

Defining exploitation and trafficking in the context of marriage - challenges and responses

My paper explored the concrete links between forced, abusive and exploitative marriages based on the preliminary findings from an UNODC funded project in 2017-2019 during which data on the topic was collected from nine countries around the world. Experts and practitioners were interviewed during country missions to Canada, Germany, Jordan, Kyrgyzstan, Malawi, Serbia, South Africa, Thailand and Vietnam to gather case examples, promising practices and experiences in addressing the issue. Due to the complexity of the phenomenon in question, a broad approach was used to capture the different types of coercive marriages such as forced and child marriage, as well as abuse and exploitation in the context of marriage or in initiation of marriage (e.g. bride kidnapping) and their connections to trafficking and or slavery-like practices. The results of the work will be outlined in a forthcoming UNODC issue paper *Interlinkages between trafficking in persons and marriage* which will be published during 2019.

In the recent years growing number of cases of forced and other coercive marriages have been identified in the context of human trafficking in different countries around the globe (Lyneham & Ricards 2014; Viuhko et al. 2016; UNODC 2016; 2018a; 2018b; ICMPD 2015; 2018; IOM 2015; Brunovskis & Surtees 2017; EC 2018). According to the 2016 Global Report on Trafficking in Persons, trafficking for marriage as a specific form of exploitation was reported by 15 countries during the 2012–2014 period (UNODC 2016). IOM (2015) and ICMPD (2015) have noted that the incidence of trafficking for forced marriage as a form of exploitation has significantly increased in Iraq and Syria as a result of the Syrian war.

Also EU Member States have reported a growing number of identified cases of trafficked persons entering into sham or forced marriages (EC 2018). Such victims are also subjected to sexual exploitation, forced child bearing and/or labour exploitation, or forced into marrying non-EU citizens to regularise their stay. According to latest EU-statistics, women and girls presented two-thirds (68%) of the identified victims of trafficking for other forms of exploitation in 2015–2016 (71% in 2015 and 65% in 2016) which include for example forced marriages, forced criminality and begging. (Ibid.) Regardless of increased attention to the phenomenon, overall there is a very limited amount of information on, e.g. the number of prosecutions and on the victims of trafficking in persons which include an element of marriage.

Globally, rather few countries have criminalised forced, child or sham marriages as a form of exploitation in their trafficking legislation. Some countries have criminalised such marriages as separate offences without any linkage to human trafficking per se. Even though all forced, child or sham marriages cannot be qualified as human trafficking, they can be linked to trafficking when certain conditions are met (e.g. Viuhko et al. 2016).

Marriage in some form can be linked to all three elements of trafficking: the act, the means and the purpose. Marriage may be used to acquire access to the victim's labour and body and used as a way to bring the person across (international) borders to be exploited for different purposes such as

sexual exploitation, forced labour or servitude. Some victims are exploited for multiple purposes at the same time. Interestingly, Lyneham and Richards (2014) have suggested that exploitation in connection with marriage could be viewed as a separate category from sexual exploitation and labour exploitation, referring to “exploitation of the very personhood of the victim”, which includes exploitation of:

- “labour (in the form of domestic servitude, forced labour outside the home, or both);
- body (in the form of sexual servitude to their intimate partner and/or lack of control over childbearing); and
- self (in the form of loss of freedom and psychological bondage)” (ibid., ix).

Overall, it is not very easy to draw the line between “mere” negative consequences of abusive and exploitative marriage, different forms of exploitation and human trafficking. The phenomenon is also very gendered, and women and girls have to bear the consequences of coercive behaviours such as psychological, physical and sexual abuse, violence and threats, emotional manipulation, isolation, and restrictions of freedom of movement. Moreover, they are very much dependent on their husbands and their families for food, accommodation and even residence permits, which make it difficult for the women and girls to seek help and disclose the full extent of their experiences to the authorities or even service providers.

In fact, Quek (2018) suggests that the protected status of marriage as an institution may make the harm of “marriage trafficking” potentially more difficult to detect. Marriage may be used to disguise or even legitimise exploitation to certain degree. This makes it challenging for the authorities to qualify such cases as trafficking especially if national trafficking legislation does not include e.g. forced marriage as a form of exploitation. Often relevant cases may be qualified as incidents of domestic or intimate partner violence (e.g. Lyneham & Richards 2014). This has significant impact on the rights of the victims and their access to specialised services, including residence permit options, which are available to trafficked persons, but not to victims of “mere” forced marriage and/or intimate partner violence.

To safeguard the rights of victims, it is therefore important to increase the level of awareness and understanding of the phenomenon among authorities and to make sure the case-by-cases analysis is made to capture the totality of the situation, including the elements of trafficking, abuse of position of vulnerability, dependency, coercion and exploitation.

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