

Human Rights Standards on

Harmful Practices

Key Questions

for Monitoring Health System Compliance with Human Rights Obligations

The questionnaire below provides a tool for assessing your health system's compliance with human rights obligations regarding harmful practices. Because of the particular impact that CEFM and FGM have on sexual and reproductive health, it focuses on these two harmful practices.

Effectively addressing harmful practices is a core obligation of states, meaning that states cannot make reservations to limit or qualify this responsibility.⁹⁶ At a minimum, states must collect, update, and disseminate data on the incidence and prevalence of harmful practices; develop and apply appropriate laws and regulations with the participation of affected communities; and implement prevention and response efforts to establish rights-based social, gender, and cultural norms, empower women and communities through education and economic opportunities, raise awareness, and ensure that protective measures, responsive services, and remedies are available to the women and girls most vulnerable to harmful practices.

⁹⁶ CEDAW and CRC Committees, Joint Gen. Recommendation No. 31/Gen. Comment No. 18, *supra* note 228, para. 14.

1. Has the state established a well-defined, rights-based, and locally relevant holistic strategy or plan to address harmful practices, including CEFM and FGM?⁹⁷

ALWAYS

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SOMETIMES

RARELY

NEVER

Examples of Implementation

Raise awareness among diverse stakeholders (e.g., civil society, government, and the private sector) and among sectors (e.g., health, education, and social protection) concerning what human rights-based approaches to harmful practices entail, as well as the scope and nature of human rights-related legal obligations concerning such practices.

Facilitate discussions with diverse stakeholders aimed at developing or strengthening national strategies and plans concerning harmful practices, guided by the Joint General Recommendation 31/General Comment 18 of the CEDAW Committee and the Committee on the Rights of the Child.

Support reviews of state resource allocations to implement such strategies or plans, including budgetary, human, and administrative resources.

Engage with national health officials, national statistics offices, and other public officials to develop and implement tools to collect disaggregated data on harmful practices, in order to document trends and the girls and women who are most at risk; inform state action; and monitor the effectiveness of laws, policies, and programs.

KEY RESOURCES

UNFPA, [State of the World's Population 2020](#), p. 120

UNFPA, [Costing the Three Transformative Results](#), pp. 23-33

Girls Not Brides, [A Checklist for National Strategies to End Child Marriage](#)

UNFPA, [Enabling Environments for Eliminating Female Genital Mutilation](#), p. 10

UNFPA and UNICEF, [Global Theory of Change Phase II](#)

UNFPA and UNICEF, [Seven Steps to Strengthening Legislation, Policy and Public Financing to End Child Marriage](#)

⁹⁷ Id., para. 33.

2. Has the state utilized law or policy to prevent harmful practices, including CEFM and FGM, and ensure remedies for survivors?⁹⁸

ALWAYS

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SOMETIMES

RARELY

NEVER

Examples of Implementation

Raise awareness among legislators of human rights standards concerning harmful practices and the appropriate legal responses, including the need to center women's and girls' bodily autonomy and to ensure that laws do not have a negative impact on the populations they seek to empower.⁹⁹

Partner with UN entities at the country level, including UNFPA, UNICEF, UN Women, and the Office of the UN High Commissioner for Human Rights, to assess how national laws and policies may promote gender stereotypes that are linked to harmful practices and what legal reforms are needed to comply with human rights standards.

KEY RESOURCES

UNFPA, [State of the World's Population 2020](#), p. 119

UNFPA-UNICEF Global Programme to End Child Marriage, [Child Marriage and the Law: Technical Note for the Global Programme to End Child Marriage](#)

UNFPA APRO, [Rights Versus Protection: Marriage, Sexual Consent and Medical Treatment](#)

[Kathmandu Call for Action to End Child Marriage in South Asia](#)

SADC, GNB, and UNFPA, [A Guide to Using the SADC Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage](#)

⁹⁸ Id., para. 13

⁹⁹ Id., para. 51.

3. Is the process of lawmaking, dissemination, and implementation related to CEFM and FGM inclusive and participatory of affected populations, including adolescents?

ALWAYS

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SOMETIMES

RARELY

NEVER

Examples of Implementation

Convene national dialogues with engagement from civil society and populations impacted by CEFM and FGM, including adolescents, on how laws can be useful in preventing harmful practices, supporting survivors, and achieving accountability.

Support women's rights groups and youth advocates in coming together to develop recommendations on legal reforms necessary to address harmful practices, including through assessment of the effectiveness of existing legal frameworks, such as criminalization, and how best to address religion-based personal status laws¹⁰⁰ that may permit such practices.

¹⁰⁰ Laws relating to marriage, divorce, distribution of marital property, inheritance, guardianship, adoption, and other such matters. Several countries allow multiple family law systems that permit identity-based personal status laws that are exempt from constitutional provisions prohibiting discrimination or reserve matters of personal status to the ethnic and religious communities within the state party. CEDAW Committee, General recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women: Economic consequences of marriage, family relations and their dissolution, paras. 10-14, U.N. Doc. CEDAW/C/GC/29 (2013).

4. Has the state invested in proactive measures to promote the empowerment of girls and women, including challenging patriarchal and other harmful gender norms and stereotyping?¹⁰¹

ALWAYS

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SOMETIMES

RARELY

NEVER

Examples of Implementation

Engage with health and education officials to ensure that school curricula include mandatory comprehensive sexuality education and that out-of-school programs provide accurate information relating to harmful practices¹⁰² and contain information on human rights (including those of women and children), gender equality, gender stereotypes, gender-based violence, and the need to foster an environment of nondiscrimination.¹⁰³

Develop long-term awareness-raising informational and educational campaigns aimed at community and religious leaders, families, and men and boys, as well as specific interventions to empower women and girls and discourage harmful practices (e.g., through awareness-raising about the impact of FGM on girls' and women's health and lives).

KEY RESOURCES

UNFPA, [How Changing Social Norms Is Crucial in Achieving Gender Equality](#)

UNICEF, [Gender Transformative Approaches for the Elimination of Female Genital Mutilation](#)

UNFPA and UNICEF, [Technical Note on Gender-Transformative Approaches: A summary for practitioners](#)

UNFPA and UNICEF, [Technical Note on Life Skills Programmes for Empowering Adolescent Girls: Notes for Practitioners on What Works](#)

See also questionnaire on "Gender-Based Violence"

¹⁰¹ RC Committee, Gen. Comment No. 20, supra note 25, para. 28.

¹⁰² United Nations Educational, Scientific, and Cultural Organization (UNESCO), International Technical Guidance on Sexuality Education: An Evidence Informed Approach to Effective Sex, Relationship, and HIV/STI Education Vol. II: Topics and Learning Objectives, at 5 (2009), available at <https://unesdoc.unesco.org/ark:/48223/pf0000183281>.

¹⁰³ CEDAW and CRC Committees, Joint Gen. Recommendation No. 31/Gen. Comment No. 18, supra note 228, para. 69(c).

5. Has the state implemented measures in humanitarian contexts and crises for prevention of CEFM and FGM and support for survivors?¹⁰⁴

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SOMETIMES

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Examples of Implementation

Review existing quantitative and qualitative data on child and forced marriage, FGM, and other prevalent harmful practices and use this for advocacy to ensure that the issues are included in response planning for protection, education, and health.

At the onset of or during crises, seek feedback from girls and families, in accordance with ethical principles, on whether the services or interventions to prevent harmful practices are accessible and appropriate and respond to their needs.

Map the types and capacity of existing formal and informal service providers that currently provide adolescent-responsive and survivor-centered services (e.g., girls' safe spaces, adolescent-centered services, and other entry points where child survivors may seek support) and develop a referral pathway between these services.

KEY RESOURCES

UNFPA, [Addressing Child Marriage in Humanitarian Settings](#)

UNICEF, [Technical Note on COVID-19 and Harmful Practices](#)

UNFPA ESARO, [A Guidance Note on Alternative Rites of Passage and Cultural Practices for Adolescents and Young People in East and Southern Africa](#)

104 Human Rights Council, Resolution on Child, early and forced marriage in humanitarian settings (35th Sess., 2017), U.N. Doc. A/HRC/RES/35/16 (2017).

6. Has the state taken measures to address root causes of harmful practices, including poverty and lack of access to education for women and girls, which are proven to protect girls from harmful practices such as child marriage?¹⁰⁵

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SOMETIMES

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Examples of Implementation

Build the capacity of legislators and national education officials on the link between poverty, education, and harmful practices, including the critical role of efforts such as universal, free, and compulsory primary school; abolishing school fees for secondary school; policies to encourage regular attendance; and efforts to eliminate gender disparities and support attendance for the most marginalized girls.

Advocate with legislators, government officials and the private sector to build a commitment to investing in economic empowerment, access to cash transfers, and economic opportunities for women and girls as a way to redistribute resources and prevent harmful practices.

Engage local education officials and civil society to ensure that adolescent girls subjected to harmful practices are able to continue attending school even if they are married or pregnant. Support girls who are unable to return to school through out-of-school nonformal education, including on life skills and entrepreneurship training.¹⁰⁶

Partner with local education officials to develop and implement programming to makes schools and their surroundings safe and friendly to girls.¹⁰⁷

KEY RESOURCES

UNFPA, [Marrying Too Young](#), p. 50

UNFPA, [State of the World's Population 2020](#), p. 118

UNICEF, [How to Make 'Cash Plus' Work, Linking Cash Transfers to Services and Sectors](#)

UNFPA and UNICEF, [Global Programme to End Child Marriage: Phase II](#)

[Programme Document: 2020-2023](#)

UNFPA and UNICEF, [Technical Note Leaving No One Behind: Technical Note of the Global Programme to End Child Marriage](#)

¹⁰⁵ OHCHR, Information Series on Sexual and Reproductive Health and Rights: Harmful Practices (2020), https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Harm_Pract_WEB.pdf; CRC Committee, Gen. Comment No. 20, supra note 25, para. 69.

¹⁰⁶ CEDAW and CRC Committees, Joint Gen. Recommendation No. 31/Gen. Comment No. 18, supra note 228, para. 63.

¹⁰⁷ Id., 62.

7. Has the state guaranteed access to sexual and reproductive health information and services for individuals who have been, or are at risk of, being subjected to harmful practices?

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SOMETIMES

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Examples of Implementation

Engage survivors' networks and adolescent and youth networks to identify barriers to decision-making and autonomy concerning sexual and reproductive health for those impacted by harmful practices (including spousal and parental consent requirements and lack of adolescent-responsive health services), and conduct advocacy to remove such barriers.

Partner with local health and education officials and religious and community leaders to provide training programs for educators and health care providers on how to convey accurate, science-based information and education on sexual and reproductive health, which contributes to empowering individuals, including adolescents, to make informed decisions and claim their rights.

Supply commodities and engage health officials to provide sexual and reproductive health care to survivors of harmful practices, including, where necessary, access to emergency contraception, abortion, and prophylactic antiretroviral treatment for survivors of sexual violence.¹⁰⁸

KEY RESOURCES

UNFPA, [State of the World's Population 2020](#), p. 118

OHCHR, [Information Series on Sexual and Reproductive Health and Rights: Harmful Practices](#)

WHO, [Female Genital Mutilation: Evidence Brief](#)

UNFPA ESARO, [The Impact of Rites of Passage and Cultural Practices on Adolescents' and Young People's Sexual and Reproductive Health in East and Southern Africa](#)

UNFPA ESARO, [A Guidance Note on Alternative Rites of Passage and Cultural Practices for Adolescents and Young People in East and Southern Africa](#)

UNFPA and UNICEF, [Technical Note on Adolescent Girl-Responsive Systems](#)

See also questionnaires on "Comprehensive Sexuality Education" and "Gender-Based Violence"

¹⁰⁸ See, e.g., Committee on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence against women (11th Sess., 1992), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, paras. 24(k), 24(t)(iii), U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008); A.T. v. Hungary, CEDAW Committee, Commc'n No. 2/2003, para. 9.6(II)(e), U.N. Doc. CEDAW/C/32/D/2/2003 (2005); Human Rights Committee, Gen. Comment No. 28, *supra* note 49, para. 11.

8. Does the state have programs established to ensure that individuals seeking to avoid being subjected to harmful practices have access to social protection and services (such as shelters)?

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SOMETIMES

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Examples of Implementation

Support the establishment of voluntary shelters and relocation services outside of immediate communities for individuals fleeing their homes to avoid harmful practices.¹⁰⁹

Promote in-kind support to girls and women to keep them in school, as well as cash transfers or food vouchers to alleviate poverty.

Promote gender-transformative “cash plus” models (which combine cash transfers with complementary programs, such as life skills, mentoring, savings, parenting support, community conversations, and mass media approaches for normative change).¹¹⁰ For example, engage with national and local education officials to implement measures such as economic incentives to support pregnant girls and adolescent mothers in completing secondary school and to establish nondiscriminatory return policies.¹¹¹

¹⁰⁹ CEDAW and CRC Committees, Joint Gen. Recommendation No. 31/Gen. Comment No. 18, supra note 228, para. 83.

¹¹⁰ Ruth Graham-Gouldner, Social Protection and Child Marriage During Covid-19: Evidence, Practices, and Opportunities (Aug. 25, 2020), available at <https://socialprotection.org/discover/blog/social-protection-and-child-marriage-during-covid-19-evidence-practices-and->

¹¹¹ CEDAW and CRC Committees, Joint Gen. Recommendation No. 31/Gen. Comment No. 18, supra note 228, para. 68(a).

9. Does the state have effective law enforcement regarding harmful practices, with legal processes to ensure that cases are promptly, impartially, and independently investigated, as well as provision of effective remedies for survivors?

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Examples of Implementation

Serve as a leading voice advocating to ensure that national human rights institutions are mandated to consider individual complaints and petitions and carry out public inquiries and investigations of cases of CEFM and FGM, including those submitted on behalf of or directly by women and children, in a confidential, gender-sensitive, and child-friendly manner.

Develop long-term capacity-building partnerships with national human rights institutions to operationalize human rights norms to address harmful practices, including through awareness-raising campaigns, country assessments, inquiries, and public hearings with survivors.

Support national officials in developing and implementing systems of birth and marriage registration to ensure documentation that may be necessary under local laws to seek accountability for CEFM.

KEY RESOURCES

UNFPA-UNICEF Global Programme to End Child Marriage, [Child Marriage and the Law: Technical Note for the Global Programme to End Child Marriage](#)

UNFPA, [Conducting Public Inquiries to Eliminate Female Genital Mutilation](#)

UNFPA, [Elevating Rights and Choices for All: Guidance Note for Applying a Human Rights Based Approach to Programming](#), pp. 25-26

UNFPA, [A Guide in Support of National Human Rights Institutions](#)

10. Has the state ensured that individuals who have experienced harmful practices have access to justice, including by addressing legal and practical barriers?

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SOMETIMES

RARELY

NEVER

Examples of Implementation

Support civil society coalitions in identifying and advocating for reform of legal and practical barriers to justice, including short statutes of limitations.

Support local governments officials in providing legal aid programs and know-your-rights programs.

Partner with gender equality experts to sensitize the judiciary on gender stereotypes and address the role of these stereotypes in undermining access to justice.

KEY RESOURCES

OHCHR, [Gender Stereotyping and the Judiciary: A Workshop Guide](#)