**Submission** **from Save the Children**:  *Report to the Human Rights Council on progress, gaps and challenges in addressing CEFM and measures to ensure accountability*

***Background***

The practice of Child, Early and Forced Marriage (CEFM) is a human rights violation and a form of gender-based violence that threatens the lives and futures of girls and women around the world.[[1]](#footnote-1) Deep-rooted gender inequalities and stereotypes, harmful practices, perceptions and customs, and discriminatory norms are not only obstacles to the full enjoyment of human rights and the empowerment of all women and girls but are also among the root causes of child, early and forced marriage.[[2]](#footnote-2)

CEFM robs children of their agency to make decisions about their lives disrupts their education, and makes them more vulnerable to domestic and intimate partner violence, discrimination, and abuse. CEFM prevents children’s full participation in economic, political, and social spheres throughout their lives. Rates of child marriage are expected to rise as a result of the COVID-19 crisis due to increasing risk factors like being out of school, lack of access to sexual and reproductive health services and information, disruptions to gender-based violence and child protection services, increasing food and economic insecurity, and exposure to other forms of gender-based violence.[[3]](#footnote-3) UNFPA, UNICEF, Save the Children, and others have predicted the first global increase in child marriage rates in more than 20 years. The latest estimates, informed by demographic data and historical insights on the effects of crisis on rates of child marriage, suggest that over 10 million more girls could be married as children in the next ten years, resulting in 110 million child marriages by 2030.[[4]](#footnote-4)

Eradicating CEFM requires that stakeholders increase their attention, knowledge, appropriate and evidence-based prevention and response measures, and resources in a coordinated fashion. It also requires the full and meaningful participation of the women and girls who are at risk and affected, from the early stages of developing policies and programming through the monitoring and evaluating of efforts to address this pressing issue.

**Measures implemented to ensure accountability at the community and national levels, including the applicable legal framework, policies, and programs.**

Child marriage is a human rights violation, curtails children's basic rights and puts them at risk of abuse and violence. Save the Children has helped to achieve a 25% decline in child marriage worldwide – that’s 11 million more girls empowered to stay in school or transition to work and decide for themselves when they’re ready for marriage and motherhood[[5]](#footnote-5).

Save the Children Zambia, in close collaboration Caritas and the network on Ending Child Marriage in Zambia[[6]](#footnote-6) have carried-out advocacy efforts for the enactment of the Child Code Bill[[7]](#footnote-7) and the amendment of the Marriage Act[[8]](#footnote-8). Community Child Protection Communities (CCPCs) have been established where children have been withdrawn from CEFM and taken back to school. Children, including adolescent girls, have the right to participate in decision-making for matters that affect their lives and their communities, and nearly every country in the world has committed to delivering on this right. Children’s participation is about having the opportunity to express views, having these views taken seriously and having the opportunity to influence decision-making. It is the informed and willing involvement of children in any matter concerning them directly or indirectly. In this context, child rights clubs have been established to empower children to defend and promote their own rights. This has been critical element in the fight against child marriage as children have been able to support their peers who are in the process of being married off or victims of CEFM. Advocacy interventions have also been implemented to pressure the government to accelerate the development and launch of the National Violence Against Child prevention and response plan 2021 to 2025[[9]](#footnote-9).

Child marriage is often rationalized by traditional reasons across Africa and South Asia. However, the practice is rooted in unequal gender and social norms as well as discriminatory cultural traditions. This makes attaining the main objectives of Sustainable Development Goal 5, ending child marriage in all parts of the world, a complex task that requires cooperation from all stakeholders, mostly traditional leaders. Traditional and religious leaders are well indicated to address the issue of child marriage because they influence social norms more than political actors. Moreover, when political actors change, traditional structures remain from generation to generation. Hence, involving traditional leaders in eliminating child marriage is essential[[10]](#footnote-10), literature suggests that they may have more capacity to address rural issues than elected politicians due to the influence they have in their community[[11]](#footnote-11). Save the Children Zambia and Caritas has been able to build the capacity and influence traditional leaders in target districts for them to implement laws that support the protection of children at chiefdom level against CEFM. Similarly, recognizing the need for improved knowledge and accountability through a multisectoral approach, Save the Children Nepal engages with priests and religious gurus in awareness-raising efforts on the impacts of child marriage on girls' health, education and on an entire community's wellbeing. Save the Children builds the capacity of these leaders to identify underage brides and grooms to refuse to ordain unlawful marriages.[[12]](#footnote-12)

Save the Children Nepal has been supporting the National Child Rights Council (NCRC) by establishing a framework agreement to strengthen child rights and child protection system. The NCRC is working with the local governments for the formation of a child protection system in local level and capacity building of child protection actors. In June 2021, the Ministry of Federal Affairs and General Administration (MoFAGA) endorsed an implementation guideline of Child Friendly Local Governance (CFLG) initiative[[13]](#footnote-13), one of the indicators for the local governments is to take actions on the elimination of child marriage at the local level. For instance, the province of Madhesh started implementation of "Beti Bachau-Beti Padhau (save daughter, educate daughter)" campaign[[14]](#footnote-14), an insurance scheme to encourage girls' education since 2019. Each of the insured girls receive NRs. 125,000 for their education. Similarly, Karnali provincial government launched a popular program "Bank Account for Daughters to Secure Life"program from the fiscal year 2019/20 with an objective to reduce child marriage and provide financial security to girls when they grow up. According to Ministry for Social Development Karnali, the bank accounts of about 13,814 girls have been opened under the program until 2021. In the same way, most of the municipalities have formed Municipal Child Rights Committee (MCRC) following the new children's act 2018[[15]](#footnote-15) and started working to end child marriage through the endorsement of multi sectoral strategy to end child marriage.

**The legal consequences of CEFM, including criminal, civil, administrative, and other legal consequences, as well as any documented effects, positive or negative, planned, or unintended, of the application of the legal framework**

Child marriage is defined as a formal or informal union before the age of 18[[16]](#footnote-16). it is important to recognize that the practice of CEFM includes those that are formalized, registered, and recognized by custom, religion, or the state, as well as those that are not formalized, are unregistered, and are not recognized by custom, religion, or the state. It is key to collect information on the entire range of CEFM in order to eradicate it globally.[[17]](#footnote-17) South Asia has the highest rates of child marriage in the world. Almost half (45%) of all women aged 20-24 years reported being married before the age of 18. Almost one in five girls (17%) are married before the age of 15.[[18]](#footnote-18) Unlike in South Asia where family members typically determine the spouse a girl will marry, most girls in the Africa study settings have greater autonomy in partner choice selection.In Zambia the most common union are peer marriage between girls (from the age of 12+) and boys (from the age of 14+)[[19]](#footnote-19). Children are “marrying” often making the decision to do so with or without the support of parents[[20]](#footnote-20).

In Zambia, there is no offense in the Penal Code prescribed as Child/Early or Forced Marriage. The legal consequences of marrying a child in Zambia who is below the age of 16 is charged as a defilement offense and the penalty include a minimum sentence of 15 years[[21]](#footnote-21). While for those that are above 16 and are below 21, there is no clear legal provision for the penalty to perpetrators of CEFM other than charging it as rape in an event that there was force involved. Hence the need to amend the current Marriage Act[[22]](#footnote-22) to take into consideration a robust approach in addressing CEFM and amend the Penal Code to include penalties around ending CEFM in the country. At community level, Save the Children and Caritas has been able to establish Community Child Protection Communities (CCPCs). CCPCs work in collaboration with the traditional leaders in dealing with CEFM for children below the age 21 but are above 16 years.

Child marriage was outlawed in Nepal in 1963 – laws currently set the minimum age for marriage at 20 years old for boys and girls[[23]](#footnote-23). Children’s Act 2018 [[24]](#footnote-24)defines children for individuals below 18 years of age and prohibits child marriage, also considering those involved in organizing child marriages as offenders. Despite the legal provision for the minimum age, the situation of CEFM remains alarming. Law enforcement agencies are struggling to enforce the latest legal provision in relation to marriage due to cultural norms and practices. Most of the cases of illegal marriage are unreported as the continuation of cultural practices, and thereby the children born out of these marriages have not got their births registered, and have been denied access to social services. Hence, the discussion is around whether to reduce the minimum age to 18 considering the social and cultural practices in the country. Child rights activists argue that the minimum age of marriage should be 18 looking at the international definition on the age of child and to avoid making more marriages illegal as per the current context of Nepal.

**Concrete measures implemented to ensure the integration of a human rights-based approach in judicial proceeding against CEFM, including age and gender sensitivity, victim-centred approach, respect of the best interest of the child, consideration of the evolving capacities of children, including adolescents, as well as their rights to be heard**

In recent years, the government of Nepal has attempted to strengthen the provisions in the Constitution on children. In an effort to integrate a human rights-based approach in judicial proceedings, the Children’s Act 2018 incorporated a provision of Juvenile Court and Juvenile Bench in District Courts[[25]](#footnote-25) to look for the cases of children in conflict with the law. Child-friendly rooms and bench have been set up in order to increase the access of children to justice. The bench aims to rehabilitate children back into society through reforms and not by punishing them like elders. In addition, there is a provision that the investigation process and the hearings should be conducted in a child-friendly manner that is age-sensitive in the presence of their caregivers; children also have the right to participate in the process of investigation and legal proceedings. In most cases, for children who come in conflict with the law particularly in conduct of child marriages, anecdotal evidence indicates that there are growing number of juveniles (mostly boys) in the juvenile correction centers sent from the District Court. Lack of skilled child psychologist and limited social workers at the district level has hindered the legal process of children in conflict with the law and it is a questionable gap in the implementation of child-friendly provisions of the Children’s Act 2018.

In 2020, Save the Children Nepal conducted an analysis of court cases related to children and found that the legal proceedings took minimum of 4 years for the final verdict, which shows that the judicial system is not working proactively to ensure justice for the children who are the victims or come in conflict with the law. There were few cases of CEFM survivors who had become adults by the time of the court hearing and the survivor was no longer interested because of the psychological stress they were going through due to the case.

One Stop Crisis Management Centre (OCMC) has been established in all district hospitals of Nepal with an objective to provide properly managed treatment, care and support in an integrated way to CEFM survivors and those affected by gender-based violence. NCRC has expanded the services of Child Helpline across more than 50 districts of Nepal. The mapping of child protection services including psychosocial services have been conducted and updated by government at federal, provincial, and local level to refer the reported cases of CEFM. It has significantly contributed to provide and extend the human right and victim centered approach.

In a quest to integrate the human rights-based approach, working with Caritas, Save the Children has been able to create and strengthen collaboration mechanisms in ensuring that all CEFM survivors were supported with the basic needs by ensuring that they receive medical attention and education support through collaboration with key stakeholders like Churches Health Associate Zambia (CHAZ) among others. Save the Children and Caritas also ensured that cases of CEFM were accurately documented and referred to relevant authorities for further actions. A gender-sensitive approach is implemented across all programs and interventions; for instance, vulnerable girls are enrolled in safe houses constructed by other CSOs partners such as World Vision Zambia, to monitor, support and protect them from any potential abuse. As part of our efforts, boys and girls are given the same information on children protection issues, including referral services and children’s rights. A victim-centered approach is also implemented at all times to ensure that the well-being of victims is prioritized at all matters and procedures. Save the Children and Caritas collaborate with the relevant stakeholders to ensure that the child is separated from the family when a family member is involved as the perpetrator. Victims are provided with medical attention to prevent the possibility to contract diseases and/or unwanted pregnancies. Victims are also referred to Psychosocial Support (PSS).

**Examples, good practices and lessons learnt by national human rights institutions to enhance State accountability for preventing and responding to CEFM.**

In relation to the good practices and lessons learnt on the use of international and regional human rights protection mechanisms, Save the Children have been able to build the capacity of stakeholders and established structures in various aspects of child protection and understanding of children rights as enshrined in the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

Save the Children Zambia have been engaging with the government for the enactment and amendment of legal frameworks and policies that strengthen the protection of children to ensure that children are safeguarded and provided with basic needs to survive and develop and ensuring that the best interest of the children is prioritized across government programmes and agendas to enhance the fight against CEFM. Save the Children have supported the National Child Rights Forum, and Caritas to contribute to the 2021 UNCRC shadow report for the state party reporting which included CEFM and general issues around violence against children.

In Nepal, civil society actors have remained vibrant and proactive to influence the government for fulfilling its national and international obligations. Save the Children along with CSOs have been involved in the reporting processes of Universal Periodic Review (UPR) from the first cycle in 2010. Save the Children and CSOs have raised issues of CEFM in the Stakeholders Report for the first, second, and third cycle. States have recommended the GoN to take concrete actions towards elimination of CEFM. Save the Children and Children as Zone of Peace (CZOP) have been working closely with National Human Rights Commission (NHRC) and prepared the monitoring framework for the implementation of the UPR recommendations. In November 2021, NHRC has issued a directive recommendation to the GoN to develop and implement costed action plan to eliminate child marriage.

**Recommendations**

Save the Children makes the following recommendations to national governments and UN actors:

**National governments**

* **Institutionalize adolescent girls’ safe and meaningful participation in policy-making and accountability processes** through the establishment, resourcing, and implementation of local- and national-level laws, policies, and guidelines recognizing adolescent girls’ agency and rights as key stakeholders in their own lives.
* **Address critical barriers to girls’ rights and gender equality, including preventing and responding to child marriage by:**

1. Developing and strengthening formal and informal protection systems through engagement of local women’s, girls’, and children’s rights groups; of religious, traditional, and community leaders;
2. Working with communities, including girls, their parents and caregivers, their extended families, men and boys, and traditional and religious leaders to challenge harmful gender norms and build support to end child marriage and other forms of gender-based violence.
3. Ending child marriage and supporting already married girls to realize their rights by passing laws against gender-based violence, including harmful practices; setting the minimum age of marriage at 18 years without exception; and repealing laws and policies that create barriers to girls accessing their rights to education and sexual and reproductive health services and information. These measures should form part of fully funded and implemented multisectoral national action plans with accountability mechanisms.

**UN actors and UN agencies**

* **Systematically include adolescent girls’ safe and meaningful participation in international policy making and accountability processes that affect them.** UN actors should ensure adolescent girl-friendly and girl-specific platforms are available for them to safely engage with decision-makers in a meaningful, ongoing fashion.
* **Deliver technical expertise and financial assistance to support development of national policies** **and programmes for girls**, including girls’ participation, accountability mechanisms, gender-and child-responsive budgeting, and safe and ethical data collection, analysis, and use in all settings.
* **Comprehensively collect, analyze, and use data disaggregated by sex, age, and disability.** Those undertaking identification, documentation, investigation and/or verification of rights violations must ensure ethical, safe and responsible practices. All data collection must safeguard children’s safety and protection, and adhere to established data collection safety and ethics standards. Policies and practices must be child-friendly, gender-sensitive and inclusive. Security and safety considerations, as well as the psychological well-being of CEFM survivors and others, must outweigh any attempt to establish prevalence or incidence data.

Human Rights Council

* **Ensure that legal and policy frameworks and all accountability mechanisms recognize and incorporate an age and gender lens**. This includes within the:
  + Human Rights Council Resolutions;
  + Reports and briefings by UN Special Mandate Holders; and,
  + Recommendations to UN Member States under the Universal Periodic Review.

1. Addressing Data Gaps on Child, Early and Forced Marriage in Humanitarian Settings: <https://www.savethechildren.org/content/dam/usa/reports/ed-cp/cefm-in-humanitarian-settings.pdf> [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. Global Girlhood Report 2021: [Global Girlhood Report 2021 | Save the Children’s Resource Centre](https://resourcecentre.savethechildren.net/pdf/sc_globalgirlhoodreport2021-1.pdf/) [↑](#footnote-ref-3)
4. International Energy Agency (2020) [Global Energy Review 2020: The impacts of the COVID-19 crisis on global energy demand and CO2 emissions](https://www.iea.org/reports/global-energy-review-2020); World Health Organization (2021) WHO Coronavirus (COVID-19) Dashboard with Vaccination Data. [↑](#footnote-ref-4)
5. Save the Children – Child Marriage <https://www.savethechildren.org/us/charity-stories/child-marriage-a-violation-of-child-rights> [↑](#footnote-ref-5)
6. Network to end child marriage: <https://www.facebook.com/necmz/> [↑](#footnote-ref-6)
7. Child Law Resources:<http://www.africanchildforum.org/clr/Pages_EN/Zambia.html> [↑](#footnote-ref-7)
8. Child Marriage Act:<https://www.parliament.gov.zm/sites/default/files/documents/acts/Marriage%20Act.pdf> [↑](#footnote-ref-8)
9. <https://www.end-violence.org/impact/countries/zambia> [↑](#footnote-ref-9)
10. Save the Children. Guidance for engaging with traditional leaders: <https://resourcecentre.savethechildren.net/pdf/guidance_for_engaging_traditional_leaders_-_child_marriage_design10.pdf/> [↑](#footnote-ref-10)
11. Town chiefs in Malawi: <https://odi.org/en/publications/town-chiefs-inmalawi/> [↑](#footnote-ref-11)
12. Save the Children, Making the law working for girls: <https://resourcecentre.savethechildren.net/document/making-law-work-girls-how-children-governments-communities-and-religious-leaders-are-working/> [↑](#footnote-ref-12)
13. Child participation in Local Governance:<https://www.unicef.org/sites/default/files/2019-12/Child-Participation-in-Local-Governance-UNICEF-Country-Office-Case-Studies.pdf> [↑](#footnote-ref-13)
14. Save girl child, educate girl child : <https://bit.ly/34sFbbr> [↑](#footnote-ref-14)
15. <https://www.lawcommission.gov.np/en/wp-content/uploads/2019/07/The-Act-Relating-to-Children-2075-2018.pdf> [↑](#footnote-ref-15)
16. Child Marriage Laws and their limitations: <https://resourcecentre.savethechildren.net/document/ending-child-marriage-child-marriage-laws-and-their-limitations/> [↑](#footnote-ref-16)
17. <https://www.savethechildren.org/content/dam/usa/reports/ed-cp/cefm-in-humanitarian-settings.pdf> [↑](#footnote-ref-17)
18. UNICEF -Child Marriage – South Asia: <https://www.unicef.org/rosa/what-we-do/child-protection/child-marriage> [↑](#footnote-ref-18)
19. UNICEF - Child Marriage – Zambia <https://www.unicef.org/esa/media/8941/file/Zambia-Case-Study-Child-Marriage-2021.pdf> [↑](#footnote-ref-19)
20. Ibid. [↑](#footnote-ref-20)
21. Zambia – Penal Code Act:<https://www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf> [↑](#footnote-ref-21)
22. Zambia – Marriage Act <https://www.parliament.gov.zm/sites/default/files/documents/acts/Marriage%20Act.pdf> [↑](#footnote-ref-22)
23. The National Penal (Code) Act, 2017 <http://www.moljpa.gov.np/en/wp-content/uploads/2018/12/Penal-Code-English-Revised-1.pdf> [↑](#footnote-ref-23)
24. The National Penal (Code) Act, 2017 <https://www.lawcommission.gov.np/en/wp-content/uploads/2019/07/The-Act-Relating-to-Children-2075-2018.pdf> [↑](#footnote-ref-24)
25. Juvenile Bench in District Courts <https://www.lawcommission.gov.np/en/wp-content/uploads/2018/09/juvenile-justice-procedural-rules-2063-2006.pdf> [↑](#footnote-ref-25)