

Resolution 1468 (2005)¹

Forced marriages and child marriages

1. The Parliamentary Assembly is deeply concerned about the serious and recurrent violations of human rights and the rights of the child which are constituted by forced marriages and child marriages.
2. The Assembly observes that the problem arises chiefly in migrant communities and primarily affects young women and girls.
3. It is outraged by the fact that, under the cloak of respect for the culture and traditions of migrant communities, there are authorities which tolerate forced marriages and child marriages although they violate the fundamental rights of each and every victim.
4. The Assembly defines forced marriage as the union of two persons at least one of whom has not given their full and free consent to the marriage.
5. Since it infringes the fundamental human rights of the individual, forced marriage can in no way be justified.
6. The Assembly stresses the relevance of United Nations General Assembly Resolution 843 (IX) of 17 December 1954 declaring certain customs, ancient laws and practices relating to marriage and the family to be inconsistent with the principles set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights.
7. The Assembly defines child marriage as the union of two persons at least one of whom is under 18 years of age.
8. The Assembly deplores the drastic effects of marriage on married children. Child marriage in itself infringes their rights as children. It is prejudicial to their physical and psychological welfare. Often an obstacle to school attendance, child marriages may be prejudicial to children's access to education and their intellectual and social development, in that they restrict their horizon to the family circle.
9. The Assembly is appalled to find that some national legislation permits the marriage of minors, sometimes in a discriminatory fashion with gender-based differences in minimum ages.

10. Such marriages should, in fact, no longer take place in our societies, which uphold human rights and the rights of the child. In that respect, the Assembly concurs with the considerations set out in the 1962 United Nations Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages which reaffirms "that all States, including those which have or assume responsibility for the administration of Non-Self-Governing and Trust Territories until their achievement of independence, should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, *inter alia*, complete freedom in the choice of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded".

11. The right to marry is recognised in Article 12 of the European Convention on Human Rights. The Assembly nevertheless recalls the further provision in this article for the exercise of this right to be governed by national laws.

12. It therefore stresses the need to take the requisite legislative measures to prohibit child marriage by making 18 years the minimum marriageable age. Thus, persons not having reached this age would not be able to lawfully contract marriage.

13. The Assembly therefore recommends that Council of Europe member states take the following legal measures regulating the right to marry:

13.1. ratify the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, if they have not yet done so;

13.2. ratify the 1979 Convention on the Elimination of All Forms of Discrimination against Women and the amendment and protocol thereto, if they have not yet done so;

13.3. ensure their compliance with Council of Europe Committee of Ministers' Recommendation Rec(2002)5 on the protection of women against violence.

14. The Assembly urges the national parliaments of the Council of Europe member states to:

14.1. renegotiate, discard or denounce any sections of international agreements and rules of international private law contrary to the fundamental principles of human rights, particularly as regards personal status;

14.2. adapt their domestic legislation, if appropriate, so as to:

14.2.1. fix at or raise to 18 years the minimum statutory age of marriage for women and men;

14.2.2. make it compulsory for every marriage to be declared and entered by the competent authority in an official register;

14.2.3. institute an interview between the registrar and the bride and groom prior to the celebration of the marriage and allow a registrar who has doubts about the free

and full consent of either or both parties to summon either or both of them separately to another meeting;

14.2.4. refrain from recognising forced marriages and child marriages contracted abroad except where recognition would be in the victims' best interests with regard to the effects of the marriage, particularly for the purpose of securing rights which they could not claim otherwise;

14.2.5. facilitate the annulment of forced marriages and possibly automatically annul such marriages;

14.2.6. lay down a maximum period of one year, in so far as practicable, to investigate and rule on an application for annulment of a forced marriage or a child marriage;

14.3. regard coercive sexual relations victims are subjected to within forced marriages and child marriages as rape;

14.4. 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.

1. *Assembly debate* on 5 October 2005 (29th Sitting) (see Doc. 10590, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Zapfl-Helbling; and Doc. 10678, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs Bargholtz).

Text adopted by the Assembly on 5 October 2005 (29th Sitting).