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World Health
Organization

Child, early and forced marriage legislation in 37 Asia-Pacific countries



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[A 15-year old girl poses for a video on the day of her wedding to a 32-year old man in Bangladesh. The Government is proposing new legislation to close the gap between civil law, which forbids marriage for girls under 18, and religious personal law which permits marriage to girls at 14. © Getty Images/AFP/Allison Joyce, 2015](#)

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Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEFM	child, early and forced marriage
CESCR	International Covenant on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
DHS	Demographic and Health Survey
GNI	gross national income
IPU	Inter-Parliamentary Union
MDG	Millennium Development Goal
MICS	Multiple Indicator Cluster Survey
NFHS	National Family Health Survey
UN	United Nations
UNPD	United Nations Department of Economic and Social Affairs, Population Division
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
WHO	World Health Organization

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Foreword

Practices like child, early and forced marriage (CEFM) remain an obstacle to the full achievement of better health for children and adolescents. CEFM is also a human rights violation that endangers health and growth, disrupts education, limits opportunities for empowerment and social development, and increases the risk of exposure to violence and abuse. It results in both short- and long-term negative consequences on the social and economic development of children, as well as on their health, including their physical, psychological, emotional, and sexual and reproductive health.

The Global Strategy on Women's, Children's and Adolescents' Health makes a clear reference to CEFM. It highlights how investing in CEFM prevention has the potential to yield high returns in terms of women's, children's and adolescents' health. A 10 per cent reduction in CEFM could contribute to a 70 per cent reduction in maternal mortality rates and a three per cent decrease in infant mortality in individual countries. Getting married at an early age also leads to higher fertility rates, unwanted pregnancies, a higher risk of complications during childbirth, limited educational advancement, and reduced economic earning potential for girls and women.

As legislators, overseers of government action and community leaders, members of parliament are well placed to support efforts to end CEFM. If parliamentarians have the right resources and are effectively engaged in this effort, they can become influential leaders who are able to take forward a new vision for women and girls and enable them to survive, thrive and achieve their full potential.

This study aims to assist parliamentarians in their efforts to end CEFM through legislation, and to improve the health of children and young girls in their countries. It reviews CEFM legislation in 37 countries in the Asia-Pacific region and identifies both good practices and barriers to implementing laws against CEFM. It also introduces important findings and recommendations in order to further advance parliamentary engagement in the effort to end CEFM.

The study is the result of a long-standing close collaboration between the Inter-Parliamentary Union and the World Health Organization. We hope that it will inspire and help parliaments and parliamentarians everywhere to intensify political leadership and to exercise fully their legislative, budgetary and oversight powers in order to end CEFM in their communities and countries.



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Introduction

Child, early and forced marriage (CEFM) is a human rights violation that robs a girl of her childhood, puts her health and growth at risk, disrupts her education, limits her opportunities for empowerment and social development, and increases her risk of exposure to violence and abuse.

This paper provides an overview of how the laws of 37 countries in the Asia-Pacific region¹ address the issue of CEFM, highlighting contradictions between different legislative tools in each country, with the ultimate aim of identifying key elements of legislation to fight CEFM.

Parliamentarians play a crucial role in enforcing existing laws and policies and in bringing about the necessary legal reforms. Parliamentarians in the Asia-Pacific region have taken vital steps towards the development of legal tools aimed at reducing CEFM and have worked to raise awareness on this issue, but much more needs to be done. Harmonizing existing laws and ensuring their implementation, for instance, are some of the priorities (see Annex 1). Despite the introduction of laws to prevent the practice in many of the countries where CEFM is common, global rates have declined only slightly over the past decade (1).

Given the nature of the issue of CEFM as inherently linked to deep-rooted gender inequalities, norms, stereotypes and harmful practices, there is a need to develop and implement holistic, comprehensive and coordinated responses and strategies, including the strengthening of child protection systems, protection mechanisms such as safe shelters, access to justice, promotion of education and access to health care, including sexual and reproductive health (2). These responses and strategies are needed in addition to the enactment, enforcement and upholding of laws and policies aimed at preventing and ending this practice.

In 2014, the Inter-Parliamentary Union (IPU) together with the Parliament of Bangladesh organized a regional seminar for the Asia-Pacific parliaments entitled “Ending the cycle of violence against girls in Asia-Pacific”, which took place in Dhaka on 23–25 September. During the discussions at the seminar, parliamentarians underlined the importance of legislation in fighting the practice of CEFM, placing their focus on an analysis of what laws have been adopted in the region and how they are being implemented to ensure an effective impact. They examined how laws and policies can also provide for a range of preventive approaches, including measures aimed at empowering girls, improving their health and building an environment conducive to ending CEFM.

An earlier draft of this paper served as a resource for the parliamentarians attending the regional seminar in Dhaka to inform the discussion on CEFM, especially with regard to the impact of this practice on the life, health and development of girls in the region.



Child marriage threatens the lives and health of millions of girls. Ending this practice can only happen when laws are changed and with the participation of local communities.
© Getty Images/AFP/Allison Joyce, 2015

¹ Asian countries include Afghanistan, Bangladesh, Bhutan, Cambodia, China, Democratic People's Republic of Korea, India, Indonesia, Iran (Islamic Republic of), Japan, Lao People's Democratic Republic, Malaysia, Maldives, Mongolia, Myanmar, Nepal, Pakistan, Philippines, Republic of Korea, Singapore, Sri Lanka, Thailand, Timor-Leste and Viet Nam.

Pacific countries include Australia, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, New Zealand, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

This work has been developed in collaboration with the Inter-Parliamentary Union (IPU) and these are the countries in the Asia-Pacific IPU group.

Numbers indicated in the text in italics are references, which can be found on pages 16–17.

Background

In the context of this report, the authors use the comprehensive definition of child, early and forced marriage (CEFM) where child marriage includes any “marriage in which at least one of the parties is a child” – a person below the age of 18. It also “refers to marriages involving a person aged below 18 in countries where the age of majority is attained earlier or upon marriage” (2). Early marriage can also refer to marriages where “both spouses are 18 or older but other factors make them unready to consent to marriage, such as their level of physical, emotional, sexual and psychosocial development, or a lack of information regarding the person’s life options” (2). Furthermore, “any marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure”, also falls within the definition of CEFM (2).

Nevertheless, within the report and individual country profiles reference is sometimes made to “child marriage”, “marriage of minors” or “early marriage” to reflect how a specific source – such as a provision of an international convention, a United Nations (UN) report or national legislation – refers to the issue.

CEFM is addressed in a number of international conventions and agreements.² While CEFM is not mentioned specifically in the 1989 Convention on the Rights of the Child (CRC), it does contain a provision requiring governments to abolish “traditional practices prejudicial to the health of children” and calling on governments to protect children from “all forms of sexual exploitation and sexual abuse” (3, Art. 4). In addition, CEFM is connected to other children’s rights, such as the right to express their views freely, the right to protection from all forms of abuse, and the right to be protected from harmful traditional practices. The Committee on the Rights of the Child has consistently dealt with the issue of marriage as it relates to children and consent in its “Concluding observations” to governments that have ratified the CRC.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) covers the right to protection from child marriage in Article 16, which 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” (4). The right to “free and full” consent to marriage is recognized in the Universal Declaration of Human Rights, which specifies that consent cannot be free and full when one of the parties involved is not sufficiently mature to make an informed decision about a life partner (5). The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages provides detailed provisions in terms of age of consent, parental consent and procedures for legal registration of marriages (6, 7).

Many countries of the world, including those analysed in the context of this report (see Annex 2), are parties to the above-mentioned UN treaties and have committed to taking special measures to protect and assist children (see Child, early and forced marriage legislation country profiles).

The devastating impact CEFM has on the lives of children has been repeatedly documented. It results in both short- and long-term negative consequences for the health of the child – including physical, psychological, emotional, and sexual and reproductive health – as well as the social and economic development of the child (8). Children of young mothers are at substantially greater risk of perinatal and infant mortality and morbidity, and stillbirths and newborn deaths are 50 per cent higher among mothers under 20 years than women who give birth later in life (9, 10).

Women who are married as children are far more vulnerable to the profound health risks of early pregnancy and childbirth. According to the World Health Organization (WHO), complications from pregnancy and childbirth are the leading causes of death for girls aged 15–19 years in developing countries (11). WHO estimates that some 50,000 such girls die from pregnancy and birth-related complications every year, almost all of them in low- and middle-income countries (11).

Additionally, women married at a young age have a greater risk of becoming victims of intimate partner violence than those who marry later (8).

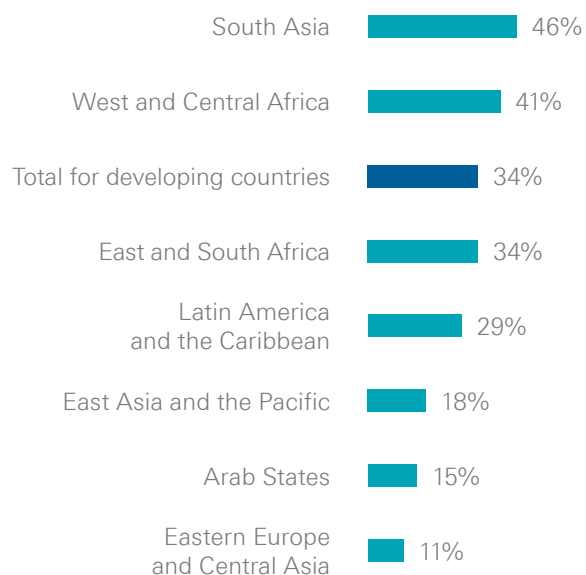
² Regional treaties have been reviewed, but not included in this working paper.

Data in the region

According to the latest report of the United Nations Population Fund (UNFPA), it is estimated that nearly one in three girls in the developing world (excluding China)³ will be married or in union before they reach the age of 18 (1). In 2010, this was equivalent to almost 67 million women aged 20–24 years. Globally, one in nine girls (12 per cent) marry before the age of 15 (1).

The prevalence of CEFM varies substantially among and within regions and countries, and the group of countries included in this report (the Asia-Pacific region as defined by IPU) is no exception. According to the latest UNFPA report, in South Asia 46 per cent of women aged 20–24 were married or in union before they reached the age of 18 (1). Girls are significantly more likely than boys to be married as children – 30 per cent of girls aged 15–19 are currently married or in union in South Asia, compared with just 5 per cent of boys in the same age bracket (1). While South Asia accounts for the highest rates of child marriage, the practice is also widespread in many of the other countries covered in this report. For example, 18 per cent of women aged 20–24 were married or in union by the age of 18 in East Asia and the Pacific, as were 11 per cent in Eastern Europe and Central Asia (see Figure 1).

Figure 1: Percentage of women 20–24 years old who were married or in union by age 18, by UNFPA region, 2000–2010



Source: UNFPA, 2012 (1), using DHS, MICS and other household surveys.

This practice persists in many of the 37 countries considered in this report, but the rates (i.e. the percentage of women aged 20–24 who were married or in union before age 18) vary considerably, ranging from 4 per cent in Maldives to 65 per cent in Bangladesh (12). Within the subregions with lower prevalence of child marriage (based on data in the UNFPA report; see Figure 1), there are particular countries where a relatively large proportion of children are married off while underage, such as Indonesia, where 22 per cent of women aged 20–24 were married or in union before age 18 (1). Obviously, heavily populated countries with high child marriage rates tend to skew the subregional averages.

As reported by UNFPA, prevalence can often vary widely, even within countries (1). A crucial example is India, where according to the 2006 National Family Health Survey (NFHS) child marriage rates range from 11 per cent to over 60 per cent (13).

In terms of positive trends, UNFPA reported that some countries in the Asia-Pacific region have shown considerable reductions. These include Indonesia and the Philippines, where changes were observed in rural areas, and Bangladesh, where a decline has been observed in the urban areas (1). Nepal has registered a substantial reduction in child marriage with a drop of more than 20 per cent in just five years, between 2006 and 2011. In some countries, the most dramatic progress has been documented in the marriage of girls under 15 (7). In South Asia, marriages to girls under that age have dropped from 32 per cent to 17 per cent of all marriages (7). Bangladesh, for example, has seen a decrease of 42 per cent in girls married by 15, versus an 11 per cent decrease for those married by 18 (from 1993–1994 to 2011) (14). Globally, one in four young women aged 20–24 years alive today was married in childhood, versus one in three in the early 1980s. The proportion of young women married by 15 declined from 12 per cent (1 in 8) to 8 per cent (1 in 12) over the same period (15).

In the preparation of this report, data on the rates of child marriage⁴ were sourced from the United Nations Children’s Fund (UNICEF) global database (12), as drawn from Demographic and Health Surveys (DHS), Multiple Indicator Cluster Surveys (MICS) and other nationally representative surveys dating from 2005 to 2013. No information was available on child marriage rates for several countries in the Asia-Pacific region: Australia, China, Democratic People’s Republic of Korea, Japan, Malaysia, Micronesia, Myanmar, New Zealand, Palau, Republic of Korea, Samoa, Singapore and Tonga.

³ Data from China are not available.

⁴ UNICEF collected data on child marriage, defined as the percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18.

Causes of child, early and forced marriage

In all regions of the world, the causes of CEFM are complex, interrelated and tightly interwoven with social and economic circumstances and the cultural context. Gender inequality, poverty and insecurity in the face of war and conflict are some of the conditions identified as drivers of CEFM. Changes in circumstances, such as conflicts, natural disasters and other emergencies, can lead to an increase in the practice (16).

In the Asia-Pacific region, in most societies where CEFM is prevalent, women and girls are traditionally assigned a lower status than men and boys within the household, the community and society. Very often it is assumed that women will neither be active in the community's life nor contribute to the economy or development of the society. Their assigned responsibilities within the household are those of caregiver, wife and mother, often reflecting the patriarchal structure of families and the influence of traditional and tribal norms and customs in this region. This view of gender roles reinforces the assumption that marriage is the only way to ensure a girl's future, so the earlier it occurs, the better.

Poverty is also a major factor underlying CEFM in the Asia-Pacific region. In low-income families, children, especially girls, can be viewed as a financial burden, and early marriage as a

convenient solution. Marriage arrangements can also serve to settle familial debts or disputes, or to secure social, economic or political alliances. Customary requirements, such as dowries or bride prices, may also enter into consideration, especially in communities where families can give a smaller dowry for younger brides (17).

In many countries globally, including the Asia-Pacific region, CEFM is often seen as a safeguard against premarital sex and it transfers from father to husband the duty to protect girls against sexual harassment and violence. Parents may force a young daughter into marriage with the ultimate aim of preserving her premarital virginity and avoiding sexual behaviour that might be considered immoral or inappropriate before or outside of marriage (1).

Weak and sometimes contradictory legislation, poor enforcement of existing laws and the coexistence of multiple legal systems within countries quite often make the fight to eliminate CEFM even more challenging. In some countries, including several in the Asia-Pacific region, marriage is regulated by both statutory and religious law, in often inconsistent or contradictory ways.



Child bride Sonamoni was married at the age of 8 and gave birth at 12 years old. Girls aged 10–14 are five times more likely to die in pregnancy or childbirth than women aged 20–24. © UNICEF/Kiron, 2013

Consequences of child, early and forced marriage

In the Asia-Pacific region, as in other regions where CEFM occurs, there is considerable evidence of detriment to child development – for the child bride herself as well as the children she may bear at a young age – and to the community as a whole. Poorer health and educational outcomes, higher risk of violence and abuse, persistent poverty and missed opportunities for empowerment are some of the main consequences of marrying too young (1, 8).

Girls married at a young age are especially vulnerable to sexual and reproductive health problems, with potentially life-threatening consequences (8, 18–20). Married girls are in most cases expected to become pregnant immediately or soon after marriage, and early marriage contributes to elevated fertility rates overall. Globally, 36.4 million women aged 20–24 reported in 2010 that they had had their first live birth before the age of 18; 5.6 million of these women had done so before the age of 15. This equates to 7.3 million girls under the age of 18 giving birth every year, or 20,000 every day (9).

Complications in pregnancy and childbirth are the main causes of death among adolescent girls aged 15–19 in developing countries (9, 21). Maternal morbidity and maternal death are more likely for 15- to 19-year-olds than for 20- to 24-year-olds, and even more likely for those who become pregnant or give birth before the age of 15 (21, 22). Adolescents aged 15–19 years are twice as likely to die during pregnancy or childbirth

as women aged 20 and over; adolescents under 15 are five times more likely (23).

Negative health consequences for a mother also negatively affect the health and survival of her newborn children. Infant mortality, preterm birth, low birth weight and asphyxia are all more likely in infants born to young mothers (21, 24, 25). A study in India found that if a mother is under 18, her infant's risk of dying in its first year of life is 50 per cent greater than that of an infant born to a mother older than 19 (24).

Girls married too early are also more likely to experience domestic violence, abuse and forced sexual relations. They are more inclined to believe that wife beating is justifiable and are less able to practice safe sex; consequently, they are more vulnerable to sexually transmitted infections, including HIV (18, 26).

Early marriage very often precludes continuing education, just as additional years of education are associated with later age at marriage. According to qualitative research conducted by Plan UK in nine countries, child marriage and early pregnancy were cited as common reasons for girls not being able to continue in secondary school (27). In the long run, they also deprive girls in their adult lives of having more significant leverage within the family and community and the power to take decisions about their work, their health, their well-being and that of their children.

Changing laws and traditions to better protect girls are the first steps in ending child marriage. © Farid Alam Khan/Photoshare



Legislation on child, early and forced marriage



Tonusree Karmakar, 13, is part of the adolescent group that meets regularly at the Kaliachak Town Library (India). The group meets to discuss issues and they also practice and perform child marriage theatre for their local village residents. © UNICEF/Slezic

This report provides an overview of the legal status of CEFM in 37 countries in the Asia-Pacific region. The country profiles presented in this report show CEFM rates and the legislative tools available to combat the practice in each country.

In addressing the issue in the Asia-Pacific region, a wide range of socioeconomic contexts as well as developmental, health, educational and gender-related challenges need to be considered. So do a variety of different legal systems, combining statutory law with customary law, as well as religious, tribal and patriarchal norms and practices. The review of such legal complexities has revealed key gaps and inconsistencies that undermine children's ability to seek and obtain legal protection.

There is international agreement that marriage for girls under 18 constitutes a violation of their human rights. Several international legal instruments have analysed CEFM through the lenses of civil, political, economic, social and cultural rights covenants and have determined to address it as a violation of interconnected rights, including the right to equality on grounds of sex and age, the right to freely consent to marriage and found a family, the right to life, the right to the highest

attainable standard of health, the right to education and development, and the right to be free from slavery. Many countries in the Asia-Pacific region are party to the relevant UN treaties and conventions (see Background). Many countries have also tried to adapt their national legal systems to enact and enforce internationally recognized provisions, having undertaken to protect girls from CEFM.

Various organizations and entities have formulated clear recommendations for legislation and enforcement to prevent CEFM. The African Child Policy Forum is a member of Girls Not Brides: The Global Partnership to End Child Marriage. One of its recent reports has identified key elements of a strong legal framework, in line with international and regional standards, for protecting girls from this practice (28). These key elements of legislation include, among others, a minimum marriage age of 18, with no exceptions based upon parental consent or court authorization; the adoption of a consolidated law on children; and an ad hoc institutional framework with enforcement mechanisms to protect children. Among these elements, setting the legal age of marriage at 18, for boys and girls, is one of the first elements to be addressed by countries in the Asia-Pacific region.

Table 1: Age of marriage in 37 countries in the Asia-Pacific region

	Country	Legal age of marriage – with no third-party consent required	Exceptions to the legal age of marriage – in special circumstances and/or with third-party consent required
18 or above for girls and boys	Australia	18 for girls and boys	<ul style="list-style-type: none"> In exceptional circumstances, a court applying common law principles may allow marriage between an individual aged 16–18 and a person over 18 Under 18 with parental consent
	Bangladesh	18 for girls and 21 for boys	<ul style="list-style-type: none"> In the case of non-religious marriage a girl can marry at 14 with parental consent Under Muslim personal law, a girl is permitted to marry at 14
	Bhutan	18 for girls and boys	
	Cambodia	18 for girls and 20 for boys (Law on Marriage and Family 1989), or 18 for girls and boys (Civil Code of Cambodia 2007)	<ul style="list-style-type: none"> 16 if he or she wishes to marry and has parental/guardian consent and if the other party is at least 18 In the case of pregnancy if one or both parties are under 18, with parental/guardian consent or under general guardianship consent if the marriageable party has the minimum capacity required
	China	20 for women and 22 for men	
	India	18 for girls and 21 for boys	<ul style="list-style-type: none"> Except under Mohammedan Law or sharia law
	Indonesia	21 for girls and boys	<ul style="list-style-type: none"> 16 for girls and 19 for boys with parental consent
	Japan	20 for girls and boys	<ul style="list-style-type: none"> 16 for girls and 18 for boys with parental consent (one parent's consent is sufficient)
	Kiribati	21 for girls and boys	<ul style="list-style-type: none"> 18 with parental consent or with a licence to marry provided by a minister
	Lao People's Democratic Republic	18 for girls and boys	<ul style="list-style-type: none"> 15 under special circumstances
	Malaysia	21 for girls and boys in the case of non-Muslim marriages; 16 for girls in the case of Muslim marriages Note: Muslim marriages are subject to prior consent from the chief minister (religious authority) in the state of residence	<ul style="list-style-type: none"> 18 with parental consent in the case of non-Muslim marriages 16 for girls if a licence is granted by a chief minister and with parental consent in the case of non-Muslim marriages Under 16 for girls with the permission of a sharia court in the case of Muslim marriages
	Maldives	18 for girls and boys	<ul style="list-style-type: none"> Under 18 with permission from the Registrar of Marriages, granted at its discretion
	Marshall Islands	18 for girls and boys	<ul style="list-style-type: none"> 16 with the consent of a parent or guardian
	Micronesia	18 for girls and boys (states of Kosrae, Chuuk and Pohnpei)	<ul style="list-style-type: none"> 16 for girls with the consent of either parent (states of Kosrae, Chuuk and Pohnpei) Regardless of age in the case of customary marriages (states of Chuuk and Pohnpei)
	Mongolia	18 for girls and boys	<ul style="list-style-type: none"> Under 18 if the girl or boy is declared a person with full legal capacity
	Myanmar	18 for girls and boys; 20 for girls and boys in the case of Buddhist marriages; 21 for girls and boys in the case of Christian marriages	<ul style="list-style-type: none"> 14 for girls with parental or guardian consent 16 for girls and 18 for boys with parental or guardian consent in the case of Buddhist marriages Under 21 with the father's or guardian's consent in the case of Christian marriages
	Nepal	20 for girls and boys	<ul style="list-style-type: none"> 18 with parental consent
New Zealand	18 for girls and boys	<ul style="list-style-type: none"> 16 with parental consent 	
Republic of Korea	19 for girls and boys	<ul style="list-style-type: none"> 16 for girls and 18 for boys with parental consent 	

	Country	Legal age of marriage – with no third-party consent required	Exceptions to the legal age of marriage – in special circumstances and/or with third-party consent required
	Samoa	19 for girls and 21 for boys	<ul style="list-style-type: none"> • 16 for girls and 18 for boys with parental or guardian consent
	Singapore	18 for girls and boys	<ul style="list-style-type: none"> • Under 18 with special marriage licence and parental consent • Under 18 for girls who have attained the age of puberty in special circumstances, in the case of Muslim marriages
	Solomon Islands	18 for girls and boys	<ul style="list-style-type: none"> • 15 for girls and boys with the father’s consent if possible, or the mother’s, or guardian’s or a judge’s/ magistrate’s consent
	Thailand	21 for girls and boys	<ul style="list-style-type: none"> • Under 21 for boys and girls with parental consent, or under 17 with court order
	Tonga	18 for girls and boys	<ul style="list-style-type: none"> • 15 with parental or guardian consent
	Tuvalu	21 for girls and boys	<ul style="list-style-type: none"> • 16 with the father’s consent if possible, or the mother’s, guardian’s or a Registrar-General’s consent
	Vanuatu	21 for girls and boys	<ul style="list-style-type: none"> • 16 for girls and 18 for boys with parental consent
	Viet Nam	18 for girls and 20 for boys	
Below 18 for girls and/or boys	Afghanistan	16 for girls and 18 for boys	<ul style="list-style-type: none"> • 15 for girls with the permission of her father or a judge
	Democratic People’s Republic of Korea	17 for girls and 18 for boys	
	Islamic Republic of Iran	8 years, 9 months for girls (9 lunar years), i.e. the age of puberty under sharia law; 14 years, 7 months for boys (15 lunar years)*	<ul style="list-style-type: none"> • Marriage before puberty, with permission from the guardian and if considered proper in the ward’s interest
	Nauru	16 for girls and 18 for boys	<ul style="list-style-type: none"> • Under 16 for girls and under 18 for boys, with parental consent
	Pakistan	16 for girls and 18 for boys	<ul style="list-style-type: none"> • 14 for girls with parental consent (non-religious marriages)
	Palau	No minimum legal age for marriages between Palauan citizens; 18 for girls and boys if one or both is a non-citizen	<ul style="list-style-type: none"> • 16 for girls who are non-citizens with parental or guardian consent
	Papua New Guinea	16 for girls and 18 for boys	<ul style="list-style-type: none"> • 14 for girls and 16 for boys with court order
	Philippines	21 for girls and boys; age of puberty (presumed to be 15) for girls and 15 for boys in the case of Muslim marriages	<ul style="list-style-type: none"> • 18 with parental consent • 12 for girls who have attained puberty and with the order of a sharia court in the case of Muslim marriages
	Sri Lanka	18 for girls and boys; 12 for girls in the case of Muslim marriages	<ul style="list-style-type: none"> • Under 18 with parental consent or court order • Under 12 for girls in the case of Muslim marriages, with the authorization of a Muslim court
	Timor-Leste	17 for girls and boys	<ul style="list-style-type: none"> • 16 with parental or guardian consent or with authorization from the civil registrar

* See page 50 for more details.

Introduction to the 37 country profiles

Methodology and structure

In preparing this report, the authors analysed relevant aspects of the legal systems of 37 countries in the Asia-Pacific region. Individual country profiles on CEFM legislation were then developed to provide a clear and concise picture of how countries have treated the practice from a legislative perspective and what international and national tools they have adopted.

The desk review was conducted through PubMed, Popline, Google Scholar, Google for articles and other publications with various combinations of each country name and the keywords marriage, child, early, forced, law, legislation, Asia and/or Pacific. The authors checked the reference lists of the selected sources to identify further relevant articles.

The main sources for this review are items of national legislation retrieved from national legislation databases with a particular focus on constitutional law, civil law, family law, as well as penal and criminal law. The authors have also taken into consideration recent relevant reports addressing CEFM in the region (1, 7, 9, 11, 29–32).

For each country reviewed, the authors described the structure of the legal system in force and the different sources of law that may coexist within it. Combinations of statutory law and customary/religious/traditional/tribal frameworks are very common in the region, making comparisons between national legal systems impractical or unfeasible. The hierarchy of such different frameworks and regulations is inconsistently defined and applied and thus often controversial.

For the purposes of this review, the existing legislation has been analysed and the results reported under the following subheadings in each country profile:

- relevant international treaties;
- constitutional provisions;
- statutory law;
- customary/religious/traditional/tribal frameworks; and
- provisions and sanctions.

The UN treaties most relevant to CEFM have been taken into account, namely the Convention on the Rights of the Child (CRC, 1989) (3), the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (2000) (33), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) (4), the International Covenant on Economic, Social and Cultural Rights (CESCR, 1966) (34), and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962) (6). The country profiles indicate if countries have signed or ratified these international tools and whether they have raised any reservations relevant to child marriage.

At the constitutional level, the authors of this report scanned national constitutional provisions to identify if and how

countries make reference to and/or protect the institutions of marriage and family as well as fundamental rights, with a special focus on rights relevant to women and children and to CEFM. More specifically, where data were available, the authors reported when and how the following elements are covered under constitutional law:

- definition, recognition or protection of marriage;
- definition, recognition or protection of family;
- right to life;
- right to health;
- equality between man and woman/no discrimination on the basis of sex, including special protection for women and/or children;
- assertion of primacy of constitutional law over other forms of law;
- assertion of primacy of religious law over other forms of law; and
- any other fundamental right relevant to CEFM.

As the next step, statutory law was assessed with specific attention to key elements of legislation relevant to CEFM, including:

- age of marriage;
- exception upon parental or court consent;
- spousal consent;
- mandatory marriage registration; and
- mandatory birth registration.

Data and information have also been collected on customary law, extending the review to cover written and unwritten norms and including religious, patriarchal, tribal and traditional practices.

Criminal and penal codes in the 37 countries have been analysed to provide an overview of how key provisions related to CEFM are actually implemented in the country, in order to identify the major barriers to implementation. Criminal procedure codes, penal and civil codes, family law, common law and/or supreme court rules, as well as civil and religious marriage acts and/or administrative registration rules have been analysed to collect information on sanctions and legal provisions that penalize the act, performance or registration of CEFM, or which support the endeavours of parents or guardians to ensure the growth and development of the children in their custody. Under this section, the authors also analysed whether ad hoc authorities and/or ad hoc mechanisms exist for a child to access justice.

For some country profiles, the authors have included reference to contextual factors relevant to the issue of CEFM.

Limitations

Despite its scope, this methodology carries certain limitations that must be taken into account. For the data listed as “General background” information in each country profile, the authors have drawn substantially from UNICEF data as collected in the most recent annual publication of *The state of the world’s children 2015 (35)* as well as from WHO’s *World health statistics 2015 (36)*. A number of the demographic and socioeconomic statistics included in these two publications are derived from data produced and maintained by a range of national and international organizations. In particular, data on population are derived from the *World population prospects, 2012 revision*, developed by the United Nations Department of Economic and Social Affairs, Population Division (UNPD) (37). Data on civil registration are derived from UNICEF’s global database as updated in November 2014 using data from DHS, MICS, other national household surveys, censuses and vital registration systems (12). Data on gross national income per capita are derived from the *World development indicators 2014* database of the World Bank Group (38). Data on adolescent fertility rates (births per 1,000 girls aged 15–19 years) are derived from the *2014 Update for the MDG database: Adolescent birth rate* as collected by UNPD (39). Data on primary school participation come from the latest update by the UNESCO Institute for Statistics (40). The source for data on child marriage rates, as reported in *The state of the world’s children 2015*, is the above-mentioned UNICEF global database (12). Data by country refer to the most recent available year during the period between 2005 and 2013. The reference year and data source are specified for each country.

Data for specific indicators, including the child marriage rate, are not available for some countries, or may be available from national databases or surveys that have not been reviewed for this report. Given the time necessary to collect, analyse and report nationally representative data, the data presented in the country profiles may not always reflect the current situation. Only sources in English and French have been taken into account; some information available only in other languages was not included.

The main limitation of this report relates to customary and especially unwritten law. When the report refers to patriarchal, traditional and tribal norms or frameworks, and sometimes also religious law, most of this information has been transmitted orally and not compiled into a comprehensive and written code. The authors were therefore unable to collect data for this section of each country profile in a systematic way, and grey literature has been taken into account.

The authors did not evaluate the quality, precise scope, political neutrality, flexibility or enforceability of legislation. Not all laws relevant to CEFM were examined, only those listed for each of

the countries examined. This report does not include a review of national strategies and programmes intended to reduce or end CEFM and does not assess the level of implementation of the laws or the existence and effectiveness of accompanying measures to ensure that legislation and policies have a positive impact on the ground.

Revision and finalization of the draft paper

During the IPU/Parliament of Bangladesh Regional Parliamentary Seminar on “Ending the cycle of violence against girls in Asia-Pacific” held in Dhaka on 23–25 September 2014, a preliminary draft of this report was presented to attending parliamentarians from 12 countries: Afghanistan, Bangladesh, Bhutan, Cambodia, India, Indonesia, Islamic Republic of Iran, Kiribati, Malaysia, Samoa, Tonga and Viet Nam. Participants had the opportunity to comment during a plenary discussion and in working group sessions on parliamentary needs, strategies and actions to end violence against girls. Working group sessions were held on CEFM, violence against girls within the family, and sexual violence against girls. The participants’ comments were officially recorded by IPU and are duly reflected in this report.

The conclusions of the seminar were synthesized into the final statement, *Conclusions of the Regional Parliamentary Seminar on “Ending the cycle of violence against girls in Asia Pacific”*, published by IPU after the conclusion of the seminar (see Annex 1). These conclusions are also summarized in the conclusions of this report.

For the completion of this report after the seminar, IPU received support from parliamentarians in filling gaps in the review and providing additional information that could not be collected through a desk review, as well as updates on legislative revisions not yet included in the official legislative records.

IPU shared a revised draft of this report in January 2015 with the 37 parliaments of the IPU Asia-Pacific region for further amendments and comments, and followed up with IPU focal points in the parliaments to receive input. The comments received – from Australia, Bangladesh, India, Japan, Malaysia, New Zealand and Singapore – are reflected in this current version of the report.

IPU and WHO aim at converting this report into an online database to be regularly updated according to inputs provided by parliaments in order to fill gaps and limitations that may be present in this current version and to provide an up-to-date overview in terms of revision of legislation.

Conclusions

The Regional Parliamentary Seminar on “Ending the cycle of violence against girls in Asia-Pacific” and the follow-up review of the legislation on CEFM in the 37 countries of the Asia-Pacific region have documented the efforts undertaken by parliaments in the region to develop effective responses to CEFM in terms of legislation and enforcement.

In the conclusions of that seminar (see Annex 1), parliamentarians agreed that violence against women and girls, including the practice of CEFM, is one of the most prevalent human rights violations, sparing no country. It is an extreme manifestation of unequal power relations between men and women and is deeply entrenched in the private as well as public spheres.

Parliamentarians reviewed the regional data on the prevalence of CEFM and took note of scientific evidence of its effects on the lives, development, education and health of children. CEFM robs a girl of her childhood, puts her health and growth at risk, disrupts her education, limits her opportunities for empowerment and social development, and increases her risk of exposure to violence and abuse.

Parliamentarians took note of the high economic and financial costs of violence against girls and women, borne by victims, their families, communities, and society as a whole. They agreed to further explore the relevant data and make the case for advocacy and action.

Parliamentarians agreed that CEFM and other forms of violence against girls and women are complex and require a comprehensive and inclusive response. Although important achievements have been made in the region in terms of legal and policy reforms, many challenges and gaps remain, particularly in the areas of comprehensive service provision, funding, access to justice, harmonization of different legal sources and traditional attitudes and norms, all of which stand in the way of effective law enforcement.

Noting the range of efforts already made to bring national legislation into line with international human rights instruments, such as CEDAW and CRC, parliamentarians also underscored that even the best legislation cannot stand on its own. Cross-cutting measures must accompany it to produce a positive impact on the ground.

Ending CEFM requires a comprehensive approach, addressing different aspects of the lives of girls and families. The latest

report by UNFPA on this subject estimates that, if current trends continue, some 142 million girls will marry between 2010 and 2020 before reaching their 18th birthday. This translates into 14.2 million girls married each year, or 37,000 each day.

Countries and other stakeholders from national and international communities, including parliamentarians, are called upon to play a role in efforts to end CEFM.

Comprehensive empowerment of girls through educational, economic and health resources, including by enabling provision of sexual and reproductive health information and services, as well as drawing attention to the risks and rights violations associated with CEFM, are the core elements of a successful approach.

Legal, cultural, social and economic determinants need to be comprehensively addressed, taking a holistic approach.

Strategies for ending CEFM recommended to the Commission on the Status of Women include:

- supporting legislation to increase the minimum age of marriage for girls to 18 years;
- enforcing legislation to increase the minimum age of marriage for girls to 18 years;
- providing equal access to quality primary and secondary education for both girls and boys;
- mobilizing girls, boys, parents and leaders to change practices that discriminate against girls and to create social, economic and civic participation opportunities for girls and young women;
- providing girls who are already married with options for schooling, employment and livelihood skills, sexual and reproductive health information and services (including HIV prevention), and offering recourse to services in cases of violence in the home;
- addressing the root causes of child marriage, including poverty, gender inequality and discrimination, the low value placed on girls, and violence against girls.

Among these interventions, legislation to stop CEFM is particularly critical.

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Child, early and forced marriage legislation country profiles

AFGHANISTAN

General background (1, 2)

Total population (thousands) 2012:	30,552
Population under age 18 (thousands) 2013:	16,536
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	90
Birth registration (per cent) 2005–2012, total:	37.4 (urban 60, rural 33.1)
GNI per capita (US\$) 2014:	670
Primary school participation, net attendance ratio (per cent), 2008–2013:	male 64; female 48
Secondary school participation, net attendance ratio (per cent), 2008–2013:	male 42; female 23

Child marriage rates (1, 3)⁵

Married by age 15 (per cent) 2010–2011:	15
Married by age 18 (per cent) 2010–2011:	40

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1994	2002 (a)	2003	1983 (a)	

(a) = accession

2. Constitutional provisions

The current Constitution of the Islamic Republic of Afghanistan was adopted by the delegates of a constituent assembly (Loya Jirga) representing the Afghan people, held between 13 December 2003 and 4 January 2004, and formally ratified by the Afghan President on 26 January 2004. Article 6 of the Constitution recognizes the mandate of the State to ensure respect for fundamental rights:

The state shall be obligated to create a prosperous and progressive society based on social justice, preservation of human dignity, protection of human rights, realization

of democracy, attainment of national unity, as well as equality between all peoples and tribes and balance development of all areas of the country.

Among these fundamental rights, detailed under Chapter 2: Fundamental rights and duties of citizens, Art. 23 recognizes the right to life, providing that “life is the gift of God as well as the natural right of human beings. No one shall be deprived of this except by legal provision”. Article 52 stipulates the right to free preventive health care and treatment of diseases, as well as access to medical facilities for all citizens. In addition,

⁵ Percentage of women aged 20–24 who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Afghanistan are from the Multiple Indicator Cluster Survey 2010–2011.

Numbers indicated in the text in italics are references, included at the end of each country profile.

under the same article the State is required to encourage private medical services and healthy physical education.

Article 22 guarantees equality between men and women before the law: "Any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden. The citizens of Afghanistan, man and woman, have equal rights and duties before the law."

Under Art. 54, the family is considered a fundamental pillar of society, and the State shall protect its physical and spiritual health avoiding behaviour contrary to the principles of Islam. Under the same article, special protection is guaranteed to children and mothers, with particular attention to the upbringing of children.

As affirmed by Art. 2, Islam is the religion of the Islamic Republic of Afghanistan, and under Art. 3 "no law shall contravene the tenets and provisions of the holy religion of Islam".

3. Statutory law

Afghanistan has a mixed legal system of civil, customary and Islamic law (4). Family law in Afghanistan is drawn from the Civil Code (or Law) of 1977 and the Marriage Law of 1971, which are considered to be in accordance with *hanafi* jurisprudence.⁶ The rules of the Civil Code on family law are applicable to all Afghans except for the Shiite population. According to Art. 131 of the Constitution of Afghanistan, the Shiite Code of Personal Status, which is based to a large extent on *hanafi* jurisprudence, shall be applicable rather than statutory law in cases of personal status related to Shiites (5, p. 7–12). Article 2 of the Civil Code establishes that "in cases the law has no provision, the court shall issue a verdict in accordance with the fundamental principles of *hanafi* jurisprudence of Islamic sharia to secure justice in the best possible way". However, due to lack of awareness of the provisions of the Code among the population, customary practices often regulate family and marriage practices (5, p. 17–24).

The necessity of consent to marriage was first stipulated in the Marriage Law of 1971, nullifying customary and traditional marriages conducted without the consent of both spouses. The law did not, however, abolish the legal marriage age of 15, which had been set by the Marriage Law of 1960. However, Art. 19 of the revised law stated that "a marriage contract for a minor, in the absence of the permission of a sharia *wali* (guardian) or a legal marriage certificate, is not valid" (5, p. 17–24).

The legal minimum age for marriage is set at 18 for boys and 16 for girls (Art. 70), but for girls drops to 15 with the permission of her father or of a judge (Art. 71). Article 60 defines marriage as a contract legitimizing the cohabitation of

a man and a woman for the purpose of starting a family and creating rights and obligations for the parties. Marriage shall, according to Art. 66, take effect by offer and acceptance.

Marriage registration is regulated under Art. 61, which provides for the registration of the marriage contract in the official marriage deed by the respective office and prepared in three copies. Following registration, the marriage deed shall be brought to the notice of the Identification Registration Office and recorded in the special registration book. Birth registration is regulated under Art. 37 of the Civil Code.

Marriage and family as related to Shiite Afghans are regulated by the Shiite Personal Status Law of 2009. This law, which only applies to the Shia denomination of Afghanistan, preserves the distinctions that are inherent between the Shia and Sunni Muslim religions of Afghanistan. According to Art. 99, the marriage of underage wards (girls or boys) is admissible under the authorization of a guardian or a court and can be rejected by the ward once he or she reaches puberty. The age of marriage for women has been raised since the first draft of the bill from 9 to 16 for girls and 18 for boys, based on the solar calendar. Marriage of minor males and females and insane males and females contracted in court by their guardians, if unnecessary and not considered in the best interests of the ward, is prohibited. Minor males and females after reaching puberty, and insane males and females once cured, can revoke such marriage contracts (Shiite Personal Status Law, Art. 90 and Art. 99).

4. Customary/religious/traditional/tribal frameworks

Islamic and customary laws are dominant in Afghanistan. Article 3 of the Constitution provides that "in Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam". Most of the family law regulations of the Civil Code are based on the *hanafi madhhab*, but there are also rules borrowed from other schools of law, such as *maliki* jurisprudence. *Hanafi* law is considered the main source of law. In addition to un-codified *hanafi* law, customary law is also applied in family matters. Traditional/customary law as applied in more recent centuries has remained un-codified and unwritten. It consists of accepted practices and values publicly respected and obeyed by the people. According to Islamic law, a girl can be married off when she reaches the age of puberty and when she is considered "physically mature".

5. Provisions and sanctions

Provisions relevant to CEFM are covered under the Law on Elimination of Violence against Women of August 2009 (EVAW) and the Penal Code. For the first time in Afghanistan, EVAW criminalized 22 acts of violence against women and harmful practices. With regard to marriage, Art. 28 entails penal sanction with a minimum sentence of two years imprisonment for marrying a girl under 15; Art. 24 prohibits the sale and purchase of women for the purpose or under pretext of marriage; and Art. 26 prohibits forced marriage, as follows: "if a person engages or marries a woman who has attained the legal age of marriage without her consent, considering the circumstances, he/she shall be sentenced to medium imprisonment of not less than 2 years and the marriage or engagement shall be revoked in accordance with the provisions of law".

⁶ The Hanafi School is one of the four major schools of Sunni Islamic legal reasoning and repositories of positive law. *Hanafi* doctrines have always been considered among the most flexible and liberal in Islamic law, including in the areas of criminal law, treatment of non-Muslims, individual freedoms, marriage and guardianship, and ownership and use of property. Officially adopted by the Ottoman Turks in the 16th century and codified in the *Mejelle*, *hanafi* jurisprudence remains the most influential school in the world today and is used in Jordan, Lebanon, Pakistan, Syria, Turkey and the United Arab Emirates. With respect to family and personal law issues, *hanafi fiqh* predominates in Bangladesh, Egypt, India, Iraq, Pakistan, Syria and, for significant minority populations, in Iran and Malaysia. The Constitution of Afghanistan privileges *hanafi* jurisprudence as a residual source of law in the absence of explicit legislation or other constitutional provisions.

Afghan criminal law is regulated by the 1976 Penal Code. Criminalization of forced marriage depends on victims filing a complaint, while child marriage is not an explicit offence under the criminal code. Article 425 of the Penal Code states that

“a person who carries off a girl, who is sixteen years or over, at her own will from her parents’ residence for the purpose of lawfully marrying her, shall not be deemed as having committed an act of kidnapping”.

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

More than 20 years of war, civil unrest and displacement have exacerbated poverty in Afghanistan. With more than half the population of Afghanistan under the age of 19, most Afghan lives have been shaped by war. Many cultural, social and economic factors contribute to the persistence of CEFM, which is often linked to extreme poverty and is one of the most pervasive of all discriminatory practices affecting girls and women in the country today.

In the concluding observations of 2011, the Committee on the Rights of the Child was concerned that only limited action has been taken by the State Party to combat widespread sexual abuse and exploitation of children, and that perpetrators of such abuse may enjoy impunity. Girl victims of sexual abuse and exploitation are at risk of so-called honour killing, the practice of *baad* (settlement of disputes by giving away girls) or forced marriage with their abuser, and rejection by their families. The Committee was also concerned that adolescent pregnancy is a consequence of the widespread practice of early marriage, and one of the leading causes of maternal mortality (6).

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AUSTRALIA

General background (1, 2)

Total population (thousands) 2012:	23,343
Population under age 18 (thousands) 2013:	5,345
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	15
Birth registration (per cent) 2005–2012, total:	100 (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	64,680
Primary school participation, net attendance ratio (per cent), 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent), 2008–2013:	male N/A; female N/A

Child marriage rates (1,3)⁷

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2000	1984 (a)	1998 (a)	

(a) = accession

2. Constitutional provisions

The Australian Constitution of 1901 established a federal system of government, whose powers are distributed between the federal government and the states. The states and territories have independent legislative power in all matters not specifically assigned to the federal government. Where there is any inconsistency between federal and state or territorial laws, federal laws prevail. Federal laws apply to the whole of Australia.

Although Australia does not have constitutional protection of human rights, it is a party to several international human rights instruments and is aligned with international human rights standards (4).⁸

3. Statutory law

Australia has a common law system based on a fundamental belief in the rule of law, justice and the independence of the judiciary (5). The common law system, as developed in the United Kingdom, forms the basis of Australian jurisprudence.

Marriage in Australia is regulated by the Marriage Act No. 12 of 1961, which applies to men and women without distinction, and by the Marriage Regulations No. 31 of 1963. According to the Marriage Act No. 12, marriage is not permissible unless the parties to the prospective marriage have attained the age of 18 (Art. 11). However, in exceptional circumstances,⁹ a court applying common law principles may be able to grant exceptional approval to an individual between 16 and 18 years of age wanting to marry a specific person over the age of 18 (6). Parental consent to the marriage of a minor is regulated under the Marriage Act No. 12 (sections 7–13, Division 1, Part II) and is another exception to the aforementioned legal age of marriage. The Marriage Act No. 12 contains detailed provisions on marriage registration and celebrants.

⁷ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Australia not available.

⁸ See point No. 1 Relevant International Treaties, and Annex 2.

⁹ Articles 14–16 of the Act No. 12 of 1961 taking into account amendments up to Marriage Amendment (Celebrant Administration and Fees) Act 2014.

Jurisdictions of New South Wales, Victoria, Queensland, Western Australia, South Australia, Tasmania and Australian Capital Territory have imposed the obligation to have births registered at the state level, as per the Births, Deaths and Marriages Registration Act, all enacted in 1995 and 1996.

All states and territories have specialized children’s courts with jurisdiction over offences committed by young people.

4. Customary/religious/traditional/tribal framework

Customary law is hugely empowering in many indigenous communities, as a form of social organization and justice that maintains and sustains traditions going back millennia.

In the past, for aborigines, marriage was a primary means of maintaining attachment to land (7). An important traditional way in which marriages were arranged was infant betrothal. Usually this was between a young girl and an older man. A girl could be betrothed either as a potential mother-in-law or as a wife even before she was born.

Today, however, these practices have changed, since aborigines have been exposed to new values beyond indigenous culture. The exchange of marriage promises continues in many traditionally oriented aboriginal communities, although some changes have taken place. For example, the age difference between spouses has decreased, and a girl will not marry her promised husband until she leaves school. Nowadays, arranged marriages are less common, especially those where the disparities in age are large (8).

5. Provisions and sanctions

Provisions relevant to CEFM are covered under the Commonwealth Marriage Act, 1961 (section 95.1), which criminalizes a person who “goes through a form of marriage

ceremony with another person who is not of marriageable age”. It is an offence for a person to solemnize, or purport to solemnize, a marriage if the person “has reason to believe that one or both of the parties are not of marriageable age”. The authorized celebrant must therefore carefully check the ages of both parties from their birth certificates or extracts. Marrying persons not of marriageable age is also covered in Section 6.1 of the Criminal Code. An exception can be taken into account if the defendant proves that he or she believed on reasonable grounds that the other person had attained the age of 18 years or had previously been married. Under the Marriage Act No. 12, Sections 7–13, Division 1, Part II of this provision, the marriage of a person under the marriageable age can only be valid on the presentation of a document proving parental consent containing all legal requirements. Otherwise the celebrant shall be liable for an offence against sub-regulation (9).

The Slavery, Slavery-like Conditions and People Trafficking Act of 2013 amended the Commonwealth Criminal Code Act of 1995 to recognize “forced marriage as a serious form of exploitation and a crime”. According to Art. 270.7.A of the Criminal Code, “a marriage is a forced marriage if one party to the marriage (the victim) entered into the marriage without freely and fully consenting”. The offences can, therefore, apply to any person with a role in bringing about the forced marriage, including families, friends, wedding planners or marriage celebrants. An offence may be aggravated, including when the victim is under 18.

The Australian Human Rights Commission Act of 1986 details the powers and functions of the Australian Human Rights Commission as the Commonwealth agency responsible for monitoring and promoting human rights protection. It is possible for children and/or their representatives to challenge violations of their rights by initiating civil legal proceedings at the state or territory level.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			Not taken into account for aboriginal marriages
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			No registration for aboriginal marriages

Additional factors

Australia is a party to the major international human rights instruments. However, it has not acted to incorporate them into domestic law, meaning that at the domestic level they are not directly enforceable or justiciable. As Barwick and Gibbs observed in *Bradley v The Commonwealth*, the approval by the Commonwealth Parliament of the Charter of the United Nations in the Charter of the United Nations Act 1945 “did not incorporate the provisions of the Charter into Australian law. To achieve this result the provisions have to be enacted as part of our domestic law, whether by Commonwealth or State statute. Section 51(xxix) [the external affairs power] arms the Commonwealth Parliament ... to legislate so as to incorporate into our law the provisions of [international] conventions” (10). A clear statement of intent to introduce notions of human rights into the common law has been made in the 1992 case *Mabo v. Queensland* (11).

Additionally, the issue of consent is a key component in the fight against CEFM, especially among Indigenous Australians who follow customary law. It is important to have a clear understanding of what constitutes consent, both in fact and in law. Education about consent is routinely reinforced in urban communities through television campaigns such as the “No Means No” advertisements, and consent messages continue to be an important component of school curricula (1). The Australian Government currently provides the Support for Trafficked People Program for any person identified by a law enforcement agency as a potential victim of forced marriage (12).

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BANGLADESH

General background (1, 2)

Total population (thousands) 2013:	156,595
Population under age 18 (thousands) 2013:	56,666
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	128
Birth registration (per cent) 2005–2013, total:	31 (urban 35, rural 29)
GNI per capita (US\$) 2014:	1,080
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 77; female 81
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 43; female 47

Child marriage rates (1, 3)¹⁰

Married by age 15 (per cent) 2011:	29
Married by age 18 (per cent) 2011:	65

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention ratified
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights, (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2000	1984 (a)	1998 (a)	1998 (a)

(a) = accession

2. Constitutional provisions

The Constitution of Bangladesh was adopted on 4 November 1972 and then amended in 1977 to remove the principle of secularism from Part II, entitled Fundamental principles of State policy.

Fundamental rights are guaranteed under the provisions of Part III. Under Article 44, any complaint of violations of these fundamental rights shall be addressed to the High Court Division.¹¹ The Constitution recognizes the rights to public morality and life, and protection of the rights to life and personal liberty, together with the right to health, in Art. 32¹² and Art. 18.1,¹³ respectively.

Education is established as an objective under the Directive Principles of State Policy in Bangladesh. The Bangladesh Supreme Court has specifically linked denial of education to child marriage, stating that “lack of education of the children creates a vicious cycle of poverty (31.5% in 2010). The girls who are deprived of education become targets of early marriage, and as illiterate mothers beget illiterate children, which again stokes the poverty cycle” (4).

Constitutional protection of women’s rights and the assertion of gender equality come under the Fundamental Principles of State Policy and are enshrined in Art. 19.3 on the participation of women in all spheres of national life. Additionally, from Art. 27 to Art. 29 of the section on fundamental rights, the Constitution affirms equality of all citizens before the law and the rights to equality and non-discrimination on the basis of sex.¹⁴ The Constitution of Bangladesh allows the Government to make “special provision[s] to protect women and children”. The right to free and compulsory education is guaranteed under Art. 17 in the following terms:

¹⁰ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Bangladesh are from the Bangladesh Demographic and Health Survey 2011.

¹¹ Art. 44: (1) The right to move the High Court Division in accordance with clause (I) of Article 102 for the enforcement of the rights conferred by this Part of guaranteed. (2) Without prejudice to the powers of the High Court Division under Article 102, Parliament may by law empower any other court, within the local limits of its jurisdiction, to exercise all or any of those powers.

¹² Art. 32: No person shall be deprived of life or personal liberty save in accordance with law.

¹³ Art. 18.1: The State shall regard the raising of the level of nutrition and the improvement of public health as moving its primary duties, and in particular shall adopt effective measures to prevent the consumption, except for medical purposes or for such other purposes as may be prescribed by law, of alcoholic and other intoxicating drinks and drugs which are injurious to health.

¹⁴ Art. 28.2: Women shall have equal rights with men in all spheres of the State and of public life.

[T]he state shall adopt effective measures for the purpose of (a) establishing a uniform, mass-oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law; (b) relating education to the needs of society and producing properly trained and motivated citizens to serve those needs; removing illiteracy within such time as may be determined by law.

The 1988 amendment added Art. 2(a), which declares Islam the official State religion while reiterating that other religions may be practised in peace and harmony in the Republic. The last and 15th Amendment Bill, passed on 20 June 2011, made the following changes: (a) Islam is still the State religion along with Bismillahi-Ar-Rahmanir-Rahim, (b) Art. 12 restoring secularism and freedom of religion is revived. Finally, from the legislative perspective, it is important to highlight that provisions of the Constitution (more than 50 articles) were made unamendable.

3. Statutory law

Bangladesh has a mixed legal system of mostly English common law and Islamic law (5). Although Bangladesh has a full set of laws dealing with the issue of CEFM, because such laws commonly conflict with customary and religious laws and practices, there are some gaps in their implementation (6). Together with the Child Marriage Restraint Act of 1929 (CMRA) (7), other key legislative sources, such as the Guardians and Wards Act of 1890, the Muslim Personal Law (sharia), the Application Act of 1937, the Dissolution of Muslim Marriages Act of 1939, the Muslim Family Law Ordinance of 1961, the Muslim Marriages and Divorces Act of 1974 and the Family Courts Act of 1985, govern the issue in the country.

CMRA is the main law concerning the practice of CEFM and the obligations of persons involved in preventing CEFM (7). This Act defines a “child” as a male person under 21 years of age or a female person under 18 years of age (Section 2.a) and defines “child marriage” as a marriage to which either of the contracting parties is a child. It also establishes penal sanctions for contracting underage marriage, though such unions are not considered invalid.

Despite the fact that the legal age for a girl to marry is 18, under the Special Marriage Act of 1872 in the case of non-religious marriage, girls who have attained the age of 14 can marry upon parental consent (Special Marriage Act, section 2.2). Although CMRA provides penal sanctions for those who knowingly participate in the contracting of an underage marriage, the resulting marriages remain valid under the law (8) and continue to be supported by the religious personal laws of marriage (9).

Until 2006, Bangladesh’s birth registration system was governed by legislation developed in 1873 that did not require birth registration for access to services. The Births and Deaths Registration Act, which the Government adopted in 2004 and which came into force in 2006, stipulates that birth certificates are to be used as proof of age for a number of administrative procedures (10).

The Hindu Marriage Registration Act of 2012, which authorizes Government officials to appoint a Hindu marriage registrar in every location across the country, specifies that marriages of women under 18 or men under 21 will not be registered. It keeps the provision of marriage registration optional, however.

4. Customary/religious/traditional/tribal framework

The coexistence of civil law alongside religious personal law permitting marriage before 18 creates a complex legislative situation. Such early marriage is acceptable in some circumstances under Muslim, Hindu and Christian personal laws. Muslim personal law permits the marriage of girls at 14.

In Bangladesh, the majority of Muslims follow the *Sunni-Hanafi* school of legal thought, certain components of which have been codified and amended under the Muslim Family Laws Ordinance of 1961 (11, 12). However, much of Muslim personal law is unlegislated, the basis for the law being *Hanafi fiqh* (e.g. marriage guardianship).

According to Muslim law, after the announcement of an engagement and before the wedding takes place, a formal contract (*kabin*) is drawn up and signed in the presence of a licensed marriage registrar (*kazi*) at a ceremony attended by both sides of the family. The contract notes the consent of the couple to marry and specifies the amounts of prompt and deferred *mehr* or bride price,¹⁵ which cannot be renegotiated after the marriage has become legal (13).

The Bangladesh Muslim Family Laws Ordinance has also incorporated some amendments to the provision of the Dissolution of Muslim Marriages Act of 1939, entitling a girl contracted into marriage by her father or other guardian before the age of 18 to repudiate the marriage, provided it has not been consummated, before attaining the age of 19 (14).

Regarding marriage registration, Christian and Muslim personal laws require it but there is no uniform system for record-keeping, and enforcement is poor. The Hindu Marriage Registration Act of 2012, on the other hand, allows for but does not require marriage registration

5. Provisions and sanctions

Sections 4–6 of the CMRA state that “whoever, being a male above 21 years of age, or being a female above 18 years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand Taka (US\$ 14), or with both”. This punishment applies to a parent or guardian who allows a child marriage to take place and any person who solemnizes a child marriage. However, if the person solemnizing an early marriage proves there was reason to believe it was not a child marriage then he or she is not punished by law. In addition to that, without clear provisions invalidating child marriages, the prominence of religious personal laws means that child marriages are legally recognized (valid), even though penal sanctions are applicable to those who facilitated them (15). Moreover, according to a recent report, despite the punishments stipulated by CMRA, the penal sanctions for parents, guardians and the persons who solemnize child marriages are so minor as to be irrelevant, and the provisions addressing child marriage under national law are routinely ignored (16).

The Government of Bangladesh has recently drafted a bill entitled the Child Marriage Prevention Act of 2014, approved by the Cabinet on 15 September 2014. Cabinet Secretary M. Musharraf Hossain Bhuiyan declared that the draft of this

15 *Mehr* is the traditional Islamic bride price, which functions as a prenuptial agreement in Bangladesh.

new law has been finalized, with the provision of a maximum two-year jail sentence, a fine of Tk 50,000 or both, and a minimum six-month jail sentence, a fine of Tk 10,000 or both for violation of the law. According to the proposed law, all persons under 18 would be considered children, and boys under 21 and girls under 18 would be considered minors. The marriage of a minor and an adult would be considered a child marriage.

According to the Bangladesh Penal Code 1860, Section 375:

A man is said to commit “rape” who except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions: Firstly – Against her will. Secondly – Without her consent. Thirdly – With her consent, when her consent has been obtained by putting her in fear of death, or of hurt. Fourthly – With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another

man to whom she is or believes herself to be lawfully married. Fifthly – With or without her consent, when she is under fourteen years of age.

An exception is also highlighted under the same article stating that “sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape”.

In terms of punishment for rape, Section 376 of the same Code clarifies that:

Whoever commits rape shall be punished with [imprisonment] for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			Disparity of marriageable ages between civil law and religious law
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			Optional
Mandatory marriage registration			Optional as per Hindu marriage Registration Bill 2012 but mandatory as per Christian and Muslim laws

Additional factors

The incidence of CEFM in Bangladesh has decreased but remains high. The use of law as a means of regulating early marriage is not sufficient, although policies such as adoption of the International Conference on Population and Development Programme of Action (1994) and the Birth and Death Registration Act (2004) seem to have had some effect. Additional strategies to address CEFM include further reform of the law, communication and education through religious leaders, improvements to women’s economic status, promotion of female education, provision of more employment opportunities for women and assured access to information in rural areas. In particular the Government of Bangladesh has made relevant efforts to promote policy and structural change and introduce improved systems and laws to end CEFM. The Government has focused on strengthening the online birth registration system and enforcing the Child Marriage Restraint Act (1929), in addition to advocacy initiatives at national and local levels, awareness-raising activities at the community level, capacity-building and the promotion of community-based actions involving children and adults to stop CEFM. The Ministry of Local Government, Rural Development and Cooperatives has worked towards the goal of universal birth registration through the establishment of a low-cost, easy and sustainable birth registration system (10).

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BHUTAN

General background (1, 2)

Total population (thousands) 2012:	754
Population under age 18 (thousands) 2013:	256
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	59
Birth registration (per cent) 2005–2012, total:	99.9 (urban 100, rural 99.8)
GNI per capita (US\$) 2014:	2,390
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 96; female 95
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 54; female 56

Child marriage rates (1, 3)¹⁶

Married by age 15 (per cent) 2010:	6
Married by age 18 (per cent) 2010:	26

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2009	1981		

2. Constitutional provisions

Adopted in 2008, the Constitution of the Kingdom of Bhutan marked the State's transition from an absolute monarchy to a democratic constitutional monarchy. The Constitution recognizes the mandate of the State to ensure the respect of all fundamental rights, which are listed under Art. 7 and enforced under the provisions of Art. 7.23.¹⁷ Additionally, as stated in Art. 9.3, "the state shall endeavour to create a civil society free of oppression, discrimination and violence, based on the rule of law, protection of human rights and dignity, and to ensure the fundamental rights and freedoms of the people".

Article 7.1 guarantees the right to life and Art. 9.21 guarantees the right to health, including free access to basic public health services using both modern and traditional medicines. Under Art. 9.17, the State addresses gender-based discrimination, exploitation and violence. Article 7.15 recognizes equality

before the law and effective and equal protection of the law without discrimination on the grounds of sex or civil status, among others. Article 9.19 of the Constitution provides that the State shall endeavour to promote those conditions that are conducive to cooperation in community life and the integrity of the extended family structure.

Article 9.18 addresses the protection of children in the following terms: "The state shall endeavour to take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation."

3. Statutory law

Bhutan has a mixed system of common law and customary law (4). The Zhabdrung's Code, which serves as the foundation of the contemporary Bhutanese legal system, brings in principles of Buddhism and natural justice and also reflects the culture and lifestyle of the Bhutanese people (5).

¹⁶ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html#sthash.wDiHW4I7.dpuf>. Data for Bhutan are from the Bhutan Multiple Indicator Cluster Survey 2010.

¹⁷ Constitution of the Kingdom of Bhutan, Art. 7.23: "All persons in Bhutan shall have the right to initiate appropriate proceedings in the Supreme Court or High Court for the enforcement of the rights conferred by this Article, subject to section 22 of this Article and procedures prescribed by law."

In the context of this review, the authors considered the Marriage Act of Bhutan of 1980, the Child Care and Protection Act of 2011 and the Citizenship Act of 1977. According to the Marriage Act, “a person has the right to marry any other person, irrespective of status, caste, wealth or appearance, provided the persons contracting the marriage thereof have expressly consented to their marriage” (Kha 1-2).

The minimum legal age for marriage was previously set at 18 for boys and 16 for girls (Kha 1-14) and then revised in 1996, to 18 for both girls and boys. The Child Care and Protection Act defines a “child” as a person under 18 (Art. 16).

Registration is mandatory for both civil and religious marriages. A birth certificate is required under Art. 16 of the Child Care and Protection Act to determine the age of persons wishing to marry. Article 17 specifies that in the absence of a birth certificate, determination of a child’s age “may be based on information from the child or testimonies of other persons considering the physical appearance of the child or expert medical opinion and other relevant evidences”. The Citizenship Act also requires the registration of children within one year of birth.

4. Customary/religious/traditional/tribal frameworks

The Constitution of Bhutan recognizes Buddhism as “the spiritual heritage of Bhutan, which promotes the principles and values of peace, non-violence, compassion and tolerance” (Art. 3.1). Article 3.3 states the following: “It shall be the responsibility of religious institutions and personalities to promote the spiritual heritage of the country while also ensuring that religion remains separate from politics in Bhutan. Religious institutions and personalities shall remain above politics.” Family-related issues are largely a matter of custom. In the past, marriage, divorce and adoption have usually been managed through recourse to Buddhist or Hindu religious law. However, customary family practices have been supplemented and superseded by the Marriage Act of 1980, which placed marriage within the jurisdiction of the courts.

5. Provisions and sanctions

Legislative texts including sanctions relevant to CEFM include the 2004 Penal Code, the Marriage Act of 1980 and the Child Care and Protection Act of 2011. The Marriage Act makes child marriage punishable by an administrative fine of

300–1,000 ngultrums as well as the return of any property received for the marriage. The fine increases if the same offender marries or tries to marry a child a second time (6).

Kha 1-11 provides that “The traditional performance of marriages between minors as mentioned hereafter in Section Kha 1-14 shall also cease with the enactment of this Act. In contravention of which, the case shall be dealt with in accordance with the provisions laid down hereinafter in Section Kha 8-20.”¹⁸

With respect to marriage certificates, Kha 1-14 provides the following:

Consequent to the restrictions on the marriages of minors as stipulated in the aforesaid Section Kha 1-11, no Marriage Certificates shall be granted for marriages performed between a male person not attaining the age of eighteen years and a female not attaining sixteen years as they are considered not to have attained the full age.

The Marriage Act explicitly covers child marriages under Kha 8-20, in the following terms:

Whereas the performance of child marriages in villages are deemed to be against the laws, the realization of expenses so incurred for performing such marriages shall not be permitted. And where there have been exchanges of any lands, houses, properties, livestock etc. in such marriages, then the person who has given such properties shall have to take them back, and the persons performing such child marriages in contravention of the prescribed law shall be punished with a fine extending from Ngultrums three hundred to Ngultrums one thousand.

Kha 8-21 further specifies that:

If evidence is furnished of the performance of successive child marriages by resorting to fraudulent means and of the expenses realized thereof, then the offender shall be punished with the fine prescribed in the aforesaid Section Kha 8-20. In addition, the offender by performing successive child marriages by concealing the fact of the child’s prior marriages shall be punished with a separate amount of fine.

¹⁸ Kha 8-20: Imposition of fine for performing child marriages.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			Religion is separate from politics
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

CEFM in Bhutan has substantially decreased since the late 20th century. Nevertheless, in rural and remote areas the incidence of CEFM is higher, with girls as young as 15 in remote villages reportedly still being married in secret ceremonies. An additional factor contributing to the persistence of CEFM is that births and marriages often remain unregistered. Furthermore, in Bhutanese society, girls are expected to marry in their late teens, leading many families to discontinue the education of teenage girls. A lack of education and poor reproductive health awareness heighten the risk of CEFM for girls in poorer, rural regions of Bhutan. This also increases their risk of life-threatening complications in pregnancy and childbirth, reduces their income-generating opportunities and perpetuates the cycle of poverty for affected communities (6).

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CAMBODIA

General background (1, 2)

Total population (thousands) 2012:	15,135
Population under age 18 (thousands) 2013:	5,583
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	30
Birth registration (per cent) 2005–2012, total:	62.1 (urban 74.4, rural 59.9)
GNI per capita (US\$) 2014:	1,020
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 86; female 86
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 46; female 45

Child marriage rates (1, 3)¹⁹

Married by age 15 (per cent) 2010:	2
Married by age 18 (per cent) 2010:	18

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1992 (a)	2002	1992	1992	

(a) = accession

2. Constitutional provisions

The Constitution of the Kingdom of Cambodia was adopted by the Assembly in Phnom Penh on 21 September 1993 at its Second Plenary Session. Under Article 31, the State shall recognize and respect human rights, in accordance with the provisions of the United Nations Charter and the conventions related to human rights, women's rights and children's rights.

The right to life is guaranteed in Art. 32 and the right to health in Art. 72, which provides that "the state shall pay attention to disease prevention and medical treatment. Poor people shall receive free medical consultations in public hospitals, infirmaries and maternity clinics". Under Art. 31, all citizens are equal before the law, enjoying the same "rights, freedoms and obligations regardless of race, colour, sex, language, religious belief, political tendency, national origin, social status, wealth or other status". Article 45 provides that all forms of discrimination against women are to be abolished. Men and women are equal in all fields, especially with respect to

marriage and family matters. Article 46 refers to the protection of women against certain forms of violence and assaults on dignity, and also obliges the Cambodian Government to "provide opportunities to women, especially those living in rural areas without adequate social support, so they can get employment, medical care, and send their children to school, and to have decent living conditions".

By virtue of Art. 45 of the Constitution, the institution of marriage is to be entered by mutual consent by one husband and one wife. Article 45 also explicitly prohibits discrimination against women, providing to them the right to freely consent to marriage and the right to equality within marriage and in family matters.

The Constitution also recognizes the rights of children (Art. 48):

The state shall protect the rights of children as stipulated in the Convention on Children, in particular, the rights to life, education, protection during wartime, and protection from economic or sexual exploitation.

¹⁹ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Cambodia are from the Cambodia Demographic and Health Survey 2010.

The state shall protect children from any forms of labour that are injurious to their educational opportunities, health and welfare.

Under Art. 43, Buddhism is recognized as the religion of the State.

3. Statutory law

Cambodia has a civil law system influenced by the United Nations Transitional Authority in Cambodia, as well as customary law, communist legal theory and common law (4). In the context of this review, the authors have taken into consideration the following sources: the Law on Marriage and Family (1989), the Civil Code of Cambodia (2007) and the Cambodian sub-decree on civil status registration No. 103 S-D/BK.

The Law on Marriage and Family (1989) regulates and protects marriage and the family, to ensure equality of the spouses in marriage and the family, to emphasize the responsibility of parents in raising and taking care of their children, and to promote the moral and educational development of children. Under this law, marriage is recognized as “a solemn contract between a man and a woman in a spirit of love in accordance with the provisions of law” and with the understanding that they “cannot dissolve it as they please” (Art. 3).

Under Art. 5 of the Law on Marriage and Family, the legal minimum age for marriage is 20 for men and 18 for women, with some exceptions permitted, such as in the case of pregnancy and upon parental consent. Furthermore, Art. 2 explicitly prohibits the marriage of couples who are too young (although the age is not specified) and prohibits marriage by force. The Civil Code of Cambodia (2007) sets the age of consent at 18 for men and women, to decide for themselves if they wish to marry (5). However, Art. 953 of the Civil Code allows marriage involving a minor if the minor wishes to marry and is at least 16 years old and the other marriageable party is at least 18 years old, and if the minor has obtained consent from a parent or guardian. Article 954 of the Civil Code allows marriage of minors in the case of pregnancy even when both the boy and girl are under 18, upon consent of the parents or guardian (Art. 953) or under general guardianship consent if the marriageable party has the minimum capacity required (Art. 954).

According to new marriage requirements issued by the Government of Cambodia on 7 March 2011, and in order to prevent exploitation and human trafficking and to promote “honest” marriages, the Government introduced an age limit and minimum income requirements for foreign men marrying Cambodian women. As reported in CamproPost that year, “[m]ale foreigners over the age of 50 are outlawed from marrying Cambodian women in the country under new rules designed to crack down on sham marriages and human trafficking” and “[f]oreigners earning less than \$2580 per month are also barred from wedding local women”; these restrictions, however, do not apply to weddings taking place overseas (6).

All marriages based on the provisions of the Law on Marriage and Family are deemed valid for the purposes of registration under Art. 955 of the Civil Code. All births must be registered with the “commune” or *sangkat* office within 30 days or be subject to a fine. Failure to register births leads to discrimination and potential denial of services that require proof of citizenship. Article 3 of the Cambodian sub-decree on civil status registration No. 103 S-D/BK imposes the duty of registration of civil status in the civil status book, including registration of births, deaths and marriages, as an obligation of all Cambodian citizens and foreigners living within the territory.

4. Customary/religious/traditional/tribal frameworks

Custom may influence the application of the law in Cambodia. One example of this is Art. 23 of the Law on Contracts, which stipulates that if the meaning of a contractual provision is not clear, it shall be interpreted according to common local practices or customs. Arranged marriage has been the tradition in Cambodia for centuries but has become less common over time.

According to Buddhist teaching, it is an obligation of parents to find spouses for their children and to marry them into good families. Traditional Cambodian culture pressures parents to choose and arrange marriages for their children as a way to maintain their family pride and honour. Children are also obligated to do their utmost to maintain their parents’ honour, and Cambodians believe in showing gratitude to their parents by repaying them in kind for favours or sacrifices they have made. Marrying into a good family is considered to be a way of showing such gratitude to parents, especially for a girl or young woman (7).

5. Provisions and sanctions

Within the context of CEFM, “marriage of a too young couple and marriage by force” is prohibited under Art. 2 of the Law on Marriage and Family (1989).

CEFAM is punishable under Art. 10 of Chapter 2 of the law (“The Act of Selling/Buying or Exchanging a Person”), which prohibits the unlawful removal of a minor, with or without abuse of authority over the victim, for the purpose of profit-making, sexual aggression, production of pornography, marriage against the will of the victim, adoption or any form of exploitation (8).

Furthermore, crimes committed completely outside the borders of Cambodia can be prosecuted in Cambodian courts if the perpetrator or the victim of the crime is a citizen of Cambodia. Both local and cross-border trafficking cases can be prosecuted under the Law on Suppression of Human Trafficking and Sexual Exploitation. The new law (2008) is an improvement in that it defines key terms, such as minor, human trafficking, prostitution, sexual intercourse with a minor under 15 and child pornography.

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

Cambodia is a traditionally patriarchal society and women are expected to conform to traditions. Cambodian society and culture tend to disapprove of children born out of wedlock, so very young girls who become pregnant are likely to be forced into marriage. Most Cambodian men choose their own wives, although they still seek the advice and approval of their parents to show their gratitude and preserve family pride and honour. In modern Cambodia, even a young woman can reject her parents' wishes if they seek to arrange her marriage, but not many daughters are willing to exercise this option as yet (9).

In 2005, the Ministry of the Interior started paying serious attention to birth registration, establishing the country's uniform birth registration (UBR) system (10).

Additionally, given the strong links between CEFM and trafficking, the Government of Cambodia has also intensified efforts to address trafficking issues, including preparing an annual report on anti-trafficking measures issued by the National Committee on the Suppression of Human Trafficking, Smuggling, and Labour and Sexual Exploitation (11).

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CHINA

General background (1, 2)

Total population (thousands) 2012:	1,393,337
Population under age 18 (thousands) 2013:	301,233
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	6
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	7,380
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 97; female 97
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 87; female 88

Child marriage rates (1, 3)²⁰

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1992	2002	1980	2001	

2. Constitutional provisions

The Constitution of the People's Republic of China, promulgated by the Proclamation of the National People's Congress on 4 December 1982, is the country's fourth. It was most recently amended on 14 March 2004. The Constitution enjoys supreme legal status relative to all other legislation in the State. No law, administrative rule or regulation may contravene it.

Under that most recent amendment it is now declared that the "state respects and preserves human rights" (Art. 33). Chapter II of the Constitution details the fundamental rights and duties of all citizens of China including, among others, equal access to health assistance and medical and health services (Art. 45) and equality before the law (Art. 33). Regarding marriage, as stated in Article 49, "Marriage, the family and mother and child are protected by the State" and "[v]iolation of the freedom of marriage is prohibited". Additionally, in relation to women's rights, Art. 48 provides that "Women in the People's Republic of China enjoy equal rights with men in all spheres of life, in political, economic, cultural, social and family life."

3. Statutory law

China's legal system is based on civil law, native customs and practices with Soviet and German influence (4). The Legislation Law enacted in 2000 establishes the hierarchy of Chinese domestic law, in which the Constitution ranks the highest, followed in order by laws and administrative regulations as set out in Art. 5 of the Constitution.

Provisions relevant to CEFM in China are covered by the 1980 Marriage Law,²¹ which is the fundamental law governing marriage and family relations. Under Art. 5, China encourages late marriage and late childbirth: 22 is the minimum legal age of marriage for men, and 20 for women (Art. 6). If the marriageable age has not been attained, marriage is invalid (Art. 10). According to Art. 2 of this law, the marriage system is based on the free choice of partners, monogamy and equality between men and women. China's 1991 Law on Protection of

²⁰ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for China not available.

²¹ Law adopted at the Third Session of the Fifth National People's Congress on 10 September 1980, and amended in accordance with "Decision Regarding the Amendment of Marriage Law of the People's Republic of China" passed at 21st Session of the Standing Committee of the Ninth National People's Congress on 28 April 2001.

Minors²² was enacted in accordance with the Constitution for the purpose of protecting the lawful rights of minors.

In regard to the registration of births, the mechanism most commonly used is *hukou* (or *hujū*), a record in the system of household registration required by law in China. It identifies a person as a resident of an area and includes identifying information such as name, parents, spouse and date of birth. Regulations on Control of Marriage Registration, promulgated by Decree No. 1 on 1 February 1994, were enacted to strengthen the administration of marriage registration, which they make mandatory.²³

4. Customary/religious/traditional/tribal frameworks

In China, there are different customary models of marriage, ranging from those where parents control the entire procedure (from initiating negotiations to concluding the marriage arrangements) without consulting the principal parties, to those where the parents request the consent of the principal parties before finalizing the arrangements (5).

Although the 1980 Marriage Law required older generations to relinquish their powers of control in family matters (including marriage arrangements), parents still generally maintain control over the initiation of marriage negotiations in rural areas, and their consent remains a prerequisite for the conclusion of marriage negotiations in urban areas (5).

Chinese traditional culture has a significant influence on birth registration. There have been reports that it is customary practice for parents not to register daughters due to the traditional preference for male children within Chinese culture.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			<i>Hukou</i> household-based registration system instead
Mandatory marriage registration			

22 Law on Protection of Minors adopted at the 21st Meeting of the Standing Committee of the Seventh National People's Congress on 4 September 1991 and promulgated by Order No. 50 of the President of the People's Republic of China on 4 September 1991.

23 For marriages between Chinese citizens within China, Chinese citizens and foreigners, between overseas Chinese and domestic citizens, between residents who come from Hong Kong, Macau and Taiwan and inland citizens (Art. 2) who "shall truthfully provide to marriage registration authorities relevant certificates and documents requested by this regulation".

Parents have in some cases not registered their daughters due to perceived public disapproval (6).

5. Provisions and sanctions

Forced marriage is prohibited under the 1980 Marriage Law in the following situations: marriage upon arbitrary decision by any third party, mercenary marriage, and any other acts of interference in the freedom of marriage (Art. 3).

Furthermore, under Art. 11 of the Law on Protection of Minors, parents and guardians of children are liable for permitting or forcing such a marriage. If they refuse to perform their duties in accordance with the lawful rights and interests of the minors under their guardianship, they shall be punished according to the law and, upon application by the person or unit concerned, they may be disqualified as guardians and replaced by new guardians (Law on Protection of Minors, Art. 236 of the Criminal Code). Regarding the control of marriage certificates, the 1994 Decree on the Regulations on Control of Marriage Registration empowers the marriage registration authority, including urban sub-district offices or civil affairs departments, to control marriage registration and prohibit registration of marriage if either of the parties has not reached the legal marriageable age (Art. 12.1). Furthermore, if a unit or an organization issues a false certificate or document for the parties applying for marriage registration, the marriage registration authority shall confiscate the certificate and admonish or impose disciplinary sanctions on those directly responsible (Art. 27). If the marriage registrar grants registration to parties that have not reached the legal marriageable age, the registrar is to receive disciplinary sanctions or be dismissed from his or her post, and the marriage registration certificate is to be revoked.

Additional factors

China has ratified major international treaties and has put in place domestic legislation to protect children's rights. However, cross-border trafficking of women originating from the country remains high. Information from the Ministry of Public Security states that, due to increasing demand, cases of people being trafficked to work in the entertainment industry have risen to 50–60% of the total reported trafficking cases, and girls aged 16–20 years are the main targets for such exploitation. The purposes of cross-border trafficking are diverse, ranging from commercial sexual exploitation and forced marriage to illegal adoption and forced labour (7).

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DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

General background (1, 2)

Total population (thousands) 2012:	24,895
Population under age 18 (thousands) 2013:	6,583
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	1
Birth registration (per cent) 2005–2012, total:	100 (urban 100, rural 100)
GNI per capita (US\$) 2013:	N/A
Primary school participation, net attendance ratio (per cent) 2008–2012:	male 99; female 99
Secondary school participation, net attendance ratio (per cent) 2008–2012:	male 98; female 98

Child marriage rates (1, 3)²⁴

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990		2001 (a)	1981 (a)	

(a) = accession

2. Constitutional provisions

The Socialist Constitution of the Democratic People's Republic of Korea was first adopted in December 1972, then amended in 1992 and 1998 and adopted again on 5 September 1998 by the first session of the Supreme People's Assembly. The rights to life and health are guaranteed under Article 56, which engages the State in the consolidation and development of "the system of universal free medical service and [in the improvement of] the district doctor system and the system of preventive medicine". The fifth chapter of the Constitution guarantees fundamental rights to all citizens and specifies in Art. 77 that:

Women are accorded an equal social status and rights with men. The state shall afford special protection to mothers and children by providing maternity leave, reduced working hours for mothers with many children, a wide network of maternity hospitals, crèches and kindergartens, and other measures. The state shall

provide all conditions for women to play a full role in society.

In this same chapter, Art. 72 reinforces the right to health as follows:

Citizens are entitled to free medical care, and all persons who are no longer able to work because of old age, illness or a physical disability, the old and children who have no means of support are all entitled to material assistance. This right is ensured by free medical care, an expanding network of hospitals, sanatoria and other medical institutions, State social insurance and other social security systems.

Family and marriage are covered in Art. 78, which provides that "Marriage and the family shall be protected by the State. The State pays great attention to consolidating the family, the basic unit of social life."

²⁴ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for the Democratic People's Republic of Korea not available.

3. Statutory law

The Democratic People's Republic of Korea has a customary legal system (4). The specific hierarchy of authority in the country consists of: (i) "the words or personal directives" of the supreme leader; (ii) the Ten Great Principles of Monolithic Ideology, Korean Workers' Party (KWP) directives – particularly the policy guidance of the KWP Secretariat's Organization and Guidance Department; (iii) the KWP Charter and domestic civil laws; and (iv) the Constitution (5).

The 1990 Family Law sets the minimum age for marriage at 18 for boys and 17 for girls. The law provides that "citizens are entitled to marry freely" and that "marriage shall be undertaken between a single male and a single female" (6).

A marriage is only recognized to be valid and protected by the nation when it has been registered with the marriage registration office. The marriage must be registered at the department of social security of a city or county, based on the couple's dwelling address. A citizen who lives abroad should

register the marriage with the Consulate of the Democratic People's Republic of Korea, or other relevant agency if there is not a consulate (Art. 12) (7). Birth registration is recorded within the household register, known as *hukou*, which is a civil registry system used in the country to track information of genealogical or legal interest, based on the patriarchal system in which individuals are represented by the head of the family. On 27 April 2007, the Law on the Registration of Family Relationships was adopted to replace the Family Registry Law in order to transform the previous "family registry" system, based on the household, into a registration system based on individuals.

4. Customary/religious/traditional/tribal frameworks

Information not found.

5. Provisions and sanctions

Information not found.

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

In the Democratic People's Republic of Korea, the legal framework establishing the minimum legal age of marriage exists in a context where the usual practice is for people to marry in their late twenties. In its periodic report to the CRC, the country states that:

[A]rt.9 of the Family Law which provides for the minimum age for marriage is by no means in conflict with sexual equality or with Art. 2 of the Convention and the Convention on the Elimination of All Forms of Discrimination against Women, but rather a consideration of the physiological feature of Korean women and a legalization of the traditional practice whereby women married men who are older than they are. In reality, girls marry in their late twenties, thus indicating that the age of marriage stipulated in the Family Law is only the minimum standard (8).

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INDIA

General background (1, 2)

Total population (thousands) 2012:	1,252,140
Population under age 18 (thousands) 2013:	435,384
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	39
Birth registration (per cent) 2005–2012, total:	41.1 (urban 59.3; rural 34.8)
GNI per capita (US\$) 2014:	1,570
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 85; female 82
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 59; female 49

Child marriage rates (1, 3)²⁵

Married by age 15 (per cent) 2005–2006:	18
Married by age 18 (per cent) 2005–2006:	47

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1992 a	2005	1993	1979 a	

(a) = accession

2. Constitutional provisions

The Constitution of the Federal Democratic Republic of India was adopted by the Constituent Assembly on 26 November 1949 and entered into force on 26 January 1950. The text was therefore consolidated in 2007, incorporating all amendments made by the Parliament up to and including the Constitution (Ninety-fourth Amendment) Act of 2006.

Part III of the Indian Constitution bestows upon the Indian citizens certain fundamental rights and stipulates in Article 13(1) that “all laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void”; Art. 13(2) provides that “the State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void”.

Among constitutional provisions relevant to the issue of CEFM, Art. 14 ensures equality before the law: “the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India”. Article 15 prohibits all forms of discrimination against any citizen “on grounds of religion, race, caste, sex or place of birth or any of them”. Article 21 ensures protection of life and personal liberty and states that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Article 21A ensures free and compulsory education to be provided by the State to all children aged 6–14.

Under Part IV of the Indian Constitution, “Directive Principles”, Art. 39(f) states that children shall be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against moral and material abandonment. Furthermore, under Art. 45, “the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years”.

²⁵ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for India are from the National Family Health Survey 2005–06: India.

Along with fundamental rights, the Indian Constitution has envisioned certain Fundamental Duties for its citizens covered under Part IV A of the Constitution, including Art. 51(j), requiring citizens to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement, and Art. 51(k), which requires citizens who are parents or guardians to provide opportunities for education to their children or wards between the ages of 6 and 14.

3. Statutory law

India has a common law system based on the British model; separate personal codes apply to Muslims, Christians and Hindus. The primary origins of law in India are the Constitution, customary law, case law and statutes (legislation) (4).

In the context of the fight against CEFM, India took action long ago, by introducing the Child Marriage Restraint Act (CMRA) in 1929. The Indian political class woke up to the reality of CEFM when the 1921 Census reported that there were 600 brides aged one year or below. A shocked Mahatma Gandhi was said to have urged a member of the Central Legislative Council, Harbilas Sarada, to introduce a Bill restraining child marriages, which led to the introduction of the CMRA, popularly known as the Sharda Act. The text was further amended in 1978 when the minimum age of marriage was fixed at 21 for boys and 18 for girls, and offences under the Act were made cognizable. The Act's provisions restrain and do not invalidate such marriages.

The Prohibition of Child Marriage Act (PCMA), introduced by the Government in 2006, entered into force on 1 November 2007. This law, which prohibits the practice and punishes those who promote, perform and abet it, repealed the CMRA of 1929, in place since pre-Independence days. The PCMA requires that the minimum age for marriage should be 18 for women and 21 for men. It applies to all citizens of India irrespective of their caste, creed or religion, residing in or outside India. The only exceptions made are in respect of the State of Jammu and Kashmir and renoncants of the Union Territory of Puducherry.

According to Section 3 of the PCMA, any marriage where either of the contracting parties is a child at the time of marriage is voidable at the option of the contracting parties if they approach the court within two years of attaining their majority. The Act declares solemnization of child marriages a cognizable and non-bailable offence and authorizes courts to issue injunctions prohibiting such marriages. Any child marriage solemnized whilst the child is taken away from his or her lawful guardian by use of enticement, force or deceitful means, or involving a child who is sold or trafficked for the purpose of marriage, is void under the law.

Section 4 of the PCMA provides that a district court may make an interim or final order directing the male contracting party to a child marriage, and – if this party is a minor – his parents or guardian, to pay maintenance to the female contracting party of any child marriage until her remarriage. The Act provides under Section 6 for the appointment of Child Marriage Prohibition Officers, who will be responsible for preventing the solemnization of child marriages within their respective jurisdictions by approaching the courts for injunctions, collecting

evidence against perpetrators, creating awareness about the negative effects of child marriage, collecting relevant data, etc.

4. Customary/religious/traditional/tribal frameworks

Due to the country's diversified culture, the existence of a multitude of local customs and various conventions, the religious and traditional customs of the Indian people are regulated by different sets of personal laws related to family affairs.

The Muslim Personal Law, as applicable in India, works within the framework of Quran, Hadith and Sunnah. It consolidates and clarifies the provisions of Muslim law and related procedures regarding Muslim marriage, divorce, maintenance, custody of children and inheritance. Under Muslim personal law, a marriage may be solemnized as per Sunnah, between two Muslims, if the following conditions are fulfilled: (i) both parties to the marriage are not within a prohibited relationship; (ii) the man of 21 years and the woman of 18 years of age are both capable of giving consent for an *ijab* (proposal) and *qubul* (acceptance), and for the woman such consent can be given either personally or through a *wali*; (iii) two witnesses are present; and (iv) the man has offered a proper *mahr* (dower) to the woman and such *mahr* will be paid promptly or deferred.

Nikkah (marriage) is defined as an agreement between a man and a woman with mutual rights and obligations, and such marriage is *Sunnat-emuakkadah* (the Prophet's tradition) if both man and woman are capable of cohabitation and the man has the capacity to provide for maintenance and marital rights to the woman. At the same time, it is also important to note under this law that the *wali* (guardian) particularly and the legal authority can contract a marriage on behalf of a woman. However, under such circumstances, the Muslim woman (given in marriage by her father or other guardian before she attains the age of 15) is able to repudiate the marriage upon attaining the age of 18.

Similarly, the Hindu Marriage Act of 1955, which governs all Hindus, Buddhists, Jains and Sikhs, defines the minimum age of the bride and groom at marriage as 18 and 21, respectively. However, marriages solemnized before attaining these prescribed ages are neither void nor voidable – although the wife may seek divorce if the marriage was solemnized before her 15th birthday and if she repudiated the marriage after attaining the age of 15 and before turning 18.

5. Provisions and sanctions

The CMRA of 1929, popularly known as the Sharda Act, as amended in 1978, already prohibited child marriages for girls under 18 and boys under 21. The PCMA of 2006 was enacted to overcome the constraints of the CMRA and to establish a comprehensive mechanism to address CEFM (5). The PCMA provides for punishment of all persons involved in child marriage, including the adult male who contracts child marriage as well as individuals who perform, conduct, promote, permit or abet child marriage, including parents, guardians and/or any other person(s), association(s) or organization(s). Such persons are punishable under section 11 with imprisonment up to two years and a fine of up to one *lakh* rupees, although no woman is punishable with imprisonment under the Act.

Payment or acceptance of a dowry “as consideration for the marriage” is also an offence criminalized under the Dowry Prohibition (DP) Act 1961. This Act, however, does not apply to gifts given by the bride’s parents (i.e. *stridhan*)²⁶.

Section 375 of the Indian Penal Code (IPC), relating to rape, states that “Sexual intercourse by a man with his own wife, the wife not being under 15 years of age, is not rape”. So in dealing with sexual assault, an offence of rape within marital

bonds stands only if (a) the wife has not attained the age of 12 years old (in which case the offender shall be punished either with imprisonment from seven years which may extend to life, or with imprisonment up to 10 years and a fine as per the Indian Penal Code 45 of 1860, or if (b) the wife is between 12 and 15 years of age (in which case the offender shall be punished with imprisonment up to two years, a fine or both). Marital rape is therefore criminalized not as a general offence but as a special offence within the context of CEFM.

8. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

While India fully supports the efforts to prevent and eliminate CEFM and is committed to effective implementation of legal and administrative measures to tackle this issue nationally, there is also a strong understanding of the fact that the roots of the problem of CEFM lie in abject poverty, experienced by generations of people, and that CEFM is further perpetuated by lack of awareness and education. India encourages an holistic approach in order to address the complex mix of root causes and the environment in which such practices thrive.

In June 2014, India presented its consolidated third and fourth periodic report on the Convention on the Rights of the Child to the United Nations (6). The UN Committee on the Rights of Child recommended that India should ensure effective implementation of the 2006 PCMA, including by clarifying that the PCMA supersedes the different religious-based Personal Status Laws. The Committee also recommends that the State Party take the necessary measures to combat dowry, child marriage and *devadas*, including by conducting awareness-raising programmes and campaigns with a view to changing attitudes, as well as counselling and reproductive education, to prevent and combat child marriages, which are harmful to the health and well-being of girls.

In July 2014, India presented its combined fourth and fifth periodic reports on the Convention on the Elimination of All Forms of Discrimination against Women to the United Nations (7). The UN Committee on the Elimination of Discrimination against Women recommended that India should: (i) speedily enact legislation to require compulsory registration of all marriages and to consider withdrawing its declaration regarding article 16(2) of the Convention; (ii) ensure that the PCMA is implemented without exception; (iii) automatically void all child marriages and ensure that the Protection of Children from Sexual Offences Act applies also to child brides; (iv) strengthen efforts to raise awareness about the prohibition of child marriage and the harmful effects of the practice on the health and education of girls; and (v) effectively investigate, prosecute and punish cases of forced and early marriage.

²⁶ *Stridhan* refers to the items that a woman can claim as her own property within a marital household. It may include her jewellery, gifts presented to her during the wedding or later, and the dowry articles given by her family.

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INDONESIA

General background (1, 2)

Total population (thousands) 2012:	249,866
Population under age 18 (thousands) 2013:	85,506
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	47
Birth registration (per cent) 2005–2012, total:	67 (urban 76, rural 58)
GNI per capita (US\$) 2014:	3,630
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 94; female 95
Secondary school participation net attendance ratio (per cent) 2008–2013:	male 56; female 54

Child marriage rates (1, 3)²⁷

Married by age 15 (per cent) 2012:	3
Married by age 18 (per cent) 2012:	17

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2012	1981	2006 (a)	

(a) = accession

2. Constitutional provisions

The 1945 Constitution of the Republic of Indonesia was promulgated on 18 August 1945, the day after the proclamation of independence.²⁸ The Constitution enjoys “supreme legal status and implements other national laws and rules”. Article 28I states that “the protection, advancement, upholding and fulfilment of human rights are the responsibility of the state”. Chapter XA of the Constitution recognizes a number of human rights, among others: the right to life (Art. 28A); the right to health and access to medical treatment or services (Art. 28H); and the right to protection and equal treatment before the law (Art. 28D). The right to establish a family and procreate based upon lawful marriage is guaranteed under Art. 28B, which further provides that every child shall have the right to live, grow and develop, and the right to protection from violence and discrimination. The right to education is recognized in Art. 28C and Chapter XIII (Art. 31 and 32).

²⁷ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Indonesia are from the Indonesia Demographic and Health Survey 2012.

²⁸ The Constitution was amended by the First Amendment of 1999, the Second Amendment of 2000, the Third Amendment of 2001 and the Fourth Amendment of 2002.

3. Statutory law

Indonesia has a mixed legal system based on Roman–Dutch law, modified by custom and Islamic law (4). Sources of law are Islamic law, statutory legislation, presidential instructions and official compilations of Islamic law. Since the mid-1980s, compilations of Islamic law in Indonesia authored by officials from the Ministry of Religion and Supreme Court judges have been used to clarify points on personal law and inheritance for application by sharia courts (5). Legislation of particular relevance to CEFM includes Law No. 1 of 1974 on Marriage, Law No. 39 of 1999 on Human Rights, Law No. 23 of 2002 on Child Protection, Law No. 20 of 2003 on the National Education System, Law No. 23 of 2004 on the Elimination of Domestic Violence and Law No. 21 of 2007 on the Eradication of Trafficking in Persons. Under Law No. 39 of 1999 on Human Rights, children are defined as all unmarried persons under the age of 18, including all unborn children (Art. 1). Section 10 of this law specifically recognizes children’s rights as human rights. Among others, children have the rights to access to education and schooling as benefits their interests, talents and intellectual capacity; rest and mix with children of their own age; access to adequate health services and social

security benefits; and protection from financial exploitation, sexual exploitation and abuse. These child rights are to be protected by parents, family, society and State. Every child, including those whose freedom has been taken from them, has the right to (a) human treatment that benefits the personal developmental needs of his or her age, and the right to not be separated from his or her parents; and (b) effective legal or other aid at every stage of legal proceedings defending himself or herself in a private hearing before an objective and impartial Child Tribunal.

The 1974 Marriage Law applies to all Indonesian citizens, regardless of religion. The legal age of marriage under this law is 16 for women and 19 for men. Dispensation is possible subject to consent from an appropriate authority (i.e. a religious court or a government officer). Persons under 21 must obtain the consent of their parents to enter into marriage. Under Art. 2, Paragraph 1, marriage must be conducted according to the religion, and conform to the laws, of the countries of the parties involved.²⁹

The Marriage Law requires mandatory registration of all marriages (Art. 2, Paragraph 2). In addition, Law No. 23 of 2006 on Population Administration (Art. 40) requires Muslims to register their marriages with the Office of Religious Affairs (Kantor Urusan Agama or KUA) and non-Muslims to register theirs with the Civil Registry. Birth registration is mandatory under Art. 27 of Law No. 23 of 2002 on Child Protection, which provides that “every child must be given an identity from birth which should be stated in a birth certificate”. Under this law, a child is defined as a person under the age of 18, including the unborn.

4. Customary/religious/traditional/tribal frameworks

The population of Indonesia is highly diverse, comprising various ethnic and cultural groups that observe their own particular customary laws and traditions, which are known as *adat* (6).

In general, according to Indonesian customary law, a child is considered an adult when he or she either reaches a certain age or is married (7). This was the reasoning for a decision of the Supreme Court of Indonesia on the subject of early marriage and the worst forms of child labour: “when a 17-year-old girl was found working as a waitress in a brothel house, the defendant was convicted by the district court, but later released as they found that the girl was married” (8).

The 1974 Marriage Law applies to all Indonesian citizens, regardless of religion. Prior to the passage of this law, there

were different laws in place for citizens of European or Chinese origin and for Indonesian Christians, while the Muslim population was “subject to unwritten customary (*adat*) law and to Moslem religious law”. The key purposes of the reform of marriage laws were “the development of codification and uniformity in Indonesia’s legal system and the improvement of women’s position”.³⁰

5. Provisions and sanctions

According to Art. 287 of the Indonesian Penal Code:

Any person who out of marriage has carnal knowledge of a woman whom he knows or reasonably should presume that she has not yet reached the age of fifteen years or, if it is not obvious from her age, that she is not yet marriageable, shall be punished by a maximum imprisonment of nine years.

Point 2 of the same article specifies that “[a] prosecution shall be instituted only by complaint, unless the woman has not yet reached the age of twelve years or one of the cases of Articles 291³¹ and 294³² is present”.

Article 288 provides that:

(1) Any person who in marriage has carnal knowledge of a woman of whom he knows or reasonably should presume that she is [not] yet marriageable, shall, if the act results in bodily harm, be punished by a maximum imprisonment of four years.

(2) If the act results in serious physical injury a maximum imprisonment of eight years shall be imposed.

(3) If the act results in death, a maximum imprisonment of twelve years shall be imposed.

Article 290 again refers to “marriageable age”, stating that “any person who commits obscene acts with someone who he knows or reasonably should presume that she has not yet reached the age of fifteen years or, if it is not obvious from her age, not yet marriageable” is subject to maximum imprisonment of seven years.

In relation to the prevention of CEFM, it is important to highlight that Law No. 23 of 2002 on Child Protection, in the section on obligations and responsibilities of families and parents, provides that parents shall be responsible and accountable for, among other duties, preventing underage marriages (Art. 26).

²⁹ Religious marriages under the 1974 Marriage Law may be performed by Ministers of Religion, officers of the Kantor Catatan Sipil (Civil Registry Office), or officers of the Kantor Urusan Agama (Office of Religious Affairs).

³⁰ Indonesia Department of Information, Introduction to Law of the Republic of Indonesia Number 1 of the Year 1974 on Marriage 5 (November 1975). See also Pompe, 1992 (9).

³¹ Art. 291: “If one of the crimes described in Articles 286, 287, 289 and 290 results in a serious physical injury, a maximum imprisonment of twelve years shall be imposed.”

³² Art. 294: “Any person who commits any obscene act with his under age child, stepchild or foster-child, his pupil, a minor entrusted to his care, education or vigilance or his under age servant or subordinate, shall be punished by a maximum imprisonment of seven years.”

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

The dynamics of CEFM in Indonesia are complex and driven by interrelated legal, religious, social, cultural and economic factors (10).

Indonesia is strongly influenced by traditions, especially in remote and underprivileged regions where girls that marry before the age of 18 are considered legal adults. In rural areas, the practice can be viewed as a traditional legacy from previous generations that has continued to be enforced by social customs (11).

This country has made remarkable progress towards the Millennium Development Goals (MDGs) on universal primary education and gender equality but still gives low priority to education in certain cultural groups. More conservative areas still favour early marriage for girls and give preference to boys' education (12).

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IRAN (ISLAMIC REPUBLIC OF)

General background (1, 2)

Total population (thousands) 2012:	77,447
Population under age 18 (thousands) 2013:	21,920
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	23
Birth registration (per cent) 2005–2012, total:	98.6 (urban 98.9, rural 98.1)
GNI per capita (US\$) 2013:	6,840
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 96; female 97
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)³³

Married by age 15 (per cent) 2010:	3
Married by age 18 (per cent) 2010:	17

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention neither ratified nor signed	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1994 ³⁴	2007 (a)		1975	

(a) = accession

2. Constitutional provisions

The political system of the Islamic Republic of Iran, as a constitutional Islamic republic, is laid out in its Constitution, called *Qanun-e Asasi*. The country's legal system is based on Shia Islamic law (derived from the Qur'an and Sunna, the latter including Commentaries and rulings of the Twelve Imams) and secondary commentary and fatwas (legal opinions) referring to that body of law.³⁵ The Constitution was ratified on 24 October 1979 and last amended on 28 July 1989.

Article 22 of the Constitution guarantees the right to life. Health is covered by Art. 29, which provides that:

In case of accidents and emergencies, everyone has the right to health and medical treatments through insurance or other means. In accordance with the law, the Government is obliged to use the proceeds from the national income and public contributions to provide the above-mentioned services and financial support for each and every one of the citizens.

³³ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for the Islamic Republic of Iran are from the Islamic Republic of Iran's Multiple Indicator Demographic and Health Survey 2010.

³⁴ Reservation upon signature: "The Islamic Republic of Iran is making reservation to the articles and provisions which may be contrary to the Islamic Shariah, and preserves the right to make such particular declaration, upon its ratification."

Reservation upon ratification: "The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the international legislation in effect."

³⁵ Reservation: "The Islamic Republic of Iran is making reservation to the articles and provisions which may be contrary to the Islamic Shariah, and preserves the right to make such particular declaration, upon its ratification."

Women's rights are covered in Art. 21, Paragraph 2 of which accords special protection to "mothers, especially during the childbearing and child-rearing periods, and [to] children without guardians". Equality before the law is safeguarded by Art. 3(14), which ensures "all-inclusive rights for everyone, man and woman, and the creation of judicial security for everyone, equality for all before the law". A chapter of the introduction entitled "Women in the Constitution" defines the family as "the primal unit of society and the essential centre for the growth and grandeur of men. It is among the responsibilities of the

Islamic Republic of Iran to provide the conditions for attaining humanity's growth and development".

The supremacy of Islam is affirmed in the introduction of the Constitution: "The Constitution of the Islamic Republic of Iran is a declaration of the social, cultural, political, and economic foundations of the Iranian society based on Islamic principles and norms that reflect the heartfelt desire of the Islamic community". Article 4 requires that all laws and regulations conform to the principles of Islam. Article 2 reiterates the religious basis of the Islamic Republic of Iran and the obligation of the legislative, executive and judicial branches of government to attentively follow its prescriptions. While Iran's official religion is Islam, Art. 12 recognizes Zoroastrian, Jewish and Christian Iranians as religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies and act according to their own canon in their personal affairs and matters of religious education.

3. Statutory law

The Islamic Republic of Iran has a religious legal system based on secular and Islamic law (4). Matters pertaining to CEFM are governed in the Islamic Republic of Iran by the Islamic Republic Civil Code of 1928 which set the minimum age for marriage at 15 for girls and 18 for boys. This version was amended in 1982 to prohibit marriage prior to the age of puberty under sharia, i.e. 9 lunar years (8 years and 9 months) for girls and 15 lunar years (14 years and 7 months) for boys.

According to the available version "Marriage before the age of majority is prohibited" (Art. 1041). Note 1 to this article adds that "marriage before puberty by the permission of the guardian and on condition of taking into consideration the ward's interest is proper". Article 1043 further specifies that:

the marriage of a girl who has not married previously is dependent on the permission of her father or her paternal grandfather even if she has reached the full age of majority. If, however, the father or the paternal grandfather withhold the permission without justifiable reason, the girl can refer to the Special Civil Court giving full particulars of the man whom she wants to marry and also the terms of the marriage and the dowry money agreed upon and notify her father or her paternal grandfather through that Court of the foregoing particulars. The Court can issue a permission for marriage fifteen days after the date of notification to the guardian if no response has been received from the guardian to satisfy refusal.

Note 1 of Art. 1210 of the same version of the Civil Code specifies that the age of majority for boys is 15 lunar years (14 years and 7 months) and for girls nine lunar years (8 years and 9 months)

According to online sources the Code was last amended on 31 July 2006, but only a Farsi version is available.

According to the 2014 Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, at Paragraph 40:

The legal age of marriage for girls in the country is 13 years, but girls as young as 9 years of age may be married with permission from a court. In 2002, the Guardian Council rejected legislative attempts to increase the minimum age to 15 years. In 2013, a legislative attempt to declare the marriage of a custodian to his adopted daughter illegal was also voided by the Council. The amended text of the relevant law now in effect recognizes the legitimacy of such a marriage provided that a competent court considers it to be in the best interest of the child (Art. 27)".

Regarding registration formalities, Art. 992 and 993(1) require that the Census Office be timely notified of all marriages and births.

4. Customary/religious/traditional/tribal frameworks

The official religion of Islamic Republic of Iran is Islam (Art. 12 of the Constitution), and the country's legislation is guided by the principles and provisions of the Qur'an.

The Supreme Leader is the head of state and the highest political and religious authority in the country. Article 110 of the Constitution explains his duties and functions, which include outlining the general policies of the Islamic Republic of Iran and supervising the proper execution of the general policies of the system. The Supreme Leader, whose speeches and provisions carry considerable influence, has the power to veto bills of law passed by the country's parliament.

5. Provisions and sanctions

According to Art. 646 of the Islamic Republic of Iran's new Penal Code, "marriage before puberty without the permission of the guardian is forbidden. If a man violates Art. 1041 of the Civil Code, and its note, and marries a girl before she reaches the age of puberty, he shall be sentenced to six months to two years' *ta'zir* imprisonment".

Article 647 also punishes marriages contracted under false claims:

If before the marriage, any one of the parties to a marriage deceives the other party with unreal claims such as higher education, financial ability, social status, career or special position, being single, etc., and the marriage contract is concluded on the basis of any such claims, the offender shall be sentenced to six months to two years' *ta'zir* imprisonment.

Article 645 punishes failure to properly register a marriage contract or divorce with up to one year of imprisonment:

In order to protect the institution of family, the registration of the marriage contract, a divorce, and revocation of the divorce is mandatory. Any man who concludes a permanent marriage, or divorces, or revokes a divorce without registering in a register office, shall be sentenced to up to one year of *ta'zir* imprisonment.

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

Girls from varying economic backgrounds and geographic locations are affected by CEFM in Iran. Traditions such as temporary marriage and bride price fuel the practice of marriage in young girls, which is often undertaken as a survival strategy. In addition, this practice often occurs covertly, making it difficult to track or determine the number of young girls it affects (5).

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JAPAN

General background (1, 2)³⁶

Total population (thousands) 2012:	127,144
Population under age 18 (thousands) 2013:	20,195
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	5
Birth registration (per cent) 2005–2012, total:	100 (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	42,000
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A ⁴⁶

Child marriage rates (1, 4)³⁷

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1994	2005	1985	1979	

2. Constitutional provisions

The Constitution of Japan was adopted in 1946 and entered into force in 1947. Article 11 guarantees the enjoyment of human rights: “these fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights”. Among these rights, Art. 13 provides that the Government and legislative branch should give first consideration to the right to life for all individuals. Article 25 guarantees “the right to maintain the minimum standards of wholesome and cultured living” and promotes social welfare, security and public health.

Discrimination between men and women is prohibited under Art. 14. Article 24 defines marriage as a union based on mutual consent of both sexes and on equality between husband and wife. With regard to “choice of spouse, property rights,

inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family,” Art. 24 provides that “[...] laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes”. Therefore, the related legislation shall be enacted based on individual dignity and equality. Free and compulsory education for both girls and boys is also regulated under Art. 26.

Under Art. 20, freedom of religion is guaranteed to all. “No religious organization shall receive any privileges from the state, nor exercise any political authority. No person shall be compelled to take part in any religious act, celebration, rite or practice”.

3. Statutory law

Japan has a civil law system based on the German model, but which also reflects Anglo-American influence and Japanese traditions (5). The Civil Code and the Family Registration Law regulate marriage and related issues. Under Subsection I entitled “Requisites for Marriage”, the minimum legal age for marriage is 18 for boys and 16 for girls, as stated in Art. 731:

³⁶ During the process of this review, the Japanese Parliament provided the following data for 2012 from the School Basic Survey (3): elementary school education level (total): 99.95%; lower secondary school education level (total): 99.96%; upper secondary school education level (total): 98.3% (male 98.0%; female 98.6%).

³⁷ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at: <http://data.unicef.org/child-protection/child-marriage.html>. Data on Japan not available.

"[A] man may not marry until the completion of his full eighteen years of age, nor a woman until the completion of her full sixteen years of age". The marriage of a minor (i.e. a person under 20) is allowed if parental consent is obtained, as stated in Art. 737: "A minor child shall obtain the consent both of his or her father and mother in order to marry". One parent's consent is sufficient if the other does not or is unable to provide consent. As Art. 745 states:

No application may be made for the annulment of a marriage effected in contravention of the provisions of Article 731, if the person who was not of marriageable age has attained the requisite age. A person married under the marriageable age may still apply for the annulment of the marriage during a period of three months from his or her attainment of the requisite age; however, this shall not apply when he or she has ratified it after having attained the requisite age.

In addition, Art. 753 prescribes that "if a minor effects a marriage, he or she shall be deemed, by reason thereof, to have attained majority".

Marriage registration is mandatory for the validity of marriage under Art. 739 of the Civil Code, and is regulated under the Family Registration Law, which states, "a marriage becomes effective by notification thereof in accordance with the provisions of the Family Registration Law. The notification mentioned in the preceding paragraph shall be made by both the parties and two or more witnesses of full age either orally, or by a document signed by them". The above-mentioned law also regulates birth registration (Law No. 224 of 1947).

4. Customary/religious/traditional/tribal frameworks

In Japan, marriage is more often a civil than a religious ceremony, although Shinto and Buddhist marriages also take place. Traditionally, marriages were categorized into two types according to the method of finding a partner – *miai*, meaning arranged or resulting from an arranged introduction, and *ren'ai*, in which the principals would meet and decide to marry on their own – although the distinction grew less meaningful during the post-war decades as the proportion of *miai* matches decreased (6). However, the phenomenon of mail-order brides has now become widespread, and some see it as a modern form of the mediated marriage arrangement (7).

The average age at which people get married in Japan has increased over the past 60 years. Men typically marry at age

30 and women at 28, mostly due to an increased number of young people working and the decrease in societal and family pressures to get married (8). The recent decline in the rate of registered marriages has been most pronounced among highly educated women, due in part to their increasing economic independence and reductions in the gains associated with marriage (9).

5. Provisions and sanctions

In the context of CEFM, the referential legislation consists of the Penal Code and the Act on the Prevention of Spousal Violence and the Protection of Victims (Act No. 31 of 2001). Under Art. 177, the Penal Code sets the age of consent to sex at 13 years for girls in the following terms:

A person who, through assault or intimidation, forcibly commits sexual intercourse with a female of not less than 13 years of age commits the crime of rape and shall be punished by imprisonment with work for a definite term of not less than three years. The same shall apply to a person who commits sexual intercourse with a female under 13 years of age.

Almost all prefectures, however, have local laws prohibiting adults from having sex with persons under 18, including Tokyo's Ordinance for the Sound Development of Youth, even though 20 is considered to be the age of adulthood.

The Act on the Prevention of Spousal Violence and the Protection of Victims defines spousal violence as:

...bodily harm (illegal attacks threatening the other's life or body) by one spouse or the words and deeds of one spouse that cause equivalent psychological or physical harm to the other, and shall cover also cases where, subsequent to being subjected to violence by one spouse, the other spouse has obtained a divorce or annulment of the marriage but continues to be subjected to violence by his/her former spouse.

The Act establishes basic plans, counselling and support centres and provides for protection of victims (Chapter III).

In Japan, the family courts regulate disputes on matters of marriage, divorce and childcare (Book IV of the Civil Code, on Relatives, and the Court Act).

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			Article 24 of the Constitution delegates to the legislative branch the enactment of laws to protect the family in accordance with the principles of individual dignity and gender equality.
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			Constitution: Art. 98 ³⁸
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

Japanese citizens tend to marry in their 30s because of economic independence for both men and women and different social perception of marriage. Contradictions persist between and among the legislative framework and the common feeling towards family, marriage and gender relations. For example, this year the Human Rights Committee expressed concern at the lack of punitive measures taken against dismissals of women due to pregnancy and childbirth, although marriage in Japan is strictly linked to childbirth (10).

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³⁸ Art. 98: "This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity. The treaties concluded by Japan and established laws of nations shall be faithfully observed."

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KIRIBATI

General background (1, 2)

Total population (thousands) 2012:	102
Population under age 18 (thousands) 2013:	39
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	49
Birth registration (per cent) 2005–2012, total:	93.5 (urban 94.5, rural 92.8)
GNI per capita (US\$) 2012:	2,150
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 83; female 87
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 54; female 65

Child marriage rates (1, 3)³⁹

Married by age 15 (per cent) 2009:	3
Married by age 18 (per cent) 2009:	20

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1995 (a)		2004 (a)		

(a) = accession

2. Constitutional provisions

The Constitution of the Republic of Kiribati, approved in 1979, is the Supreme Law of the Republic of Kiribati. If any other law is inconsistent with the Constitution, that other law shall, to the extent of the inconsistency, be void (Art. 2).

The Constitution's preamble states the principles of equality and justice. Chapter II sets out the fundamental rights and freedoms of the individual that are protected by the Constitution, which include, among others, protection of the right to life (Art. 4) and protection from discrimination "on the grounds of race, place of origin, political opinions, colour or creed" (Art. 15).

3. Statutory law

Kiribati has an English common law system supplemented by customary law (4). In addition to the Constitution, the laws of Kiribati comprise: (a) every ordinance and every act and

every legislation made thereunder; (b) customary law; (c) the common law of Kiribati; and (d) every applied law.^{40 41}

The Marriage Ordinance, which governs the solemnization and registration of marriages, defines marriage as "the voluntary union (joining) of one man to one woman to the exclusion of all others". Under Article 4 the legal minimum age is 18,⁴² but parental consent or a licence provided by the minister is required for both parties if over 18 but under 21 years of age.⁴³

⁴⁰ Article 4.2 of the Laws of Kiribati Act of 1989

⁴¹ Subject to section 4(1) of the Laws of Kiribati Act No. 10 of 1989, customary law shall have effect as part of the law of Kiribati, except to the extent that it is inconsistent with an enactment of an applied law published under Section 11.

⁴² Marriage Ordinance (*Cap. 54*) was amended by the Marriage (Amendment) Act of 2002 to raise the minimum age of marriage from 16 to 18.

⁴³ Exceptions: (a) when such party has no father, mother or guardian, the Registrar-General may, if satisfied after due inquiry that the intended marriage is a proper one, dispense with such consent; (b) when the person whose consent is required refuses his consent, the Registrar-General may, if satisfied after due inquiry that the refusal is perverse and that it is in the best interests of the party requiring the consent that the intended marriage should take place, dispense with such consent. Section 7 of the principal Ordinance *Cap. 54* amended by the Marriage (Amendment) Act of 2002 (5).

³⁹ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Kiribati are from the Kiribati Demographic and Health Survey 2009.

A registrar or minister of religion can solemnize and register the marriage,⁴⁴ provided the requirements have been met. As per the Births, Deaths and Marriages Registration Ordinance, the registration of births is compulsory, with some exceptions.

4. Customary/religious/traditional/tribal frameworks

Notwithstanding the common law, customary law is more often applied in deciding questions relating to marriage.⁴⁵ In traditional Kiribati society, young unmarried people continue to live at home with, and depend on, their families. Young men and women are expected to contribute through their labour and salaries. There is a strong cultural value placed on premarital chastity – especially a young woman’s virginity – and social expectations remain strong influences in regulating the behaviour of young people. To avoid potential disgrace, some couples choose elopement, which is accepted as common-law marriage (6).

Today in Kiribati, some marriages are still arranged, but most people now choose their own spouses. To make his intentions known, a young man sends a relative, usually an uncle, to tell the young woman’s family he wants to propose. This gives her family time to prepare for the actual proposal, brought later by the young man’s parents.

5. Provisions and sanctions

The Penal Code covers marriage-related offences in Part XVII; “offences against morality” are covered in under Part XVI.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

In relation to false statements with reference to marriage, Art. 98 specifies that:

[A]ny person who for the purpose of procuring a marriage or a certificate or licence for marriage knowingly and wilfully makes a false oath or makes or signs a false declaration, notice or certificate required under any Ordinance for the time being in force relating to marriage; or (...) forbids the issue of any certificate or licence for marriage by falsely representing himself to be a person whose consent to the marriage is required by law knowing such representation to be false, shall be guilty of a misdemeanor, and shall be liable to imprisonment for 7 years.

Article 247 provides that “[a]ny person who unlawfully takes or causes to be taken any unmarried girl, being under the age of 15 years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, is guilty of a misdemeanor”. Under Art. 131 “[a]ny person who, with intent to marry or have sexual intercourse with a woman of any age, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will, is guilty of a felony, and is liable to imprisonment for 7 years”.

⁴⁴ According to Art. 17 of the Births, Deaths and Marriages Registration Ordinance, whenever a marriage is solemnized by a registrar or minister of religion, he shall enter forthwith the particulars of the certificate of marriage in a register to be kept for that purpose and to be called the “District Marriage Register”.

⁴⁵ By virtue of Art. 4(h) Laws of Kiribati Act No. 10 of 1989.

Additional factors

For cultural reasons, parents, family members or village chiefs working for families arrange marriages for children as young as 13. Child, early and forced marriage (CEFM) may also be a way to subsidize the needs of the rest of the family (7). The position of a woman in Kiribati society is largely defined by her age and marital status. A married woman with children has prestige, but her husband holds considerable authority over her, and this has much bearing on the freedom she can exercise to take part in activities (8).

Spousal abuse and other forms of violence against women are significant problems. Due to perceived stigma related to reporting crimes and widespread attitudes that encourage reconciliation rather than prosecution, prosecutions for rape and domestic assault are infrequent.

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LAO PEOPLE'S DEMOCRATIC REPUBLIC

General background (1, 2)

Total population (thousands) 2012:	6,770
Population under age 18 (thousands) 2013:	2,859
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	94
Birth registration (per cent) 2005–2012, total:	74.8 (urban 87.8, rural 71.3)
GNI per capita (US\$) 2014:	1,650
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 85; female 85
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 45; female 45

Child marriage rates (1, 3)⁴⁶

Married by age 15 (per cent) 2011–2012:	9
Married by age 18 (per cent) 2011–2012:	35

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1991 (a)	2006 (a)	1981	2007	

(a) = accession

2. Constitutional provisions

The Constitution of the Lao People's Democratic Republic was adopted on 15 August 1991 and amended on 6 May 2003. The adoption of the 1991 Constitution marked a great achievement after more than 60 years of struggle for national liberation and reconstruction. The Constitution clearly delineates the powers and duties of the governing regime and the socioeconomic system and, for the first time in the country's history, recognizes the fundamental rights and duties of citizens (in Chapter 4).

Article 11 of the Constitution states that national defence and security shall protect "the lives, properties and labour of the people to contribute to the tasks of national development in order to progress to enrichment and strength". Article 25 provides that the State attends to improving and expanding public health services to protect the people's health. It is provided that the State and society attend to building and improving disease prevention systems and providing health

care to all people, creating conditions to ensure that all people have access to health care to ensure their good health, especially women and children, poor people and people living in remote areas.

Respect for gender equality in the political, economic, cultural and social fields and in family affairs is guaranteed under Art. 37. Article 29 provides for women's rights as follows: "The State, society and families attend to implementing development policies and supporting the progress of women and to protecting the legitimate rights and benefits of women and children".

3. Statutory law

Laos has a civil law system similar in form to the French system (4). The Family Law of 1999 sets out the rights and duties of spouses as well as requirements for registration and validity of the union and for divorce. Article 9 sets the minimum legal age for marriage at 18 but allows it to be lowered to 15 in some cases: "men and women have the right

⁴⁶ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Lao People's Democratic Republic are from the Laos Multiple Indicator Cluster Survey 2011–2012.

to marry at eighteen years of age. In special and necessary cases, this limit may be lowered to less than eighteen years of age, but not less than fifteen years of age. Marriage must be based on mutual consent from both sides without coercion from any side or individual”.

In 2004, Laos adopted the Law on Protection and Development of Women, which provides in Art. 17 that all women 18 or above have the freedom to choose a partner with whom to build a family.

Marriage registration is regulated under Art. 11 of the Family Law and under the Family Registration Law of 1991. The family registrar office is responsible for both birth and marriage registration, which are compulsory under Art. 9 and Art. 12, respectively. A new Children’s Procedure Law entered into force in May 2014, but the text is available only in Lao.

4. Customary/religious/traditional/tribal frameworks

For many in Laos, customary practices and traditional local rules still regulate their everyday lives, especially in the most remote areas (5). In traditional culture, marriage provides the core structure for society, and pressure is placed on Lao women to marry and remain married (6).

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

Child protection issues affecting children and youth in Laos are largely associated with poverty as well as rapid social and economic changes and massive migrations. Lao children have limited opportunities to attend school and many opt to marry at age 14 or 15, or even younger, and start having children of their own. Child marriage is particularly common amongst girls in rural areas. Girls in some remote midland villages sometimes marry before reaching 14. Both the girls and their communities expect pregnancy to follow soon after marriage.

In its concluding observations, the Committee on the Rights of the Child expressed concern over the persistence of early marriage, though prohibited by law, within certain ethnic groups, and over the State Party’s lack of statistics on the number of such marriages occurring in its territory (8).

Marriages can be formed in a variety of ways: on a voluntary, self-selecting basis; by arrangement, usually among the parents; by theft; or by formal request. The age of marriage varies depending on the ethnic group. Hmong boys and girls, for instance, can marry if over 14. Some parents betroth daughters under 13. Phounoy children do not usually marry before reaching 16 (6).

5. Provisions and sanctions

The Committee of the Convention on the Rights of the Child (CRC), in its concluding observations of April 2011, requested with urgency that Lao PDR enforce sanctions penalizing early marriage (7).

Although it does not specifically refer to CEFM, the 2004 Law on Protection and Development of Women affirms in Art. 24 that “trafficking in women is an offence and that when this act is committed against children under 18 years old, even though there is no deception, threat, force or debt bondage, trafficking shall be regarded to have occurred”. The Law provides for punishment of the offence by five years of imprisonment, a fine of 10,000 to 100,000 Kip and confiscation of property as provided by Art. 32 of the Penal Law.

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MALAYSIA

General background (1, 2)

Total population (thousands) 2012:	29,717
Population under age 18 (thousands) 2012:	9,433.8
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	13
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	10,760
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁴⁷

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1995 (a)	2012 (a)	1995 (a)		

(a) = accession

2. Constitutional provisions

The Constitution of Malaysia, which is the supreme law of the country, was adopted on 31 August 1957. It has been amended many times since, most recently in 2009.

Part II of the Constitution covers fundamental rights. Article 8 recognizes equality as a fundamental right, stating under point 1 that “all people are equal before the law and entitled to the equal protection of the law”. Point 2 further specifies that no discrimination shall be applied on:

the ground only of religion, race, descent, place of birth or gender in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.

Under Art. 3, “Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation”. Every religious group has the right to establish and maintain institutions for the education of children of its own religion.

3. Statutory law

The legal system is based on English common law (4), while personal law is based on sharia law and applies to Muslims.

Regarding CEFM, the Law Reform (Marriage and Divorce) Act of 1976, the Age of Majority Act of 1971 and the Child Act of 2001 are the relevant legislative texts reviewed in the context of this study. The Law Reform Act sets the minimum age of marriage at 18. However, girls between 16 and 18 can marry if a chief minister of a particular state, at his discretion, grants a licence authorizing solemnization of the marriage. This Act regulates non-Muslim marriages and requires parental consent for the marriage of persons under 21 (Section 22.3).

⁴⁷ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Malaysia not available.

Under Art. 15 of the Constitution, marriage registration is required as a condition for a woman to acquire Malaysian citizenship through marriage if the husband is a citizen. Additionally, the woman would need to apply to the Federal Government to be registered as such (Constitution of Malaysia, Art. 15[1] and [3]). The Registration of Births and Deaths (Special Provisions) Act of 1975 requires births to be registered in order to have birth certificates issued by the Registrar General for legal purposes (Art. 9).

4. Customary/religious/traditional/tribal frameworks

Islamic law applies in Malaysia and regulates religious marriage. Each of the federal states has the constitutional right to apply its interpretation of the Islamic law to Muslim citizens in their territory and can also establish bodies and courts regulating Islamic family law as stated in the Constitution, Art. 3(2) and 74(1), and in the Legislative Lists (List I or III).⁴⁸ Marriage and divorce of citizens native to the states of Sabah or Sarawak, and aboriginal residents of Peninsular Malaysia, are governed by native customary law or aboriginal customs as per the Constitution, Art. 76 and Art. 150(6A).

In general, Muslim girls can marry at the age of 16, or under 16 with the permission of a sharia court. Muslim Malaysian marriages are subject to prior consent from the chief minister (or religious authority) in the state of residence.

Most of the state enactments require the consent of the bride. For instance, the Islamic Family Law (Federal Territories) Act of 1984 stipulates that before a marriage can be recognized, both parties must consent and either the *wali* (guardian) of the woman or the sharia judge as *wali raja* (regent) must give his consent when there is no *wali nasab* (parent or guardian from her own kin) available, the *wali* cannot be found or the *wali* refuses to consent without giving sufficient reason (Section 13). Section 37(a) makes it an offence for a person to use force or threats to compel a person to marry against his or her will. Exceptions may occur in some of the states.

5. Provisions and sanctions

In terms of CEFM-related legislation, the authors considered Malaysia's Penal Code and the Child Act of 2001. Article 366 of the Penal Code, under the title "Kidnapping or abducting a woman to compel her marriage, etc." states:

Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or to a life of prostitution, or knowing it to be likely that she will be forced or seduced to illicit intercourse, or to a life of prostitution, shall be punished with imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Chapter XX covers marriage-related offences, specifying in Art. 496 that "[w]hoever dishonestly or with a fraudulent intention goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine".

In terms of certification, Art. 466 clarifies as follows:

Whoever forges a document, purporting to be a record or proceeding of or before a Court, or a Register of Birth, Baptism, Marriage or Burial, or a Register kept by a public servant as such, or a certificate or document, purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

The Child Act of 2001 provides children with protection from abuse, neglect, exploitation and violence. However, Part VIII of the Child Act, dealing specifically with trafficking of children and abduction, does not criminalize trafficking of children if it is undertaken for the specific purpose of marriage provided that the defendants can prove that:

(a) the transfer took place in contemplation of or pursuant to a bona fide marriage or adoption; and

(b) at least one of the natural parents of the child or the guardian of the child was a consenting party to the marriage or to the adoption by the adopting party, and had expressly consented to the particular marriage or adoption.

⁴⁸ Art. 4(e)(ii) of List I indicates that civil and criminal law enacted by the legislative do not include Islamic personal law relating to marriage, divorce, guardianship, maintenance, adoption, legitimacy or family law.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

In Malaysia, CEFM is thought to be more common among rural and indigenous communities.

CEFM can have popular support as it represents a means of preventing premarital sex and pregnancy out of wedlock, which are judged to be immoral according to custom. Moreover, in its concluding observations to Malaysia's initial report, the Committee on the Rights of the Child highlighted the inconsistency between civil and sharia law on the matter of minimum legal age of marriage, in particular the Law Reform (Marriage and Divorce) Act of 1976 and the Islamic Family Law Act (Federal Territory) (5).

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MALDIVES

General background (1, 2)

Total population (thousands) 2012:	345
Population under age 18 (thousands) 2012:	119.8
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	16
Birth registration (per cent) 2005–2012, total:	92.5 (urban 92.6, rural 92.4)
GNI per capita (US\$) 2014:	7,170
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 94; female 95
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 63; female 70

Child marriage rates (1, 3)⁴⁹

Married by age 15 (per cent) 2009:	0
Married by age 18 (per cent) 2009:	4

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1991	2002	1993 (a) ⁵⁰	2006 (a)	

(a) = accession

2. Constitutional provisions

The Constitution of Maldives is the supreme law of the country and sets out the rights and duties of its citizens. Fundamental rights and freedoms are guaranteed and subject to limitations, as stated by a law enacted by the People's Majlis, "in a manner that is not contrary to any tenet of Islam" (Art. 16). Among other rights, the Constitution recognizes the right to life (Art. 21), health care (Art. 23.c.), non-discrimination on the basis of sex or age (Art. 17), equality before and under the law (Art. 20), freedom to acquire and impart knowledge (Art. 29), the right to marry and establish a family (Art. 34) and special protection for children, youth, elderly people and disadvantaged people (Art. 35), as well as the right to education (Art. 36).

The 2008 Constitution designates Islam as the official State religion. According to Article 10: (a) the religion of the State of Maldives is Islam. Islam shall be the basis of all the laws of Maldives; and (b) no law contrary to any tenet of Islam shall be enacted in Maldives.

3. Statutory law

Maldives has an Islamic religious legal system with English common law influences, primarily in relation to commercial law (4). According to Art. 19 of the Constitution, a citizen is free to engage in any conduct or activity that is not expressly prohibited by Islamic sharia or by law. The People's Majlis can amend the Constitution and/or enact legislation with regard to any matter and can amend or repeal any law that is not inconsistent with any tenet of Islam (Art. 70[b.2] of the Constitution).

In the context of legislation addressing CEFM, the following laws have been taken into consideration: the Family Act No. 4/2000, the Law on the Protection of the Rights of the

⁴⁹ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Maldives are from the Republic of Maldives Demographic and Health Survey 2009.

⁵⁰ Regarding the application of Art. 16 of the Convention on the Elimination of All Forms of Discrimination against Women, Maldives entered a reservation in all matters relating to marriage and family relations without prejudice to the provisions of the Islamic sharia, which govern all marital and family relations of the whole Muslim population of the Maldives.

Child (Law No. 9/1991), and the Law on Vital Registration at Birth (No. 7/1992).

The Family Act No. 4/2000 sets provisions regarding marriage, custody, guardianship and certain other matters of family life. According to Art. 4, the minimum age for marriage is 18, in accordance with the Gregorian calendar. This Act stipulates that the marriage can be solemnized only when consent to the marriage contract has been obtained from both parties and from the judicial guardian of the bride or judicial consent obtained in accordance with the rules made under this Act and entrusted to the judicial *mauzurum* responsible for solemnizing the marriage (Art. 9).

Anyone under the age of 18 wishing to marry must gain permission from the Registrar of Marriages, which may permit exceptions to the minimum age at its discretion, taking into account physical maturity, adequacy of finances and the reasons for marrying. The jurisdiction of the island courts for the registration of marriages involving parties under 18 has also been limited.

Article 30(a) of the Law on the Protection of the Rights of Child (Law No. 9/1991) considers a child to be “any person below the age of 18 years”. Article 21 imposes on parents the duty of advising their children about the adverse effects of marriage before 18 and discouraging such marriages.

Marriages for persons under 18 can only be solemnized by the family court. Registration of marriages is mandatory under the Family Act No. 4/2000, Art. 14 of which provides that “no marriage shall be solemnized without the approval of the Registrar of Marriages if the marriage meets all conditions required to be fulfilled under the Shariah law and the Law”.⁵¹ Article 19 of the Family Act requires the registration of marriages solemnized in Maldives, taking place abroad between Maldivians or solemnized between Maldivian citizens and foreign nationals. Marriages of Muslims, persons marrying under Islamic law and/or marrying a party who professes the religion of Islam shall also be approved and registered by the Registrar of Marriages.

Birth registration is mandatory by virtue of Art. 2 of the Law on Vital Registration at Birth (No. 7/1992), within seven days of the date of the birth.

4. Customary/religious/traditional/tribal frameworks

According to Art. 8 of the Family Act No. 4/2000, “no Maldivian woman shall contract a marriage with a non-Muslim man”. Under Art. 8b, however, “where a Maldivian man wishes to contract marriage with a non-Muslim female, that marriage may only be solemnized if that non-Muslim female is permitted by Islamic Shariah to contract a marriage with a Muslim male”. In terms of consent, “a marriage may be solemnized and registered under this Act only where there exists the consent of the parties to the marriage to contract that marriage and where there exists consent of the judicial guardian of the bride or Judicial Consent obtained in accordance with subsection (b) of this section”. Article 10 sets out the terms of dowry as follows: “the woman contracting a marriage shall in accordance with the principles of Shariah be entitled to dowry upon solemnization of the marriage. It shall be obligatory for the man contracting the marriage to give the dowry in accordance with the principles of Shariah”.

5. Provisions and sanctions

Under the Family Act No. 4/2000, failure to register marriage and to complete registration formalities are considered offences, and under Art. 62, “the offender shall be subject to a fine of Mrf. 1,000.00”.

All exploitation of children and acts detrimental to the integrity of children, including sexual abuse, are prohibited under Art. 25 of the Law on the Protection of the Rights of the Child (Law No. 9/1991).

In November 2009, the parliament passed the Child Sex Abuse Act, codifying child sex offences for the first time. However, under Art. 14 of this Act, if a person is legally married to a minor under Islamic sharia, none of the offences specified in the legislation would be considered a crime.

The Human Rights Commission of the Maldives was created by a Presidential Decree on 10 December 2003, as an independent and autonomous statutory body under the Human Rights Commission Act No. 6/2006 to lead the promotion and protection of Human Rights under the Maldives Constitution, and under Islamic, regional and international human rights conventions ratified by Maldives. This Commission has established a coalition with a planned schedule of activities relating to prevention of child abuse and puts specific emphasis on the need to review existing laws, regulations and policies related to child rights (5).

⁵¹ The legislator refers to the Reform (Marriage and Divorce) Act of 1976 (amended in 2006).

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

According to the United States Department of State 2010 human rights report, some Maldivians travel to Pakistan or India to carry out illegal marriages. Families also circumnavigate the law by failing to register marriages involving child brides. It was also reported that parents prefer to marry off their daughters young out of fear that they will disgrace their family if they become sexually active outside of marriage (6).

CEFM can result in a greater risk of girls falling victim to domestic violence because of an extreme power imbalance in the home due in large part to the wide age difference between a child bride and her husband. The educational system also has a direct impact on child marriage rates. Girls who have no education often marry by age 17 as compared to girls with a higher level of education, for whom the average age at marriage is 23.8 years (7). Article 36 of the Constitution and the amendment to Art. 5 of Law No. 9/1991 (on the Protection of the Rights of Child), which came into force on 11 December 2014, states that it is mandatory for parents and the state to provide children with primary and secondary education.

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MARSHALL ISLANDS

General background (1, 2)

Total population (thousands) 2012:	53
Population under age 18 (thousands) 2012:	18.9
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	85
Birth registration (per cent) 2005–2012, total:	95.9 (urban 96.1, rural 95.5)
GNI per capita (US\$) 2013:	4,300
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁵²

Married by age 15 (per cent) 2007:	6
Married by age 18 (per cent) 2007:	26

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1993		2006 (a)		

(a) = accession

2. Constitutional provisions

The Constitution of the Republic of Marshall Islands was adopted by referendum in 1978 and came into force on 1 May 1979. Under Section 2 of Article X any law inconsistent with the Constitution, considered the country's supreme law, is void.

The Constitution guarantees the fundamental rights and freedoms of the people of Marshall Islands in accordance with the Bill of Rights, under Art. II. The Constitution, by virtue of this article, protects a number of human rights, including the rights to life, health, equal protection of the law without discrimination on the basis of gender, family status or descent (Section 12), education and legal services (Section 15).

3. Statutory law

The legal system of Marshall Islands is based on adapted Trust Territory laws (American common law) and English common law, as well as customary laws and local statutes (4).

The Domestic Relations Act of 1966 is the legal framework for marriages solemnized in Marshall Islands. This Act specifically declares customary marriages to be outside the provisions of the Act.

The Committee on the Rights of the Child expressed concern over the minimum age of marriage for girls being set at 16, unlike that for boys. In response, Art. 428 of the Birth, Registration and Marriage Registration Act was amended. This Act requires the child's father to be named, regardless of marital status, and raises the legal age of marriage for girls from 16 to 18, the same as for boys. Parties between 16 and 18 may nonetheless be married if consent is provided by a parent or the guardian of each.

Registration of births and marriages is mandatory according to the Births, Deaths and Marriages Registration Act of 1988 (Art. 407 and 431). Marriage registration requires submission of an official birth certificate or religious record of birth or baptism. If neither is available, the claimant will be required to obtain a delayed birth certificate or other proof of age.

⁵² Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Marshall Islands are from the Demographic and Health Survey 2007.

4. Customary/religious/traditional/tribal frameworks

The Marshall Islands Constitution recognizes customary law in certain situations, including marriage. The Council of Iroij⁵³ can request reconsideration of any bill that affects customary law and can declare customary law by act, which cannot in turn be challenged under Art. II (Bill of Rights). A marriage by custom can be recognized if certain conditions are met: the parties must have been subject to and have followed customary laws at the time of marriage, and the marriage must have been in accordance with customary law and practice. Customary marriages must be confirmed by the High Court of the Marshall Islands and can only be recognized when the legal spouse is dead or divorced. As a result, since customary marriages are exempt from the legislative requirements,⁵⁴ leaving no legal provision or resource with which to challenge the practice, women and children are unprotected in situations involving CEFM (5).

5. Provisions and sanctions

The Criminal Code criminalizes sexual offences under Section 152. According to Art. 213.1, on sexual assault in the first degree, a person is guilty of a first degree felony if, inter alia:

(b) the person knowingly engages in sexual penetration with another person who is younger than fourteen years of age; or

(c) the person knowingly engages in sexual penetration with a person who is at least fourteen years of age but less than sixteen years of age; provided that:

(i) the person is not less than three years older than the minor; and

(ii) the person is not legally married to the minor.

The offender shall be liable to imprisonment of up to 25 years for sexual assault in the first degree.

Although marital rape is not criminalized independently, it is considered a domestic violence offence under the Domestic Violence Act. Any person who, among other offences listed, intimidates or sexually assaults a family member shall be considered guilty of domestic violence and is liable to six months imprisonment and/or a fine not exceeding US\$ 1,000 for the first offence, or two years imprisonment and/or a fine of US\$ 2,000 for a second or subsequent offence (Art. 903 and 904 of the Domestic Violence Prevention and Protection Act of 2011).

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

In Marshall Islands, customarily, a chief is the husband or eldest son of the female landowner and tribal chiefs are recognized as the traditional authorities in the country (6). Early marriage is generally uncommon. However, socioeconomic conditions, customary practices and traditional attitudes are impediments to the implementation of international treaties and/or the transposition of certain rights or measures that could protect children's rights. Public awareness of children's rights remains low, and child abuse and neglect remain common.

Additionally, the adolescent fertility rate (girls aged 15–19) remains high in Marshall Islands, with 85 births per 1,000 (7).

⁵³ Under the Constitution adopted in 1979, the Government consists of a president elected by a unicameral, and a 33-member parliament known as the Nitijela. The Council of Iroij (Chiefs) has mainly a consultative function, concerned with traditional laws and customs.

⁵⁴ Art. 428 (Part IV – Marriages) of the Births, Deaths and Marriages Registration Act of 1988.

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MICRONESIA (FEDERATED STATES OF)

General background (1, 2)

Total population (thousands) 2012:	104
Population under age 18 (thousands) 2012:	44.8
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	33
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2013:	3,270
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁵⁵

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1993 a	2012	2004 (a)		

(a) = accession

2. Constitutional provisions

The Constitution of the Federated States of Micronesia was ratified in 1978 and entered into force on 10 May 1979. The Federated States of Micronesia is a federal state in which the power to legislate on specific issues is divided between the federal government and the four separate states, which are Chuuk, Kosrae, Pohnpei and Yap. Each state has its own constitution that defines the powers reserved to the states and those reserved to the federal government. The Constitution of the Federal States of Micronesia establishes its supremacy in Article II, Section 1, and states that any act of the government in conflict with it is invalid to the extent of conflict.

Under the general provisions listed in Art. XII, the Constitution recognizes, among other individual rights granted to all Micronesians, the rights to life, health care, legal services, non-discrimination on the grounds of sex, and education, as well as the obligation of the national government to ensure all national services required for protecting these rights.

Neither marriage nor family are defined in the Constitution of the Federal States. The Constitution of the State of Pohnpei (Art. 5) requires the state government to respect and protect the state's customs and traditions and family obligations.⁵⁶ Family obligations (Section 3) include the responsibilities and authority of parents over their children and the duties and rights of children with regard to respect and good family relations.

Article V of the federal Constitution provides for the protection of traditional rights and recognizes the primacy of functions performed by tribal leaders.

3. Statutory law

Micronesia has a mixed legal system of common and customary law (4). Relevant legislation affecting children can be found in the Federal Code and in other national laws and

⁵⁵ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Micronesia not available.

⁵⁶ Available at http://www.fm/PohnpeiLeg/docs/PohnConst_Eng.doc

regulations. Neither the Federated States of Micronesia nor the State of Yap have legislated in the area of marriage (5).

Statutory provisions in the Trust Territory Code concerning domestic relations are part of state law because domestic relations fall within the powers of the states and not the national government. When spouses have different citizenship the Federal States of Micronesia Supreme Court has jurisdiction. The states of Kosrae, Chuuk and Pohnpei have specified 18 as the minimum age of marriage for males and 16 for females. Girls under 18 require the consent of either parent in all three states. In Chuuk and Pohnpei, according to the United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP), customary marriages are valid and may therefore disregard these minimum ages.

As defined in the Citizenship Act of 1984, a child is a person who is not of full age or has not attained the age of 18 (Part I, Art. 402). The same age of majority has been established by the Code of Federated States of Micronesia, in Art. 502 on public health, safety and welfare, as well as by the state laws of Pohnpei, Chuuk, Kosrae and Yap.

According to Art. 1025, entitled “Records; certificates; register; forms”, included under “Marriages” within the Family Law, “It shall be the duty of every person authorized to perform marriages ... to make and preserve a record of every marriage performed by him, regardless of the citizenship of the parties, showing the names of the persons married, their places of residence, and the date of marriage”; this means that marriage registration is mandatory for the marriage to be considered valid. The country’s birth registration system is not in conformity with the Convention on the Rights of the Child.⁵⁷

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			Mentioned in the Pohnpei State Constitution
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			States of Chuuk and Pohnpei, no marriageable
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			Only in the Kosrae state
Mandatory marriage registration			

⁵⁷ A child acquires citizenship if one or both parents are citizens. Individual states maintain birth records. Kosrae requires registration within two weeks after a birth. In the other three states, registration takes place for hospital births. On remote outer islands, where hospitals are non-existent, children are not registered until they go to a main island for education.

4. Customary/religious/traditional/tribal frameworks

According to the Constitution (federal), the traditions of the people of Micronesia may be protected by statute. If challenged, the protection of Micronesian tradition is considered a compelling social purpose warranting official State action. Regarding the prevalence of traditional rights, Art. 5 of the Constitution states that the role, function, recognition or honour of a traditional leader as recognized by custom and tradition cannot be taken away by the Constitution.

Culture is frequently invoked as justification for discrimination against girls, but the customs and traditions invoked are often modified to suit the needs of male family members. The bride price tradition, for instance, is now embraced by groups that never practised it before, as a way of demanding cash for the marriage of a daughter (6).

5. Provisions and sanctions

There is no criminal code for the Federated States of Micronesia; each state has its own code. The maximum penalties for particular crimes therefore vary by state (*locus regit actum*). The national law on trafficking in persons sets a maximum penalty of 30 years’ imprisonment and a US\$ 50,000 fine for knowingly recruiting, transporting, transferring, harbouring or exploiting anyone under the age of 18. The age of the victim as the basis for defining crimes against children may also vary by state.

The states’ statutory rape laws apply to children aged 13 and below in Chuuk, Yap and Kosrae, and to children aged 15 and below in Pohnpei. No specific law against spousal rape has been enacted within the territory of the Federated States of Micronesia (7). Under Art. 206 of the Yap State Code, in regard to sexual abuse, consent to sex is not valid if the person is under 13, unless the defendant reasonably believed the child to be older (8).

Additional factors

Following the tradition of bride price, girls are regarded as a valuable resource to exchange for payments. Early and forced marriages persist and the fertility rate remains high. Additionally, if a girl is not married early she may suffer from pressure to contribute to the household (6).

As of 1998, the Committee on the Rights of the Child expressed concern at the absence of legislation on a number of areas relevant to children including, among others, the low minimum age of sexual consent, the lack of harmonization between the different ages of sexual consent among the four states of Micronesia, and the lack of legislation on neglect, abuse and sexual exploitation.

In 1998, the Committee on the Rights of the Child also expressed concern at the potential for conflict between customary and statutory law, in particular regarding marriage (9).

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MONGOLIA

General background (1, 2)

Total population (thousands) 2012:	2,839
Population under age 18 (thousands) 2012:	906.9
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	19
Birth registration (per cent) 2005–2012, total:	99 (urban 98.9, rural 99.1)
GNI per capita (US\$) 2014:	4,280
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 95; female 97
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 91; female 96

Child marriage rates (1, 3)⁵⁸

Married by age 15 (per cent) 2010:	0
Married by age 18 (per cent) 2010:	5

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention ratified
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2003	1981	1974	1991

2. Constitutional provisions

The current Constitution of Mongolia was adopted on 13 January 1992 and entered into force on 12 February 1992; it was amended in 1999 and 2001.

Chapter II on “Human rights and freedoms” proclaims that Mongolians have the right to life (Art. 16.1) and the right to health and medical care (Art. 16.6). Deprivation of human life is strictly prohibited except for capital punishment. This chapter also covers the following rights: material and financial assistance in childbirth; health, health care and education; and equality between men and women in political, economic, social, cultural and family affairs. This chapter also guarantees the principles of equality before the law and non-discrimination against anyone on grounds, among others, of age, sex or education (Art. 14).

Article 16(11) of the Constitution of Mongolia states that “marriage shall be based on the equality and mutual consent of the male and female who have reached the age defined by law.

The state shall protect the interests of the family, motherhood and the child”.

3. Statutory law

Mongolia has a civil law system influenced by the Romano–Germanic legal system, including separation between civil and public law (4). Statutes are the main source of law and legal acts can be enacted as parliamentary resolutions, presidential decrees or ministerial resolutions, rules or orders. Legal customs are considered a limited, not principal, source of law (5).

The Family Law of Mongolia of 1999 includes provisions on the protection of family rights, the rights and obligations of spouses, relations between parents and children, the protection of children’s rights and interests, limits to parental rights, mutual responsibilities of family members to support each other, and types and amount of maintenance payments. Article 9.1.2 of the Family Law prohibits marriage for persons under 18 but does not apply, according to the next article, to persons declared to have full legal capacity, as outlined in the Civil Code.

⁵⁸ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Mongolia are from the Mongolia Multiple Indicator Cluster Survey 2010.

The Law on the Protection of the Rights of Children of 1996 (amended in 2002) provides a legal framework for the special protection of children. Article 4.1 requires the government to ensure equality without discrimination against the child, his or her parents, guardian or trustee on grounds, among others, of age, sex, ethnic origin and social status, education or health.

Article 97 of the Civil Code requires marriage applicants to specify that they are entering into marriage voluntarily and are mutually informed about their familial and health status and prior marriages or children, as the case might be.

Registration of births, including stillbirths, is also compulsory according to Art. 98 of the Civil Code.

4. Customary/religious/traditional/tribal frameworks

During four centuries of feudal theocracy, Lamaist Buddhism played a major role in Mongolian society. Approximately one in every two boys born to a family, which amounts to about 44 per cent of the male population, was customarily assigned to Lamaist celibate monasticism, contributing to an exceptionally low fertility rate. Over that period of time, the role

of women in the family was defined in terms of motherhood and grounded, among herder families, in nomadic pastoral-hunting traditions.

The Constitution adopted in 1924 declares that all citizens have equal rights regardless of sex. Legislation in 1925 established a woman's right to choose her husband, creating a legal framework that prohibited arranged marriages. Democratic reforms and socioeconomic transition policies since 1990 have consolidated the legal framework for civic and social rights that bear particularly on the position of women within the family (6).

5. Provisions and sanctions

The 2002 revision of the Criminal Procedure Law introduced separate sections on offences committed by juveniles and included a chapter entitled "Crimes against child, family and social values", which deals with crimes committed against children within the sphere of the family and/or within the context of parental endeavours, specifically referring to forced child labour; neglect of a child by birth or adoptive parents; illegal adoption; abandonment; conduct causing a child to get lost; and exchange of a child.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

Mongolia has undergone dramatic socioeconomic and political transformation since the transition from a centrally planned system to a market economy in the 1990s. However, in the midst of this transition, socioeconomic disparities between regions and social groups began to widen, resulting in large-scale rural-urban migration, unemployment and poverty. This had a number of unintended consequences for children: increased school drop-outs, abandoned children, street children, child labour, commercial sexual exploitation of children and trafficking of young women. Starting in 1991, many efforts have been made to address child protection issues (7).

Implementation of various educational programmes over the last decade has had substantial positive effects in support of children's rights to learn and to have access to education (8).

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MYANMAR

General background (1, 2)

Total population (thousands) 2012:	53,259
Population under age 18 (thousands) 2012:	16,200.4
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	N/A
Birth registration (per cent) 2005–2012, total:	72.4 (urban 93.5, rural 63.5)
GNI per capita (US\$) 2014:	1,270
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 90; female 91
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 58; female 59

Child marriage rates (1, 3)⁵⁹

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1991 (a)	2012 (a)	1997 (a)		

(a) = accession

2. Constitutional provisions

The third Constitution of the Republic of the Union of Myanmar was approved through a nationwide referendum on the 10th day of Kasone Waning, 1370 M.E. (28 May 2008).

Chapter 8 of the Supreme Law recognizes “Fundamental Rights and Duties of the Citizens”. Among these, Art. 323 provides for the right to life and personal freedom. Article 367 recognizes the right of every citizen to health care in accordance with the Union’s health policy. Every citizen is guaranteed the right of equality (Art. 21) and non-discrimination on the basis of sex (Art. 348). Mothers, children and orphans are accorded special protection under Art. 32 and equal rights under Art. 351. Article 368 recognizes the right of every citizen, irrespective of race, religion and sex, to education; basic education is compulsory (Art. 366).

The Constitution recognizes the special position of Buddhism as the faith professed by the great majority of Myanmar’s

citizens. It also recognizes other religions professed in the country, such as Christianity, Islam, Hinduism and Animism (Art. 361 and 362). Article 367 recognizes equality and freedom of conscience and the right to freely profess and practise religion subject to public order, morality or health.

3. Statutory law

Myanmar has a mixed legal system based on common law and customary law (4). Marriage is governed under multiple laws, both customary and statutory. In the context of this review, the authors analysed the Child Law of 1993, the Majority Act of 1975 and the Special Marriage Act of 1872. The Child Law currently applies to children under 16 years of age, and guarantees a large spectrum of rights to children. The Special Marriage Act regulates mixed marriages (in which the parties are of different religions) and requires men and women to be at least 18 and 14, respectively, to marry. The Act requires marriages to be solemnized in the presence of the Registrar, to whom the parties must have given prior written notice, in order to file public notice of the marriage and keep it in the Marriage

⁵⁹ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Myanmar not available.

Notice Book in case of possible objections to the marriage (Art. 6–10). Those who have attained 18 years of age may legally marry at the court by signing an affidavit of marriage. The right of girls under 18 to marry with the consent of their parents or guardian is protected by religious law.

Birth registration is mandatory under Art. 9(b) of the Child Law.

4. Customary/religious/traditional/tribal frameworks

Personal affairs – such as marriage, divorce and inheritance – tend to be governed by religious law according to Section 13 of the Burma Law Act of 1898.

In the context of this review, the authors considered the Myanmar Buddhist Women’s Special Marriage and Succession Act of 1939, Islamic family law, the Myanmar Muslim Dissolution of Marriage Act of 1953 and the Christian Marriage Act of 1872. Article 5 of the Buddhist Women’s Special Marriage and Succession Act sets the minimum legal age of Buddhist marriage at 18 for boys and 16 for girls, but requires consent from parents or guardian for either spouse if under 20. Article 3 requires all villages to have a registrar of marriages in charge of related administrative duties.

The Christian Marriage Act sets the minimum age of marriage at 21 for both boys and girls, but Part III, Art. 19 of that

Act provides for marriage before 21 with the father’s or guardian’s consent.

The Myanmar Muslim Dissolution of Marriage Act regulates the dissolution of Muslim marriages in cases where the bride is given in marriage by her father or guardian before reaching 15. Article 2(vii) provides that “a woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage if she repudiates the marriage before attaining the age of 18 years, provided that the marriage has not been consummated”. Marriages can also be dissolved if the husband “treats his wife with cruelty” (Art. 2[viii]).

5. Provisions and sanctions

Provisions related to CEFM are covered under the Penal Code. Section 366 of this code provides that whoever kidnaps or abducts a woman to compel her to marry against her will shall be punished with imprisonment for up to 10 years and also liable to fine.

The statutory rape provision in Section 375 of the Penal Code of Myanmar criminalizes a man who commits sexual intercourse with a woman, even with her consent, if she is under 14. It also provides, however, that “sexual intercourse by a man with his own wife (when she is over 13 years of age), is not rape”.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

The economy of Myanmar was badly hit by Cyclone Nargis in May 2008, as well as by the global financial crisis. Poverty and family breakdown as well as political tensions are immediate factors hampering children in Myanmar from securing their right to protection. Poverty forces children to work, and both poverty and family breakdown increase children’s vulnerability to commercial sexual exploitation and trafficking. Lack of awareness about child protection is also a factor that leads to the denial of some children’s rights, notably birth registration.

These factors expose children, especially from poor families, to more severe risks of dropping out of school permanently, child labour, exploitation and CEFM (5).

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NAURU

General background (1, 2)

Total population (thousands) 2012:	10
Population under age 18 (thousands) 2012:	3.6
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	81
Birth registration (per cent) 2005–2012, total:	82.6 (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	N/A
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 97; female 98
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 65; female 72

Child marriage rates (1, 3)⁶⁰

Married by age 15 (per cent) 2007:	2
Married by age 18 (per cent) 2007:	27

Legal framework

1. Relevant international treaties

Convention ratified	Convention signed	Convention signed	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1994 (a)	2000	2011 (a)		

(a) = accession

2. Constitutional provisions

The Constitution of the Republic of Nauru, adopted in 1968, is the supreme law of the country, prevailing over all other national laws of Nauru, including common law.

Among the fundamental rights and freedoms of all individuals in Nauru, as specified in Article 3 of the Constitution, it is important to highlight the rights to life, equality, security and respect for private and family life. These rights are subject to limitations, however, to ensure that their enjoyment by one person does not prejudice the rights and freedoms of others, or the public interest (4). Protection of the right to life is covered in Art. 4. Marriage is covered in Part VIII of the Constitution, within the context of citizenship, as a requirement for citizenship to be met by non-Nauruan women marrying male Nauruan citizens.

The right to health and public health are only recalled in connection with other fundamental rights, such as protection

of person and property (Art. 9), and freedom of conscience (Art. 11).

3. Statutory law

Nauruan law is derived primarily from English and Australian common law, and to a more limited extent, indigenous customary law (5). According to Art. 51 and 52 of the Interpretation Act of 2011, legislation can be interpreted in the light of treaties, including the Convention on the Rights of the Child, which has been cited as a source of law before national courts, including the Supreme Court.

According to the Births, Deaths and Marriages Ordinance 1957–2009, the Registrar, all ministers belonging to a recognized religious denomination and such magistrates properly appointed are empowered to solemnize marriages (Art. 20). A marriage cannot be solemnized if the bride is under 16 or the groom is under 18, except when written consent for the marriage has been given by a parent of the young person (Art. 23).

⁶⁰ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. The data for Nauru are from the Republic of Nauru Demographic and Health Survey 2007.

The Matrimonial Causes Act of 1973, however, states that a marriage is voidable and the court, therefore, must grant a decree annulling the marriage upon the application of any interested party if either party at the time of marriage was under the age of 16 years (Art. 20–22). The Maintenance Ordinance of 1959 defines a child as “anyone under the age of 16 years”.

According to the Births, Deaths and Marriages Ordinance of 1957–2009, all marriages solemnized on the island must be recorded in the Register of Marriages. The person solemnizing a marriage must immediately thereafter “prepare and sign two copies of a marriage certificate”.

Article 7 requires that a parent of a newborn child, within 21 days after the date of the birth, notify the Registrar of the birth and furnish such information as the Registrar requires for the purpose of registering the birth. Where such notification cannot be given by a parent of the child, the occupant of the building or place in which the child is born should notify the Registrar.

4. Customary/religious/traditional/tribal frameworks

Nauruan people belong to a matrilineal group or clan. Mothers are particularly honoured and are the main caregivers within households. Each birth and death is publically identified by clan affiliation in a public document. Clan affiliation lasts an individual’s lifetime and is not altered by marriage. A marriage partner must be selected from another clan.

A mother is the centre of her household; she takes care of and is later cared for by her children. While households are nominally headed by males, mothers are the decision-making heads and are largely responsible for economic management as well as social care. Land and other properties are inherited by both sons and daughters, but only daughters can pass on

their rights to their children without seeking consent from the extended family.

Freedom of religion is recognized by the Constitution, and there is no State religion by law. Nauru’s Protestant Church, however, has an important role within the executive authority. Nowadays, marriage is largely a Christian affair, though there are concerns that some young people are opting not to marry.

5. Provisions and sanctions

The Births, Deaths and Marriages Ordinance 1957–2009 contains specific provisions for punishing persons who solemnize under-legal-age marriages (i.e. of girls under 16 or boys under 18) with a fine of 50 pounds (Art. 23).

The Criminal Code in force in Nauru⁶¹ covers the following offences and takes into account the age of the victim as follows (6): (a) the abduction consisting of taking away or detaining of any woman under the age of 21 with intent to marry her or have sexual intercourse with her against her will, is criminalized under Section 351; (b) the abduction of a girl under 17 against her guardian’s will, even if taken with her own consent or at her own suggestion, is criminalized under Section 352; (c) indecent treatment of boys under 14 or having or attempting sexual intercourse with a girl under 12 are criminalized under Sections 210 and 212, respectively (however, if the offender is under 16, the court can opt for reformatory school).

The Births, Deaths and Marriages Ordinance of 1957–2009 punishes failure to perform the marriage registration obligation with a fine of 20 Australian dollars while failure to perform the birth registration obligation is punished with a fine of 10 Australian dollars (Art. 24).

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage	Found	
Constitutional definition/protection/reference to family	Found	
Constitutional recognition of right to health		Not found
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex	Found	
Minimum legal age of marriage	Found	
Spousal consent to marriage		Not found
No exceptions to the legal age for consent to marriage		Not found
Assertion of primacy of statutory and/or case law over other forms of law	Found	
Assertion of primacy of international law over national law		Not found
Mandatory birth registration	Found	
Mandatory marriage registration	Found	

⁶¹ First Schedule to the Criminal Code Act of 1899 of the State of Queensland, as amended by the Parliament of Nauru since 1968.

Additional factors

The issues of concern for children, youth and women in Nauru are determined largely by factors that affect the whole nation. Nauru depends on trade and is consequently highly vulnerable to economic fluctuations and the interruption of essential services. The island's extreme isolation, narrow resource base, isolation from markets, diseconomies of scale and capacity limitations pose major challenges for sustainable development in Nauru. The constrained resource base, dependency on imports for food and energy security and the high level of aid received have resulted in extreme vulnerability to external forces, such as global food and energy price changes, and financial and economic crises (7).

Nevertheless, the Nauru Progress Report 1990–2011 has shown the progress made towards achieving several MDGs, such as universal basic education (which improved from 70% in 2002 to 95% in 2011), reducing maternal mortality, providing universal access to treatment for HIV/AIDS, reversing the spread of tuberculosis, providing access to essential drugs, and increasing access to medical resources. According to this report, there has been progressive reduction of child mortality. More focused interventions have also been put in to improve access to reproductive health care (8).

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NEPAL

General background (1, 2)

Total population (thousands) 2013:	27,797
Population under age 18 (thousands) 2012:	11,525.9
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	87
Birth registration (per cent) 2005–2012, total:	42.3 (urban 44.2, rural 42.1)
GNI per capita (US\$) 2014:	730
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 96; female 91
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 74; female 66

Child marriage rates (1, 3)⁶²

Married by age 15 (per cent) 2011:	10
Married by age 18 (per cent) 2011:	41

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2006	1991	1991 (a)	

(a) = accession

2. Constitutional provisions

The Constitution of Nepal came into force in September 2015⁶³ (or 2072)⁶⁴ replacing the interim Constitution of 2007 (or 2063), and is the fundamental law in the Federal Democratic Republic of Nepal. Fundamental rights are guaranteed under Part 3 of the Constitution. The right to equality is recognized by Article 18, including a reference to non-discrimination on grounds of sex, among others.

According to Art. 16 titled "Right to live with dignity"(1) each person shall have the right to live with dignity; (2) no law shall be made for capital punishment.

The right to health care is covered in Art. 35, which provides that every citizen has the right to seek basic health services from the State, that no citizen shall be deprived of emergency health care and that all persons shall have the right to be informed about their health condition with regard to health care services. It provides that all persons shall have equal access to health care, clean water and hygiene.

Women's rights are covered in Art. 38, which recognizes equal rights for every woman without discrimination based on gender, and with a specific reference to equal rights in reference to family affairs. Rights of children are covered under Art. 39, with an explicit reference to birth registration. More importantly, according to point 5 of Art. 39, "[n]o child shall be subjected to child marriage, illegal trafficking, kidnapping or being held hostage".

3. Statutory law

The legal system of Nepal is based on the English common law system and Hindu legal concepts (5).

⁶² Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Nepal are from the Nepal Demographic and Health Survey 2011.

⁶³ Only an unofficial English translation by the Nepal Law Society, the Institute for Democracy and Electoral Assistance and UNDP is available online at <http://www.inseconline.org/linkedfile/Bill%20of%20Constitution%202015%20Sept.pdf>. An additional source used was *Constitution-making process in Nepal (4)*. The final version of the Constitution is available on Legislature Parliament of Nepal only in the Nepali language.

⁶⁴ According to the Nepali calendar which follows the Bikram Sambat (or Vikram Samvat) system.

In relation to CEFM, the legal framework taken into account by the authors consists of the Children's Act 2048 (1992), the Marriage Registration Act 2028 (1971), the Civil Code (1963), the National Code (Muluki Ain) 2020 (1963) and the Birth, Death and Other Personal Events (Registration) Act 2033 (1976). Article 4 of the Marriage Registration Act sets the minimum legal age of marriage without need for parental consent at 20 for both sexes. Articles 6–8 of that Act cover marriage procedures while Art. 9 provides details on marriage registration.

Chapter 17, Art. 1, provides that “any marriage may be solemnized with one's consent according to one's own will and pleasure, subject to the provisions set forth in several Numbers of this Chapter. Where a marriage concluded happens to be within the consanguinity, the spouses thereto shall be separated”.

Article 2 of the Muluki Ain highlights that “[w]hile contracting a marriage, no one shall arrange to marry nor cause to be married where the male and the female have not completed the age of eighteen years with the consent of the guardian and that of twenty years in case of absence of the consent of the guardian”.

Article 7 provides that “No marriage shall be solemnized or arranged without the consent of both the male and the female parties thereto”.

The Birth, Death and Other Personal Events (Registration) Act 2033 (1976), Art. 4, provides that it is the duty of the husband and wife to give information to the office of the local registrar in the prescribed form for the registration of their marriage within 35 days of the event; Art. 4.a assigns to the head of the family the same duty, in the same manner and timing, for the registration of births. Failure to register these personal events within the prescribed time frame, unless due to unavoidable circumstances, is punishable by the local registrar, who then proceeds to register the event, with a fine of up to 50 rupees. The Children's Act regulates mandatory birth registration under Art. 3. However, the Birth Registration Act lacks a provision for registering children born outside of marriage. In addition, refugee children and children orphaned or born of rape are not eligible for registration (6).

4. Customary/religious/traditional/tribal frameworks

According to religious leaders, Hindu scriptures dating from 400 to 100 BC urged fathers to marry off their daughters at a very young age, 8–10 being the ideal, since an unmarried daughter represents shame for the family. Because parents are able to give a smaller dowry for younger girls, the practice has persisted (7).

Point 4 of Chapter 14 of the Muluki Ain provides the following details regarding dowry:

The movable and immovable property of a woman received from her parents' family, her mother's parents' family and the property that she has increased from it shall be her *Daijo* (dowry). The movable or immovable property given to her with a deed of consent coparceners of all the heirs by her husband or the coparceners on the side of her husband, and

the movable and immovable property given to her by other relatives or friends on the side of her husband and property she has increased from it shall be her *Pewa* (exclusive property).

Point 7 of the same Chapter provides the following:

If a woman has previously given some property to someone as a religious donation (*Dan*) or ordinary gift (*Bakas*) or sold the property other than dowry (*Daijo*) or exclusive property (*Pewa*) that she is entitled to, and if she gets marriage with the same person to whom she has given it as a gift or sold it, the transaction shall not be lawful. Anyone having the right may get it back.

5. Provisions and sanctions

In Nepal, the legislative texts relevant to CEFM are the National Code, the Children's Act and the Domestic Violence (Offence and Punishment) Act 2066 (2009). In order to discourage CEFM, Art. 13 of the Marriage Registration Act states:

In case the Marriage Registration Officer knowingly cause to conclude a marriage or register any marriage contrary to this Act or cause to violate any procedure prescribed in this Act or Rules framed thereunder to conclude or register a marriage, such officer shall be punished with an imprisonment up to six months or fine up to one thousand rupees or the both.

Additionally, according to the Muluki Ain Chapter 17, point 2:

If a female below the age of ten years is married or caused to be married, punishment of imprisonment for a term from six months to three years and with a fine of one thousand rupees to ten thousand rupees shall be imposed. If this female is above the age of ten years but below the age of fourteen years punishment imposed is imprisonment for a term from three months to one year and with a fine of a maximum of five thousand rupees or both. If the female is above the age of fourteen years but below the age of eighteen years the punishment imposed is imprisonment for a term not exceeding six months or a fine of a maximum of ten thousand rupees. Finally, if the female has not completed the age of twenty years punishment imposed is imprisonment for a term not exceeding six months or a fine of a maximum of ten thousand rupees.

The article further clarifies as follows:

Those persons who have attained majority, out of the priests, match-makers and other abettors who knowingly perform acts of marriage in violation of the provisions contained in the above-mentioned numbers shall be punished with imprisonment for a term not exceeding one month or a fine of a maximum of one thousand rupees.

If the marriage has not been celebrated, but already arranged, the main person finalizing such arrangement of marriage shall be punished with a fine of a maximum of seven hundred rupees and such finalized arrangement of marriage shall be set aside.

The amount of fine imposed under the above-mentioned articles shall be paid to that girl-child, woman or man. In default of payment of the fine so imposed, the property of the convicted person equal to the amount of fine shall be confiscated and the amount so realized shall be paid to such that girl-child, woman or man. In case the total amount of fine is not realized through such confiscation, the convicted person shall be imprisoned for a term not exceeding three months for the fine not realized.

According to point 7 of Chapter 17 of the Muluki Ain:

No marriage shall be solemnized or arranged without the consent of both the male and the female parties thereto. If a marriage is solemnized or arranged by force without consent, such a marriage shall be void. One who concludes or arranges such a marriage shall be liable to punishment of imprisonment for a term not exceeding two years.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			References to marriage relate to women who are citizens of Nepal marrying foreign men.
Constitutional definition/protection/reference to family			References to family relate only to the termination of the armed conflict and military service.
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

CEFM results from both poverty and a lack of education. The median marriage age for girls in Nepal is 17.2, a figure that masks the true extent of CEFM in the country. The CEFM figures vary widely in Nepal depending on a girl's level of education, wealth, geographic location, religion and ethnicity. A UNICEF discussion paper determined that 79.6% of Muslim girls in Nepal, 69.7% of girls living in hilly regions irrespective of religion, and 55.7% of girls living in other rural areas are married before the age of 15. Girls who were born into the highest wealth quintile marry about two years later, on average, than those from the lower wealth quintiles. A 2007 study found that better-educated fathers are less likely to marry off their daughters at an early age (8).

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NEW ZEALAND

General background (1, 2)

Total population (thousands) 2014:	4,506
Population under age 18 (thousands) 2014:	1,096.8
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	25
Birth registration (per cent) 2005–2012, total:	100 (urban N/A, rural N/A)
GNI per capita (US\$) 2013:	39,300
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A ⁶⁵

Child marriage rates (1, 3)⁶⁶

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention ratified
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1993	2011	1985	1978	1964

2. Constitutional provisions

New Zealand's Constitution does not consist of just one document; it includes crucial pieces of legislation, several legal documents, common law derived from court decisions, as well as established constitutional practices known as conventions (4). The Constitution Act of 1986 was enacted to bring together into one enactment certain provisions of constitutional significance as well as to declare that the Constitution Act of 1852 of the Parliament of the United Kingdom shall cease to have effect in New Zealand.

The two most important pieces of legislation in New Zealand for the promotion and protection of human rights are the New Zealand Bill of Rights Act of 1990 and the Human Rights Act of 1993. The first affirms, protects and promotes human rights and fundamental freedoms in New Zealand, while the second provides for the protection from discrimination on grounds, among others, of sex and marital status. The Bill of Rights Act also affirms the right not to be deprived of life (Section 8), the right to refuse to undergo medical treatment (Section 11),

and the right to natural justice (Section 27). Protection of or references to the institutions of family and/or marriage are not laid down by any of the mentioned acts (5).

3. Statutory law

New Zealand has a common law system, based on the English model, with specific legislation and land courts for Māori.⁶⁷ The New Zealand legislation relating to marriage was initially based on British law. The Marriage Act of 1854 was the first act governing aspects of marriage in New Zealand, and the Marriage Act of 1955 is the current legislation. The Marriage Amendment Act of 2005 was passed predominately to add provisions related to civil unions as a consequence of the passage of the Civil Union Act of 2004.

The legal marriage age is 18, but upon parental consent either party can marry after attaining the age of 16.

⁶⁵ Attendance is compulsory in New Zealand.

⁶⁶ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for New Zealand not available.

⁶⁷ According to the 1993 Electoral Act and the 1974 Māori Affairs Act (Te Ture Whenua Māori) "Māori" means a person of the Māori race of New Zealand; and includes any descendant of such a person" (6).

According to the Marriage Act of 1955, children under 18 cannot enter into a civil union without the consent of both guardians, unless the family court gives consent.

Cases requiring parental consent are listed in section 18 of the Marriage Act. The Marriage Act also provides the criteria, rules and processes for solemnizing a relationship as marriage by way of a formal ceremony and officially registering it in New Zealand. Parts 4, 5 and 6 of the Marriage Act cover issues related to formalities preliminary to marriage, solemnization of marriage and registration.

The Marriage (Definition of Marriage) Amendment Act of 2013 enables couples to marry regardless of their gender or sexual orientation. The new statutory definition of marriage in this Act defines marriage as “the union of 2 people, regardless of their sex, sexual orientation, or gender identity”. The Act came into force on 19 August 2013.

4. Customary/religious/traditional/tribal frameworks

Marriage within traditional Māori society was shaped by the importance of family and tribal links. Marriages were often arranged, with children promised in marriage from a very young age. People also sometimes found their own partners, and would then seek agreement from senior members of their families.

Marriage according to Māori custom was recognized as valid by the colonial legal system until 1888. After a Supreme Court decision in that year, New Zealand’s legal system became contradictory. Statutes passed by Parliament continued to recognize traditional marriage, while the courts sometimes did not. Court decisions on inheritance and the legitimacy of family relationships could deem invalid marriages that were regarded as legitimate by Māori communities.

From 1909, legal recognition of marriages between Māori required a minister of religion recognized by the Marriage Act of 1908 to perform the ceremony. Customary marriage remained sufficient for inheritance of Māori land. This last shred of legal recognition of traditional marriage ended when the Māori Purposes Act of 1951 was passed.

After this passage of that legislation, to avoid illegitimacy of their children and to access the family benefit, Māori couples had to marry according to European custom. This, combined with the increasing urbanization of young Māori resulted in a move away from traditional marriage (7).

Additionally, New Zealand has a changing migrant community, with cultures and traditions that may include CEFM. The 2012 CEDAW report expressed concerns about reports of forced

marriages among migrant communities and regret over the absence of legislation to prohibit underage and forced marriages. The Committee is further concerned that the rights of migrant women in terms of family law – particularly forced marriages, polygamy and dowry-related violence – have not been sufficiently addressed in law and practice and that girls as young as 16 can marry with parental consent (8).

5. Provisions and sanctions

According to the New Zealand Crimes Act of 1961 (Part 7, Section 134), “it is an offence in New Zealand to have a sexual connection with a person under the age of 16”. In particular:

- (1) Every one who has sexual connection with a young person is liable to imprisonment for a term not exceeding 10 years;
- (2) Every one who attempts to have sexual connection with a young person is liable to imprisonment for a term not exceeding 10 years;
- (3) Every one who does an indecent act on a young person is liable to imprisonment for a term not exceeding 7 years.

In this Act, a “young person” means a person under the age of 16.

Moreover, according to the Part 7, Section 134A of the same Act, “it is a defense if due diligence had been undertaken by the defendant to ascertain the victim’s age, had reasonable grounds to believe the victim was aged 16 or over and consent was given”. Furthermore, according to Part 7, Sections 131 and 131A, “it is an offence for a person to have a sexual connection with a person under the age of 18 if the defendant is in a guardianship role (parent, stepparent, foster parent, guardian, uncle, aunt or other members of extended family, *whanau* or other power or authority or responsibility for care or upbringing)”.

The Children’s Commissioner and its functions are established in Section 12 of the Children’s Commissioner Act of 2003. Among other functions, the Commissioner promotes the establishment of accessible and effective complaint mechanisms for children and monitors the nature and level of complaints. Furthermore, if there are issues in proceedings before any court related to the interests, rights or welfare of children generally, at the request of the court or counsels participating in the process, the Commissioner can present reports on such issues to the court or tribunal. Despite this fact, decisions shall be ruled by family courts, which have the jurisdiction to hear cases concerning children’s rights within the family context.

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

The rise in the median age at marriage is a reflection of the trend away from early marriage, increasing numbers of people remaining without a partner throughout their twenties and thirties, and a growing number of people living in de facto unions. There has been a steady reduction in the number of marriages since the 1970s and there has been a shift in the age of those who get married. Teenage brides made up 32% of all brides in 1971 (when marriage rates peaked), compared with just 3% in 1999 (8717 teenage girls were married in 1971 and only 665 teenage girls were married in 1999).

The trend towards later marriage, which is common in most developed countries, has seen the median age of first-time grooms rise to 28.9 years, and of first-time brides to 27.0 years. First-time grooms and brides in 1971 were, on average, about six years younger than their present-day counterparts, with median ages of 23.0 and 20.8 years, respectively. Women still marry men older than themselves, but the gap between the average age of men and women at first marriage has narrowed. In the mid-1960s this gap was three years and by 1999 it had narrowed to two years.

At the 1971 Census, about one in three women aged 20–24 years had never married; in 1996 well over four in five women in this age group had never married. Similarly in 1996, 51% of women aged 25–29 years and 28% of women aged 30–34 years had never married. In 1971, the corresponding figures were 12% and 6%, respectively (9).

New Zealanders are clearly marrying later than in the past. In 2013, the median age at first marriage was 30.1 years for men and 28.6 years for women – up from 27.3 and 25.2 years in 1993.

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PAKISTAN

General background (1, 2)

Total population (thousands) 2012:	182,143
Population under age 18 (thousands) 2012:	73,844.9
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	48
Birth registration (per cent) 2005–2012, total:	26.5 (urban 32, rural 24.2)
GNI per capita (US\$) 2014:	1,410
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 67; female 60
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 45; female 38

Child marriage rates (1, 3)⁶⁸

Married by age 15 (per cent) 2012–2013:	3
Married by age 18 (per cent) 2012–2013:	21

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2011	1996 (a)	2008	

(a) = accession

2. Constitutional provisions

The Constitution of the Islamic Republic of Pakistan was passed by the country's National Assembly on 10 April 1973. The third consolidated version of 2004 incorporates all amendments.

The rights to life and personal liberty are recognized in Article 9. The rights to equality and non-discrimination before the law on the basis of sex as well as the right to education are recognized in Art. 25. Article 25(3) allows the Government to make special provision to protect women and children. Pakistan's Constitution also commits to ensuring women's equal participation in "all spheres of national life" under Art. 34. Article 35 guarantees the protection of "the marriage, the family, the mother and the child".

Article 227 establishes the supremacy of Islamic law over secular law: "all existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy

Quran and Sunnah ... , and no law shall be enacted which is repugnant to such injunctions". The right to health is not recognized as a fundamental right in the Constitution, but regarding the repartition of competencies, it is stated that any act enacted by the Provincial Assembly imposing reasonable restriction to public health should be invalid (Art. 151).

3. Statutory law

Pakistan has a common law system, with an adversarial court procedure and follows other common law practices such as judicial precedent and the concept of *stare decisis* (4).⁶⁹ Its system differs from the classic common law model, however, in many ways. Criminal and civil law have been almost completely codified. Pakistan, moreover, is a federative republic where each of the four provinces (Balochistan, Khyber Pakhtunkhwa, Punjab and Sindh) and four federal territories (Islamabad Capital Territory, Federally Administered

⁶⁸ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Pakistan are from the Pakistan Demographic and Health Survey 2012–13.

⁶⁹ Definition of *stare decisis*: rule of law established for the first time by a court for a particular type of case and thereafter referred to in deciding similar cases (*source*: Black's Law Dictionary, fifth edition, 1979, p. 1059).

Tribal Areas: Gilgit-Baltistan, and Azad Kashmir) has separate legislation on matters of family law and child welfare, in addition to the federal legislation. There is no mechanism unifying the legislation and thus different provisions apply in the different provinces.

The main legislative texts relevant to CEFM in Pakistan are the Child Marriage Act of 1872 and the Child Marriage Restraint Act No. XIX of 1929. Another relevant text in the context of this review is the Births, Deaths and Marriages Registration Act No. 9 of 1886. Section 3(a) of the Child Marriage Restraint Act sets the minimum legal age for marriage at 18 for boys and 16 for girls. However, under the Child Marriage Act, which regulates non-religious marriages, a girl as young as 14 can get married with consent from her parents. The purpose of this Act, as its title signifies, is to restrain the solemnization of child marriages. "Child" was originally defined in the act to mean a "person who, if a male, is under 14 years of age and, if a female, is under 12 years of age", but the age was increased to 18 for males and 16 for females by the Child Marriage Restraint Act.

The Births, Deaths and Marriages Registration Act No. 9 of 1886 regulates birth and marriage registration and establishes general registry offices in accordance with the Special Marriage Act No. 3 of 1872, the Indian Christian Marriage Act No. 15 of 1872, and the Parsi Marriage and Divorce Act No. 15 of 1865.

4. Customary/religious/traditional/tribal frameworks

The supremacy of Islamic law is stated at the constitutional level: "no Pakistani laws shall be in conflict with the Injunctions of Islam" (Part. IX, Art. 227). Article 31 prescribes that all Muslims of Pakistan, individually and collectively, shall live in accordance with the fundamental principles and basic concepts of Islam.

Regarding marriage age, the Muslim Family Laws Ordinance No. VIII of 1961, referring to Muslim citizens, raised the minimum age for girls from 14 to 16 and lowered that of boys from 21 to 18. The age for non-Muslim citizens remains the same as prior to the 1961 amendment.

The Muslim Family Laws Ordinance of 1961, the Muslim Marriages and Divorces (Registration) Act of 1974 and the Dissolution of Muslim Marriages Act of 1939 are the main texts regulating Muslim marriage registration and divorce. The Dissolution of Muslim Marriages Act focuses on the conditions and procedures for the annulment of Muslim unions. According to this Act, a girl having been given in marriage by her father or other guardian before reaching 16 can invalidate the marriage before turning 18, "provided that the marriage has not been consummated" (Art. 2, VII).

The Muslim Family Laws Ordinance further covers payment of the dower, succession and polygamy. Article 10 provides for payment of the bride price: "where no details about the mode of payment of dower are specified in the *nikah nama*, or the marriage contract, the entire amount of the dower shall be prescribed to be payable on demand".

Muslim marriage registration is regulated by Art. 5 of the Muslim Family Laws Ordinance and Art. 3 and 4 of the Muslim

Marriages and Divorces (Registration) Act. These Acts indicate the procedure for compulsory marriage registration with the *nikah* registrar and the punishment for non-registration, which may include "simple imprisonment for a term which may extend to three months, or with a fine which may extend to one thousand rupees, or with both".

5. Provisions and sanctions

In Pakistan, sanctions against crimes related to CEFM are covered under the Child Marriage Restraint Act No. XIX of 1929, the Pakistan Penal Code of 1860 and the Births, Deaths and Marriages Registration Act No. 9 of 1886.

The Child Marriage Restraint Act No. XIX of 1929, Art. 4, states that whoever, being a male above 18 years of age, contracts a child marriage shall be punishable with simple imprisonment, which may "extend to one month, or with a fine which may extend to one thousands rupees, or with both". Article 6.2 extends the same punishment to parents and guardians who consent to child marriage: "it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnized". The punishment for that crime, according to Art. 6.1, is simple imprisonment of up to one month, or a fine of up to 1,000 Taka, or both.

In the revised version of the Penal Code, Art. 310 establishes punishment for traditional forms of child and forced marriage, specifying that:

Whoever gives a female in marriage or otherwise compels her to enter into marriage, as *badal-i-sulh*, *wanni* or *swara* or any other custom or practice under any name, in consideration of settling a civil dispute or a criminal liability, shall be punished with imprisonment of either description for a term which may extend to seven years but shall not be less than three years and shall also be liable to fine of five hundred thousand rupees.

Article 365B on kidnapping, abducting, inducing or compelling a woman for the purposes of marriage states that:

Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced, or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment for life, and shall also be liable to fine; and whoever by means of criminal intimidation as defined in this Code, or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.

As relates to marriage registration, Art. 466 states that:

Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial or a register kept by

a public servant as such, or a certificate or document purporting to be made by public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein or to confess judgment, or a power-of-attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Under Chapter XX-A, as relates to offences against women, Art. 498B further prohibits forced marriage in the following terms:

Whoever coerces or in any manner whatsoever compels a woman to enter into marriage shall be punished with imprisonment of either description for a term, which may extend to seven years or for a term which shall not be less than three years and shall also be liable to fine of five hundred thousand rupees.

The Births, Deaths and Marriages Registration Act No. 9 of 1886 does not make birth registration compulsory and no penalties are imposed for failing to register births (Art. 4) (5). Once a birth has been registered, however, the penalty for wilfully giving false information, under Art. 27, is three years imprisonment.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			Not as a fundamental right
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			Implemented with a national plan
Mandatory marriage registration			

Additional factors

The coexistence of Islamic law and statutory law represents an obstacle to the implementation of the existing legislative framework on CEFM. The will to control girls' sexuality and protect family honour through CEFM, and the lack of consistency in terms of the registration of births and marriages, further increases the number of young girls getting married in Pakistan.

The existence of multiple legal systems with regard to marriage and family relations in the State Party and its discriminatory impact on women and the fact that the minimum age of marriage for girls is 16, as well as the abduction of women and girls belonging to religious minorities for the purpose of forced conversion and forced marriage, are all concerns that have been mentioned by the Committee on the Elimination of Discrimination against Women in the concluding observations report of March 2013 (6).

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PALAU

General background (1, 2)

Total population (thousands) 2012:	21
Population under age 18 (thousands) 2012:	7.5
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	27
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	11,110
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁷⁰

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention signed	Convention signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1995 (a)		2011	2011	

(a) = accession

2. Constitutional provisions

The Constitution of the Republic of Palau was ratified in 1980 and has been in effect since 1 January 1981. It contains a number of human rights provisions that specifically address the rights of children.

Some of the relevant fundamental rights granted by the Constitution are, among others, the right to life (Article IV, section 6), equality before the law and non-discrimination (Article IV, section 5). With regard to the latter, it is stated that “the government shall take no action to discriminate against any person on the basis of sex, ... except for the preferential treatment of citizens, and for the protection of specified vulnerable groups”, which include children.

The Constitution of Palau does not define the institutions of family or marriage. However, as amended by the Twenty-Second Amendment, section 13 of Art. IV, requires the Government to provide for marital and related parental rights,

privileges and responsibilities on the basis of equality between men and women, mutual consent and cooperation.

3. Statutory law

Palau has a mixed legal system of civil, common and customary law (4). Palau’s Constitution and the Palau National Code are the supreme laws of the country.

According to Art. IV, section 13 of the Constitution, all marriages contracted within the Republic of Palau shall be between a man and a woman⁷¹ in accordance with recognized Palauan custom, regardless of their age. There is no legislation

⁷⁰ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Palau not available.

⁷¹ Amendment of the Constitution and the Title 21 of the Palau National Code passed by the Senate Bill No. 9–100 to replace the wording “all marriages contracted between two Palauan citizens” with “all marriages contracted shall be between a man and a woman”. This bill was enacted to restrict marriages contracted in Palau to heterosexual couples (5).

specifying the minimum age of marriage for men or women.⁷² Age of marriage is considered only in connection with administrative formalities to determine the validity of marriages involving or between non-citizens, which are not considered valid if celebrated by Palauan custom. Such couples are required to obtain a marriage licence and are subject to minimum marriage ages: 18 for men and 16 for women. Women between 16 and 18 need the consent of a guardian. In order for marriage certificates to be issued, these marriages must be performed by an ordained minister or a judge, who must make and keep records of them at the register office (8). Two Palauan citizens may also apply for a marriage licence and be married by a judge or a minister, or they may choose to marry by custom.

Birth registration is required under the “Citizenship” section (Title 1, Art. 3.1–4) of the Constitution in order to acquire Palauan nationality and/or dual nationality (i.e. Palauan and Trust Territory citizenship) after turning 18.

4. Customary/religious/traditional/tribal frameworks

Palauan traditions follow a very strict matrilineal system, which means that descent is traced through the mother and maternal ancestors. Thus, an individual is considered to belong to the same descent group as her or his mother. The Palauan National

Code under Art. 1303 recognizes local customary law if not in conflict with the written law. Since marriage is regulated primarily by custom rather than statute, and the marriageable age is not regulated by statutory law, child marriages between citizens of Palau can occur and are valid under customary law.

The only requirement to solemnize this type of customary marriage is to send notice of it to the clerk of court. It must also be registered. If the validity of a customary marriage is ever questioned or disputed, the married party can then ask the court to confirm it. Customary Palauan rules, which call for children to obey their elders and which also deal with custodial and maintenance issues, continue to function to the satisfaction of most people of Palau (9).

5. Provisions and sanctions

The only offence that has been criminalized under national legislation is child abuse, qualified as “indecent assault” under Art. 2806 of the 17th Palau National Code Annotated if the victim is under 14.

The Victims of Crime Assistance Program within the Ministry of Health, in cooperation with the Office of the Attorney General, the police and the judge, investigates and provides assistance to children who have been victims of sexual abuse.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			Regulated as a formality under administrative procedures regarding national and foreign citizens
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

In the past, marriages in Palau were arranged among members of the high clans, but nowadays individuals may select their own partners. Within the clan marriage is not permitted to relatives reckoned through either the father or mother to four generations. Marriage may be solemnized through the court, church and/or traditional ceremonies involving the exchange of prescribed foods and wealth between the clans.

⁷² This information is based on a review of a range of sources including the Demographic Yearbook 2011 compiled by the United Nations Statistics Division (6), data from the periodic country reports to the Committee on the Elimination of Discrimination against Women (CEDAW), available online (e.g. from the website of the United Nations Office of the High Commissioner for Human Rights, <http://www2.ohchr.org/english/bodies/cedaw>), and data published by UNPD (7).

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PAPUA NEW GUINEA

General background (1, 2)

Total population (thousands) 2012:	7,321
Population under age 18 (thousands) 2012:	3,218.4
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	N/A
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2013:	2,030
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁷³

Married by age 15 (per cent) 2006:	2
Married by age 18 (per cent) 2006:	21

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1993		1995 (a)	2008 (a)	

(a) = accession

2. Constitutional provisions

The Constitution of the Independent State of Papua New Guinea was adopted on 15 August 1975 by the Constituent Assembly, which was a constitutional convention of the newly independent state. It came into effect on 15 September 1975, establishing Papua New Guinea as a self-governing country.

The right to life is guaranteed under Article 35, included in Subdivision B. According to Art. 55, all citizens enjoy the same “rights, privileges, obligations and duties irrespective of race, tribe, place of origin, political opinion, colour, creed, religion or sex”, and the State can make laws “for the special benefit and protection of females, children and young persons”. According to the introduction to the Constitution, the main goal for the Government is to ensure integrated human development through education based on mutual respect and improvements in the standard of public health.

The family unit is recognized as the fundamental basis of the society and its social, economic, moral and cultural standing is to be promoted by the State, as provided in the Constitution under “National Goals and Directive Principles”. Article 12 of the Preamble calls for the “recognition of the principles that a complete relationship in marriage rests on equality of rights and duties of the partners, and that responsible parenthood is based on that equality”. Article 66 recognizes citizenship by descent upon registration of birth.

3. Statutory law

Papua New Guinea has a mixed legal system based on English common law and customary law (4). In the context of this review, the authors considered the Marriage Act of 1963 and the Citizenship Act of 1975. Civil and customary marriages are regulated under the Marriage Act of 1963, Section 7 of which provides that males over the age of 16 but under 18, and females over the age of 14 but under 16, may apply to a judge or magistrate for authorization to marry. The requirement of consent to the marriage of a minor depends on the

⁷³ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Papua New Guinea are from the Papua New Guinea Demographic and Health Survey 2006.

circumstances: it is required from both parents if both are alive; from the parent with whom the minor permanently lives if not living with both; from the person or persons having custody of the minor following court-ordered loss of custody by both parents; from the surviving parent if only one remains alive; from the guardian if both parents are dead; from a prescribed authority in the absence of a guardian; or from the adoptive parents or surviving adoptive parent if the child is adopted.

Marriage registration is regulated in Art. 28 and performed by the Registrar-General.

Birth registration is mandatory. By virtue of Art. 6 of the Citizenship Act of 1975, births overseas can be registered within one year or at any time with the consent of the minister.

A new Family Protection Bill, reinforcing the protection for women against domestic violence, was approved in February 2013 (5).

4. Customary/religious/traditional/tribal frameworks

The Marriage Act of 1963, the Local Courts Act of 1963 and the Customs Recognition Act of 1963 further define the practice of marriage. The Marriage Act provides for civil, religious and customary marriages. Section 55(2) of the Marriage Act and section 17 of the Local Courts Act require courts to recognize customary marriage and customary divorce. The Customs Recognition Act requires customs to be taken into account in matters relating to marriage and divorce, custody, guardianship and adoption. The Constitution of Papua New Guinea also requires custom to be taken into account as part of the underlying law. Article 3 of the Customs Recognition Act states that application of customs shall be under the purview of the courts, except where, "in a case affecting the welfare of a child under the age of 16 years, its recognition or enforcement would not, in the opinion of the court, be in the best interests of the child".

With regard to customary marriage, there is no defined legal minimum age; maturity is dictated by physical maturity

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

rather than age. This creates difficulties in the application of written laws that criminalize certain sexual activities involving children or having sexual intercourse with a young wife. The girl's consent to her own marriage is generally not considered because the parents contract the marriage for her when they consider her physically fit.

5. Provisions and sanctions

In relation to CEFM, the referential legal texts are the Criminal Code of 1974, applying only to civil marriages, the Juvenile Courts Act of 1991 and the Customs Recognition Act of 1963. Article 474 of the Criminal Code criminalizes the submission of false certificates of marriage to the Registrar with imprisonment for a term not exceeding seven years.

According to Art. 350 of the Criminal Code, under the title "Abduction", a person who takes a girl or woman away or detains her against her will with the intent, among others mentioned, to marry or "carnally know" her, is guilty of a crime to be punished with imprisonment not exceeding seven years. Point (b) of the same article provides for the case of a woman under 21.

Article 474 refers to marriage registration, stating that:

A person who signs or transmits to a person authorized by law to register marriages (a) a certificate of marriage or (b) a document purporting to be a certificate of marriage that is to his knowledge false is guilty of a crime. Penalty: imprisonment for a term not exceeding seven years.

Article 475 further specifies that:

A person who knowingly or with the intent to procure it to be inserted in a register of births, deaths or marriages, makes a false statement concerning a matter required by law to be registered in any such register is guilty of a misdemeanour. Penalty: imprisonment for a term not exceeding three years.

Additional factors

Addressing CEFM is a challenge in Papua New Guinea as it is hard to ascertain the age of children due to high levels of illiteracy and birth registers not being kept up to date.

Notwithstanding the above, according to UNICEF the number of children whose birth has been registered in the national capital increased from 3% in 2002 to 56% in 2005. The birth registration system was decentralized in 50% of provinces. All schools and health-care facilities were declared compulsory birth registration points (6).

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PHILIPPINES

General background (1, 2)

Total population (thousands) 2012:	98,394
Population under age 18 (thousands) 2012:	39,420.5
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	N/A
Birth registration (per cent) 2005–2012, total:	90 (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	3,740
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 88; female 89
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 55; female 70

Child marriage rates (1, 3)⁷⁴

Married by age 15 (per cent) 2008:	2
Married by age 18 (per cent) 2008:	14

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention ratified
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2002	1981	1974	1965

2. Constitutional provisions

The current Constitution of the Republic of the Philippines was approved by the 1986 Constitutional Commission on 12 October 1986, ratified in a national plebiscite held on 2 February 1987, and came into force on 11 February 1987. The Constitution is the fundamental law of the country and no other law can prevail.

Article II, under the paragraph titled “State Policies”, Section 15 protects and promotes the right to health of all citizens.

Article XIII entitled “Social Justice and Human Rights” further delineates the right to health under Sections 11–13, stating:

[The] State shall adopt an integrated and comprehensive approach to health development, which shall endeavour to make essential goods, health and other social services available to all the people at affordable cost. The needs of the under-privileged, sick, elderly, disabled, women, and children shall be prioritized. The State shall endeavour to provide free medical care to paupers.

Family is covered under section 12 of Art. II, where the State recognizes “the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception”. Moreover, Art. XV reiterates the recognition of the family as the foundation of the nation and Section 2 protects the “inviolable social institution of marriage, which is the foundation of the family”. According to Section 3:

[The state shall] defend the right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood and the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development.

Section 13 of Art. II guarantees the promotion and protection of young people’s physical, moral, spiritual, intellectual and social well-being. Section 14 of Art. II “recognizes the role of women in nation-building, and [the State] shall ensure the fundamental equality before the law of women and men”.

⁷⁴ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Philippines are from the Philippines Demographic and Health Survey 2008.

3. Statutory law

The Philippines has a mixed legal system of civil, common, Islamic and customary law (4). The main sources of law are the Constitution, statutes, treaties and conventions, customary law and judicial decisions. A comprehensive range of laws and acts are relevant to the issue of CEFM including the Special Protection of Children Against Abuse, Exploitation and Discrimination Act of 1992 (hereinafter “the Special Protection Act”), the Family Code of the Philippines of 1987 (hereinafter “the Family Code”) and the Magna Carta for Women of 2009. Under Art. 1 of the Family Code, “marriage is a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life”. Article 5 sets the minimum legal age of marriage at 18, and parental consent is required for persons under 21. Certificates are issued by the local civil registrar (Art. 12).

Section 19 of the Magna Carta for Women guarantees equal rights between men and women in all matters relating to marriage and family relations (e.g. the right to freely choose a spouse) and covers the issue of CEFM under the title “Equal rights in all matters relating to marriage and family relations”.

According to the Law on Registration of Civil Status (Commonwealth Act No. 3753), all civil officers and priests or ministers authorized to solemnize marriages are required to register them by sending a copy of each marriage contract to the local civil registrar (Art. 7) for the marriage register recorded in Civil Register Books (Art. 4). The same action needs to be carried out for birth certificates, including those for “any fetus having human features which dies after twenty four hours of existence”.

4. Customary/religious/traditional/tribal frameworks

Customary law is considered part of the Filipino legal heritage. The 1987 Constitution provides that “the State shall recognise, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions”. The law of the Philippines is heavily influenced by Christian values, as well as Islamic teachings, especially in the southern part of the country. As an enduring influence of Spanish colonization, the religious composition of the Philippines remains predominantly Catholic: 80.9 per cent of the population is Roman Catholic and 2 per cent Aglipayan. The remaining population is largely Muslim (5 per cent) or affiliated with other Christian churches (Evangelical 2.8 per cent, Iglesia ni Kristo 2.3 per cent) (4). There are also small numbers of Buddhists, Daoists (or Taoists) and tribal animists (5).

Marriage rituals have been predominantly Christian or Catholic since the 18th century. Unlike other parts of South-East Asia, women have always enjoyed legal equality within the society, and arranged marriages have not been an important part of Filipino traditions (5).

More recently, the widespread practice of matching Filipino women for marriage with foreign nationals on a “mail order” basis has placed them at risk of violence, abuse and exploitation. As invoked by the Commission on Human Rights, RA 6955, known as the Anti-Mail-Order Bride Law, was put in place in 1990 to address the problem, declare it unlawful as a matter of women’s human rights and provide protection for the women affected (6).

Muslim personal law or principles of sharia law are applied to Muslim communities at the national or provincial level. With regard to marriage, Art. 14 of the Muslim Personal Laws Code of 1977, which only applies in Mindanao Province, sets the minimum legal age of marriage for Muslim boys at 15 and for Muslim girls upon reaching puberty, presumed to occur by 15. Under Art. 16, the sharia court may order the solemnization of a marriage if the bride, though under 15, is over 12 and has reached puberty.

5. Provisions and sanctions

Specific acts, in addition to the Revised Penal Code of the Philippines (Act No. 3815), criminalize practices linked to CEFM: the Anti-Violence against Women and their Children Act of 2004 RA 9262 (hereinafter “the Anti-Violence Act”), the Juvenile Justice and Welfare Act of 2006 and the Anti-Rape Law of 1997. The Anti-Rape Law and the Revised Penal Code punish “a man who ... [has] carnal knowledge of a woman through threats or when the offended party is under 12 years of age” (respectively Art. 266-A and Chapter 2, Art. 335). The punishment for the crime of rape is *reclusion perpetua* (Art. 266-B of the Anti-Rape Law). Aggravating circumstances of the crime of rape are listed under the same article and punishable by the death penalty:

- (1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim; ...
- (3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity; ...
- (5) When the victim is a child below 7 years old.

On the other hand, Art. 266-C of the Anti-Rape Law, entitled “Effect of Pardon”, provides that “the subsequent valid marriage between the offender and the offended party shall extinguish the criminal action or the penalty imposed”. In addition, in cases where the legal husband is the offender, subsequent forgiveness by the wife as the offended party extinguishes the criminal action or penalty. A more recent ACT, the Anti-Violence Act, specifically punishes violence “committed by any person against a woman who is his wife, former wife, a sexual partner or with whom he has a common child” (Section 3.a).

The Magna Carta, under Section 12 on “Equal Treatment Before the Law”, calls for the amendment or repeal of laws that are discriminatory to women: “[t]he State shall take steps to review and, when necessary, amend and/or repeal existing laws that are discriminatory to women within three (3) years from the effectivity of this Act”.

False statements for marriage registration are punishable by imprisonment for no less than one month and no more than six months, or by a fine (Art. 16). Failure on the part of the responsible party to report facts of civil status is also punished with a fine (Art. 17).

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

The United Nations Special Rapporteur on trafficking in persons visited the country in 2013 and stated in its report that child and forced marriage in the Philippines is strictly linked to the trafficking and sale of children. Girls and young women are internally and internationally trafficked for domestic work and sexual exploitation by using marriage schemes, including mail-order bride services or sponsorship. For international marriages, the ceremony takes place in the Philippines so that the spouse will be eligible for a spouse visa (7).

Poverty and lack of access to education are other factors contributing to the persistence of the practice of CEFM.

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REPUBLIC OF KOREA

General background (1, 2)

Total population (thousands) 2012:	49,263
Population under age 18 (thousands) 2012:	9,555
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	2
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	27,090
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁷⁵

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1991	2004	1984	1990 (a)	

(a) = accession

2. Constitutional provisions

The Constitution of the Republic of Korea, the country's supreme law, was adopted on 17 July 1948. It has been amended nine times and revised five times, most recently in 1987. That last reform, resulting in the "Constitution of the Sixth Republic", was approved on 29 October 1987 and entered into force on 26 February 1988. It is divided into 10 chapters. Chapter II contains "Rights and Duties of Citizens" (Art. 10–39). Article 10 enshrines the fundamental right of human dignity, worth and happiness of all citizens and entrusts the State with guaranteeing it. The principle of non-discrimination on the basis of sex is recognized in Art. 11. Articles on human rights are established in a number of new social welfare provisions, which include measures for the protection of working women from unjust discrimination, housing development policies for a healthy and agreeable environment and "protection for mothers".⁷⁶ Article 36 sets out the principles that should govern the institution of marriage

and family: "[m]arriage and family life shall be entered into and sustained on the basis of individual dignity and equality of the sexes, and the State shall do everything in its power to achieve that goal" and further specifying that "[t]he State shall endeavour to protect mothers". The same article states that "the health of all citizens shall be protected by the State".

3. Statutory law

The legal system of the Republic of Korea is mixed, combining European civil law, Anglo-American law and Chinese classical thought (4). International treaties duly concluded and promulgated under the Constitution have equal weight as domestic laws.

According to Art. 800 of the Civil Code of the Republic of Korea, "any adult person may freely enter into a matrimonial engagement". Article 807 covers the issue of "marriageable age", providing that "a man who has completed his full eighteen years of age, and a woman who has completed her full sixteen years of age, may enter into matrimony". Article

⁷⁵ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Republic of Korea not available.

⁷⁶ Articles 30–36 of the Constitution.

808 on “Marriage requiring consent” specifies that “[a] minor shall obtain the consent of both parents in order to marry. If one parent is unable to exercise the right of consent, the minor shall obtain the consent of the other parent, and if neither parent is able to exercise the right of consent, the minor shall obtain the consent of its guardian”.⁷⁷ A minor is a person below the age of 19.

Arranged marriage is regulated and permitted under the Marriage Brokerage Business Management Act, as last amended in 2012. The aim of this Act is to contribute to building a healthy marriage culture by guiding and promoting the marriage brokerage business so as to protect the parties involved. It provides that the persons to be introduced by international marriage brokers as potential marriageable parties must be over 18.⁷⁸

The registration of marriage is mandatory. A formal marriage is only recognized after being registered in a family relationship register in accordance with marriage procedures stipulated by law, including the submission of a notification of marriage document at the local city office in accordance with the relevant provisions of the Civil Code and the Family Relationships Registration Act (Art. 812, Civil Code). The registration of birth certificates at the local city office is also compulsory.

4. Customary/religious/traditional/tribal frameworks

With the industrialization and urbanization of the country, the family has become more the unit of “intimacy” than of lineage and genealogical origins.

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage	Found	
Constitutional definition/protection/reference to family	Found	
Constitutional recognition of right to health	Found	
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex	Found	
Minimum legal age of marriage	Found	
Spousal consent to marriage	Found	
No exceptions to the legal age for consent to marriage		Not found
Assertion of primacy of statutory and/or case law over other forms of law	Found	
Assertion of primacy of international law over national law	Found	
Mandatory birth registration	Found	
Mandatory marriage registration	Found	

The pressures of age-old cultural tradition still influence the marital goals of modern women. Class remains a major consideration, and the economic status of one prospective spouse’s family is expected to closely match the other’s or parental disapproval is very likely. Although they do not choose their child’s partner, parents still strive to see their daughters married when the proper marriage age is reached, and it is still quite common for them to arrange dates with prospective partners. Parents also generally have veto power over the child’s choice of spouse (5).

5. Provisions and sanctions

The Criminal Code of the Republic of Korea was the source reviewed by the authors of this report in relation to CEFM. According to Art. 291, “A person who kidnaps another by force or inveiglement for the purpose of marriage shall be punished by imprisonment for not more than five years.” Art. 304 of the Code provides that “[a] person who induces a female not habitually immoral to engage in sexual intercourse under pretence of marriage or through other fraudulent means, shall be punished by imprisonment for not more than two years or by a fine not exceeding five million won”. With regard to marriage registration, under Art. 228.1 of the Criminal Code “[a] person who makes an untrue statement to a public official, thereby causing a false entry to be made in a license, permit, registration certificate or passport, shall be punished by imprisonment for not more than three years or by a fine not exceeding seven million won”.

⁷⁷ The Code indicates that this article has been wholly amended by Act. No. 3051, 31 December 1977. This act is not available online.

⁷⁸ Art. 12-2 regarding the prohibition of introduction of minors.

Additional factors

The Republic of Korea has eliminated the practice of CEFM in little more than a generation (6). The levels of education and economic opportunities for girls and young women have increased, there has been broader development and economic growth and health and general welfare have improved (7).

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SAMOA

General background (1, 2)

Total population (thousands) 2012:	190
Population under age 18 (thousands) 2012:	84.1
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	39
Birth registration (per cent) 2005–2012, total:	47.7 (urban 62.1, rural 44.4)
GNI per capita (US\$) 2014:	4,050
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 88; female 89
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 51; female 70

Child marriage rates (1, 3)⁷⁹

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention ratified	Convention neither ratified nor signed	Convention ratified
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1994		1992 (a)		1964 (a)

(a) = accession

2. Constitutional provisions

The Constitution of the Independent State of Samoa, adopted by the Constitutional Convention of 1960 and in force since 1 January 1962, is the supreme law of Samoa. It has been amended several times, most recently in 2013 when a minimum number of women members of parliament was set. Part II of the Constitution guarantees the protection of fundamental rights. Article 5 provides for the right to life: “no person shall be deprived of his life intentionally, except in the execution of a sentence of a court following his conviction of an offence for which this penalty is provided by Act”. Freedom from discriminatory legislation is affirmed in Art. 15, which prohibits discrimination on the grounds of “descent, sex, language, religion, political or other opinion, social origin, place of birth, family status”. Paragraph 3(b) of this article authorizes the State to carry out any “provision for the protection or advancement of women or children”.

3. Statutory law

Samoa has a mixed legal system of English common law and customary law. Legislative acts can be reviewed by the judiciary with respect to fundamental rights of the citizen (4).

The legislative framework reviewed by the authors includes the Marriage Ordinance of 1961, the Infants Ordinance of 1961⁸⁰ and the Births, Deaths and Marriages Registration Act of 2002. Article 9 of the Marriage Ordinance sets the minimum legal age of marriage as follows: “a marriage officer shall not solemnise or record any marriage unless the husband is at least 18 years of age and the wife is at least 16 years of age”. Consent to marriage of minors is regulated by Art. 10, which provides that any man under 21 or any woman under 19 can marry with the consent of one of the parents or the guardian. A district court judge may in any case, as a matter of discretion,

⁷⁹ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Samoa not available.

⁸⁰ It has been recommended that new principal legislation on child care and protection should be drafted to replace the Infants Ordinance and consolidate all appropriate child care and protection provisions currently accommodated in different pieces of specific legislation. It is recommended that the new principal legislation should address the issues raised in the baseline research. It should also accommodate the proposed child care and protection framework in the Child Care and Protection Legislation Final Report 11/13, in light of obligations under the CRC (5).

grant exemption from the requirements of parental consent (Art. 10[2]).

Part I of the Births, Deaths and Marriages Registration Act provides for marriage registration, charging the Registrar and the Deputy Registrar to provide for the general administration (Art. 4). Marriage and birth registration are made mandatory and regulated by Art. 55–68 and Art. 9–22, respectively.

4. Customary/religious/traditional/tribal frameworks

Samoa has a hierarchical society in which many traditional values and customs remain robust. A good example is the value placed on children. They are perceived as gifts that guarantee continuation of the family lineage. There is a general sense of responsibility amongst members of the extended family to protect and care for children.⁸¹

The unit of Samoan life is the extended family (*aiga potopoto*). The extended family is headed by a *matai* or chief who is appointed by family consensus. The *matai*, who can be male or female but is usually male, is responsible among other things for maintaining the family unit and prestige. Among villages, the most important criteria for membership within the village group are age and marital status (6). The Committee on the CEDAW expressed serious concern about “the persistence of harmful norms, practices, traditions, patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life”. These include, in particular, women’s limited access to family chiefly titles, discrimination against women married to untitled men and the practice of village councils banishing families from the village (7).

5. Provisions and sanctions

In the context of this review, the authors considered the Marriage Ordinance of 1961, and the Crimes Act of 2013.

The minimum legal age of consent to sex is 16 according to Section 59 of the Crimes Act. This provision further states that whoever has sexual connections with a child under 16 years of

age is punishable by imprisonment for a term not exceeding 10 years. However, according to paragraph 4 of the same section, “no person can be convicted of a charge under this section if the person was married to the young person concerned at the time of the sexual connection or indecent act concerned”.

According to Art. 56 of the Crimes Act, with regard to sexual conduct with a young person under 16 :

A person who has sexual connection with a young person is liable to imprisonment for a term not exceeding 10 years while if he attempts to have sexual connection with the young person he is liable to imprisonment for a term not exceeding 10 years and if he does an indecent act with or on a young person is liable to imprisonment for a term not exceeding seven (7) years.

More importantly, point 4 of the same article states that “[n]o person can be convicted of a charge under this section if the person was married to the young person concerned at the time of the sexual connection or indecent act concerned”⁸².

Article 79 refers to “feigned marriage”, stating that a person is “liable to imprisonment for a term not exceeding five (5) years who goes through a form of marriage with any other person, knowing that the marriage will be void for any reason other than that one of the parties is already married”. However, according to point 2 of the same article, “if the Judge is satisfied that the other person knew, at the time when the offence was committed, that the marriage would be void, the offender is liable to imprisonment for a term not exceeding two (2) years”.

Article 30 of the Marriage Ordinance provides that:

Every marriage officer who knowingly and wilfully solemnises any marriage contrary to the provisions of this Ordinance, or where there is any other lawful impediment to the marriage, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 5 years, or to a fine not exceeding 6 penalty units.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

81 This is the common perception amongst most Samoan families; therefore, the priority is to raise and prepare the next generation of leaders from which to choose the *matai* and to lead and protect family interests (5).

82 In this section, a “young person” means a person who is at least 12 but under 16.

Additional factors

Ancient traditions and Christian principles govern family relations and marriage in Samoa.

Although the legislation discriminates between boys and girls on the matter of minimum age of marriage, the practice of CEFM seems not to be widespread. Nevertheless, in 2006 the Committee on the Rights of the Child renewed their recommendation to the State Party to establish one legal minimum age for marriage for both boys and girls at an internationally acceptable level. It also expressed concern about the lack of an independent body to promote and monitor the implementation of children's rights with the power to receive and address individual complaints concerning violations of all children's rights (8).

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SINGAPORE

General background (1, 2)

Total population (thousands) 2012:	5,412
Population under age 18 (thousands) 2010:	812.2
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	3
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	55,150
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁸³

Married by age 15 (per cent):	N/A
Married by age 18 (per cent):	N/A

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1995 (a)		1995 (a)		

(a) = accession

2. Constitutional provisions

The Constitution of the Republic of Singapore was adopted in 1965 and last amended in 2014. Under Article 4, the supremacy of the Constitution is recognized over other laws enacted by the legislative branch. In Part IV of the Constitution, Art. 9–16 deal with fundamental liberties, including the right to life and personal liberty (Art. 9); the right to equality on the grounds of religion, race, descent or place of birth (without reference to gender or age) (Art. 12); the right to non-discrimination on the basis of religion (Art. 15); and rights in respect of education (Art. 16). Marriage and family are not referred to in the Constitution.

In relation to religion, Art. 153 provides that “the legislature shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion”.

3. Statutory law

The legal system of Singapore is based on English common law (4). Muslim religious affairs are regulated by the Administration of Muslim Law Act, which provides for the establishment of a council to advise on Muslim religious matters in Singapore, and a sharia court. The sharia court is given jurisdiction over Muslim personal law, including such matters as marriage, inheritance and divorce. Marriage and family law in Singapore is mainly based on statute and much of the statute is contained within the 1961 Women’s Charter, last revised in 2011, and the Children and Young Persons Act of 1993, revised in 2001 and covering children under 14.

Section 9 of the Women’s Charter states that “a marriage solemnized in Singapore or elsewhere between persons either of whom is below the age of 18 shall be void”. However, the minister has the discretion to grant a special marriage licence, if the necessary consent is given and if “proof [is] made to him by statutory declaration that there is no lawful impediment to the proposed marriage”.

⁸³ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Singapore not available.

The consent of the minor's parent is essential for the validity of the licence (Section 13). The Children and Young Persons Act differentiates between different circumstances, such as cases where the minor is a legitimate, illegitimate or transferred child or where one or both parents are dead. Subsections 13(2) and 13(3) state that the requirement for consent can be waived if unobtainable because a person whose consent is required is absent, inaccessible or disabled, and the minister is satisfied. Under this provision, the refusal by a parent or guardian may be overturned by a high court judgment. Part IV regulates marriage registration.

4. Customary/religious/traditional/tribal frameworks

Muslim laws regulate Muslim marriages. In particular, the Administration of Muslim Law Act sets the minimum legal age of marriage for both boys and girls at 18. Section 96 establishes the conditions for a marriage to be considered valid. Subsection 1 provides that "no marriage shall be solemnized under this act unless all the conditions necessary for the validity thereof, in accordance with the Muslim law and the provisions of this act are satisfied".

Subsection 3, dealing with consent, provides that "before solemnizing a marriage or giving his written consent to the solemnization of a marriage under subsection 2, the *Kadi* shall satisfy himself after inquiry that there is no lawful obstacle according to the Muslim law or this act to such marriage".

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Subsection 4 stipulates that "[n]o marriage shall be solemnized under this act if at the date of the marriage either party is below the age of 18 years". Subsection 6 provides for the following exception: "notwithstanding subsection 4, a *Kadi* may in special circumstances solemnize the marriage of a girl who is below the age of 18 years but has attained the age of puberty". Betrothal is regulated in Section 94. Section 102 makes marriage registration compulsory.

5. Provisions and sanctions

The application of norms in the context of CEFM is regulated under the Penal Code and the Women's Charter. Section 375 criminalizes rape and Section 376(A) criminalizes any sexual act with a person under 16, excepting in both cases if the victim is the offender's wife and over 13. Both rape and unlawful sexual penetration are liable to the same penalty: imprisonment for up to 20 years plus a fine or caning (Sections 375[2] and 376[4]).

Forced marriages are criminalized under Section 36 of the Women's Charter, which states that any person who uses "any force or threat" to compel a person to marry against her will or prevent a person aged 21 years or older from contracting a valid marriage, shall be guilty of an offence. This is to be penalized by a fine not exceeding 3,000 Singapore dollars or by imprisonment for a term not exceeding three years, or both.

Additional factors

In 2011, the CEDAW Committee noted with appreciation the efforts of the State, through the Islamic Religious Council of Singapore, "to review and revise discriminatory legislation and align sharia law with civil law" (5). This includes an amendment to the Administration of Muslim Law Act in 2008 raising the minimum age for Muslim marriage from 16 to 18, for both males and females. The concluding observations report by the Committee on the Rights of the Child also mentioned this positive change. However, the CEDAW Committee remains concerned that a dual marriage regime persists and that it is applied in a discriminatory way through the laws relating to marriage and divorce (5).

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SOLOMON ISLANDS

General background (1, 2)

Total population (thousands) 2012:	561
Population under age 18 (thousands) 2012:	258
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	62
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	1,830
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 63; female 69
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 29; female 30

Child marriage rates (1, 3)⁸⁴

Married by age 15 (per cent) 2007:	3
Married by age 18 (per cent) 2007:	22

Legal framework

1. Relevant international treaties

Convention ratified	Convention signed	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1995 (a)	2009	2002 (a)	1982 (a)	

(a) = accession

2. Constitutional provisions

The Constitution of the Solomon Islands was adopted in 1978 and is the country's supreme law. It establishes the framework that defines fundamental political principles and rights along with the structure, procedures, powers and duties of the Government and the citizens.

The Constitution does not contain provisions that specifically refer to marriage and family. However, Chapter II on "Protection of fundamental rights and freedoms of the individual" recognizes the right to life and to freedom from discrimination on grounds that include gender (Art. 15), and provides for the enforcement of protective provisions.

Chapter VII recognizes customary law together with common law and "legal doctrine of judicial precedent" as part of the legal system (Art. 75). The Constitution also defines the relationship between common and customary law under Schedule 3 (para. 2), regarding the application of laws,

as follows: "common law and equity principles shall have effect as part of the law of Solomon Islands, except if in their application they are, to any particular manner, inconsistent with customary law".

3. Statutory law

Solomon Islands has a mixed legal system of English common law and customary law (4). The authors of this report reviewed the Births, Marriages and Deaths Registration Act and the Islanders Marriage Act. The Births, Marriages and Deaths Registration Act, Chapter 169, regulates the celebration of marriages (Art. 4); registration of births and marriages (Art. 11–18); and the registration of marriages by the ministers celebrating them (Art. 2). There is no requirement to provide birth certificates in order to confirm the ages of the marriageable parties, which means that if the parties have the physical appearance of adults they can easily marry.

There are three types of legal marriage in the Solomon Islands: civil, church (religious) and customary. The Islanders

⁸⁴ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Solomon Islands are from the Solomon Islands Demographic and Health Survey 2007.

Marriage Act states that valid marriages can be celebrated before a minister of religion or before a district registrar, with detailed provisions in both cases about registration, place, time and witnesses.

There is no legal difference between a church and a civil marriage as long as the religious person who marries the parties is registered with the Government and is authorized by legislation to perform marriage ceremonies.

Regarding age and consent, Article 10 sets the legal age of marriage without the father's consent at 18, and with the father's consent at 15, as follows:

(1) No marriage shall be celebrated under this Act unless it has been established to the satisfaction of the minister of religion or District Registrar that each of the parties has attained the age of 15 years.

(2) Any Islander knowing himself or herself to be under the age of 15 years who contracts a marriage before a minister of religion or District Registrar, and any minister of religion or District Registrar who knowingly celebrates the marriage of an Islander under the age of 15 years, shall be guilty of an offence, and shall be liable to a fine of 100 U.S. dollars or to imprisonment for six months.

(3) No Islander (not being a widower or widow) under the age of 18 years may be married without the written consent of the father, or if he be dead or of unsound mind or absent from the district, of the mother, or if both be dead or of unsound mind or absent from the district, of the guardian of such Islander. If the Islander has no father, mother, or guardian, a judge or magistrate may, if satisfied after due inquiry that the application to marry is a proper one, give such consent.

The magistrate can give judicial permission to marry if the party wishing to marry can show that consent is being "unreasonably withheld" by his or her parent or guardian, meaning that the reason given for opposing the marriage is not strong enough.

Part II of the Islanders Marriage Act defines detailed procedures for registration of marriages before a religious ministry and the District Registrar as well as for voluntary registration of customary marriages.

4. Customary/religious/traditional/tribal frameworks

Article 4 of the Islander Marriage Act provides that to be valid a marriage must be celebrated before a minister of religion or a district registrar. This requirement does not apply to marriages celebrated in accordance with custom or in accordance with the Pacific Islands Civil Marriages Order in Council of 1907.

In Solomon Islands, a marriage properly performed according to custom is also recognized by the courts as a legal marriage and can be registered before the magistrates court. Husband and wife need to sign a statutory declaration form. People often complete this formality if a marriage certificate is needed for some official or administrative requirement; for instance, if they need to get a passport or make a National Pension Fund withdrawal or payment. Most people in Solomon Islands do not in fact register their marriages, but the courts still recognize them as valid. A registered marriage can only be ended in the High Court, while an unregistered marriage can only be ended according to custom.

5. Provisions and sanctions

With regard to the marriage ceremony, Art. 171 states that "[a]ny person who dishonestly or with fraudulent intention goes through the ceremony of marriage, knowing that he is not thereby lawfully married, shall be guilty of a felony, and shall be liable to imprisonment for five years".

In terms of false statements with reference to marriage, Art. 104 states the following:

Any person who-

(a) for the purpose of procuring a marriage or a certificate or licence for marriage knowingly and wilfully makes a false oath or makes or signs a false declaration notice or certificate required under any Act for the time being in force relating to marriage; or

(b) knowingly and wilfully makes or knowing and wilfully causes to be made for the purpose of being in any register of marriage a false statement as to any particular required by law to be known and registered relating to any marriage; or

(c) forbids the issue of any certificate or licence for marriage by falsely representing himself to be a person whose consent to the marriage is required by law knowing such representation to be false, shall be guilty of a misdemeanour, and shall be liable to imprisonment for seven years.

Article 171, on bigamy, provides that "[f]or the purposes of this section a ceremony of marriage under customary law shall not be deemed to constitute a valid previous marriage unless it has been registered under the provision of the Islanders' Marriage Act".

In relation to marriage registration, Art. 337 indicates that "forgery of a marriage or birth registration, if committed with intent to defraud or deceive, is a felony and punishable with imprisonment for fourteen years".

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

The Solomon Islands has to contend with serious economic challenges, being one of the poorest countries in the Pacific region. Among the challenges have been civil war over the past decade and natural disasters, including the 2007 tsunami (5). Severe poverty and civil conflicts have in turn increased the risks of sexual abuse and exploitation, to which women and girls are particularly vulnerable. It is estimated that two out of three women between the ages of 15 and 49 who are in a relationship have experienced violence by their husbands or boyfriends, and that 55% of women have experienced sexual violence by their intimate partner (6).

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SRI LANKA

General background (1, 2)

Total population (thousands) 2012:	21,273
Population under age 18 (thousands) 2012:	6,261.5
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	N/A
Birth registration (per cent) 2005–2012, total:	97.2 (urban 96.5, rural 97.6)
GNI per capita (US\$) 2014:	3,400
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 98; female 98
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁸⁵

Married by age 15 (per cent) 2006–2007:	2
Married by age 18 (per cent) 2006–2007:	12

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1991	2006	1981	1980 (a)	1962

(a) = accession

2. Constitutional provisions

The Constitution of the Democratic Socialist Republic of Sri Lanka has been in place since its original promulgation by the National State Assembly on 7 September 1978. It is Sri Lanka's second republican constitution, and its third constitution since the country's independence (as Ceylon) in 1948. As of September 2010 it has been formally amended 18 times.

The Constitution provides for an independent judiciary and guarantees fundamental rights, entitling any aggrieved person to invoke the Supreme Court for any violation of his or her fundamental rights. Fundamental rights are covered under Chapter III. Article 12 enshrines the right to equality, providing that: (1) All persons are equal before the law and are entitled to the equal protection of the law; and (2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds. Point 4 of the same article further states that "nothing in this Article shall prevent special provision being

made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons".

Chapter II recognizes the supremacy of Buddhism: "the Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e)". The Constitution does not contain specific provisions regarding family and marriage.

3. Statutory law

Sri Lanka has a mixed legal system influenced by Roman–Dutch civil law, English common law and Jaffna Tamil customary law (4). The body of law relating to marriage consists of the general law, customary law and personal law. The General Marriages Ordinance is applicable to all Sri Lankans with the exception of Muslims, whose marriages and related issues are governed by the Muslim Marriage and Divorce Act of Sri Lanka. People governed by Kandyan Law have the right to choose either Kandyan Law or the General

⁸⁵ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Sri Lanka are from the Sri Lanka Demographic and Health Survey 2006–2007.

Marriages Ordinance as the law governing their marriage and divorce.

According to the General Marriages Ordinance, Art. 15, “[n]o marriage contracted after the coming into force of this section shall be valid unless both parties to the marriage have completed eighteen years of age”.

However, Art. 22 authorizes parents (or the guardian in the absence of parents) to consent to a marriage involving a minor. Point 2 of the same article specifies that:

If there be no person authorized as aforesaid to give consent, or if the person so authorized unreasonably withholds or refuses his or her consent, the Judge of the District Court within whose jurisdiction the party so under age resides, may, upon the application of any party interested in such marriage, and after summary inquiry, give consent to the said marriage, and such consent is hereby required for the said marriage.

Courts have held, however, that a parent’s denial of consent will only be overruled if the court is satisfied that the denial is without cause and contrary to the minor’s interests. Despite the requirement of parental consent, the ordinance provides that the absence of proof of such consent does not render invalid marriages registered under the ordinance. This exception does not apply to customary marriages because such marriages would not have satisfied the registration requirement (5, 6).

Marriage registration is mandatory under both the General Marriages Ordinance and Kandyan Law. According to the Births and Deaths Registration Act, births must under normal circumstances be registered within 42 days (Art. 15). There are specific provisions for births outside the country.

4. Customary/religious/traditional/tribal frameworks

The Muslim Marriage legislation, covered under the post-independence Muslim Marriages and Divorce Act of 1951, does not explicitly specify a minimum age, since early marriages are considered a legal practice based on Muslim personal law (7). Although the Kandyan Marriage and Divorce (Amendment) Act of 1995, Art. 66, raised the minimum age to 18 (“lawful age of marriage in relation to the male party and the female party to the marriage, means 18 years of age”), there is a legal exception for Sri Lanka’s minority Muslim community.

The Muslim Marriage and Divorce Act of 1951 continues to regulate matrimonial law for the Muslim community and allows girls to marry as young as 12, or even younger with the permission of a *Quazi*, a Muslim court. Article 23 states that “a marriage contracted by a Muslim girl who has not attained the age of 12 years old shall not be registered under this Act unless the *Quazi* for the area in which the girl resides has, after such inquiry as he may deem necessary, authorized the registration of the marriage”. Although the Muslim Marriage and Divorce Act emphasizes the importance of registering marriages, it also says that the validity or invalidity of a marriage does not

depend on registration. This means that even unregistered customary marriages can also be considered valid under the law of Sri Lanka.

5. Provisions and sanctions

The offence of rape is included under Art. 363 of the Penal Code, including specific reference to the case of a married woman over 12:

A man is said to commit “rape” who has sexual intercourse with, a woman under circumstances falling under any of the following descriptions: – (a) without her consent even where such woman is his wife and she is judicially separated from the man; (b) with her consent, while she was in lawful or unlawful detention or when her consent has been obtained, by use of force or intimidation, or by threat of detention or by putting her in fear of death or hurt; (c) with her consent when her consent has been obtained at a time when she was of unsound mind or was in a state of intoxication induced by alcohol or drugs, administered to her by the man or by some other person; (d) with her consent when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is, or believed herself to be, lawfully married; (e) with or without her consent when she is under 16 years of age, unless the woman is his wife who is over 12 years of age and is not judicially separated from the man.

According to Part VII of the Births and Deaths Registration Act, “Offences and Penalties”, every person who registers or causes to be registered the birth of a child after the expiry of three months from the date of such birth or who contravenes the provisions of the Births and Deaths Registration Act “shall be guilty of an offence and shall be liable on conviction to a fine not less than one thousand rupees and not exceeding two thousand rupees” (Art. 64).

According to Art. 64:

Every registrar who refuses or without reasonable cause omits to register any birth or death or still birth or any particulars relating to such birth, death or still birth, concerning which information has been given to him by the appropriate informant and which he ought to register ... shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

Case law in the appellate courts has alluded to parental pressure for marriage when a girl under 18 has sexual relations. *Guneratnam v. Registrar General* [2002] refers to a registrar’s refusal to register the marriage of a girl under 18 being challenged by her parents on the grounds that the law, as amended in 1995, retained the requirement of parental consent to marry, and therefore gave parents a right to have such a marriage solemnized (8).

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			It differs in different acts
Mandatory marriage registration			It differs in different acts

Additional factors

The National Child Protection Authority has noted that some underage marriages continue because of accepted cultural norms in some regions, especially in the Badulla and Polonnaruwa regions. The introduction of legislative reforms requiring that all marriages and the mutual consent to underage marriages be registered seems to have played an important role in reducing the prevalence of CEFM.

Additionally, Sri Lankan courts have on numerous occasions ruled non-consensual marriages that were forced on girls by their parents to be invalid, which has helped educate the public about the injustice and illegality of CEFM. National health and education policies have complemented these efforts. For example, the Government provides free education from primary to university level in Sri Lanka, which encourages families to keep girls in school instead of marrying them off (9).

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THAILAND

General background (1, 2)

Total population (thousands) 2012:	67,010
Population under age 18 (thousands) 2012:	15,106.9
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	60
Birth registration (per cent) 2005–2012, total:	100 (urban 99.6, rural 99.3)
GNI per capita (US\$) 2014:	5,370
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 96; female 96
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 75; female 83

Child marriage rates (1, 3)⁸⁶

Married by age 15 (per cent) 2012:	4
Married by age 18 (per cent) 2012:	22

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1992 (a)	2006 (a)	1985 (a)	1999 (a)	

(a) = accession

2. Constitutional provisions

The Constitution of the Kingdom of Thailand (Interim), Buddhist Era 2557 (2014), was enacted by the National Council for Peace and Order (NCPO) on 22 May 2014. Section 4 of the Interim Constitution recognizes the human dignity, rights, liberty and equality of all Thais but also makes these rights subject to constitutional provisions that include giving NCPO the highest authority under Sections 44 and 47 to limit, suspend or suppress fundamental human rights protections.

3. Statutory law

Thailand has a civil law system with common law influences (4). The Thailand Civil and Commercial Code of 1985, the Child Protection Act of 2003, and the Civil Registration Act Amendment N.2, B.E. 2551 (2008) regulate marriage and cover the issue of CEFM in Thailand. The Child Protection Act defines a child as “a person below 18 years of age, but does not

include those who have attained majority through marriage” (Art. 4).

Section 1435 of Book V of the Civil and Commercial Code defines the minimum age of marriage as 17; however, parental consent is required if the spouse is under 21 (Section 1436). The court may approve the marriage of individuals under 17 when there is an appropriate reason to do so (Section 1448), but neither that article nor subsequent provisions specify what reasons might be considered appropriate.

Spousal consent is needed as stated in Section 1458: “a marriage can take place only if the man and woman agree to take each other as husband and wife, and such agreement must be declared publicly before the Registrar in order to have it recorded by the Registrar”. An engagement is not valid until the man pays a bride price, known as *khongman*,⁸⁷ to the woman as evidence that the marriage will take place, and both

⁸⁶ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Thailand are from the Thailand Multiple Indicator Demographic and Health Survey 2012.

⁸⁷ *Khongman* refers to the transfer of property from the man to the woman as evidence that the betrothal has taken place.

parties must have the intention to register their marriage with the authorities (Section 1437).

Marriage registration is mandatory under Section 1457. In terms of birth registration, according to the Civil Registration Act, Sections 14–19, Thailand legally recognizes the birth of a child only if the birth is registered at the district office within 30 days.

4. Customary/religious/traditional/tribal frameworks

Section 79 of Chapter V of the Thai Constitution provides that:

[T]he state shall patronize and protect Buddhism, which is the religion the majority of Thai people have practiced for a long time, and other religions, promote good understanding and harmony among followers of all religions, as well as encourage the application of religious principles to create virtue and develop the quality of life.

Marriages in Thailand are structured according to customary practice and Buddhist principles. A customary marriage, generally a Buddhist ceremony, is not considered legal, and the State will not recognize the married couple’s rights, unless it complies with section 1458 of the Thailand Civil and Commercial Code.

For betrothal to be considered valid, the *khongman* must be paid to the bride’s family according to Section 1437 of the Civil

and Commercial Code. The *khongman* is perceived by custom and tradition as payment for a woman’s good upbringing. The amount paid depends on the social standing of the bride and her family, as well as her educational level, occupation and family background. The entire bride price, considered a symbolic gesture in modern Thai society, is generally given to the couple following the ceremony (5).

5. Provisions and sanctions

Legal mechanisms and/or remedies are available to invalidate child marriages. The Civil and Commercial Code, Section 1503, states that “An application to the Court for cancellation of marriage on the ground of its avoidable shall be made only in the case where the spouses have not complied with Section 1448 ... and Section 1509”. Among other provisions, Section 1448 specifies the minimum age of marriage, while Section 1509 refers to consent to marriage of a minor. Section 1504 provides that “if the court has not cancelled the marriage until both man and woman have completed the age required under Section 1448 (17 years old) or if the woman has become pregnant before such completion, the marriage shall be deemed to be valid from the time it was made”.

The Criminal Code Amendment No. 8 to Section 277 prohibits sexual intercourse between a man and a girl under 15, if not his wife. If she is between 13 and 15, the man can marry her, with her consent, and not be punished for the offence.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Additional factors

Many children in Thailand are affected by poverty and the bride-price system represents a resource for poor families. Despite the fact that the practice of CEFM persists in Thailand, the country has made a great effort to reduce the phenomenon in little more than a generation. The increase in the minimum age for marriage has been coupled with increases in the levels of education and economic opportunities for girls and young women, as well as broader development success in terms of economic growth and improvements in health and welfare (6). Increasing parents’ knowledge of the harmful effects of CEFM has also been beneficial. These developments have contributed to improving health and decreasing infant mortality rates through the reduction of early pregnancies.

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- 4 *The world factbook* [website], Washington, D.C., United States Central Intelligence Agency, 2014. Available at <https://www.cia.gov/library/publications/the-world-factbook/>, accessed 18 November 2015.
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TIMOR-LESTE

General background (1, 2)

Total population (thousands) 2012:	1,133
Population under age 18 (thousands) 2012:	611.1
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	54
Birth registration (per cent) 2005–2012, total:	55.2 (urban 49.7, rural 56.8)
GNI per capita (US\$) 2014:	3,120
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 71; female 73
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 43; female 48

Child marriage rates (1, 3)⁸⁸

Married by age 15 (per cent) 2009–2010:	3
Married by age 18 (per cent) 2009–2010:	19

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
2003 (a)	2003 (a)	2003 (a)	2003 (a)	

(a) = accession

2. Constitutional provisions

Timor-Leste was internationally recognized as an independent republic on 20 May 2002; the Constitution of the Democratic Republic of Timor-Leste entered into force the same day. Title III of the Constitution provides for economic, social and cultural rights and guarantees the right to health as follows: (1) “Everyone has the right to health and medical care, and the duty to protect and promote them”; and (2) “The State shall promote the establishment of a national health service that is universal and general”.

Title II of the Constitution provides for fundamental rights, duties, freedoms and guarantees. Under Section 16, all citizens are equal before the law, exercise the same rights and are subject to the same duties. Section 39 provides for the protection of “the family as the society’s basic unit and a condition for the harmonious development of the individual”. Section 39.3 provides that “marriage shall be based upon free consent by the parties and on terms of full equality of rights

between spouses, in accordance with the law”. According to Section 16.2, “[n]o one shall be discriminated against on grounds of colour, race, marital status, gender, ethnical origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition”. Equality between women and men is guaranteed under Section 17: “women and men shall have the same rights and duties in all areas of family, political, economic, social and cultural life”. Section 18 covers child protection, entitling children to “special protection by the family, the community and the State, particularly against all forms of abandonment, discrimination, violence, oppression, sexual abuse and exploitation.” The Constitution also protects the rights and promotes the health, education and vocational training of youth (Section 19).

Section 9.1 provides for the supremacy of international law over domestic law in the following terms: “the legal system of East Timor shall adopt the general or customary principles of international law”.

⁸⁸ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Timor-Leste are from the Timor-Leste Demographic Health Survey 2009–10.

3. Statutory law

Timor-Leste's legal system is based on Portuguese civil law (4).⁸⁹ In the context of this review, the authors refer to the Civil Code of 2011. Article 118 of the Civil Code defines a minor as a person who has not yet completed 17 years of age. Article 1490 defines "age below sixteen years" as an absolute diriment impediment (i.e. a factor that invalidates a marriage).

In terms of consent, Art. 1500 states that:

1. Authorization for the marriage of a minor under the age of 17 years and above the age of 16 years shall be granted by the parents exercising parental authority or by the guardian. 2. The civil registrar may grant the authorization referred to in the preceding paragraph if there are any reasons of sufficient weight to justify the celebration of marriage and the minor has sufficient physical and mental maturity.

In Timor-Leste "Marriage is either civil, Catholic, or bride-price based monogamic" (point 1 of Art. 1475 of the Civil Code). To be married in Timor-Leste, according to Art. 1485, both parties must have what is termed "matrimonial capacity". This means they must have the ability to become legally married to each other (e.g. they are not close kin), and have no impediments that would prevent a legal marriage (e.g. being underage or mentally incompetent).

Under Art. 1521.1 of the Civil Code:

[T]he nullity [of the marriage] is considered to have been remedied, and the marriage validated, from the moment the marriage was celebrated, if, before the judgment of annulment has become final, one of the following facts occurs: ... the marriage of a minor below the marriageable age is confirmed by the latter before a clerk of the civil registry and two witnesses, after he or she reaches the age of majority.

Chapter VIII of the Civil Code regulates marriage registration; Art. 1538 provides that "registration is compulsory". Birth registration is regulated under subsection III and is also mandatory.

4. Customary/religious/traditional/tribal frameworks

The Civil Code defines Catholic marriage in the following terms: "Catholic marriage is governed, with respect to civil effects, by the common norms of this code, except as otherwise provided" (Art. 1476) and "Catholic marriage entered into by people who are already bound by undissolved civil marriage is registered in the entry book, irrespective of the prior publication of banns" (Art. 1477, point 1) and "Civil marriage of two people united by previous Catholic matrimony is not allowed" (point 2 of the same article) (5).

"Bride-price-based monogamic marriage" is defined by Art. 1478 as follows:

1. Bride-price based monogamic marriage is that which is entered into between people of different genders in

accordance with the customs and usage of a certain region. 2. Bride-price based monogamic marriage is governed, with respect to effects, by the common norms of this code, except as otherwise provided.

Article 1485 specifies that only those with the matrimonial capacity required by civil law may enter into either Catholic or bride-price-based monogamic marriage.

A woman's marriage is part of the collective experience of maintaining relations between wife-giver (the family of the woman) and wife-taker (the family of the husband); spousal relations have an impact on the community as a whole.

The payment of a bride price is a widespread custom in Timor-Leste, which adds an economic element to the marriage, in the form of an exchange of goods (6).

In its concluding observations on the initial report on Timor-Leste, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at this traditional system based on patriarchal ideology, which permits forced and early marriage (7, para. 27). Similarly, the Committee on the Rights of the Child also raised concerns about the issue of arranged marriages under customary practices for very young girls, particularly in rural areas (8).

5. Provisions and sanctions

According to Art. 154 of the Criminal Code of Timor-Leste, "any person who inflicts physical or mental mistreatment or cruel treatment upon a spouse or person cohabiting with the perpetrator in a situation analogous to that of spouse is punishable with 2 to 6 years imprisonment if no heavier penalty is applicable by force of another legal provision".

Although it does not explicitly refer to CEFM, Art. 163 on human trafficking states the following:

Any person who recruits, assigns, purchases, transports, transfers, houses or receives persons, through use of threats, force or other forms of coercion, kidnapping, fraud, trickery, abuse of power or situation of vulnerability, or by means of delivery or acceptance of payments or benefits, to obtain the consent of a person with authority over another, for purposes of exploitation, shall be punishable with 8 to 20 years imprisonment.

Point 2 of this article specifies that it also applies to any person who "recruits, transports, transfers, houses or receives a minor under the age of 17 for the purpose of exploiting the same".

More importantly, point 3 also clarifies that "for the purpose of applying the provisions of this article, exploitation shall include but is not limited to exploitation through prostitution of another person or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or extraction of organs". If the victim is under 17, Art. 164, on "Aggravation" raises the penalty to between 12 and 25 years of imprisonment.

⁸⁹ Penal and civil law codes to replace the Indonesian codes were passed by parliament and promulgated in 2009 and 2011.

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

Poverty, customs and traditions significantly influence the institution of marriage in Timor-Leste. The fertility rate is one of the highest in the region with women having, on average, six children. The Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern that traditional attitudes, early pregnancies and early marriages are among the common causes for girls dropping out of school. Pregnant girls who leave school encounter difficulties in resuming their studies (7, para. 35).

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TONGA

General background (1, 2)

Total population (thousands) 2012:	105
Population under age 18 (thousands) 2012:	46
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	30
Birth registration (per cent) 2005–2012, total:	N/A (urban N/A, rural N/A)
GNI per capita (US\$) 2014:	4,290
Primary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male N/A; female N/A

Child marriage rates (1, 3)⁹⁰

Married by age 15 (per cent):	N/A
Married by age 18 (per cent) 2012:	6

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1995 (a)				

(a) = accession

2. Constitutional provisions

The Constitution of the Kingdom of Tonga was enacted by King George Tupou I on 4 November 1875. The revised Constitution of 1988 incorporates all the amendments up to 31 December 1988.

According to Art. 27 of the Constitution, age of maturity is reached at 21, save for members of the royal family who are deemed to have attained maturity at 18 (this article was replaced by Act 28 of 1978). The Constitution does not include explicit reference to fundamental rights, marriage or family.

3. Statutory law

The legal system of Tonga is based on English common law (4). This report has taken into consideration the Births, Deaths and Marriages Registration Act of 1988 as well as other key legislative sources, including the Adultery and Fornication Act of 1919, the Guardianship Act of 2004 and the Family

Protection Act of 2013. The 1988 revised version of the Births, Deaths and Marriages Registration Act provides regulations on the solemnization of marriage. To apply for a marriage licence both applicants need to present birth certificates:

[I]f an applicant cannot produce his or her birth certificate then, unless the Sub-Registrar hearing the application is satisfied beyond any doubt by the appearance of the applicant that he or she is over 18, he or she shall file an affidavit by a person who has personal knowledge of when the applicant was born and that person shall state his means of knowledge.

Moreover, “an applicant who is over 15, but under 18 years of age must exhibit the written consent of his parents or guardian. If his parents are divorced or separated the consent shall be that of the parent who has custody of him”. Articles 12–14 define rules for marriage solemnization and registration.

Under the title “Disabilities”, the Births, Deaths and Marriages Registration Act of 1988 says that “no person who is insane,

⁹⁰ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Tonga are from the Tonga Demographic Health Survey (preliminary) 2012.

or who is under the age of 15 years, or who being under the age of 18 years has not obtained the written consent of his or her guardian, shall be granted a marriage licence". In the Guardianship Act of 2004 a child is defined as "a person under the age of 18 years and includes an unborn child" (Art. 2).

Births need to be registered within three weeks of occurrence, according to Art. 3 of the Births, Deaths and Marriages Registration Act.

4. Customary/religious/traditional/tribal frameworks

Tonga is the only country in the region that does not have a specific provision in written law for the application of customs or customary law.

There are no explicit rules for marriage, and couples are formed through reciprocal free choice. Pronounced social stratification discourages marriages between people of vastly different social status. This traditional social order is supported by the Church, which is a key institution within Tongan society and has considerable influence on the family. The religious rituals associated with key life events are central to Tongan society. For example, while the government registry under the Ministry of Justice registers marriages, the union is not recognized until a religious ceremony has been performed by a registered church minister.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage			
Constitutional definition/protection/reference to family			
Constitutional recognition of right to health			
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex			
Minimum legal age of marriage			
Spousal consent to marriage			
No exceptions to the legal age for consent to marriage			
Assertion of primacy of statutory and/or case law over other forms of law			
Assertion of primacy of international law over national law			
Mandatory birth registration			
Mandatory marriage registration			

Parents are responsible for the survival and upbringing of their children, while the extended family ensures that children value and respect Tongan culture.

5. Provisions and sanctions

Within the Pacific region, Tonga and Vanuatu stand apart for their unique penal codes and statutes on criminal offences. Tonga has always been self-governing in internal affairs, and has an idiosyncratic Constitution. With regard to judicial rulings, under section 3 of the Civil Law Act of 1966 courts apply the common law of England and the rules of equity. According to the Births, Deaths and Marriages Act, "every person being the parent of a child born in wedlock or the mother of a child born out of wedlock shall within 3 weeks of the birth of such child inform the sub-registrar of the district of such birth and in default of so doing shall be liable on conviction to a fine of \$10" (Art. 3.1).

Article 18 of said Act provides that "any minister of religion or any other person who shall solemnize a marriage without first having received a licence in the form in Schedule 1 hereto enabling the parties to be married, shall on conviction thereof be liable to pay a fine not exceeding \$40".

Additional factors

According to the country's Statistics Department in 2000, the median age of marriage was 28.1 for men and 25.1 for women, the age for women having risen since the days of a more traditional Tongan society (5).

The traditional pattern after marriage is for Tongan women to become subordinate to their husbands and relinquish any rights to their family lands, which are always inherited by the male heir. The wife is expected to support the husband and assist him in his endeavours to improve his social position (6).

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TUVALU

General background (1, 2)

Total population (thousands) 2012:	10
Population under age 18 (thousands) 2012:	3.6
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	42
Birth registration (per cent) 2005–2012, total:	49.9 (urban 60, rural 38)
GNI per capita (US\$) 2013:	5,840
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 97; female 99
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 35; female 47

Child marriage rates (1, 3)⁹¹

Married by age 15 (per cent) 2007:	0
Married by age 18 (per cent) 2007:	10

Legal framework

1. Relevant international treaties

Convention ratified	Convention neither ratified nor signed	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1995 (a)		1999 (a)		

(a) = accession

2. Constitutional provisions

Tuvalu gained its independence from the United Kingdom on 1 October 1978. The current Constitution, which was enacted in 1986, repealed and replaced the 1978 constitution brought into force after independence. The first article in the section on the protection of fundamental rights and freedoms, Art. 16, guarantees the right to life. The right to health is not specifically stated, but public health is mentioned as a driving principle not to be contravened by legislation.

Additionally, international conventions, declarations, recommendations and judicial decisions concerning human rights need to be taken into account by courts and legislators (Art. 15.5.c).

The introduction to the chapter titled “Principles of the Constitution” states that “amongst the values that the people of Tuvalu seek to maintain are their traditional forms of communities, the strength and support of the family and

family discipline”. Freedom from discrimination is guaranteed by Art. 27. The only reference to marriage is found in Art. 46, concerning eligibility for citizenship by marriage.

3. Statutory law

Tuvalu has a mixed legal system of English common law and local customary law (4). The Marriage Act, which was revised in 2008, and the Births, Deaths and Marriages Registration Ordinance of 1966 regulate the solemnization and registration of marriages. The marriage of persons under 16 is forbidden by Art. 5 of the Marriage Act. The marriage of persons under 21 is legal provided they have obtained “the written consent of the father or if he be dead or of unsound mind or absent from the district, of the mother, or if both be dead or of unsound mind or absent from the district, of the guardian of such part” (Art. 7). When the person whose consent is required denies it, the Registrar-General may still allow the marriage if satisfied that it is in the best interests of the minor.

⁹¹ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Tuvalu are from the Tuvalu Demographic Health Survey 2007.

The registration of a marriage at the district marriage register office is mandatory under Art. 17 and under the Births, Deaths and Marriages Registration Act. Birth registration is mandatory under Part II of the same Act.

4. Customary/religious/traditional/tribal frameworks

According to the preamble of the Constitution, the country is “an independent State based on Christian principles, the Rule of Law, and Tuvaluan custom and tradition”.

The State church, the Reformed Christian Church of Tuvalu, exerts considerable influence in the social and political life of the country. The State Church (Declaration) Act, 2008 Revised Edition, states that the Church of Tuvalu, “on request by the Minister, shall have the privilege of performing special services at major national events” (Art. 2.2), although it has “the same powers, rights and privileges normally enjoyed by any other religious body under any other law” (Art. 2.3).

5. Provisions and sanctions

The Penal Code of 1965 sets the legal framework for the context of CEFM. According to Art. 131 “Any person who, with intent to marry or have sexual intercourse with a woman of any age, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will, is guilty of a felony, and is liable to imprisonment for 7 years”. Article 132 specifies the following:

Any person who with intent that any unmarried girl under the age of 18 years shall have unlawful sexual intercourse with any man, whether such sexual intercourse is intended to be with any particular man, or generally, takes or causes to be taken such girl out of the possession and against the will of her father or mother, guardian or any other person having the lawful care or charge of her, shall be guilty of a misdemeanour: Provided that it shall be a defence to any charge under this section if it shall be made to appear to the court that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of 18 years.

6. Key elements of the legislation

	Found	Not found	
Constitutional definition/protection/reference to marriage	Found		
Constitutional definition/protection/reference to family	Found		
Constitutional recognition of right to health	Found		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		Not found	
Minimum legal age of marriage	Found		
Spousal consent to marriage	Found		
No exceptions to the legal age for consent to marriage		Not found	
Assertion of primacy of statutory and/or case law over other forms of law	Found		
Assertion of primacy of international law over national law	Found		
Mandatory birth registration	Found		
Mandatory marriage registration	Found		

Additional factors

Marriage is one of the most important rites of passage in Tuvaluan culture since it legitimizes children and establishes links of kinship in relation to land rights. Birth registration in rural areas of the country is weaker than in urban areas, where the percentage remains low.

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VANUATU

General background (1, 2)

Total population (thousands) 2012:	253
Population under age 18 (thousands) 2012:	108.5
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	66
Birth registration (per cent) 2005–2012, total:	43 (urban 53, rural 41)
GNI per capita (US\$) 2014:	3,090
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 76; female 78
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 22; female 26

Child marriage rates (1, 3)⁹²

Married by age 15 (per cent) 2013:	3
Married by age 18 (per cent) 2013:	21

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1993	2007	1995 (a)		

(a) = accession

2. Constitutional provisions

The Constitution of the Republic of Vanuatu was adopted in 1980 and has been amended by subsequent acts.⁹³ Article 47(1) of the Constitution obliges the judiciary to resolve proceedings according to the law; only where no rule of law is available is the judiciary called upon to resolve them “whenever possible in conformity with custom”.

Article 5 of the Constitution recognizes such fundamental rights as the right to life, the right to protection of law and equal treatment under the law, and other rights under the principle of non-discrimination on the grounds of traditional beliefs, religion or sex. Positive discrimination rights favourable to women and children are established in a number of legal provisions to protect or advance their interests. Article 6(1), for example, addresses the right of children to challenge violations of their constitutional rights before the Supreme Court.

Although the Constitution does not define the institution of family or marriage, Art. 7 encourages parents to comply with some fundamental duties such as ensuring the education of their children.

3. Statutory law

Vanuatu has a mixed legal system of English common law, French law, and customary law (4). According to Art. 95 of the Constitution, existing laws in Vanuatu also include – together and in conformity with the Constitution – acts of Parliament, joint regulations, British and French laws as well as customary laws known as the *kastom* system.⁹⁴

Vanuatu’s Constitution and Control of Marriage Act both set the minimum legal ages for marriage with parental consent at 18 for boys and 16 for girls. Section 2 of the Control of Marriage Act (Cap. 45) states that no person of the male sex being under the age of 18 years and no person of the female

⁹² Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Vanuatu are from the Vanuatu Demographic Health Survey (prelim) 2013.

⁹³ Available at http://www.wipo.int/wipolex/en/text.jsp?file_id=195747.

⁹⁴ Arts.95(2) and 95(3) of the Constitution.

sex being under the age of 16 years may lawfully marry. Nor may any person being under the age of 21 lawfully marry without consent.

According to Art. 2 of Part I of the Family Protection Act No. 28 of 2008, regarding preliminary matters, a child is any individual under 18 years old.

Act No. 33 of 1981 introduced the civil registration system and provisions regarding the registration of births (Art. 19) and marriages (Art. 23). According to the 1988 revised edition of this Act (Art. 39):

[A]ny person who fails to declare a birth or who, having declared a birth or marriage, makes or attempts to make another declaration relative to the same event but containing different information, or who knowingly uses or attempts to use a falsified copy of an entry in the register, shall be liable to a fine not exceeding VT 100,000 or to imprisonment for a term not exceeding two years or to both such a fine and imprisonment.

4. Customary/religious/traditional/tribal frameworks

There are three types of marriage in Vanuatu: custom, civil and church marriages. Even if women have equal rights under the law, Vanuatu's traditional culture can come into conflict with domestic law. The concept of the bride price – according to which a groom or his family gives money to the bride's family in exchange for her hand in marriage – is an example of this

conflict. Arranged marriage is an issue directly related to the *kastom* system (5).

The Supreme Court has ordered public bodies to take actions to meet their legal obligations and made provisions to nullify customary law that conflicts with the Constitution. Nowadays, the laws relating to civil and church marriages, including those requiring marriage registration and defining marriageable age, also apply to custom marriages: "Immediately upon the celebration of any civil, religious or custom marriage, it shall be registered in conformity with the provisions of the Civil Status Act, Cap. 61".⁹⁵

5. Provisions and sanctions

According to Chapter 45 of the "Control of Marriage Act", Section 2, "No person of the male sex being under the age of 18 years and no person of the female sex being under the age of 16 years may lawfully marry". According to Section 7 of the same act, "if any person acts in contravention of the provisions of Section 2 above mentioned and 3 (as related to consent) he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding VT 20,000".

The Act provides that if any person acts in contravention of the provisions of Section 5 (on forced marriage) "he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding VT 100,000, or to a term of imprisonment not exceeding 2 years, or to both such fine and imprisonment".

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

⁹⁵ Laws of the Republic of Vanuatu, revised edition, Chapter 60, Marriage, Art. 15.1.

Additional factors

In relation to CEFM, it is important to highlight that *kastom* usually dictates that a girl is available for marriage and sex soon after the start of menstruation.

While women have equal rights under the law, they are slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. The majority of women entered into marriage through the use of bride-price payments, a practice that may have encouraged men to view women as property. Women also were barred by tradition from land ownership. The UN Committee on the Elimination of Discrimination against Women, in the concluding comments regarding Vanuatu in 2007, reported that persistence of certain practices and traditions, patriarchal attitudes and deep-rooted stereotypes perpetuate discrimination against women and are reflected in women's disadvantageous and unequal status in many areas, including marriage and family relations (6).

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VIET NAM

General background (1, 2)

Total population (thousands) 2012:	91,680
Population under age 18 (thousands) 2012:	25,343.3
Adolescent fertility rate (per 1,000 girls aged 15–19 years) 2007–2012:	38
Birth registration (per cent) 2005–2012, total:	95 (urban 97.1, rural 94.2)
GNI per capita (US\$) 2014:	1,890
Primary school participation, net attendance ratio (per cent) 2008–2013:	male 98; female 98
Secondary school participation, net attendance ratio (per cent) 2008–2013:	male 78; female 84

Child marriage rates (1, 3)⁹⁶

Married by age 15 (per cent) 2011:	1
Married by age 18 (per cent) 2011:	9

Legal framework

1. Relevant international treaties

Convention ratified	Convention ratified	Convention ratified	Convention ratified	Convention neither ratified nor signed
Convention on the Rights of the Child (1989)	Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (2000)	Convention on the Elimination of All Forms of Discrimination against Women (1979)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
1990	2001	1982	1982 (a)	

(a) = accession

2. Constitutional provisions

The current Constitution of Viet Nam was adopted by the country's National Assembly on 28 November 2013. It provides that human rights and citizens' rights are to be protected by the State. Article 14 provides that cultural and social human rights and citizen's rights are to be recognized, respected and guaranteed in concordance with the Constitution and the law. These rights, therefore, enjoy supremacy and shall only be restricted in imperative circumstances for reasons of national defence, national security, social order and security, social morality and the health of the community. The principle of equality before the law and non-discrimination is recognized in Art. 16. Article 26 prohibits discrimination on the basis of sex: "male and female citizens have equal rights in all fields". Article 19 recognizes the right to life with a provision for the "protection of human life": "no one should be deprived of his/her life". According to Art. 20, everyone has the right to enjoy legal protection of his or her life, health, honour and dignity, as well as protection from torture, harassment and coercion.

Article 38 provides for equal access to health care and medical services.

Regarding the institution of marriage, Art. 36 states that the following principles of marriage shall be honoured: free consent, progressive union, monogamy and equality between husband and wife and mutual respect. It also recognizes the protection of marriage and family and, especially, the interests of mothers and children.

Broad provision is made for the protection, care and education of children in Art. 37. Regarding education, this article affirms that the State shall create favourable conditions for young people to study, work, relax, develop their bodies and minds, and shall provide education on morality, national traditions and civic consciousness for children.

3. Statutory law

The legal system of Viet Nam is based on the civil law system and European-style civil code law (4). The Marriage

⁹⁶ Percentage of women aged 20–24 years who were first married or in union before age 15 and before age 18. See more at <http://data.unicef.org/child-protection/child-marriage.html>. Data for Viet Nam are from the Multiple Indicator Cluster Survey 2011.

and Family Law No. 22/2000/QH10 of 9 June 2000 sets out basic principles of marriage and states that it must be undertaken voluntarily by the man and woman who are the marriageable parties (Art. 2). The decision to marry should therefore not be coerced by third parties, and the marriage can only be conducted after both parties have reached marriageable age, which is 20 for a man and 18 for a woman. The Marriage and Family Law does not provide for any exceptions to these minimum legal ages. According to Art. 4.2, “Underage marriage, forcing marriage, hindering voluntary and progressive marriage, feigned marriage, deceiving other persons into marriage or divorce; forcing divorce, feigned divorce; property demand for wedding are all forbidden”.

Marriage registration is also covered by the Marriage and Family Law, which provides that: “Marriage must be registered with the competent State bodies (hereinafter called marriage registration offices) according to the proceedings prescribed in art. 14 of this Law” (Art. 11.1). Point 2 of the same article specifies that “the Government shall stipulate the marriage registration in remote and deep-lying areas”.

Article 3 of Decree No. 158 of 2005, on civil status registration, regulates the right and obligation to register relevant events such as marriages and births with the competent civil status registration offices. The registration of births is also recognized as an individual right under Art. 29 of the Civil Code and in Viet Nam’s Law on Child Protection, Care and Education of 2004.

4. Customary/religious/traditional/tribal frameworks

The traditional values of Vietnamese lifestyle were deeply influenced by Confucian ethics and are conveyed in society by the fulfilment of traditional roles, with a particular focus on the role of a man and woman as parents. According to Vietnamese

tradition, the highest status in the family is held by the man or father, who has absolute authority in the household. Family decisions were traditionally made by parents and grandparents (5). In Vietnamese culture, as in many other cultures, it is considered the conjugal right of the husband to have sex with his wife.

Severe violence is considered socially unacceptable throughout Viet Nam.

5. Provisions and sanctions

Crimes related to CEFM are covered in Chapter XV of the Vietnamese Penal Code, which has a section specifically for crimes infringing the marriage and family regulations. Article 146 prohibits forcible marriage or prevention of voluntary and progressive marriage. Such conduct can be punished with sanctions, the most severe being imprisonment in cases where the violations are repeated. The same penalties are considered in cases of individuals who organize underage marriage and/or enter into underage marriage (Art. 148).

Organizing underage marriage and entering into underage marriage are crimes covered in the Penal Code under Art. 148. The amendment of the Vietnamese Penal Code No. 15/1999 introduced new offences and more severe penalties for crimes related to sexual exploitation of children (6). However, some provisions in the Penal Code and national legislation still define children as individuals below the age of 16, rather than below the age of 18. Article 111 criminalizes rape when the offender uses violence, threatens to use violence or takes advantage of the victim’s vulnerable state and inability to defend herself, or resorts to other tricks in order to have sexual intercourse with the victim against the victim’s will. Under this provision, spousal rape is also criminalized (7).

6. Key elements of the legislation

	Found	Not found
Constitutional definition/protection/reference to marriage		
Constitutional definition/protection/reference to family		
Constitutional recognition of right to health		
Constitutional recognition/protection of gender equality/non-discrimination on the basis of gender/sex		
Minimum legal age of marriage		
Spousal consent to marriage		
No exceptions to the legal age for consent to marriage		
Assertion of primacy of statutory and/or case law over other forms of law		
Assertion of primacy of international law over national law		
Mandatory birth registration		
Mandatory marriage registration		

Additional factors

Girls Not Brides reported that “child marriage is closely associated with lower education and economic status of girls. Child brides are less able than older or unmarried girls to access schooling and income-generating opportunities” (8). There is also societal discrimination against girls who drop out of school and enter into early marriages, especially in the mountainous areas (9).

Forced sex in marriage is clearly an issue of gender inequality; this is commonly viewed as a right of the husband. Domestic violence was not a topic of public debate until 1994. Before that time, only a few isolated articles had addressed some forms of gender-based violence, such as prostitution, trafficking of women, adultery, physical abuse associated with divorce, and child marriage.

Sexual abuse and trafficking of children are the most prevalent violations of children’s rights in Viet Nam. Vietnamese trafficking victims may be recruited through fraudulent marriages, false promises of employment, and through licensed and unlicensed migrant labour recruiting agencies (10).

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Annex 1. Conclusions of the Regional Parliamentary Seminar on “Ending the cycle of violence against girls in Asia-Pacific”

Organized by the Inter-Parliamentary Union (IPU) and the Parliament of Bangladesh
Dhaka, 23–25 September 2014

Prepared by the Rapporteur, Mr Shahiduzzaman Sarker, Whip of the Parliament of Bangladesh

We, representatives of the parliaments of Afghanistan, Bangladesh, Bhutan, Cambodia, India, Indonesia, Iran (Islamic Republic of), Kiribati, Malaysia, Samoa, Tonga and Viet Nam, as well as representatives of national and international organizations, met in Dhaka, Bangladesh, from 23 to 25 September 2014, for a regional seminar on violence against girls. The seminar was jointly organized by the Parliament of Bangladesh and the Inter-Parliamentary Union.

We discussed effective parliamentary responses to violence against girls in terms of legislation and enforcement. We were provided with up-to-date information on the situation in the Asia-Pacific region with special emphasis on the three most prevalent forms of violence against girls in the region – child marriage, sexual violence and domestic violence. The seminar served as a forum for exchanging experiences and good practices.

We agreed that violence against women and girls is one of the most prevalent human rights violations that spares no country. It is also an extreme manifestation of unequal power relations between men and women that is deeply entrenched in both the private and public spheres. We reviewed the different data on prevalence of the three forms of violence and their negative consequences, and agreed that – while appalling – the data revealed only a small portion of violations. Scientific evidence indicated that most victims choose not to disclose their ordeal or seek support. We also took note of the high economic and financial costs of violence against girls and women for victims, families, communities, and society as a whole, and agreed to further explore the relevant data and make the case for advocacy and action.

We also agreed that violence against girls and women is a complex issue that requires a comprehensive and inclusive response. We acknowledge that important achievements had been made in the region in terms of legal and policy reforms. However, many challenges and gaps remain, particularly in the areas of comprehensive service provision, funding, access to justice, attitude and traditional norms, which all stood in the way of effective law enforcement. While efforts had been made to bring national legislation in line with international human rights instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), we underscored the fact that even the best legislation could not stand on its own. Accompanying measures across sectors

were needed to ensure that legislation and policies had a positive impact on the ground.

Our discussion on child marriage, sexual violence and domestic violence against girls turned to the following questions: What are the key elements of strong legislation? How can effective implementation of legislation be ensured? How can we, as parliamentarians, play a more active role in the implementation process, including assessing the impact of legislation and accompanying measures?

Key elements of effective legislation

We recognized that legislation is a critical first step in an effective response to violence against girls and women. Given the complexity of the issue, laws should cover a range of relevant aspects and take into account the specific vulnerabilities and needs of girls. As a minimum, legislation should:

- Address and recognize the root causes of violence against girls and women, including ingrained cultural and traditional norms and gender discrimination, the negative and stereotypical portrayal of women in the media and other social and economic factors;
- Clearly set the key parameters it aims to address, including a clear definition of “violence” and its various forms, “girls” and “family”.
- Be based on international standards, on research and evidence; and on the results of a wide and transparent consultation process at the national level to ensure buy-in by all stakeholders;
- Take into account and criminalize all forms of violence against girls and women regardless of the relationship between the perpetrator and the victim, and if the act of violence is perpetrated in the private or public sphere;
- Address the link between violence against girls and women and HIV/AIDS;
- Be comprehensive and cover both prevention and response, including education; clear and specific provisions on prosecution and sanctions; protection; multi-sector support for victims; and options for remedies;
- Include monitoring mechanisms, a time frame for action and accountability of key sectors for implementation;
- Include mechanisms for sensitizing the public to legislation in clear and accessible language;
- In addition to the foregoing, legislation on child marriage should also include mandatory birth and marriage registration.

Priorities in terms of implementation of legislation and policy

We underscored the fact that implementation is a critical aspect of each piece of legislation. Laws on violence against girls and women have to be accompanied by a resourced action plan or policy at the national level listing actions and indicators that facilitate implementation. We identified the following actions that have to be considered:

- Adopt specific procedures and protocols that do not place the burden of proof on the victims but tackle the cases of violence within the justice system based on victims’ rights and protection. Examples of concrete measures include specialized courts, specially trained judges, fast-track procedures, and in-camera proceedings (no public and media exposure);
- Provide easy, accessible and gender-sensitive support to victims inter alia through a national hotline service, one-stop crisis centres, shelters and protection houses, legal aid and victim advocates;
- Ensure that there is a coordination mechanism for all service providers and those in charge of enforcing legislation (magistrates, security forces, attorneys, health-care providers, social workers, women’s organizations, etc.);
- Also ensure coordination at the interministerial level;
- Identify mechanisms and institutions at the local and regional levels that should be responsible for law enforcement;
- Build the capacity of and sensitize service providers, including health, police and justice, and hold them accountable for enforcing the law;
- Increase the numbers of women in the judiciary, law enforcement, and the security services;
- End impunity by ensuring that all perpetrators are held to account regardless of their socio-economic status or position;
- Ensure that all public areas are safe for girls and women;
- Organize educational and awareness-raising campaigns at the community level to foster positive changes to social norms and attitudes, in particular targeting men and boys, families and educators;
- Conduct large-scale public awareness campaigns to promote zero tolerance of violence, end the culture of impunity and enhance awareness among girls and women of their rights and available services;
- Work with the education sector to ensure that school curricula include awareness of rights and life-skills training of young people;
- Ensure regular and consistent monitoring and evaluation of the implementation of legislation, including its unintended undesired impact, to ensure that progress is gauged and gaps are translated into improvements;
- Define the role of the media and how they report on the issue;
- In addition to the foregoing, define and implement specific strategies to delay the age of marriage and keep girls in school. With violence against girls and women being a global problem, it is necessary that global accountability

mechanisms regularly gauge progress to end this scourge. For this to happen, it is essential that the post-2015 development agenda include a strong target on ending violence against women and girls based on well-defined indicators. Priority actions for parliaments and parliamentarians

To provide a strong contribution to the effort to end violence against girls and women, we, as parliamentarians, should fully exercise our roles of law-making, oversight, budgeting and representation. In this endeavour, we can and should:

- Familiarize ourselves with the effect of existing laws and amend laws that have an adverse impact on girls and women;
- Continuously bring the issue of implementation of legislation on ending violence against girls and women to parliament and repeatedly put pressure on government ministries;
- Be agents of change in terms of social norms and attitudes, including on ending child marriage;
- Ensure that all standing committees are engaged in ending violence against women and girls and that cross-party collaboration on the issue exists through a variety of parliamentary mechanisms;
- Initiate and submit petitions; ask written and oral questions to the relevant ministers, from the prime minister to the line ministers; move motions in parliament for the government to act or to report regularly to parliament on law and programme implementation;
- Scrutinize budget proposals and campaign with the minister of finance to ensure adequate funding and long-term sustainability of programmes to tackle violence against girls and women;
- Engage with and involve all those concerned with implementing legislation – the police, law enforcers, health care providers, social workers, civil society and grass-roots organizations, as well as religious and community leaders;
- Encourage men, in particular men parliamentarians and opinion leaders whose role is crucial, to speak out against gender inequality and violence against girls and women;
- Act as positive role models and participate in awareness-raising campaigns outside parliament to ensure that legislation is disseminated, easily accessible and understood by the people;
- Participate in the work of relevant mechanisms at the local level to consult relevant stakeholders and the public, meet with victims, monitor the implementation of legislation, and expand the sources of information and data required to evaluate progress.

In order to inspire action on violence against girls and women, we will bring this outcome document to the attention of our colleagues in parliament through all possible channels. We also undertake to bring the document to the attention of other relevant stakeholders.

We also urge IPU to bring our conclusions and recommendations to the attention of the global parliamentary community and ensure follow-up through its programmes and assemblies.

Annex 2. The status of ratification of the main international and regional legal frameworks among Asian and Pacific countries

Convention on the Rights of the Child (CRC) New York, 20 November 1989

Participant	Signature	Date of ratification, accession (a), succession (d)
Afghanistan	27 Sep 1990	28 Mar 1994
Australia	22 Aug 1990	17 Dec 1990
Bangladesh	26 Jan 1990	3 Aug 1990
Bhutan	4 Jun 1990	1 Aug 1990
Cambodia		15 Oct 1992(a)
China	29 Aug 1990	2 Mar 1992
Democratic People's Republic of Korea	23 Aug 1990	21 Sep 1990
India		11 Dec 1992(a)
Indonesia	26 Jan 1990	5 Sep 1990
Islamic Republic of Iran	5 Sep 1991	13 Jul 1994
Japan	21 Sep 1990	22 Apr 1994
Kiribati		11 Dec 1995(a)
Lao People's Democratic Republic		8 May 1991(a)
Malaysia		17 Feb 1995(a)
Maldives	21 Aug 1990	11 Feb 1991
Marshall Islands	14 Apr 1993	4 Oct 1993
Micronesia		5 May 1993(a)
Mongolia	26 Jan 1990	5 Jul 1990
Myanmar		15 Jul 1991(a)
Nauru		27 Jul 1994(a)
Nepal	26 Jan 1990	14 Sep 1990
New Zealand	1 Oct 1990	6 Apr 1993
Pakistan	20 Sep 1990	12 Nov 1990
Palau		4 Aug 1995(a)
Papua New Guinea	30 Sep 1990	2 Mar 1993
Philippines	26 Jan 1990	21 Aug 1990
Republic of Korea	25 Sep 1990	20 Nov 1991
Samoa	30 Sep 1990	29 Nov 1994
Singapore		5 Oct 1995(a)
Solomon Islands		10 Apr 1995(a)
Sri Lanka	26 Jan 1990	12 Jul 1991
Thailand		27 Mar 1992(a)
Timor-Leste		16 Apr 2003(a)
Tonga		6 Nov 1995(a)
Tuvalu		22 Sep 1995(a)
Vanuatu	26 Jan 1990	7 Jul 1993
Viet Nam	26 Jan 1990	28 Feb 1990

Source: United Nations Treaty Collection [website], 2015. Available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
New York, 25 May 2000

Participant	Signature	Date of ratification, accession (a), succession (d)
Afghanistan		19 Sep 2002(a)
Australia	18 Dec 2001	8 Jan 2007
Bangladesh	6 Sep 2000	6 Sep 2000
Bhutan	15 Sep 2005	26 Oct 2009
Cambodia	27 Jan 2000	30 May 2002
China	6 Sep 2000	3 Dec 2002
India	15 Nov 2004	16 Aug 2005
Indonesia	24 Sep 2001	24 Sep 2012
Islamic Republic of Iran		26 Sep 2007(a)
Japan	10 May 2002	24 Jan 2005
Lao People's Democratic Republic		20 Sep 2006(a)
Malaysia		12 Apr 2012(a)
Maldives	10 May 2002	10 May 2002
Micronesia	8 May 2002	23 Apr 2012
Mongolia	12 Nov 2001	27 Jun 2003
Myanmar		16 Jan 2012(a)
Nauru	8 Sep 2000	
Nepal	8 Sep 2000	20 Jan 2006
New Zealand	7 Sep 2000	20 Sep 2011
Pakistan	26 Sep 2001	5 Jul 2011
Philippines	8 Sep 2000	28 May 2002
Republic of Korea	6 Sep 2000	24 Sep 2004
Solomon Islands	24 Sep 2009	
Sri Lanka	8 May 2002	22 Sep 2006
Thailand		11 Jan 2006(a)
Timor-Leste		16 Apr 2003(a)
Vanuatu	16 Sep 2005	17 May 2007
Viet Nam	8 Sep 2008	20 Dec 2001

Source: United Nations Treaty Collection [website], 2015. Available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=en.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
New York, 18 December 1979

Participant	Signature	Date of ratification, accession (a), succession (d)
Afghanistan	14 Aug 1980	5 Mar 2003
Australia	17 Jul 1980	28 Jul 1983
Bangladesh		6 Nov 1984(a)
Bhutan	17 Jul 1980	31 Aug 1981
Cambodia		15 Oct 1992(a)
China	17 Jul 1980	4 Nov 1980
Democratic People's Republic of Korea		27 Feb 2001(a)
India	30 Jul 1980	9 Jul 1993
Indonesia	29 Jul 1980	13 Sep 1984
Japan	17 Jul 1980	25 Jun 1985
Kiribati		17 Mar 2004(a)
Lao People's Democratic Republic	17 Jul 1980	14 Aug 1981
Malaysia		5 Jul 1995(a)
Maldives		1 Jul 1993(a)
Marshall Islands		2 Mar 2006(a)
Micronesia		1 Sep 2004(a)
Mongolia	17 Jul 1980	20 Jul 1981
Myanmar		22 Jul 1997(a)
Nauru		23 Jun 2011(a)
Nepal	5 Feb 1991	22 Apr 1991
New Zealand	17 Jul 1980	10 Jan 1985
Pakistan		12 Mar 1996(a)
Palau	20 Sep 2011	
Papua New Guinea		12 Jan 1995(a)
Philippines	15 Jul 1980	5 Aug 1981
Republic of Korea	25 May 1983	27 Dec 1984
Singapore		5 Oct 1995(a)
Solomon Islands		6 May 2002(a)
Sri Lanka	17 Jul 1980	5 Oct 1981
Thailand		9 Aug 1985(a)
Timor-Leste		16 Apr 2003(a)
Tuvalu		6 Oct 1999(a)
Vanuatu		8 Sep 1995(a)
Viet Nam	29 Jul 1980	17 Feb 1982

Source: United Nations Treaty Collection [website], 2015. Available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en.

International Covenant on Economic, Social and Cultural Rights (CESCR)
New York, 16 December 1966

Participant	Signature	Date of ratification, accession (a), succession (d)
Afghanistan		24 Jan 1983(a)
Australia	18 Dec 1972	10 Dec 1975
Bangladesh		5 Oct 1998(a)
Cambodia	17 Oct 1980	26 May 1992(a)
China	27 Oct 1997	27 Mar 2001
Democratic People's Republic of Korea		14 Sep 1981(a)
India		10 Apr 1979(a)
Indonesia		23 Feb 2006(a)
Islamic Republic of Iran	4 Apr 1968	24 Jun 1975
Japan	30 May 1978	21 Jun 1979
Lao People's Democratic Republic	7 Dec 2000	13 Feb 2007
Maldives		16 Sep 2006(a)
Mongolia	5 Jun 1968	18 Nov 1974
Nepal		14 May 1991(a)
New Zealand	12 Nov 1968	28 Dec 1978
Pakistan	3 Nov 2004	17 Apr 2008
Palau	20 Sep 2011	
Papua New Guinea		21 Jul 2008(a)
Philippines	19 Dec 1966	7 Jun 1974
Republic of Korea		10 Apr 1990(a)
Solomon Islands		17 May 1982 d
Sri Lanka		11 Jun 1980(a)
Thailand		5 Sep 1999(a)
Timor-Leste		16 Apr 2003(a)
Vietnam		24 Sep 1982(a)

Source: United Nations Treaty Collection [website], 2015. Available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en.

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
New York, 10 December 1962




Participant	Signature	Date of ratification, accession (a), succession (d)
Bangladesh		5 Oct 1998(a)
Mongolia		6 Jun 1991(a)
New Zealand	23 Dec 1963	12 Jun 1964
Philippines	5 Feb 1963	21 Jan 1965
Samoa		24 Aug 1964(a)
Sri Lanka	12 Dec 1962	

Source: United Nations Treaty Collection [website], 2015. Available at http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVI-3&chapter=16&lang=en.



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