

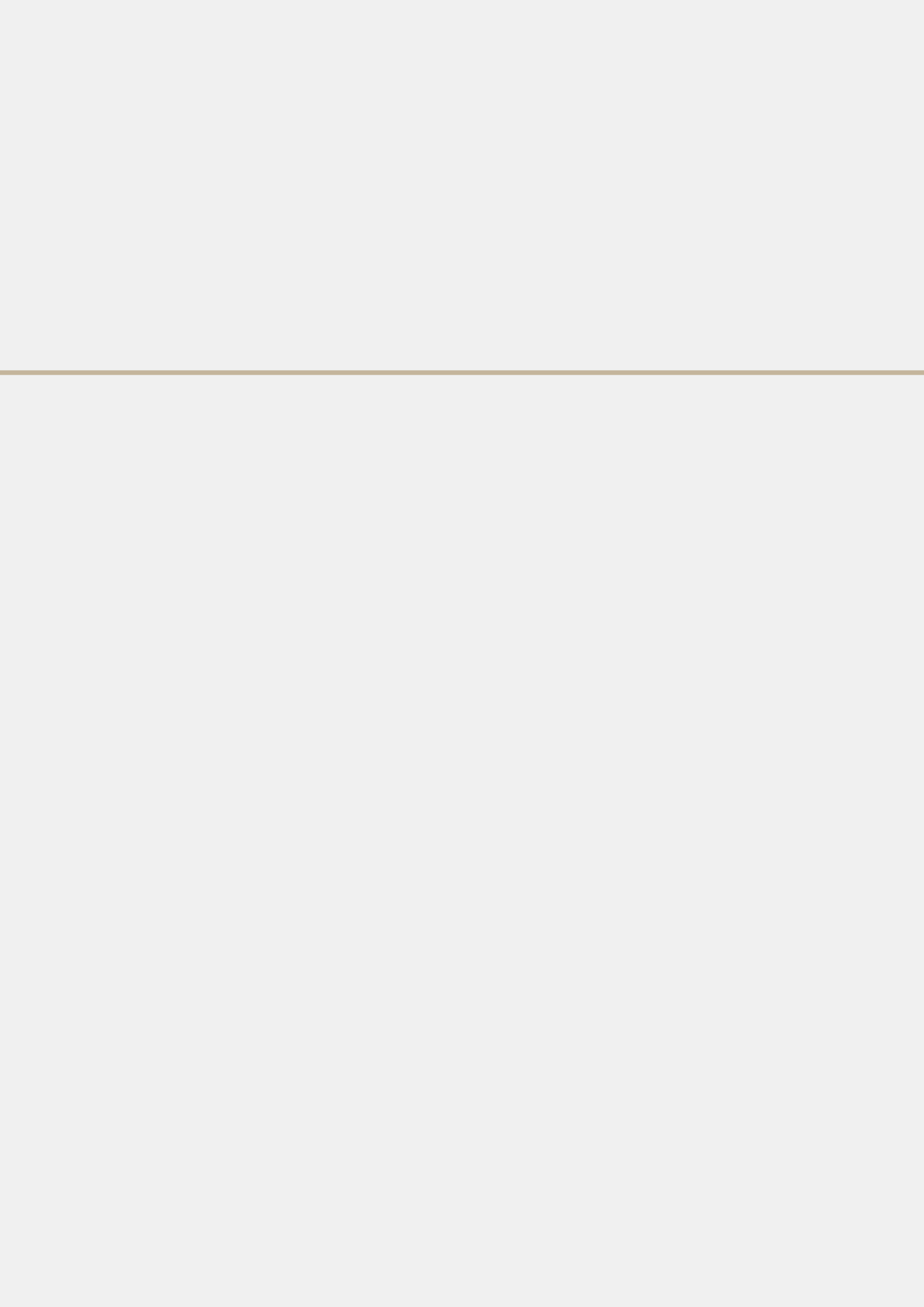
Research study on child marriages in Italy



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Child marriage is a serious form of human rights violation and sexual violence against children. The practice is most common among girls and results in domestic and sexual servitude, with direct negative consequences on the realisation of the child's human potential and effects on physical and psychological development such as early pregnancies, which significantly increases the risk of complications during pregnancy and childbirth, maternal and child mortality and health problems for the newborn, who is often premature and underweight, problems in the emotional development of girls, social isolation, dropping out of school, the impossibility of achieving full autonomy and, therefore, dependence on the husband and submission to the patriarchal system. Equally serious, of course, are cohabitation situations, which place the girl in an even more precarious social context.

This document, created at the initiative of No Peace Without Justice (NPWJ) with the support of The Circle Italia, the network of women who support projects in favour of women in difficulty in Italy and worldwide, is the result of an exploratory survey that lays the foundations for an advocacy campaign against child marriages on the Italian territory. NPWJ aims to raise awareness and mobilise the stakeholders involved towards the international human rights standards that the Italian State has committed to respect, highlighting and facilitating the dissemination of positive actions already carried out at local, regional and national level.

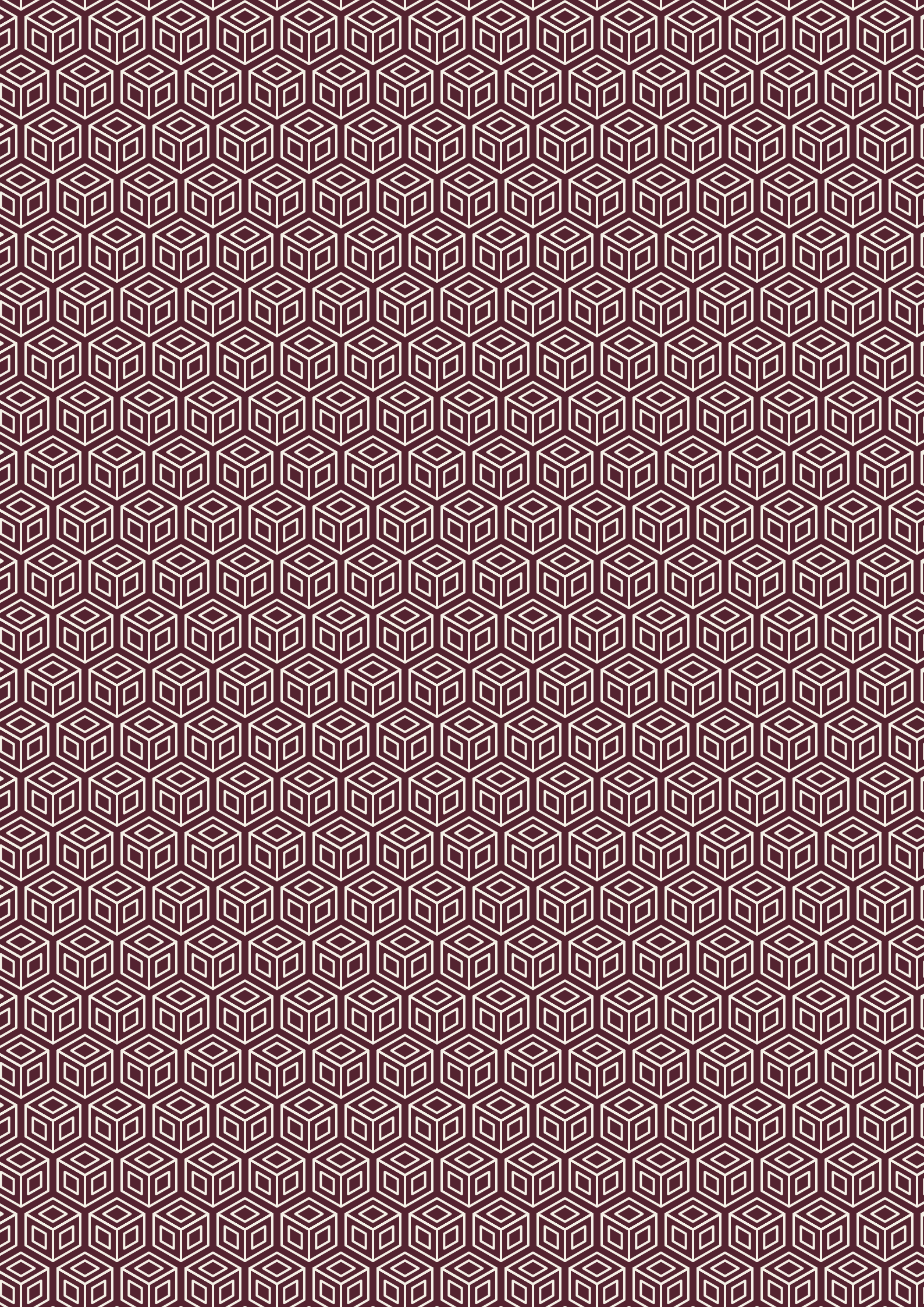
We firmly believe that a human rights-based approach informed by a gender perspective can be not only useful, but necessary to eradicate child marriages in Italy and thus improve the condition of thousands of children. It is, therefore, from this perspective that our analysis is developed. The study analyses the phenomenon of child marriages and its incidence, the legislation in force at national and international level and the actions implemented by different governmental and non-governmental stakeholders, both in Italy and abroad.

The first phase of the research (carried out between September 2020 and January 2021) consisted of a bibliographical study that included both academic studies and grey literature (documents and papers from non-academic institutions, such as UN agencies, governments, or non-governmental organisations). The main objective in this phase was to define and, as far as possible, quantify the phenomenon in Italy and Europe from a socio-legal point of view. Therefore, the bibliographical research made it possible to construct a critical analysis of the national and international legislative

framework. This first phase has also included the systematic review of existing material in terms of field studies: this has allowed us to highlight the gaps in this regard and thus shed light on the need to pay more attention to the issue of child marriages in Italy. Ultimately, the three main outputs of the bibliographical study consist of (1) a mapping of the relevant stakeholders on the Italian territory; (2) a review of the actions carried out in the last ten years in Italy and abroad; and consequently, (3) the identification of the best practices by institutional and civil society actors and the evaluation of their potential scalability in the various Italian realities.

To enrich and integrate this bibliographical/documentary work, a qualitative field survey was carried out in the second phase of the study (February 2021) through an open questionnaire administered to the most relevant social actors identified during the first phase. These are NGOs, associations and anti-violence centres that work or have worked in various capacities on the issue of child marriages (reception and assistance to victims, advocacy, research, etc.) and whose experiences and contributions are undoubtedly useful for a deeper understanding of the phenomenon and of the needs, critical issues and good practices existing on the Italian territory.

NPWJ hopes that this document will be a useful tool to support the advocacy action and an inspiration for further actions against child marriages, being confident that human rights-based collective action is an effective strategy for the realisation of equality and rights for all.



1 – Defining and contextualising child marriages

A linguistic premise

When tackling the issue of child marriages, it is necessary to start from a linguistic premise: often, in fact, the terminology used in the literature and in the public debate presents ambiguities between the definitions of arranged marriage, forced marriage and child/early marriage. This ambiguity is also due to the fact that there are undoubtedly common elements between these three phenomena, to the extent that in some cases the overlaps are such that they may be synonymous. However, we consider it essential to distinguish between the implications¹ of the use of one or the other term.

An arranged marriage is a marriage in which the partner is not chosen by the couple, but by their family. Although an arranged marriage tends to be seen as lacking the element of consent, it is important to point out the criticality of the definition of “consent”, and the fact that an arranged marriage does not necessarily imply that the spouses are not consensual or that the marital union is unsuccessful. Forced marriage² is defined as a marriage celebrated with a lack of consent, i.e. in where one or both partners do not consent, including cases in which consent is extorted by violence or threat, and is therefore neither informed, nor ‘free and full’³.

Both may involve older or younger persons: in the latter case, it is a question of underage or early marriage. This document addresses the latter phenomenon in the Italian context⁴.

Prevalence in the world, Europe, and Italy

According to 2020 UNICEF-UNFPA⁵ estimates, there are currently 650 million women and girls alive who were forced to get married before the age of 18 (with 115 million men and boys); 12 million girls are subject to such violence every year. Although the phenomenon has shown a worldwide decline compared to past decades (from 21% to 15% in the last decade), UNICEF draws attention to the fact that even if current trends are maintained, without significant action by the international community it will be impossible to achieve the global eradication of child marriage envisaged in Sustainable Development Goal 5.3⁶.

The global crisis caused by the COVID-19 pandemic has exacerbated the incidence of child marriage, to the extent that, according to recent Save the Children figures, there were an estimated 500,000 forced marriages and one million additional pregnancies in 2020⁷. UNICEF also points out that the pandemic has called into question the progress achieved over decades. Despite a downward trend over the last decade, which has reportedly prevented 25 million child marriages, the pandemic and

1 Mainly of a legal nature and consequently practical, since a case of early marriage activates a series of international and domestic obligations by the Italian State, whereas a case of forced or combined marriage activates others or may not activate any of them, if it is not identified as such and/or there is no explicit expression of dissent by the spouses.

2 The use of this expression is now widespread in international literature. In the (very scarce) existing Italian literature - in particular in the work of the sociologist Daniela Danna - we also find the definition of “imposed marriage”, used as a synonym of “matrimonio forzato”.

3 Within the category of forced marriages, the so-called marriage of convenience deserves particular attention, that is the marriage contracted to provide one of the partners with a regular residence in a given country, through family reunification. This form of marriage is often accompanied by the crime of human trafficking, when a person - in most cases a woman - is made a victim of international trafficking to become a ‘passport’ for the partner.

4 Council of Europe definition. See Resolution 2233 (2018). Forced marriage in Europe

5 <https://www.unicef.org/stories/child-marriage-around-world>

6 Sustainable Development Goal (SDG) 5 is gender equality. Target 3, in particular, aims at the elimination of all harmful practices, including early and forced marriage and Female Genital Mutilation (FGM)

7 Save The Children (2020). Con gli occhi delle bambine. Atlante dell’infanzia a rischio 2020. Edited by Vichi de Marchi.

its consequences threaten this progress, putting an estimated 10 million more girls at risk than before the pandemic⁸.

The downward trend in child marriages is also counteracted by the rapid population growth in areas of the world with low economic development, with poverty being one of the main risk factors. In particular, the area with the highest prevalence is sub-Saharan Africa, where one in three child brides are now found, followed by South-East Asia. The persistence of conflict zones and insecure situations such as refugee camps is another obstacle to the eradication of child marriage. In these contexts, parents are more likely to choose to marry off their daughters in the belief that they are protecting them from violence and insecurity.

Child marriages, however, are not the prerogative of areas of the world that, from a European perspective, are often perceived as remote or profoundly different in terms of economic and cultural development - in short, 'other'. Child marriage is a global and European problem, within immigrant communities from countries where the practice is still widespread, but not exclusively so: in the United States, for instance, Unchained at last fights against child marriages, which are legal in several states. This organisation estimated that between 2000 and 2010, 248,000 child marriages took place in the United States, in some cases involving pre-teenagers as young as 12 years old⁹.

A 2014 study by the European Union Agency for Fundamental Rights (FRA) reports that in both Germany and England, one-third of the victims or potential victims of forced marriages detected for the year 2012 were under the age of 18¹⁰. Specifically, in England, 1,355 forced marriages (or cases of underage "betrothed") were identified in 2019, 27% of which involved minors, with 15% being under the age of 15¹¹. The FRA also notes that, in Europe, child marriages are an established reality within some Roma communities¹². In 2011, the European Roma Rights Centre surveyed 11 States that host the majority of these communities in the European Union (Bulgaria, France, Greece, Italy, Poland, Portugal, Czech Republic, Romania, Slovakia, Spain and Hungary): the percentage of 16-17 years old married or in a cohabitation situation was on average 16%. In the 10-15 age group, 2% of Roma girls were married or cohabiting¹³.

As far as Italy is concerned, we can only rely on studies conducted by non-governmental organisations since there is no national observatory to quantify the phenomenon¹⁴. These studies focus on limited areas of the Italian territory and are mainly qualitative studies, which help to better understand the phenomenon and the subjective experience of those who live it but do not provide numerical data and whose results are not scalable to the national territory.

In 2009, a qualitative research report by *Trama di Terre* on the Emilia-Romagna region identified 33 forced marriages (30 women and 3 men)¹⁵. In 2014, Le Onde Onlus conducted a qualitative study on forced marriages in Italy, given the impossibility of formulating quantitative data due to the absence of data collection bases and for social reasons¹⁶. The only quantitative and qualitative study carried out expressly on child marriages is, to our knowledge, a research by Associazione 21 luglio carried out in

8 See United Nations Children's Fund (2021). COVID-19 A Threat to Progress Against Child Marriage. UNICEF, New York, p. 6.

9 See <https://www.unchainedatlast.org/>

10 European Union Agency for Fundamental Rights (2014). Tackling forced marriage in the EU: legal provisions and promising practices.

11 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/894428/Forced_Marriage_Unit_statistics_2019.pdf

12 European Union Agency for Fundamental Rights (2014). Tackling forced marriage in the EU: legal provisions and promising practices.

13 European Roma Rights Centre (2011), ERRC submission to the joint CEDAW-CRC General Recommendation/ Comment on Harmful Practices: Child Marriages among Roma, Budapest, Hungary, 9 September 2011, <http://www.ohchr.org/Documents/HRBodies/CEDAW/HarmfulPractices/EuropeanRomaRightsCentre.pdf>

14 Until 2019, forced (and early) marriage did not even exist as a standalone crime: this legal lacuna that did not incorporate interventions for its elimination.

15 Danna (2009), Per forza, non per amore. Rapporto di Ricerca sui Matrimoni Forzati in Emilia-Romagna. Association Trama di Terre Onlus.

16 Le Onde Onlus underlines how the phenomenon is under-reported and how the population involved, often socially marginalised, stigmatised, lacking awareness of their rights and self-determination, in many cases does not have recourse to the authorities; moreover, coercion to marry and the degree of consent are complicated to estimate, since they are subjective elements.

the slums of Rome, from which it results that the prevalence of child marriages in resident Roma communities reaches 77%¹⁷ (as a reference, the country where most forced marriages are practised in the world is Niger, with an average prevalence of 76%, according to data published by the *Girls Not Brides* network¹⁸).

From European and Italian research, an evident problem emerges, which constitutes the main obstacle to the contrast and prevention of child marriage in the European and Italian context: the scarcity of data and the non-homogeneity of the latter. This problem also characterises the phenomenon of Female Genital Mutilation (FGM) in Europe, an issue on which NPWJ has worked extensively, reporting this difficulty and formulating recommendations for improving data collection. As in the case of mutilation, the phenomenon is not always easily visible, but some situations are occasions to detect any warning signs, such as medical check-ups, pregnancies, or school dropouts.

Although there are several studies on the topic of child marriages (however, as discussed, mainly with qualitative approaches and not at the community level, there are several critical issues that make the available data sparse, uneven, and outdated, making it difficult to form a solid statistical basis for especially public intervention. To the best of our knowledge, after extensive research, there are currently no quantitative surveys at the national level in the different states¹⁹.

A first critical point is a difficulty in identifying and counting child marriages: they are often not registered, take place abroad and/or are not reported to the Italian authorities (or to the authorities of the European country where the couple resides); consequently, it is complicated for the authorities to build a database on this phenomenon and to coordinate with each other to combat it. This also leads to inhomogeneity at the inter-state level, so it is currently impossible to have reliable data at the EU level. Furthermore, as discussed, there is an overlap between forced marriage and child marriage phenomena, which are often studied and addressed in the same place as a single issue - as is the case with the aforementioned FRA study.

Given the difficulty to evaluate and quantify the risk minors in Italy of being subjected to forced and early marriages compared to, for example, FGM (for which much more data is available at both European and national level), some research studies²⁰ suggest the use of two indicators, which are the nationality of the person at risk (the spread of the practice of forced marriages can vary significantly within different States) and the rate of pregnancies at the age of the minor in the country of origin. Given that, in most cases, pregnancy occurs within a marital bond, knowing this data can help estimate the incidence of forced marriages within a given immigrant community within the Italian territory.

At the basis of the scarcity (or even absence) of data and mechanisms to collect them, there is certainly a lack of understanding and knowledge of the phenomenon of child marriage, both within the European Union and in Italy. It is also fuelled by the “Western gaze”, which ignores the presence of the problem in its own context, relegating it to places and cultures that it identifies as “other”²¹; instead, the issue at stake affects global society, and the Western gaze only prevents States in the Global North from setting it as a priority in their political agenda. A clear example of how the issue is hardly addressed is provided by a study carried out in Sicily, exclusively on forced marriages. This is the testimony of a health sector manager, who stated in an interview: “I

17 Associazione 21 luglio Onlus (2017). Non ho l'età. I matrimoni precoci nelle baraccopoli della città di Roma.

18 <https://www.girlsnotbrides.org/where-does-it-happen/atlas/>

19 In countries where there is a national mechanism to combat the phenomenon (e.g. the Forced Marriage Unit in the United Kingdom), a larger sample of cases to which it has been possible to offer assistance is available, and thus obtain some useful statistics on the age, origin and gender of the people who have turned to it - however, all cases not reported to the authorities remain uncounted. Between 2011 and 2018, the Forced Marriage Unit followed up an average of 1359 cases per year (Forced Marriage Unit Statistics 2019).

20 Linee guida per il riconoscimento precoce delle vittime di mutilazioni genitali femminili ad altre pratiche dannose. A cura di Associazione Parsec Ricerca e Interventi Sociali; Coop. Soc. Parsec; University of Milano-Bicocca; A.O. San Camillo Forlanini; Nosotras Onlus and Associazione Trama di Terre (2018).

21 It is interesting to note that Italy, in particular, abundantly finances campaigns to eliminate child marriage in sub-Saharan Africa and South-East Asia - such as the UNFPA-UNICEF Global Programme to End Child Marriage - without, however, implementing organic policies to address and eradicate it at the national level.

don't know if we have been distracted, if we have not observed it and therefore we have not let the problem emerge, if our way of building relationships does not facilitate its emersion, but we have never encountered it"²².

Child marriages: characteristics, causes, consequences

Child marriage is any union in which one or both partners have not reached the age of majority (according to the standards of international law, 18 years old). It may take place through civil, religious, or traditional rites or it may be an informal union.

While it should not be forgotten that the phenomenon involves both girls and boys, it is important to note that, as the available data shows, the vast majority of cases affects girls, with a ratio of approximately 1 to 6, according to UNICEF²³. Globally, it is more common for underage girls to be given in marriage to adult men, who may be dozens of years apart. This is crucial to highlight, as it underscores the importance of a gender perspective in any policy and discourse on the issue.

It is a multidimensional phenomenon: although it may be practised for different reasons in different social groups, there are some common risk factors, which together help to understand the prevalence of the phenomenon, among the main are

- Situations of poverty: This also explains why child marriage is more prevalent in rural than in urban contexts;
- Low levels of education, especially for women: a girl or boy with few opportunities for schooling will also be less likely to achieve awareness of his or her subjectivity and right to self-determination;
- Social norms, mainly patriarchal attitudes - also widespread in Western states - according to which women are attributed subordinate roles to men and are considered less capable of self-determination and independence in decision-making. Another fundamental point is the control of women's bodies and sexuality, which are often seen as enshrining the 'honour' of the entire family, so that child marriage is used to prevent the loss of such honour should the girl not get to marriage as a virgin;
- Family dynamics, also linked to economic factors: marrying off a daughter means no longer having to support her in financial terms; moreover, in some societies, the dowry increases with the age of the bride, thus encouraging early marriage;
- The belief that it places the betrothed (especially if she is a woman) in a 'protected' situation, sheltered from violence and abuse - a situation that may, however, be the cause of the same abuse from which the family wanted to protect the daughter;
- Insecurity and conflict or post-conflict situations: in the presence of these conditions, the likelihood of child marriages increases;
- In the case of migrant communities, child marriage may serve as a means of maintaining links between countries and/or social groups by marrying one's daughter to members of her community of origin;
- In the case of a migrant child, the desire to perpetuate and preserve the traditions and values of the community of origin, often exacerbated by a situation of marginalisation from the context of the country of residence, may be at the root of the phenomenon.

22 Le Onde Onlus (2014). Matrimonio Forzato in Italia: una ricerca qualitativa. Project "MATRIFOR - Approaching forced marriages as a new form of trafficking in human beings in Europe", p. 37

23 <https://www.unicef.org/press-releases/115-million-boys-and-men-around-world-married-children-unicef>

According to a 2005 Council of Europe report, the factors behind forced marriage (which also apply to child marriage) differ according to whether it is practised in rural and poor contexts, or whether it is practised by immigrant families or families of immigrant origin in European countries: “in the first set of countries, the causes are mainly related to forms of cultural pressure, such as the importance attached to honour and virginity, security in old age, the desire to maintain property in the family or the concern to reinforce parental authority. In the second, the driving force may be (...) the need to preserve and reaffirm identity, to continue migration or to repay a debt to one’s community. Additional factors may include deteriorating gender relations, the rise of religious fundamentalism, difficulties in marriage or sexuality, and concerns about preventing children from having an intermarriage”²⁴. Although there is an element of tradition, as *Associazione 21 Luglio* states “the transversality of the diffusion of early marriage (and all that precedes and follows it) is a testimony and proof of how the issue depends, more than on the cultural specificities of the group, on the socio-economic conditions in which families find themselves”²⁵.

Child marriage is one of the so-called harmful traditional practices²⁶. It is an act whose perpetuation, linked to particular social values and attitudes, seriously undermines the human rights of the children on whom it is imposed. However, it is important to point out that this practice is normalised for the people who carry it out - families and parents who impose marriage on their daughters at an early or very early age almost always do so in the belief that it is an advantageous choice, even though they are aware of the consequences that child marriage can have on the girls.

The consequences, however, are harmful to child brides on a social, psychological, and physical level. Forced marriage is associated with

- Increased likelihood of dropping out of school; note that this is both an effect and a cause, as *Associazione 21 luglio* points out²⁷ - in the case of the Roma communities in which their study was carried out, it may be precisely the interruption of schooling at an early age that is a risk factor, exposing the adolescent girl to early marriage. According to the FRA, “only 6 % of married or cohabiting Roma girls aged 16-17 remain in school, compared to 36 % of all Roma girls of the same age”²⁸;
- Serious sexual and reproductive health risks: According to the World Health Organisation (WHO), child marriage leads to early, repeated and overly close pregnancies. Complications of pregnancy and childbirth are the leading cause of mortality among girls aged 15 to 19 worldwide²⁹;
- Increased exposure to domestic violence for oneself and one’s children: in situations where women do not enjoy the same rights as men, especially at a young age and in situations of socio-economic vulnerability such as child marriages, the likelihood that the marital relationship will be characterised by sexual (marital rape), physical, psychological, and financial violence increases;
- Increased mental health risks and increased likelihood of committing suicide: Women in child marriages are at risk of social isolation, violence, lack of independence and self-determination in daily decisions, which can easily result in lack of future prospects, low self-esteem, depression and, in extreme cases, suicide;
- Child marriage can also lead to (or have its roots in) human trafficking: through marriage, girls can become victims of forced labour and sexual slavery.

Although the prevalence of child marriages, as we have seen, is much higher in some areas of the world such as South-East Asia and sub-Saharan Africa, it is present worldwide, creating the need for

24 E. Rude-Antoine (2005). *Forced Marriages in Council of Europe Member States: A Comparative Study of Legislation and Political Initiatives*, Steering Committee for Human Rights, p. 8., translated by Le Onde Onlus.

25 *Associazione 21 luglio Onlus* (2017). *Non ho l’età. I matrimoni precoci nelle baraccopoli della città di Roma*, p.12

26 Along with other phenomena such as MGF, force-feeding, food taboos, scarification, etc.

27 *Associazione 21 luglio Onlus* (2017). *Non ho l’età. I matrimoni precoci nelle baraccopoli della città di Roma*.

28 European Union Agency for Fundamental Rights (2014). *Addressing forced marriage in the EU: legal provisions and promising practices*, p. 13

29 https://www.who.int/mediacentre/news/releases/2013/child_marriage_20130307/en/

the entire international community to understand its dynamics at the local level and to equip itself with effective mechanisms to counter it. In Europe, even in the absence of an exhaustive database, it is possible to state that early marriages are mainly concentrated in certain immigrant communities (those in whose countries of origin early marriage is still widespread) and in the Roma population - in Italy consisting mainly of Roma, Sinti and Caminanti groups.

In this context, we believe it is important to pay attention to how child marriages are analysed: approaching the problem (and that of forced and arranged marriages) as exclusive and characteristic of the migrant or somehow “foreign” population, risks contributing to the discrimination and xenophobia already present in Europe, stigmatising entire communities and creating what the Council of Europe has defined “a feeling of otherness”³⁰. NPWJ analyses the phenomenon of child marriage bearing in mind that it is only one of the ways in which inequality and gender-based violence are expressed in all cultures and societies. It is essential to understand their nature and prevalence in order to be able to eradicate them.

Child marriage as a violation of human rights and a form of gender-based violence

We have seen how different elements can influence child marriages, depending on the geographical and social context in which they are practised. Ultimately, however, this practice is rooted in gender inequality, i.e. in social attitudes that define the social role of women - and thus their aspirations, values, norms, expectations, education - as inferior to that of men. They emerge in a particularly violent form regarding the body and sexuality, which is why child (and usually forced) marriage results from such attitudes, functioning as a means of controlling and regulating female behaviour, especially in the sexual and reproductive spheres. In addition, parental attitudes are also influenced by gender stereotypes: as emerged in the interviews conducted by *Le Onde Onlus*, “It is part of the parent’s responsibilities to make sure that the daughter or son have a good marriage and do the best for the arrangement of their children. This attention is much more concentrated on women than on men, because women are considered to be the weaker ones, the ones who need to be supported and helped”³¹.

These stereotypes - and the behaviours and practices that derive from them - are therefore not attributable to this or that particular culture, but permeate global society: moreover, as *Associazione Trama di Terre* argues, “it is possible to affirm with certainty that the practice of forced marriages is not due to strictly theological or religious grounds, but to traditionalist conceptions of patriarchal authority and family relationships based on the control of women, conceptions that constitute a systematic violation of fundamental human rights”³².

NPWJ therefore intends to address the issue of child marriage with a human rights-based approach, examining it within the framework of gender-based violence, in line with the provisions of bodies such as the UN and the Council of Europe (see next section for a review of existing international legislation on this issue). NPWJ believes that child marriage is also inherently forced, as a child, even with age-appropriate capacity, may not be able to fully understand the consequences of the commitment they are undertaking, nor the day-to-day reality they will face once married. This position is in line with the indications of international law, which suggests that States outlaw the marriage of children under the age of 18 - however, there is both a legal and sociological debate on the possibility of contracting marriage even at a younger age in exceptional cases, as is also the case in Italy. The subjectivity of the victim and her self-determination in the full realisation of her human rights are at the heart of NPWJ’s

30 Council of Europe, Steering Committee for Human Rights (2017). Guide to good and promising practices aimed at preventing and combating female genital mutilation and forced marriage, p. 6.

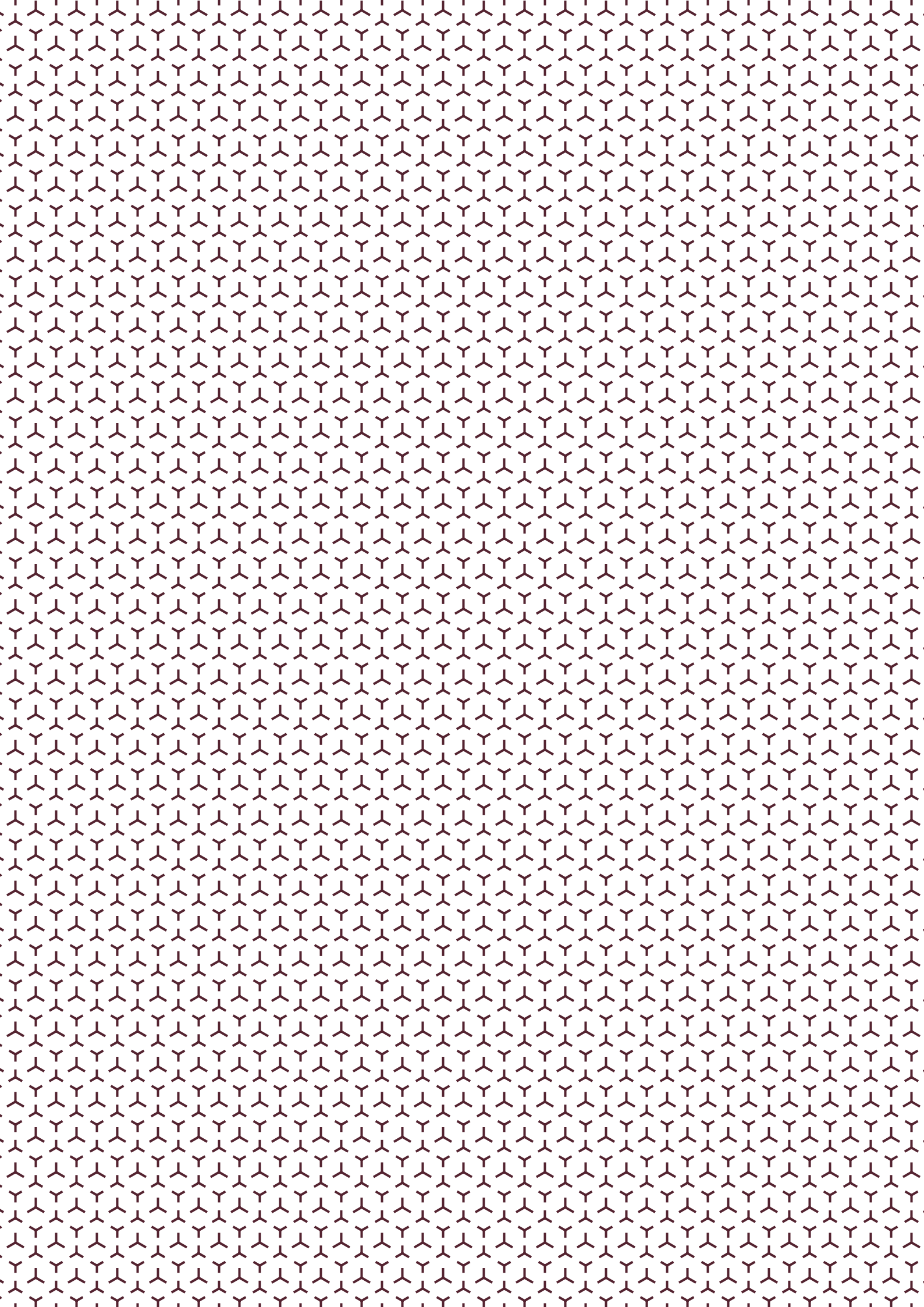
31 *Le Onde Onlus* (2014). Matrimonio Forzato in Italia: una ricerca qualitativa. Project “MATRIFOR - Approaching forced marriages as a new form of trafficking in human beings in Europe”, p. 29

32 *Associazione Trama di Terre* (2014). Matrimoni forzati, combinati e precoci. Vademecum per gli operatori e operatrici.

work, considering the multiple and complex intersections between the different forms of oppression to which girls and young women are exposed through the practice of child marriages.

Based on these assumptions, we aim to:

- Conduct a mapping of civil society organisations, government bodies, political representatives and local authorities and other stakeholders involved in various capacities in the fight against child marriage;
- Identify law enforcement actions carried out in the last ten years at national and field level;
- To identify strategies and good practices that could become the subject of an advocacy campaign to improve the Italian context and make it more effective in combating and preventing the phenomenon.



2 - Child marriage in international law

The UN legal framework

This section aims to provide a brief overview of the existing legal framework, the guidelines and the international obligations that Italy has committed to respect - at the global, regional (in particular European) and, finally, national and regional levels - in order to be able to assess whether and how the Italian situation is in line with this framework.

Child marriage is often treated in the same place as forced marriage: the UN High Commissioner for Human Rights refers to the practices with a single acronym, CEFM (*Child, Early and Forced Marriage*)³³. It is important to bear in mind that the two cases have specificities that distinguish them from each other; however, the similarities in terms of causes, consequences and the type of human rights violated by these practices mean that the methods of prevention, protection and contrast are often similar - as are the problems encountered by States in their eradication³⁴. This is why we also mention here international treaties which, even if they do not specifically address child or early marriages, but more generally forced marriages, influence subsequent, more specific legislation and represent fundamental stages in legal developments in this regard.

The first document relevant for our purposes is the Universal Declaration of Human Rights, promulgated by the United Nations in 1948, within the *Commission on Human Rights* codified the right to marriage. Article 16 states that “men and women of full age (...) have the right to marry and to found a family. In marriage, in conjugal union and in its dissolution, they have equal rights. Marriage shall be contracted only with the full and free consent of the parties”³⁵. As is well known, the Declaration lays down principles that will guide subsequent legislation in the field of human rights and gives public relevance to the institution of consensual marriage in this legal context.

The following is a list of relevant Conventions (and General Comments/Recommendations by the relevant Committees):

- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956). The Convention defines as analogous to a form of slavery forced marriages and “any institution or practice whereby a child or young person under the age of eighteen years is handed over, by his or her parents or guardian, to a third person, with or without payment, for the purpose of exploiting his or her person or labour”, as may be the case with child marriages. It further obliges States Parties to “establish, where necessary, an appropriate minimum age for marriage, to promote the use of a procedure that allows either of the intending spouses to freely express their consent to marriage before a competent civil or religious authority, and to promote the registration of marriages”³⁶. The Special Rapporteur on contemporary forms of slavery stressed the link between child marriage and slavery, especially economic and sexual slavery³⁷.
- Convention on Consent to Marry, Minimum Age for Marriage and Registration of Marriages (1962): Article 1 prohibits forced marriage, stating that “no marriage shall be legally celebrated without

33 <https://www.ohchr.org/EN/Issues/Women/WRGS/Pages/ChildMarriage.aspx>

34 For example, the difficulty of obtaining reliable data on these often hidden phenomena, or the difficulty for the girls and women involved in turning to institutions to exercise their rights.

35 See <https://unipd-centrodirittiumani.it/it/schede/Articolo-16-La-famiglia-fondamentale/20>

36 The Italian version of this Convention is available at https://unipd-centrodirittiumani.it/it/strumenti_internazionali/Convenzione-supplementare-sullabolizione-della-schiavitù-del-commercio-di-schiavi-e-sulle-istituzioni-e-pratiche-assimilabili-alla-schiavitù-1956/76

37 See United Nations General Assembly. Human Rights Council (2014). Preventing and eliminating child, early and forced marriage. Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/26/22).

the full and free consent of both parties”³⁸. Article 2 obliges States Parties to “take legislative action to specify a minimum age for marriage. No marriage shall be legally celebrated between persons who have not attained that age, except when a competent authority has granted an exemption from that age for justifiable cause and in the interests of the intending spouses”³⁹.

- International Covenant on Civil and Political Rights (1966): Article 23 prohibits forced marriage, stating that “no marriage shall be celebrated without the free and full consent of the spouses. States Parties shall take appropriate measures to ensure equality of rights and responsibilities of the spouses during the marriage and at its dissolution”⁴⁰.
- International Covenant on Economic, Social and Cultural Rights (1966): Article 10 states that “marriage shall be celebrated with the free consent of the future spouses”⁴¹.
- Convention on the Elimination of All Forms of Discrimination against Women (1979), known as CEDAW. Article 16 enshrines women’s equal rights in relation to marriage, including the right to freely choose to marry, to decide the number and timing of their pregnancies and to exercise their rights and administer their property without interference from others⁴². CEDAW also introduces a fundamental innovation, namely the definition of gender discrimination as a human rights violation, linked to structural conditions in society such as gender stereotypes. In addition, States Parties assume not only negative obligations but also obligations of positive action: not only towards public entities but also towards “persons, entities and organisations of all kinds” - bringing the private sphere within the scope of the Convention (and of state jurisdiction)⁴³.

Although the Convention does not explicitly refer to gender-based violence, the associated Committee issued General Recommendation (GR) 19, which defines gender-based violence as a form of discrimination, and is therefore a violation that falls under the competence of CEDAW.

- The Convention on the Rights of the Child (1989) is the first UN document in which minors are defined and perceived as subjects of law; in it, the term ‘child’, often translated as ‘bambino’ or ‘fanciullo’, would be better translated with the Italian term ‘minore’, since, for the purposes of the Convention, ‘child’ is defined as any individual under the age of 18⁴⁴. Although it does not refer to marriage, the Convention sets out a number of rights that are - or may be - violated in the case of child marriage: these include the right to life, the right to be free from all forms of violence and exploitation or inhuman or degrading treatment, the right to education, health, liberty, dignity, and an adequate quality of life⁴⁵.
- There are also other treaties that briefly mention forced and/or early marriage in the context of other human rights violations, such as in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984): although there are no specific references to forced and/or early marriages in the text, the Committee against Torture, as well as the Special Rapporteur against Torture⁴⁶, have repeatedly defined them as human rights violations similar to torture⁴⁷. Mention of forced marriages is also found in instruments designed to protect the human rights of specific categories, such as the Convention on the Elimination of All Forms of Racial

38 United Nations (1962). Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

39 Ibid.

40 United Nations (1966). International Covenant on Civil and Political Rights.

41 United Nations (1966). International Covenant on Economic, Social and Cultural Rights.

42 United Nations (1979). Convention on the Elimination of All Forms of Discrimination against Women.

43 This is a fundamental aspect, given that gender-based discrimination very often occurs, for example, within the family.

44 In the Italian panorama, this specification (with its legal and social consequences) is not always clear: see, for example, the case of the debate on the adoption of the “Carta della Bambina”, “The Girl’s Chart” by the Lombardy Region - https://www.consiglio.regione.lombardia.it/wps/wcm/connect/8bc24a66-674a-4b67-9646-9ff989d4ba13/12_06_03_19+RIS+CARTA+DELLA+BAMBINA.pdf?MOD=AJPERES

45 United Nations (1989). Convention on the Rights of the Child.

46 United Nations General Assembly. Human Rights Council (2016). A/HRC/31/57, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Note by the Secretariat, p. 16

47 United Nations General Assembly. Human Rights Council (2014), A/HRC/26/22, Preventing and eliminating child, early and forced marriage. Report of the Office of the United Nations High Commissioner for Human Rights, p. 6

Discrimination, which in Article 5 establishes “the right to marry and to choose one’s spouse”⁴⁸ or the Convention on the Rights of Persons with Disabilities, which in Article 23 establishes the right of persons with disabilities of an appropriate age to marry based on their free and full consent⁴⁹.

Italy has ratified all the aforementioned instruments. However, the United Nations system has dealt with the issue of forced and/or early marriages also through soft law documents, such as the Resolutions adopted by both the Human Rights Council⁵⁰ and the General Assembly⁵¹. They underline the urgency of intensifying efforts to prevent and eliminate CEFMs, encouraging States to formulate “holistic, comprehensive and coordinated” responses⁵², recognising such practices - including informal marriages - as human rights violations rooted in gender inequality and exacerbated by contexts such as poverty, conflict, lack of schooling, insecurity and humanitarian emergencies. The various Resolutions call on States to report to the UN, both in terms of legal measures and in terms of prosecution, prevention and action taken against gender inequality.

The Beijing Declaration and Platform for Action, the outcome of the *Fourth World Conference on Women held in Beijing* in 1995, remains a fundamental guiding instrument referred to in most of the instruments mentioned so far. It defines child marriages as harmful traditional practices rooted in gender discrimination and as an obstacle to the full realisation of girls’ and women’s human rights and gender equality⁵³. Another important guideline within the UN is the already mentioned Sustainable Development Goal number 5 (gender equality), target 3 of which provides for the “elimination of all harmful practices such as child, early and forced marriages and female genital mutilation”⁵⁴ by 2030. The UN agencies UNICEF and UNFPA also launched in 2015 and renewed in 2019 the *Global Programme to Accelerate Action to End Child Marriage*.

The minimum age for marriage in the UN framework

The issue of the minimum age deserves attention: as one can see from this brief examination, this minimum age, although included in the UN documents, was not initially defined; the Recommendations accompanying the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages suggested 15 as the minimum age⁵⁵ - a limit that, moreover, was not part of the text of the Convention, and was therefore not legally binding. International consensus has been established over the decades, not without controversy, through the adoption of various treaties and documents, but it is since the adoption of the CRC that the age limit of 18 has been defined as the minimum age

48 United Nations (1965). Convention on the Elimination of All Forms of Racial Discrimination.

49 United Nations (2006). Convention on the Rights of Persons with Disabilities.

50 United Nations General Assembly. Human Rights Council (2013). Strengthening efforts to prevent and eliminate child, early and forced marriage: challenges, achievements, best practices and implementation gaps. (A/HRC/24/23);

United Nations General Assembly. Human Rights Council (2014). Preventing and eliminating child, early and forced marriage. Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/26/22);

United Nations General Assembly. Human Rights Council (2017). Resolution adopted by the Human Rights Council on 22 June 2017. 35/16. Child, early and forced marriage in humanitarian settings. (A/HRC/RES/35/16);

United Nations General Assembly. Human Rights Council (2019). 41/... Consequences of child, early and forced marriage. (A/HRC/41/L.8/Rev.1)

51 United Nations General Assembly (2015). Resolution adopted by the General Assembly on 18 December 2014 [on the report of the Third Committee (A/69/484)] 69/156. Child, early and forced marriage. (A/RES/69/156);

United Nations General Assembly (2016). Resolution adopted by the General Assembly on 19 December 2016 [on the report of the Third Committee (A/71/480)] 71/175. Child, early and forced marriage (A/RES/71/175);

United Nations General Assembly (2019). Resolution adopted by the General Assembly on 17 December 2018. [on the report of the Third Committee (A/73/585)] 73/153. Child, early and forced marriage (A/RES/73/153).

52 United Nations General Assembly. Human Rights Council (2015). Strengthening efforts to prevent and eliminate child, early and forced marriage. (A/HRC/29/L.15)

53 The Fourth World Conference on Women (1995). Beijing Declaration and Platform for Action.

54 <https://www.un.org/sustainabledevelopment/gender-equality/>

55 Servizio Studi del Senato (2018). Nota breve n.31 - Novembre 2018. AA.SS. nn. 174 e 662 - Disposizioni in materia di matrimoni forzati.

recommended to States for marriage⁵⁶.

This threshold is recommended by both the CEDAW Committee and the CRC Committee, respectively in *General Recommendation* (GR) 21 on gender equality in marriage and family relations (1994) and in *General Comment* (GC) 4 on child and adolescent health (2003). In GR21, the CEDAW Committee establishes the right of women to freely choose whether and with whom to marry, solely based on full and free consent, and to freely decide on their eventual pregnancies; it establishes that child/early marriage cannot have legal effects; it also recommends that the minimum legal age for marriage in States Parties be set at 18 years for both men and women⁵⁷. The GR21 is the first UN document to explicitly establish 18 as the minimum age for marriage. In GC4, the CRC Committee draws States' attention to the harmful effects of child marriage, urging them to raise awareness among the population and, in particular, among girls and young women to promote the exercise of their human rights; it also "strongly suggests that States Parties review and, where necessary, reform their legislation to raise the minimum age for marriage - with or without parental consent - to 18 years for girls and boys"⁵⁸.

In 2014, the two Committees issued an important Joint Recommendation: the CEDAW GR31/CRC GC18 on Harmful Practices, which emphasises that forced marriage, as a harmful practice, is rooted in attitudes and practices based on gender stereotypes⁵⁹. It reiterates that "child marriage" is defined as any marriage in which at least one of the spouses is under the age of 18 and that it is a form of forced marriage, "since one or both parties have not given their full, free and informed consent"⁶⁰. In addition, the Recommendation states 'with regard to respect for the child's developing capacities and autonomy to make decisions affecting his or her life, the marriage of a mature and capable child may be permitted in exceptional circumstances, provided that the child is at least 16 years old and that such a decision is made by a judge on the basis of exceptional legitimate grounds established by law and on the basis of manifest maturity, without deference to culture and tradition'⁶¹; the Committees thus seem to admit cases of marriages involving minors who have reached at least 16 years of age, even if in exceptional cases and after an evaluation by a judge. This position seems to contradict an agreement that, not present in any binding treaty but only in recommendations and comments, has been consolidated through various debates and *soft-law* documents, and has taken root over the years, guiding the legal orientations of the United Nations, civil society, and several Member States. The admission of a derogation to 18 years of age, in fact, seems to be in contradiction also with other positions taken in the Joint Recommendation itself, which repeatedly refers to the harmful effects of child marriage on the health (especially sexual and reproductive) of girls and young women, and their freedom of self-determination and, more generally, their human rights.

In line with the international civil society and, in particular, with the *Girls Not Brides* network, NPWJ's position remains strongly in favour of eliminating exceptions to the 18-year marriage threshold: this is because, as *Girls Not Brides*⁶² argues, having objective rather than subjective standards for assessing whether or not to marry represents a protection of girls' rights; in fact, why allow minors to marry when, for example, they cannot vote or be a party to contracts in other contexts? The minimum age of 18 is a means to ensure that those who marry do so with their full, free and informed consent. The meaning of "child" in international law means, as noted above, anyone under the age of 18; given the need to establish a conventional age limit (regardless of different levels of maturity and personal development), NPWJ supports the one that provides the highest level of protection and safeguards for children of all genders - in particular girls and young women.

56 Horii, H. (2019). A blind spot in the international human rights framework: a space between tradition and modernity within the discourse on child marriage. *The International Journal of Human Rights*, 24, pp. 1057-1079.

57 United Nations Committee on the Elimination of Discrimination against Women (1994). CEDAW General Recommendation No. 21: Equality in marriage and family relationships.

58 UN Committee on the Rights of the Child (2003). CRC General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child (CRC/GC/2003/4).

59 United Nations Committees on the Elimination of Discrimination against Women and on the Rights of the Child (2014). Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices (CEDAW/C/GC/31/CRC/C/GC/18).

60 Ibid.

61 Ibid.

62 <https://www.girlsnotbrides.org/child-marriage-law/>

The regional regulatory framework. A focus on Europe

Child marriage is also addressed in regional human rights law, i.e. in the African, Inter-American and European frameworks.

The African Charter on Human and Peoples' Rights (1981)⁶³ stipulates in Article 18 the obligation of States to ensure the elimination of all forms of discrimination against women and the protection of the rights of women and children in accordance with the provisions of international law. The Protocol on the Rights of Women in Africa, known as the Maputo Protocol (2003)⁶⁴, specifically legislates on forced and early marriage, stating that men and women should enjoy equal rights and be considered equals in the context of marriage; it also obliges States Parties to adopt legislative measures to ensure that no marriage takes place without the free consent of both parties and that the minimum age of marriage for women is 18. Finally, the *African Charter on the Rights and Welfare of the Child*⁶⁵ obliges States to protect children from harmful social and cultural practices by taking appropriate measures to eliminate those that are prejudicial to the child's well-being, dignity, normal growth, and development, and in particular those that affect the child's right to health or life or that are discriminatory on the basis of gender or other status. The Charter expressly prohibits child marriage and child betrothal, obliging States to take effective measures, including adapting legislation, to establish the minimum age for marriage at 18 and to make official registration of all marriages compulsory.

In the inter-American context, the American Convention on Human Rights requires the consent of both parties in order to celebrate a marriage⁶⁶; the Inter-American Convention on the Eradication, Prevention and Punishment of Violence against Women (Convention of Belém do Pará, 1994) guarantees, among women's human rights, freedom from all forms of violence, including violence resulting from "stereotyped patterns of behaviour and cultural and social practices based on inferiority and subordination"⁶⁷; The Monitoring Mechanism of the Convention (MESECVI) mentioned child marriage as one of the serious causes of violence, in particular sexual violence, against girls⁶⁸.

As for the European context, the most relevant for our purposes, there are two institutional systems to refer to: the Council of Europe and the European Union. The Council of Europe, as the European regional human rights system, has issued several reference documents, both legally binding and in the form of recommendations:

- The European Convention on Human Rights (ECHR, 1950), Article 12 of which stipulates that the right to marry may be exercised in accordance with national provisions, starting with the minimum age for contracting it⁶⁹. In this article, the concepts of marriage and family appear together, defining the borderline of the Convention's jurisdiction, and dealing, for the most part, with matters reserved for the normative power of national legal systems. This borderline is extremely delicate and slippery, as will be seen below (e.g. as regards the definition of the age limit at national level), as it is permeated by the social and cultural structures that underlie the Member States, which are therefore particularly attentive to possible encroachments on the Convention;
- The Convention on Preventing and Combating Violence against Women and Domestic Violence (known as the Istanbul Convention), issued in 2011 and ratified by Italy in 2013; represents the first legally binding international instrument to define gender-based violence, and not only discrimination, against women as a human rights violation. In it, forced marriages are mentioned among the forms of gender-based violence and treated in Articles 32 and 37, which respectively

63 Organisation of African Unity (1981). African Charter on Human and People's Rights.

64 Organisation of African Unity (2003). Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.

65 Organisation of African Unity (1990). African Charter on the Rights and Welfare of the Child.

66 Organization of American States (1969). American Convention on Human Rights.

67 Organization of American States (1994). Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará).

68 OAS, Follow-up Mechanism to the Belém do Pará Convention - MESECVI (2016). Hemispheric Report on Child Pregnancy in the States Party to the Belém do Pará Convention.

69 Council of Europe (1950). European Convention on Human Rights as amended by Protocols Nos. 11 and 14 supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16.

establish the absence of legal effects (or the obligation of annulment) of forced marriages, and define forced and/or early marriage as “the intentional act of forcing an adult or a child to enter into marriage”, as well as “the act of intentionally enticing an adult or a child into the territory of a Party or a State other than the one in which he or she resides, with the aim of compelling him or her to enter into marriage”⁷⁰. The monitoring mechanism associated with the Convention (GREVIO) has also addressed this issue and included it in its Recommendations to States Parties - including Italy⁷¹;

- The Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), issued in 2007 and in force in Italy since 2012. Although it does not specifically address early marriages, it is a protective instrument as it condemns engaging in sexual activities with a child who, “in accordance with the relevant provisions of national law, has not reached the legal age for engaging in sexual activities (...); using coercion, force or threats; abusing a recognised position of trust, authority or influence over the child, including within the family; abusing a particularly vulnerable situation of the child, in particular because of a physical or mental disability, or a situation of dependency”⁷², circumstances that potentially occur simultaneously in cases of early marriage;
- Recommendation 1450 (2000) on the protection of women’s rights defines forced marriages as ‘criminal acts carried out in the name of tradition’⁷³ and stresses the need for urgent action against them. Recommendation 1723 (2005), followed by Resolution 1468 (2005) on forced and early marriages, invites States to adopt preventive, punitive, and victim-protection strategies⁷⁴.
- Resolution 1468 (2005) on forced and early marriages invites member States to amend their legislation to set the minimum age at 18 years, to oblige the registration of every marriage and to verify the presence of consent in cases of suspected forced marriages, to refuse to recognise forced and early marriages contracted abroad (except in cases where such recognition is in the interest of the victim and her rights), to facilitate the annulment - if possible automatically - of all marriages contracted abroad. States are also invited to consider sexual relations within these marriages as rape and to consider treating the crime of forced marriage as a separate legal case⁷⁵.

Within the European Union, there are several relevant instruments: the Charter of Fundamental Rights of the European Union guarantees, in Article 9, the right to marry and to found a family in accordance with the national legislation regulating the exercise of these rights⁷⁶. However, it does not specify in any way who is entitled to marry or what types of union are possible, leaving these decisions to the jurisdiction of the States.

In terms of binding directives that States are obliged to transpose into their national legislation, the Union has issued:

- The Directive of the Parliament and of the Council on Preventing and Combating Trafficking in Human Beings and Protecting its Victims (2011), which names forced marriages among the acts that can qualify as trafficking in human beings, as the element of consent is absent. In particular, this is the case of child marriage, in which case “no consent should be considered valid”⁷⁷.
- The Directive of the European Parliament and of the Council on minimum standards on the

70 Gazzetta Ufficiale della Repubblica Italiana (2013). Convenzione del Consiglio d’Europa sulla prevenzione e la lotta contro la violenza nei confronti delle donne e la violenza domestica.

71 See page 26

72 Council of Europe (2007). Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS 201)

73 Parliamentary Assembly of the Council of Europe (2000). Recommendation 1450. Violence against women in Europe.

74 https://www.senato.it/japp/bgt/showdoc/17/DOSSIER/0/1005048/index.html?part=dossier_dossier1

75 Parliamentary Assembly of the Council of Europe (2000). Recommendation 1468 (2005), Forced and early marriages.

76 Official Journal of the European Communities (2000). Charter of Fundamental Rights of the European Union. (2000/C 364/01)

77 Official Journal of the European Union (2011). Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

rights, support, and protection of victims of crime, which names forced marriages among the forms of gender-based violence and refers to the need for special assistance for women who have experienced such violence⁷⁸.

Moreover, several *soft-law* instruments testify to the European Union's position on forced and/or child marriages:

- The European Parliament Resolution on Women and Fundamentalism (2002), in which it is stated that “within the EU, the defence of women’s rights implies the impossibility of applying opposing or incompatible legislation or traditions” and that “legislation having the effect of legalising inequalities between men and women will not be applied in the EU”⁷⁹.
- The European Parliament’s proposal for a Resolution on forced marriages (2002), which recognises forced and child marriages as a “violation of the principle of free consent” and invites States to “1. treat forced marriages as a serious attack on the right to freely express one’s consent; 2. Recognise that the risk of undergoing a forced marriage is a reason to grant the right to return to the EU country of residence in case the marriage takes place in a third State; 3. Make the fight against forced marriages a priority for action in the EU’s relations with third States through the ‘human rights clause’; 4. Support NGOs working for the elimination of these practices in countries where they are culturally and traditionally justified”⁸⁰.
- The European Parliament’s Resolution on female immigration (2006). It condemns forced marriages and calls on Member States (1) to take a stand against them as violations of human rights; (2) to adopt legislative measures, including criminal law measures, to combat them, even when they are contracted outside their territory; (3) “to collect data on immigration in the EU, including gender-disaggregated data, and to promote its analysis by the European Institute for Gender Equality”⁸¹.
- The European Parliament’s Resolution on the elimination of child marriage (2017), which reiterates the definition as inherently forced marriage, as a serious violation of the rights of children and in particular of girls, and as gender-based violence. The Parliament expresses its concern about the paucity of data on the phenomenon; calls on States to improve access to health services for women and girls, in particular with regard to sexual and reproductive health; calls on them to cooperate with third States by providing technical assistance where possible to eradicate the phenomenon; “stresses the need to provide special rehabilitation and assistance measures for child brides, to enable them to re-enter education and training and escape the family and social pressures associated with child marriage, stresses the need to allocate budget allocations for child marriage prevention programmes, which aim to create an environment in which girls can develop their full potential, in particular through educational, social and economic programmes for out-of-school girls child protection systems, shelters for women and girls, legal counselling and psychological support”⁸².
- The European Parliament Resolution towards an EU external strategy against early and forced marriage (2018). This Resolution has several innovative elements, such as taking a stand against the possibility in some Member States to marry at the age of 16 with parental consent and calling for such regulations to be amended by setting the minimum age at 18 by adopting, inter alia, measures such as the effective registration of marriages and births and protection mechanisms, as well as economic empowerment. The Resolution reiterates that early and forced marriages represent a

78 Official Journal of the European Union (2012). Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA

79 European Parliament (2002). European Parliament resolution on women and fundamentalism (2000/2174(INI))

80 European Parliament (2002). Motion for a Resolution of the European Parliament on forced marriage.

81 European Parliament (2006). European Parliament resolution on women’s immigration: the role and status of immigrant women in the European Union (2006/2010(INI)).

82 European Parliament (2017). European Parliament resolution of 4 October 2017 on the elimination of child marriage (2017/2663(RSP))

serious violation of the human rights of the children involved and recognises the link with gender discrimination, calling on States to provide human rights education, especially for girls, for all youth - including boys and girls. The resolution also calls on states to implement these provisions in their external relations. Finally, States are encouraged to work with relevant UN agencies, the *Girls Not Brides* network, and international civil society and other partners to achieve the goals of the 2030 Agenda and eradicate all harmful practices, including by supporting EU funding for gender equality and education. The Resolution recognises that criminalising early and forced marriages “does not in itself guarantee the cessation of such practices (...) calls for every effort to be made to implement legal prohibitions and to complement them with a broader range of laws and policies; it recognises that this requires the adoption and implementation of comprehensive and holistic policies, strategies and programmes”⁸³. To date, this Resolution represents the richest and most comprehensive instrument adopted by the European Parliament on the issue of early and forced marriages;

- The EU Action Plan against Smuggling of Migrants 2015 - 2020, which foresees policy actions at the EU level “to fight organised and serious international crime, including cross-border cooperation against document fraud, sham marriages and other forms of abuse of legal entry and residence procedures”⁸⁴;
- The EU Action Plan on Human Rights and Democracy 2020 - 2024⁸⁵, in which the EU commits itself to work towards the elimination, prevention and protection from sexual and gender-based violence, which includes harmful practices such as child and forced marriage.

From this brief overview, it is clear that norms on child marriage - specifically or more broadly concerning forced marriage - are abundant in international law. Child marriage is broadly defined as a serious violation of human rights and as a form of gender-based violence, and thus also discrimination. International law repeatedly emphasises the importance of setting the minimum age for marriage at 18 to ensure the greatest possible protection of children’s human rights.

In general, the provisions contained in the documents mentioned so far encourage States to respect, protect, promote and fulfil the human rights of girls and young women in particular, through adequate laws - also by adopting gender perspective - and the certainty of punishment, monitoring of the phenomenon through the collection and exchange of data, raising of public awareness, training of the professionals involved and financing activities and assistance and accompaniment services for girls and young women involved, among other measures.

These provisions, common in most of the above-mentioned instruments, show that a human rights-based legal approach is indispensable but, by itself, insufficient to address and eradicate the phenomenon. In the face of such an abundance of legal instruments and guidelines, NPWJ notes with concern that most States, including Italy, do not actually observe the provisions to which they are bound.

Private international law and migration law

A final reflection concerns other legal elements relevant for the contrast with child (and/or forced) marriages by EU States.

The first one is the role of private international law in the fight against child marriages: the FRA⁸⁶ points out that it is essential, in the case of marriages between EU residents where at least one of the

83 European Parliament (2018). European Parliament resolution of 4 July 2018 towards an EU external strategy against early and forced marriage - next steps (2017/2275(INI)).

84 Council of the European Union (2015). EU action plan against migrant smuggling (2015 - 2020).

85 European Commission (2020). Annex to the Joint Communication to the European Parliament and the Council. EU Action Plan for Human Rights and Democracy 2020-2024

86 European Union Agency for Fundamental Rights (2014). Addressing forced marriage in the EU: legal provisions and promising practices, p. 23

spouses is a foreigner, to pay attention to the applicable law under private international law - that is, whether the application of the law of the European State of residence or that of the State of nationality of the future spouses is envisaged. The legal regime applied will clearly have consequences in terms of how the marriage is registered, the necessary requirements for contracting the marriage (e.g. minimum age required, presence of both spouses to celebrate the marriage), the authorities competent to celebrate the marriage, and the recognition/registration of marriages that have taken place abroad.

The second element is migration law. The FRA⁸⁷ identifies three situations where it can influence the effect and incidence of early and/or forced marriages:

- Family reunification procedures: several States, such as Germany, France and the Netherlands, have adopted measures prohibiting family reunification in cases where forced marriages are suspected; others (e.g. the Netherlands) have raised the minimum age threshold for reunification to 21.
- The right to return for victims of forced marriages contracted abroad: although the Istanbul Convention foresees in Article 59 this right, the FRA report⁸⁸ shows that in reality, it is subject to several restrictions and requirements (e.g. number of years of residence in the EU country, return within a certain period of time), which makes it difficult to ensure its practical application at State level.
- Right to asylum: Refugee status is granted to women and girls at risk of child and/or forced marriage by several legal instruments: the 1951 Convention relating to the Status of Refugees; the EU Directive 2011/95/EU, which provides for recognition of refugee status when there are acts of persecution (or a well-founded fear thereof), including “those based on gender or age”⁸⁹, such as in the case of child marriages; the Istanbul Convention recognises that gender-based violence can be considered as a form of persecution⁹⁰. In the case of forced marriage, however, the FRA notes that it is rare that being a victim of it (or running the risk of becoming one), per se, constitutes a reason to be granted refugee status: more often, people are only granted subsidiary protection⁹¹, while refugee status is reserved to cases where other forms of gender-based violence are also present along with the forced marriage.

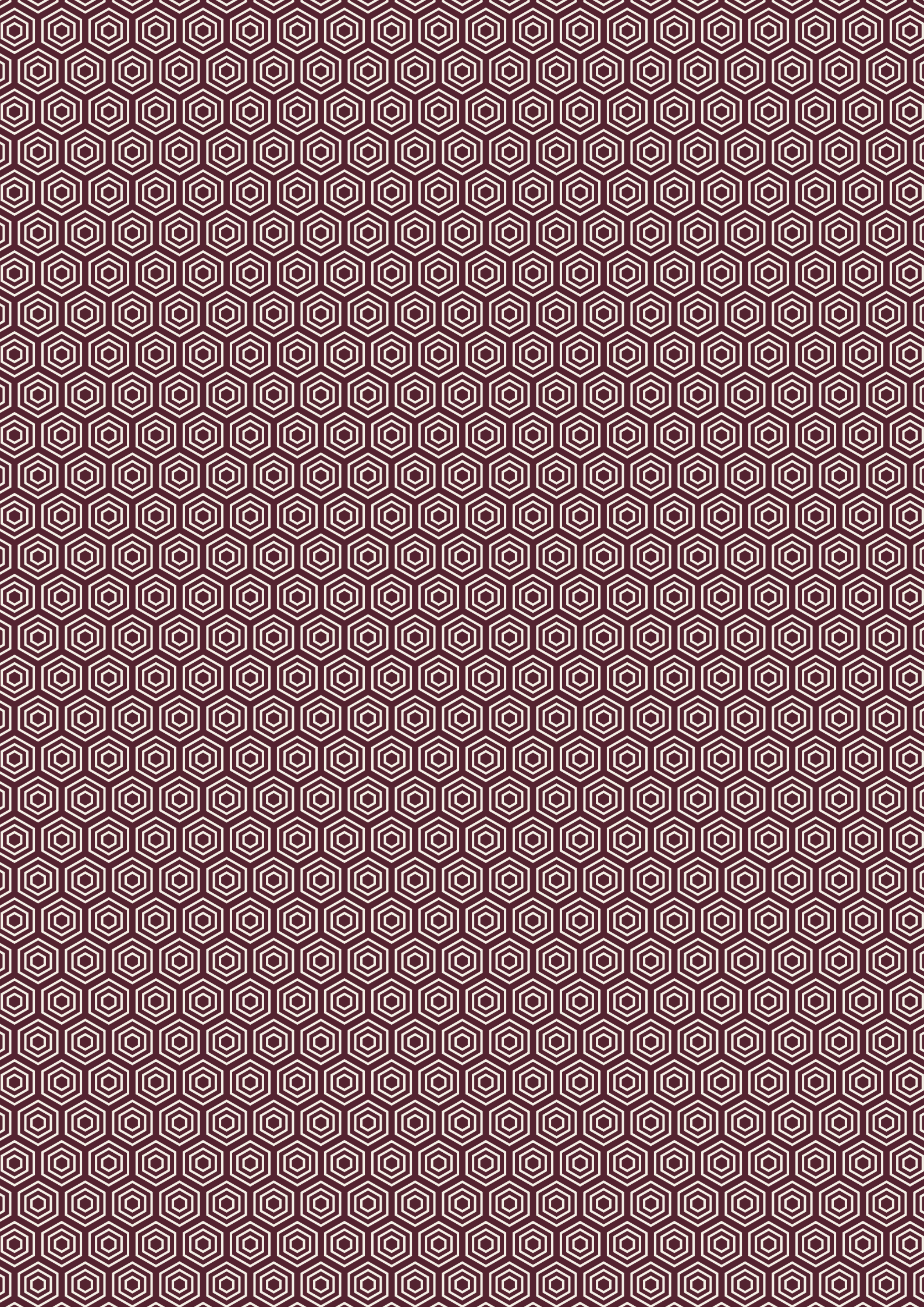
87 Ivi, p. 25-28

88 Ivi, p. 28

89 Ibid.

90 Gazzetta Ufficiale della Repubblica Italiana (2013). Convenzione del Consiglio d'Europa sulla prevenzione e la lotta contro la violenza nei confronti delle donne e la violenza domestica, artt. 60-61.

91 European Union Agency for Fundamental Rights (2014). Addressing forced marriage in the EU: legal provisions and promising practices, p.29



3 – Child and forced marriage in the Italian law

National legal framework

In spite of the ratification of numerous treaties, the Italian approach towards child and forced marriage is not in line with the international provisions to which the State is bound. Despite the obligation expressly imposed by the Istanbul Convention, until 2019 Italian legislation did not provide for the criminalisation of child marriages and of forced marriages. The situation has changed with Law No. 69 of 19 July 2019, known as “Codice Rosso” (“Amendments to the Criminal Code, to the Code of Criminal Procedure and other provisions on the protection of victims of domestic and gender-based violence”), which introduces the offence of “Coercion or induction into marriage”⁹². Until 2019, in order to prosecute cases of forced and child marriages, it was necessary to refer to more general cases scattered in the Criminal Code, such as the previous version of Article 558 (induction to marriage by deception), Article 573 (consensual abduction of minors), where a mitigating circumstance was precisely the fact that the crime was committed ‘for the purpose of marriage’⁹³ or Article 574 (abduction of incapacitated persons), or more generally the crime of kidnapping. Moreover, with regard specifically to child marriage, it was not criminally punishable, unless there was an offence of ‘sexual acts with a minor’⁹⁴ (Criminal Code, Article 609c). Otherwise, child marriage did not fall within any criminal offence.

Article 7 of the new law amends Article 558 of the Criminal Code on ‘induction to marriage by deception’⁹⁵. The new legislation provides that ‘whoever, by means of violence or threats, forces a person to enter into a marriage or civil partnership is liable to imprisonment for a term of between one and five years. The same punishment applies to ‘whoever, taking advantage of the conditions of vulnerability or psychic inferiority or need of a person, by abusing family, domestic or work relations or the authority deriving from entrusting the person for reasons of care, education or education, supervision or custody, induces that person to enter into a marriage or civil partnership’⁹⁶. Here, the provision introduces forced marriage as a legal offence. It applies ‘even when the fact is committed abroad by an Italian citizen or a foreigner residing in Italy, or to the detriment of an Italian citizen or a foreigner residing in Italy’⁹⁷, thus transcending the principle of territoriality of criminal law.

The adoption of this provision is undoubtedly an improvement compared to the previous situation, where forced marriages were not criminalised. However, some problems remain regarding the approach to child marriage: this is not present in Law 69/2019 as a separate case, but the age of the minor is described as a mere aggravating factor within the phenomenon of forced marriage. Article 558-bis thus reads: ‘The penalty is aggravated if the acts are committed to the detriment of a minor under eighteen years. The penalty is from two to seven years’ imprisonment if the facts are committed against a minor under the age of 14’⁹⁸. As of today, therefore, there is no specific offence in Italy that criminalises child marriage. An opinion of the National Ombudsman for Childhood and Adolescence (Autorità Garante per l’Infanzia e l’Adolescenza) addressed this lack in February 2019: during the discussions preceding the adoption of the new laws, the Ombudsperson Filomena Albano had commented: “It is certainly a complex operation to give criminal relevance to this case, but an

92 Gazzetta Ufficiale della Repubblica (2019). Legge 19 luglio 2019, n. 69. Modifiche al codice penale, al codice di procedura penale e altre disposizioni in materia di tutela delle vittime di violenza domestica e di genere.

93 Codice penale, art. 573 – Sottrazione consensuale di minorenni

94 Codice penale, art 609 quater – Atti sessuali con minorenni

95 Codice penale, art. 558 - Induzione al matrimonio mediante inganno

96 Ivi, art. 558 bis

97 Ibid.

98 Ibid.

in-depth assessment should be carried out in order not to leave a protection gap”⁹⁹.

Regarding the new offence of ‘coercion or inducement to marry’, the Ombudsperson had called for ‘a careful examination of the conduct that would be covered by the cases currently under consideration’. The reference to ‘coercion’ in both bills (ddl. 174 and 662 - 18th legislature, both containing provisions on forced marriage, ed.) would imply a willingness to sanction only forced marriages and not also child marriages. The reference to “inducement” next to ‘coercion’ could perhaps broaden the scope of criminal protection¹⁰⁰. Furthermore, the Ombudsperson had stated that “Criminal law protection alone is not sufficient and could even have the opposite effect to the one sought, deterring victims from denouncing the conduct perpetrated against them for fear of incriminating family members with whom they have close ties. At the same time, awareness-raising and training measures are needed to detect at-risk situations immediately and build a protection network involving social services, schools, anti-violence centres and/or shelters, law enforcement and the judiciary. Schools play a key role in these actions¹⁰¹”.

Another critical element in the Italian legislation is the minimum age required to get married: Article 84 of the Civil Code states “Minors may not get married. The Court, at the request of the interested party, after verifying their psycho-physical maturity and the validity of the reasons given, and after hearing the Public Prosecutor’s Office, their parents or their guardian, may, by decree issued in court, admit to marriage, for serious reasons, those who have reached the age of sixteen. The decree is communicated to the Public Prosecutor, the spouses, the parents, and the guardian. An appeal against the decree may be lodged with the Court of Appeal within ten days of its notification. The Court of Appeal decides by way of a non-appealable order, issued in chambers. The decree shall take effect when the period provided for in paragraph 4 has elapsed without a complaint having been lodged¹⁰²”. Thus, although the first paragraph prohibits child marriage, it remains possible in Italy to marry once a person has reached the age of 16 - albeit in an ‘exceptional’ way. Also, with regard to this possibility, the Ombudsperson for Childhood and Adolescence recalled Italy’s international obligations, especially in the context of the Convention on the Rights of the Child¹⁰³.

Regarding the annulment of a marriage (e.g. contracted abroad) that violates the age requirement, according to Article 117 of the Civil Code, ‘A marriage contracted in violation of Article 84 may be challenged by the spouses, by each of the parents, and by the Public Prosecutor’s Office. The relevant action for annulment may be brought personally by the minor at the latest one year after reaching the age of majority. The request, proposed by the parents or by the Public Prosecutor’s Office, must be rejected if, even during the proceedings, the minor has reached the age of majority, or if conception or procreation has taken place, and if, in any case, the minor’s will to maintain the marriage bond has been established’¹⁰⁴. In such a situation, the annulment of a marriage concluded by a minor is subject to time requirements¹⁰⁵ or to - unlikely¹⁰⁶ - proactive actions if it is not the Public Prosecutor’s Office who takes action to challenge it.

While it is true that the marriage of minors in Italy is permitted by law only in exceptional cases, i.e. after the age of sixteen and only with the express consent of the minors in question and after assessment by the Juvenile Court, it is also true that the mere fact that the possibility of underage marriage continues to exist puts Italy at odds with the most international law and human rights guidelines. Moreover, the reasons for this derogation date back to the 1940s and refer to the alignment of civil law with

99 See <https://www.garanteinfanzia.org/news/lautorita-garante-senato-si-al-reato-di-matrimonio-forzato>

100 Autorità Garante per l’Infanzia e l’Adolescenza (2019). Parere alla II Commissione permanente del Senato della Repubblica. Disponibile su <https://www.garanteinfanzia.org/sites/default/files/14-02-2019-parere-agia-matrimoni-forzati-precoci.pdf>

101 Ibid.

102 Codice civile, art. 84 – Età

103 Autorità Garante per l’Infanzia e l’Adolescenza (2019). Parere alla II Commissione permanente del Senato della Repubblica.

104 Codice civile, art. 117 - Matrimonio contratto con violazione degli articoli 84, 86, 87 e 88

105 Codice civile, art. 122 – Violenza ed errore: “L’azione non può essere proposta se vi è stata coabitazione per un anno dopo che siano cessate la violenza o le cause che hanno determinato il timore”, “The action may not be brought if there has been cohabitation for one year after the violence or the causes that led to the fear have ceased”.

106 It is indeed highly unlikely that a child forced to marry has the knowledge and the tools to challenge her marriage, and if she does, she is unlikely to exercise them, given the insecure and risky situation she would be in if she did. It is even more unlikely that the parents, who in most cases are the very ones who support child marriages, will intervene.

canon law and name as a justification for the legislation the case of ‘rehabilitating marriage’ (in Italian, ‘matrimonio riparatore’)¹⁰⁷ - reasons that are certainly no longer acceptable today, nor useful to protect the rights and dignity of minors and children.

It is also interesting to note that the new rules of the Criminal Code introduced by the “Codice Rosso” adopted in 2019 include forced marriage (with the aggravating circumstance of the minor) within “crimes against the family” (Title XI) and more specifically within the “crimes against marriage” (Chapter I) - not, therefore, among the crimes against the individual, as a human rights-based perspective would suggest.

The Charter of Values of Citizenship and Integration (2007) states that ‘marriage is founded on the equality of rights and responsibilities between husband and wife’¹⁰⁸ and that ‘The Italian legal system prohibits all forms of coercion and violence within and outside the family and protects the dignity of women in all its manifestations and at every moment of their associative life. The basis of conjugal union is the freedom to marry, which belongs to young people, and involves the prohibition of coercion and forced marriages, or marriages between children’¹⁰⁹. As Maristella Cerato, deputy Attorney General of the Court of Appeal of Venice, states, “A specific discipline would allow a more immediate treatment of cases and the beginning of a reflection in the community about the serious consequences of the phenomenon”¹¹⁰.

The most recent National strategic plan on male violence against women (“Piano strategico nazionale sulla violenza maschile contro le donne”, issued by the Department for Equal Opportunities every four years) dates from 2017 and thus refers to the period 2017-2021¹¹¹. Recalling the Istanbul Convention, it sets out lines of action at national, regional and local level around four main axes against gender-based violence against women prevention (which includes, for example, the preventive commitment of public institutions also through public education, the involvement of the private sector in the process of awareness-raising and prevention, training of staff potentially in contact with victims/survivors of gender-based violence); protection and support (through territorial networks/anti-violence centres, the 1522 toll-free line, protection of minors involved in or witnessing violence within the family, economic and work empowerment paths for survivors of violence, protection paths within health and hospital facilities); prosecution and punishment (in agreement with the Ministry of Justice, to ‘ensure the protection of women victims of violence through an effective and rapid assessment and management of the victim’s risk of lethality, the seriousness, recurrence and recidivism of the crime, through homogeneous and efficient procedures throughout the national territory’¹¹² and to improve judicial proceedings related to gender-based violence in order to facilitate access to justice for victims); assistance and promotion (which includes the evaluation of the outcome of the interventions foreseen by the Plan and data collection: The Department for Equal Opportunities, in collaboration with the Italian National Institute of Statistics- ISTAT, ‘envisages the construction of an integrated information system aimed at containing data on the phenomenon of violence against women in its various forms (...) in order to set up an accurate information network on the phenomenon covering both the qualitative (...) and, above all, the quantitative dimension’¹¹³). The Plan establishes a governance that integrates the national dimension (through a “National Steering Committee” supported by a “Technical Support Committee”) and the territorial dimension, through the Regions and the Autonomous Provinces implementing territorial anti-violence networks. A ‘multi-agency’ system is envisaged in which different stakeholders collaborate and exchange information, resources, and good practices against gender-based violence against women.

107 See the Report of the Minister Guardasigilli Dino Grandi on the Civil Code of 4 April 1942, available at <https://www.brocardi.it/codice-civile/libro-primotitolovicapoiisezionei/art84.html>

108 Ministry of the Interior. Department for Civil Liberties and Immigration (2016). Charter of the values of citizenship and integration. Available at <http://www.libertacivilimmigrazione.dlci.interno.gov.it/it/documentazione/circolari/carta-dei-valori-della-cittadinanza-e-dellintegrazione>

109 Ibid.

110 Cerato, M. (2019). Il matrimonio forzato (forced marriage) dei minori e il c.d. codice rosso. Disponibile su <https://www.magistraturaindipendente.it/il-matrimonio-forzato-forced-marriage-dei-minori-e-il-cd-codice-rosso.htm>

111 Presidency of the Council of Ministers. Department for Equal Opportunities. National strategic plan on male violence against women 2017-2020

112 Ibid., p. 32

113 Ibid., p. 34

It is important to underline that, although the objectives of the Plan include “supporting the prevention of and the fight against harmful and damaging practices, also related to honour, such as early/forced marriage and FGM/C”¹¹⁴, the issue of forced and/or child marriage is presented as an issue related to migrant and refugee women and girls: “Also in this field of intervention (that of migrant, refugee and asylum-seeking women, ed.) the Plan, in coherence with what is assumed in the Istanbul Convention, considers forced or early marriage, understood as a form of violence that affects mostly women and girls (among whom emerges, as worthy of particular attention, the case of Roma, Sinti and Caminanti women)”¹¹⁵. Recalling the motion on forced and early marriages passed by the Chamber of Deputies on 28 July 2015, the Plan sets out the following objectives:

- Develop “guidelines and/or intervention protocols on forced/early marriages and harmful honour-related practices, to harmonise prevention and protection activities for women in view for integrated and harmonised policies between national and regional levels;
- Improve knowledge and case management skills among the main actors involved in supporting victims of early and forced marriages: staff of ministries and regional and local authorities (especially in regions where migrant communities at risk are more present), law enforcement agents, judges and lawyers, health professionals, migrant associations and associations for migrant women, anti-violence centres, teachers and school workers;
- Structure, or reinforce where they already exist, ad hoc local networks;
- Develop awareness-raising, prevention and involvement actions for the younger generations, starting with secondary schools and professional training institutes;
- Ensure a specific part on forced/early marriages in the compulsory teacher training programme;
- Improve the knowledge and monitoring of the phenomenon by elaborating estimation methodologies on the diffusion and the risk assessment”¹¹⁶.

To date, towards the end of the period covered by the Plan, no specific guidelines or protocols on forced and child marriages have been adopted at the national level.

The Plan also gives an account of the legislative situation prior to Law 69/2019 (the so-called Codice Rosso), defining it as adequate and not particularly deficient: “In the Italian State legislation there are no express references to “forced marriage”, neither at civil nor criminal level. However, our legal system - in addition to limiting the effects of the promise of marriage in order to guarantee freedom of consent - by requiring the concurrence of specific requirements for marriage, admits minors to marry only if they are sixteen years old and in case of serious reasons. Foreigners wishing to marry in Italy are subject to a “double check” in terms of their capacity to marry (private international law and civil law)”¹¹⁷.

NPWJ considers that these statements denote a position that not only fails to see the particular need for a more specific framework of the phenomenon of child marriage within the Italian legal system, but also fails to recognise the role of law as a constituent of social norms. A State that does not recognise as urgent the introduction of the crime of forced and child marriage - regardless of the law 69/2019 that was then passed - certainly does not encourage the deconstruction of patriarchal norms and gender inequalities that underlie these phenomena. Claiming that a specific regulation is unnecessary on the grounds that controls already exist to prevent situations of violations of consent between minors, does nothing but consolidate the social norms, stereotypes, and gender biases that the National Plan was created precisely to overcome and eradicate.

114 Ivi, p. 44

115 Ivi, p. 47

116 Ivi, pp. 47-48

117 Ivi, p. 47

Regional legal framework

Some regions have also adopted laws on forced marriages: these are Lombardy, Molise, Emilia-Romagna, and Piedmont.

- In Lombardy, the Regional Law of 3 July 2012, no. 11 ('Interventions to prevent, combat and support women victims of violence'), in its Article 1 'condemns and opposes all forms of violence against women exercised both within the family work and social environments, including forced marriages, trafficking of women and girls, genital mutilation and physical mutilation of any kind'¹¹⁸, promoting the work of anti-violence centres and the stipulation of 'public bodies, local authorities, educational institutions, the regional school directorate, provincial education offices, law enforcement agencies, the judicial authority and prison administration, and any other entity operating in the field of protection and safeguarding of women victims of violence'¹¹⁹ as well as with the bar associations to provide free legal assistance to affected women. The law also includes 'Awareness-raising and prevention interventions', 'Protection, support and reintegration of victims', 'Training and refresher courses for health and social workers, local police and all actors involved in combating and preventing violence against women' and 'Monitoring activities'.
- In Molise, Regional Law 10 October 2013, no. In Molise, Regional Law no. 15 of 10 October 2013 ('Measures to prevent and combat gender-based violence') counteracts 'all forms of violence against women, both within and outside the family, including forced marriages'¹²⁰; this law promotes the work of anti-violence centres and shelters, provides for the creation and optimisation of observatories for the collection of data on gender-based violence and for training, education and partnerships between various stakeholders such as civil society organisations and institutional actors (prefectures, police forces, health personnel).
- In Emilia-Romagna, Regional Law No. 6 of 27 June 2014 ("Framework law for equality and against gender discrimination"), which in its Article 23 provides "Interventions for the prevention of the phenomenon of forced marriages: 1. The Emilia-Romagna Region cooperates with local authorities and all institutional levels to encourage the adoption of all useful measures to contrast the phenomenon of forced marriages as a violation of human rights, as well as to assist and support women and girls whose will is in fact coerced. In the framework of the Region's observatory functions as per Article 18, instruments will be activated to monitor the phenomenon in collaboration with the network of anti-violence centres, cultural mediators, associations and migrant communities"¹²¹.
- In Piedmont, Regional Law no. 4 of 24 February 2016 ('Interventions to prevent and combat gender-based violence and to support women victims of violence and their children'). This law 'condemns and opposes all forms of violence against women and minors (...) including trafficking and exploitation of women and minors, forced marriages, female genital mutilation practices and any other form and degree of violence'¹²²; it also 'promotes and implements, in cooperation with local authorities, with private social actors (...) and with other bodies and actors of the private sector (...). It also 'promotes and implements, in cooperation with local authorities, with private social actors (...) and with other bodies and actors that carry out activities in favour of immigrants, specific initiatives for monitoring, preventing, combating, and assisting victims of violence motivated by trafficking and exploitation, forced marriages, female genital mutilation, sexual orientation and gender identity, also with the help of non-profit institutions and organisations'¹²³.

118 Lombardy Region. Regional Law 3 July 2012, n.11. Available at https://www.nonseidasola.regione.lombardia.it/wps/wcm/connect/1d23dbd2-b331-49ec-ab85-abf7456a66b5/L.R.+11_2012.pdf?MOD=AJPERES

119 Ibid.

120 Molise Region. Regional law 10 October 2013, n.15. Available at <https://www.regione.molise.it/web/crm/lr.nsf/0/3F8917E052F75A38C1257C150052D069?OpenDocument>

121 Emilia-Romagna Region. Regional law 27 June 2014. Available at https://demetra.regione.emilia-romagna.it/al/articolo?urn=er:assemblealegislativa:legge:2014:6&dl_t=text/xml&dl_a=y&dl_id=10&pr=idx.0:artic.1:articpartial.0&ev=1

122 Piedmont Region. Regional law 24 February 2016. Available at <http://www.regione.piemonte.it/governo/bollettino/abbonati/2016/08/attach/1201604.pdf>

123 Ibid.

Italy's (non) compliance with international obligations

It has already been mentioned how Italy, for various reasons, does not comply with the obligations of the international treaties it has so far ratified. We can understand the situation in more detail thanks to the most recent reports or periodic observations by the Committees of the relevant Conventions, in particular the CEDAW (CEDAW Committee), the CRC (CRC Committee), and the Istanbul Convention (GREVIO).

The CRC and CEDAW Committees send *Concluding observations* to States, following the reports they are required to submit periodically. The latest *Concluding observations*¹²⁴ addressed to Italy by the CRC Committee date from 2019. The Committee:

- Recommends a better allocation of resources for the effective functioning and operation of the Child and Adolescents Authority and for civil society working on children's rights;
- Emphasises the need to collect data on the situation of children, particularly those living in vulnerable situations, disaggregated by "age, gender, disability, geographical location, ethnic and national origin and socio-economic situation"¹²⁵;
- **Emphasises that Italy still lacks a national human rights institution**, which the Committee recommends should be established to facilitate the monitoring, protection and promotion of human rights, including those of children;
- Encourages the improvement of awareness-raising and training programmes for the general public (families and children in particular) but also for professionals such as judges, organisations and legislators;
- Regarding violence against children, the Committee encourages Italy to "establish a national mechanism to monitor and collect data on violence against children, in particular domestic violence and violence against children in disadvantaged or marginalised situations, and to undertake a comprehensive assessment of the extent, causes and nature of such violence"¹²⁶;
- Recommends improving awareness-raising and education programmes on violence against children;
- Recommends ensuring support, assistance and redress to children who suffer violence;
- **Emphasises how current legislation still does not conform to the provisions of international law, recommending that the Italian Civil Code be amended "to remove all exceptions allowing marriage under the age of 18"**¹²⁷;
- **Notes how Law 132/2018 ("Decreto Sicurezza") violates the human rights of minors**, encouraging Italy to "facilitate access to the asylum application system for minors in need of international protection"¹²⁸, with particular attention to reception mechanisms for migrant minors and age determination systems, which should be decided with a scientific approach based on respect for the rights of minors;
- Finally, attention is drawn to existing norms, calling for the adoption of a human rights-based perspective, conscious of dimensions such as gender, disability and age to ensure that they do not intentionally create, exacerbate or increase the vulnerabilities of migrant children¹²⁹.

The latest *Concluding observations* of the CEDAW Committee¹³⁰ are dated 24 July 2017 - the next ones are therefore scheduled for July 2021. It is important to recall that neither the "Decreto Sicurezza" nor

124 United Nations. Committee on the Rights of the Child (2019). *Concluding observations on the combined fifth and sixth periodic reports of Italy (CRC/C/ITA/CO/5-6)*

125 Ibid.

126 Ivi, p. 6

127 Ibid.

128 Ivi, p. 11

129 Ibid.

130 Committee on the Elimination of Discrimination against Women (2017). *Concluding observations on the seventh periodic report of Italy (CEDAW/C/ITA/CO/7)*

the “Codice Rosso” had been adopted in 2017 - the recommendations therefore refer to an outdated legal framework. Moreover, the CEDAW Convention does not specifically refer to early or forced marriage, as seen above - the recommendations in the *Concluding observations* are, therefore, of a more generic nature with respect to this issue. In particular, the Committee:

- Recommends consolidating the gender equality legislative framework for the elimination of discrimination on the basis on sex or gender;
- Recommends that priority be given to legal proceedings involving women and girls who have suffered gender-based violence, including improving their treatment in the courts by adopting a gender perspective;
- Recommends that the intersections between forms of discrimination be considered, including in the courts and in the training of judicial personnel;
- With regard to migrant, refugees and asylum-seeking women, the Committee invites “to increase the number of available accommodation places and ensure quality standards, in particular taking into account the needs of women and girls”¹³¹.

In the European context, the latest GREVIO Group report for Italy¹³² is more recent, as it dates from January 2020. GREVIO:

- Welcomes the adoption of Law 69/2019. In particular, with regard to forced marriage, it stresses that the law contributes positively to the definition of the phenomenon as a human rights violation and not a private “cultural problem” to be solved within the family¹³³. However, GREVIO **points out the importance of accompanying the new legal norms with equally effective preventive and protective instruments, which are still lacking**;
- Notes that the supply of services and facilities to respond to gender-based violence is unevenly spread throughout Italy, resulting in a significant limitation of the capacity to respond to the needs of victims of all forms of violence - including forced marriage;
- Notes that accurate and up-to-date lists of available anti-violence facilities and centres are often lacking - which is an obstacle to providing adequate support to women and girls in need;
- Calls for the introduction of a data collection system on the outcomes of asylum applications filed for gender-based violence, in particular FGM and forced marriages (sic¹³⁴);
- Calls for the improvement of procedures of gender-based violence risk management and assessment, especially with regard to forced marriage and FGM, through coordinated actions between different agencies and institutions;
- Recommends consolidating efforts to disseminate knowledge on gender-based violence, including forced marriage and FGM, through disseminating national guidelines on education within schools and training institutions.

In the light of the reports of the UN and CoE Committees and the review of existing international standards, it is evident that Italy continues to fail to meet its obligations.

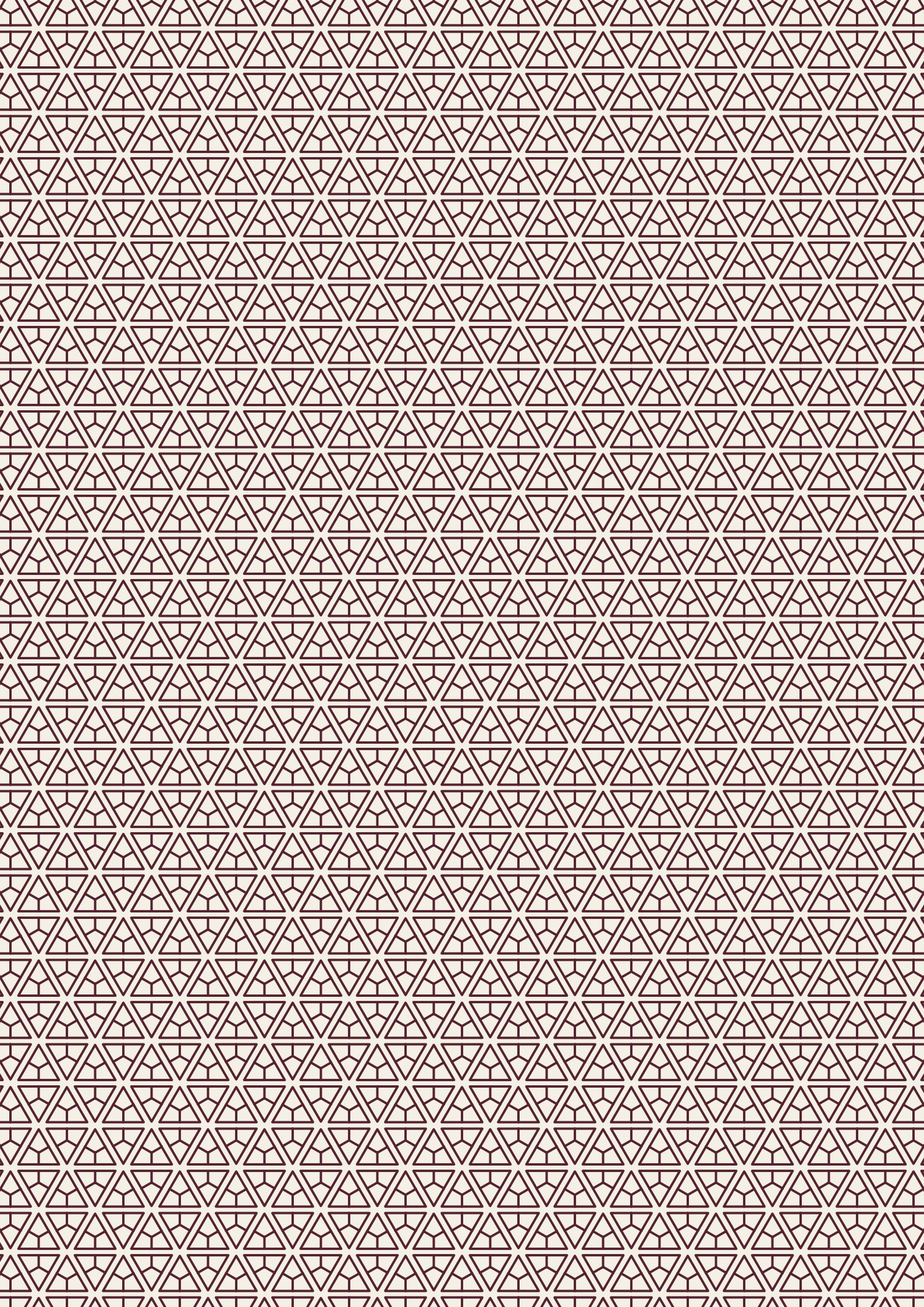
The most urgent issues are the absence of a specific legal case for child marriage; the minimum age; the collection of data on the phenomenon - also disaggregated by gender, age, origin, socio-economic situation, level of education, etc.; the offer (currently uneven and underfunded) of assistance and support services to women and girls involved; raising awareness on the phenomenon of forced and particularly child marriages, at national, regional and local levels; training of professionals dealing with cases of forced and/or early marriages. Although some regions have taken measures and encouraged good practices, it will be impossible to eradicate such harmful practices unless child marriages are recognised at national level as a serious phenomenon requiring in-depth analysis and urgent, holistic action.

131 Ibid., p 4

132 Council of Europe. GREVIO (2020). Baseline Evaluation Report Italy.

133 Ibid., p 63

134 Child marriage is not explicitly named in the GREVIO report; however, it has been repeatedly underlined that child marriage is considered also at the level of international institutions as a “subset” of forced marriage.



4 – International and local best practices against child marriage

Good practices and challenges in the Italian context

In Italy there are several organisations working on the prevention of child marriages: among them, however, several deal (or have dealt in the past) with what happens in countries other than Italy, such as India (CINI Association¹³⁵), Bangladesh (*Rishilpi onlus*¹³⁶) and Burkina Faso (*Amnesty Italia*¹³⁷). An exhaustive report by the UNICEF’s Innocenti research centre¹³⁸ published in 2001, gives an account of various aspects of the problem at a global level, also highlighting the gaps in research - there is a lack of information on the countries of the North of the World and a complete lack of perspective on Italy.

It is significant that this happens in Italy, although it is certain that the phenomenon is present, no investment has yet been made in data collection and effective awareness-raising campaigns, nor in the creation of a national coordination mechanism to combat it. The good practices adopted so far are to be found, rather than at institutional level, among the initiatives of non-governmental actors in the territory, even considering that the survey conducted by NPWJ and addressed to the Italian civil society revealed how the issue of child marriage is, however, dealt with by a small number of organisations and how it represents a gap in the fight against gender-based violence. It should also be borne in mind that until 2019 there was no legal framework in place to criminalise forced marriages, and that early marriage is still not a criminal offence.

The most significant recent advances from a public policy perspective include the already discussed Law 69/2019 - which, although welcomed as a step forward, NPWJ still considers insufficient to bring justice to victims of forced and child marriage - and the inclusion of forced and early marriages within the National Strategic Plan on male violence against women. NPWJ notes, however, that, despite the provisions and objectives included in the plan, most of them have not yet been realised, as it is the case of the planned protocols/guidelines aiming to harmonise the contrast actions at national level or the improvement “of the knowledge and the monitoring of the phenomenon through the elaboration of methodologies of estimation on the diffusion and the evaluation of the risk”¹³⁹. We also believe that framing the problem as a prerogative of migrant communities is mystifying and dangerous, not only for the narrative that it contributes to spread but also for the effectiveness of possible measures taken to contrast the phenomenon of both forced and early marriages. Finally, the Plan does not provide for the establishment of a national body/technical centre to oversee the harmonisation process, which has proven to be a useful practice in other States such as the United Kingdom or Switzerland (see next section).

At the end of June 2021, the first report on child and forced marriages after the entry into force of the “Codice Rosso”, elaborated by the Criminal Analysis Service and disseminated by the Ministry of the Interior, was published. The report emphasises the importance of this issue, demonstrating the urgency of recognising and addressing it in the Italian context. The report sheds light on the magnitude of the phenomenon on the national territory and shows its distribution in the different regions (the majority of cases were identified in the central and northern regions).

135 www.cinitalia.org

136 www.rishilpibd.org

137 <https://www.amnesty.it/appelli/mai-piu-spose-bambine/>

138 United Nations Children’s Fund Centro di Ricerca Innocenti Firenze, Italia (2001). *Il Matrimonio Precoce*. Digest Innocenti n.7

139 Presidency of the Council of Ministers, Department for Equal Opportunities (2017). *National strategic plan on male violence against women*, p. 48.

The reference period is from the entry into force of the Codice Rosso (9 August 2019) to 31 May 2021. The Criminal Analysis Service reports data on offences of so-called ‘coercion or inducement to marriage’ in three different periods: the second half of 2019, the year 2020 and the first half of 2021. Respectively, seven, eight and nine cases are reported in the three periods: numbers that, as has been discussed, are most likely only the visible tip of a plurality of submerged cases not identified by institutions.

85 % of the victims of the identified cases are women, girls and children, and 73 % of the perpetrators are men - this is not surprising, taking into account that we are facing a clear form of gender-based violence, in which not only age but also the power differential linked to gender inequality plays a crucial role.

Regarding the age of the victims, one third of them are minors ; in particular, 9% are under 14 years old, 27% are between 14 and 17 years old. Among adult victims, those between 18 and 24 years of age are much more numerous (41%)¹⁴⁰. With regard to the citizenship of the victims, the report shows 41% Italian citizenship and 59% foreign citizenship, the most numerous being from Pakistan and Albania, together with individual cases of Romanian, Nigerian, Croatian, Indian, Polish and Bengali citizenship. This demonstrates not only the variety of countries from which these people come, but also the fact that almost half of the cases involve Italian citizens, an important element supporting the de-exoticisation of forced and child marriage. Suppose that in the last 50 years the Italian society undertook a process of deconstruction of the patriarchal structures underlying violent practices such as forced and child marriages. In this case, it is evident that it remains an Italian problem, and not only because of the presence of young foreigners in the territory, but also because the present of our country drags with it still strong patriarchal legacies, which perpetuate such violence.

Unfortunately, the report limits itself to a rather brief description of the phenomenon. It does not provide any assessment of actions and policies in place or to be adopted in the future. While welcoming the institutional attention given to the issue of child marriages and the attempt to quantify them in Italy, there is still a lack of a solid and organic initiative on the part of the public institutions - in addition to the fact that there is no mention of the importance of prevention and identification of submerged cases, awareness without which a criminal and punitive approach will be adopted, insufficient to eradicate this form of violence.

Furthermore, some Italian NGOs have also been active in **collecting information** and addressing the most serious gap in the Italian panorama (besides the evident legal gap), which is the absence of data on forced marriages and, in particular, on child marriages. The existing studies, already briefly presented in section 1 of this document, are of qualitative or mixed approach, but never purely quantitative; they try to give account of the phenomenon in the Italian reality, more frequently working on portions of territory or reduced community realities - probably because of the operational and financial difficulties to study the whole national territory, especially for small realities that normally work at local or regional level. *Trama di Terre* carried out a study in Emilia-Romagna (2009), Associazione 21 Luglio in some shanty towns in the suburbs of Rome (2017). The latter is the only Italian study dedicated exclusively to child marriages and not, more generally, to forced marriages.

In the only national (qualitative) study on forced marriages, commissioned to *Le Onde Onlus* by the Department for Equal Opportunities in 2013, the criticisms identified are clearly expressed: “For different reasons, not only of methodological nature, it is difficult if not impossible to accurately quantify the phenomenon of forced marriages because of the concomitance of some factors such as the subjective estimation of the degree of coercion and consequently of the consent, the problem of under-declaration, the lack of survey bases and therefore the lack of statistical representativeness, and above all the fact that the persons involved constitute a ‘hidden population’”¹⁴⁰. Thus, in addition to the problems intrinsic to the phenomenon of forced marriage, there are also those caused by the lack of pro-activity on the part of institutions - the lack of survey and data bases is again identified as a major obstacle.

There are also **guidelines and information materials** elaborated by NGOs and addressed, for example,

¹⁴⁰ Le Onde Onlus (2014). *Matrimonio Forzato in Italia: una ricerca qualitativa*. Project “MATRIFOR - Approaching forced marriages as a new form of trafficking in human beings in Europe”, p. 9

to operators of women's shelters, such as the "Guidelines for the early recognition of victims of female genital mutilation or other harmful practices for operators of CPSA (Centri di Primo Soccorso e Accoglienza), CDA (Centri di Accoglienza) and CARA (Centri di Accoglienza per Richiedenti Asilo)"¹⁴¹ which inform the staff involved of the phenomenon of FGM and forced marriages, recalling the international and national legislation in force and providing useful measures for the identification of possible cases and their management within the various reception structures. These measures will certainly be more complicated to implement after the 2018 legislative reforms, which have centralised and depersonalised the process of reception and assistance to the migrant population.

Trama di Terre opened a shelter in 2011 exclusively for women and girls who had escaped a coerced marriage, welcoming ten migrant girls in its first two years of work. Furthermore, in 2014 they published "Forced, arranged and early marriages. Vademecum for operators and workers"¹⁴², in which they analyse the three types of violence, the (then) existing legal framework and possible ways of resolution, considering, in particular, possible role of mediation based on foreign experiences such as the United Kingdom and Denmark.

One of the main difficulties encountered during *Trama di Terre's* work, the handbook states, 'is certainly the confrontation with the position of the social services, which did not foresee or did not yet contemplate receiving young victims of forced marriages. In practice, young women and/or girls (...) were not given answers, nor were they sent to anti-violence centres. This is a rather relativistic view of the problem, which obviously tends to ignore the gender dimension of this kind of violence, as well as to underestimate the seriousness and the risks for the persons involved. This *modus operandi* has delayed the development of prevention models and has allowed us to work only on emergencies. Another critical aspect we encountered was the impossibility, at this early stage, of making public the 'hospitality' given to the victims. The absolute priority of protection and secrecy for the maximum protection of the persons received and of the host structure did not allow any publicity. Moreover, the economic difficulties of the social sector of the municipalities and the region that, having to choose among many emergencies, do not privilege this kind of intervention"¹⁴³ should be emphasised.

Other initiatives of advocacy and promotion of public policies against forced marriages have been undertaken by ONERPO - especially as a component of the *Girls Not Brides* network - and by the *METE Onlus* Association, which in 2014 launched the campaign "Sono bambina, non una sposa" ("I am a child, not a bride") and that today also offers training on the subject.

However, it is worth noting that the questionnaire disseminated by NPWJ among the Italian civil society revealed that several anti-violence centres (CAVs) do not deal with the phenomenon and, consequently, do not have staff trained and competent in the follow-up of possible cases, nor specific protocols. Although some centres report to have encountered cases of child marriages in the last years, the fact that in Italy they are largely a submerged reality and not easily detectable¹⁴⁴ perpetuates the inaction that, in turn, maintains the status quo and prevents the phenomenon from being brought to the surface and adequately counteracted. The CAVs themselves pointed out the gaps in the Italian situation, such as the lack of coordination between the different actors involved - which would lead to a greater integration and centrality of the abused person, to "shared modes of reception and management" and to a greater "simplification of bureaucracy, timeliness of intervention, effective and

141 Available at <http://www.pariopportunita.gov.it/news/22-12-2017-linee-guida-per-il-riconoscimento-precoco-delle-vittime-di-mutilazioni-genitali-femminili-o-altre-pratiche-dannose/>. Developed by Associazione Parsec Ricerca e Interventi Sociali, Cooperativa Sociale Parsec, Università di Milano-Bicocca, Azienda Ospedaliera San Camillo Forlanini, Nosotras Onlus and Associazione Trama di Terre. These guidelines date back to 2018, before the approval of the so-called Decreto Sicurezza (Security Decree) that modified the general organisation of reception facilities for the migrant and asylum seeker population in Italy and the functions of existing facilities.

142 Trama di Terre (2014). Matrimoni forzati, combinati e precoci. Vademecum per operatori e operatrici. Disponibile su http://informa.comune.bologna.it/iperbole/media/files/violenza_contro_donne_vademecum_matrimoni_forzati_2014.pdf

143 Ibid., p. 34

144 Forced marriages have been described by organisations active in the field as a highly submerged phenomenon during the research carried out by NPWJ; child marriages, however, present even more complex problems linked to the minor age of the subjects involved.

efficient monitoring of the reality”¹⁴⁵.

In general, the questionnaire gave a general impression of the absence of effective measures, especially with a gender approach, at national level; gaps were reported in the training of operators in schools, health, and law enforcement agencies.

Scalable good practices from abroad - public policies

In the European context, several states have adopted good practices with potential for scalability in the Italian context. In most cases, however, the policies and practices in question have not been formulated specifically to address early marriages, but more generally for forced marriages (often including early marriages as a subcategory anyway).

Below we list a series of practices¹⁴⁶ that could be applied - with the due adaptations - in the Italian context:

- **The passing of laws prohibiting marriage before the age of 18**, without exception, for instance in Germany, the Netherlands, Sweden and Denmark¹⁴⁷. NPWJ remains aware that the law alone cannot be sufficient to counteract harmful practices rooted in established social norms. However, we firmly believe in the transformative power of such norms, in concert with other policies and practices aimed at their deconstruction; With regard to the bills under examination by the II Permanent Commission of the Senate of the Republic, Filomena Albano, former Ombudsperson for Childhood and Adolescence, while agreeing on the opportunity to provide for the crime of forced marriage in harmony with the Convention of Istanbul, considers fundamental that the criminal repression is accompanied by a work of prevention with families and schools, by the constitution of an Observatory that monitors the phenomenon and by the provision of specific help networks for the victims¹⁴⁸.
- **The adoption of a national strategic plan dedicated to forced and/or child marriages**, as in the case of Switzerland, Norway, and Denmark¹⁴⁹. In 2012, Switzerland implemented a five-year federal programme against forced marriages, under the supervision of the State Secretariat for Migration (SEM) with the support of the Federal Office for Equality between Women and Men (FOE). The 2013-2017 programme implemented 18 projects at national, cantonal, regional, and local levels, selected through a call for proposals and aimed to: (1) identify existing gaps and activate networks to counter the phenomenon, including through awareness-raising, education and continuous training; and (2) keep the networks created and the measures taken in the first phase operational. The main objectives were ‘to create operational networks against forced marriages in all regions of Switzerland to enable regular cooperation and exchanges between professionals and counselling services in the field of domestic violence and integration. By improving cooperation, the aim was to ensure that (potential) victims and their social environment, as well as specialists, with concrete offers and preventive measures, such as additional awareness-raising campaigns. The aim was also to provide those affected with better counselling and protection’¹⁵⁰. The recommendations identified in the light of the implementation of the plan include: to improve the long-term accompaniment of the victims and the awareness of the available services and aids; to fight against forced marriages at local level; to favour the collaboration between stakeholders and the exchange of information and expertise, considering the intersections between the activities of different actors (e.g. regional and

145 Responses respectively of Arcidonna (Naples), Aps Me.dea onlus (Alessandria), Donna Chiama Donna (Vicenza), to the questionnaire disseminated by NPWJ.

146 Most of the listed practices were included on the basis of the FRA (European Union Agency for Fundamental Rights) volume Addressing forced marriage in the EU: legal provisions and promising practices, which includes four national case studies on forced marriages (France, Germany, UK and the Netherlands) and evaluates their good practices with reference to the Istanbul Convention and the EU Victims' Directive.

147 European Union Agency for Fundamental Rights. Marriage with consent of a public authority and/or public figure. Available at <https://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/marriage-age>

148 See <https://www.garanteinfanzia.org/sites/default/files/14-02-2019-parere-agia-matrimoni-forzati-precoci.pdf>

149 Trama di Terre (2014). Matrimoni forzati, combinati e precoci. Vademecum per operatori e operatrici, p. 7

150 Swiss Confederation (2017). Federal Programme to Combat Forced Marriages 2013-2017. Report of the Federal Council, p.8

supra-regional); to clarify the functions and the roles of each institutional body in concrete cases of forced marriage; to create a specialised supra-regional centre to supervise and support the activities of the local actors¹⁵¹;

- **The creation of a dedicated national mechanism**, such as in the case of the annual German Federal Conference of Specialised Centres for Countering Forced Marriage (founded in 2006), or the Forced Marriage Unit in the United Kingdom (FMU, constituted in 2005), which deals with both prevention and assistance to British citizens abroad through consular offices, and to anyone at risk in the country, regardless of their nationality. The FMU has published a survivor's handbook, also suitable for people with learning disabilities, with information on health, relevant legislation including immigration law, employment and education, existing care services, housing, and support for children; it has also created a toll-free number and a free app for victims and people at risk, friends, family, and professionals in the relevant sectors. Approximately one third of forced marriage cases followed by the FMU concern children under the age of 18¹⁵²; the FMU is therefore also involved in bridging with Childline, a toll-free intervention number for children in difficulty. FMU's approach is not merely welfare-oriented, but it aims at empowerment, to make potential victims safer by helping them to recognise and report risk situations at an early stage¹⁵³;
- **The dissemination of clear, accurate, reliable, up-to-date, accessible, and multilingual information addressed to victims and potential victims**, disseminated by institutions on governmental websites - as is the case for example in France¹⁵⁴, Norway¹⁵⁵, and Sweden (in the latter case, the host site is that of the state police)¹⁵⁶;
- **Carrying out in-depth studies on the extent, nature and causes of the phenomenon in the national context**: the Swiss Federal Office for Migration commissioned an in-depth field study from the University of Neuchâtel, covering the entire national territory. The study in question, carried out in 2012, highlights the "causes, forms and extent"¹⁵⁷ of the phenomenon, concluding with specific recommendations addressed to the State. The adoption of specific protocols for different types of forced marriages (e.g. a marriage celebrated with a breach of consent requires different actions than a situation in which, after a consensual marriage, the divorce is prevented); the implementation of specific measures addressed to minors, men and perpetrators of violence; the improvement of the management of the transnational aspects of forced marriages; finally, the encouragement to carry out further research to deepen the knowledge on the phenomenon¹⁵⁸;
- **Use of mediation**. However, there is an open debate on the possibility of using this technique in cases of child and/or forced marriages. As association Trama di Terre¹⁵⁹ notes, in some cases, such as the Danish one, the "transformative intercultural mediation" is practised with the intervention of staff trained on intercultural communication and, specifically, on the phenomenon of forced/minority marriages, managing the conflict in a quick way to reduce the risks for the girls involved and always respecting the will of who asks for assistance. A different approach is adopted in the United Kingdom, where the NGO Southall Black Sisters (SBS)¹⁶⁰ has taken a clear position on this matter, claiming that "mediation for reconciliation should never be proposed as a possibility in cases of forced marriages" for several reasons: unreliability of the family's promises to respect the will of the

151 See therein, p.13. The italics are by NPWJ, to underline the aspects considered most useful and/or innovative also for the Italian context.

152 Home Office, Forced Marriage Unit (2020). Forced Marriage Unit Statistics 2019.

153 European Union Agency for Fundamental Rights (2014). Addressing forced marriage in the EU: legal provisions and promising practices, p. 41.

154 <https://www.diplomatie.gouv.fr/en/french-foreign-policy/human-rights/forced-marriage-you-are-protected>

155 <https://www.udi.no/en/word-definitions/forced-marriage/>

156 European Union Agency for Fundamental Rights (2014). Addressing forced marriage in the EU: legal provisions and promising practices, p. 31

157 Neubauer, A. and Dehinden, J. (2012). "Forced marriages" in Switzerland. Causes, forms and extent. University of Neuchâtel.

158 Ibid. Italics by NPWJ (see footnote 7).

159 Trama di Terre (2014). Matrimoni forzati, combinati e precoci. Vademecum per operatori e operatrici.

160 British NGO of black, migrant and minority women working for women's human rights since 1979, particularly on domestic violence and forced marriage.

daughters, unavailability of the respect and application of human rights as an object of mediation and compromise, danger for the daughters to be traced by the families when they accept the mediation”¹⁶¹. Therefore, in this context, mediation aimed at reconciliation is not a primary strategic instrument in the fight against child marriages. However, government positions tend to be flexible, based on the will of the person asking for help¹⁶². Although the Italian women’s shelter *Me.dea Onlus Centro Antiviolenza* has reported to NPWJ its use and the effectiveness of this method to contrast forced and early marriages, according to Trama di Terre, the scalability of this technique in the Italian case must be considered with caution, in fact “the danger is that mediation is proposed for ideological reasons and maybe adopted, while the indispensable support path that represents the authentic protection of women and girls from parental violence remains only a false promise. In this case, opposition to mediation, according to SBS arguments, seems the most logical way forward”¹⁶³, besides the fact that continuous cuts in social spending risk reducing the quality of services offered;

- The creation of **specific training courses** for operators in various sectors who might deal with children at risk. The *Forced Marriage Unit*, a national mechanism active in the United Kingdom since 2005, created an e-learning training package based on real case studies; in the Netherlands, an online module and an e-academy developed by two NGOs specialised in forced marriages and honour crimes were created on the initiative of the Ministry of Social Affairs and Employment. A particularly interesting element is that the marks awarded to those who successfully complete these courses can be included as part of the compulsory annual training hours. This makes the courses more attractive to the professionals who undertake them and encourages their dissemination;
- The **creation of integrated action systems** that build bridges between the public, private and non-profit sectors, as in Sweden, Belgium, and Denmark, where there are laws regulating intersectoral collaboration in both prevention and protection¹⁶⁴;
- The **dissemination of specific prevention projects in the school environment**, aimed not only at facilitating the detection of potential cases, but also at raising awareness and making young people in general proactive, so that everyone can act for change. This is the case in Sweden, the Netherlands¹⁶⁵ and the “Heroes project” in Germany, which targets young (male) migrants to analyse and deconstruct the “culture of honour”¹⁶⁶;
- The **strengthening, especially in terms of language, of the national anti-violence hotline**: in Germany, for example, the service is available in 15 languages.

In an attempt to fight against child and forced marriages, Denmark had set a minimum age limit of 24 years for family reunification following marriages celebrated abroad¹⁶⁷, a measure that was later repealed following the alarm raised by the CEDAW Committee¹⁶⁸. The Committee had noted that, although the law had been conceived as gender-neutral, it could have had specific negative repercussions for women since the age difference in child marriages could result in a woman’s inability to have her immigration status regularised due to the lack of family reunification - with even greater consequences if she had children. Subsequently, other legislation was approved that established the non-recognition of marriages that took place abroad between minors of less than 18 years old: these measures have been criticised by human rights organisations, which claimed that the interests of the minor were not protected by the new law¹⁶⁹, arguing that the non-recognition of the marriage after

161 Trama di Terre (2014). *Matrimoni forzati, combinati e precoci*. Vademecum per operatori e operatrici, p. 20

162 Ibidem

163 Ibid., p. 24

164 Ibid., p.7

165 European Union Agency for Fundamental Rights (2014). *Addressing forced marriage in the EU: legal provisions and promising practices*, p. 31

166 <https://www.heroes-net.de/>

167 See <https://www.girlsnotbrides.org/child-marriage/denmark/#:~:text=Danimarca%20ha%20impegnato%20a%20eliminare,del%20sviluppo%20sostenibile%20Goals.&text=A1%20primo%20London%20Girl,terminare%20il%20matrimonio%20bambino%20entro%2020>

168 Committee on the Elimination of Discrimination against Women (2015). *Concluding observations on the eighth periodic report of Denmark (CEDAW/C/DNK/CO/8)*, p. 10.

169 See <https://www.independent.co.uk/news/world/europe/denmarkban-under-18-marriage-under-18-asylum-seeking-teens-arrive-spouses-minors-a7537441.html>

arrival in Denmark would lead to a significant prolongation of the processing time for individual regularisation requests compared to those presented for a couple or family. The same argument was raised in a similar situation in Germany¹⁷⁰. The specific characteristics of the migration context require special attention from the authorities, so that measures to protect the human rights of children do not result in further discrimination or harm. The adoption of a holistic perspective based on all human rights of the person is necessary in order to contextualise the phenomenon and formulate hypotheses to combat it. However, it is also essential to consider the universality of human rights and, therefore, the inconsistency of cultural relativism as an argument to justify the maintenance of harmful practices, such as child marriage.

Scalable good practices from abroad - civil society

Civil society organisations also have an important potential in the fight against child marriages. Below we illustrate some good practices implemented in several European countries by non-governmental actors, from which Italian civil society could benefit:

- **Working in direct contact with families** and communities at risk, as in the case of the Southall Black Sisters in England: this kind of approach can be particularly effective in encouraging a change of mentality among the older generations, i.e. the “decision makers” in the context of early marriages;
- The creation of **websites dedicated to girls and young women at risk**, with a child-centred approach, including timely and short information to facilitate the understanding also of very young people, clarifying their rights, existing support services and ways to appeal, as in the case of the *Terre des Femmes* project in Germany through the website www.stopchildmarriage.de;
- The *WAVE network*, a European network of different organisations and shelters, published a **referral plan for all parties involved** in cases of forced marriages, from anti-violence centre/ women shelter staff to criminal justice practitioners, including public officials celebrating civil marriages;
- The **offer of specific centres and shelters for children** who are victims or at risk or, in the case of already existing anti-violence centres and shelters, the reinforcement of the services offered through an integrated approach that includes knowledge and specific measures addressed to girls under 18 who have experienced or are threatened by violence (e.g. language support and actions against school drop-out¹⁷¹). Examples can be found in Austria (with the centre run by the NGO *Orient Express*¹⁷²), in Sweden (with the centre *Somaya*¹⁷³), in the United Kingdom (with the two centres run by the NGO *Ashiana*¹⁷⁴) or in Germany (with the NGO *Papatya*¹⁷⁵, which offers accommodation and assistance to migrant girls aged between 13 and 21);
- The offer of **multilingual online counselling services**, permanent and also accessible from abroad, such as the *Sibel*¹⁷⁶ platform operated by *Papatya*, aimed at people who have suffered domestic violence, forced marriages or honour crimes;
- The creation of **gender-sensitive services tailored to the needs of male victims of forced marriage**: in the United Kingdom, for instance, there are several NGOs offering them, such as the *Palm Cove Society*, *the Gemini Project*, *the Men’s Advice Line* and *Men’s Aid*¹⁷⁷;

170 Max Planck Gesellschaft (2019). Underage, married, separated. A German law abolishes child marriages in general - not always in the interest of those affected. Available at <https://www.mpg.de/12797223/childmarriage-legislation-germany>

171 As recommended by FRA (Addressing forced marriage in the EU: legal provisions and promising practices, p. 38)

172 <https://www.orientexpress-wien.com/>

173 <https://cease-project.eu/project/somaya/>

174 <http://www.ashiana.org.uk/>

175 <http://www.papatya.org/>

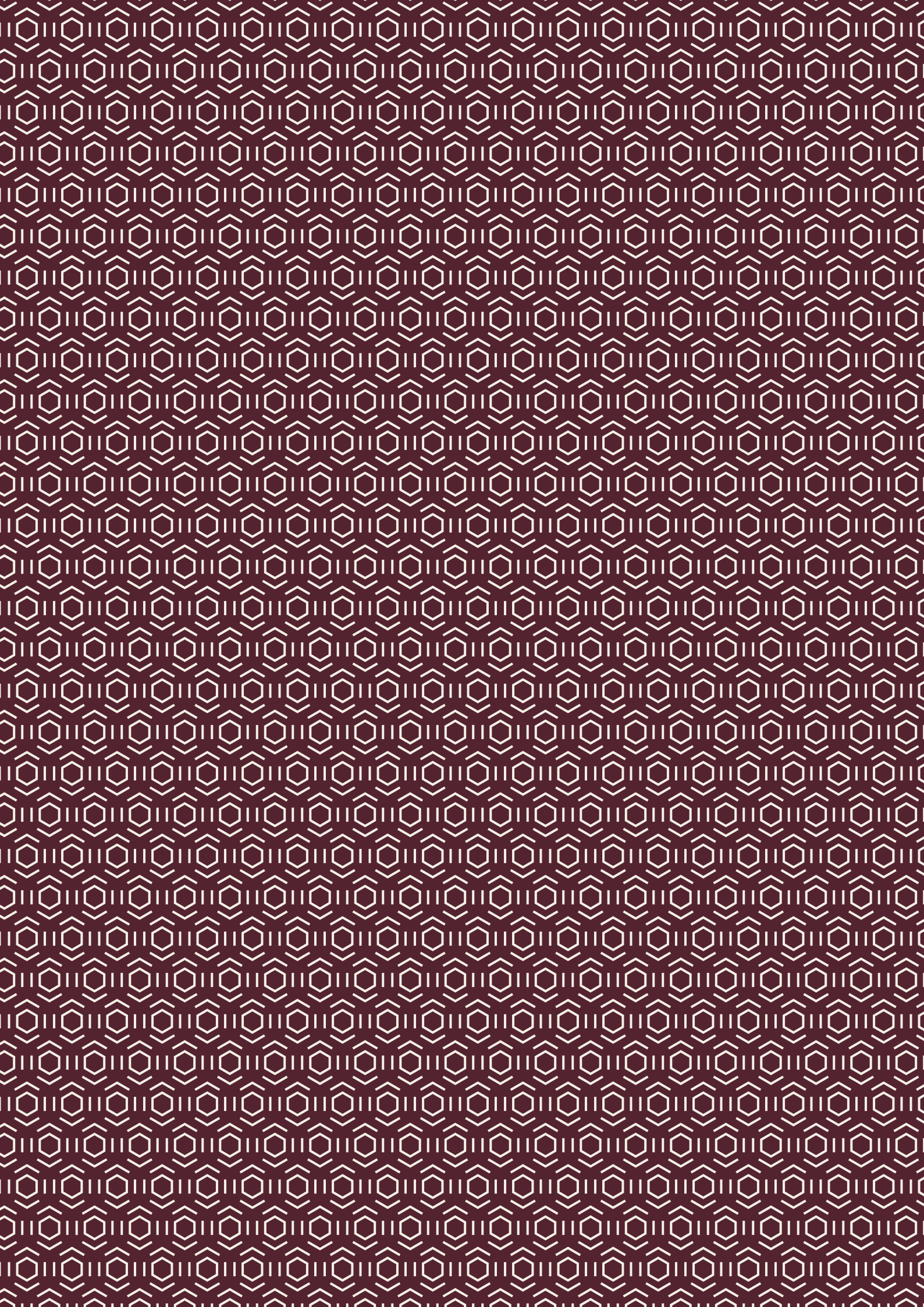
176 <http://www.sibel-papatya.org/index.htm>

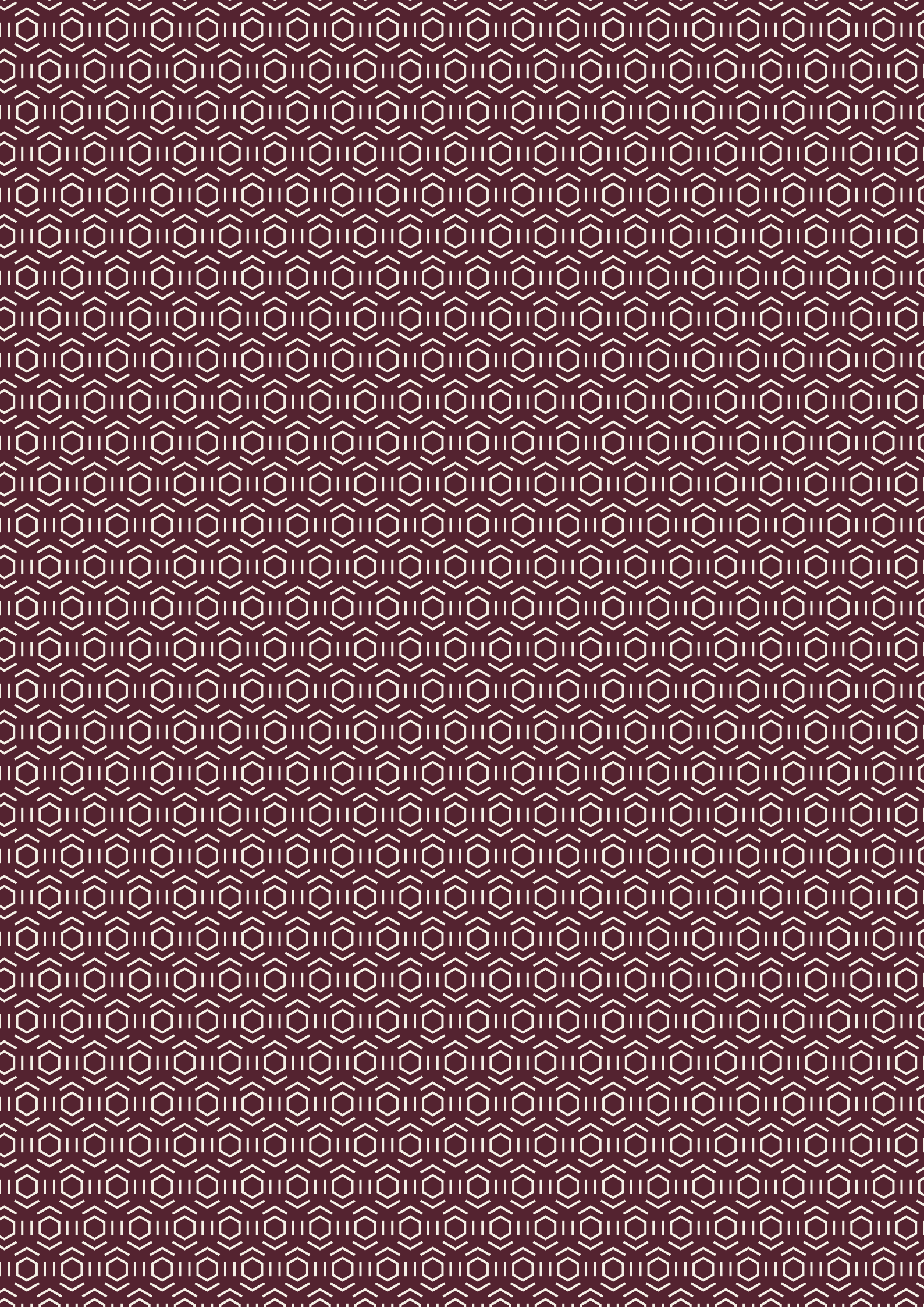
177 European Union Agency for Fundamental Rights (2014). Addressing forced marriage in the EU: legal provisions and promising practices, p. 38

- A **holistic spectrum of activities** by dedicated NGOs and anti-violence centres, as in the case of *Southall Black Sisters*: these include advocacy, prevention activities with a focus on vulnerable populations, support and counselling, legal assistance, information on child marriages and other types of gender-based violence also through the production of multilingual guides and brochures.

As the FRA¹⁷⁸ notes, the most promising initiatives (both institutional and by non-governmental organisations) are those that work with an all-inclusive perspective, fighting against forced and/or early marriage on several fronts and several risk factors at the same time; one of the most frequent problems, however, is the scarcity of funds. Therefore, it remains a priority for governments, and in particular the Italian government, to invest in programmes and practices against child and forced marriages, whose implementation is urgently needed.

178 Ibid., p. 33





5 – Final recommendations

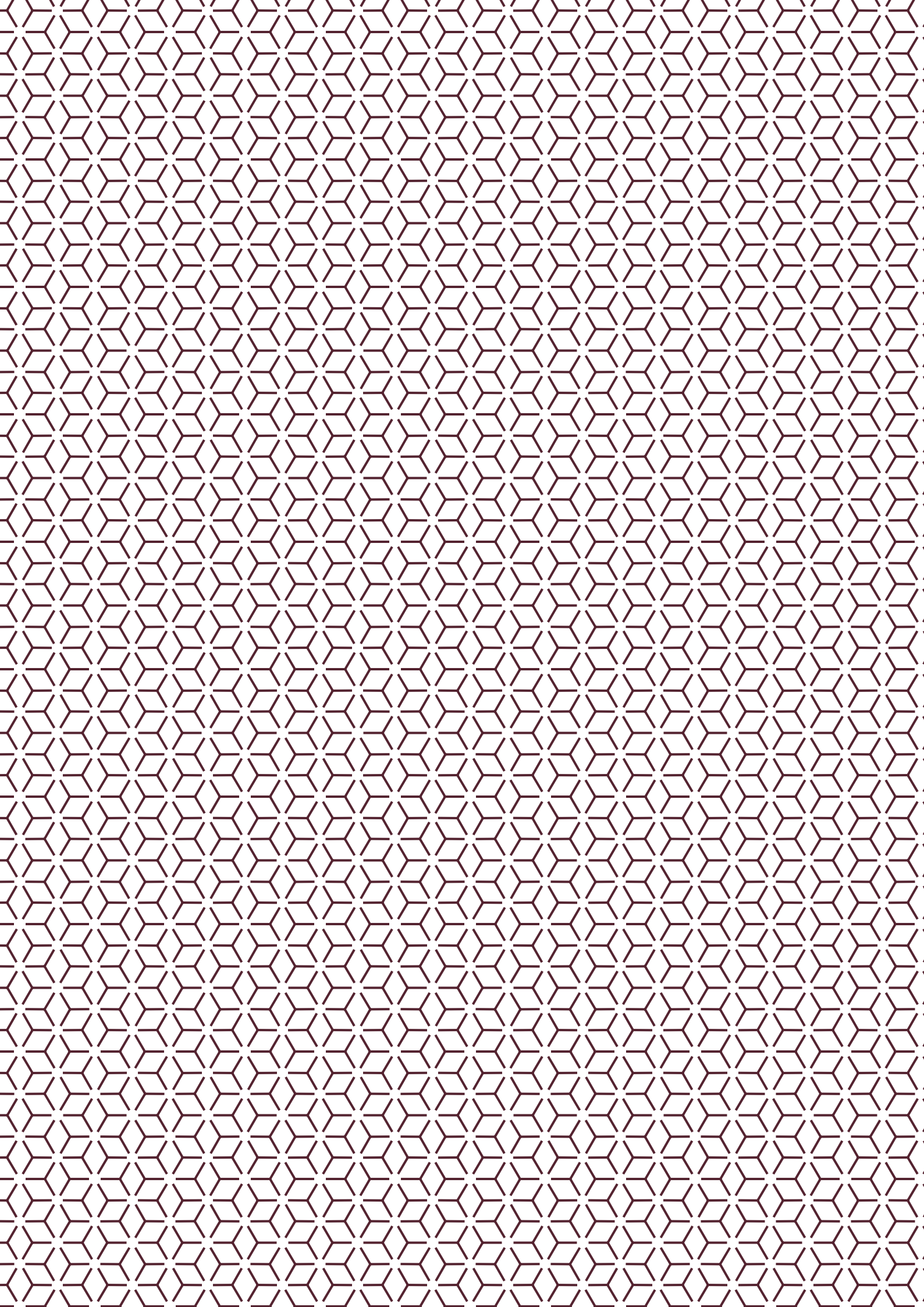
In the light of the documentary research carried out and the information provided by organisations and associations active on the Italian territory, NPWJ has collected some recommendations aimed at highlighting the gaps that exist today, but also at stimulating the initiatives already active and the synergies between the actors that implement them. The recommendations are organised according to the stakeholders to whom they are addressed (public institutions; civil society and non-profit sector) and the scale (national; local) they should be applied. The work on forced marriages of Associazione Trama di Terre Onlus was a fundamental basis for the drafting of these recommendations¹⁷⁹.

<i>Recommendations to public institutions</i>	<i>National level</i>	<i>Local level</i>
Provide funds to financially support initiatives against child marriage (e.g. research, field work), especially for small local organisations such as women’s shelters	✓	✓
Establish the minimum age of marriage at 18, without derogations, in order to comply with the international provisions in force for Italy	✓	
Adopt legislative measures to make early marriage a specific and independent criminal offence	✓	
Establish a permanent national observatory to monitor the phenomenon by carrying out research and collecting data to provide a national point of reference for combating forced and early marriages	✓	
Establish an integrated and multi-stakeholder national strategic plan to coordinate the currently uneven activities of different actors and to optimise resources and skills/knowledge and to create and disseminate specific guidelines and protocols in line with international standards	✓	
Support and facilitate the dissemination of information through institutional channels among women and girls who are victims or at risk of forced and/or child marriage, on: women’s rights, international protection procedures, access to social services and legal, health and psychological assistance, etc.	✓	✓
Implement projects to combat school drop-out and encourage the return to school of children at risk		✓
Improve education and support services in the sphere of sexual and reproductive rights of the adolescent population, informing girls and boys about rights, consent, and gender-based violence	✓	✓

¹⁷⁹ Trama di Terre (2014) “Matrimoni forzati, combinati e precoci. Vademecum per operatori e operatrici”.

Develop specific training courses (also online) on child marriages for professionals involved in the provision of services and/or in direct contact with girls at risk, to guarantee the quality of the assistance and accompaniment offered	✓	✓
Develop specific training courses (also online) on child marriages for primary and secondary schools, to provide risk assessment tools and competences for the identification and timely reporting of possible cases	✓	✓
Implement prevention campaigns and listening desks in schools to inform, raise-awareness and support pupils, also involving their families; providing listening desks for the student body	✓	✓
Increase the range of languages in which the 1522 national anti-violence line is offered, to make it accessible to as many people as possible	✓	
Ensure adequate accommodation for all asylum-seeking women and girls, including the establishment of gender-sensitive facilities and services with spaces that provide appropriate levels of confidentiality during interviews	✓	✓
Develop and implement gender-sensitive asylum, immigration and integration policies and establish criteria for assessing the risk of child marriage by the competent authorities	✓	
Promote the integrated action of judicial/FFOO, educational, social and health services by creating inter-sectoral protocols (e.g. designating a person responsible for maintaining contact and exchanging information between the different actors in each field)	✓	✓
Provide financial support to diaspora organisations working with women and girls who are victims or at risk of forced and early marriage	✓	✓
Provide financial support to referral centres by providing a holistic approach (data collection and screening, referral system, victim assistance, including information and accompaniment pathways) to women and girls	✓	✓

<i>Recommendations to CSOs</i>	<i>Livello nazionale</i>	<i>Livello locale</i>
Conduct advocacy campaigns with institutions in order to make the issue visible and to stimulate laws and policies to combat it by the Italian state	✓	
Set up websites for girls at risk, with clear, accessible and needs-based information for girls	✓	
Disseminate information among women and girls who are victims or at risk of forced or early marriage, regarding: women's rights, international protection procedures, access to social services and legal, health and psychological assistance, etc.	✓	✓
Develop specific trainings on child marriages in their organisations, especially when carrying out field work		✓
Develop specific training courses for primary and secondary school teachers, to provide them with risk assessment tools and skills for the early identification of possible cases		✓
Implement prevention projects and listening desks in schools, aimed at pupils, to raise awareness and increase awareness of the phenomenon and the human rights it violates	✓	✓
Ask governments to develop and/or implement gender-based asylum and immigration policies and to reconsider, when necessary, the criteria applied by the competent authorities to assess the risk of child marriage	✓	✓
Collaborate with other relevant stakeholders (e.g., social and health services, educational institutions, FFOO and the judiciary) to organise and improve screening and care		✓
Provide specific services for girls who are victims or at risk of child marriage (e.g. dedicated shelters; free online counselling services; psychological accompaniment and legal assistance)		✓
Adopt a gender- and human rights-based approach in their campaigns and activities on early marriage, avoiding cultural relativism	✓	✓
Develop and implement information/training programmes aimed at the community and also at the perpetrators of child marriages in order to involve families and facilitate the emergence of the phenomenon		✓



Conclusions

The most relevant conclusion that the development of this research has highlighted is the scarcity of data available in Italy on the issue of child marriages, certainly due, as it has been repeatedly underlined, to its complexity and to the difficulty to detect its entity in quantitative form. This scarcity, however, is also due to the absence of a political interest in this matter, which in turn reveals how the general orientation of the Italian State is to consider child marriages as something distant, remote, 'other than itself'. If it is true that the numbers found both by previous works (e.g. Mete Onlus, Trama di Terre) and by the organisations that participated in this research, are relatively small, each number corresponds to a person, in the vast majority of cases a girl or a child, whose human rights have been seriously violated - moreover, as the phenomenon is largely submerged, the real numbers would probably be much higher than the figures to which we have access. In this context, NPWJ stresses the importance of a political intervention that coordinates the institutional level with civil society - on which currently the greatest burden in combating child marriages rests. The recommendations contained in this study provide an initial proposal for such an intervention, highlighting the greatest data and policy gaps and the most urgent needs, identified through collaboration with those working in the field.

Acknowledgements

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Appendix I

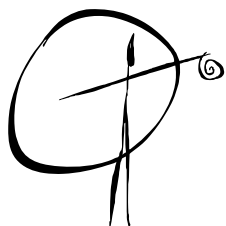
Questionnaire “Child marriages in Italy”

Out of the 137 organisations, associations and anti-violence centres and women’s shelters identified and subsequently contacted through a Google Form, 18 did not answer because they do not deal with the topic; 14 did not answer because they are not interested or because, as a matter of practice, they do not participate in external data collection initiatives; 9 answered the questionnaire (see report below). The remaining associations either never responded or were not successfully contacted due to outdated contacts or non-functioning servers.

Name of organisation

1. What specific activities does your organisation/association carry out on the issue of child marriages in Italy (e.g. advocacy, legal assistance and/or psychological accompaniment for victims, awareness raising etc.)? *
2. Has the staff of your centre received specific training on child and forced marriages? How?
3. Has your organisation/centre ever come into contact with cases of forced marriage between adults? If yes, how many?
4. Has your organisation/centre ever come into contact with cases of child marriage? If yes, how many?
5. (for women’s shelters) What protocol is applied by your centre in cases of child and forced marriage?
6. In cases of child marriages, what is the percentage of women/girls in the total number of cases?
7. In cases of forced marriages between adults, what is the percentage of women/girls in the total number of cases?
8. In cases of child marriage, what was the nationality of the child?
9. In cases of forced marriage between adults, what was the nationality of the woman?
10. What was the age of the women/girls/children involved in forced and/or child marriages?
11. What were the difficulties you encountered in the management/follow-up of these cases?
12. In your experience, which practices were effective in the work against forced marriages and, specifically, against child marriages?
13. Which stakeholders do you think should be involved in managing cases of child and forced marriages?
14. In your experience, do formal or informal collaborations exist between the various stakeholders involved at national or local level? If so, which ones and among which actors?
15. Do you think that collaborations/protocols of understanding between the stakeholders involved can be effective? If yes, what benefits can they bring?
16. In your experience, do you think that information on the issue is provided in schools? Are teaching staff adequately informed about the issue of child marriages?
17. In your experience, do you think that in the health care context (hospitals, ASL, etc.) the staff is adequately informed about the issue of child and/or forced marriages?
18. Do you think that the Italian legal and political context is adequate and provides a favourable environment for your work and for the fight against child/forced marriages?

19. Do you think that in Italy you are working adequately on a correct gender approach to the fight against child/forced marriages?
20. In your experience, are cases of child and forced marriages associated with other forms of violence? If yes, which ones?
21. Which suggestions/recommendations would you address to the institutions to improve the assistance and protection of the rights of those involved in child and forced marriages?
22. What suggestions/recommendations would you address to civil society organisations to improve the assistance and protection of the rights of those involved in child and forced marriages?
23. Are you willing to be contacted again in the future for possible follow-up and/or cooperation?
24. If you answered “yes” to the previous question, please provide the name and email of your preferred contact person



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