

**Inter-American Programme for the Prevention and Eradication of  
Sexual Exploitation, Smuggling of and Trafficking in Children**

**Sexual exploitation of children  
through forced marriage and/or  
common law relationships.  
Approximations, approaches and  
challenges related to this issue in the region.**

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The Sexual Exploitation of Children (SEC) is a fundamental infringement of the rights of this population sector, which has worldwide impact and takes on various modalities or forms of expression in the territories. All of these have one element in common: the presence of at least one adult who uses a child or adolescent for sexual purposes, providing him or her, or a third party or parties, with remuneration or the promise of it. The practice has become naturalized in the world's social and cultural constructs. But there is a particular form of SEC that is strongly rooted in cultural and relational practices and models, which involves *forced marriages and/or common law relationships*.

These are “formal or de facto *relationships* established between children or adolescents and adults who are significantly older, which include sexual activities and hide a financial or other type of exchange/retribution, involving both themselves and their family” (IIN, 2021, p. 5). We have purposely emphasized the word *relationships*, since the parties in them cannot be said to be peers or equal partners. On the contrary, in these situations, bonds are established that are based on a clear imbalance of power (economic, gratification, knowledge, and other types), which nullifies any possibility of involving consent and equal negotiation (IIN, 2021). It should be noted that any attitude or comment on the part of children and adolescents in these situations that may resemble consent is tainted by their vulnerability as a result of their age and should not be assumed to legitimize the bond (UNICEF, 2020).

The exchange or retribution that occurs is not always explicit and tangible, which contributes to making exploitation invisible and socially legitimizing these relationships. Most of these bonds between adults and teenagers (mainly female) involve a symbolic remuneration; based on the possibility of a better future, of feeling recognized by someone, or of having a place to live in as an alternative to their original place of residence. In some regions or communities, the social and collective imaginary still perceives that a union with an adult is a guarantee of protection and a safeguard for young spouses or partners, as well as for their families, providing them with a better future. On occasion, it is even the “expected” path, repeating behavioural patterns historically established in family models.

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<sup>1</sup> This Issues Note was prepared by Cecilia Romero, Consultant for the IIN-OAS's *Inter-American Cooperation Programme for the Prevention and Eradication of Sexual Exploitation, and trafficking of and smuggling in Children*.

The fact that national legislation exists that allows formal unions/marriages between adolescents and adults also contributes to the invisibility of this violent and violating practice, and to the social naturalization of such bonds. In Latin America and the Caribbean, the minimum age for marriage is 18 years (with the exception of Honduras, where it is 21 years), coinciding with the age of “majority”, when the child ceases being the object of protection. However, some countries allow marriage and formal unions from the age of 14, 15 or 16, with the consent of their adult caregivers, guardians or the authorities.<sup>2</sup>

Even without reaching the formality of an official tie, sexually exploitative unions between adolescents and adults are also legitimized by the minimum ages established for sexual consent. Unlike the consensus established regarding the age for marriage, the minimum age for sexual consent is very diverse in the States of the region, ranging from 13 to 18 years (Cavada Herrera, 2022). Some legislations incorporate an indication of the maximum age difference allowed if the union is not to be considered abusive and violent.

### **Child marriage, forced marriage: mutually exclusive concepts?**

Terminological distinctions need to be made with regard to the concepts of *child marriage* and *forced marriage*, so that the scope of these can be clearly determined.

For the United Nations, *child marriage* is “any marriage where at least one of the parties is under 18 years of age” (CEDAW/C/GC/31/CRC/C/GC/18, 2014, paragraph 20). This includes not only marriages carried out in compliance with the law, but also bonds and common law unions where at least one of the parties is under the age of 18.

The term *forced marriage*, for its part, is defined as: “any marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure” (A/HRC/26/22, 2014, paragraph 6).

Although a priori these are two different concepts, in practice they are not. The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child are strongly of the view that any form of child marriage should be considered a form of forced marriage, “given that one and/or both parties [under the age of 18] have not expressed full, free and informed consent.” (CEDAW/C/GC/31/CRC/C/GC/18, 2014, paragraph 20).

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<sup>2</sup> It should be noted that the United Nations Committee on the Rights of the Child has issued recommendations to several States in the region in this regard, encouraging them to raise to 18 the age for marriage, without exceptions, as a means of protecting the rights of children and adolescents.

## **Impacts in Latin America and the Caribbean: incidence, profiles and characteristics**

It is estimated that 23 per cent of girls in Latin America and the Caribbean are married or in a common law union before the age of 18, which represents a ratio of one in four young women in this type of relationship. One in five child brides have married, formally or otherwise, a man at least ten years older; and eight in ten are mothers before they reach the age of majority (UNICEF, 2019).


These bonds are most often established as informal unions, where the majority are girls/adolescents living with “partners”, without legally formalizing their relationship. These “child brides” are mostly from rural areas, from poor households and have attained only low levels of education (UNICEF, 2019). These situations tend to occur most frequently in the most socio-economically vulnerable population: “girls from poor or uneducated families are three times more likely to marry before the age of 18” (OAS, 2017).

The bonds established through forced/child marriages have consequences for and impacts on the development of adolescents as individuals. They do not only cause physical, mental or sexual harm and/or suffering, with consequences for their personal development, but also have a negative impact on their ability to fully exercise their rights (CEDAW/C/GC/31/CRC/C/GC/18, 2014, paragraph 20). Teenage victims of these relationships suffer abuse and violence due to the characteristics of the bond itself and its power imbalances, in addition to the fact that they abandon their education centres and areas of protection very early, often experience forced adolescent motherhood and suffer the restriction of their possibilities for future development.

This is a problem with wide and historical implications in the region. While other parts of the world have been able to reduce child marriage rates through various strategies, its prevalence in Latin America and the Caribbean has not changed in the last 25 years. If this trend continues, the region is expected to have one of the highest rates of child marriage after Sub-Saharan Africa (UNICEF, 2019). The outlook for the region is not encouraging and requires the promotion of effective mechanisms for action.

## **Commitment to action – Challenges for the States**

There is an urgent need to address situations involving forced marriage and/or common-law relationships in the region. Social and cultural tolerance of these unions contributes to the perpetuation of the problem and fosters the increase of social inequality in the region. It is essential to eliminate the naturalization of these practices and to perceive them at the social level as a power imbalance that violates the rights of children and adolescents and limits their development opportunities.



In this regard, comprehensive actions are required, with coordinated intersectoral, civil society and community commitments, which can promote the social problematization of these unions, the punishment of adults who fail to comply with and violate children's rights, and the effective protection of children and adolescents.

It is necessary to review and modify national regulations that provide legal support for this type of union. Raising the minimum age of marriage to 18, without exceptions, or establishing the presumption of violence as a premise in marriages where one of the parties is under 18 years of age, and establishing lower age differences between the parties of the union to make sexual consent acceptable, are recommended alternatives to discourage these practices, at least from the formal point of view.

It is also necessary to promote comprehensive public policies for children and adolescents who are in these situations or at risk of becoming involved in them. The exchange or retribution, implicit or explicit, that is generated through these unions for the children and/or their families are elements that perpetuate this type of violating unions. Comprehensively addressing the needs that it is attempted to overcome through these unions could mitigate their occurrence.

Likewise, it is necessary to develop awareness-raising mechanisms for operators in the field of justice and the protection matrix, which will make it possible to acquire a keener view of the phenomenon and generate protective responses for children and adolescents.

Finally, the responses offered to reduce the incidence of the issue must also include children and adolescents themselves as active parties in the design and implementation of proposals. Having access to participation opportunities is not only their right, but also an effective mechanism for advocacy on the issue and on proposals for solutions.

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