

FORCED MARRIAGE: AN INTERNATIONAL ISSUE CALLING FOR INTERNATIONAL REGULATION AND ACCOUNTABILITY

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I. INTRODUCTION

When you hear the words “forced marriage,” what comes to mind? Have you had a second to think about it? Well, let me tell you a few stories. Aliya was a senior in high school with big dreams.¹ In the last semester of her senior year, she was told by her aunt and uncle, her legal guardians, that they were going to visit family relatives abroad.² However, that was not the plan.³ Instead, Aliya was going to be forced to marry a stranger in a foreign country.⁴ In a matter of weeks, she was taken from her home country, forced to give up her entire life, and marry someone that she had never met.⁵ Aliya was not given a choice – she was left to live with her new husband and his family.⁶

There are countless stories like Aliya’s, including the testimony of a twelve-year-old girl who, like many teenagers, dealt with depression.⁷ After a suicide attempt, she reached out to a crisis hotline and was provided counseling by a male worker weekly.⁸ Unfortunately, it was not long before her counselor began to molest her, and by the age of fourteen, she became pregnant.⁹ To avoid shame and embarrassment being placed on the family, her parents forced her to marry the pedophile that had repeatedly raped her.¹⁰ After a six-minute ceremony, the two were married.¹¹

Now, let me ask you the question again: when you hear the words “forced marriage,” what comes to mind? If you are anything like me, you might have thought that forced marriages no longer occur, or if they do, they only happen in areas that do not value personal autonomy or in developing countries. Well, what if I told you that both of these stories were about two girls who grew up in the United States? And in the second story, after a Kentucky judge refused to conduct the ceremony, the fourteen-year-old girl’s family took a road trip to Alabama for the “wedding.” But, unfortunately, forced marriages are not a thing of the past. There are currently over fifteen million people in forced marriages all across the world.¹²

¹ *Aliya’s Story*, UNCHAINED AT LAST, <https://www.unchainedatlast.org/aliyas-story/> (last visited Oct. 7, 2021).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Pat’s Story*, UNCHAINED AT LAST, <https://www.unchainedatlast.org/pats-story/> (last visited Oct. 7, 2021).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Scale of the Issue: Human Trafficking and Modern Slavery are Happening in Every Corner of the Globe*, STOP THE TRAFFIK, <https://www.stopthetraffik.org/about-human-trafficking/the-scale-of-human-trafficking/> (last visited Oct. 7, 2021).

Before progressing any further, let us define forced marriage. More specifically, let us settle a common misunderstanding and distinguish forced marriage from an arranged marriage. A forced marriage occurs when one or both parties are forced into a marriage without their consent.¹³ In contrast, an arranged marriage, typically a cultural practice, happens when both parties consent to the marriage or are free to refuse the union.¹⁴ The heinous act of forcing someone into marriage against their will, which constitutes a human rights violation, is occurring on an international level. However, it is important to note that obtaining reliable statistics on forced marriage is difficult because many victims are unable to escape, and therefore a vast number of forced marriages go undocumented.¹⁵ The Canadian government presented statistics revealing that approximately twelve million girls under the age of eighteen are married against their will each year, meaning that more than six hundred fifty million females were forced into marriage as children worldwide.¹⁶

While forced marriage is still practiced “in parts of the Middle East, Asia, and Africa[,]”¹⁷ these are not the only places it occurs. For example, a recent study found three thousand cases of forced marriage in the United States, the so-called land of the free, over a period of two years.¹⁸ Additionally, it is estimated that there are thirty thousand forced brides living in Germany and one thousand in Austria.¹⁹ These are just a few examples to reveal that forced marriage is an international issue. In response, this Note will

¹³ VIDYA SRI & DARAKSHAN RAJA, VOICES FROM THE FRONTLINE: ADDRESSING FORCED MARRIAGE WITHIN THE UNITED STATES 5-6 (2013), https://projects.iq.harvard.edu/files/violenceagainstwomen/files/vidyasri_voicesfromtheonline.pdf.

¹⁴ *Id.*

¹⁵ U.N., Div. for the Advancement of Women, Econ. Comm'n for Africa, Forced and Early Marriage: A Focus on Central and Eastern Europe and Former Soviet Union Countries with Selected Laws from Other Countries: Expert Paper Prepared by Cheryl Thomas, U.N. Doc. EGM/GPLHP/2009/EP.08 (June 19, 2009), https://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20Cheryl%20Thomas%20revised_.pdf.

¹⁶ *Child, Early and Forced Marriage*, GOV'T OF CAN., https://www.international.gc.ca/world-monde/issues_developpement-enjeux_developpement/human_rights-droits_homme/child_marriage-mariages_enfants.aspx?lang=eng (last visited Oct., 7, 2021).

¹⁷ D. KELLY WEISBERG & SUSAN FRELICH APPLETON, MODERN FAMILY LAW 201 (Wolters Kluwer, 6th ed. 2016).

¹⁸ TAHIRIH JUST. CTR., FORCED MARRIAGE IN IMMIGRANT COMMUNITIES IN THE UNITED STATES 2 (2011), <https://www.tahirih.org/wp-content/uploads/2015/03/REPORT-Tahirih-Survey-on-Forced-Marriage-in-Immigrant-Communities-in-the-United-States.pdf>.

¹⁹ Eric Geiger, *Muslim Girls in Austria Fighting Forced Marriages*, SFGATE (Dec. 4, 2005), <https://www.sfgate.com/news/article/Muslim-girls-in-Austria-fighting-forced-marriages-2558362.php>.

argue that the only way to combat forced marriage is with an international solution demanding accountability from nation states.

While forced marriage might often be thought of as a thing of the past and may not be considered a hot topic issue to the average person, it is a coercive, unjust act that is occurring on a global scale. Because it is a strict human rights violation and an international issue, forced marriage should be approached from an international perspective. Part II of this Note, specifically subsections (a) through (c), will discuss three legal instruments currently in place that specifically prohibit forced marriage while highlighting how the lack of accountability from nation states has led to the continuation of this issue. These pieces of international law include the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages;²⁰ the Convention on the Elimination of All Forms of Discrimination Against Women;²¹ and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.²² It could be argued that states violate international law because although they may have ratified these treaties, many of these same states have neglected to implement any state laws prohibiting and punishing individuals who force another person into a marriage. Ultimately, if a state has ratified any of these treaties but has not created domestic law to combat forced marriage, the state is not compliant with the treaty. Therefore, this Note will provide a framework for these nation states to help them comply with international law.

Part III of this Note will analyze the approach of three different states that have taken action to combat forced marriage. Each approach represents a different level of compliance. First, subsection (a) will discuss France's approach, which depicts minimum compliance. Next, subsection (b) will discuss Canada's framework, which represents moderate compliance. And lastly, subsection (c) will discuss the United Kingdom's approach, which exemplifies maximum compliance.

Lastly, Part IV will conclude by arguing that the United Kingdom's approach to combating forced marriage should serve as a framework for nation states to follow as they implement domestic law that makes forced marriage a crime. The United Kingdom's progressive approach makes forced marriage a civil offense and a crime. Ultimately, forced marriage is a global problem that has been internationally recognized, and due to nation states' lack of accountability, the number of victims of this heinous crime continue to grow.

²⁰ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Dec. 9, 1964, 521 U.N.T.S. 231.

²¹ Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* Dec. 18, 1979, 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter CEDAW].

²² Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, *adopted* Sept. 7, 1956, 266 U.N.T.S. 3 (entered into force Apr. 30, 1957).

II. BACKGROUND

The following three treaties forbid forced marriage. Although CEDAW, discussed in subsection (b), prohibits forced marriage more directly, all three treaties are clearly against the practice of forced marriage. The following subsections will closely analyze each treaty and the specific provisions within which condemn forced marriage. The subsections also highlight how the treaties require nation states that have ratified the specific treaty to then create laws that prohibit forced marriage.

A. *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages is a United Nations treaty entered into force on December 9, 1964.²³ This treaty is short, with only ten articles, but it clearly prohibits the act of forced marriage. Articles 1 and 2 are of prime importance. Article 1, paragraph 1 declares: “No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.”²⁴ Paragraph 2 of Article 1 provides further assurance of consent by declaring that the parties must have “expressed and not withdrawn consent.”²⁵ The treaty begins by prohibiting the act of forced marriage, while Article 2 sets up accountability for nation states.

Because early child marriage was and still is an international issue,²⁶ this treaty, specifically Article 2, discusses minimum age restrictions. Explicitly, Article 2 states that parties to the convention “shall take legislative action to specify a minimum age for marriage[] [and] [n]o marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.”²⁷ Additionally, the preamble informs

²³ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, *supra* note 20.

²⁴ *Id.* art. 1, ¶ 1.

²⁵ *Id.* ¶ 2.

²⁶ See *Official: Forced Marriage is Slavery*, ANTI-SLAVERY, (Sept. 19, 2017) <https://www.antislavery.org/official-forced-marriage-slavery/> (reporting that the International Labor Organization (ILO) included forced marriages in the estimates of people in slavery when it officially estimated that there were more than 40 million people in slavery worldwide).

²⁷ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, *supra* note 20, art. 2.

parties that they “should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring . . . complete freedom in the choice of a spouse . . . [and] establishing appropriate penalties where necessary”²⁸ The stated purpose of the treaty is “to promote universal respect for, and observance of, human rights and fundamental freedoms for all”²⁹ Notably, the treaty then refers to Article 16 of the Universal Declaration of Human Rights, which states that “[m]en and women . . . are entitled to equal rights as to marriage, during marriage, and at its dissolution.”³⁰ It further states that “[m]arriages shall be entered into only with free and full consent of the intending spouses.”³¹ This treaty clearly prohibits forced marriage and identifies it as a human rights violation worthy of punishment. It also insists that parties create domestic law to combat the issue.

B. Convention on the Elimination of All Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination Against Women, commonly referred to by its short-form CEDAW, is a landmark human rights treaty: as it formalized the importance and need for women’s equality. It was entered into force on September 3, 1981.³² Article 16 is of extreme importance to the topic of forced marriage. It declares, “States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women”³³

CEDAW then provides a list of specific rights, the first of which is “[t]he same right to enter into marriage[.]”³⁴ and the second is “[t]he same right to freely choose a spouse and to enter into marriage only with their free and full consent[.]”³⁵ The third enumerated right is also important to note because it states that women and men are both entitled to “[t]he same rights and responsibilities during marriage and at its dissolution.”³⁶ This treaty is salient in many ways, but mainly because it specifically prohibits forced marriage. It clearly makes forcing someone into a marriage without their consent discriminatory and not permissible. Also, this article is focused on women’s rights. Even its title—“Elimination of all Forms of Discrimination

²⁸ *Id.* Preamble.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² CEDAW, *supra* note 21.

³³ *Id.* art. 16, ¶ 1.

³⁴ *Id.* ¶ 1(a).

³⁵ *Id.* ¶ 1(b).

³⁶ *Id.* ¶ 1(c).

Against Women”—highlights this. The title reveals a truism since the majority of forced marriage victims are women.³⁷

It is critical to point out that Article 16 of CEDAW declares that parties to the treaty “shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations”³⁸ The treaty then places the burden on each individual nation state to implement legislation to ensure that the provisions of the treaty are abided by.³⁹ The Committee on the Elimination of Discrimination against Women made general recommendations regarding Article 16 that are worth mentioning. For instance, the Committee states that “[a] woman’s right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being.”⁴⁰ The Committee notes continue by stating that many countries permit forced marriages “on the basis of custom, religious beliefs or the ethnic origins of particular groups of people.”⁴¹ It explains that other countries permit forced marriages or “allow a woman’s marriage to be arranged for payment or preferment” and further states that sometimes a “women’s poverty forces them to marry foreign nationals for financial security.”⁴² These comments seem to follow more in suit with a forced marriage rather than an arranged marriage. Nevertheless, the Committee’s recommendation then states that “a woman’s right to choose when, if, and whom she will marry must be protected and enforced at law.”⁴³ This specific recommendation is of key importance because it directly asserts that nation states need to take legislative action to prohibit forced marriage, and they also need to be able to enforce those laws.

While Article 16 of CEDAW and the Committee’s recommendation are critical to the issue of forced marriage, Article 2 also speaks to this treaty’s blunt disapproval of the crime. Article 2 begins by stating that “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women”⁴⁴ Article 2 subsection (f) relates directly to forced marriage. It directs nation states “[t]o take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and

³⁷ *About Child Marriage*, GIRLS NOT BRIDES, <https://www.girlsnotbrides.org/about-child-marriage/> (last visited Oct. 10, 2021) (stating that 12 million girls are married every year before the age of 18; that amounts to 23 girls every single minute, and one girl every three seconds).

³⁸ CEDAW, *supra* note 21, art 16, ¶ 1.

³⁹ *Id.* art. 24.

⁴⁰ Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 21: Equality in Marriage and Family Relations, ¶ 16 (1994).

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ CEDAW, *supra* note 21, art. 2

practices which constitute discrimination against women.”⁴⁵ Forced marriage often occurs due to the customs and practices of the particular region. Article 2, along with Article 16 and the Committee recommendations, all make clear that customs and practices cannot justify discrimination against women, and legislation should be enacted to prohibit it.

While the articles and recommendations condemn forced marriage, they do not provide any model of what a state’s domestic law should look like. Instead, they leave it up to the discretion of each state.⁴⁶ Nevertheless, it is clear that the treaty’s intent was for nation states to follow through by creating laws to hold themselves and their citizens accountable. This gives rise to multiple questions. Are states that are parties to the treaty, but do not implement legislation to combat forced marriage, violating international law? Are states not bound by these provisions? What is the point of nation states ratifying this treaty if there is no follow-through to hold violators accountable? These questions might lead one to ask if the treaty should have required parties to take legislative action?

C. *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery is the oldest of the three treaties mentioned above. It was entered into force on April 30, 1957, is relatively short, and only has 124 parties.⁴⁷ Nevertheless, the treaty is extremely relevant because it explicitly forbids forced marriage. In Article 1, the treaty condemns any institution or practice where “[a] woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group.”⁴⁸

Article 7 is also of great importance because it defines various forms of slavery. The definition is a reference to the Slavery Convention of 1926, stating that slavery is “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, and ‘slave’ means a person in such condition or status.”⁴⁹ A victim of forced marriage is a slave to their spouse or the person or group that forced the union against

⁴⁵ *Id.* ¶ (f).

⁴⁶ *Id.* art. 24.

⁴⁷ *Chapter XVIII: Penal Matters*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XVIII-4&chapter=18&Temp=mtdsg3&clang=_en (last visited Oct. 10, 2021).

⁴⁸ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, *supra* note 22, art. 1, ¶ (c)(i), at 3 & 4.

⁴⁹ *Id.* art. 7, ¶ (a), at 5.

their will.⁵⁰ Part (b) defines that a person of servile status is one “in the condition or status resulting from any of the institutions or practices mentioned in article 1 of this Convention.”⁵¹ It is common practice for parents to force a child into marriage to pay off a debt owed or make amends.⁵² Similarly, often in Canada, parents force their children into a marriage when it is discovered that they are pregnant to avoid shame or damage to their reputation.⁵³

Article 2 of the treaty instructs nation states “to prescribe, where appropriate, suitable minimum ages of marriage, to encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority. . . .”⁵⁴ Therefore, it is clearly a violation of this treaty for states not to take action to prohibit forced marriages. What is interesting about this treaty is that the United States is a party to it. The U.S. accessioned the treaty on December 6, 1967, binding the state to its provisions.⁵⁵ However, the U.S. has no federal regulation on forced marriage, and to date, only nine states in the U.S. have laws that specifically prohibit the act.⁵⁶ Is the U.S. in violation of international law because it has not enacted legislation to actively combat forced marriage? Arguably, the answer is yes: the U.S. and all other nation states are in violation of international law.

While this treaty does require parties to act against forced marriage, it could be considered the weakest out of the three in terms of accountability

⁵⁰ See Karen E. Bravo, *Exploring the Analogy Between Modern Trafficking in Humans and the Trans-Atlantic Slave Trade*, 25 B.U. INT'L L.J. 207, 253 (2007) (stating that “[c]ontemporary forms of slavery include bonded labour, trafficking, the worst forms of child labour, forced marriage and the abuse of domestic migrant workers.”).

⁵¹ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, *supra* note 22, art. 7, ¶ (b), at 5.

⁵² Vladislava Stoyanova, *United Nations Against Slavery: Unravelling Concepts, Institutions and Obligations*, 38 MICH. J. INT'L L. 359, 376 (2017) (stating that “[t]he Committee on Slavery gave the following examples of servile statuses: debt bondage; serfdom; servile marriages (which referred to various practices in which women are given in marriage); and the transfer of children by their parents under conditions permitting their exploitation.”).

⁵³ See *Report on the Practice of Forced Marriage in Canada: Interviews with Frontline Workers Exploratory Research Conducted in Montreal and Toronto in 2008*, DEP'T OF JUST., <https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/fm-mf/p2.html> (last modified Dec. 20, 2016) (discussing cases where families force their daughter into marrying the man with whom she conceived a child out of wedlock, and noting that this strategy of repairing a mistake to save a family's honor is used by families in other regions of the world).

⁵⁴ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, *supra* note 22, art. 2, at 4.

⁵⁵ *Chapter XVIII: Penal Matters*, *supra* note 47.

⁵⁶ Marlene Eskind Moses & Manuel Benjamin Russ, *Forced Marriage*, 50-SEPTENN. BAR. J. 32, 33 (2014).

because the treaty states that nations should take action “where appropriate.”⁵⁷ This language is vague and opens the door to many questions. What rises to the level of importance to say action should be taken? And who gets to decide if it should be taken or not? To assert that action should be taken “where appropriate” gives too much discretion to nation states, allowing each state to make their own call on what level of coercion and abuse they deem worthy of government interference. Despite the vague language used, it is clear that marriage requires mutual consent, and anything less than that should be forbidden. Therefore, every state that has ratified this treaty, including the United States, that has not implemented domestic law to combat forced marriage is not in compliance with international law.

All three of the treaties mentioned above state that no person should be forced into marriage. The treaties also call for nation states to take action to forbid forced marriage. Multiple countries have ratified at least one, if not all of these treaties, but have yet to implement any domestic law specifically addressing the problem. To fight this issue, nation states should be provided a framework explaining what they can practically do to act against forced marriage. In the following section, three recommendations will be provided. If a state adopted either of these three frameworks, it would be more compliant with international law.

III. ANALYSIS

The heart of this Note is that international law recognizes forced marriage as an issue. However, despite ongoing recognition since 1957, forced marriage still occurs worldwide. This begs the question: what has gone wrong, and what can be done about it? There are three models that nation states could use to be in compliance: the first of which is a minimum compliance approach created by France, the second is a moderate approach created by Canada, and the third is a maximum compliance approach created by the United Kingdom. It will be suggested that nation states should follow the United Kingdom’s maximum compliance model as they seek to implement domestic law to combat forced marriage. Later, this Note will argue that forced marriage needs to be criminalized and nation states should also focus on victim rehabilitation.

A. *Minimum Compliance Model – France*

France has taken a unique approach to combat forced marriage. It does not expressly take the stance that forced marriage alone should be criminalized, but instead notes that “forced marriage is an aggravating factor

⁵⁷ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, *supra* note 22, art. 2.

that leads to an increase of penalties.”⁵⁸ The French Violence Against Women Act calls for “penalties incurred for violence, torture, barbaric acts or murder are increased where the perpetrator of the offence committed them to force a person to marry or against a person who refused to marry.”⁵⁹ This is similar to the United States’ approach, which does not punish specifically for the crime of forcing someone into marriage, but instead punishes for other crimes that typically encompass the act, such as kidnapping and rape.⁶⁰ However, France takes it further and increases the penalty if forced marriage is involved.⁶¹

Recently, France’s criminal code was updated, making forced marriage punishable when it is committed abroad.⁶² “Article 222-14-4 of the French criminal code states that forcing a person to marry or enter into a union abroad, to use fraudulent tactics in order to convince them to leave French territory, is punishable by three years[] imprisonment and a €45,000 [approximately 52,709.62 U.S. dollars] fine.”⁶³

France’s approach to combat forced marriage is a minimum compliance model because, along with criminalizing attributes of forced marriage, it also criminalizes the act when it is committed abroad. In many forced marriage situations, there is an international element.⁶⁴ Therefore France’s approach takes action to prohibit forced marriage. If nation states would adopt a framework similar to France’s, they would be in minimum compliance, at least with international laws that call for legislative action against forced marriage.

B. Moderate Compliance Model – Canada

Canada recently took legislative action to combat forced marriage with the 2015 passage of the Zero Tolerance for Barbaric Cultural Practices Act, which amended the Immigration and Refugee Protection Act, the Civil Marriage Act, and the Criminal Code.⁶⁵ Relating to forced marriage, this new Act amends the Civil Marriage Act to now state “the legal requirements for a

⁵⁸ Eur. Union Agency For Fundamental Rts., *Addressing Forced Marriage in the EU: Legal Provisions and Promising Practices*, at 20 (2014), https://fra.europa.eu/sites/default/files/fra-2014-forced-marriage-eu_en.pdf.

⁵⁹ *Id.*

⁶⁰ See TAHIRIH JUST. CTR., CRIMINAL LAWS ADDRESSING FORCED MARRIAGE IN THE UNITED STATES 1 (2017), <https://www.tahirih.org/wp-content/uploads/2017/09/UPDATED-2017-Tahirih-Memo-on-State-Criminal-Laws-on-Forced-Marriage.pdf> (explaining that when prosecutors bring charges for a forced marriage, it is because the facts satisfy the elements of another crime).

⁶¹ Eur. Union Agency For Fundamental Rts., *supra* note 58.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Infra* Part III.b.

⁶⁵ Zero Tolerance for Barbaric Cultural Practices Act, S.C. 2015, c 29.

free and enlightened consent to marriage.”⁶⁶ The Criminal Code was also amended, now making forced marriage a punishable offense.⁶⁷

Criminal Code Section 293.1 now states that “[e]veryone who celebrates, aids or participates in a marriage rite or ceremony knowing that one of the persons being married is marrying against their will is guilty of an indictable [offense] and liable to imprisonment for a term not exceeding five years.”⁶⁸ In similar circumstances, the Act provides the same punishment when one of the persons subjected to forced marriage is a minor under the age of sixteen.⁶⁹ Along with recent legislation that prohibits forced marriage, Canada has taken other steps to combat forced marriage. Canada, along with Zambia, developed the first United Nations General Assembly resolutions on child, early, and forced marriage.⁷⁰ These resolutions were passed and supported by all regions in 2013, 2014, 2016, and 2017.”⁷¹

Canada is also acting against forced marriage by raising awareness of the issue, investing in projects that seek to prevent forced marriages, and supporting and educating victims of forced marriage.⁷² Additionally, Canada aims to implement the United Nations 2030 Agenda for Sustainable Development to end child, early, and forced marriage.⁷³ On a local level, Canada works directly with women to inform them of their rights, teach them how to exercise those rights, and provide life skills and health education.⁷⁴ The nation also partners with key organizations to create “projects in high-prevalence countries [to help] support[] global efforts to create change for vulnerable girls.”⁷⁵ Canada is taking action to combat forced marriage by educating communities as well as supporting and caring for victims of forced marriages. Altogether, Canada’s approach is a moderate compliance model that nation states could follow to comply with international law.

C. *Maximum Compliance Model – The United Kingdom*

The United Kingdom has one of the most progressive approaches to combatting forced marriage. The United Kingdom’s plan of combating forced marriage goes above and beyond what any treaty asks states to do, but it is likely what is needed to best fight this issue. In 2005, the United Kingdom

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* s. 293.2.

⁷⁰ *Child, Early and Forced Marriage, supra* note 16.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Child, Early and Forced Marriage, supra* note 16.

created the Forced Marriage Unit.⁷⁶ This Unit, run by both the Home Office and the then Foreign and Commonwealth Office (now the Foreign, Commonwealth, and Development Office),⁷⁷ supports victims of forced marriage and works to train professionals that will be involved. The Unit works with UK cases, overseas cases, and even immigration cases involving forced marriage. In 2011, the Unit handled over one thousand four hundred calls related to victims of forced marriages.⁷⁸

In 2007, the United Kingdom passed the Forced Marriage Act, which provides civil remedies, including the ability for victims to apply for Forced Marriage Protection Orders.⁷⁹ In certain situations, the Order mandates the court to attach a power of arrest.⁸⁰ Certain locations within the United Kingdom go even further than just providing civil remedies to victims of forced marriage, which again is more than what many states do, but they also criminalize it. In 2014, England and Wales made it a criminal offense to force an individual into marriage when it passed the Anti-Social Behaviour Crime and Policing Act.⁸¹ Under the Act, a violator can be sentenced to imprisonment up to seven years in certain circumstances.⁸² England and Wales have the most liberal approach because if convicted on indictment, the violator will be imprisoned. Scotland, a part of the United Kingdom, has also made forced marriage a criminal offense worthy of imprisonment if convicted on indictment but it still leaves an option for violators to be fined rather than imprisoned.⁸³ England and Wales also permit punishment by a fine instead of imprisonment if a person is found guilty on summary conviction.⁸⁴

The United Kingdom has taken action to combat forced marriage more than any other nation state in the world. There are civil remedies for victims through the Forced Marriage Unit and the Forced Marriage Act, which provide victims safety and support. However, the United Kingdom has not stopped there. In 2014, it became a criminal offense to force someone into a marriage against their will. The passage of this act is significant because it

⁷⁶ *The Forced Marriage Unit*, HALO BREAK THE SILENCE PROJECT, <https://www.haloproject.org.uk/forced-marriage-unit-W21page-31> (last visited Oct. 14, 2021).

⁷⁷ *Foreign & Commonwealth Office*, GOV.UK, <https://www.gov.uk/government/organisations/foreign-commonwealth-office> (last visited Oct. 14, 2021).

⁷⁸ *The Forced Marriage Unit*, *supra* note 76.

⁷⁹ Lisa V. Martin, *Restraining Forced Marriage*, 18 NEV. L.J. 919, 971 (2018).

⁸⁰ Alicia Lobeiras, *The Right to Say I Don't: Forced Marriage as Persecution in the United Kingdom, Spain, and France*, 52 COLUM. J. TRANSNAT'L L. 896, 909 (2014).

⁸¹ Anti-social Behaviour, Crime and Policing Act 2014, c 12, § 121, <https://www.legislation.gov.uk/ukpga/2014/12/part/10/enacted>.

⁸² *Id.*

⁸³ *Id.* § 122.

⁸⁴ *Id.* § 121.

brings to light the unfortunate reality of forced marriage, holds violators accountable, and provides a least some justice for victims.

IV. CONCLUSION

Forced marriage is an international issue that is occurring on a global scale. It is not limited to developing countries or ones that do not value personal autonomy; it is happening everywhere. It is a strict human rights violation as it constitutes a complete disregard for a person's freedom. And not only one's freedom to choose whom to marry, but it also restricts, and often destroys one's freedom to choose the trajectory of their own life. Three international law treaties explicitly prohibit forced marriage, and despite many nation states ratifying these treaties, they have yet to implement domestic law to forbid it. Therefore, to help these nation states become more in compliance with international law, I propose three potential frameworks to prohibit forced marriage.

First, France's minimum compliance model calls for increased penalties if forced marriage is involved and makes forced marriage a crime if committed abroad. Second, Canada's moderate compliance model could allow nation states to be more in compliance with international law because it has enacted and amended legislation to forbid forced marriage. Canada also seeks to help victims locally by educating them on their rights and equipping them with life skills and health education. Lastly, the United Kingdom's approach represents the maximum compliance model. The United Kingdom has instilled local efforts to help victims of forced marriage and provide civil remedies for their protection. Also, in certain places in the United Kingdom, forcing another person into marriage is a criminal offense, and the prison sentence can be up to seven years.

Despite most people's disbelief and objection, forced marriage is still happening all over the world. It is time to stop excusing the act as a cultural norm or punishing it indirectly through other crimes like rape, kidnapping, fraud, etc. The crime of forcing someone into a marriage should be directly addressed through domestic legislation with an emphasis on criminalization and victim rehabilitation.