

Briefing Paper

Empowering Girls: what the Commonwealth can do to end early and forced marriage

October 2011

“My father made the decision to marry me off and I was not given any say at all. In fact, I did not even know about my marriage. It wasn’t until a woman came to my home, giving me money and a dress, and said, ‘you are now my daughter,’ that I realised what was happening. I was shocked, but my sisters advised me to stay silent.” **Sabina**¹

“We don’t want the Commonwealth to be silent... when there are violations of women’s rights, violations of democracy and violations of the rule of law.”
Senator Hugh Segal, Canadian representative on the Eminent Persons Group²

Summary

This paper sets out the actions the 54 leaders gathering at the Commonwealth Heads of Government Meeting (CHOGM) in Perth, Australia can take to end early and forced marriage.

Although ‘forced and servile’ marriage – the practice we term here as early and forced marriage – is recognised by Commonwealth member states as a harmful practice that constitutes a violation of the most basic and fundamental rights³, it remains prevalent on a shocking scale throughout the association. Around the world at least ten million girls marry under the age of eighteen every year⁴; of the twenty countries with the highest prevalence rates, twelve are within the Commonwealth. It is a brutal transition from childhood to adulthood that harms the education, health, economic and social potential of millions of girls across the Commonwealth.

As the Commonwealth stands on the brink of a dynamic new phase in its history, it is uniquely placed to tackle the issue of early and forced marriage. All Commonwealth countries, despite their remarkable diversity, have signed up to a set of shared values and principles, including the protection and promotion of basic human rights. And, in 2011, two other key factors indicate that the time has come for the Commonwealth to take a lead on this issue. First, the Commonwealth’s theme for the year is ‘Women as Agents of Change’, prompting the association to acknowledge the progress made towards gender equality – and that which remains to be done. Second, work to reform the Commonwealth is placing rights at the core of sharpening the impact and maintaining the relevance of the association.

As this paper argues, it is time the Commonwealth made good on its commitments, empowering girls by ending early and forced marriage.

(Figure 1) Conventions in the Commonwealth*

Building on the requirements of Commonwealth Membership whereby countries should accept and comply with Commonwealth fundamental values, principles and priorities as set out in the 1971 Declaration of Commonwealth Principles⁵ and should “give weight and effectiveness” to previous commitments, as set out in the Harare Commonwealth Declaration issued in Zimbabwe in 1991⁶, there are several international and regional instruments prohibiting early and forced marriage that are relevant to Commonwealth member states. These include:

- a) **The Universal Declaration on Human Rights:** provides that “marriage shall be entered into only with the free and full consent of the intending spouses”.⁷
- b) **The Supplementary Convention on the Abolition of Slavery 1956:** prohibits any institution or practice whereby (i) a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or (ii) the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or (iii) a woman on the death of her husband is liable to be inherited by another person.⁸
- c) **The International Covenant on Civil and Political Rights:** provides that no marriage shall be entered into without the free and full consent of the intending spouses.⁹
- d) **The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):** requires States Parties to eliminate discrimination against women in all matters relating to marriage and family relations¹⁰ and provides that the “betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”¹¹ (CEDAW is ratified by all but two Commonwealth countries: Tonga and Nauru)
- e) **CEDAW General Recommendation No. 21¹²:** provides 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”. It calls for the prohibition of forced marriage in the name of custom, religious beliefs or ethnic origins and the arrangement of a marriage for payment or preferment. It highlights the link to poverty, which forces women to marry for their own or their families’ financial security. It demands that, subject to reasonable restrictions based, for example on a woman’s youth or consanguinity with her partner, a woman’s right to choose when, if, and whom she will marry must be protected and enforced at law.¹³
- f) **The Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa¹⁴:** provides that (i) no marriage shall take place without the free and full consent of both parties; (ii) the minimum age of marriage for women shall be eighteen years; and (iii) every marriage shall be recorded in writing and registered in accordance with national laws in order to be legally recognised. (Botswana is the only African Commonwealth country not to have signed or ratified the Protocol. Cameroon, Ghana, Kenya, Mauritius, Sierra Leone, Swaziland and Uganda have signed, but not yet ratified it.)
- g) **The African Charter on the Rights and Welfare of the Child¹⁵:** prohibits child marriage and the betrothal of girls and boys and demands legislation to specify the minimum age of marriage to be eighteen years. (All 19 African Commonwealth countries have either signed or ratified the Charter.)
- h) **The Conventions on the Rights of the Child¹⁶:** elaborates on the substantive rights found in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) with a focus on the particular vulnerabilities of children. While no article specifically deals with early or forced marriage, Article 28 recognises the right of the child to education and calls for measures to reduce drop-out rates. Article 31 asserts a child’s right to rest and leisure and to engage in activities appropriate to the age of the child. (The CRC is the only international human rights treaty to enjoy the support of every Commonwealth country.)
- i) **The Universal Islamic Declaration of Human Rights:** provides that no person may be married against her/his will.¹⁷
- j) **Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages¹⁸:** provides that no marriage should be entered into without the free consent of both parties and that such consent must be expressed by them in person after due publicity and in the presence of a competent authority.
- k) **General Assembly Resolution 2018:** Recommends that all states enact legislation which prohibits non-consensual marriage; limits marriage by proxy; creates a minimum marriage age; and requires the registration of all marriages.¹⁹

Almost every Commonwealth member state has signed and/or ratified one or more of these conventions. Therefore Commonwealth member states have specific obligations to ensure compliance with these international law principles.

* In compiling this list, we have drawn heavily on the work of Professor B. Meyersfeld. We are very grateful for her assistance.

Empowering girls in the Commonwealth

In the year of the Commonwealth theme 'Women as Agents of Change', leaders meeting in Perth for their biennial Summit must make it their priority to identify ways in which they could improve the lives of women and girls who continue to be seriously disadvantaged across the Commonwealth. None of the Commonwealth's democratic or developmental goals can be achieved without first empowering its women and girls, who represent more than half of the association's two billion people. And early and forced marriage represents one of the greatest continuing barriers to girls' education, maternal health, female economic empowerment and the realisation of even the most fundamental of rights.

The Commonwealth has a strong foundation of commitments, conventions and treaties upon which to act towards gender equality and the ending of early and forced marriage (Figure 1).

Most significantly, the Commonwealth Plan of Action for Gender Equality 2005-2015 (PoA), is a comprehensive framework negotiated in 2004 by Commonwealth Ministers responsible for women's affairs and endorsed by leaders at the Commonwealth Heads of Government meeting (CHOGM) in 2005 in Malta. The PoA builds upon Commonwealth commitments to the Millennium Development Goals (MDGs), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action. It recognises the Universal Declaration of Human Rights and CEDAW as the primary instruments by which states have a duty to guarantee equality of rights.²⁰

The PoA sets out key actions and targets for Commonwealth governments and it calls upon all member states to recognise, ratify and implement human rights instruments that promote gender equality.²¹ The PoA urges countries to promote legal reforms in accordance with CEDAW, incorporate the principle of equality of men and women in the legal system, abolish discriminatory laws and adopt those prohibiting discrimination against women.²² It calls upon all member states to strengthen the justice system through gender training and dialogue and ensure that women's rights to land, housing, property and inheritance are protected.²³

However, the implementation of the PoA has come under critical scrutiny by the Commonwealth Women's Affairs Ministers. Meeting in 2007 in Kampala, Uganda, Ministers expressed concern that the MDGs that were most significantly off track were those relating to the achievement of gender equality.²⁴ They emphasised that the successful implementation of the Commonwealth Plan of Action on Gender Equality would require adequate resources and full commitment by all member countries.²⁵

In 2010, the Commonwealth Women's Affairs Ministers, meeting in Bridgetown, Barbados, were more strident in stressing that, fifteen years on from the historic adoption of the Beijing Declaration and five years after the adoption of the Commonwealth Plan of Action on Gender Equality 2005-2015, progress towards gender equality had been slow and uneven.²⁶ They further noted that, with only five years left until the 2015 deadline of the PoA and MDGs, accelerated progress, increased resources and innovative solutions would be necessary.²⁷ Ministers expressed concern that least progress had been made on MDG 5 to improve maternal health.²⁸ They stressed that it was unacceptable that half a million women are still allowed to die each year from complications in pregnancy and childbirth and that 66 of every 100 such deaths are in the Commonwealth.²⁹

In 2011, the 'Women as Agents of Change' theme provides an opportunity to take stock of what has been achieved and what remains to be done for gender equality across the Commonwealth. The report 'Because You're a Girl; Growing up in the Commonwealth',³⁰ launched by the Royal Commonwealth Society (RCS) and Plan in March 2011, highlights the many barriers still faced by girls and women in participating fully in social, political and economic life.

The PoA was designed to remove those barriers by identifying gender, human rights and law as a priority area for action³¹ in the Commonwealth. And yet, there are many gaps in how to put the PoA into practice, and considerable inertia in addressing the issues required to achieve the Plan's aspirations. As Plan and the RCS concluded from its review of the barriers still facing girls and women in the Commonwealth, it is not historical wealth that has led to positive change but rather political will.

(Figure 2) Causes of early and forced marriage*

Gender inequality

Across the globe, women and girls continue to occupy a lower status in society as a result of social and cultural traditions and attitudes and beliefs that deny them their rights and stifle their ability to play an equal role in their homes and communities. Although gender roles differ between cultures and generations, and vary in relation to other factors – including economic status, class, ethnicity, caste, sexuality, religion, HIV status or disability – gender norms generally work to the disadvantage of women of all ages, with youth reducing the status of a girl or young woman within her household and community even further.

Because a girl does not have the same standing as her male peers, she is not perceived to have the same skills or capabilities, and so there is less value in educating her. This inevitably contributes to the view that a 'good marriage' is the most important way to secure a girl's wellbeing. Gender inequalities also contribute to early marriage through their impact on formal legal systems such as unequal laws of consent for boys and girls, helping to reinforce the idea that it is suitable for girls to marry at an earlier age than boys. For example in Cameroon, the legal age for marriage for boys is 18. For girls, the age is 15. At the local level, patriarchal customary laws and traditions give women and girls less negotiating power around marriage, sexual and reproductive health and rights issues.

Poverty

A chronic lack of income severely impacts on household decision-making and may result in girls being viewed as an economic burden. The high cost of raising children and the perception of girls' potential to earn an income as comparatively poor, pushes girls out of their homes and into marriage. For families facing chronic poverty, marriage often seems like the best way to safeguard girls' futures and lessen their economic burden. Parents often feel they have no other option than to see their daughters marry and these ideas are communicated to their children.

Negative traditional or religious norms

Negative social and religious norms perpetuate and can help to justify early and forced marriages. For myriad cultural, religious and practical reasons, in many countries the importance of preserving family 'honour' and girls' virginity is such that parents push their daughters into marriage well before they are ready. Girls may also be married early to older men in the belief that a husband will provide a safeguard against 'immoral' or 'inappropriate' behaviour³². Equally, where girls become pregnant, either through consensual sex or rape, the stigma attached can lead families to view the girls' rights and wellbeing as secondary to the preservation of family honour. Early and forced marriage can also be seen as a strategy for punishing or controlling girls who rebel against their family or communities' expectations.³³

A number of 'traditional' practices surrounding early and forced marriages are essentially a means of consolidating relations between families or a way of settling disputes or sealing deals over land and property. In Pakistan, the *Watta Satta* or 'exchange marriage' is a common way of exchanging girls between families in order to strengthen familial ties. Dowry or bride-price systems, in which gifts or money change hands in exchange for a bride, can offer powerful financial incentives for families to consider early marriage.³⁴ It is important to differentiate between situations in which 'tradition' or religion are the drivers of early marriage and those in which cultural justifications are attributed to decisions that are, at heart, economically driven. Family income and rural, as opposed to urban, location can cause significant variation in early marriage practice amongst families with the same cultural traditions and religious beliefs.

Weak enforcement of law

A failure to enforce legislation means that in some areas families are not even aware that in marrying their daughters, they are breaking the law.³⁵ Girls themselves may also not be aware of their rights and legal status. In Nigerian states that have legislation abolishing early marriage, there is much more awareness amongst girls in the last year of primary school of the importance of abolishing early marriage.³⁶

In countries such as Malawi and Bangladesh, most girls will be married before the age at which they can legally do so, and yet prosecutions are seldom brought, contributing to a belief that such marriages are acceptable and penalties are unlikely. Equally, marriage brokers and others who actively perpetuate the problem are seldom prosecuted, meaning that the financial rewards from brokering a marriage continue to outweigh the legal risks. In addition, girls who have been married often find it difficult to dissolve their marriages as they try to negotiate legal systems that are not designed to meet their needs.

Conflict, disasters and emergencies

Disasters and emergencies increase economic and social pressures on households and many families that would not previously have considered early marriage turn to it as a last resort. Food insecurity in Kenya has led to the phenomena of 'famine brides',³⁷ Girls in India and Sri Lanka have been pressed into marriages with 'tsunami widowers', in many instances doing so to receive state subsidies for marrying and starting a family.³⁸ And in Sri Lanka, where rates of early marriage are normally relatively low, girls have been married to protect them from recruitment into militia.³⁹

* Adapted from *Breaking Vows: Early and Forced Marriage and Girls Education* (Plan UK, 2011)⁴⁰

Ending early and forced marriage

Within this context of strong commitments for gender equality met with slow progress sits the issue of early and forced marriage; one of the greatest continuing barriers to girls' education, maternal health, female economic empowerment and the realisation of rights.

Marriage is a formalised, binding partnership between consenting adults. Child marriage, on the other hand, involves either one or both spouses being children and may take place under civil, religious or customary laws with or without formal registration. It is early because girls marry before the age of 18 and it is forced because girls rarely give their free and full consent to marry.

Early because girls marry before the age of 18

The UN Convention on the Rights of the Child (CRC)⁴¹ defines a child as 'every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.' Marriage before the age of 18 years old should not be permitted since children do not have the 'full maturity and capacity to act,' as recognised by the expert body that monitors the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in its General Recommendation 21.⁴²

Forced because girls rarely give their free and full consent to marry

The 1948 Universal Declaration of Human Rights states that marriage should be 'entered only with the free and full consent of the intending spouses.'⁴³ In the majority of child marriages, however, there is often an element of coercion involved: parents, guardians or families put pressure on children or force them into marriage. Early marriage is accepted as the norm in many countries and girls may give their consent as a duty and sign of respect to their family and community. However, where one of the parties in a marriage is under the age of 18 years old, consent cannot always be assumed to be 'free and full' and is rarely in the best interest of the girl.

While this briefing paper is focused on the impact of early and forced marriage on girls and women, we recognise that there is a need to also address its impact on boys and young men. Early and forced marriage directly impacts boys on a much smaller scale, but for those that it does affect, it can have profound psychological consequences and is no less a violation of their rights.

Early and forced marriage is known to affect every region in the Commonwealth. The table in Annex 1 highlights the known prevalence rates per Commonwealth country based on the available data. Data gaps exist including for the Pacific Island region, where the practice of early and forced marriage is hard to quantify as it is often indirectly sanctioned as being part of customary law.⁴⁴ The legal age at which girls can marry in the Pacific Islands Countries and Territories (PICT) is usually between 14 and 16 years old. However, in countries including Papua New Guinea, the Solomon Islands and Vanuatu, customary law remains strong and allows girls to be married at puberty – at around 12 or 13 years old.⁴⁵ Enforcing even the legal minimum age for marriage (15 years old) in the Solomon Islands is very difficult because customary law has constitutional status; many Solomon Islanders do not have a birth certificate; and registration of marriages is voluntary.⁴⁶

The causes of early and forced marriage are complex, interrelated and dependent on individual circumstances and context. The practice is driven by factors that include gender inequality, poverty, negative traditional or religious norms, weak enforcement of law and the pressure caused by conflict and natural disasters (see figure 2).

Without question, early and forced marriage contributes to driving girls into a cycle of poverty, ill health, illiteracy and powerlessness. Girls married early are more likely to experience violence, abuse and forced sexual relations, reduced levels of sexual and reproductive health and lower levels of education with corresponding high rates of illiteracy.

Abuse is a daily reality for many married girls. Women who marry younger are more likely to be beaten or threatened and to believe that a husband might be justified in beating his wife.⁴⁷ Even where girls are not physically abused, the psychological impact can be severe. While such consequences of early and forced marriage are hard to quantify, new research published in the journal *Pediatrics* links child marriage to a 41 per cent increased risk of mental health problems, including depression, anxiety and bipolar disorders.⁴⁸ The lead researcher of the American study believes child marriage should be considered a “major psychological trauma”.⁴⁹ Young brides are often marginalised from society with few support systems. This contributes to a lack of confidence and low self-esteem which in turn increases their powerlessness and vulnerability to poverty. The sexual and reproductive health of married girls is also significantly poorer than that of their unmarried counterparts. Girls and women who marry early and with little or no schooling often have limited awareness of their rights and lack the knowledge and confidence to negotiate safer sex, including condom use. Young married girls are more likely to contract HIV than their unmarried counterparts as a result of their heightened sexual exposure, often with an older spouse who by virtue of age is more at risk of being HIV positive (the average age difference is between five and nine years).⁵⁰ Girls who marry early have their first children at a younger age. Early childbearing contributes to pregnancy-related deaths and birth complications, which are the leading cause of mortality for girls aged between 15 and 19. Between one-quarter to one-half of girls in developing countries become mothers before the age of 18.⁵¹ Compared with women over 20 years old, girls aged between 15 and 19 are twice as likely to die giving birth. For girls aged between 10 and 14 the risks are five times greater.⁵² Infant deaths are twice as likely amongst babies born to teenage mothers.⁵³ In addition, the risk of obstructed pregnancy and conditions such as obstetric fistula is much higher for young girls.⁵⁴

As well as harming a girl’s health, early and forced marriage can harm her education.

Girls tend to drop out of school during the preparatory period before marriage or at the point of union and transfer to the marital home, which affects their ability to access the benefits of education.⁵⁵ The view that once a girl is married she has crossed the threshold into adulthood and no longer needs an education is sadly commonplace.⁵⁶

However, getting and keeping girls in school may be one of the best ways to foster later, consensual marriage, while also contributing to delayed sexual initiation, lower rates of HIV and AIDS and other morbidities, and greater gender equality.⁵⁷ One study in rural Bangladesh highlighted that when marriage is delayed, girls are much more likely to stay in school for longer and be literate.⁵⁸ There is a strong association between higher age at marriage and higher education levels. A global analysis of data by the International Center for Research on Women (ICRW) determined that girls’ education is ‘the most important factor associated with child marriage’.⁵⁹

Educated girls are more likely to have the skills, knowledge and confidence to claim their rights. Improving education and school retention for girls can therefore play a crucial role in eliminating early and forced marriage. Supporting girls to enrol in school and benefit from free, compulsory basic education (a minimum of nine years), in an environment that supports them to realise their rights, enables them to broaden their choices in life.

By the time a girl reaches adolescence, gender stereotypes and expectations of her role in society are already well entrenched. Therefore, actions to end early and forced marriage must begin from the time when expectations for girls are first set – from birth – and continue throughout the life cycle of girls. Starting early directly enhances the efficiency and impact of later interventions. Girls who participate in Early Childhood Care and Development (ECCD) programmes are more likely to begin school at the right age and to complete the primary cycle.⁶⁰

ECCD programmes that integrate parenting can work to combat the gender stereotypes and discrimination that serve to limit the rights of girls and boys. Building parental and family support for girls' education from the earliest years of a girl's life is proven to have dramatic impact on retention and learning outcomes. ECCD interventions can promote gender equity by compensating for gender biases in nutrition, healthcare or stimulation that may occur in the home. Evidence shows that when young girls participate in ECCD programmes, the attitudes and perceptions of their parents and families shift. Families begin to perceive their girls as capable of learning and fulfilling roles beyond mother and wife. In addition, older girls who have been the traditional child minders while their mothers and fathers worked outside the home are freed by ECCD programmes to pursue their own educations.⁶¹ In the longer term, ECCD programs have also been shown to delay the age of first pregnancy for young women and promote the empowerment of women⁶² through encouraging positive attitudes to gender equality.

Starting early to combat gender discrimination and ensure girls' access to primary school is insufficient alone to keep girls in school and reduce their vulnerability to early and forced marriage. Action throughout the primary school years, and particularly at the point of girls' transition into secondary or post-primary education, is needed to ensure girls are supported to stay in school. Again, working with parents, communities and families to ensure girls are permitted and encouraged to stay in school is most critical. Expansion of post-primary education is also necessary in many countries to ensure sufficient spaces are available for girls. In some circumstances, this may also require innovative approaches to education delivery (for example distance education), to enable girls, particularly those in rural or isolated areas, to attend. Ensuring adequate sanitation facilities and a safe, girl-friendly school environment at the post-primary level is proven to reduce drop-out rates significantly for girls. Finally, eliminating the financial barriers for girls to attend post-primary education is essential, as the high costs of education are often a key reason for ending girls' education early.⁶³

Staying longer and performing better in school directly correlates to reduced levels of early and forced marriage and helps break the cycle of intergenerational poverty. Thus, work in the Commonwealth to end early and forced marriage reinforces commitments made by Commonwealth Education Ministers to gender parity in primary and secondary education, which in turn advances progress towards achieving the Education for All goals and the Millennium Development Goals (MDGs).⁶⁴

Reform must mean realising rights

As leaders gather in Perth, the Commonwealth stands on the brink of a dynamic new phase in its history. An Eminent Persons Group, established at the initiative of leaders at the 2009 CHOGM in Trinidad and Tobago and tasked with exploring options for Commonwealth reform, will present their final recommendations to the 2011 CHOGM in Perth, Australia. The Group's mandate was to explore and recommend ways, in the context of promoting the Commonwealth's values and principles, that would sharpen the impact, strengthen the networks and raise the profile of the Commonwealth to ensure it "will remain relevant to its times and people in the future".⁶⁵

It is expected, and hoped, that in their final report, the Eminent Persons Group (EPG) will place great emphasis on the centrality of the Commonwealth's role in protecting and promoting human rights; this, they have made clear, must be at the heart of any successful attempt to reform and revitalise the Commonwealth. The EPG has said that each of their final recommendations are fundamentally shaped to advance the values of human rights, democracy and the rule of law. In their Interim Report published in May 2011, one of the Group's core recommendations was that a Commonwealth Commissioner for Democracy, the Rule of Law and Human Rights should be appointed to advise on serious or persistent violations of the rule of law within the framework of the Commonwealth's core values and to indicate approaches for remedial action.⁶⁶ Similarly, the Group recommended strengthening the role of the Secretary-General and Commonwealth Ministerial Action Group in dealing with violations of Commonwealth values.⁶⁷ A representative on the Eminent Persons Group, Canadian Senator Hugh Segal, recently said, "We don't want the Commonwealth to be silent. We think the Secretary-General should have a mandate from the Heads of Government to speak out when there are violations of women's rights, violations of democracy and violations of the rule of law."⁶⁸

To ensure its relevance and secure its future, the EPG is clear that the Commonwealth must become better equipped to deal with challenges to its core values, particularly violations of human rights. The Commonwealth's diversity renders it uniquely well-placed to leverage the important linkages between economic and social development and the protection of human rights and the rule of law. Providing the necessary assistance to member states to uphold these core values is crucial to the integrity of the Commonwealth project.

Within this broad emphasis on sharpening the Commonwealth as a tool for protecting and promoting human rights, in its press statements and Interim Report, the Eminent Persons Group has given significant prominence to the subject of women's rights. Whilst recognising that discrimination against women, in all its forms, is not unique to the Commonwealth, it seems likely that the Group will call upon the association to play a more active and meaningful role in trying to bring about change; it is certainly clear that the values and ideals of the Commonwealth commit its member states to taking all possible practical measures to achieve that change.

Of particular relevance to the issue of ending early and forced marriage are the commitments made by all Commonwealth member states to ensure that women are not discriminated against in law or practice. Added to this, the Eminent Persons Group looks set to call for increased efforts to end the social victimisation of women and the tolerance of harmful traditional practices that lead to female social and economic disempowerment.

Should the final EPG report consolidate these prevailing views and recommendations, it will provide an enormous boost to efforts for gender equality because it will set out the overarching reform agenda needed to support the protection and promotion of human rights. On ending early and forced marriage, it would support the view of the Commonwealth Law Ministers, who in the communiqué issued from their 2011 meeting held in Sydney, affirmed their support for the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and stated

that forced and servile marriage constituted a human rights violation that impeded individuals' most basic and fundamental rights.⁶⁹ The Law Ministers went on to note that the issue of forced and servile marriages had a 'transnational quality' and their prevention could require active co-operation between the states concerned. They resolved to note the useful discussion of measures that member states can take to protect women against forced and servile marriage and agree to consider actions to support the rights of women in such circumstances and to share best practices between member states.⁷⁰

At the last CHOGM in Trinidad and Tobago in 2009, the leaders reaffirmed their collective commitment to the Commonwealth's core values and principles. They reiterated their belief in the need for 'equality and respect for protection and promotion of civil, political, economic, social and cultural rights for all without discrimination on any grounds'⁷¹ and reaffirmed their commitment to 'gender equality and empowerment as an essential component of human development and basic human rights'⁷², acknowledging that 'the advancement of women's rights as a critical precondition for effective and sustainable development'.⁷³ Even when Commonwealth member states have not ratified or enacted key international and regional instruments relating to the prohibition of forced marriage, the commitments they have made as members of the Commonwealth are clear.

The 2009 Leaders Communiqué went on with strong language to reference human rights, education and women's rights. As 2009 marked the 20th anniversary of the Convention on the Rights of the Child, ratified by all Commonwealth member states, Heads reaffirmed their commitment to uphold the rights of children and encouraged all member states to accede to the Convention's Optional Protocols.⁷⁴ Heads recognised the 'centrality of human rights to the fundamental values of the Commonwealth'⁷⁵ and called education 'a basic human right'⁷⁶ and 'a fundamental tool for self-improvement and national development'.⁷⁷ Heads reiterated their commitment to the implementation of the Commonwealth Plan of Action on Gender Equality 2005-2015 (PoA), endorsed the need for effective monitoring and evaluation, called for strengthened accountability mechanisms to be put in place and noted that gender mainstreaming is the collective responsibility and business of all.⁷⁸

At the forthcoming Commonwealth Heads of Government Meeting in October 2011, the reform agenda of the EPG which is placing rights at the heart of renewal, and the strong support by Commonwealth Law Ministers to end early and forced marriage, has the potential to converge in a powerful way; leaders can decide to end early and forced marriage in the Commonwealth. To not do so would be to perpetuate one of the main causes of the practice, namely the weak enforcement of law and commitments.

When 54 leaders speak with a collective voice on some of the most challenging issues affecting today's world, they do so with great moral authority. In recent years, this power to influence has been under-utilised by an overly-cautious Commonwealth. Global consensus around the need to end early and forced marriage is building; if the Commonwealth acts now it can demonstrate the global moral leadership which can – and once did – define its unique identity on a crowded international stage.

Commonwealth leaders must take this historic opportunity to end early and forced marriage, making good on just some of their existing commitments. It is clear that the Commonwealth must do more to assist its member states in implementing the commitments they have made to protecting and upholding basic human rights, therefore the recommendations outlined here reflect the need for the leaders' commitment to tackling this issue, but more importantly, the agreement to implement practical steps. This realisation of rights needs to be at the heart of the Commonwealth project for girls and for all peoples within the Commonwealth.

Recommendations

We urge Commonwealth Leaders to honour their commitments as signatories to international human rights frameworks and lead action to bring early and forced marriage to an end, thereby increasing girls' access to education and a healthy life.

In particular, we call on Commonwealth Leaders to:

1. Institutionalise dialogue and coordination amongst member states, mandating the Commonwealth Secretariat to:

- Lead discussions amongst member states, civil society organisations and other relevant stakeholders to promote the implementation at the international and domestic level of the measures outlined below that prevent and protect girls and women from forced marriage.
- Seek to promote awareness of the measures needed to eliminate early and forced marriage by ensuring the issue is on the agenda at appropriate Commonwealth Ministerial meetings and forums so actions can be mainstreamed through the connected policy areas of health and education (for example at the Education Ministers Meeting in August 2012).
- Promote measures to end early and forced marriage through the Commonwealth Plan of Action for Gender Equality 2005-2015⁷⁹ and mainstream awareness of early and forced marriage across programmatic work.
- Use the Commonwealth Fund for Technical Cooperation (CFTC) to invest in projects aimed at promoting awareness of the need to end early and forced marriage and to provide technical assistance and capacity building to member states to implement measures to achieve this end.
- Where relevant, promote the need amongst Commonwealth member states to ratify and enact international and regional instruments that prohibit forced marriage.
- Promote examples of domestic good practice in relation to ending early and forced marriage across the Commonwealth.
- Produce an annual status report for the Board of Governors on the efforts being promoted by the Secretariat within the membership of the Commonwealth to end early and forced marriage. This report should be made available publicly.

2. Strengthen the enforcement of laws so every woman and girl is protected from being married against their will, committing as Commonwealth member states to:

- Reviewing existing legislation and, where necessary, adopt legislative measures that align with the necessary international instruments (see figure 1); strengthen the enforcement of birth registration; establish the need for full and free consent of both parties; and set a minimum age for marriage which is the same for both women and men and ideally not less than 18 years of age.
- Strengthen laws which compel families to keep boys and girls in school and which enforce a compulsory education age and build the capacity of schools to report cases of marriage before the legal age.
- Ensure the involvement of girls, civil society and women's organisations in advocacy for their rights and the legislation to protect them.
- Develop effective monitoring and reporting mechanisms on early and forced marriage.
- Where relevant, take immediate steps to ratify and enact key international and regional instruments that prohibit forced marriage.

3. Fund prevention programmes to support girls, their families and communities to choose education over marriage, committing as Commonwealth member states to:

- Draw upon and align national aid budgets to invest in, or establish, programmes and mechanisms, in partnership with civil society groups or other domestic agencies, which prevent early and forced marriage and which offer protection and support services for girls at risk, including help for families, psycho-social support, child protection resources and legal assistance.
- Work with partners to strengthen the enforcement of birth registration.
- Fund and promote awareness of existing good practice by national governments, civil society or women's organisations on early and forced marriage prevention that builds understanding and acceptance of girls' rights – particularly to education – among caregivers and addresses complex and negative socio-cultural norms, attitudes and behaviours.
- Promote awareness of girls' and women's rights through schools' curricula and fund education materials about the problem of forced marriage for use in schools and the wider community.
- Ensure early and forced marriage interventions are included in planned piloting of new domestic approaches to prevent violence against women and girls.

4. Invest in support services for those who escape early and forced marriage, committing as Commonwealth member states:

- Work with civil society groups to develop and fund the necessary in-country support networks to shelter and empower women and girls who seek to escape from early or forced marriages.
- Work with civil society groups and development partners to establish and expand programmes to support girls in forced marriages to access adequate sexual and reproductive health services including information and support for prevention of HIV and AIDS and for family planning
- Work with civil society groups and development partners to establish and expand programmes to support girls in forced marriages to access alternative education services such as "second-chance" education, technical and vocational education, and to provide livelihood and income generation opportunities.

5. In order to support girls from an early age to access education and build a route away from early marriage we ask Commonwealth leaders to:

- Reaffirm their commitments to the achievement of all Education For All (EFA) goals, in particular EFA 1 and with a focus on reducing inequalities in education at all levels.
- Recognise ECCD as a tool for gender empowerment and reducing inequality and as needing a distinct but integrated approach that works across sectors including health, education, women, youth and children's affairs.
- Mandate the 2012 Commonwealth Education Ministers Meeting to evaluate progress and consider ways to strengthen their efforts towards achieving EFA goal 1.
- Mandate the Commonwealth Education Ministers Meeting, working with development partners where appropriate, to consider further steps to reduce the barriers to girls' education – such as early and forced marriage – and to identify, strengthen and scale up existing good practice.

Endnotes

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Annex 1

	Percentage of women aged 20-24 married by age 15*	Percentage of women aged 20-24 married by age 18**	Ratification of International Conventions~			
	Total	Total	UN CRC	Consent to Marriage	CEDAW	African Charter
SOUTH ASIA						
Bangladesh	32	66	Yes	Yes	Yes	-
Brunei Darussalam	-	-	-	-	Yes	-
India	13	47	Yes	No	Yes	-
Malaysia	-	-	-	-	Yes	-
Maldives	0.3	-	Yes	No	Yes	-
Pakistan	7	24	Yes	No	Yes	-
Sri Lanka	1	12	Yes	No	Yes	-
Singapore	-	-	-	-	Yes	-
SUB-SAHARAN AFRICA						
Botswana	3	-	Yes	No	Yes	Yes
Cameroon	17	36	Yes	No	Yes	Yes
Gambia	-	36	Yes	No	Yes	Yes
Ghana	5	25	Yes	No	Yes	Yes
Kenya	6	26	Yes	No	Yes	Yes
Lesotho	3	23	Yes	No	Yes	Yes
Malawi	11	50	Yes	No	Yes	Yes
Mauritius	-	-	Yes	No	Yes	Yes
Mozambique	18	52	Yes	No	Yes	Yes
Namibia	3	9	Yes	No	Yes	Yes
Nigeria	16	39	Yes	No	Yes	Yes
Rwanda	-	13	Yes	Yes	Yes	Yes
Seychelles	-	-	Yes	No	Yes	Yes
Sierra Leone	19	48	Yes	No	Yes	Yes
South Africa	1	6	Yes	Yes	Yes	Yes
Swaziland	1	5	Yes	No	Yes	No
Uganda	12	46	Yes	No	Yes	Yes
United Republic of Tanzania	6	38	Yes	No	Yes	Yes
Zambia	9	42	Yes	No	Yes	No
NORTH AND LATIN AMERICA AND THE CARIBBEAN						
Antigua and Barbuda	-	-	Yes	Yes	Yes	-
Canada	-	-	Yes	No	Yes	-
Bahamas	-	-	Yes	No	Yes	-
Barbados	-	-	Yes	Yes	Yes	-
Belize	-	-	Yes	No	Yes	-
Dominica	-	-	Yes	No	Yes	-
Grenada	-	-	Yes	No	Yes	-
Guyana	-	20	Yes	No	Yes	-
Jamaica	-	9	Yes	No	Yes	-
Saint Kitts and Nevis	-	-	Yes	No	Yes	-
Saint Lucia	-	-	Yes	No	Yes	-
Saint Vincent and the Grenadines	-	-	Yes	Yes	Yes	-
Trinidad and Tobago	6	8	Yes	Yes	Yes	-
EUROPE						
Cyprus	-	-	Yes	Yes	Yes	-
Malta	-	-	Yes	No	Yes	-
United Kingdom	-	-	Yes	Yes	Yes	-
PACIFIC REGION						
Australia	-	-	Yes	No	Yes	-
Fiji Islands	-	-	Yes	Yes	Yes	-
Kiribati	-	-	Yes	No	Yes	-
Nauru	-	-	Yes	No	Yes	-
New Zealand	-	-	Yes	Yes	Yes	-
Papua New Guinea	-	-	Yes	No	Yes	-
Samoa	-	-	Yes	Yes	Yes	-
Soloman Islands	-	-	Yes	No	Yes	-
Tonga	-	-	Yes	No	No	-
Tuvalu	-	-	Yes	No	No	-
Vanuatu	-	-	Yes	No	Yes	-

MAIN DATA SOURCES:

- * Percentage of women aged 20-24 married by age 15 - Demographic and Health Surveys (DHS), compiled by Plan UK
- ** Percentage of women aged 20-24 married by age 18 - UNICEF (2011) State of the World's Children 2011, compiled by UNICEF from Multiple Indicator Cluster Surveys (MICS), DHS and other national surveys (NOTE: While data for this category is

available from DHS, UNICEF's research into rates of child marriage provides more up-to-date research, covering more regions. DHS and UNICEF research was not combined by Plan UK for this category, as in some instances data differed slightly, based on UNICEF's incorporation of MICS data.)

^ Legal Age of Marriage - UNdata and Girlsdiscovered.org, compiled by Plan UK

~ Ratification of International Conventions - United Nations Treaty Collection, compiled by Plan UK

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The Royal Commonwealth Society

The RCS is the oldest and largest civil society organisation devoted to the Commonwealth. Founded in 1868, it conducts a range of events and activities aimed at promoting international understanding. Its educational, youth and cultural programmes include one of the world's oldest and largest schools essay competitions, and an innovative international youth leadership programme. Headquartered at the Commonwealth Club in London, the RCS has some 4,000 members in the UK and a presence in over 40 Commonwealth countries through a network of branches and Commonwealth societies.

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Plan

Plan is a global children's charity. We work with children in the world's poorest countries to help them build a better future. A future you would want for all children, your family and friends. For over 70 years we've been taking action and standing up for every child's right to fulfil their potential.

In our work to reduce rates of early and forced marriage and increase girls' access to their rights we aim:

To reduce the social pressure that motivates families to favour early marriage by working with boys, girls, men, women and their communities to change attitudes, beliefs and behaviours about the practice.

To provide educational opportunities for all girls through formal schooling and alternative or vocational training.

To build girls' leadership skills through empowerment and building of socio-economic capabilities as well as to facilitate the creation of social networks for girls and increase their participation in political and civic action.

To train and support community leaders and organisations to design and carry out advocacy and awareness activities that promote and protect the rights of girls.

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