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The Right to Leave: Dissolution of Child, Early, and Forced Marriages and Unions

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Abstract: Global interest in child, early, and forced marriage and unions (CEFMU) is reflected in a large and growing body of research and interventions. Those interventions have focused on raising the minimum age of marriage, establishing laws and penalties for those who ignore these minimums, investing more heavily in girls' education, addressing structural inequalities, and bringing about gender and social norm change. Missing has been any discussion of the right to leave marriage. As we learn more about the forces that drive child marriages and unions and what works to prevent them, rare is any mention of how these marriages sometimes end and what happens when they do. Human rights standards focus on the ability to choose "if, when, and whom to marry". We posit that without the ability to decide if and when to leave marriage, marriage cannot be considered a choice. This paper explores why the right to leave marriage matters so deeply, describes the obstacles to girls' access to divorce and to protections after divorce or separation, and links these to the factors that drive child, early, and forced marriages and unions.

Keywords: child marriage; divorce; adolescents; marriage choice; empowerment; human rights



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1. Introduction

Child, early, and forced marriages and unions (CEFMU) are widely recognized as violations of the fundamental human rights of children and adolescents, and have been linked to early childbearing [1], increased maternal mortality and morbidity [2], higher risk of intimate partner violence and marital rape [3], poor educational and economic outcomes [4], child stunting [5], and intergenerational poverty [6], among other effects. Global interventions to prevent and respond to CEFMU have explored many intersectional strategies for shifting laws and policies, changing social norms, improving family relations before and within marriages, and promoting gender equity in all aspects of life. Advocacy has focused on raising the minimum age of marriage, on legal consequences and penalties for those who ignore these minimums, and on the need to devote greater attention and resources to the education of young girls, one of the most effective interventions to delay marriage [7]. Advocacy has also called attention to the structural—social and economic—inequalities that drive CEFM [8]; and it has emphasized the value of community mobilization and dialogue in shifting gender and social norms [9].

Yet few programs designed to prevent or respond to CEFMU have directly addressed the question of whether young people who marry before reaching the age of majority have access to divorce, dissolution, or invalidation of their marriages, before or after the age of 18. With 650 million women alive today who were married before the age of 18, and an additional 23 girls married every minute, it is important to consider whether and how CEFMU programs can support the possibility of exit from marriage into their advocacy and program strategies.

This review builds on the authors' extensive empirical and conceptual research on child marriage: our work has included leading the development of the Girls Not Brides theory of change, conducting several scoping and systematic reviews on child marriage and reviews of international human rights documentation and analysis, and discussions with experts in CEFMU, international human rights policy, and adolescent SRHR. We searched content- and subject-specific databases, including the GreeneWorks CEFMU research database (2000–2022) (<http://greeneworks.com/child-marriage-database>, accessed on 3 March 2023) and the Sexual Rights Law and Policy Database (<https://sexualrightsdatabase.org/page/welcome>, accessed on 3 February 2023), and conducted targeted searches for published articles on CEFMU, divorce, and dissolution. We did not restrict our search to any particular country or region but rather looked at evidence from all regions to draw cross-cultural comparisons and establish trends and similarities. This paper is not itself a systematic review but draws on a previous systematic scoping review and related research by the authors [10]. We asked what is known about adolescents' access to divorce, the consequences of divorce, and why the issue has been such a blind spot in research and interventions addressing child marriage. Our paper raises the broader question: Is there a human right to divorce?

In reviewing reports and evidence from countries in all regions of the world, the authors find that common and compounded legal, social, and economic strictures and age- and gender-based discrimination often create insurmountable barriers to leaving marriage. We argue that recognizing the right to leave marriage and shifting the social norms that keep young women in marriages that are harmful to them are essential to achieving a world where people of all ages and genders can realize their rights to choose if, when, and with whom to found their families.

2. Review of the Evidence

2.1. *The Right to Divorce*

International human rights mechanisms enshrine the individual right to marry and found a family, as initially described in Article 16 of the Universal Declaration of Human Rights (UDHR) (1948) and reinforced in binding conventions (including the International Covenant on Civil and Political Rights, Article 23; International Convention on Economic, Social and Cultural Rights, Article 10; African Charter on Human and Peoples Rights, Article 18; American Convention on Human Rights, Article 17; and European Convention on Human Rights, Article 12):

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Human rights scholars and advocates have worked diligently, particularly over the past few decades, to expand our legal understanding of the right to marry, and of what marriage and family can mean [11]. Yet divorce is rarely acknowledged or explicitly addressed in international agreements or treaties [12]. Without access to divorce, marriage violates the rights of many to make autonomous decisions that ensure their wellbeing [13]. The right to marry and found a family, as expressed in the sexual and reproductive rights canon as the right to freely and consensually choose one's sexual and marital partners [14], requires a complementary and converse right: to choose when and how to end a partnership.

International human rights instruments sidestep the right to exit a marriage or union, including for adolescents in CEFMUs. The UDHR stops short of establishing a right to divorce, an omission that persists despite the gains made in the rights of women and young people, to consent to, enter, and navigate marriage on equal terms in the International Covenant on Civil and Political Rights (ICCPR) (Article 23 of the ICCPR states that

1. The family is the natural and fundamental group unit of society and is entitled to protection by the society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure the equality of rights and responsibilities of spouses as to marriage, during marriage, and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children)

and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) (CEDAW Article 16 states that

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same right to enter into marriage; (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent; (c) The same rights and responsibilities during marriage and at its dissolution; (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount; (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights; (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount; (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation; (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory).

The right to decide when to leave a relationship is vital for all, but it is especially urgent (and especially complicated) for those who marry before the age of 18. These unions are diverse in their legal standing, in the degree to which they reflect consent of the young spouses, and in the levels of coercion, force, and violence that may surround them. Regardless of the legal status of the marriage, young women's—and sometimes young men's—ability to access their rights in a marriage, including to end them, is often curtailed by gender- and age-based power hierarchies, and dependent on their access to social support systems and state support [11].

While divorce or dissolution of marriage is legal in nearly every country, with the exception of the Philippines and Vatican City [12], access remains a barrier. In over 40 countries, women cannot obtain divorce on the same grounds or through the same processes as men [15]. Many legal, social, and customary processes for initiating divorce are inaccessible to women and adolescents [16]. Crucially, regardless of the legal status of divorce, married adolescents frequently lack the legal, emotional, or social capital to utilize existing divorce, separation, and custody laws to their own benefit. Where laws discriminate on the basis of gender, age, or other status, access to divorce becomes a human rights issue under the existing right to equality and non-discrimination.

2.2. Pathways to Exit

The failure to include a right to *leave* marriage in international human rights instruments is made all the more glaring when recognizing that marriage itself can also for many be a violation of human rights. Across history and cultures, marriage has served

to reinforce and strengthen patriarchy [17,18]. Marriage, as currently practiced and regulated contributes to and reinforces social, legal, and economic gender discrimination [11]. This paper is focused on challenges at the intersection of discrimination based on age and gender faced by girls and young women in CEFMU. The authors acknowledge that among the many changing forms of marriage in recent decades is the emergence and exponential growth in same-sex marriage and recognition of same-sex partnerships. At the moment, there is very little information or data about the risks of CEFMU for children and adolescents of diverse sexualities or genders, or about access to and impacts of divorce for individuals in same-sex marriages. For the purposes of this paper, the authors are using the terms marriage and CEFMU to refer primarily to heterosexual marriages, though with the assumption that the challenges and discriminations discussed herein are likely compounded for those suffering additional stigma and discrimination based on their sexual orientation or gender identity or expression.

The inequalities in marriage and family life reflect gender inequalities outside the home, which are reinforced by ideology, culture, and tradition [19]. If her marriage does not work out well, the wife may find herself obliged to choose between a limiting, unhappy, or abusive marriage and the loss of her economic well-being, her social standing, her home, her community, her livelihood, and even her children. It is nearly impossible to separate the practice and expectation of marriage from the role it plays in maintaining gendered power imbalances and reinforcing patriarchal assumptions about women's and girls' place in the family and in society [20]. As the Office of the High Commission on Human Rights has observed:

While gender stereotypes pervade all aspects of human existence, women's rights are at particular risk in the family, which is a locus for the perpetuation of traditional values. The family is a product of patriarchal culture and a vital institution for upholding the patriarchy [21].

Women and girls are often viewed as family assets, to be traded, bought, or sold in marriage when it benefits other members of the family, regardless of the potential for harm to the woman or girl herself. In many cultures, women are not afforded full equal rights in a marriage; they lack equal rights to property brought into or acquired during a marriage, to their own earnings, or even to their own children [11]. Women's rights in a marriage, their economic and social independence, and the idea of futures separate from those of their husbands are far from universally recognized: cultural constructions of gender determine the roles that women and girls may occupy and how their families, communities, and state support systems react to and enable their access to marriage and divorce [21].

The linkages between marriage, gender and age discrimination, patriarchal systems of control, and women's limited access to property and legal rights influence *how* and *why* women and girls may choose to leave their marriages, as well as the consequences they may face when they do. Research suggests that advocacy to change norms regarding CEFMU and to highlight the importance of autonomy, consent and choice have contributed to greater openness to divorce [22]. Yet many programs to address CEFMU still rely on messages that reinforce the cultural value of marriage by positioning divorce as a negative outcome more likely to occur as a result of CEFMU [23]. The limited body of research available on the impact of divorce tends to treat divorce as a negative outcome, given its potential economic and social implications for women [23,24], rather than exploring how the negative impacts of divorce may be driven by the same social norms and inequalities that place pressure on adolescent girls and young women to marry.

While women of all ages may face gendered power hierarchies in a marriage, the youngest women are least likely to possess decision-making power within the household [25], are more likely to face physical or emotional violence from their partners or families, more likely to experience forced or coerced sex or marital rape [26], and to be more isolated from their communities, families, and peers [3,27]. Children and adolescents face challenges in asserting any kind of right and may even be prosecuted and jailed for adultery or abandonment for seeking to leave a marriage [28,29]. Divorce, where legal,

tends to be culturally unacceptable, and so women of all ages, especially those married as adolescents or under force or coercion, may seek other ways to leave these marriages, if they leave at all. While annulment, dissolution, or invalidation do occur, and existing programs have sought to make use of annulment or invalidation of marriages for adolescent brides, access to these processes remains inconsistent or nonexistent for many adolescents who lack the resources to seek out legal redress. Moreover, as we describe below, the options and challenges can vary greatly depending on the legal framework in place, the economic and cultural pressures faced by children and their families, and the level of coercion and control exerted by the spouse.

The options available to girls and young women who wish to leave their marriages are organized by legal status and type of marriage in Table 1. Adolescents of all genders may enter marriages that are legal or illegal within their national political context, into religious or customary unions that can be treated by national law as binding, or into informal unions that carry the social power of marriage if not the legal status. Leaving any of these types of unions may be fraught with social danger or risk of violence, stigma, or discrimination, or may have lasting legal and economic consequences.

Table 1. Type of union, definition, and potential pathways to exit.

Type of Marriage/Union	Definition	Potential Pathways to Exit
Legal Marriage	Marriages conducted in accordance with applicable national laws	Divorce Dissolution Abandonment
Illegal Marriage	Marriages that directly violate applicable national laws	Invalidation Dissolution Abandonment
Semi-legal (religious or customary) Marriages and Unions	Marriages conducted within community or cultural traditions that are not criminalized or sanctioned under law	Divorce Invalidation Abandonment
Informal Unions	Established relationships that are treated socially or culturally as akin to marriage without having the legal frame of marriage	Dissolution Abandonment

2.2.1. Legal Marriages and Access to Divorce

Legal marriages present a different but related set of challenges for young people and advocates seeking to establish the option to leave a marriage. Despite consistent increases in the legal age of marriage in many countries in recent years [30], as many as 90 countries still legally allow girls to marry before the age of 18; some have established minimum ages at marriage under 18, and others include exceptions that allow for marriages to occur with parental or judicial consent [31]. Factoring in legal exemptions and lower ages of marriage in national, state, or customary laws, estimates indicate that roughly one third, or 4 million, of the CEFMs that take place each year are legal within their national contexts [32].

For adolescents who find themselves in legal or state-sanctioned marriages, access to divorce without discrimination based on age or gender is paramount as it presents the most direct route to exit. Persons under 18 may not be granted legal standing under the laws, making them unable to advocate for themselves. Perversely, the arguments made by advocates to increase the legal age of marriage frequently rely on a determination that adolescents under the age of 18 *do not have the capacity to consent* to marriage, an argument that can easily be applied to state that those same adolescents lack the capacity to determine their ability to divorce [33]. It is common for laws that allow for adolescents to be married under the age of 18, especially through parental or judicial consent exemptions, to exist

alongside laws that maintain an older age of legal majority; this places married adolescents in a limbo in which their marriages are fully legal but they lack the legal standing to challenge or petition to end them [34]. For example, a young person in India who was married as an adolescent through parental consent may petition the court for divorce within two years *once they reach the age of legal majority*, meaning that those married under the age of 18 will potentially have been in their marriages for two or more years before they can legally petition for divorce [35]. The social pressure on young people who have been married for two years to stay married, especially if they have had children, should not be overlooked [36].

The options for young people in legal marriages may actually be more restricted than those available to young people in marriages that occur outside the law. Divorce, while almost universally legal, remains largely inaccessible, and routes to divorce are still primarily open for men, older people, and economically or socially privileged individuals. Young people may not have access to legal counsel due to economic, social, or language barriers, or may live in remote communities where customary or religious law is the only system available to them. The young people most at risk for CEFMU are also commonly those with the least access to education and social protections, making them less likely to be aware that leaving a marriage, legally or otherwise, is an option for them, and more likely to be counseled by trusted family and older advisors to remain in marriages in which they experience violence, abuse, or neglect [37].

2.2.2. Illegal Marriages and Dissolution

Despite advances in laws to raise the minimum age of marriage and eliminate loopholes and exemptions that allow parents or others to circumvent those laws, currently 68% (approximately 7.5 million) of CEFMU each year are “illegal” or violate national laws establishing a minimum age at marriage [32]. At first glance, these marriages should be the easiest to terminate. It should be the duty of the state and law enforcement, including the police, judiciary and prosecutors, to ensure that these unions, once discovered, are easily dissolved or invalidated, and to protect and integrate the children who have been subject to them back into their families and communities.

Yet family reintegration and child protection may conflict, given the blurred distinction between the parent and perpetrator in many cases of CEFMU. The termination and invalidation of illegal CEFMs must carefully avoid the error of further isolating girls and young women from their natal families by criminalizing and punishing parents for arranging their marriages or being used by parents to exercise control over girls’ and young women’s choice of partners. In other words, laws against child marriage have often been used by parents to punish children who elope, rather than by girls to avoid marriage [38]. Some girls and young women resort to marriage as a method to escape violence or economic insecurity in their natal families, or to ensure that they marry the partner of their own choice, separate from family pressures [38,39]. Because adolescents and children under the age of 18 are not frequently granted full legal standing in matters relating to them, courts risk exacerbating or further perpetrating violence against girls and young women in these marriages through the continued denial of their voice and autonomy to make decisions about their futures and relationships.

The dissolution of an illegal marriage would logically result in children being treated legally as victims, whose involvement in the judicial process would reflect a focus on child protection, with advocates arguing for their best interest and children taking part in aspects of the trial insofar as their evolving capacity allows. In actuality, little review has been made of children’s individual access to legal processes for the dissolution or invalidation of an illegal marriage, or of what the response of their communities or families has been. More commonly, efforts to prevent or invalidate CEFMU take one of two approaches: they interfere in individual illegal marriages as they happen or immediately afterwards, with local authorities working with a network of informants [40]; or they exert pressure through local authorities, policy, or national legislation to declare all CEFMs “void ab initio”

(invalid from the outset) [41]. While mass dissolutions tend to make headlines, declaring marriages void without addressing the underlying social framework or ensuring girls' ability to reintegrate into their families and communities leaves girls vulnerable and can help men and boys escape without consequence.

A case-by-case approach to illegal CEFMU likely requires a civil case to challenge the marriage in court. Here, as in cases of legal marriage, the question becomes whether adolescents, who are under the age of legal majority, have standing to challenge their marriages in court. Indeed, existing legal reviews have documented clear barriers to dissolution or invalidation for married adolescents. Under the Indian Child Marriage Act of 2006, for example, an underage petitioner for annulment or invalidation must do so through a parent or guardian, and is responsible for the costs of the annulment as well as repayment of any gifts, dowry, or other costs associated with the marriage [34]. In Saudi Arabia, a bride petitioning for dissolution or invalidation must establish an onerous burden of proof—including not attending the wedding or refusing to consummate the marriage—to demonstrate that she did not consent [42].

2.2.3. Semi-Legal Marriages and Invalidation

Girls and young women married in religious or customary ceremonies often consider themselves married, and are considered married by their communities and families, regardless of the legal status of the marriage. The legal view of these unions ranges from criminalization to recognition [43]. In the latter case, the state does not necessarily view an early marriage as a crime, nor does it see a clear obligation to correct or address the marriage once entered into, thereby giving religious or customary ceremonies semi-legal status. This reflects a disconnect between legal and policy regimes and social norms surrounding CEFMU.

Another form of semi-legal marriage is becoming more prominent in countries where advances in raising the legal age of marriage have occurred: many families continue to marry children before age 18 but postpone marriage registration until the young people reach the age of legal majority [40]. These marriages could include those performed according to cultural tradition but left unregistered, or marriages performed entirely outside the legal system through a cultural or religious tradition. One example is *urfi* marriage, practiced by some Sunni Muslims, whereby clerics grant a marriage contract that is not recognized or held as legally binding by the state [44]. These unions, legal or not, carry with them the same risks and potential social and economic consequences as legal marriages.

The ambiguous legal state of these unregistered or semi-legal marriages makes them harder to annul, invalidate, or leave. Adolescents looking to exit these unions must first establish with the state the existence of a union in order to petition to have it invalidated. Since these unions are established and validated through non-state processes to which adolescents may not have access, adolescents must often depend on support from their families or customary structures in order to end them. Leaving a marriage that is unrecognized by the state but is socially or culturally binding may put them in direct conflict with their families, traditional leaders, and faith communities, depriving them of social support and rendering them more vulnerable to the consequences of dissolution.

2.2.4. Informal Unions and Abandonment

In addition to the 12 million marriages that take place each year, a large number of informal unions result in many additional girls and young people in long-term partnerships with uncertain legal and social status. While these partnerships might seem easier to dissolve than marriage, young women in informal unions, particularly once they have children, face many of the same economic, social, and cultural barriers to leaving these relationships as their married peers. These unions are especially common in Latin America and the Caribbean, often more common than formal marriages [45]. Their overall prevalence is about 25% in this region of the world [46]. Girls themselves choose to enter

these unions, which often offer the only outlet for sexual activity and an escape from the limits they face in their families of origin [36]. The prevalence of these unions varies considerably between countries and across urban, rural, and ethnic subgroups, ranging from 36% in the Dominican Republic and Suriname all the way down to 8% in Jamaica, as union formation in the Caribbean occurs later and is less common altogether, leading to low rates of CEFM [46].

Research finds that even in cohabiting relationships—which could potentially be less conventional—couples tend to follow assigned gender roles and gendered divisions of labor: As UN Women has written, “Whatever form women’s relationships take, discriminatory social norms are hard to shift” [11]. Far from being the romantic escape from drudgery and violence that girls may envision, early unions often reflect similar control; once a child is born, girls’ opportunities and ability to leave are sharply curtailed [36].

When there is no legal or even semi-legal framework for the union, no legal strategy exists for leaving, nor is there legal protection when dissolution occurs. The issue, therefore, is not that one cannot leave (though many of the social strictures and pressures that influence marriage are also present with regard to informal unions), but that a person has no protection when dissolution occurs. All of the economic and social consequences are similar, but the legal issues are harder to parse given the absence of rights rather than the denial of rights (recognition of children, custody, child support, property, etc.).

2.3. Consequences of Leaving Marriage

Married people leave marriages in a limited number of ways: through divorce, dissolution or invalidation, abandonment, or death [47]. (Humanitarian aid agencies report high rates of suicide among adolescent brides, and research indicates that girls who are married, are promised in marriage, or have received marriage requests are significantly more likely to have considered or attempted suicide than girls their age who have not [48]). Each strategy of leaving a union presents risks for girls and women, who are often forced to compromise their own happiness in order to preserve access to their families, communities, and resources. The impact of young women’s leaving marriage may be heightened by the manner in which the marriage was entered into, the current legal or non-legal status of their union, and by the cultural, social, legal, and economic vulnerabilities they face within and after marriage.

2.3.1. Impact of Legal Discrimination

Adolescents face profound gender- and age-related discrimination in accessing divorce and mobilizing their rights during divorce proceedings. Many countries have laws on the books that restrict women’s ability to sue for divorce or dissolution [11] or penalize women for neglecting their husbands or children, which can mean that spouses, or in some cases other male family members, can report girls and women for the crime of leaving a marriage.

Women and girls in many countries also experience harassment by the police or other authorities when fleeing a marriage or reporting a violent spouse [37,49]. Violence in marriages, particularly sexual violence, is not routinely treated by legal systems as a crime, and social protections for survivors are limited by the same social norms and taboos that drive CEFMU. Leaving a marriage frequently strips women and girls of any legal protection: adolescent girls who have left marriages but are not seen as legal adults are returned to the “protective” guardianship of their parents and families. Patriarchal legal systems, which treat adolescent girls and young women as the property of their fathers or husbands, can trap women and girls in situations of violence by thus denying them legal and social independence, allowing their natal families to decide whether they stay within unhappy or even violent marriages.

One multi-country review of the human rights impact of CEFMU and family violence found a consistent pattern of family violence and harassment awaiting adolescent girls and young women who ran away from abusive husbands or unhappy marriages [49]. In

many places, family harassment was reinforced by the police and judicial systems, which threatened, arrested, prosecuted, and imprisoned adolescent girls for the ill-defined and unequally applied crime of abandoning marriages. In Afghanistan alone, Human Rights Watch found that women who are imprisoned for the “moral crime” of running away from a marriage account for half the population of incarcerated adult women and nearly all incarcerated adolescent women [28]. Women in South Sudan are similarly incarcerated for the crime of abandoning marriages [29].

Criminalization and harassment by police and other judicial systems are common enforcement mechanisms for the social control of women’s and adolescents’ sexuality and the maintenance of social and cultural taboos in relation to sexuality [50,51]. Where divorce is legal, women and girls often still face harassment for crimes related to marriage or divorce. Where divorce is not legal, leaving a marriage can present legal challenges for women later in life, leaving them vulnerable to charges of adultery and preventing them from remarrying.

Many women who have left their marriages also report fearing prosecution for sex outside of marriage if they enter consensual relationships that are not condoned by their parents or legal guardians [42]. In countries where adultery statutes or male guardianship systems criminalize sex outside of marriage, fear of police harassment and incarceration keep girls and women from exercising their rights to decide if, when, and whom to marry, and whether to leave [47]. Religious conservatism can sharply limit women’s rights to activities that are essential for any kind of independence, and they can be harshly sanctioned for “crimes committed against the patriarchy, such as adultery” [21].

Even laws designed to prevent CEFMU are used by parents and other gatekeepers of community norms to control girls’ and adolescents’ sexuality and choice of partners. In India and Pakistan, laws designed to prevent and respond to CEFMU are being used by parents and guardians to prevent or invalidate elopements or legally prosecute their daughters’ chosen partners for the crime of early marriage [52]. Parents in India are using CEFMU laws to punish their daughters for eloping by declaring their marriages void, leaving young women vulnerable to family control and having little impact on their intended spouses [38].

While the UN Office of the High Commissioner for Human Rights has recommended dissolving or invalidating early marriages, it has also recognized the need to protect the rights of the women and girls who enter these marriages, including the right to remarry [21]. Unregistered and customary marriages frequently happen outside the national legal system and deny women recourse to legal protections when they leave. Islamic and Jewish law both provide men with the unilateral right to divorce and require husbands’ consent for women to terminate marriage contracts [11]. Furthermore, efforts to establish a right to divorce under the European Convention on Human Rights have proven unsuccessful, with the European Court of Human Rights finding no evidence of intent of the Convention drafts to include a corollary right to divorce [53].

Finally, regardless of what form a marriage takes, pregnancy and childbearing follow swiftly for many young women, and the vast majority of adolescent childbearing takes place in the context of marriage [54]. Having children complicates a woman’s ability to leave a marriage at any age. Research in Latin America shows that while an informal union might otherwise run its course and dissolve, becoming pregnant can lock a girl into the relationship [36]. In marriages which have produced children, custody arrangements and family law frequently discriminate against women: fathers are given preferential treatment in matters of custody, meaning that leaving a marriage often results in young women leaving behind or giving up their rights to their children [11,28,55]. Under some legal systems, though women may retain custody, they lose legal guardianship, curtailing their ability to make decisions for themselves and their children and both socially and physically limiting their ability to separate fully from a former partner [11].

2.3.2. Impact of Economic Discrimination

Discrimination against women is rampant in the areas of marital, family, and property law. The constitutions of eleven countries specifically exclude marriage, divorce, and inheritance from equality and non-discrimination protections [51]. In poor and rich countries, ending a marriage frequently harms women more than men [56], requiring them to pay for legal services, forfeit resources, and give over custody of their children [11,19]. Even where divorce is accessible to women, legal systems tend to privilege men's property and custody rights over women's.

Even when laws appear gender-neutral, prevailing norms related to the division of property and lack of recognition of women's non-financial contributions to the household mean that divorce and dissolution of marriage often favor men [19]. While both men and women may experience income loss after a divorce, women are more likely to experience substantial declines in household earnings and a corresponding greater reliance on social safety nets and community support [19]. Women's rights to property are frequently subordinate to their husbands', who often retain the rights to earnings or property acquired during the marriage at its dissolution [28]. Loss of rights to resources is often more severe for marriages conducted under customary legal systems, where divorce or dissolution are commonly negotiated by families with little legal protection for women [11].

Leaving a marriage has economic consequences for women and girls beyond the loss of property due to unfair divorce laws [24]. Even obtaining access to divorce, annulment, or other legal redress for violations of their human rights and bodily autonomy require resources: access to justice frequently requires money, including to bribe police to take up a case and to bribe court officials to hear it. Without support from local civil society organizations, girls and women seeking to leave a marriage may not be able to retain legal counsel, pay court fees, or establish themselves as financially independent without the support of their spouse or family [11].

Dowry and bride price systems create a poverty trap for young women looking to leave marriages. Customary and family laws generally require that bride prices or dowries be repaid as a condition of granting a marital dissolution [11,57]; younger women and girls who have been pulled out of school to marry have limited earning potential, while also having commanded larger bride prices due to their age.

Young women are often withdrawn from school at the point at which they are married: in many countries, young married women or young mothers are legally barred from re-entering the formal school system [56]. This lack of access to education has knock-on effects on their economic potential, often restricting them from obtaining higher-paying jobs or work that provides benefits or enough pay to afford social support or child care.

Stigma and discrimination against young women and divorced women combine to decrease their odds at being able to find work outside the house, or enough work to create an independent household in cases where the bride's family have rejected her request to come back home. Single mother households are also universally at greater economic risk due to inequities in wages between women and men, limited social support including childcare, and social stigmas against single or divorced mothers seeking employment [11]. The countries with the largest numbers of married girls also tend to be the countries with restrictions on women's economic participation [58,59]. In many countries, by law, policy, or custom, male family members or guardians are required for official transactions [21]. Women and young women still too often need the permission of their husbands or male guardians to work outside the house, in practice if not in policy. Young women who have left their marriages, in particular if they have left their marriages informally, may not be able to obtain legal work and may instead turn to informal or illegal work such as commercial sex work, domestic work, street vending, or seasonal work, in order to support themselves, leaving them further vulnerable to multiple forms of discrimination and violence.

The issue of consent and capacity clearly lies at the heart of this debate, but the issue is not just legal capacity. The economic and social realities of marriage, particularly when

the marriage takes place through customary and family law, can be just as limiting as the legal system.

2.3.3. Impact of Social Discrimination

Women and girls who leave marriages are not only legally and economically vulnerable, but also face social rejection, discrimination, and violence. As the Human Rights Council has written, “Indeed, when culture and religion are invoked to justify different forms of discrimination against women, women are seen not as victims or survivors of such discrimination, but as persons who ‘violate’ cultural rules and norms” [21]. Marriage is a primary method through which social norms and social control over women’s and girls’ bodies and sexuality are institutionalized. Indeed, we are increasingly seeing that social norms and fears for girls’ purity and protection remain a key driver of parents’ decision-making when it comes to their schooling, marriages, and social freedoms [60]. The fear of girls interacting with boys, exploring their sexuality, and experiencing sexual desire remains largely unaddressed by programs worried about the controversy of taking on a rights-based approach to adolescent sexuality. Yet the fact remains that fear of adolescent sexuality, and in particular the fear of adolescent girls expressing or exploring their sexual desires outside of the social sanctions of marriage, is a key driver of CEFM [61]. The pervasive cultural discourse around faith, love, duty, responsibilities, and women’s roles is embedded so deeply as to seem incontrovertible and renders the decision to leave a marriage impossible even when legal and policy regimes are open. Girls themselves internalize norms, as in rural Honduras, where “girls have internalized the social expectations connected to women’s roles as passive, abnegated wives and mothers” [62].

The links between girls’ and women’s access to divorce and ideas about sexuality follow these principles and values:

- Importance of virginity and orientation toward one man;
- Requirement of devotion and subordination, meaning that the woman should tolerate whatever happens in a marriage;
- Women’s sexuality as dangerous, with unmarried or divorced women viewed as unregulated, and even as sex workers or sexual predators;
- Sexual contagion, where single or divorced women may be seen as a threat to “good” married women and daughters.

These social norms that support child marriage and exert pressure to stay in a marriage are invoked by family, community, and leaders who use culture and religion as fundamental rationales against which there is no argument to be made [63]. Social norms controlling girls’ and women’s expressions of their sexuality are not only present as a driving force towards marriage, but also shape expectations of how divorced, widowed, and other formerly married girls’ and women are treated within their communities. The same norms that cast girls’ and women’s sexual desires as uncontrollable, contagious, and dangerous influence the status of divorced women, serving to reinforce not only the expectation that girls remain chaste until marriage but also to serve as a warning to those who choose to leave [64]. Divorced, widowed and unmarried women are often seen as sexual predators [65] threatening to take husbands away from “good” wives. They have been associated with sex work and have even been cast as witches. These norms influence their access to social acceptance and support and also play a role in employment and economic discrimination and stigma against them [66]. In reality, these norms, combined with the discrimination and economic realities faced by young women who leave marriages, mean that many divorced or separated adolescents are more likely to engage in transactional or survival sex, often resorting to remarrying in order to find economic support for themselves and their children, finding themselves back in a cycle of unequal, abusive, or violent relationships [67].

Like many other social practices, CEFMU is still largely driven by social and gender norms that prioritize family honor and girls’ roles as mothers and homemakers above the individual aspirations and experiences of girls themselves. Descriptive norms reflect a

person's perception of how people behave, and prescriptive norms reflect their perception of how people feel others ought to behave; it is necessary to grasp these to understand the pressures girls and women face and the decisions they make in their relationships. Most women also highly value their roles as wives and mothers and the social standing in their communities that comes with these roles. Leaving a socially approved marriage generally leads to a loss of status within their family and community and can also cost women access to their children or property.

Internalized beliefs about what is common or socially expected shape individual behavior and reinforce women's and girls' perceptions of what is possible for them [68]. Girls who are married early are also frequently prevented from finishing their schooling, which leaves them without marketable skills for employment and isolated from social and community support networks that are more readily accessible to their unmarried peers [58]. Deprived of social support networks outside their natal or marital family structures, girls and young women may not see leaving marriage as a possibility or do not have faith in their ability to function in their own communities as divorced or formerly married women.

Women and girls who leave marriages also risk rejection or violence from their families: in many cases where women and girls have been prosecuted for leaving their marriages, it is their own fathers, brothers, or male relatives who have reported them or even brought them to the police. In other less common cases, women and girls have been threatened, beaten, ostracized, and even killed by their families, who refuse to allow them to return home. Even in circumstances where violence, or the threat of violence, is not a primary motivator, girls' fear or perception of a lack of family support for them to leave a marriage is enough to keep them from leaving: a recent multi-country study found that "no female respondent in any of the study countries left a marriage when this safety valve was not in place" [67].

3. Discussion

Why Has Dissolution Been Overlooked in Work on CEFM?

Despite investments in programs focused on the prevention of CEFM, no effort has yet been made to advance a more systematic understanding of efforts to end or invalidate existing marriages or unions. Thus, comparatively little is known about the legal, social, and economic consequences and pressures faced by young people who desire to leave their marriages. Our paper lays out what is known in this area and highlights the need for further research, programs, and policies.

The researchers, advocates and implementers working on CEFMU focus largely on documenting and preventing marriage. To a lesser extent, programs are supporting married and in-union adolescents through education, access to family planning and other sexual and reproductive health services, improving marital communication and relationship skills, and livelihood and financial skills training [69]. Yet the links between the terms of marriage, the conditions within it, and the importance of the option to leave have not been examined. What if the most appropriate action is to leave marriage?

Following a high-profile case of mass annulment in Malawi in 2015 [70], advocates have begun exploring other potential large-scale campaigns or legal reforms to invalidate marriages performed under the age of 18. However, these efforts have not been built systematically into CEFMU programs, nor does there appear to have been consistent follow-up or research on their effects. Ironically, by virtue of being children, girls and young women are often ineligible for support and services (e.g., access to women's shelters or the ability to rent an apartment) that should protect them [33].

Why has this issue been overlooked or underexplored, despite consistent documentation of the human rights abuses faced in marriages by adolescent women in particular? The most obvious explanation is that divorce remains unthinkable or culturally unacceptable in most countries where CEFMU is prevalent, and that young women who have left marriages will suffer social, family, or legal violence and other consequences for leaving their husbands. Furthermore, marriage, even when forced or coerced, is still a requirement

for achieving adult status and social respectability in many societies, and it is a status to be prized even when the marriage itself is unhappy or harmful. In the absence of role models of women who have left marriages, girls are counseled by older female family members to accept the experience of violence or control in marriage as part of being a married woman.

Nonetheless, despite bearing the brunt of the social, legal, and economic discrimination that comes with divorce, many adolescents and young women who have successfully navigated divorce, separation, or invalidation of their marriages report that their lives have improved [67]. Studies have found that the liberalization of divorce laws, in particular a move away from fault-based divorce in some developed countries, has led to lower rates of suicide by women, less reported domestic violence, and fewer instances of women being murdered by their spouses [11]. Yet divorce and dissolution are still socially taboo in many societies and are largely seen as unwanted and politically charged by advocates.

The social norms that drive CEFMU are deeply intertwined with the gender inequalities that keep women in unhappy marriages for fear of the legal, economic, and social consequences of departure. Social norms that stigmatize divorce, and divorced women in particular, are indistinguishable from those used to regulate and control women's and girls' sexuality, a topic that remains controversial [50]. CEFMU programs, as well as those targeting gender equality, women's sexual and reproductive health and rights, and women's economic empowerment, can and should consider where their existing programs might benefit from incorporating messages and initiatives to address the norms that keep women and girls in unwanted or forced marriages.

At the same time that girls and women experience pressure to stay in difficult marriages, they are vulnerable to being abandoned by their husbands. Very few protections exist for girls and young women when abandonment occurs, despite all of the influence exerted on them to stay in a marriage and the punishments they endure if they leave. In short, they experience pressures to do what others prefer, whatever their marital status: pressure to marry, pressure to stay in a marriage, and vulnerability to abandonment.

Women's and human rights organizations have devoted decades to working at the nexus of personal property laws, civil codes, and customary or religious legal systems to root out inequalities in women's legal and property rights upon the dissolution of marriage [56]. Despite some of the inherent disadvantages of marriage to women in most settings, CEFMU programs have generally avoided advocacy or campaigns that questions the desirability or inevitability of marriage. There are social and normative reasons for this gap, as most adolescents view marriage as a desired and necessary path to adulthood, as do most program designers and policy makers [36].

Yet marriage is not a universal desire, nor a universal possibility. Regardless of their gender, some individuals prefer to remain unmarried. While there is little discussion of divorce within the world of CEFMU programming and advocacy, there is even less discussion of sexuality and sexual orientation, or of the risk that adolescents of diverse genders and sexual orientations may be forced into early marriages by parents and communities seeking to control them. In many countries with high rates of CEFMU, same-sex marriage is illegal, and in some countries same-sex sexual behavior is criminalized, making a wanted marriage impossible and forced or coerced marriage more likely.

Recognizing the natural diversity in gender and sexuality indeed poses advocacy challenges, but advocating for a more open approach to adolescent sexuality within a heterosexual paradigm is itself daunting. In most contexts where advocates are working to reduce or prevent CEFMU, discussions of adolescent sexuality can raise objections and spark backlash, harming programs' ability to work productively with local authorities. Work within institutions to advance adolescent health, in particular adolescent sexual and reproductive health, has often defaulted to a focus on preventing risk or harm, rather than risk making a positive case for adolescent pleasure, sexuality, and sexual rights [50]. Yet control of adolescent sexuality, in particular the sexuality of adolescent girls, is a crucial and under-addressed driver of CEFMU [71]. Work in this super-charged area carries with it the risk of backlash, which undermines more holistic program strategies.

There is also a cautionary lesson to be drawn from the experience of advocates and programmers who work on access to and the legality of abortion. Divorce is appearing more frequently in the literature on CEFM, and in media stories about changes in the institution of marriage globally, though it is still frequently framed as a negative consequence or social failure. Advocates should be cautious about framing divorce as a failure or rising divorce rates as a problem to be solved, as this can contribute to and reinforce the norms that keep people in unhappy marriages. While the end of a marriage may be emotionally difficult for the individuals in it, it should not be made more so by the addition of social, legal, or economic sanctions for divorced people—and divorced women in particular. Advocates need to be cautious and clear in their framing of discussions of the linkages between divorce, poverty, and violence to ensure that legal and economic discrimination and stigma are the focus—a lesson previously learned by abortion advocates who have seen the stigmatizing consequences of their previously used “safe, legal, and rare” framing [72].

There are many ways that work on divorce can learn from and build on the abortion rights movement: like abortion, divorce is often seen as a controversial and extreme recourse, rather than as a neutral legal option for couples. Like abortion advocates, programmers often find it easier to focus on reducing the need for divorce through preventing CEFMU and working with couples to reduce violence and conflict, rather than taking on the longer and more invisible work of changing norms and stigmas. Moreover, as in the case of abortion and its relationship with reproductive freedom, the existence of divorce and the ability to access it are fundamental tenets of ensuring that marriage, like parenthood, can be entered into by choice [73].

4. Conclusions and Recommendations

While preventing CEFMU is essential, the global policy community must recognize that the possibility of ending existing marriages and easing young people’s transitions back into their families or into independence require urgent focus. Greater attention and resources must be directed towards setting up mechanisms and policies that enable young people to break free from marriages they wish or need to leave.

What impact could the integration of access to divorce into programmatic and advocacy efforts have? Globally, violence against women and girls is most prevalent within marriages and family structures [74]. The same gender norms and patriarchal structures that push adolescent girls and young women into marriages then serve to hold them in those marriages, with little to no regard for their health or wellbeing. Where legal, divorce is often inaccessible, restricted, or taboo, and divorced women face stigma and discrimination in all spheres of their public and private lives. Advocates seeking to reduce CEFMU or delay marriage are targeting many of the same social norms as those who wish to ensure that marriage is entered into and remained in by choice.

Significant additional research is needed to fully comprehend the scope and implications of increasing access to divorce, dissolution, and other pathways to leaving CEFMU for married adolescents. In particular, further exploration into the dynamics of gender, age, and social hierarchies and how they shape adolescents’ marriage aspirations, desires, and expectations would improve our understanding of their access to pathways for exiting marriage and strengthen the ability of programs designed to prevent CEFMU to tailor their messages to the realities in which adolescents live. Another topic about which we must learn more is how alternatives to marriage can both reduce entry into CEFMU and make it possible for women to leave difficult marriages. These are areas of investigation that would benefit from qualitative and quantitative exploration.

Enough is known about adolescents’ experiences in marriages and adolescents’ and women’s experiences after marital dissolution to shine a light on how CEFMU programs could start to incorporate pathways to leaving marriage into their existing work. First, the lack of legal support for people marrying under the age of 18 must be addressed, not only to aid in preventing those marriages, but to support them in responding to violence or neglect, and in leaving, retaining custody of their children, and obtaining child support, as

needed. For this, family justice systems require considerable capacity building to increase their responsiveness and reduce the legal barriers to dissolution. As CEFMU advocates work to create legal protections for adolescents and young people, including but not limited to raising the age of marriage, they must work to ensure that these legal frameworks do not impinge on the legal recognition of married adolescents' capacity to freely leave marriage and unions. CEFMU programs must broaden their partnerships to include feminist and women's legal advocates by integrating access to divorce alongside their existing work to invalidate or dissolve illegal marriages.

Economic empowerment and support are essential to make divorce or dissolution a possibility. Research on divorce by the Young Lives project shows that girls' experience of post-divorce life is heavily influenced by their ability to find employment [67]. If girls can obtain work and support themselves and their children, they report being happier after divorce; if they struggle economically, they are more likely to remarry and end up in similar or worse situations than those they have escaped. Where many CEFMU programs are already working with girls to remain in school and with parents to delay marriages, they could expand their work on reintegrating divorced girls or young women leaving unions into their families, schools, and communities. Economic and educational opportunities must be supported with livelihood skills training, job placement and childcare programs for young divorced/unmarried women.

As this paper has argued, the gender norms that push girls and sometimes boys into early marriage are the same as those that prevent them from taking steps toward divorce, even when dissolution would be best for them. While CEFMU prevention programs already take care to ensure that their campaigns and messages strive not to stigmatize married adolescents, they could also directly target and reduce the stigma faced by divorced and separated adolescents and young women. Messaging about social norms could ease divorced young people's integration back into education and family life and destigmatize leaving marriage for women of all ages. This would require emphasizing the importance of marriage as one choice among many.

It is the possibility of leaving that makes deciding if, when, and whom to marry meaningful.

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