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Australian Government

Department of Foreign Affairs and Trade

HUMAN RIGHTS SUB-COMMITTEE OF THE JOINT STANDING
COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE
(JSCFADT)

INQUIRY INTO CERTAIN ASPECTS OF THE DEPARTMENT OF
FOREIGN AFFAIRS AND TRADE (DFAT) 2019-20 ANNUAL REPORT
CANVASSING MATTERS RELATING TO AUSTRALIA'S EFFORTS TO
ADVOCATE FOR THE WORLDWIDE ELIMINATION OF CHILD AND
FORCED MARRIAGE

DFAT SUBMISSION

11 JUNE 2021

EXECUTIVE SUMMARY

1. DFAT is strongly committed to addressing child and forced marriage internationally including its many drivers that include poverty, dominant cultural practices, weak regulation or enforcement of existing laws, limited access for girls to education, limited opportunities for women's political involvement, and limited human rights protections for women and girls. COVID-19 is exacerbating the specific drivers of child marriage, in particular, through interrupted education, economic shocks, disrupted social services, and the death of parents. DFAT will continue to work with partner governments, donors and other Australian Government agencies to effectively address child and forced marriage.
2. The Minister for Foreign Affairs and Minister for Women has consistently raised her concerns about child and forced marriage in relevant international fora, most recently at a meeting of female foreign ministers focused on the heightened risks of all forms of human trafficking to women and girls during the COVID pandemic.
3. Child and forced marriage has a disproportionately negative impact on women and girls. Due to the complex and challenging nature of child and forced marriage any response requires collective efforts of governments, lawmakers, judicial authorities and law enforcement, cultural leaders, civil society, the private sector and other stakeholders to address the root causes of this practice.
4. DFAT conducts targeted and careful bilateral advocacy to adopt and implement relevant laws in high prevalence countries. DFAT also advocates strongly through multilateral human rights fora to shape international norms on this issue, including through co-sponsoring the biennial resolution in the UN General Assembly Third Committee (Human Rights) on early, and forced marriage; the Human Rights Council (HRC) resolution on child, early, and forced marriage; the HRC resolution on trafficking in persons, especially women and children; and through the work of Special Mandate holders. Australia has raised concerns in the HRC on individual country situations, particularly recently Somalia and Iran.
5. The UN Office on Drugs and Crime (UNODC) has recently published research on human trafficking for the purpose of marriage.¹ UNODC highlights that child and forced marriage is often treated as a slavery-like practice under the internationally recognised definition of human trafficking (the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children – the Palermo Protocol). DFAT's ASEAN-Australia Counter Trafficking program, ASEAN-ACT (\$80 million, 2019-29), increases capacity among law enforcement and court officials working on trafficking crimes. The issue of trafficking for child or forced marriage has been increasingly identified by the program as an emerging issue in some countries in South-East Asia.
6. Regional engagement on human trafficking is addressed through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. The Bali Process is the premier regional forum on these issues, bringing together source, transit and destination countries.
7. Australia's humanitarian responses support community awareness on the risks of early and forced marriage, counselling and home learning to ensure girls receive education, as well as health services, education support, and creation of women friendly spaces.
8. Child and forced marriage is a complex form of family and gender-based violence. Australia's gender equality advocacy and development assistance seeks to address the multiple drivers of child and forced marriage, with a focus on gender equality, women's political and economic empowerment, addressing family and gender-based violence, and supporting girls' education.
9. In Australia, forced marriage is illegal and an extraterritorial offence when involving perpetrators who are Australian citizens or permanent residents. Overseas, DFAT works closely with the Australian Federal Police to provide consular assistance to victims or those who believe themselves at risk of a forced marriage. The Department provides information to the public on child and forced marriages through the Smartraveller website, including information on how to seek assistance.

INTERNATIONAL CONTEXT

10. Forced marriage occurs where a person, regardless of age, is forced to marry without their consent, and is distinguished from arranged or sham marriages that arise with the consent of both parties. Forced marriages come about through physical, emotional or financial duress, deception, use of force, threats or severe pressure. Once forced to marry, many victims are at a greater risk of being subjected to other forms of exploitation, including sexual exploitation, domestic servitude and other forms of forced labour, and health issues, particularly in cases of early marriage. Child marriage is considered forced marriage given the absence of full, free and informed consent.
11. The 2017 *Global Estimates of Modern Slavery*ⁱⁱ prepared by the International Labour Organization – based on data captured from surveys – estimated 15.4 million people were living in a forced marriage globally, of those 84 per cent were women, and one third were under 18 years when married.
12. While the ILO is scheduled to issue a new *Global Estimates of Modern Slavery* in 2021, already data is emerging on the impact of COVID-19 on the prevalence of child and forced marriage globally. UNICEFⁱⁱⁱ predicts that the pandemic will lead to an additional 10 million child marriages over the next decade, as COVID-19 is exacerbating the five main drivers of child marriage which are: interrupted education, economic shocks, disrupted social services, pregnancy and the death of a parent.
13. While many countries have prohibited or criminalised the practice, the child and forced marriage continues due to a multitude of drivers such as poverty, dominant cultural practices, weak regulation or enforcement of existing laws, limited access for girls to education, limited opportunities for women's political involvement, and limited human rights protections for women and girls. Direct engagement by a foreign government at this intersection of culture, religion, and human rights – either through advocacy or development programming – requires sensitive navigation of the local context and careful consideration of appropriate engagement, in particular with local civil society organisations.

BILATERAL ADVOCACY AND DEVELOPMENT AND HUMANITARIAN ASSISTANCE IN HIGH PREVALENCE COUNTRIES/REGIONS

14. DFAT provides funding support to international organisations and local civil society organisations in a number of high prevalence countries, whose focus is advocacy at the community level to shift attitudes and identify those at risk of child and forced marriage.
15. This grassroots advocacy is complemented by advocacy to relevant legislative bodies when laws are being considered with respect to the age of marriage, or laws that might impact the rights of women and girls or other drivers of child and forced marriage.
16. Key examples of this work are:
 - a. **Bangladesh** – In Bangladesh, 59 per cent girls in the country are married before the age of 18 years and 22 per cent before the age of 15 years. COVID-19 has led to an increase in incidences of child marriage, potentially impeding the gains made prior to the pandemic. Gender-based violence has also increased among married adolescent girls (35 per cent) during the COVID-19 imposed lockdown compared to their unmarried peers (16 per cent).
 - i. Australian funding to Bangladesh in 2019-20 supported over 200,000 girls enrolled to complete primary and pre-primary schooling. With civil society organisation BRAC, training and support programs were delivered to improve employability and build life skills.
 - ii. Australia has provided \$270 million in Bangladesh since 2017 for humanitarian assistance to Rohingya refugees and host communities. Support has included awareness sessions on the risks of early and forced marriage, counselling, home learning to ensure girls receive an education, and health services delivered through child and women friendly spaces. In 2020, Australia's funding to humanitarian partners supported awareness raising sessions on protection related matters, including child marriage to almost 100,000 participants.
 - b. **Nepal** - Forced marriage, particularly child marriage of boys and girls, remains prevalent in Nepal. Assessments by UNICEF indicate that Nepal has one of the highest rates of child marriage in Asia.
 - i. In Nepal, we are working to build cultural change. Our Comprehensive Sexuality Education Program, with UNFPA (\$2 million, 2020 – 2025), is providing adolescent girls and boys with education on their sexual and reproductive health rights and is helping to address harmful social norms regarding child marriage.
 - c. **Afghanistan** – In Afghanistan where early and forced marriages are common, especially along the borders with Pakistan, DFAT supports a range of advocacy activities that focus on the rights of women and girls and their protection from gender-based violence. This includes working with religious clerics and community groups to shift norms and behaviours. In 2018, female beneficiaries of DFAT's Ending Violence Against Women program reported organising women's groups to arrange marriages based on individual choices, which reduced child and forced marriages in Khost province.
 - i. Empowerment through Education (\$20.7 million 2011-20) provides training to targeted community leaders and village education committees on community mobilisation, participation, advocacy, child protection, peace education and conflict resolution with the aim to address the underlying issues that lead to child, early and forced marriage.
 - ii. Under the Regional Humanitarian Strategy for Afghanistan and Pakistan, UNFPA provides mobile health teams and other health services provide sexual and reproductive health (SRH) services to support gender-based violence survivors, psychosocial counselling and awareness raising particularly for girls and women on the harmful consequences of early, forced marriage and the importance of birth spacing.

- d. **Pakistan** - Ending Violence Against Women (\$11.9 million to 2019-20 on conclusion) included a qualitative study of influencers and drivers of child marriage in north-western Pakistan. Australia has provided support for policy and community dialogue on early and forced marriage through investments with Trocaire, Oxfam and under the Direct Aid Program and the Australian NGO Cooperation Program.
- e. **Kenya** – Australia provides targeted funding for UNICEF’s Kenya End Child Marriage Campaign (\$56,000) and Ozone Group’s project (\$46,000) on ending early child and forced marriages in Laikipia County through community dialogues, sensitisation forums and campaigns.
- f. **Indonesia** – The Australia-Indonesia Partnership for Gender Equality and Women’s Empowerment (MAMPU), and Australia Indonesia Partnership for Justice - Phase 2 (AIPJ2) supported work to change Indonesia’s 1974 Marriage Law to prevent child marriage. In September 2019, Indonesia increased the marriageable age of girls from 16 years to 19 years, in line with the legal age of marriage for men.

REGIONAL ENGAGEMENT

- 17. DFAT’s ASEAN-Australia Counter Trafficking program, ASEAN-ACT (\$80 million, 2019-29), increases capacity among law enforcement and court officials working on trafficking crimes. The issue of trafficking for child or forced marriage has been increasingly identified by the program as an emerging issue in some countries in South-East Asia.
- 18. Regional engagement on human trafficking and modern slavery is addressed through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. The Trafficking in Persons Working Group of the Bali Process (co-chaired by Australian Border Force with Indonesia) has identified human trafficking for the purposes of forced marriage as an emerging issue for consideration.

MULTILATERAL ENGAGEMENT AND ADVOCACY

- 19. Australia consistently co-sponsors relevant resolutions at the Human Rights Council and at the UN General Assembly. For example:
 - a. In July 2019 (HRC41), Australia co-sponsored the **Human Rights Council (HRC)** resolution on child, early, and forced marriage and voted against hostile amendments to the text. Australia delivered a statement at action that outlined our opposition to attempts to narrow the scope of violence against women and girls addressed in the resolution and reiterated the significance of intimate partner violence in this particular context.
 - b. In March 2020 (HRC43) Australia co-sponsored the resolution that renewed the mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material. In May 2021, Australia provided information to the UN Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, about forced marriage practices.
 - c. On specific country situations, through statements at the Human Rights Council Australia strongly advocated against Somalia’s draft bill on Sexual Intercourse Related Crimes, which, if passed, would permit child marriage and forced marriage. These concerns were raised on 2 October 2020 during the ‘interactive dialogue with the Independent Expert on Somalia’ and during Somalia’s Universal Periodic Review on 6 May 2021.
 - d. In Australia’s statement for the Interactive dialogue with the Special Rapporteur on Iran (10 March 2021) at the 46th session of the Human Rights Council, our statement included

specific reference to child marriage (Australia has also raised these concerns bilaterally with Iran):

Australia is concerned that Iranian women continue to face significant forms of discrimination, and that the legal age of marriage is still 13 years old. Australia reiterates the need for Iran, as a State party to the Convention on the Rights of the Child, to respect, protect and fulfil the rights owed to children under that Convention.

- e. At the **UN General Assembly Third Committee**, Australia has consistently co-sponsored the biannual resolution: Child, early, and forced marriage (most recently on 16 December 2020). This resolution calls upon States, with the participation of relevant stakeholders, to develop and implement holistic, comprehensive and coordinated responses and strategies to prevent and eliminate child, early and forced marriage, to support girls and women who are affected or at risk. It further urges States to enact, enforce and uphold laws and policies aimed at preventing and ending child, early and forced marriage. This includes laws concerning a minimum age of marriage and calls on States to progressively amend laws with lower minimum ages of marriage and/or ages of majority to 18. The resolution will next be considered in August-December 2022 and Australia intends to continue our strong support for it.
- f. Noting the prevalence of early and forced marriage in fragile and conflicted affected states, at the **UN Security Council**, the Australian Government has delivered national and joint statements at Open Debates on Women, Peace and Security (most recently on 29 October 2020) and Sexual Violence in Conflict (most recently on 14 April 2021), which identify risks to women and girls in fragile and conflict-affected states.
- g. At the **Commission on the Status of Women**, Australia makes national and joint statements on gender equality and women's empowerment calling for an end to all forms of violence against women and girls (EVAW), as at CSW65 in 2021 with the LGBTI Core Group, Pacific Islands Forum, Group of Friends of EVAW and MIKTA.
- h. The Australian Government continues to identify opportunities to shape international debates on gender equality, including on child and forced marriage, through **efforts to bolster our representation in the UN system**, for example:
 - i. Former Ambassador for Women and Girls Natasha Stott Despoja was elected to the UN Committee for the Elimination of Discrimination Against Women (CEDAW) for a four-year term (2021-25).
 - ii. Former Sex Discrimination Commissioner Elizabeth Broderick AO is currently Chair-Rapporteur of the UN Working Group on Discrimination against Women and Girls.
 - iii. Australia is serving on the Bureau of the Commission on the Status of Women (CSW) for a two-year term (2019-21).
 - iv. Australia served on the Bureau of the UN Women Board (2019).

GENDER EQUALITY AND EDUCATION ADVOCACY AND DEVELOPMENT ASSISTANCE

20. In addition to shaping international gender norms, Australia addresses many of the key drivers of child and forced marriage through our broader work to advocate for gender equality, and development assistance that addresses gender inequality and improves girls' access to education.

Gender Equality Development Assistance

21. With an estimated \$1.3 billion in 2021-22 of support for gender equality across the development program, the Government has focused on enhancing safety, economic security and health and well-being of women and girls. Much of the gender development programming is aimed at the promotion of women's voice and agency, their economic empowerment and preventing violence and enhancing their safety, addressing some of the drivers that result in women and girls vulnerability to early and forced marriage.
22. Examples of the Australian Government's programs include:
- a. The Australian Government is providing \$10 million to deliver activities over 2020-22 to UN Women to deliver activities focused on prevention, essential services and support for local women's organisations to end violence against women and girls, particularly in response to the intensification of gender-based violence during and following the COVID-19 crisis.
 - b. The Australian Government has also scaled up support for Women's World Banking's activities in Southeast Asia (\$6.1 million from 2020-24) to increase women's financial inclusion as a path to women's empowerment, improved resilience, agency and position in their household – and as a key strategy in addressing the economic impacts of COVID-19 and ensuring a sustainable and inclusive recovery.
 - c. Australia has also contributed from the Gender Equality Fund to the UN Women's Global Facility (\$2.7 million, to deliver activities over 2020-22) and Peace and Humanitarian Fund (\$1.8 million, to deliver activities over 2020-22) which amplify the voices of women and support their vital work to prevent conflict, respond to crises, and accelerate peace in their communities.

Support to Education

23. Improved access to education has been shown to increase the age at which girls marry. When they do marry, they are more likely to choose their partner and to marry closer in age. Girls with fewer than seven years' schooling are more likely to be married by age 18.
24. Investing in girls' education is critical in its own right, and has huge multiplier effects. Educating girls improves labour market outcomes, reduces poverty, delays marriage, reduces mortality and fertility rates, and increases GDP. A child whose mother can read is 50 per cent more likely to live past the age of five, 50 per cent more likely to be immunised, and twice as likely to attend school. There is evidence that ensuring that all girls finish secondary education by 2030 could boost GDP by 10% on average over the next decade.
25. Detailed below, Australia works with a range of partners to help protect the rights of girls and young women to a full quality education.
- a. **Education programming** – The DFAT 2020-21 budget estimate for education (including scholarships) is \$560.3 million. Bilateral, regional and global education programs prioritise equity, particularly for girls, promoting safe, equitable and effective education systems in the Indo-Pacific.
 - b. **Global Partnership for Education** – Australia has a longstanding relationship with the Global Partnership for Education (GPE). The GPE is strengthening the inclusion of gender equality in education programming in the COVID-19 response. GPE uses rates of early marriage as one of the indicators for countries' eligibility for additional finance through the Girls' Education Accelerator (GEA). The GPE is increasing opportunities for girls by mainstreaming gender equality across all programming.
 - c. **Australian NGO Cooperation Program** – \$11 million in 2019-20 activities that contributed to ending violence against women and girls and facilitated participation of over 430,000 people in sessions on gender issues and women's equal rights.

CONSULAR ASSISTANCE

26. Overseas, DFAT works closely with the Australian Federal Police to provide consular assistance to victims or those who believe themselves at risk of a forced marriage. The Department provides information to the public on child and forced marriages through the Smartraveller website, including information on how to seek assistance. DFAT officers report information which relates to the possible or attempted commission of a serious extraterritorial offence under Australian law to the Australian Federal Police. This includes offences relating to forced marriage.
27. Training for consular staff in DFAT contains a specific session on forced marriage and includes detailed discussions on reporting obligations in relation to extraterritorial offences. DFAT's Smartraveller website contains specific information to prevent potential forced marriage victims departing Australia or how to obtain assistance if already overseas. Smartraveller also includes referral pathways to the AFP.

ⁱ [UNODC Interlinkages Trafficking in Persons and Marriage.pdf](#)

ⁱⁱ [Report: Global Estimates of Modern Slavery: Forced Labour and Forced Marriage \(ilo.org\)](#)

ⁱⁱⁱ [COVID-19: A threat to progress against child marriage - UNICEF DATA](#)