What's the Problem?

Frame Analysis of Early and Forced Marriage: a Belgium Case

By Tessy Vanderhaeghe

Submitted to Central European University

Department of Gender Studies

In partial fulfillment of the requirements for the Erasmus Mundus Master's Degree in Women's and Gender Studies

Main supervisor: Dr. Andrea Krizsán

Support supervisor: Dr. Rachel Alsop

Budapest, Hungary

2015

CEU eTD Collection

What's the Problem?

Frame Analysis of Early and Forced Marriage: a Belgium Case

By Tessy Vanderhaeghe

Submitted to

Central European University

Department of Gender Studies

In partial fulfillment of the requirements for the Erasmus Mundus Master's Degree in Women's and Gender Studies

Main supervisor: Dr. Andrea Krizsán

Support supervisor: Dr. Rachel Alsop

Approved by: _____

Budapest, Hungary, 2015

CEU eTD Collection

Abstract

Only limited research and little information is currently available concerning the practice of early and forced marriage. Yet, this issue represents a global problem and measures intending to combat the practice of early and forced marriage entirely rely on the way the issue is framed. This thesis will offer to consider early and forced marriage through a human right frame defining the practice as a violation of human rights and a form of gender-based violence rooted in social norms. However, there exist a variety of other frames considering early and forced marriage for instance through culture relativism, immigration problem or as a public health matter. The research question will therefore aim to interrogate the consideration of the Belgian government over the issue of early and forced marriage by examining the responses given by three sectors implicated in the issue: internal affairs, asylum seekers and refugees and the development sectors. Each of these sectors are defining and addressing the issue though different frameworks and methods. The comparison of these sectors will enable to bring up the inconsistencies that can be found between the way each approach have been defining the problematic. Moreover, the research will hope to demonstrate that despite the variety of measures undertaken to combat early and forced marriage, none of the sector has truly framed the issue through a human right perspective.

CEU eTD Collection

CEU eTD Collection

Acknowledgments

I would like to thank my research supervisors, Andrea Kriszan, for her valuable input during the development of my thesis. I would also like to show my appreciation to Rachel Aslop, my second reader who offered me support and regular feedback. I will be eternally grateful for the constant love and academic support provided by my two dearest GEMMA friends, Juliette Sanchez-Lambert and Athena-Maria Enderstein. With love.

CEU eTD Collection

List of Abbreviations

BTC	Belgian Technical Cooperation
CCE	Council for alien law litigation (Conseil du Contentieux des Etrangers)
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CGRS	Commissioner General for the Refugees and Stateless Persons
CII	Council of Islamic Ideology
CRC	Convention on the Rights of the Child
DGDC	Directorate-General for Development Cooperation
ECHR	European Court of Human Rights
EU	European Union
FGM	Female Genital Mutilations
FMU	Forced Marriage Unit
ICRW	International Center for Research on Women
IEFH	Institute for the equality of women and men
KUL	Katholieke Universiteit of Leuven
NAP	National Action Plan
NGO	Non-governmental organization
OE	Immigration Department (Office des Etrangers)
PIC	Indicative Cooperation Program (Programmes Indicatif de Coopéeration)
Plan BE	Plan Belgium
PSG	Particular Social Group
SCSL	Sierra Leone Conflict by the Appeals Chamber of the Special Court for Sierra Leone
STDs	Sexual Transmitted Diseases
UN	United Nations
UNDH	Universal Declaration of Human Rights
UNHCR	United Nations Human Rights Council
UNICEF	United Nations Children's Fund
WHO	World Health Organizations
WID	Women In Development

CEU eTD Collection

Table of Contents

Abstract i
Acknowledgments iii
List of Abbreviations iv
Table of Contents v
Introduction 1
Methodology 5
Terminology 7
Research and interviews 7
Structure of the thesis 9
1. Forced Marriage's definition and the Human Rights Frame 12
Introduction 12
1.1. The Human Rights Frame 13
1.1.1. Forced marriage as a violation of human rights 13
1.1.2. Forced marriage as gender-based violence 15
1.1.3. Forced marriages a cultural practice 17
1.2. Successful interventions: Domestic Violence and Violence Against Women 20
1.2.1. Prevention 20
1.2.2. Protection and support 23
1.2.3. Prosecution 25
1.3. Early and forced marriage and best practices 26
Conclusion 28
2. Current frameworks and policies relating to forced marriage 29
2.1. The arranged marriage frame: the debate over consent and coercion 30
2.2. The Cultural frame: Culturalization of forced marriage 32
2.3. The Public Health frame 35
2.4. The Immigration frame: forced marriage policy as border control 36
2.5. The Criminal Frame: forced marriage and the Criminal Code 37
Conclusion 39
3. Analysis 41
3.1. Belgian Citizens 41
Introduction 41
3.1.2. Belgian political context 42

CEU eTD Collection

3.1.3. Forced Marriage Act 47
3.1.4. Forced marriage and gender-based violence: The National Action Plan 50
3.1.5. Interventions against early and forced marriage 52
Analysis 68
3.2. Refugees and asylum seekers 71
3.2.1. Gender in asylum seeking 71
3.2.2. Belgium, refugee and the gender perspective 72
3.2.3 Asylum claim and early and forced marriage 74
Analysis 78
3.3. Belgium Development and Cooperation 81
3.3.1. Introduction 81
3.3.2. The Development Agency 82
3.3.2. Absence of early and forced marriage in development programs: an analysis of political and strategy notes 85
3.3.3. Analysis 88
3.3.4. Future perspectives 91
Conclusion 92
Discussion and Conclusion 94
Bibliography 99
Annex 1 – Theory of Change (Girls Not Bride, 2014) ..... A
Annex 2 - List of Interviews ..... B

CEU eTD Collection

Introduction

The growing concern around forced marriage in Belgian immigrant communities partially found roots in a 2004 research titled *Chosen marriage, endured marriage: what consequences for the young people*[1] (2004) interviewing over 1200 teenagers across Belgium. The research report stated that 16% of these young people had knowledge of cases of forced marriages in their acquaintances and around 7% of them would have been confronted by forced marriage in their own family (Garcia et al. 2004). These appalling results rapidly became a key element for politicians in the combat against forced marriage. Yet, assessing the prevalence of early and forced marriage is greatly challenging and despite several other attempts to quantify the phenomenon in Belgium, numbers have remained uncertain.

The difficulty of quantifying the practice in Belgium partially relies on the grey area surrounding early and forced marriage practices due on the one hand to the lack of research on this field and one the other hand to the multiplicity of frames used around the issue of early and forced marriage. Academics and researchers have concentrated their efforts in order to improve the understanding of early and forced marriage framed as human rights violation and gender-based violence. Unfortunately it appears that policy makers and governments have not always been particularly attentive to these frameworks. Therefore, this thesis will aim to demonstrate the variation in framing the issue of early and forced marriage by focusing on policies developed by the Belgian government in three different sectors: internal affairs, asylum seeking and refugees, and development and cooperation. The internal affairs sector encompasses the cases of

[1] Author's translation

CEU eTD Collection

early and forced marriage involving at least one Belgian citizen on the Belgian territory. Asylum seeking and refugee includes asylum applications on the grounds of forced marriage in order to claim a refugee status. Finally, the development and cooperation sector concerns Belgium's aid programs in partnership developing countries presenting a high prevalence of early and forced marriage.

Early and forced marriage is an important matter to tackle in order to reduce gender inequalities and improve women's life and health around the globe. Coercing an individual into marriage is a violation of fundamental human rights, such as the right to marry and to enter marriage only with "free and full consent of the intending spouses" (United Nations, 1948, Art.16(2)). In addition, the practice of early and forced marriage is recognized by the United Nations as a harmful practice and a form of violence against women due the continuum of violence developed throughout the duration of the marriage such as emotional pressure, repetitive rapes or the constant threat of physical violence (UNICEF 2005a). This phenomenon affects girls and women in particular and mainly occurs in sub-Saharan Africa and South Asia although it is still being practiced at a lesser extend in region of the Middle-East, North Africa and South America (International Center for Research on Women (ICRW) 2007). Early and forced marriage affects more than 5 million girls before 15 years old each year leading to the estimation of 60 million of women and girls being currently trapped in a non-consensual union (UNICEF 2005a). Assessing the global prevalence of the phenomenon remains extremely problematic due to the difficulty of defining the notion of consent between adults entering forced marriages. Every country is exposed, to a certain extent, to the problematic of early and forced marriage. For instance, the United Kingdom has even

CEU eTD Collection

developed a 'Forced Marriage Unit' (FMU) which has estimated between 5000 to 8000 of women (85%) and men (15%) were at risk of being forced into a marriage in the UK each year and approximately a third of them were minors (Forced Marriage Unit 2013). Concerning Belgium, similarly to a majority of countries, the evaluation of the prevalence has been inconsistent and will be examined through this thesis.

Women and girls may be coerced into marriage for financial, cultural or social reasons. For example, it appears that poor households are three times more likely to marry their daughters at an early age than the richest households (UNICEF, 2001). While families often see girls as a burden and an extra mouth to feed, sending them away enables parents to ensure the economic survival of the rest of the family (Girls not Brides). In countries showing a high prevalence of early and forced marriage, most girls tend to get married at an early age in order to preserve their purity and virginity reinforcing an idea of social norms. On the other hand, in the migration context especially in countries with very low prevalence of early and forced marriage, coercing daughters in traditional and endogamous marriage can appear as a suitable solution for preserving culture and traditions of the home country.

Despite the violence and the human rights abuses that early and forced marriage represent, the political attention given to the issue remains significantly small and interventions aiming directly at child and forced marriage are particularly rare. This thesis will argue that approaching early and forced marriage under the frame of human violation and gender-based violence is essential to offer the most appropriate interventions. Therefore, I am interested in whether in internal affairs, asylum seeking

CEU eTD Collection

and refugees, and development and cooperation, early and forced marriage is considered and tackled as a form of gender-based violence. The central focus will be to identify, in each sector, the existence of policies aiming at eliminating early and forced marriage, and the possible inconsistencies in-between them. For instance, the Internal Affairs Ministry has taken forced marriage cases very seriously by criminalizing the practice while the Belgian development agency has barely addressed the issue despite the high prevalence of early and forced marriage in some of their partner countries.

In addition, the examination of the existing literature will provide a framework for the issue of early and forced marriage in addition to concrete examples of best practices that respond to matters involving human rights abuses, violence against women and harmful practices. The current policies and frameworks of forced marriage together with the interventions offered according to these frameworks will be contrasted to responses formulated by western European countries addressing early and forced marriage under criminalization and immigration laws. Academics and researchers have highlighted the strong correlation between forced marriage policy and border controls, which has raised suspicion over the legitimacy of governments' concern over forced marriage. However as argued by Philips and Dustin (2004) it could never be proven that governments use purposely the issue of forced marriage to enforce stronger immigration policy. This thesis therefore hopes that demonstrating the gap between the different sectors will further highlight the inconsistencies of the Belgian government over the issue of early and forced marriage. The case of Belgium will provide a concrete example of the variety of responses that can be given to the problematic of early and forced marriage by analyzing the differences in discourses emanating from the three sectors.

CEU eTD Collection

Moreover Belgium offers an interesting case study due to its geographical and political position. Firstly, the country holds a central position within Europe and a rich multicultural context. In addition, the disparity of immigration and integration policies between Flanders (Dutch-speaking region) and Wallonia (French-speaking region) seems to be reflecting interventions present in the bordering country (France and the Netherlands) which will provide an overview of the range of approaches regarding early and forced marriage in western Europe. Finally, Belgium tends to be often overlooked by academic and researchers; therefore this thesis will offer to partially fill this gap.

Methodology

This thesis will offer to analyze policies and political discourse regarding the issue of forced marriage in order to highlight the primary frame used by these policies. As underlined by Krizsan et al (2007) "the variety of interpretation of domestic violence in the different policy debates is reflected both in the activity level of governments in adopting measures to address it, and in the way it is framed as a policy problem" (Krizsan et al. 2007). In order to understand if governments have considered forced marriage as a form of violence against women and addressed it as such by governments, it is essential to deconstruct the political discourse to reveal the type of framework that has been implemented. To this end, Verloo and Lombardo (2007) offer to analyze policies through a critical frame of analysis questioning four aspects of policies formulated against domestic violence. Firstly identifying the voice and the actors speaking. Secondly, the two main aspects including on the one hand the diagnosis formulating what has been represented as the problem and one the other hand, the prognosis, offering the appropriate interventions to address the diagnosis. Finally Verloo

CEU eTD Collection

and Lombardo (2007) point out a *Call for Action* that identify who should act on this issue and against whom. According to Verloo and Lombardo (2007), “frame analysis can help the researcher to assess whether or not this correspondence between the diagnosis of a problem and the prognosis or solution to it actually occurs in a policy text, through the introduction of the dimension of ‘balances’ that facilitates the detection of inconsistencies on a given policy frames” (Verloo & Lombardo 2007). Therefore, the critical frame examines various policies sources such as legislative texts, parliamentarian debates, political plan and political speeches. Verloo and Lombardo (2007) also suggest contrasting the discourses with feminist movement’s discourses and gender experts talking of the same context and issue. Similarly, Bacchi (Bacchi 1999) questions policies concerning women by asking the question “what is the problem represented to be?”. She insists on the importance of assessing the problem’s representation as a necessary part of policy analysis (Bacchi 1999). Asking the question “what is the problem?” and thus identifying the diagnosis and prognosis of a particular issue, enables to unveil the presuppositions and assumptions that might underlie this representation.

By approaching policies with a systematic evaluation framework, it becomes easier to identify the underlying purposes of each policy and justify their success and/or failures. These approaches to policy analysis and frameworks will therefore offer an entry point for assessing Belgian policies revolving around the issue of early and forced marriage. Each of the three Belgian sectors touching upon the issue of early and forced marriage will be evaluated in order to reveal how has the practice been framed and to which end. Ultimately, these different frames present in the three sectors will be

CEU eTD Collection

assessed and contrasted to highlight the eventual inconsistencies of the representations (diagnosis) and interventions (prognosis).

Terminology

Naming a problem provides a strong base to develop the framework surrounding the issue, in other words “naming a problem is essential to organized politically, to do something about it and creating a social movement” (Merry 2011). Regarding the terminology used, various terms can be employed to describe a coercive union. While forced marriage remains certainly the most popular term to describe coercive marriage between two adults, various terms such as child marriage, early marriage or girl brides are currently being used to describe situation of forced marriage involving children and girls more specially. I will insist on using the term early and forced marriage in order to describe the range of forced marriage that should not be solely defined around an age limit. The term ‘early marriage’ can offer to fill the gap between individuals considered as children by the state and those considered as a child by their parents. While marriages before the age of 18 can be granted to Belgian citizens under extraordinary circumstances and therefore recognized as consensual, the age of legal maturity is not always synonymous with family emancipation. Thus, I will use the term early and forced marriage in my analysis chapter to define this range of coercive union that includes minor, very young adults and young adults.

CEU eTD Collection

Research and interviews

The interest in this research started from a report published in 2012 by the Institute for equality between Women and Men in Belgium. The report called “Scientific

phenomenological study on honor-based violence in Belgium" (Van Vossole & Gilbert 2011) gave a sociological overview of the phenomenon of honor-based violence and was the first time I came across cases of forced marriage in Belgium.

Part of the analysis and understanding of the question was made possible by conducting interview with professionals. I contacted the two main centers in charge of question of equality and intersectionality in Brussels, the Centre for Equal Opportunities and the Institute for equality between Women and Men. As both the Centre and the Institute are in charge of implementing and supporting preventive actions regarding early and forced marriage, they were able to provide me with materials and documents on policies implementations and preventive actions. A few months after the beginning of my research, the Institute for Equality between Women and Men (IEFH) organized a conference focusing specifically on "suggestion to approach early and forced marriage in Belgium and in Belgian development partners abroad" gathering health professional, social workers and researchers around the issue of early and forced marriage. This conference gave me the chance to interview social workers working directly with victims of forced marriage as well as municipality employees concerned about this phenomenon and conscious of their key position in the detection of coercive unions. The third type of interviews concerned researchers working on the issue of early and forced marriage either in Belgium or for Belgian Non-Governmental Organizations (NGOs) addressing the issue in Belgian developing partners (Fonteneau & Huyse 2014).

Most of the interviews took place in person during February 2015, some interviews could only take place over the phone or videoconference. In total, 6 persons

CEU eTD Collection

were directly interviewed on a one-to-one basis and recorded (Annex 2). The conference organized by IEFH was recorded and served as a starting point for the research on Belgium internal policies. Beyond the information collected during the interviews, a large part of the analysis relies on the evaluation of legislative texts, parliamentarian debates, draft laws, and various reports of NGOs and local or international organizations. All of these elements and discussions helped me to grasp the Belgian situation regarding early and forced marriage especially under three main pillars of interventions including prevention, protection and prosecution.

Structure of the thesis

Setting the definitions of early and forced marriage is a fundamental starting point in order to further understand the problematic and framed the issue under a specific light. Consequently, the first chapter of this thesis will define the issue of early and forced marriage from the perspective of a violation of human rights and a form of violence against women before exposing the social norms creating a cultural practice and the main causes perpetuating it. After considering early and forced marriage in this particular theoretical framework, a following section will offer a review of the literature concerning interventions commonly used by international organizations to tackle issues related to human right's abuses. In addition, programs and projects developed by NGOs, such as Girls Not Brides focusing on child marriages, will be examined in order to discuss initiatives that are offering the best practices in the matter of eliminating early and forced marriages. The second chapter will subsequently contrast these previous strategies with the different frames of early and forced marriage. Indeed, multiple frames and approaches can be found while tackling the issue of early and forced marriage,

CEU eTD Collection

therefore this chapter will intent to describe the most common frames addressing the issue and the eventual inconsistencies of their prognosis.

The third chapter will present and analyze Belgian policies concerning early and forced marriage under three sections. The first section gives an overview of Belgium's domestic approach on forced marriage and its persistent link to immigration policies. It will firstly describe the Belgian political background concerning immigration policies along with the progressive integration of measures against forced marriage involving at least one Belgian citizen. The policies will be considered from three main axes that include prevention, protection of the victims and prosecution. The analysis of these policy initiatives will argue that, despite the intention of addressing forced marriage as a form of violence against women, the phenomenon remains predominantly addressed as an immigration and cultural problem caused by a vast confusion between forced marriage and marriage of convenience. The second section will be dedicated to the Belgian response concerning requests of asylum seekers on the grounds of forced marriage. The context of refugee procedure in Belgium will be presented before analyzing two case studies of asylum seekers in order to expose the cultural relativism that can appear in specific cases. This analysis will unveil the cultural assumptions related to early and forced marriage and the dissonance in the Belgian domestic discourse concerning this problematic. The last section will expose the lack of response of the Belgian development sector concerning early and forced marriage especially considering that high prevalence of child marriage found in seven of Belgium's development partners. The analysis will mainly discuss the development objectives and programs established through the Belgium development agency and the way gender

CEU eTD Collection

have been incorporated within these programs. The core argument of this analysis will highlight the lack of knowledge concerning the influence of gender and child marriage in development objectives.

The conclusion will mainly discuss and assess the integration of the human rights frame in the Belgian approach to early and forced marriage. The different frames and the analysis of policies through the prevention, protection and prosecution pillar will help to determine the importance given to considering the lens of human rights, gender-based violence and gender equality wile tackling early and forced marriage.

CEU eTD Collection

1. Forced Marriage's definition and the Human Rights Frame

Introduction

Definitions inform the way an issue is framed and therefore addressed by policy. This first chapter will thus constitute a vital element for the purpose of this thesis by framing the diagnosis of early and forced marriage as a violation of fundamental human rights and a form of violence against women embedded in cultural and social norms. This human rights' framework will highlight the importance of considering these three aspects in order to formulate appropriate answers and policies that will be subsequently reviewed through this chapter. The first section will describe early and forced marriage from a human rights perspective by presenting the numerous international bodies of laws framing early and forced marriage as a violation of human rights. Then it will expose how the damaging consequences of early and forced marriage inscribe themselves as a form of gender-based violence, before finally highlighting the underlining social norms encouraging the perpetuation of the practice.

The second section will review the type of interventions that are implemented while addressing issue related to gender based violence and domestic abuse. This section hopes to present the type of prognosis that can rise from framing early and forced marriage under a form of violence against women and the best practices regarding this issue. By giving a clear definition of forced marriage as a violation of fundamental human right and a violence against women's bodily and physiologically integrity informed by social norms, this chapter will create a human rights frame of

CEU eTD Collection

understanding of early and forced marriage that will subsequently be used to analyze discourses and policies regarding early and forced marriage.

1.1. The Human Rights Frame

1.1.1. Forced marriage as a violation of human rights

Forced marriage is defined by the United Nations (UN) as "a marriage that takes place without the free or valid consent of one or both of the partners and involves either physical or emotional duress" (Thomas 2009). In light of this definition, this section will define early and forced marriage as a serious violation of human rights and describes the numerous international conventions and treaties condemning the practice.

First of all forced marriage violates the individual's right to freedom and autonomy that can take countless forms ranging from a coercive arranged marriage, child marriage, human trafficking or military abduction. Several international conventions have included measures against the practice. Since 1948, the right to marry is protected by the Universal Declaration of Human Rights (UDHR) (United Nation 1948) under the article 16, which further stipulates that "marriage shall be entered into only with the free and full consent of the intending spouses" (United Nation, 1948, Art. 16.2.). While the UDHR and the Convention on Consent to Marriage established in 1964 strongly condemns the practice of forced marriage, no minimum age requirement is specified. However, the notion of 'consent' indicated in the Article 16.2 of the UDHR supposes an informed and mature decision from both parties that can only be fully reached at adult age. Indeed, as highlighted by Brysk (2005) children are an unique category under international laws and human rights because they are "person possessing full human

CEU eTD Collection

identity without full human capacity" (Brysk 2005). In 1990, the Convention for the Rights of the Child (CRC) defined a child as "every human being below the age of eighteen years" (UNICEF, 1990, art.1). Even though the CRC does not directly incriminate child marriage, child marriage violates numerous articles of the CRC such as the right to education, the right to access healthcare or the right to be protected from all forms of physical or mental violence.

The Convention on the Abolition of Slavery was the first international convention to officially introduce a minimum age for marriage (18 years old), recognizing child and forced marriage as "practices similar to slavery, which reduce a spouse to a person over whom any or all of the power attaching to the right of ownership are exercised" (Shahinian 2012). The article 1(D) of this Convention states that "any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with view to the exploitation of the child or young person or of his labor" (UNICEF, 1990, Art 1.(d)). In 2008, evidence of forced marriages were found during the Sierra Leone Conflict by the Appeals Chamber of the Special Court for Sierra Leone (SCSL) who decided to incorporate the practice of forced marriage in the category of 'Other Inhumane Acts' and as a crime against humanity (Gong-gershowitz 2009). More recently, the Convention on preventing and combating violence against women and domestic violence, known as the Istanbul Convention (2011), integrated an article encouraging Parties to "take the necessary legislative or other measures to ensure that marriages concluded under force may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim" (Council of Europe 2011, Art.32).

CEU eTD Collection

These numerous UN treaties and conventions demonstrate that child, early and forced marriage violates several human rights and that the issue of consent in marital union, regardless of age or gender, has been part of the international agenda for several decades.

1.1.2. Forced marriage as gender-based violence

Early and forced marriage qualifies as a clear case of gender-based violence due to the continuous physical and psychological violence endured by girls and women over the duration of a non-consensual union (Thomas 2009). This section will incorporate the gendered aspect of the practice of early and forced marriage by firstly describing the notion of gender-based violence and subsequently by highlighting the harmful consequences of early and forced marriage that qualifies the practice as a form of violence against women. Merry (2011) suggests that while violence can be a single event manifesting a desire to show power and authority, violence against women is a structural violence as it inscribes itself in a continuum of violence from one group over another. Violence against women is placed within a structure. Performing violence reinforces a performance of a gendered identity and enables to maintain strict gender roles in which women are kept subordinated. In 1998, the UN classified gender-based violence as any act resulting in physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether in public or in private life (World Conference on Women 1998). This definition of gender-based violence encompasses various level and types of violence including physical, sexual or psychological violence occurring either in the private sphere (within family), in

CEU eTD Collection

the general community or perpetuated by the State (World Conference on Women 1998).

Early and forced marriage is not a single violent event occurring on the day of the wedding but is a form of continuous violence taking places over the entire duration of the marital union. By inscribing itself in this continuum of violence, the practice covers every level of violent behavior including physical, sexual and psychological. Firstly early and forced marriage is a physical violence that threatens girls and women's physical health. In case of young girls, early marriage often comes with early pregnancy. In certain regions where the prevalence of child marriage is high, girls tend to be married off after the start of their first menstruation, or in some cases even before, allowing husbands to start sexual intercourse as soon as their young bride reaches puberty. Early childbirth is devastating for young girls' bodies and is associated with high rates of premature labor and childbirth complications (Somserset 2012). The main risk comes from the mother's body not being fully developed and not ready to be carrying a child, which results in important health difficulties (Girls Not Bride 2015; UNICEF 2005a; International Center for Research on Women (ICRW) 2007).

Secondly, non-consensual marital union presents higher risks to engender coerced sexual intercourses. Repetitive forced sexual intercourses can lead to numerous gynecological problems (Schei & Bakketeig 1989; Khawaja & Hammoury 2008) such as "vaginal discharge, pain during intercourse, lower abdominal pain and vaginal itching" (Khawaja & Hammoury 2008) along with significant psychological damages and traumas leading to mental disorders. Moreover according to ICRW

CEU eTD Collection

(International Center for Research on Women (ICRW) 2007), coercive sexual intercourse induce a higher risk, especially for young girl, to contract sexually transmitted disease, including HIV/AIDS (UNICEF 2005a; International Center for Research on Women (ICRW) 2007).

Finally, the continuum of physical violence and threat of violence presents in early and forced marriage can lead to various mental health disorders. Feelings of reclusion and powerlessness along with the psychological pressure from the family and community in order to remain in the situation has a significant influence on the mental state of the victims and can trigger numerous psychological and emotional issues ranging from mental illness to self-harm or even suicide (Drif & Bedu 2005). In addition, child and early marriage generally take girls out of school, which limits drastically their chances of education and their personal development toward adulthood (UNICEF 2001).

1.1.3. Forced marriages a cultural practice

This section will examine the underlying factors of early and forced marriage by focusing on the culture and social norms supporting the practice. As argued in the previous section, early and forced marriage are inscribed in a continuum of violence against women, this present section will focus on the way violence against women and early and forced marriage in particular are informed by social norms and normative behavior. Several scholars have argued that 'culture informs violence' (Korteweg 2011; Merry 2011), which implies that the idea of violence does not come out of a vacuum but is rather embedded in social norms validating the use of violence in order to maintain them. Cultural practices are rooted in society, accepted as normative behavior and seen

CEU eTD Collection

as socially desirable (Merry 2011). These social norms support the idea of women's subordination and typical gender role, allowing men to control women's body and regulate their sexuality. Thus, violent cultural practices are supported by society's norms and the community's belief that "freedom of women, especially her sexual identity, should be curtailed and regulated" (Coomaraswamy 2002). Coomaraswamy (2002) highlights that forms of violence against women informed by patriarchal and cultural' beliefs are found in most societies and include, non-exhaustively, female genital mutilation (FGM), honor-based violence, domestic violence, eating disorders, and early and forced marriage (Coomaraswamy 2002; Merry 2011). As discussed by Merry (2011), all of these diverse forms of behavior are considered to be desirable by the society and exists "within a framework of kinship system and an ideology of gender and sexuality" (Merry 2011).

However, as mentioned upon above, these traditions represent a form of violence against women and are seriously damaging to their physical and mental state. Early and forced marriage is thus, commonly considered as a 'harmful traditional practice' by international organizations and women's rights activists (UNICEF, World Health Organization (WHO), UN). The practice is supported by ideas of stereotypical gender role considering women as mothers and wives which limits drastically their life opportunities to the role of carer of the family (Bunting 2005; WHO 2011). In region where early marriage is commonly practiced, the tradition is fully supported by the community and is rarely seen as hurtful. The practice of child and early marriage allows the family to ensure their daughter's virginity and protect the family's honor. By getting married at a young age, girls will face fewer risk in engaging sexual relationship that

CEU eTD Collection

might result in unwanted pregnancy. In addition, in these regions, early marriage is reinforced by a parallel legal system and customary laws allowing the practice to continue by contravening international and national legislation in place. For example Pakistan has recently ruled through the Council of Islamic Ideology (CII) that current laws forbidding child marriage were proven 'un-Islamic' therefore international conventions that find themselves in contradiction with Islamic laws should be avoided (DAWN 2012). Religious beliefs help to sustain this cultural practice by convincing communities that early marriage is well grounded and prescribed by religion. Normative behaviour and social norms can similarly be found in contexts where early and forced marriage are marginalized, such as western region, and come as a tool for preserving the culture and traditions of the home country or sustaining family and community link from abroad (Alanen 2012). In addition, modernity and westernized attitude are depicted as damaging to the family culture and modesty, thus early and endogamous marriage can offer a suitable solution to keep control over daughters' behaviour and sexuality (Alanen 2012).

In conclusion, early and forced marriage are inscribed in patriarchal social norms supporting the notion of women's subordination that must be maintained by the use of male authority and violence if necessary. It is essential to frame early and forced marriage as a human right violation because it can thus provide appropriate interventions and the implementation of political and juridical instruments. In addition, framing the issue under a form of gender-based violence informed by social norms provides the underlining causes of early and forced marriage, which can hopefully help to formulate culturally informed interventions (Fonteneau & Huyse 2014).

CEU eTD Collection

1.2. Successful interventions: Domestic Violence and Violence Against Women

From the human rights' frame describes here above emerge specific interventions. This section will therefore analyze interventions that have been implemented in order to respond to domestic abuses and violence against women and the way it can then be integrated in order to combat early and forced marriage. According to scholars (Korteweg 2012; Merry 2011), domestic abuses and intra familial violence could be eradicated by employing the approach of the '3P': Prevention, Protection and Prosecution. These three pillars correctly implemented might prevent abuses and violence from emerging by interrupting threat of violence and changing practices and social relations that inform such violence through educational and social service programs, protect the victims of these abuses by providing shelters to women and men at risk and finally enforce the prosecution of the offenders effectively (Korteweg 2012).

1.2.1. Prevention

The preventive pillar is essential, because if well implemented it has the potential of reducing the prevalence of violence and eradicating it. As suggested by Merry (Merry 2011) prevention can "reshape the way both men and women understand and enact their gendered identities […] Women are taught that they have rights and men are told that hitting their partners is a crime" (Merry 2011). For instance, Merry (2011) mentions the way US policies were firstly focusing mostly on prosecutions in order to discourage the potential perpetuators however in the late 1970s preventive programs designed for barterers or perpetuators of violence started to be implemented (Merry 2011). The goal

CEU eTD Collection

of these programs was to teach these men how to treat their partners as equal and to manage their anger in most effective ways while simultaneously women were given emotional support and taught about their right and the way to reclaim them (Merry 2011). These types of interventions, however, mainly focus on the individual and relationship factors triggering the violence.

Michau (2007) points out that, although there is a strong consensus amongst scholars and researchers on the importance of prioritizing the elimination of violence before it emerges, programs aiming individual and relationship factors are over-emphasized compared to community and societal strategies (Michau 2007). She insists that, although these interventions might be life changing for many participants, these approaches have a small impact on the societal level (Michau 2007). Even though the preventive pillar is crucial, it cannot be limited to awareness raising and singled interventions but must be inscribed in long-term interventions mobilizing the entire community. Normative behavior can be modified by shifting the dynamics of relationships within the household or the family and engaging with the surrounding community. Indeed, single individual has higher chances to establish a sustainable change regarding structural violence and power dynamics if the decision is being supported by the surrounding society. The ecological model, designed by Heise et al (Heise et al. 1999), illustrates clearly the four levels that influence and/or reinforce structural violence: individual, family/relationship, community and societal

CEU eTD Collection

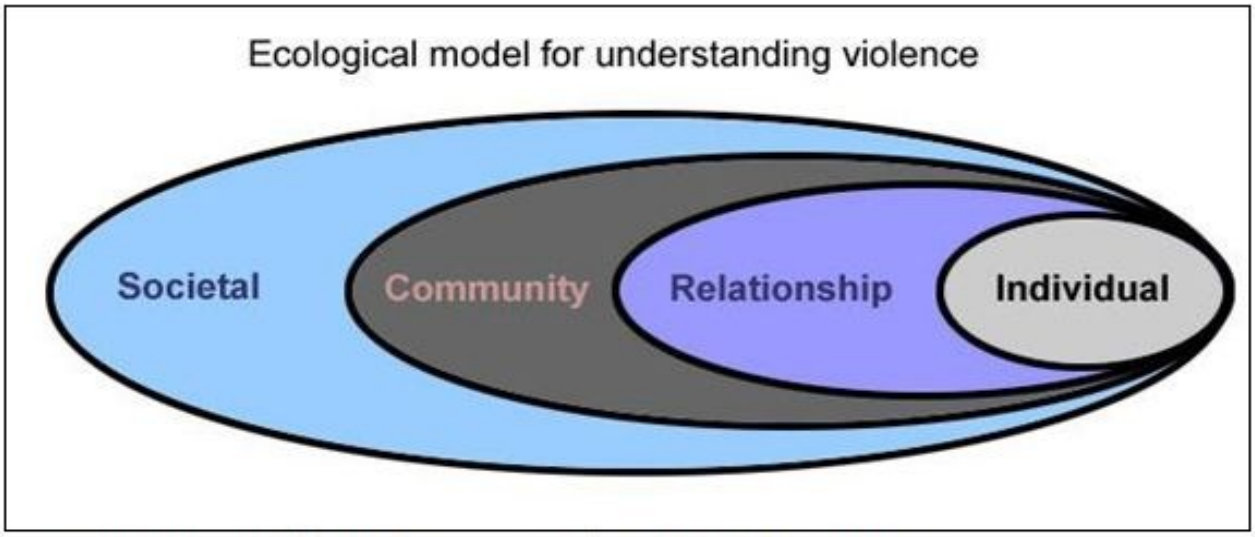


Image: Heise et al. 1999)

Each of these levels has an influence and an impact on structural violence and must all be addressed while designing intervention programs since each level is interconnected.

Shifting normative behavior rooted in communities norms can be accomplished by following the theory of "behavior change process" developed by Prochaska et al (Prochaska et al. 1994) which consists of five stages: pre-contemplation, contemplation, preparation, action and maintenance. These strategies have been used by programs aiming to eliminate the practice of FGM, such as the NGO Tostan and are implemented following the five steps (Yoder 2008). During the pre-contemplation and contemplation stage, they raise awareness on FGM and organizing trainings and activities around human rights. Social activities and commitment to the training will reinforce the preparation stage. The community needs to be encouraged and supported in order to start considering action and change behavior. The second phase of the program focuses on social mobilization activities and inter-village meetings in order to spread discussions on the abandonment of FGM. By using concrete actions, this phase will

CEU eTD Collection

enable the community to reach the action stage. By actively engaging against FGM practices and encouraging other villages to follow their path, community members will achieve a sense of ownership over the project and ensure its sustainability. This sense of ownership will, hopefully, lead to the maintenance stage of the behavior change process (Diop & Askew 2009). In the previous example, prevention engages with the community and the individuals at various levels and does not solely focus on awareness rising but promote actively equality and mutual respect, diminishing the prevalence of structural violence.

Finally, even if this aspect has been superficially mentioned above, a specific attention has to be drawn to the importance of including men in the process of eliminating violence against women in general and harmful practices in particular. This 'male-blindness' presents in certain interventions is pointed out by Chant and Gutmann (2002) who further argue that 'women-only' approaches often fail to overturn the patriarchal structure in which the violence is inscribed (Chant & Gutmann 2002). For instance, in the case of early and forced marriage, men have a significant influence in perpetuating these practices by requesting young and submissive brides. Therefore men's awareness and integration in the process of eliminating structural violence is vital because of the important role they play in the perpetuation of violence against women.

CEU eTD Collection

1.2.2. Protection and support

Concerning the protection pillar, it can be subdivided into two categories: protection of the victims or potential victims; and support of the survivors. Firstly hot lines and 24/7 constant support must be provided in a clear and confidential way in order for

the victims to find help easily. Then appropriate infrastructures have to be implemented in order to ensure the protection of the victims. Shelters need to be the most appropriate place to seek refuge, as victims might have to stay for an undetermined amount of time, especially in cases where the victim is flying from their house and community (Alanen 2012). Services such as financial support (especially in the cases of minor), group counseling and legal advices have to be provided in order for the victim to stabilize their situation (Merry 2011). In addition, Del Re (Del Re 2013) insists on the importance of having volunteers or social workers in the shelters that are trained to respond to different types of violence and who are aware and respectful of different ethnic groups, cultures, religions, social classes or sexual orientations (Del Re 2013). Indeed, trained staff and social workers is a fundamental aspect in the protection of victims as they must be able to respond to various cases of violence and be sensitive to the specificity of each case.

Secondly, coordination between the different institutions must be implemented in order to recognize situation of violence but also to support survivors on the long term (Martin 2007). Martin (2007) insists on community coordination in which all actors including police, prosecutors, heath and mental health workers, victims advocates and shelter staff must work together and cooperate with each other (Martin 2007). Indeed, coordination between institutions and actors can facilitate interventions and set the ground for more effective training (Martin, 2007). For instance, police officers are important actors in the protection and support of the victims and must provide a safe environment for victims who desire to report violence in order to gain their trust and help them through the process. Moreover, coordination between health care institutions and

CEU eTD Collection

child welfare are essential in order to support survivors of violence and help them to move forward (Heise et al. 1999).

Regarding the protection of victim or potential victim of forced marriage, the Force Marriage Unit supported by the British government has developed a 'Multi-Agency Guidelines: Handling cases of forced marriage' (HM Government 2009) that provides recommendations to every relevant actors interacting with victims. Beyond social workers and police officers, school or university teachers hold a significant place in the denunciation of forced marriage and must be aware of the warning sign of potential cases (HM Government 2009). In addition municipality officers in charge of the celebration of marriage have to be similarly sensitive in order to detect cases of forced marriage and refuse their celebration. These infrastructures involve an important financial investment that mostly requires the support of the government and the State, unfortunately budget restrictions might often reflect in the decrease of available shelters or a decline of services.

1.2.3. Prosecution

Interventions of the state are important because it "redefines the boundary between acceptable and unacceptable boundaries" (Merry 2011) which is part of reshaping normative behavior. However civil remedies or criminal laws are not sufficient if the legal system is not effectively enforcing them. As mentioned by Garner and Maxwell (2009), domestic violence scholars have been highlighted the failure of legal system to "report domestic violence abuses, to arrest male offenders, to redress the victimization of women and to treat violence against intimate partners as severely as

CEU eTD Collection

violence against non-intimate partners" (Garner & Maxwell 2009). Heise et al (1999) point out that western countries rely heavily on the criminal justice system however it is essential that judges and members of legal system are trained to respond correctly to these offence and make sure that women and victims are well aware of their rights and legal procedures (Heise et al. 1999). Moreover, the dark figure must been taken into consideration. Whereas domestic violence often seems to present a significant dark figure in the denunciation of abuses, migrant women or coming from migrant communities appear to suffer from a double burden. Indeed, it appears that "racism also shapes women's vulnerability to violence" (Merry 2011). Migrant communities and women suffer from police and justice discrimination, exacerbating the feeling of mistrust toward authority figures. Therefore, women facing racism are less likely to report violence and are more vulnerable to suffer from violence behind closed doors.

In conclusion, the prevention pillar is the most important as discussed above, the two remaining pillars, protection and prosecution are essential to provide services and constant support to victims or survivors of violence. The subsequent project will demonstrates how these pillars and interventions are currently implemented by international NGOs to face early and forced marriage, but more specifically child marriage as the highest prevalence of forced marriage seems to be taking place before the age of 18 as discussed in the previous chapter.

CEU eTD Collection

1.3. Early and forced marriage and best practices

The main organization in this field is the organization Girls Not Bride, a global partnership coordinating numerous NGOs and civil societies around the world. Their

main goal is to eliminate the practice of child marriage by “preventing child marriage, and supporting girls who are or have been married, all over the world” (Girls Not Bride 2015) and mainly concentrate their mission through girls’ education and community engagement. The organization has developed a ‘Theory of Change on Child Marriage’ (Annex1) that addressed four major aspects: girls’ empowerment, community and family awareness, providing services and enforcing law and policies. This theory will be reviewed through the ‘3-P’ pillars in order to understand how the best practice in the matter of eliminating early and forced marriage can be designed.

The preventive aspect mainly focuses on girls’ empowerment and community engagement. By encouraging girls to start or continue their education, they have the opportunity to acquire skills and knowledge about their own rights. Girls’ empowerment has to be reinforced with the engagement and support of the entire community including parents, men, and traditional, religious and community leaders. Work with families and communities to raise awareness on the harmful impact of child marriage that is not always recognized or acknowledged by the communities for which the traditions are well embedded and remain taboo. In addition, appropriate school infrastructures must be provided, such as safe space, bathroom to accommodate girls and safe transportation to school. The theory of change approach respects the ecological model of Heise et al (1999) by acknowledging the interconnection between individual, family, community and society and addressing them during the prevention stage.

The protection aspect gives attention to both girls are risk of getting forced into marriage and girls that are already married. Protection of teenagers through adolescent

CEU eTD Collection

friendly health services and ensuring that school are accessible to girls. Concerning the victims or future victims, support and access to format support services must be provided in order to help them leaving their marriage and pursue an alternative life course if they desire. The strategy of the Theory of Change mentions the attention brought to coordinate effort that "support and reinforce local activities with national, regional and international work" (Girls Not Bride 2015). Ultimately, the legal aspect emphasizes the role of the government to implement adequate resource and structure that will ensure effective implementation of policies prohibiting child and forced marriage.

Conclusion

This chapter has demonstrated the diagnosis of forced marriage as a form of gender-based violence and an abuse to their fundamental rights along with acknowledging the underlining influence of cultural norms surrounding the practice. Considering the human right frame as a diagnosis of the issue leads to consider a body of literature focusing specifically on the most effective ways to address issue related to gender inequalities and violence supported by social norms and culture. Therefore the prognosis presented in this chapter offered the best practices regarding the issue of gender-based violence and most specifically how to address early and forced marriage in the most appropriate ways considering the human rights frame. This frame along with its interventions will be consider as a frame of reference in order to evaluate the strategies that have been deployed by the Belgium government on the level of internal affairs, asylum seeking and refugees, and development and cooperation.

CEU eTD Collection

2. Current frameworks and policies relating to forced marriage

The previous chapter framed the issue of early and forced marriage under the terms of violence against women informed by cultural practice. As discussed, it is essential to recognize the role played by both culture and social norms in the conception of structural violence. However, it seems that the notion of culture takes another definition when inserted into the context of combating forced marriage from a western European perspective. Therefore this chapter will aim to understand and describe the way policy makers have interpreted the issue of early and forced marriage from the western European context and provide an overview of the influence of framing over policy implementation. Firstly by discussing the notion of framing in itself as offered by Verloo (Verloo & Lombardo 2007) and her frame analysis and subsequently by examining the various European policies concerning forced marriage and its over emphasis on culture and immigration as underlying issues.

By casting forced marriage as gender-based violence, the previous chapter demonstrates the type of appropriate interventions that can be implemented. Verloo and Lombardo (2007) highlight that different ways of framing will produce different form of solution and thus policy makers' assumptions for instance can influence the way policies will be framed and the resultant interventions. The previous analysis provided a way an assessment of the policies that have been formulated regarding gender-based violence and, in this case, forced marriage and other forms of violence against women. Comparatively, this chapter will introduce the other frames that have been used to

CEU eTD Collection

discuss the problematic of early and forced marriage and intent to evaluate how these frames differ from the human rights frame presented previously.

2.1. The arranged marriage frame: the debate over consent and coercion

In order to analyze this frame of forced marriage it is essential to come back to its definition as, for instance, the one given by the European Union. In 2005, the parliamentary assembly of the Council of Europe drafted the Resolution 1468 on Forced Marriages and child marriages defining forced marriage as “the union of two persons at least one of whom has not given their full and free consent to marriage” (Parliamentary Assembly 2005, Art.4). As forced marriage is defined as a coercive action, the line between coercive and consent must be discussed. Differently from the definitions mentioned in the first chapter, the notion of consent is rarely being discussed, as a great majority of forced marriage cases involves children who, protected under the CRC, are not considered able to express informed consent. However, the Forced Marriage Unit from the United Kingdom estimated that children represented 30% of cases of forced marriage in the UK thus it could be concluded that a significant majority of cases concerns women older than 18 years old (ECPATUK 2009). The notions of coercion and consent are often being discussed in correlation with the difference between forced marriage and arranged marriage. While forced marriage is defined by the absence of consent from at least one of the two parties, arranged marriage is considered a cultural practice where the parents or the family are in charge of finding the appropriate spouse for their children. As defined by Alanen (2012) “both parties freely consent to receive assistance from a third party to identify a prospective spouse, but the ultimate decision

CEU eTD Collection

of when, whether, and who to marry rests entirely with the bride and the groom" (Alanen 2012).

The understanding and frame surrounding arranged marriage help to inform the definitions and limitations of the notion of consent. As highlighted by Phillips and Dustin (2004) the notion of duress in cases of forced marriage formerly implied either physical threat or physical violence. However throughout various cases of jurisprudence in the 1970s, especially in the UK, emotional pressure has started to be equally recognized as an element of coercion (Anitha & Gill 2009). Reconsidering the definition and understanding of duress necessarily imply to question the notion of consent and coercion. Anitha and Gill (2009) argue that the difference between 'coercive proposal' and an 'offer' is far from being clear cut and similarly consent and coercion cannot be considered as two distinctive notions but rather "standing at two opposing ends of the continuum [of attitudes]" (Anitha & Gill 2009). It can be argued that the notion of consent starts fainting fading away when the marriage initially arranged by the parents starts to be coercive either by lack of opportunity, family pressure, psychological pressure or threat of physical violence. The challenge is to draw the line on family pressure being too coercive for the future spouse to refuse a marital union. The coercive aspect is found in what can be lost by escaping a marriage. Not only a loss of a husband or a significant other but, what Reitman (2005) calls the "sociopsychological costs of exit" (2005) which includes for instance a loss of family or community, sense of belonging and sense of self as being part of a specific community (Weinstock 2005). Therefore, it is important to recognize that duress does not only imply physical threat or violence but can appear in emotional pressure and manipulation. However the difficulty to assess the notion of

CEU eTD Collection

consent in arranged marriage must not drive the conclusion that arranged marriage automatically equals forced marriage. Understanding the line drawn by governments concerning the notion of consent offers an important element concerning the way forced marriage is framed in contrast to arranged marriage and furthermore the way migrant women's agency and culture is represented throughout this discourse.

2.2. The Cultural frame: Culturalization of forced marriage

In their discussion of EU policy regarding cultural form of violence, Montoya and Rolandsen Agustin (2013) identify specific form of violence against women such as FGM, forced marriage or so-called honor-killing are being addressed under two types of frames, either inclusionary or exclusionary (2013, p.537). Inclusionary approach acknowledges the importance of intersectionality while tackling gender-based violence, the different form of violence and their underlining causes must be taken into account and addressed in a specific way, however it must be included with other interventions aiming violence against women. Exclusionary approach on the other hand "emphasize one inequality at the expense of or accentuation of other inequalities" (Montoya & Agustín 2013, p.538), which creates differences between the majority 'us' and the violent 'other'. Thus Razack (2004) argues that this kind of exclusionary approach categories the notion of culture as being specific to migrants as they cannot act independently of it, in opposition to Europeans who rather have 'values' than culture.

This dichotomous discourse constructs a culture clash leading to the idea of a failure of multiculturalism in the western world, which is translated by a rise of xenophobia and islamophobia in most European countries desiring of "fighting the

CEU eTD Collection

deviant culture" (Kool 2012, p.449). The perception of a failure of multiculturalism is bound to the idea of failed integration process. Korteweg and Yurdakul (Korteweg & Yurdakul 2009) describe the notion of boundaries in the integration process as being set between the immigrants and majority society. The dilemma lies between imposing the western values (bright boundaries) where immigrant must adopt the "majority attributes, practice and values" (Korteweg & Yurdakul 2009) in order to enter society or implementing 'boundary blurring' allowing the immigrant to integrate within society without renouncing to "distinct aspect of their identity" (Korteweg & Yurdakul 2009) while majority society accommodates its laws and legislations in order to integrate migrant communities. However, according to Okin (Okin 1999) these 'bright boundaries' hide existing inequalities within these communities and what is "represented as the tradition of a minority group turns out to bear more heavily on some members than on others" (Okin 1999). In addition, Meetoo and Mirza (Meetoo & Mirza 2007) argue that in a multicultural context, migrant women might be slipping 'through the crack' of intervention between the reluctance of the State to intervene within specific cultural contexts and the 'private/public' divide which characterizes the discourse on domestic violence (Meetoo & Mirza 2007). Therefore taking intersectionality into account is crucial in order to address the multiple layers of inequalities faced by migrant women and to formulate specific interventions.

Yet specific forms of violence cannot be over-emphasized because it might construct the notion of 'the other' and intensify the marginalization of minority group (Montoya & Agustín 2013). For instance, Reilly (2011) points out that "in situation of heightened tension between minority and majority communities, minority women who

CEU eTD Collection

are experiencing abuse within the family or community are extremely unlikely to seek assistance if they fear that they will be stigmatized for betraying the community" (Reilly 2011). In addition, the exclusionary discourse constructs the migrant women as an oppressed individual lacking agency due to oppressive patriarchal structure of their culture and religion. This discourse positions them in opposition to the western women who supposedly enjoy "control over their own bodies and sexuality, and the freedom to make their own decision" (Mohanty 1988). According to Montoya and Rolandsen Agustin (2013), this approach reiterates the colonial discourse of the 'other' women as a perennial victims and men as the 'barbaric other' (Montoya and Rolandsen Agustin citing Spivak, 1988).

By assuming a role of moral authority regarding women's rights, western European countries tend to disregard their own issue of gender-based violence (Montoya and Rolandsen Agustin, 2013). Indeed by over emphasizing the role of culture as a foreign notion, the cultural roots of gender based violence occurring in the majority society is completely overlooked. Korteweg (Korteweg 2012) argues that forced marriage or honor-based violence can rightfully be discussed by considering their cultural roots, however it should be equally underlined that domestic violence or crime of 'passion' in the western world is similarly informed by a cultural patriarchal background, although it has been normalized enough not to be longer acknowledged as a determinant factor (Korteweg, 2012). Moreover, the notion of 'honor' as an imported idea from the East needs to be questioned. For example, Gangoli and al (2011) point out that the western world also respect codes of honor in their society such as honor in relation to an individual's reputation for instance. Thus, casting certain crimes and acts

CEU eTD Collection

of violence as honorable “negates the experiences of women who are perceived to be influenced by ‘honor’, thus reinforcing their invisibility within the discourse, policy and practice on forced marriage” (Gangoli et al. 2011). In conclusion, Montoya and Rolandsen Agustin (2013) argue that exclusionary approach mainly offers a diagnosis of forced marriage as a cultural problem overlooking every other dimension of the issue without addressing any real solution to combat the foundations of this form of violence against women.

2.3. The Public Health frame

The public health frame tends to conceive forced marriage but more particularly early marriage solely as a health issue. As observed in the human right frame, early and forced marriage and therefore early pregnancy and repetitive coercive sexual intercourse have dreadful consequences of girls and women’s body. The public health frame separates the issue from the human rights frame by only focusing on the physical or mental consequences of forced marriage. While few academic articles have been mentioning this frame over the specific case of forced marriage, it has been argued that Public Health frame was already used to address issue of domestic violence (Krizsan et al. 2005). In addition, it tends to focus more on the ‘economic costs to society’ (Krizsan et al. 2005). By framing as a health issue, programs tend to be more focused on the consequences rather than the causes of violence, which overlook gender inequalities (Krizsan et al. 2005).

CEU eTD Collection

2.4. The Immigration frame: forced marriage policy as border control

It could be argued that culturalization of forced marriage appears to be serving a different purpose in western European countries. Indeed, Gangoli et al (2011) point out that the discourse culturalizing the practice of forced marriage identifies the diagnosis as a clash of civilisation between European values and 'the other' barbaric culture leading to a prognosis encouraging member states to reinforce border control and implement stronger immigration policies. After closing its border to economic migrants during the 1970s, the EU only allowed migration from outside the EU-zone for family reunification purposes or asylum seeking. Family reunification has then become the most predominant mode of entry into Europe and therefore marriage appeared as a tool for immigration. The practice, often called 'marriage of convenience', defines marriages in which the spouses have no intention of constructing a common life and are only getting married in order to enter the European territory and/or claim European citizenship. Under this definition, forced marriage can then appear as a sub-category of marriage of convenience in cases in which this union is forced upon at least one of the two spouse. Evidently the EU addressed this illegal entering process by developing a strong screening process concerning fake marriages to ensure that the institution of marriage is not being used for immigration purposes. By identifying forced marriage as predominantly involving a spouse coming from outside the EU, the issue is framed as a coercive version of marriage of convenience and therefore is primarily being addressed through stricter border control (Gill & Anitha 2011).

Despite arguing that there is no real proof that government use purposely the issue of forced marriage to enforce stronger immigration policy, Philips and Dustin

CEU eTD Collection

(2004) point out that immigration policies have been clearly used as a preferred answer to combat forced marriage. Yet these legislations risk to overlook the possibility of forced marriage between two European citizens by focusing the attention on marriage involving an 'overseas partner', therefore "those coerced into marriage within the UK (for instance) will remain less visible and less adequately protected" (A Phillips & Dustin 2004). Therefore, Bredal (2011) argues that it is difficult to consider forced marriage policy as being predominately tackled as a form of violence against women when these policies and immigration laws seem so strongly intertwined. By questioning the real motivations surrounding policy concerns over forced marriage, Bredal's central argument point out that if the main concern of policy makers was revolving around women's protection and empowerment, border control is unlikely to protect women from these abuses (Bredal 2011). Indeed, preventing future brides to enter or leave the territory will certainly not stop parents from marrying their daughters and controlling their bodies. In conclusion, reinforcing immigration laws as a solution against forced marriage demonstrates the risk of framing forced marriage essentially as cultural issue that can lead to inefficient or even harmful consequences for the victims.

2.5. The Criminal Frame: forced marriage and the Criminal Code

Korteweg and Yurdakul (2009) bright boundaries' are being imposed to reassert western values and regulate behavior on one standard that is conceived as the right way to adopt in a modern society (Korteweg and Yurdakul 2009; Phillips and Dustin 2004). By criminalizing forced marriage, the state hopes to regulate behavior and discourage the practice of forced marriage. The criminalization of forced marriage had been debated for the last decade, yet the general arguments remain in favor of a specific

CEU eTD Collection

criminal law. The European Union for instance strongly recommend the member state to introduce a specific criminal offence to tackle the phenomenon of forced marriage through the resolution 1468 on 'Forced Marriages and Child Marriages' in the art. 14.4 as follow: "consider the possibility of dealing with acts of forced marriage as an independent criminal offence, including aiding and abetting the contracting of such a marriage." (Parliamentary Assembly 2005). Since 2003, several countries such as Norway, Austria, Belgium, Denmark and more recently the United Kingdom have opted for enacting a criminal law against the act (or the intention) of forcing someone into marriage (Sabbe et al. 2014). However Germany and Switzerland for instance have decided to prosecute forced marriage under the existing criminal laws forbidding to force anyone into doing something against his or her will (Kool 2012).

The arguments in favor of a criminal law defend that it will give a clear message that the state considers the practice of forced marriage as unacceptable (Gill & Anitha 2011). Consequently, the feeling of support from the state will empower victims to challenge their parents and communities. In addition, criminal charge might deter parents or relatives to coerce their children into arranged marriage. While these arguments can be honorable it has been highlighted that criminal law often find to be redundant with other laws condemning forced marriage outcomes such as laws concerning physical, sexual or mental abuse. There is a risk, however, that a criminal law might simply drive the practice deeper underground. The victim trying to escape a forced marriage might not explicitly be willing to turn against her/his family and even less likely to press criminal charges (Alanen 2012). Criminalization exacerbates the 'sociopsychological cost of exit' putting victims in a conflicting and stressful situation

CEU eTD Collection

(Sabbe et al. 2014). Regarding the families, the fear of criminal charges might be counterproductive to the sake of victims by driving them out of the country (Gill & Anitha 2011). Moreover the utility of a criminal law in itself is being questioned by policy makers. Indeed, as touched upon above the definition of forced marriage and the understanding of coercion and agency remain rather unclear therefore a criminal law cannot be successfully enforced which makes the legislation weak and possibly ineffective.

Prosecution is an important instrument although here it then becomes a tool for eliminating the barbaric practices. As presented in the type of interventions presented in the first chapter, prosecution of the offenders is essential however it can be less effective when used as a tool for eliminating the practice. Framing forced marriage under a criminal law negates the idea of the practice as embedded in a culture and social norms although as argued by Sabbe et al (2014), an extra body of law targeting especially forced marriage is "casting suspicion on communities already overrepresented in the criminal justice system" (Sabbe et al. 2014) and therefore demonizing of those cultural norms based on a false conceptualization of Eurocentric 'acultural' supremacy.

Conclusion

As presented in this chapter, numerous ways have been used to frame early and forced marriage leading to an array of legislations. Each of these frames present how exterior elements might play significant role in the formulation of policies. The western European context shows that early and forced marriage is depicted as foreign and

CEU eTD Collection

unknown, either through culture relativism or a sense of postcolonial duty. Reaffirm how important the framing underlining the issue of early and forced marriage is in the process of implementing policies, illustrates the influence of the diagnosis over the prognosis Therefore the following chapters will analysis how these frame interplays in the Belgian political context and their influence on the way policies have been framed on the three levels – Belgian citizens, refugee and asylum seekers, and development and cooperation. These policies will be evaluated through the frames offered previously in order to assess where it fits and where the inconsistencies might appear.

CEU eTD Collection

3. Analysis

3.1. Belgian Citizens

Introduction

The previous chapter has set foundations for the various forms of frames that have derived from intending to define and to address the issue of early and forced marriage. The present chapter will therefore present the definitions and policies that have been implemented by the Belgian government when a coercive marital union involves at least one Belgian citizen. This contextualization will allow to show how concerns over forced marriage practices and the Forced Marriage Act itself seem to have arisen from the political concern surrounding the issue of marriage of convenience (sham marriage). Thus the situation concerning the practice of marriage of convenience will firstly be described in order to entirely grasp the underlying context of the apparition of forced marriage policies on Belgium. Yet, beyond its inclusion in the immigration discourse, forced marriage has been included in the National Action Plan (NAP) and is considered as a form of domestic violence by the Belgian State. These definitions of forced marriage have led to various interventions on the preventive level and the apparition of protective mechanism for victim of (intended) forced marriage. These policies and interventions will thus be assessed through frames of analysis to determine if these actions have mainly been developed through a human rights frame or rather been focusing on other elements.

CEU eTD Collection

3.1.2. Belgian political context

Belgium is a federal monarchy divided into three regions and three communities. The three regions are Wallonia, Flanders, and Brussels, and the three communities are the French community, the Flemish community, and the German-speaking community. Each of these entities have their own government and authority in different fields, for instance the communities are in charge of education and culture while the regions exercise authority concerning infrastructures and roads. The federal government is left in charge of national decisions such as defense, health care and budget.

The Belgian landscape is highly multicultural with an immigrant population of Belgium representing almost 18% of the overall population, which 40% are European citizens (mainly from Italy, France and the Netherlands), 8% are Moroccans and 4% are Turkish. The immigration is mainly concentrated in Brussels with 31,7% (ITECO 2010) of the population coming from the immigration. Significant non-European immigration started in 1964 with the signature of the Belgo-Moroccan labor convention, allowing mainly Moroccan men (for labor) to enter the country in order to re-stimulate the Belgian economy. However the convention for foreign workers was relying on the common understanding that the situation of migration was only temporary and the workers would be eventually returning home. In regard to this temporary situation, Ouali (Ouali 2005) highlights that Moroccan men were predominantly continuing to marry women from their country of origin. At the beginning on the 1970s, a common European policy of preventing immigration was implemented in order to reduce migrant population to a minimum. By 1974, the decision to close the Belgian border for economic migration was taken by the Council of Minister, which restricted the immigration to family reunification,

CEU eTD Collection

study, or asylum seekers/refugees. Belgian and EU citizens are thus allowed, under Belgian law and the ECHR, to family reunification with their spouse and children under 18 years old (Martiniello 2003). After the closing of the borders, immigrant workers settled and started reunifying their family in Belgium, bringing a significant migrate flux and turning family reunification into an important immigration tool (Ouali 2005).

Facing the flux of immigrants, integration programs for foreigners settling in Belgium started appearing in the 1980s. Integration processes and programs are not considered as a responsibility of the federal government but relies on the Communities and Region for their competences in the fields of education, housing and employment. Therefore integration processes have different applications and requirements between the North and the South of the country. Flanders organizes mandatory civic integration process for every newly arrived immigrant who desires to remain on the Flemish territory. Wallonia (and throughout the French-speaking territory), on the other hand, offers the same type of services such as language classes or help to find jobs, although the process is not mandatory.

Marriage and Migration, and the Alien Act

During political debates in 2011 concerning family reunification legislation, Theo Francken[2] voiced his concerns over the high rate of children from immigrant parents marrying someone coming from their 'country of origin' (House of Representatives 2011). He explained this reality by "the high social pressure and parents' authority found

[2] Flemish politician from the Flemish nationalist and conservative party (NVA), currently holding the position of State Secretary of Asylum and Migration since 2014

CEU eTD Collection

in Muslim families[3]" (House of Representatives 2011). Francken further highlighted the difficulties of convincing these young people that finding a Belgian spouse would facilitate their integration. In addition he draws attention to the superior rate of divorce within Turkish and Moroccans couples compared to Belgians, which demonstrates the "real problem concerning family reunification" (House of Representatives 2011). Over the years, politicians from both sides of the political spectrum have shown concerns regarding the risk of marriage and migration, potentially reversing the integration process. Basically, marriage and migration is depicted as putting a hold to the process of integration as the flux of migration is prolonged through marriage by reinserting first generation migrants in second or third generation migrant families. Therefore the practice of arranged marriage[4] is often considered by politicians as a barrier to integration in the Belgian community. In addition, these migratory marriages are often suspected to be contracted only for the purpose of immigration. The closing of borders set ground for the creation of the Alien Act, established in December 1980 relating to the access to territory, residence, establishment and removal of foreigners. The Alien Act gave the opportunity to introduce new laws and policies aimed to control and reduce the amount of immigrants through marriage and illegal immigration such as marriage of convenience. For instance, the law specifies since 2010, that in order for the marriage to be recognized the two individuals have to be involved in a durable and stable relationship that can be established, following the article 10 of the Alien Act in one of three following ways: common child; legal and uninterrupted cohabitation in Belgium or

[3] Author's translation

[4] Arranged marriage are only criticized in the context of migration. As pointed out by Rea and Bensaid (2013) arranged marriages in the Belgian aristocracy are never mentioned although they similarly still practice arranged and endogamous marriages.

CEU eTD Collection

elsewhere for at least one year before applying; knowledge of each other for at least two years before applying, regular contacts by phone, post mail or email, at least encounters during two years preceding the application including 45 days or more.

The Alien Act was previously modified in 2006 requiring the Belgian citizen to provide a decent home for his/her future partner and to prove a minimum income. In addition, the marital age was lifted to 21 years old for both spouses5. This last modification was taken with the intention of diminishing the vulnerability of victims of forced marriage and in accordance with the Council Directive 2003/86/CE allowing Member States to set a minimum marital age concerning immigration. Reasons invoked argue that: "In order to ensure better integration and to prevent forced marriages Member States may require the sponsor and his/her spouse to be of a minimum age, and at maximum 21 years, before the spouse is able to join him/her[6]" (The Council of the European Union 2003). The law regulating the access to the territory further specifies that in order to claim long-term residency, spouses must remain married for a period of 3 years (previously 6months).

Yet, the Civil Code has already regulated marriage of convenience since 1999 through the introduction of a second amendment to article 146 stipulating that: "there is no marriage where, although the formal consents have been given to it, it emerges from a combination of circumstances that the intention of one or both spouses is clearly not the creation a sustainable community of life, but only seeks to obtain an advantage in

CEU eTD Collection

[5] Belgium's bilateral convention with Algeria, Morocco, Turkey and Tunisia offers advantageous dispositions to their citizens, including lowering the age limit to 18
[6] Author's translation

terms of residence, linked to the spouse status" (The Civil Code 1999, Art.146bis). In order to control and prevent these types of sham marriages, a circular was introduced later the same year to improve the detection of marriage of convenience. Firstly 'Marriage of convenience Units' were implemented in police stations and designed to investigate possible cases of sham marriages. These units monitor and centralize administrative investigations of marriage of convenience. Secondly, the circular was distributed to municipality employees in charge of celebrating marriages in addition to be trained to the detection of marriage of convenience according to the following characteristics:

- The future spouses do not understand each other and can only dialogued with each other through the intervention of tiers person;
- They had never met before the wedding;
- They do not know much about each other;
- The declaration about the way they have met is inconsistent;
- There is an important age difference between the future spouses.

Since February 2006, marriage of convenience are prosecuted under the article 79bis of the Alien Act specifying the following

> Any person entering a marriage in the circumstances specified in the article 146bis will be punished by a term of imprisonment (1month – 3 years of imprisonment or 50-500euros fine); any person receiving a sum of money aimed to reward the entrance in such marriage will be punished by a term of imprisonment (2months – 4 years of imprisonment or 100-2500euros fine); any

CEU eTD Collection

> person using violence or threat in order to coerce a person to enter such marriage will be punished by a term of imprisonment (3months – 5 years of imprisonment or 250-5000euros fine). (Alien Act 2013, Art. 79bis).

These policies highlight a fear of immigration and failed integration process which brings back the discourse of the potential failure of multiculturalism (Korteweg & Yurdakul 2009). As expressed by Theo Francken the 'real problem' is family reunification's hidden intentions such as immigration. Immigrants are therefore depicted as not willing to integrate by continuing in marring in the 'country of origin'. These discourses seem to be considering new migrants as unfamiliar with the Belgian culture and poorly educated, and therefore challenging the recent integration of their Belgian spouse. To counter marriage of convenience, which appear to be the main concern, numerous tools have been developed and policies implemented, reasserting Belgium's intention to strongly tackle illegal immigration. Nonetheless, policies such as raising the age of marriage in migration to 21 years old or imposing to couples to remain married for a minimum of three years appear to be clearly oriented toward immigration control. Yet these policies could potentially harm victims of coercive union and domestic violence, which will be further developed in the following sections.

3.1.3. Forced Marriage Act

Beyond illegal immigration and marriage, family reunification is still recognized as a human right by the European Court of Human Rights (ECHR) and exogamous marriages are a significant part of the migration process. While arranged marriages still

CEU eTD Collection

aim for 'the creation of a sustainable community of life[7]', the possibility that these marriages might not always be entered with 'full and free consent' brought a new and important debate to the Belgian policy table. Yet, whereas the definition of marriage of convenience appears to be set in stone, the evaluation of consent and marriage represent a grey area for policy makers. The first political concern surrounding early and forced marriage on the Belgium territory was brought up in 2003 by the Minister of Secondary Education, Pierre Hazette who challenged the government regarding multiple cases of young girls who were potentially dropping out of school in order to be married by force. Round tables, discussions and research were then organized in order to evaluate and understand the phenomenon leading to the implementation in 2007 of the Forced Marriage Act and the creation of a new criminal law.

The article 146ter of the Civil Code reads that: "[n]o marriage is valid when is contracted without the free consent of the two spouses and when the consent of at least one of the spouses was obtained through violence or threat". (The Civil Code 2007, 146ter). Yet previous to the Forced Marriage Act, the articles 146[8] and 180-1[9] of the civil code were already presenting legal instruments to claim the annulation of a coercive union. Prosecutions were also made possible through the criminalization of violent acts such as physical force, harassment, sequestration, rape and/or the threat of violence. Nevertheless it was argued by the government that an "incrimination had to sanction specifically forced marriage in order to combat the practice in an effective way" (House

CEU eTD Collection

[7] as mentioned in the art 146bis
[8] Art.146 of the Civil Code: "there is no marriage when there is no consent" (Author's translation)
[9] Article 180-1 of the Civil Code repealed in 2007 read that « in cases of mistaken identity of the person, the marriage can only be contested by one of the spouse »

of Representatives 2007, p.10). Therefore in April 2007, Belgium officially became the second European country[10] to introduce, in addition to the article 146ter of the Civil Code, an article criminalizing the practice of forced marriage. The article 391sexies of Belgian Penal Code prosecutes "[a]ny person who, through violence or threat, forced someone else to enter into a marriage and will be punish of between one month and two years of imprisonment or a fine of between 100 and 500 euros" (Penal Code 2007, art. 391sexies).

The debate surrounding the incorporation of a criminal law regarding forced marriage indicates disagreement surrounding the potential redundancy of an extra criminal law prosecuting forced marriage in particular. Nahima Lanjri argued in the name of her party that the introduction of the article 79bis prosecuting marriages of convenience was showed to be rather ineffective compared to the number of cases supposedly recorded, therefore incriminating forced marriage might be unnecessary (House of Representatives 2007).On the other hand, politicians' arguments in favor surprisingly stated that cases of forced marriages were not always falling within the frame of marriage of convenience and that the article 146bis would not protect forced marriage between two Belgian citizens. Yet, it must be underlined that no interventions were ever implemented regarding this last argument thus as previously argued by Philips and Dustin (2004), some victims might remain invisible and therefore less protected.

CEU eTD Collection

[10] after Norway

The criminal law and the civil law were therefore introduced in 2007 becoming respectively articles 146ter and 391sexies. Recently, the article 391sexies was modified in order to increase the sentences by increasing the punishment up to 10 years of imprisonment or 100 000 euros of fine. The criminal law similarly condemns the intention of forced marriage up to 5 years of imprisonment or 25 000 euros of fine. This recent change was justified by underlining that sentences inferior to three months were usually not executed therefore increasing the punishment will put an end to the impunity of perpetuators (House of Representatives 2013). Furthermore, similarly to marriage of convenience civil state officers are authorized to refuse to celebrate a marriage if she/he finds him/herself in presence of a forced marriage (Civil Code, art. 167). If found to be non-consensual, marriages can be opposed by either the public Ministry, the spouses themselves or anyone who has an interest in the present marriage (with exception of the parents). However it must be highlighted that contrary to marriage of convenience, there are no specific circular or training framing the warning signs and characteristics of forced marriage.

3.1.4. Forced marriage and gender-based violence: The National Action Plan

The emergence of the article 146ter and 391sexies gave an impulse to various public and social policies preventing forced marriage and protecting the victim. The National Action Plan (NAP) combating intimate partners' violence and other forms of domestic violence started to be included in the third version (2008-2009), forced marriage as a form of gender-based violence along with FGM and honor-based violence. The first NAP, developed in 2001 for 2 years (2001-2003) was directly followed

CEU eTD Collection

by the second NAP (2004-2007). Primarily focused on domestic violence, the two first NAP were principally directed to eliminate violence between partners. During the establishment of the third NAP 2008-09, it was decided to expand its scope to a wider range of inter familial violence. The fourth and last NAP11 to this day 2010-14 presents two parts, the first part exclusively focusing on domestic violence between partners and the second part, aiming at other forms of intra familial violence. The second section is sub-divided into three categories: forced marriages (IIA), 'honor'-based violence (IIB) and female genital mutilations (IIC). The NAP successively exposed the operational plan of actions that will have to be undertaken in order to tackle the problem of forced marriage efficiently:

- Having a better understanding and estimation of forced marriage in Belgium through more investigation and study;
- Developing more information, awareness raising and prevention of forced marriage;
- Improving the sharing of information between the federal authority, community and region in order to enhance the prevention, protection and prosecution of forced marriage;
- Ensuring the protection of victims.

The objectives of the NAP were lastly evaluated and updated in 2012 by the government in order to reinforce accurately the actions that were being implemented

[11] The 5th NAP currently being discussed. Publication expected for May 2015.

CEU eTD Collection

against domestic violence. The section 3.4. titled “Implementing a coordinated action plan against forced marriage” concerns the sanctions related to forced marriage and gives a reminder of the article 146ter and 391sexies before highlighting that the government has reached an agreement to intensify the combat against marriage of convenience. The following point focuses on reinforcing the detection and prevention of forced marriage by offering to extend the training from the ‘Marriage of convenience Unit’ to more specific trainings on forced marriage: “The municipal employees should also be attentive to warning signs of forced marriage and fake marriages’” (House of Representatives 2012, p.15). However the warning signs for forced marriage quoted in the evaluation appear to be identical to the characteristics mentioned in the circular aiming to combat marriage of convenience.

Consequently, the 2012 evaluation of the NAP (House of Representatives 2012) a significant example of the overlap between forced marriage and marriage of convenience. By offering to tackle forced marriage by reinforcing the combat against marriage of convenience, forced marriage is therefore considered no less than a coercive form of marriage of convenience, which completely overlooks the primary domestic violence issue aimed by the NAP. In addition, the warning signs being identical seem to show a lack of understanding and knowledge about the different characteristics that might appear in the detection of forced marriages.

CEU eTD Collection

3.1.5. Interventions against early and forced marriage

Beyond the recurrent assimilation of forced marriage within the immigration frame, the definition offered by the NAP has defined the practice as a form of domestic

and interfamilial violence. This definition opened the door to various interventions from the Belgian government along with the creation of organisations helping to combat the practice in the country. This section will firstly describe the different research undertaken by academics and professionals in order to evaluate the prevalence of forced marriage amongst the Belgian population. Then the interventions and actions implemented on the prevention, protection and prosecution level will be exposed in order to determine the frame that has been applied to the issue.

Assessing the prevalence

Following Pierre Hazette's interpellation of the government regarding multiple cases of young girls dropping out of school, research was commissioned in order to determine the prevalence of the possible phenomenon. The study was financed by the Centre for Equality of Opportunities and the Ministry of the French Community. Ada (Garcia et al. 2004) primarily investigated the expectation of young people regarding the institution of marriage in which more specific questions concerning students' knowledge about forced marriage were asked. The survey interrogated 1200 students from high school (15-18 years old) located in Brussels, Charleroi and Liege12. The results showed that 73,4% of respondents believed that forced marriage was still happening in Belgium and 23% declared to know someone to whom it had happened, from their surrounding (16%) or from their family (7%), it also appeared that girls were more aware of the phenomenon than boys. This survey constituted a primary and strong basis for the discussion concerning a new legal framework criminalizing forced marriage.

CEU eTD Collection

[12] There were French-speaking and coming from ethnic diversity background (Ratia & Walter 2009)

More recently, another study commended by the Region Wallonie-Bruxelles was conducted by Andrea Rea and Nawal Bensaid (2012) in order to quantify the phenomenon of forced marriage in the region of Brussels. The researchers mainly focused on reported cases of forced marriages or presumptions of forced marriage and collected numbers from federal or communal institutions such as municipalities, the police, judicial instances and consulates. It concluded that on the municipality level, no cases of forced marriage had been recorded in the capital during the past three years and the police gathered less than 20 complaints since 2008. Judicial instances seem to be following the same patterns. Over 2000 files of marriages labelled “suspicious” only one was recorded as ‘forced marriage’. On the other hand, the research also points out that the State prosecutor’s main goal is to sue cases where marriages go against immigration laws and not to unveil cases of violence from non-consensual marriages (Rea & Bensaid 2012). Rea and Bensaid (2012) highlight that despite the very low number of forced marriages officially recorded by the state it should not be concluded that the phenomenon is inexistent but rather hiding a dark figure. However their research further concludes that the social phenomenon of forced marriage had been “highly overestimated until now by the media and political sphere” (Rea & Bensaid 2012) and estimated that even by taking into consideration the possibility of a dark figure, the prevalence of forced marriage in Belgium was likely to remain very low.

These two studies conducted with an interval of almost 8 years depict two very different pictures of the phenomenon of early and forced marriage in Belgium which might potentially be showing the gap between the perception of the social phenomenon and the actual reporting of cases of forced marriage. Nonetheless, the evaluation and

CEU eTD Collection

intent of understanding the practice of forced marriage through various studies and research might already been tainted by presumptions about the victims and the practice of forced marriage in itself. Ratia and Walter (2009), who have assessed reports concerning forced marriage in several western European countries, similarly argue that the lack of clear definitions and frames of early and forced marriage can partly lead to bias numbers and statistics concerning the prevalence of the practice in a given country (Ratia & Walter 2009).The evaluation produced by Garcia et al in 2005 presents an alarming potential prevalence with 23% of pupils having personal examples of forced marriage in their surroundings. However the statistics present in their study need to be contrasted by the potentiality of pupils sharing the same community or even family circles, which might duplicate some cases. In addition the research was conducted only in French speaking schools presenting high ethnical diversity, which limits the variety and randomness of the participants and might influence the results obtained. On the other hand, the study published by Rea and Bensaid (2013) only considered reported cases overlooking the possible areas that could present a dark figure. This report was highly criticized by social workers and civil societies for overlooking the dark figure (interview). Professionals argued that cases of forced marriage might not always appear under this specific terminology while reporting the abuse. For instance, some women might only turn to the authority for denunciating domestic violence, which are found being rooted in the context of forced marriage. Secondly, whereas the report depicts forced marriage policies and legislations as strongly embedded in the context of immigration control, the conclusion surprisingly does not question the Belgian

CEU eTD Collection

government's actions but rather argues an overestimation of the phenomenon by the media and the political sphere.

Prevention

The prevention takes place at two levels, the campaigns that are directly produced and promoted by the government and members of the government, and campaigns and action organized and implemented by the civil society in support and approved by the Belgian state or the authority in charge of the region and/or community (*Brussel Region and the French community). One of the most recent awareness raising campaigns produced by the last government was launched in 2013 by Joelle Milquet, Minister for Internal Affairs and Equal Opportunities in collaboration with Maggie De Block, State Secretary of Asylum and Migration. The campaign named "Don't be the victim of a sham or forced marriage[13]" was initially aimed at sham marriages. The campaign is accessible via a website called mariagedecomplaisance.be[14] on which three video spots present the testimony of victim from 'mariage gris[15] and one presenting the problematic of forced marriage. The press release of the campaign described the practice of marriage of convenience as following:

> Foreigners, sometimes with the complicity of Belgian citizens, fraudulently use marriage in order to obtain resident permit. These cases are marriages of convenience, in which either both partners are offending the law, or one of them is offending the law and the other one is a victim (Milquet & De Block 2014).

[13] Author's translation
[14] Marriage of convenience
[15] The term 'marriage gris' is derived from the expression 'mariage blanc' translated in sham marriage and/or marriage of convenience. 'Mariage gris' stands for the marital union were one of the spouse is being fooled by her/his future partner in order to get married and therefore gaining residence permit

CEU eTD Collection

Further, another section called “numbers of relations of convenience or forced relationship” intended to present the number of marriage cases called ‘suspicious’ (6,073 for 2013 and 9064 for 2012). Yet, as touched upon above, no exact figure can be determined concerning marriages of convenience or forced marriages. The campaign was therefore specifically axed toward Belgian citizens’ victim of sham marriage involving the migration of a spouse. This last campaign mentioned both problematics in one sentence turning both practices into one common issue, illegal immigration. This overlap was explained by one of my interviewee at the Institute of Equality for Women and Men as followed:

> What Milquet tried to do was to integrate a small focus on forced marriage into her awareness raising campaign. Because she was wearing two hats, on the one hand she was Ministry of Equal Opportunity and on the other hand she was the Ministry of Internal Affairs. Thus she dealt with both problems together, yet these are two different problems. (N. Belkacemi, IEFH, February 2015).

According to my interviews, the campaign was in reality initially aimed at marriage of convenience and sham marriage, the concern of forced marriage was only incorporated subsequently to reinforce the victim aspect.

Concerning the prevention among pupils and teenagers, a brochure titled “Holiday time, Wedding time[16]” was produced and co-financed by the Wallonia-Brussels Federation (region) and aimed to warn adolescents about the consequences of getting married (with or without consent) in the country of origin during the summer holiday. The annex provided contacts of the Belgian embassy in Morocco and Turkey that could be

[16] Author’s translation

CEU eTD Collection

joined in case of need or emergency. The brochure was distributed in 2008 to all first line organizations and in 2010 to all medical centers and counsellors. However initially aimed to be disseminated amongst high schools, the diffusion was upheld as the brochure was considered to be stigmatizing populations by focusing on Moroccan and Turkish populations and origins. Nonetheless, the association 'Groupe Santé Josaphat' in charge of the diffusion counter argued that according to practical field experience, young people coming from Turkish and Moroccan background were suffering from more pressure to marry a partner coming from the same country of origin (Groupe Santé Josaphat 2009).

As discussed by Merry (Merry 2011) prevention of gender-based violence must be directed at the victims as well as at the perpetuators and so far no campaign has been addressed to young (Belgian migrant) about consent from their partners and about the importance of entering an union with another individual who is fully committed to the future marriage. The prevention shows a single focus on a specific target group, young girls from migrant origin, especially Moroccan and Turkish. Avoiding working with communities presents a lack of knowledge concerning migrant communities and an unwillingness to move towards a comprehensive ground where both communities and the government can work toward a single goal. In the definition of 'What's the Problem? Approach' presented by Bacchi (Bacchi 1999), she underlines the equal importance of government's non-action and how the lack of intervention is an intervention in itself. For instance, my interviewee from the Center of Equal Opportunity highlighted the decision (or absence of decision) from the government to exclude religious leaders in the preventive aspect. She declared:

CEU eTD Collection

> One aspect that has been completely avoided, because it does not fit with our ideology, is to join forces with religious leaders. That is something we have not done at all. I do not say that it is not relevant but we have not given any legitimacy to religious authority to intervene. (D. Kuppenberg, Centre pour l'égalité des chances, February 2015).

She explained that they were lacking knowledge concerning Islam and religious practices and they could never be sure who to associate themselves with. She concluded by saying "but I believe that if the Muslim Executive of Belgium (EMB) had an official stand against forced marriage, it will certainly help" (D. Kuppenberg, Centre pour l'égalité des chances, February 2015). Therefore, the Belgian government does not consider religious leaders or the religious community as being part of the problem framing and certainly not part of the solution.

Since 2010, the network *Mariage & Migration* was established, gathering 20 organizations (mainly French-speaking) in Brussels and Wallonia which have undertaken many preventive campaigns. Supported by the Ministry of Equal Opportunity and the French community government, the network has done significant work by establishing several prevention tools. Two of the most important actions were a theatre play called "Amours Mortes[17]" aimed at teenagers and high school students, and a broader campaign titled "Mon Mariage M'appartient[18]". This last campaign put the focus on the promotion of free choice in affective relationships rather than on coercion or lack of consent. The message was promoted through a website, leaflets and posters, in a universal way avoiding any kind of stigmatization or specific target audience. The impact of these various campaigns and actions were never seriously assessed, as most

[17] Dead Loves
[18] My marriage belongs to me

CEU eTD Collection

budgets did not include evaluation and monitoring tools. Therefore it is impossible to evaluate the success of these preventive actions.

Preventive actions are essentials, yet as raised by various scholars (Michau, Heise et al) actions cannot be limited to awareness raising and short term impact. As underlined by some of my interviewees, the play 'amour mortes' is an interesting initiative but will mainly be coming as a promotion for the *Mariage & Migration* network by informing pupils of the existence of organizations working on the issue and offering to help them in case they find themselves facing a coercive situation. Beyond these awareness raising campaigns, the network *Mariage & Migration* has been providing training called "Marriage in the context of Migration" to professionals such as municipality employees and police officers who desire to be more equipped in detecting cases of forced marriage. The training takes place over three days and approaches questions surrounding migration policies, legal context and focus on gender and interculturality. These trainings must be requested by the municipalities or the police office itself and are not mandatory but only relies on employees' willingness to further their training on this specific topic. Similarly to the play, the training could potentially be a good initiative, yet my interviews agreed with the previous argument that short-term impact are unlikely to have an influence beyond awareness raising. "With a three days training, people are not properly trained" as argued by one of my interviewee (M. Miguel-Sierra, La Voix des Femmes, April 2015). Indeed, through one informal conversation with a municipality employee during a conference lunch, she shared with me her experience of the training and she was not really sure of the information she could

CEU eTD Collection

remember from this training, she could not say that this experience helped her to recognize cases of forced marriages.

Mariage & Migration is essentially coordinating the various organizations. Whereas most of the members of the network work with victims of domestic violence or more broadly offer integration classes, awareness raising, psychologists or legal experts, none of these organizations present a special and single focus on early and/or forced marriage. The network *Mariage & Migration* provides coordination between these organizations and improve the exchange of information and good practices. Despite the significant work of coordination and of the network, the structure remains somewhat fragile and vulnerable to operational issues. Indeed during the period of my research[19] *Mariage & Migration* was lacking its main coordinator due to personal reasons, therefore most actions and projects were kept on hold[20].

Protection

While the Wallonia-Brussels Federation finances the preventive actions mentioned above, their support barely covers the cost of shelters for the victims. Shelters and support of the victims from domestic violence and more particularly, victims of forced marriage present challenging cases for social workers due to an important lack of financing. The organization “La Voix des Femmes”, part of the *Mariage & Migration* network, represents one of the main actors providing support and care for victims of

[19] October 2014-April 2015

[20] I have intended to reach the second person in charge but I was unable to find information or anyone that will take time for an interview. One of my interviewee from the Centre pour l’Egalité des Chances (financing the network) shared that they were quite concerned at that time regarding lack of direction of *Mariage & Migration* especially as the Centre are one of the principal financers of the network.

CEU eTD Collection

early and forced marriage. Through counselling and placement in shelters, the organization often struggles to find appropriate infrastructures for young women fearing a future coercive union. The president of the association, Maria Miguel-Sierra, has drawn attention to the lack of shelters and coordination in between the different structures. According to professionals and researchers I interviewed, the protection of victims fearing or in situation of forced marriage is a significant issue in three main domains.

Firstly it is essential to acknowledge that different profiles of victims might require different care and particular attention. In the situation of young girls below the age of 18, their cases fall into the hands of the youth service[21], which according to social workers does not always offer the most appropriate help. Professionals explain that the youth service's primary goal will be to maintain the child in its environment and intent to solve the problem by mediating between the victim and the parents (M. Miguel-Sierra, La Voix des Femmes, April 2015). Unfortunately in cases of intention of forced marriage, mediation is strongly discouraged and can subsequently intensify the violence against the victim.

> I had an experience with the intervention of the SAJ (youth service) that did not go well […] they heard the parents and told them that their daughter did not want to get married, the parents promised what they wanted to hear and the young girls ended up married by force[22]. (M. Miguel-Sierra, La Voix des Femmes, April 2015)

Another type of victims are migrant women, more specifically, women who have migrated to Belgium and married against their will. These women are particularly

[21] Service d'Aide à la Jeunesse (SAJ)
[22] Author's translation

CEU eTD Collection

vulnerable as they are strongly relying on their spouses for documents and resident permits. As warned against by Carles (Carles 2009), denunciating the violence might put them at risk to be deported or to lose their permit. In addition, shelters generally give priority to women being able to contribute to some expenses and who might stay for shorter period of time than migrant women in irregular situations (Carles 2009). Therefore by excluding migrant women (even unintentionally), the protection of victims is not completely oriented towards all victims of early and forced marriage.

Secondly, professionals and social workers I interviewed, decried the lack of training and coordination amongst professionals involved, in one way or another, in the problematic of early and forced marriage. Despite the support provided by *Mariage & Migration*, the coordination is not found at every level of intervention as explained by M. Miguel-Sierra: "we can train municipality employees but it should not stop there, training must take place at every level of the decisional chain, and this is clear that there is still a lot of work to do[23]" (M. Miguel-Sierra, La Voix des Femmes, April 2015). The establishment of a strong protection pillar relies, as argued by Martin (2007), through a coordination between the different institutions in order to facilitate more effective interventions. Whereas the communication and coordination between social workers has certainly improved during these past years, the issues surrounding early and forced marriage remains largely unknown. Therefore a lot of professionals find themselves unequipped to help the victims, and unable to seek appropriate solutions to care for these women.

CEU eTD Collection

[23] Author's translation

Finally, due to poor funding there is a critical lack of shelters and infrastructure appropriate to welcome young women at risk. Depending of the emergency of the situation, victims might need to be placed urgently in a shelter. Unfortunately there are very few appropriate infrastructures ready to welcome these victims, especially in the region of Brussels, therefore they sometimes have to be temporally placed in women shelters which might discourage some young women seeking protection. Professionals explained that these young women who find themselves from one day to another with a population who has different needs might be very disturbing: "even if they feel threatened at home it might still appear better than sharing a room with homeless women, women victim of abuse or with some people with whom they might not always identify with[24]" (M. Miguel-Sierra, La Voix des Femmes, April 2015). According to interviewee from the social sector, some social infrastructures located in Brussels have implemented good projects and follow up with victims over a period of 6 to 9months, unfortunately these infrastructures have waiting lists for months which is not always an option in case of emergency interventions.

The president of the association La Voix des Femmes publically[25] pointed out that in these cases of emergency, knowing that they will not find available infrastructure, their alternative networks have to be explored, such as personal network or through other associations: "We find ways to get by but these are not long-term solutions, so we put on small plasters until we find a structure that will shelter the young" (M. Miguel-Sierra, La Voix des Femmes, April 2015). She furthered highlighted that in the expectation of a

[24] Author's translation
[25] during a conference on interventions concerning early and forced marriage in Belgium (24-March-2015)

CEU eTD Collection

structure there were several practical details that were often forgotten or overlooked such as feeding, dressing and providing spending money to the young girl. These expenses often fall on the professionals or social workers personal expenses. As she explained “we fill this gap, we have not really chosen to do that kind of work, but we do it because someone needs to do it”. In addition, in order to be accepted in the special infrastructure, the victim has to meet with a psychologist or a social worker from the center, these interviews usually take place out of Brussels and the victim often needs to be accompanied and supported throughout that process.

Concerning the implementation of hotlines, the network *Mariage & Migration* is offering a free number dedicated to the issue of forced marriage. Yet the line is only operational twice a week for a total of 8hours. On the Flemish side, a hotline responding to victims of honor-based violence usually take calls concerning forced marriage as well. In conclusion, the protection aspect exists but seems to significantly rely on social workers’ willingness of handling early and forced marriage cases. The absence of specific training or specialized centers for victim of these practices shows a lack of investment from the government beyond the preventive pillar. As the prevalence of victim of early and forced marriage remains blurred it is difficult to evaluate the need for such shelters and protective interventions. Nonetheless, beside official numbers professionals and social workers still declare handling numerous cases of girls or young women fearing to be married by force, and demand more financial support and interventions from the government (M. Miguel-Sierra, La Voix des Femmes, April 2015). On the policy level, by rising the age of marriage including at least one immigrant to 21 years old, the state defends to protect the victims and to give them opportunity to take

CEU eTD Collection

their own decision and complete their education. Yet, the possibility that victims could be held abroad during that period of time is not being mentioned even though it could eventually put victims in even more difficult situations[26].

Prosecution

As presented upon above, the criminal law has been officially implemented since 2007. Nonetheless, beyond its symbolic use, the criminal law has only led to one recorded prosecution, known as the Sadia Case in 2011. Sadia was 20 years old law student from Pakistani family. After her parents found out that she was dating a young Belgian man, her father arranged a marriage for her and a cousin in Pakistan. Sadia refused the marriage proposition, which led to many threats and insults from her family, she then decided to run away from the family house and remained hidden in her boyfriend's flat. At the end of Ramadan the family attempted reconciliation and she agreed to come back to her parents' house where her brother killed her in front of the younger sister. The final trial took place in December 2012 and sentenced the brother for murder and to 15 years of imprisonment. Likewise the parents were convicted to 25 and 15 years of imprisonment and the father was charged more severely for the aggrieving circumstance of the intention of forced marriage. It was the first time in Belgium that honor-based crime and the intention of forced marriage were sentenced.

CEU eTD Collection

[26] By raising the age to 21 the risk is that the victims will be held aborad until they reach 21 which will actually worsen the experience of the victim. As argued by Chantler et al (2009): "participants reported the likelihood of increased risk of physical and psychological harm to victims and potential victims of forced marriage. This included the possibility of young British women being taken abroad to marry and kept there forcibly until they were old enough to sponsor their spouses; entering the UK with false documentation; and implications for mental health, particularly attempted suicide and self-harm. (Chantler et al. 2009)

Despite the one prosecution recorded to this day, cases of forced marriage have been identified and documented in the police database. A specific code regarding forced marriage has been implemented since 2009 in the database of correctional prosecutors. This code has enabled the justice system to record the number of cases of forced marriages that have been reported and according to the federal police 39 cases were recorded between 2010 and 2012. On the day of the 10 of July 2013 these cases were at the following stage: 7 were at the investigation stage; 22 were closed without follow-up; 5 for disposition; 1 at the instruction and 4 cases for citation and follow up. To this day, over the 39 cases, 4 judgments were made: 1 conviction (2011), 2 simply suspended (2011) and 1 acquittal (2010)[27].

The recent rise of the sentences concerning the criminalization of forced marriage through the article 391sexies reinforces the character unacceptable of the practice and hopes to deter potential intention of forced marriage. The small number of cases brought to court and the even smaller amount of cases being 'treated' reflect an unfortunate impunity of the practice of early and forced marriage. In addition the Sadia case was supposed to set the tone concerning the Belgian's position regarding forced marriage as unacceptable and strongly prosecuted. However it could be argued that the only prosecution known to this day concern a murder case, which might similarly imply that most cases of forced marriage go unprosecuted.

CEU eTD Collection

[27] Information collected through N. Belkacemi, IEFH, February 2015

Analysis

Concerning early and forced marriage involving Belgian citizens, the practice appears to be overly casted under a cultural and immigration frame. Early and forced marriage seem to be principally framed as an immigration and a cultural issue which does not appear to offer any real solution neither effective interventions.

The culture frame can be identified in part of the diagnosis made around early and forced marriage in Belgium. The notion of failure of multiculturalism is present in some political discourse such as Theo Franken's who criticizes the lack of integration due to the perpetuation of marriage migration within the formerly migrated communities. In addition, this stigmatization is reinforced by preventive action such as "holiday time, wedding time" leaflet which solely focuses on Moroccan and Turkish communities as the main perpetuators of early and forced marriage practices in Belgium. Yet Philip and Dustin (2004) rightfully argue against this over policing of minorities leading to the creation of a racist climate which prevents victims from feeling safe and supported by the state if seeking prosecution. As defended by Belgian social workers and professionals, a lot early and forced marriage cases remain classified as domestic violence case and are rarely brought to the authorities by fear of retribution. Montoya and Rolandsen Agustin (2013) highlighted that by diagnosing early and forced marriage through a cultural lens, it overlooks the human rights dimension and the gender-based violence aspect of the issue. The cultural frame becomes even more problematic when the issue is addressed through an immigration and lens and tackled through a reinforcement of border control of community stigmatization.

CEU eTD Collection

Concerning the immigration frame, the overuse of marriage of convenience as a frame of approach for forced marriage hides the real problems. For instance, the NAP framed and defined forced marriage as a gender-based violence issue but the NAP evaluation (House of Representatives 2012) demonstrates that despite this definition, forced marriage is still considered through the immigration lens. Therefore the central topic on forced marriage is the prevention of marriage migration which is connected to a broader framework of migration. It does not address a combat against gender-based violence or patriarchy but an issue strictly limited to immigration. In addition Milquet's campaign "Don't be a victim of a sham or forced marriage" (Milquet & De Block 2014) strongly reflect this overlap and seems to have been use as communication tool by emphasizing the victim aspect through the integration of forced marriage concerns. The concern over family reunification has arisen as an important concern for the Belgian government, which is trying to limit immigration by combatting any form of illegal immigration as strongly as possible. However as argued by Bredal (2011), it is very unlikely that limiting border access will have an impact of combating the practice of early and forced marriage. It might potentially reduce it by intimidating some of them but the problematic will not be affected, the practice and its cultural roots would not be challenged. As highlighted by Harris (cited by Gill & Anitha 2011) "assumptions that immigration is always involved in cases of forced marriage may lead to a myopic approach that focuses on immigration policy rather than on how forced marriage relates to other forms of violence against women" (Gill & Anitha 2011, p.8)

Similarly prosecutions has shown to reaffirm Belgian' position regarding forced marriage but the prosecution of the perpetuators must come as a third and final

CEU eTD Collection

supporting pillar of the 3P ensuring to combat gender-based violence. The prevention, as demonstrated, is quite narrow focused and targets a specific group, which disregard the Ecological model of Heise et al (1999), promoting the integration of the different levels of society necessary to combat effectively culturally rooted and harmful behaviors. The lack of protection overall supports the argument of that prosecution over emphasizes the identification of victims rather than concretely acting to protect and support these victims of violence. Whereas the government demonstrates some interest in developing prevention along with prosecution, the lack of concrete action thought protection could be questioned. Indeed, if concern over early and forced marriage exists, regardless of the potential motivations, it has remained mainly on paper through awareness raising or the creation of criminal laws. Razack (2004) mentions the example of the South hall Black Sisters who rather than prosecuting insisted on the vital aspect of protection through improving shelters and having better trained officer. Concretely, very few actions have been undertaken especially regarding the protection and the support of the victim, moreover forced marriage cases rarely end up in prosecution.

Therefore, it cannot be concluded that early and forced marriage has truly been considered and tackled as a form of gender-based violence because of lack of community inclusion and narrow targeted prevention, lack of protection and support of the victim of early and forced marriage as well as a low enforcement of the law prosecuting the practice. The following section will therefore question the way early and forced marriage is represented when it is used as a motive for immigration and asylum seeking.

CEU eTD Collection

3.2. Refugees and asylum seekers

Following the analysis of the existence of early and forced marriage concerns in the domestic policies regulating Belgian citizens, this present section integrates the issues regarding decisions in the acceptance of asylum applications on the grounds of early and forced marriage and more broadly on the integration of the matter of gender in the asylum seeking procedure. Through the description of the recently simplified procedure of asylum seeking and the importance given to gender-related claims, this section will first provide an understanding of the Belgian position concerning forced marriage and refugee status before analysing how the matter of early and forced marriage is framed on the asylum and refugee level.

3.2.1. Gender in asylum seeking

The asylum procedure is guided by the Geneva Convention established in 1952. According to the Convention, a refugee applies to any person who

> due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (of War et al. 1952).

Gender is not specifically named in the Geneva Convention and while women currently fall into the Particular Social Group (PSG) category, the notion of gender as a grounds for asylum seeking was overlooked for a long time by States in application of the Convention. It was only after lobbying by feminists and women's rights organisations that gender-based asylum claims began to be considered. With time therefore FGM,

CEU eTD Collection

forced marriage, sexual and domestic violence started to be considered as legitimate grounds to seek asylum.

Commonly States are considered to be the perpetrators of persecutions, although in certain cases and especially in these gender-based claims, the threat usually comes from non-state actors. In the case of FGM or early and forced marriage for instance, the persecution or risk of violence is perpetuated by non-state actors, either members of their community or their family. Violence perpetrated by non-state actors has been recognised as valid grounds to seek asylum – as long as it can be proven that the state was unwilling or unable to prevent the persecution from happening. The European Council Directive 2004/83/EC (The Council of the European Union 2004) recognises asylum claims based on persecution perpetrated by non-state actors. In 2002, the UNHRC published guidelines on international protection concerning gender-related prosecution within the context of article 1A(2) of the Geneva Convention (of War et al. 1952) quoted above. These guidelines aimed to "provide legal interpretative guidance for governments, legal practitioners, decision-makers and the judiciary, as well as the UNHRC staff carrying out refugee status determination in the field" (UNHCR 2002, p.1). However it must be highlighted that whereas guidelines represent a good basis for integrating gender in the decision process, there are not legally binding the state.

3.2.2. Belgium, refugee and the gender perspective

The procedure related to asylum seeking in Belgium was modified in 2006 by the revision of the Alien Act, simplifying the procedure to access refugee status in Belgium.

CEU eTD Collection

Since its implementation in 2007, four bodies can intervene over the course of the asylum procedure:

- the Immigration Department (OE[28]) registers applications for asylum and undertakes the primary investigation
- the Commissioner General for the Refugees and Stateless Persons (CGRS) is responsible for examining applications and deciding to grant or refuse refugee status
- the Council for alien law litigation (CCE[29]) intervenes in case of an appeal against an unfavourable decision from the CGRA
- the Council of State receive the power of lodging an appeal against unfavourable decision from the Council for alien law litigation. (CGRS 2015)

Regarding the recognition of gender-related violence as a ground for seeking asylum, the Alien Act presents the article 48/3 para. 2(f) which specifies that "any acts considered as persecution in the sense of the article 1A of the Geneva convention might take the following forms […] (f) acts directed toward a person for the reason of their sex or toward children". In addition, Belgium has adopted the UNHRC guidelines concerning gender-related persecution and integrated, published and disseminated them among all agents working in the first instances of the asylum process. Furthermore, gender-sensitive training is provided for staff at immigration reception facilities. The CGRS pushed for the adoption of a gender-sensitive approach to asylum seeking. It now

[28] will be referred as Office des Etrangers (OE) in French-speaking procedure
[29] will be referred as the Conseil du Contentieux des Etrangers (CCE)

CEU eTD Collection

ensures that issues related to gender are taken into account in the determination of asylum claims. Nevertheless, the scholar and researcher Jane Freedman, after conducting several interviews concerning the effects of gender-aware measures, argues that in the Belgian case that the reforms introduced by the CGRS seem to rely heavily on the presence of the current head of the institution who is described as "much more positive than previous directors, and really interested in helping women" (Freedman 2008). Freedman (2008) further points out that her research showed inconsistencies between judgements where found between the French-speaking and the Flemish-speaking sections of the CGRS which highlights "the very haphazard nature of decision making" (Freedman 2008) .The CGRS produces an annual statistic on refugee status offering gender-disaggregated data on registered asylum application including FGM, forced marriage, domestic and sexual violence, and persecution on the grounds of sexual orientation[30]. In 2012, the report from the CGRS published that 17.2% of the decisions were based on a gender-related topic. Concerning the number of application on the grounds of forced marriage, the number of claims jumped since 2012 with 1,048 and 943 in 2013 claims against 641 in 2011[31] (CGRS).

3.2.3 Asylum claim and early and forced marriage

The major issue found in assessing cases on the grounds of gender remains in the lack of physical evidence. The lack of evidence often affects the credibility of the story and thus the application. As underlined by Freedman "the climate of disbelief surrounding asylum seekers means that the level of "proof" needed to substantiate their

[30] Belgium is currently the only country to provide a breakdown by categories for the decision related to gender (to verify)
[31] The rise of application can sometimes be related to immigration wave from certain countries

CEU eTD Collection

claim has risen continually" (Freedman 2008). Gender related claims often lack physical evidences and in the case of forced marriage – victims will be require to provide in-depth details to her story, such as physical or psychological characteristics, information about employment, family, the money and so forth.

An overview of the various demands that have been introduced during these past few years shows, at a first glance, that most applications rejected by the CRGS are reconsidered under a more favourable light in appeal (CCE). It is beyond the scope of this thesis to offer an in-depth evaluation of asylum applications concerning forced marriage. However, in order to depict an overview of the manner cases are being assessed, two appeal cases will be discussed. It should be underlined that these cases may not be fully representative of the overall approach and will only serve as an example. These two cases reflect an interesting example of a discussion that is already taking place in the United States by scholars such as Millebank and Dauvergne (2011) concerning the light under which forced marriage applications can be treated as FGM cases in order to receive a more favourable decision. In the present Belgian situation, these two applications that were initially rejected by the first instance CGRS both presented a similar characteristic. These applications were initially requesting asylum on the grounds of forced marriage, yet their status were granted on the basis of a risk of FGM being performed or re-performed.

CEU eTD Collection

Case Study n°1

The case concerns a 16-years[32] old girl from Guinea. The day she turned 15 her father married her off to a friend of his to whom he owned money. Once married, she found herself being the third wife of that man. After a few months, her aunt helped her to escape her husband and fled to Belgium where she claimed asylum on the grounds of forced marriage. Along with her asylum claim, a medical exam was performed in Belgium in order to assess the type of FGM that she underwent as a child. The exam shown that only a small section of her lip was surgically cut and it could barely be considered as a form of genital mutilation.

Under the claim of fearing a forced marriage her case was refused by the CGRS arguing that she was not presenting sufficient elements that will justify her fear to be prosecuted according to the definition in the Geneva Convention. The CGRS argued that her family and her father, according to her story and various elements, appeared to be a modern family as she graduated from high school and the threat from her father was not very clear. Therefore it appeared quite unlikely that forced marriage was a common practice in her family:

> […] in the view of these facts, we cannot determine that you were living in a conservative family practicing forced marriage. The fact that you qualify your father as a severe man (because you could not go out and have fun) does not mean that you were living in a family practicing forced marriage[33]. (Conseil du Contentieux des Etrangers (CCE) 2015)

CEU eTD Collection

[32] at the time of her asylum claim in Belgium
[33] Author's translation

According to the CGRS her story was lacking specific details and information affecting the credibility of her experience.

She appealed the decision of the CGRS and in second instance, the CCE indicated that credibility and coherence has to be evaluated under special circumstances. The CCE recalled that a careful approach should be adopted while dealing with minor of age as suggested by the UNHRC, suggesting that in cases "where the minor has not reached a sufficient degree of maturity to make it possible to establish well-founded fear in the same way as an adult, it may be necessary to have greater regard to certain objective factors" (UNHCR 1979, para.217). The second claim was however exclusively evaluated based on the fear of (re-)excision and no mention of forced marriage was brought during the re-assessment of her case. Her refugee status was finally granted by the CCE on the grounds of a risk of re-excision (FGM).

Case Study n°2

The present case concerns a woman from Guinea whose name and age are unknown. She used to work as a nurse before her parents passed away between 2008 and 2009. Subsequently she moved in with her paternal uncle and aunt. A short time after moving she had to stop working due to her aunt's complaints about not receiving enough help around the house. In 2010, her uncle imposed a marriage upon her, which she refused. Her uncle kept her sequestrated for three days until she agreed to the marriage. The day of the ceremony she ran away and escaped to Belgium with the help of her boyfriend where she applied for asylum on the grounds of forced marriage.

CEU eTD Collection

The CGRS was not convinced by the story and argued that forced marriage was very marginal phenomenon in the urban context and was almost only exclusively concerning young girls from rural areas. In addition, as an educated woman she would and should have been able to find a legal alternative by herself in Guinea. According to the CGRS it was unlikely that her uncle would not consider marrying her off to her current boyfriend, even though she insisted on the stubbornness of her uncle and the prohibition of getting married to her boyfriend according to Islamic principle. The decision was appealed under the motif of wrongly assessing her application concerning her forced marriage and her undergoing risk of re-excision in Guinea. The CEE granted her refugee status by invoking the high risk of re-excision of the applicant if she were to return to Guinea.

Both cases show reluctance from the CGRS to grant asylum on the grounds of forced marriage mainly because of the lack of credibility of the applicant's story. The appeal under a risk of excision or re-excision appeared easier to defend as physical evidence can be brought to the case. Similarly, Millebank and Dauvergne (2011), point out that asylum seekers are often encouraged to privilege FGM as a ground for application rather than forced marriage or domestic violence (Millbank & Dauvergne 2011).

CEU eTD Collection

Analysis

By including the responses given by Belgium regarding asylum seekers' application on the grounds of forced marriage this section hopes to give an overall view on the way forced marriage has been addressed and defined by the Belgian domestic

policies. In addition forced marriage cases concerning at least one Belgian citizen are strongly embedded in immigration legislation. Articles and laws regulating asylum seeking are then being found in the same Alien Act. Refugee cases show positive determination to include gender-based violence and forced marriage as an issue. Unfortunately as pointed out by Freedman (Freedman 2008), lot of inconsistencies can be found in judgments between the North and the South of the country. The difference in policies and immigration approach appears sometimes striking in the way to respond to some cases. As mentioned, the challenge of evaluating forced marriage cases is found in the assessment of credibility. Despite the willingness of being more gender-aware, the lack of knowledge over the practice of forced marriage and the psychological and traumatic effects that these events can have on one's story affect tremendously the judgment.

Both case studies presented above turned out positively for the victims but only in second instance after the re-assessment of the CCE. Yet the earlier ruling from the CGRS still shows a predisposition to cultural relativism. In the first case it is assumed that, as her family does not show strong conservative values, they will be unlikely to force their daughter into marriage. Three elements need to be highlighted. Firstly it has not been proved neither mentioned anywhere that the level of conservatism of one's family was directly correlated to the tendency of forcing a daughter into marriage. Moreover, forced marriage is defined by the unwillingness of entering a marital union, thus as soon as the girl refused the marriage she was being forced into marriage. Lastly, as defined by the CRC and as a minor of age, child marriage is an inherently coercive practice. The second case similarly assumed through statistics and country reports that

CEU eTD Collection

forced marriage is an uncommon practice in the urban area and even less amongst educated or/and working women. Both the applications were finally granted on the grounds of fear of re-excision that was mentioned somehow during their interviews and gave the grounds for another defense.

Encouraging FGM application over forced marriage or domestic violence can potentially demonstrate the difficulty of evaluating cases lacking physical evidences. The prominence of FGM cases brings a public health frame to the perspective along with a case of cultural relativism over the practice of forced marriage. FGM applications bring strong physical evidences that cannot be refuted because of their recognized harmful impact on girls and women's health. As explained by Millebank and Dauvergne (2011), the negligence of forced marriage and domestic violence cases can be interpreted as a form of cultural relativism where judges do not want to be involved in the evaluation of consent and cultural practices especially involving a gender aspect. Forced marriage applications appear more difficult to defend due to 'well-founded fear of being persecuted' (of War et al. 1952). However the numbers published by the CGRS have showed raise in applications for asylum on the grounds of forced marriage. Unfortunately the research undertaken for this thesis did not allowed to discover if these numbers were reflecting the initial claim or the grounds on which it got accepted. For instance, the two cases described above where found under the labels of forced marriage even though both of these claims were strictly granted on the grounds of fear of FGM.

CEU eTD Collection

The analysis of the prevention, protection and prosecution aspect is challenging to assess here, or at least cannot be done not directly. In the present case, by responding to asylum seekers on the grounds of early and forced marriage, Belgium intervenes on a protective level, by ensuring the protection of victim from foreign countries. The prevention and prosecution should then be found in development projects and interventions proposed by Belgium in its partnerships with developing countries presenting rate of early and forced marriage. These two aspects will be further developed and analyze in the following section.

3.3. Belgium Development and Cooperation

3.3.1. Introduction

The two first sections presented policies that were directly mentioning and addressing the issue of early and forced marriage and that concern Belgian citizens and asylum seekers. This last section will consider the third sector, Belgian development and cooperation that (briefly) addresses the practice of early and forced marriage. This section will slightly diverge from the previous ones, as it will discuss the lack of policies and interventions on early and forced marriage in the Belgian government's development and cooperation policies. Absence of measures are equally impactful and significant to the implementation of policies. Bacchi (Bacchi 1999) interestingly argues that "governments are 'intervening' all the time, even when they are not 'acting' in the traditional sense" (Bacchi 1999). Therefore this section will question what has been left unproblematic in the Belgian development and cooperation problems and where are the silences surrounding the practice of early and forced marriage.

CEU eTD Collection

Considering the high prevalence of early and forced marriage found in most of the Belgium partner's countries, it is therefore essential to underline this lack of policies in the development and cooperation context. This analysis will draw from the research recently undertaken by the University of Leuven in collaboration with the NGO Plan Belgique/Belgie (Fonteneau & Huyse 2014) who have openly criticized the absence of consideration regarding early and forced marriage in the Belgian development context (Fonteneau & Huyse 2014). Based on this critique, this section will analyze the three political notes written by the Belgian development cooperation, mentioning child or early marriage as an issue. By assessing these political notes, the analysis will identify the way the issue has been framed from the Belgian development perspective and which are the solutions that are being offered to counter the issue. Lastly the future perspective of the Belgium development and cooperation agency will be described. Since the report released by Plan BE is quite recent, political actions are maintaining their theoretical stage. These interventions are still under political discussions, for that reason these interventions are not discussed in this section.

3.3.2. The Development Agency

The Belgian Directorate-General for Development Cooperation (DGDC) is, in addition to the Belgian Technical Cooperation (BTC), the Ministry responsible for development and cooperation in Belgium. Since 1999, the International Cooperation law[34] has established the proprieties of the Belgian development cooperation. As a relatively small country, Belgium's resources in development are rather limited and only invest in four main areas including primary health care (including sexual reproductive

[34] Author's translation

CEU eTD Collection

health), education and training, agriculture and food security, and basic infrastructure. Belgium works in cooperation with 18 developing countries[35] for an established period of 4 years during which two themes[36] out of four were chosen and implemented. Each country establishes a PIC (Indicative Cooperation Programme) that determines the goals and interventions that will be undertaken during this pre-established period. For instance, Belgium has established development cooperation with Morocco since 1965 and was focusing during the last years on agriculture and food security, and basic infrastructure.

In addition, according to the development law, these four main areas must constantly present two transversal themes: which includes gender equality and environmental sustainability. Despite the introduction of gender equality as a transversal theme in their development programs, the Belgian development agency has been facing critics from NGOs and researchers for its poor practical integration of gender perspectives, especially the lack of attention regarding child, early and forced marriages. The Belgian branch of the NGO Plan International has recently published (2014) a report, in collaboration with the University of Leuven (Fonteneau and Huyse, 2014), titled "Child and forced[37] marriages: a blind spot in the Belgian development cooperation? – Tackling child and forced marriage from a Belgian donor perspective" (Fonteneau & Huyse 2014). This report highlights the lack of consideration and interest

CEU eTD Collection

[35] Benin, Burkina Faso, Burundi, Equator, Peru, Bolivia, Republic Democratic of the Congo, Guinea, Mali, Morocco, Mozambique, Vietnam, Niger, Uganda, Palestine, Rwanda, Senegal and Tanzania

[36] for the exception of the Republic Democratic of the Congo working on three themes

[37] Plan Belgique/Belgie argue their preference for the term child and forced marriage instead of early and forced marriage because *statement. Thus i will use their term while summarizing their report.

surrounding the issue of child, early and forced marriage in the context of development from the Belgian Ministry of Development. Indeed, amongst its 18 developing partners, 7 of them present a significantly high rate of early marriages, especially in Niger with the highest rate worldwide with 76% before the age of 18 and 28% before the age of 16 (UNICEF 2005b; Fonteneau & Huyse 2014; Girls Not Bride 2015). The report describes the devastating impact of child and forced marriage on gender equality, children and sexual and reproductive rights/health care in most of these developing partner countries. The research argues that the issue of child and forced marriage has remained largely overlooked by the Belgian Development Agency. According to Fonteneau and Huyse (2014), child and forced marriage are more often mentioned as a contextual factor without putting forward any kind of objectives or strategies to combat the practice. In addition, it draws attention to the fact that the Belgian development agency has "no specialized programs with clearly articulated intervention strategies (…) regarding child and forced marriage" (Fonteneau & Huyse 2014).

It has been further argued that more generally gender has not been well implemented into Belgian development programs. Another research conducted in 2014 by Holvoet and Inberg (Holvoet & Inberg 2014) analyses the relevance of gender in the Belgian development context. The main critique underlines the gap between the strong input of gender and development on paper compared to the low application of these principles on the ground. For instance, women's access to health care, political representation or school enrolment rate have seen no progress. Thus, both studies seem to agree on the lack of practical application and integration of the notion of gender and more specifically actions to combat child, early and forced marriage.

CEU eTD Collection

3.3.2. Absence of early and forced marriage in development programs: an analysis of political and strategy notes

The report published by Plan BE (Fonteneau & Huyse 2014) describes the existence of policy papers from the Belgian development agency mentioning the terms child and early marriage[38] in their recommendations. The Plan BE report argues that overall, despite the mention of early marriage, the issue is "most often simply mentioned as a context factor without presenting detailed objectives an strategies to tackle the issue" (Fonteneau & Huyse 2014). Thus, the following section will present these three main political and strategy notes (policy papers) written by the Belgian development agency including health and sexual reproductive rights (DGDC 2009), the rights of children (DGDC 2007) and gender equality (DGDC 2002). This section will provide an overview and contextualization of the way the issue of early marriage has been discussed, framed and tackled (or not) by the development agency. Despite the fact that early and child marriage is not genuinely discussed as an independent issue, these three political notes can offer an overview of the frame used by the Belgian development cooperation regarding these issues[39].

"Health and Sexual Reproductive Rights" (DGDC 2009)

The last political note mentioning early marriage was released in 2009 and considers sexual reproductive health as an important matter that includes health issues such as Sexual Transmitted Diseases (STDs), AIDS, child mortality, sexual violence and

CEU eTD Collection

[38] The term forced marriage is never mentioned

[39] The order of apparition of these notes, beside the reverse chronological order, mainly desired to reflect document mentioning child and early marriage the most to the document mentioning the issue the least.

so forth. The major determinants of these issues are, according to the note, poor health and sexual reproductive health along with strong gender inequalities. Two issues are being mentioned, early marriages and early pregnancies, which are considered as part of the consequences of poor sexual reproductive health and lack of education surrounding basic hygiene and reproduction. Early marriage is approached as a form of sexual violence such as "diverse forms of traditional practice including coercive sexual intercourse from a family member, very early marriages or the marriage of a widow to brother of the deceased" (DGDC 2009, p.8). On the other hand, early pregnancy is not fully considered as a direct consequence of early marriage but rather as a consequence of unprotected sexual intercourse taking place out of wedlock. Thus, it considers unmarried girls and young women as the most vulnerable to harmful consequences of undesired pregnancy such as dropping out of school to raise their children (DGDC 2009, p.16). The political note highlights the main causes of poor sexual and reproductive health and harmful traditional practices as relying on gender inequalities informed and influenced by "local traditions and religious bans" (DGDC 2009, p.14). In conclusion, issues surrounding health and sexual reproductive rights appear to be intrinsically linked to gender inequalities and lack of education and basic hygiene.

Belgium's desire to intervene for improving sexual and reproductive health in the partner' countries insists, for instance, on "initiatives guarantying girl's universal access to education […] and promoting contraception methods" (DGDC 2009, p.21). More specifically, regarding early pregnancy, the political note stipulates that development programs will "ensure that young women are informed and aware of the dangers and consequences of early marriage and pregnancy" (DGDC 2009, p.22).

CEU eTD Collection

Political note regarding the respect of the right of children in the development and cooperation (DGDC 2007)

The note released in 2007 presents girls as a particular group of children especially vulnerable to abuses, STDs and unwanted pregnancy (DGDC 2007). The main concern regarding girls in particular revolves around access to education and enrolment rate in primary school as desired by the Millennium Development Goals 5 (primary education for all). Beyond education, the matter of health and reproductive health amongst young girls is presented. Here again, the risk of unwanted pregnancy and higher exposure to STDs is mentioned as a significant issue amongst girls. In response to these issues, Belgium encourages partners' countries to "raise awareness amongst children, families and communities concerning the sanitary risk of early marriages and pregnancy, and harmful practices such as FGM" (DGDC 2007, pp.13–14). Through awareness raising campaign, the Belgian development agency hopes to change mentality regarding "drugs use, alcohol, sexual violence, HIV/AIDS, and early pregnancy and marriage" (DGDC 2007, p.15). In addition, the note recommends the promotion of the right of children by working towards gender equality and promoting countries that pay attention to situations in which "women and girls are systematically disadvantaged" (DGDC 2007, p.22).

The strategy note on equality of rights and opportunities between women and men (DGDC 2002)

The issue presented is gender inequality. The note describes women and men are not treated equally in most societies and this affects economic growth and sustainable development. According to the Belgian development agency, these

CEU eTD Collection

inequalities come from gender roles. For instance girls' responsibilities within the household, early marriage and pregnancy and remoteness from school limiting access to education (DGDC 2002, p.5). In addition the note stipulates that girls are often not seen as valuable in certain countries and parents might not be willing to invest in their girls (DGDC 2002, p.8). The issue of early marriage and pregnancy is described as a cause of inequality rather than a consequence of gender inequality. Both issues are mentioned as having a direct impact (amongst other things) on health and access to health care that must be considered[40] (DGDC 2002, p.9). Solutions offered by the development agency rely predominantly on the integration of a gender perspective within development programs and in partners' countries political notes rather than a concrete action plan in improving gender equality. In addition, the integration of the gender lens through the Belgian development agency is mainly talked about in terms of Women In Development (WID)[41], which discusses the integration of women within development programs.

3.3.3. Analysis

Through these three policy documents produced from 2002 to 2009, two themes come recurrently while talking about girls, early marriage and early pregnancy. These themes are health and education. Education and girls' enrolment in primary school are mentioned in all three notes as a central objective for the development agency. Early

[40] Early marriage and pregnancy are not considered as the only factors, but is considered amongst a series of factors such as violence against women, discriminatory behavior towards women and girls, level of dependence of women regarding men and so forth.

[41] Women In Development (WID) is one of the earliest approaches (developed in the 1960s) to integrate women within development projects. WID identifies women's lack of access to resources and intent to promote their implication in development. The WID approach was heavily criticized for only focusing on women without considering the social structure surrounding them.

CEU eTD Collection

marriage and early pregnancy are an obstacle to the fulfilment of this goal and are described as a cause of girls' lack of education as well as a consequence. Despite the mention of both issues, early marriage and pregnancy never appear to be related. Whereas early marriage is considered a traditional practice along with FGM, early pregnancy is described as an undesired consequence of sexual intercourse. Early pregnancy is framed under the notion that population, and girls in particular, are unaware of contraceptive methods, thus by having sexual intercourse out of wedlock some get pregnant and are forced to quit their education. On the other hand, early marriage is rarely talked about alone but rather as part of a wider scope of sexual and physical violence such as rape or FGM. Therefore, through the way the issue of early and forced marriage has been framed it does not seem to identify a possible link between early marriage and early pregnancy. Framing early pregnancy as a lack of knowledge on reproductive health disregards the possibility that these pregnancies might have been programmed to start as soon as the girl is physically able. Early marriage is mentioned as a form of violence against women but no extensive explanations are being offered. These three notes combined fit most of the elements presented by the Public Health frame by considering early pregnancy and early marriage, even if not mentioned together, as physically dangerous and threatening girls' life. Moreover the frame seems limited as the discussion over early marriage remains superficial and reflects a significant lack of knowledge over the practice and what it entails for young girls and women.

Concerning the prognosis and recommendations offered by the development agency, the main approach for improving the situation seems to be almost exclusively

CEU eTD Collection

based on prevention and awareness rising. Yet, as touched upon in the first chapters, numerous scholars (Michau 2007; Heise et al. 1999) have underlined that, despite the fundamental importance of prevention, it cannot be limited to awareness-raising campaigns. Based on the example of best practices presented in the first chapter (1.3), girls' empowerment must be supported by the entire community including men, parents and, religious and community leaders. The interconnection between the various actors is not sufficiently incorporated and therefore the preventive actions remain superficial. Protection of the victims is seldom, if ever, discussed, although as presented previously it could be considered that accepting refugees on the grounds of early and forced marriage comes as a form of protection. Yet, as offered by NGO such as Girls not Brides through the 'Theory of Change' (Girls Not Bride 2014), protective actions need to be found through adolescent friendly health services and implementation of girl-friendly access schools (Girls Not Bride 2014). As previously argued by Michau (2007), exclusively focusing on prevention and awareness raising cannot be sufficient to combat these practices and would not have an impact in the long-term. Beside the rare mention of aiming prevention at the entire community, interventions mainly revolve around girls and women. For instance, the note on equality of rights and opportunities between women and men is framed under a WID[42] approach. Yet since the seventies the WID approach has been fairly discredited in favor of a GAD[43] approach. Indeed, as offered by Heise et al (Heise et al. 1999) in their ecological model, interventions must be inclusive

CEU eTD Collection

[42] See footnote 43
[43] The Gender and Development (GAD) approach rather focus on gender relation and the way to improve gender dynamics and reach gender equality

of the various levels of the society including family, community and in the present case, men.

In conclusion, gender inequality, early marriage and early pregnancy issues appear unclearly framed either as causes or consequences of poor education and health, and are rotating around the concerns of low education and poor sexual reproductive health. Interventions involve prevention and awareness rising predominately amongst girls and women in order to enhance their sexual health consciousness and improve their education level. These interventions present a good start but are overlooking the necessity of constant protection and efficient prosecution, and are not engaging with the entire community. Therefore these solutions are missing a long-term objective and impact.

3.3.4. Future perspectives

Taking into account Plan BE critiques and recommendations, the resolution on "the combat against early and forced marriages in the world and more particularly in partner countries of the Belgian development cooperation" was adopted on the 5th of March 2015 by the Belgian government. The discussion and resolution present a connection between the issue of early marriage and early pregnancy. The government and the Ministry of development and cooperation voice their concerns about the devastating consequences of early marriage for billions of girls around the world including on the personal, social, economic level and from a health perspective (House of Representatives 2015).

CEU eTD Collection

According to the bill, the issue of early and forced marriage must be considered as a form of gender-based violence on the same level as FGM. Similarly to the former political note, early and forced marriage is considered the main threat to girls' health and access to education. During the discussion some of the deputies underlined the importance of implementing of interdisciplinary approach to counter the practice. Lastly, the government insists on the integration of the combat against early and forced marriage in cooperation with Niger and the Republic of Congo.

Conclusion

The research led by the Katholieke Universiteit of Leuven (KUL) and Plan BE (Fonteneau & Huyse 2014)had a successful impact and helped to create a report that had a real impact on the governmental decisions. While it is certainly positive that the Belgian development cooperation currently recognizes the important implications of the issue of child, early and forced marriage, no concrete decisions have been taken to date. The evaluation of these recent decisions must therefore remain cautious as it can be witnessed that similar promises regarding the assimilation of gender were already made in the past and did not turn out to have a great impact.

The gap between commitments on paper and the concrete actions on the ground appears to be one of the main concerns of researchers (Fonteneau & Huyse 2014; Holvoet & Inberg 2014). However, it could be argued that the gap is not that surprising while considering the superficiality of some of these commitments or interventions. Most of these interventions are mainly focusing on awareness-raising or encouraging partner countries to incorporate a 'gender perspective' into their programs. None of these

CEU eTD Collection

documents stipulates concrete actions to concretely introduce programs that will combat gender-based violence.

CEU eTD Collection

Discussion and Conclusion

The initial research question aimed to interrogate the consideration of the Belgian government over the practice of early and forced marriage. More specifically, understand if Belgium has been addressing the issue from a human right frame perspective. The theoretical chapters offered a description of the definition of early and forced marriage through the human rights frame by discussing its diagnosis and prognosis of the issue. The human rights frame defines the practice of early and forced marriage as a violation of human rights and a form of gender-based violence rooted in social norms. Therefore as outlined in chapter one, the correspondent interventions rely on the 3P pillars being respectively: prevention, protection and prosecution. This section helped to demonstrate that in order for interventions to be aligned on the human right frame diagnosis, each of these pillars had to respond to specific requirements. Firstly the preventive aspect is by far one of the most essential, if prevention could be done successfully the number of cases could drastically drop and hopefully disappear. Prevention must present a sense of awareness rising but cannot be limited to that only task. It is essential that prevention aims for long-term goals and commitment and engage not only with the potential victims but also with the entire surrounding community supporting the practice. Secondly, protection has to take into consideration victims and potential victims and protect them equally against the risk and abuses present in cases of early and force marriages. The coordination of the various instances implicated that front line actors should be coordinated with each other in order to give

CEU eTD Collection

the most efficient and rapid interventions. Finally, prosecution must be enforced with taking into account victims' desire and needs.

Evidently, the issue of early and forced marriage has been framed and tackled in numerous ways and the other frames presented in the second chapters demonstrated that the problematic is rarely being addressed exclusively as a form of gender-base violence. The analysis of the Belgian case offered to examine each sector that is concerned with the problematic of early and forced marriage on a certain level and to understand the approach of the Belgian government in each case. As mentioned in the introduction, the analysis of each factor would help to understand the potential disparity in the discourse of each sector and the eventual inconsistencies emerging from these gaps. The internal affairs policies presented in the section 3.1. reflect a discourse revolving around the immigration frame and the cultural frame. The domestic policies involving Belgian citizens in the matter of forced marriage diagnosis the problems rooted in the failed integration of immigrant communities coming from different cultural background. The prognosis, on the other hand, responds through the implementation of criminal charges against the practice, which appear to be in contraction with defining early and forced marriage as a cultural issue. In addition, stricter immigration measures are also implemented in order to maintain the problematic outside of the Belgian's borders. However, the National Action Plan on * officially recognize forced marriage practice as a form of gender-based violence. The second section on asylum seekers and refugees shows a type frame similar to the cultural relativism seen in arranged marriage frame in addition to the public health frame that clearly surrounds asylum application on the grounds of FGM. The definition of forced marriage in the present case

CEU eTD Collection

seems to respond to very specific criteria that relies on applicants' milieu. Lastly the development sectors illustrates a public health frame and a silent frame, in other words, a non-actions frame. The diagnosis is imprecise because it is not clearly established and the only definition falls into gender-based violence category along with other violent behaviours without giving specific attention to early and forced marriage.

Nonetheless these three sectors, despite the other frames, still officially consider early and forced marriage as of form of gender-based violence and an unacceptable violation of human rights. While this definition corresponds to the human right frame, the prognosis must respond to particular criterias as specified above. The prevention pillar is mainly applicable in the internal affairs along with the development sector. In both cases the same problems transpired, a clear lack of community engagement either by lack of consideration for the importance role played by the community or by fear of interfering. Preventive action in these sectors are too superficial to be impactful and do not take into consideration a full scope of gender perspective integration. The protection found in all sector and more particularly in the internal affairs sectors stays weak, especially for migrant who therefore 'slip through the crack of intervention' (Meetoo & Mirza 2007) because of the cultural relativism surrounding the practice amongst migrants women. While prevention takes time and commitment and must be developed on the long term, the protective pillar is fundamental to ensure victims' security and rehabilitation. Concerning the prosecution aspect, Belgium is mainly responsible for its internal affairs sectors, the Belgian criminal law against forced marriage and prosecution-oriented policies reinforces an anti-immigrant and racist environment. This type of interventions

CEU eTD Collection

result in victims being less likely to seek for help and protection and thus to come forward through preventive interventions.

The inconsistencies of the Belgian government over the issue of early and forced marriage become more apparent by comparing the variation in definitions amongst the three sectors. On the one hand, the Belgian internal affairs sector demonstrates strong political and legislative actions to counter the practice of early and forced marriage. The cultural frame clearly points out the unacceptable nature of harmful cultural practices. On the other hand, the asylum seeker and refugee sector along with the development sector moderate these arguments through cultural relativism. The fact that asylum procedures emphasize on background and cultural facts to prove the presence or not of forced marriage cases denies the definition of early and forced marriage in itself which state that an union is considered coercive as long as one of the two parties does not consent to the union.

Then, by framing Moroccan and Turkish immigrants as the main perpetuators of early and forced marriage practices in Belgium, one could think that addressing the issue at its core on the preventive level would be to collaborate with Morocco and Turkey. However, despite the establishment of a development and cooperation partnership Morocco since 1965, the only sectors of collaboration have been food security and infrastructure. The issue therefore seems to be considered as belonging outside the Belgium borders where the government is free from responsibilities towards victims. Overall while motivation behind early and forced marriage policies cannot be proven, the comparison of the different sectors points out the significant inconsistencies

CEU eTD Collection

between the discourse surrounding early and forced marriage taking place within the Belgian borders and abroad but involving the Belgian government. On the one hand the issue is taken seriously by heavily criminalizing the practice. And on the other hand foreign victims' cases are often relativized and put into a context in order to limit the Belgian government interventions.

My initial interest over this topic came over the realisation that research on the topic were still limited. This research demonstrates that this lack of knowledge and research creates inconsistencies in definitions and framework which weakened the implementation of successful polices and interventions. Luckily research on child, early and forced marriage is slowly starting to arise, yet the extant of the practice comprehension remains very limited.

CEU eTD Collection

Bibliography

Alanen, J., 2012. Shattering the Silence Surrounding Forced and Early Marriage in the United States. , 32(2).

Alien Act, 2013. *Article 79bis*,

Anitha, S. & Gill, A., 2009. Coercion, Consent and the Forced Marriage Debate in the UK. *Feminist Legal Studies*, 17(2), pp.165–184. Available at: http://dx.doi.org/10.1007/s10691-009-9119-4.

Bacchi, C.L., 1999. *Women, policy, and politics : the construction of policy problems*, London: Sage.

Bredal, A., 2011. Border control to prevent forced marriages: choosing 90 between protecting women and protecting the nation. In *Forced marriage : introducing a social justice and human rights perspective*. pp. 90–112.

Brysk, A., 2005. *Human Rights and Private Wrongs*, Routledge Press.

Bunting, A., 2005. Stages of Development: Marriage of Girls and Teens as an International Human Rights Issue. *Social & Legal Studies*, 14(1), pp.17–38.

Carles, I., 2009. *Le deuxième sexe de l ' immigration*,

CGRS, 2015. CGRS: Office of the Commissioner General for Refugees and Stateless Persons. Available at: http://www.cgrs.be/en [Accessed July 21, 2015].

Chant, S. & Gutmann, M.C., 2002. “Men-streaming” gender? Questions for gender and development policy in the twenty-first century. *Progress in Development Studies*, 2(4), pp.269–282.

CEU eTD Collection

Chantler, K., Gangoli, G. & Hester, M., 2009. Forced marriage in the UK: Religious, cultural, economic or state violence? *Critical Social Policy*, 29(4), pp.587–612. Available at: http://csp.sagepub.com/content/29/4/587.abstract.

Conseil du Contentieux des Etrangers (CCE), 2015. Arret n°138 876.

Coomaraswamy, R., 2002. *Integration of the Human Rights of Women and the Gender*, Available at: http://www.awf.or.jp/pdf/h0016.pdf.

Council of Europe, 2011. *Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence*, Available at: http://www.refworld.org/docid/4ddb74f72.html.

DAWN, 2012. Pakistani laws prohibiting underage marriage un-Islamic: CII. . *DAWN*. Available at: http://www.dawn.com/news/1092468.

DGDC, 2009. *La coopéeration belge au développement dans le domaine de la santé et des droits sexuels et reproductifs*,

DGDC, 2002. *Note stratégique égalité des droits et des chances entre les femmes et les hommes*, Available at: http://diplomatie.belgium.be/fr/binaries/note_strategie_gender_tcm313-65610.pdf.

DGDC, 2007. *Note stratégique: le respect des droits de l'enfant dans la coopération au développement*,

Diop, N.J. & Askew, I., 2009. The Effectiveness Program Education Genital of a Community-based on Abandoning Female Mutilation / Cutting in Senegal. *Studies in Family Planning*, 40(4), pp.307–318.

Drif, L. & Bedu, A., 2005. *Réflexion sur la problématique des marriages forcés*, Mouvement Français pour le Planning Familial.

CEU eTD Collection

ECPATUK, 2009. *Stolen Futures: Trafficking for forced child marriage in the UK*,

Fonteneau, B. & Huyse, H., 2014. *Child and forced marriage : a blind spot in the Belgian Tackling child and forced marriage*,

Forced Marriage Unit, 2013. *Forced Marriage Unit STATISTICS JANUARY TO DECEMBER 2013*,

Freedman, J., 2008. Women's right to asylum: Protecting the rights of female asylum seekers in Europe? *Human Rights Review*, 9(4), pp.413–433.

Gangoli, G. et al., 2011. Understanding forced marriage: definitions and realities. In *Forced marriage : introducing a social justice and human rights perspective*.

Garcia, A., Dumont, L. & Melan, E., 2004. *Le mariage: un choix pour la vie? Une enquête sur les aspirations et attentes des jeunes envers le mariage*,

Garner, J.H. & Maxwell, C.D., 2009. Prosecution and Conviction Rates for Intimate Partner Violence. *Criminal Justice Review*, 34(1), pp.44–79. Available at: http://cjr.sagepub.com/content/34/1/44.abstract.

Gill, A. & Anitha, S., 2011. *Forced marriage: Introducing a social justice and human rights perspective*, Zed Books.

Girls Not Bride, 2014. A Theory of Change on Child Marriage. Available at: http://www.girlsnotbrides.org/theory-change-child-marriage-girls-brides/.

Girls Not Bride, 2015. About Child Marriage. Available at: http://www.girlsnotbrides.org/what-is-the-impact/ [Accessed August 1, 2015].

Gong-gershowitz, J., 2009. Forced Marriage : A " New " Crime Against Humanity ? *Northwestern Journal of International Human Rights*, 8(1). Available at: http://scholarlycommons.law.northwestern.edu/njihr.

CEU eTD Collection

Groupe Santé Josaphat, 2009. *Argumentaire: Brochure d'information – « Temps des vacances, temp s du mariage ? »*,

Heise et al., 1999. *Ending violence against women*,

HM Government, 2009. Multi-agency practice guidelines: Handling cases of Forced Marriage. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35530/forced-marriage-guidelines09.pdf.

Holvoet, N. & Inberg, L., 2014. Belgian Development Cooperation through a Gender Lens (2002-2012) Nathalie Holvoet.

House of Representatives, 2011. *Bill modifying the Alien Act of the 15 of December 1980 relating to the access to territory, residence, establishment and removal of foreigners (Doc 53 0596/001)*,

House of Representatives, 2013. *Bill modifying the Civil Code, the Penal Code, the Judiciary Code on the Alien Act*,

House of Representatives, 2007. *Bill of the article 391sexies of the Penal Code (Doc 51 2767/003)*,

House of Representatives, 2012. *Policy brief: Equal Opportunities*,

House of Representatives, 2015. *Resolution on combatting early and forced marriages in the world and more particularily in Belgian Development Cooperation partners' countries*,

International Center for Research on Women (ICRW), 2007. *New Insights on Preventing Child Marriage: A Global Analysis of Factors and Programs*, Available at:

CEU eTD Collection

http://www.icrw.org/files/publications/New-Insights-on-Preventing-Child-Marriage.pdf.

ITECO, 2010. Migrants d'hier, migrants d'aujourd'hui. Available at: http://www.iteco.be/antipodes/Migrations-OP-13/Migrants-d-hier-migrants-d-aujourd.

Khawaja, M. & Hammoury, N., 2008. Coerced sexual intercourse within marriage: a clinic-based study of pregnant Palestinian refugees in Lebanon. *J Midwifery Womens Health*, 53(2), pp.150–154.

Kool, R., 2012. Step Forward, or Forever Hold Your Peace: Penalising Forced Marriages in the Netherlands. *Netherlands Human Rights Quarterly*, 30(4).

Korteweg, A., 2012. Understanding Honour Killing and Honour-Related Violence in the Immigration Context: Implications for the Legal Profession and Beyond. *Canadian Criminal Law Review*, 16(2).

Korteweg, A. & Yurdakul, G., 2009. Islam, gender, and immigrant integration: boundary drawing in discourses on honour killing in the Netherlands and Germany. *Ethnic and Racial Studies*, 32(2), pp.218–238. Available at: http://dx.doi.org/10.1080/01419870802065218.

Korteweg, A.C., 2011. Understanding Honour Killing and Honour- Related Violence in the Immigration Context : Implications for the Legal Profession and Beyond.

Krizsan, A., Bustelo, M. & Hadjigianni, A., 2007. Domestic Violence: a public matter. In *Verloo, M. Multiple Meanngs of Gender Equality: A Critical Frame Analysis of Gender Policies in Europe*. Budapest: CEU Press.

Krizsan, A., Paantjens, M. & van Lamoen, I., 2005. Domestic Violence: Who's Problem? *The Greek Review of Social Research*, 117, pp.63–92.

CEU eTD Collection

Martin, P.Y., 2007. This paper is forthcoming in an edited volume: Martin, Patricia Yancey. Coordinated community services for victims of violence. O'Toole, Laura L., Jessica R. Schiffman, and Margie L. Kiter Edwards (Eds). 2007. , pp.1–17.

Martiniello, M., 2003. Belgium's Immigration Policy. *International Migration Review*, 37(1), pp.225–232.

Meetoo, V. & Mirza, H.S., 2007. "There is nothing 'honourable' about honour killings": Gender, violence and the limits of multiculturalism. *Women's Studies International Forum*, 30(3), pp.187–200.

Merry, S.E., 2011. *Gender violence: A cultural perspective*, London: John Wiley & Sons.

Michau, L., 2007. Approaching old problems in new ways: community mobilisation as a primary prevention strategy to combat violence against women. *Gender & Development*, 15(1), pp.95–109.

Millbank, J. & Dauvergne, C., 2011. Forced Marriage and the Exoticization of Gendered Harms in United States Asylum Law. *Columbia Journal of Gender and Law*, 19(3).

Milquet, J. & De Block, M., 2014. Ne soyez pas victime d " une relation de complaisance ou forcée ! , pp.2010–2012. Available at: www.relationdecomplaisance.be.

Mohanty, C., 1988. Under western eyes: Feminist scholarship and colonial discourses. *Feminist Review*, 30, pp.61–88.

Montoya, C. & Agustín, L.R., 2013. The Othering of Domestic Violence : The EU and Cultural Framings of Violence against Women. *Social Politics*, 20(4), pp.534–557. Available at: http://muse.jhu.edu/journals/social_politics/v020/20.4.montoya.pdf.

CEU eTD Collection

of War, D.C. for the E. of I.C. for the P. of V., Pictet, J. & Cross., I.C. of the R., 1952. *The Geneva conventions of 12 August 1949.*, Geneva: International Committee of the Red Cross.

Okin, S., 1999. *Is Multiculturalism Bad for Women?*, Princeton University Press.

Ouali, N., 2005. Le mariage dans l'immigration : de la théorie à la pratique. *Mariage choisi, mariage subi: quels enjeux pour les jeunes*.

Parliamentary Assembly, 2005. *Resolution 1468: Forced marriages and child marriages*, Available at: http://www.refworld.org/docid/43f5d5184.html.

Penal Code, 2007. *Article 391sexies*,

Phillips, A. & Dustin, M., 2004. UK Initiative on Froced MArriage: Regulation, Dialogue and Exit. *Political Studies*, 52, pp.531–551.

Prochaska, J.O. et al., 1994. Stage of Change and Decisional Balance for 12 Problem Behaviors. *Health Psychology*, 13, pp.39–46.

Ratia, E. & Walter, A., 2009. *International exploration on forced marriages – a literature study on legal measures, policy and public debates in Belgium, France, Germany, United Kingdom and Switzerland*, WLP.

Razack, S., 2004. Imperilled Muslim Women, Dangerous Muslim Men and Civilised Europeans: Legal and Social Responses to Forced Marriages. *Feminist Legal Studies*, 12(2), pp.129–174. Available at: http://dx.doi.org/10.1023/B%3AFEST.0000043305.66172.92.

Del Re, A., 2013. Gender and domestic violence in Portugal: Intervention practices and their effects. In *Teaching against Violence Reassessing the Toolbox*.

CEU eTD Collection

Rea, A. & Bensaid, N., 2012. *Etude relative aux mariages forcés en région de Bruxelles-Capitale*, Université Libre de Bruxelles.

Reilly, N., 2011. Rethinking the interplay of feminism and secularism in a neo-secular age. *Feminist Review*.

Reitman, O., 2005. On exit. In *Minorities within minorities: Equality, rights and diversity.* Cambridge: Cambridge University Press, pp. pp. 189–208.

Sabbe, A. et al., 2014. Forced marriage: an analysis of legislation and political measures in Europe. *CRIME LAW AND SOCIAL CHANGE*, 62(2), pp.171–189.

Schei, B. & Bakketeig, L.S., 1989. Gynaecological impact of sexual and physical abuse by spouse. A study of a random sample of Norwegian women. *Br J Obstet Gynaecol*, 96(12), pp.1379–1383.

Shahinian, G., 2012. *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences: Thematic report on servile marriage.*, United Nation General Assembly: Human Right Council.

Somserset, C., 2012. *EARLY MARRIAGE: WHOSE RIGHT TO CHOOSE?*, Mission Statement of the Forum on Marriage and the Rights of Women nd Girls.

The Civil Code, 1999. *Article 146bis*, Belgium.

The Civil Code, 2007. *Article 146ter*,

The Council of the European Union, 2003. Council Directive 2003/86/EC on the right to family reunification. , pp.12–18.

The Council of the European Union, 2004. COUNCIL DIRECTIVE 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need

CEU eTD Collection

international protection and the content of the protection gra. *Official Journal of the European Union*.

Thomas, C., 2009. *FORCED AND EARLY MARRIAGE: A FOCUS ON CENTRAL AND EASTERN EUROPE AND FORMER SOVIET UNION COUNTRIES WITH SELECTED LAWS FROM OTHER COUNTRIES*,

UNHCR, 2002. *GUIDELINES ON INTERNATIONAL PROTECTION: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*,

UNHCR, 1979. *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*,

UNICEF, 1989. *Convention on the Rights of the Child*, Available at: http://www.unicef.org/crc/.

UNICEF, 2005a. *Early Marriage a Harmful Traditional Practice a Statistical Exploration Early Marriage a Harmful Traditional Practice a Statistical Exploration Contents*,

UNICEF, 2005b. *Early Marriage: A harmful tradition - A statistical overview*,

UNICEF, 2001. *Early Marriage: Child spouses*,

United Nation, 1948. *Universal Declarations of Human Rights*,

Verloo, M. & Lombardo, E., 2007. Contested Gender Equality and Policy Variety in Europe: Introducing a Critical Frame Analysis Approach. *Multiple Meanings of Gender Equality: A critical frame analysis of gender policies in Europe*, pp.21–49.

CEU eTD Collection

Van Vossole, A. & Gilbert, E., 2011. *Étude phénoménologique scientifique de la violence liée à l'honneur en Belgique Rapport final*, Available at: https://5085.f2w.fedict.be/sites/default/files/downloads/rapport.

Weinstock, D., 2005. Beyond exit rights: Reframing the debate. In *Minorities within minorities: Equality, rights and diversity.* Cambridge: Cambridge University Press, pp. pp. 227–246.

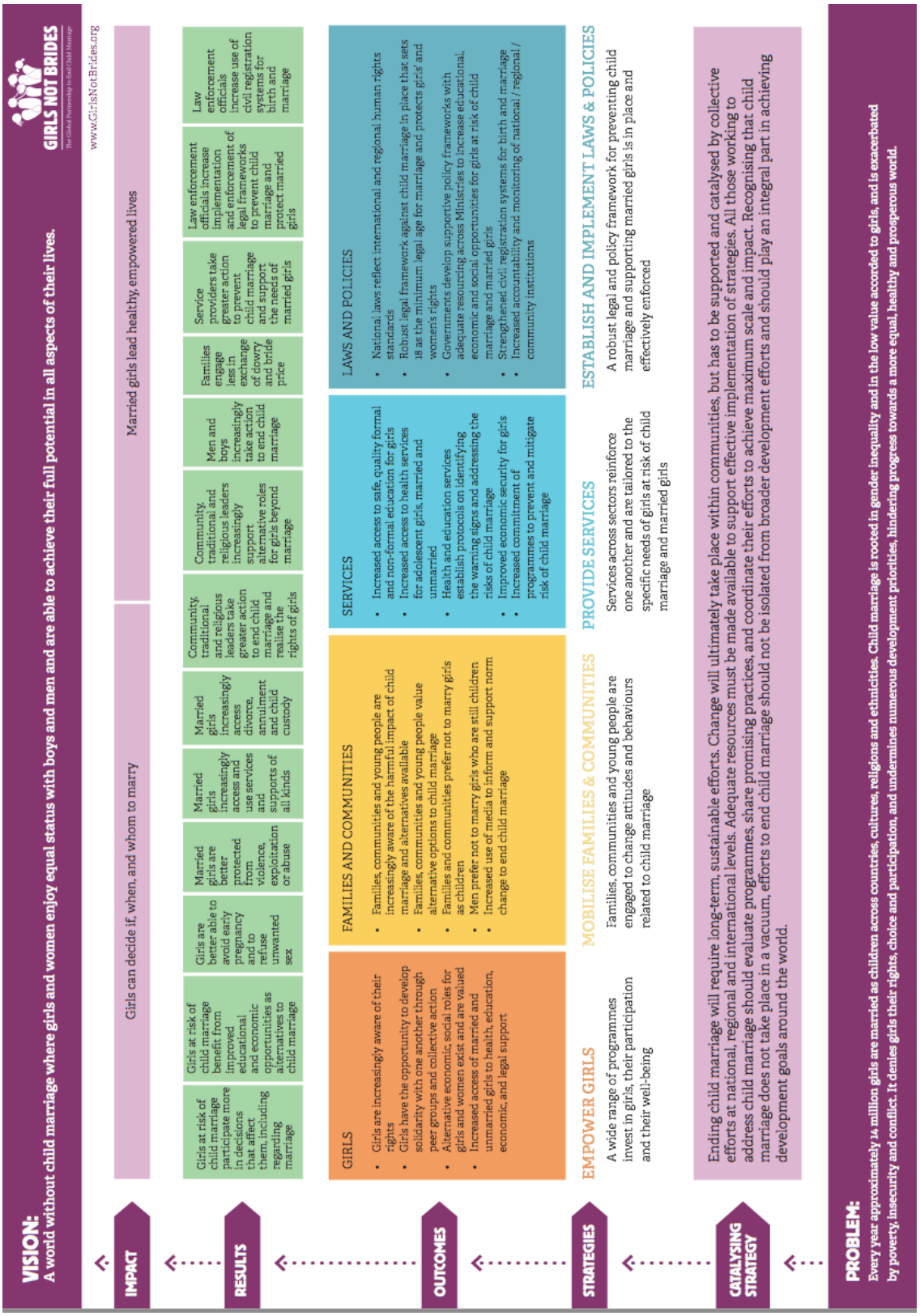
WHO, 2011. Violence against women.

World Conference on Women, 1998. Beijing: UN Fourth World Conference on Women. In New Delhi: Women's Feature Service.

Yoder, P.S., 2008. *Long-term evaluation of the Tostan Programme in Senegal: Kolda, Thies and Fatick regions*, New York.

CEU eTD Collection

Annex 1 – Theory of Change (Girls Not Bride, 2014)



CEU eTD Collection

Annex 2 - List of Interviews

	Organisation of the Interviwee	Name	Position	Date of Interview
Interview 1	IEFH	Nicolas Belkacemi	Attaché	23/02/2015
Interview 2	Centre pour l'égalité des chances	Deborah Kuppenberg	Attaché	20/02/2015
Interview 3	Plan BE	Anthony Vanovershelde	Research & Advocacy Advisor	20/02/2015
Interview 4 (Skype)	ICRW	Els Leye	Researcher	31/03/2015
Interview 5 (Skype)	La Voix des Femmes	Maria Miguel-Sierra	President of 'La Voix des Femmes'	16/04/2015

CEU eTD Collection