified by third parties. This is likely to reduce the number of cases identified before abuses occur, increasing the proportion of cases that progress to the stage of a human rights violation.

### Impact on support and assistance

15. Many places that might offer support (e.g. faith groups, extended family and friends, women's refuges, and other NGOs) are closed or more difficult to access as a result of COVID-19 and Government response measures. There are already relatively few safe places for victims of CEFM to go. These are currently diminished via closure of hotels and B&Bs, and an understandable health concern about moving (particularly with children) into unknown space shared by strangers (e.g. at shelters or refuges that remain open).

## Which groups will be disproportionately affected by Government measures to address the COVID-19 pandemic?

16. People vulnerable to CEFM will be disproportionately affected by some of the measures adopted by the Government to address COVID-19. This predominantly affects women and girls, and will disproportionately impact people from economically disadvantaged or unstable backgrounds. Of cases of CEFM reported in the UK in 2018, 75% of victims were female, and 32.6% were under 18, and 17.7% under 16.<sup>5</sup> **Ways to minimise negative impacts on these particularly vulnerable people, and supplementary measures to**

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<sup>5</sup> See Home Office and Foreign and Commonwealth Office, *Forced Marriage Unit Statistics 2018*, published 24 May 2019.

**mitigate risks**, ought therefore to be considered when developing and implementing these critical, life-saving strategies.

## Recommendations

17. The Government should continue to consider its obligations to prevent CEFM, protect people who have been subjected to violations, and enforce responsibility for perpetrators. The Government should:
- i. **Consider increased risks** some people will face as a result of COVID-19 and Government responses.
  - ii. **Build measures for prevention and protection** against CEFM into response frameworks wherever possible.
  - iii. **Reopen education institutions** in a timely manner, considering alternative online provision if necessary to get young people back in education as soon as possible.
  - iv. **Continue and adapt efforts to identify victims** of CEFM in the changing context, including ensuring ongoing funding and publicity for the national helpline, as well as considering where and how victims might now be identified or report (e.g. through digital technology) and how official actors can reach into the domestic sphere.
  - v. **Ensure appropriate support and assistance** continues to be available and accessible to victims, adapting service provision to respond to the realities of the situation. This should include consideration of additional emergency resources for frontline service providers.
  - vi. **Work with local partners** to conduct outreach and ensure support for vulnerable people.
  - vii. **Ensure financial stability for families and households** to prevent recourse to CEFM for financial reasons.

## Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women 1979
CEFM	Child, early, and forced marriage
CRC	Convention on the Rights of the Child 1989
CVAW	Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence 2011
ECHR	European Convention on Human Rights 1950
FMU	UK Forced Marriage Unit
HRA	UK Human Rights Act 1998
ICCPR	International Covenant on Civil and Political Rights 1966
ICESCR	International Covenant on Economic, Social and Cultural Rights 1966
SCAS	Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956
UDHR	Universal Declaration of Human Rights 1948