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An Examination of Forced Marriages in Nigeria: The United Kingdom as a Model

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Abstract: *A marriage without the required or necessary consent of either party is regarded as a forced marriage. The incidence of forced marriage is a universal concern. However, it is more rampart in Africa. In Nigeria, it is an intractable problem that is foist on the girl-child either by the parents or guardians. It is the lack of consent on the part of the girl-child that makes such marriage a forced marriage. The consent is not that of the parents or guardians but the parties involved who are the spouses. Nigeria seems to have some constitutional and statutory legal framework or provisions geared towards minimizing the incidence of forced marriage and the protection of children. It is however sad to not that the constitutional and legal provisions have their deficit. For example, section 29(4)(b) of the 1999 Constitution, as amended, deemed any woman who is married as an adult. Some State laws provides the age of puberty or 14 years as the age of maturity or adulthood. In other words, the same problem which the Constitution and some other legislation and instruments seem to correct and avert was preserved by the same Constitution and other State legislation. The view is expressed that section 29(4)(b) of the 1999 Constitution is a major setback or defect to the protection of the girl-child and should be expunged from the Constitution. The article holds the view the minimum age for adulthood should be 18 years in Nigeria. It examines the position in the United Kingdom and advocated the use of civil remedies as a control model to forced marriage in Nigeria since penal laws have not provided the need succour. These include the use of protection order, order of injunction, etc. The handling of forced marriage cases should be pro bono and should be given speedy trials by the courts. It is also advocated that there should be proper and adequate education of the girl-child as to her rights and reportage of such cases. The article concludes that these measures will help to reduce the incidence of forced marriage in Nigeria.*

Keyword: Force marriage, Child Rights Act, human dignity, girl-child, full consent, human rights, legal protection, protection order, injunction

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INTRODUCTION

Forced marriage, besides being a global problem, has also been construed as a violation of human rights. In this regard, the international and regional community and a number of countries have been taking giant strides in addressing this problem. The effortof the United Nations and the African Union at combating the practice of forced marriage which has been construed as being harmful to children have been acknowledged.[1] It is pertinent to state out rightly that forced marriage is more prevalent in Africa and Asia. With particular reference to Africa, it is most prevalent in Central and Western African countries. This notwithstanding the fact that the practice of forced marriages negates State obligations in international and regional human rights instruments which have been ratified; and some of which have been domesticated by African countries including Nigeria.

Discussing forced marriage within the Nigerian context, the practice of forced marriage is more prevalent in the northern part of the country.[2] While the southern part of Nigeria has made concerted efforts to stem the tide of forced marriage, the northern part is still grappling with this practice, particularly as a result of the fact that Islam as the dominant religion in the north does not expressly prohibit the practice of forced marriages[3] and some northern States have refused to domesticate the Child Rights Act into law.

It is noted that under the laws in Nigeria, forced marriages have been criminalized in one form or the other. Yet, the practice of forced marriages continues unabated with the only reported case of Ese Oruru in which Dahiru was convicted in Bayelsa State by a Federal High Court, Yenagoa Division.[4] While it is conceded that it might be very difficult and costly to obtain convictions against perpetrators of forced marriages (especially considering family ties and lack of adequate reportage), there is a need for the law to provide civil remedies in terms of protection orders which will shield likely victims or victims of forced marriages against the violation of their constitutional and legally recognized human rights.

The view is expressed in this article that since the criminalization of forced marriages have been barely useful to combat the practice, it is better to seek alternative remedies under civil law and enlighten the girl child who is mostly affected by this practice to seek legal protection through third parties in the event of a forced marriage. The view is further expressed that this remedy should be pursued under the Fundamental Human Rights Enforcement Procedure Rules for a quick and effective relief against perpetrators of forced marriage. This article argues that besides the criminalization of forced marriages in

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1 N.S. Fenns, 'Child Marriage, Adolescent Pregnancy and Family Formation in West and Central Africa' (UNICEF 2015) <https://www.unicef.org/wcaro/english/> accessed 10 October, 2026.

2 K.O. Fayokun, "Legality of Child Marriage in Nigeria and Inhibitions Against Realisation of Education Rights" (2015) *(5)* No. 7 *US-China Education Review B;* 460 at 461.

3 I . Nnadi, "Early Marriage: A Gender-Based Violence and a Violation of Women's Human Rights in Nigeria, (2014) (7) No. 3, *Journal of Politics and Law;* 35 - 36.

4 D. Erezi, 'Ese Oruru's Abductor, Dahiru Gets 26 Years Imprisonment'<www.m.guardian.ng> accessed 18 September, 2026.

Nigeria, civil remedies could serve as a better option in counteracting the practice of forced marriages in the country.

Context and Meaning of Forced Marriages in Nigeria

When a child (especially a girl child) is deceived, coerced or unduly influenced into marriage at an age in which she is considered not to be capable of understanding the nature and consequences of the marriage contract, a forced marriage can be properly said to have occurred. In this context, a child who is below the age of eighteen (18) years cannot be said to have freely and fully given her consent to a marriage institution which she lacks an adequate understanding.[5]

Generally, however, forced marriage has been defined as "marriage at any age that occurs without the free and full consent of either of the spouses; therefore it includes child and early marriage, as children under 18 are not able to give full consent."[6] While it is conceded that even adults may be coerced or deceived to take marriage partners against their consent, it is noted that forced marriages as discussed in this article relates to child marriages. Therefore, the view is expressed that all child and early marriages are forced marriages but not all forced marriages are child or early marriages. Thus, this study is made within the context of providing legal protection to children who are below the age of eighteen (18) years in cases of forced marriages. Children are deemed to be too young and immature to make the necessary assessment of the choice of marriage, and subsequently, the challenges of marriage. In some societies, this type of marriage is usually initiated between the parents or guardian of the girl child and the husband. The young bride is either coerced or unduly influenced to enter into the marriage.[7]

The practice of forced marriage is very prevalent in Nigeria in one form or the other. It is the prevalence of forced marriage and the need to curb the problem and protect the rights of the child that made Nigeria to ratify the Convention on the Rights of the Child in 1991. Nigeria took the effort at combating this menace further and domesticated the Convention on the Rights of the Child as the Child Rights Act, 2003. The Act is geared towards the elimination of incidence of forced marriage in Nigeria. However, it is sad to note that despite these efforts, forced marriage still continues to persist in Nigeria.

The Constitutional Framework in Nigeria

Notwithstanding the fact that the Constitution of the Federal Republic of Nigeria (CFRN) 1999, as amended, does not in explicit terms make provisions for the children's rights under Chapter IV of the Constitution, it contains a number of fundamental rights provisions which can be used to protect children against forced marriages. They include the rights to life, dignity, personal liberty, private and family life,

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5 UNICEF 2015, 'Child Protection Against Child Marriage' <http://data.unicef.org/child-protection/ child-marriage > accessed August 9, 2026.

6 USAID 2015 'Child, Early and Forced Marriage Resource Guide' <https://www.usaid.gov/sites/default/files/documents/1865/USAID_CEFM_Resource-Guide.PDF> accessed August 9, 2026.

7 A. Ukwuoma, *Child Marriage in Nigeria: The Health Hazards and Socio-Legal Implications* (Lulu Press Inc. USA, 2014), 10.

freedom from discrimination, freedom of thought, conscience and religion, and the right to peaceful assembly and association, among others.[8]

The CFRN also gives recognition to the cultural rights of its citizens under Chapter II of the Constitution. Section 21 of the CFRN states as follows: "The State shall protect, preserve, and promote the Nigerian cultures that enhance human dignity…" It would seem that a lot rides on the extent to which a particular culture enhances human dignity. It is submitted that many of the cultural practices embraced by traditional communities in Nigeria, not only negate the fundamental rights stated in the CFRN but also do not enhance human dignity in any way. These include forced marriages of children which may make it impossible for them to benefit from these rights.

It is noted that forced marriages thrive in some traditional communities as part of their social norms. In these communities, children, especially girls, are indoctrinated to believe that early marriages are in the best of their interest and it will prevent them from indulging in premarital activities which are highly prohibited in the community. In the words of Salamone "for women, marriage is the only path to virtue; consequently, marriage is common for young girls between the ages of ten and twelve."[9]

Unlike South Africa which recognizes cultural rights under the Bill of Rights as contained in the South African Constitution,[10] the Constitution of Nigeria recognizes cultural rights under the section on Fundamental Objectives and Directive Principles of State Policy. Such rights are not enforceable in Nigerian Courts. The Constitution states that the judicial powers vested in accordance with the foregoing provisions of this section shall not, except as otherwise provided by this constitution, extend to any issue or question as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution.[11] Therefore, the constitutional recognition of the right to culture is merely a policy guide. The right is included in the hope that it will guide the Nigerian government to direct its policies towards the promotion and preservation of Nigerian cultures so that they do not become extinct. One could argue that given the provisions of this section, the intention is, therefore, not to redress any infraction of the cultural rights of an individual in Nigeria but to preserve cultures and traditions.

In this regard, the argument is put forward that the human rights provisions in the CFRN are sufficient to protect the rights of children in Nigeria (and by extension their rights not to be married without their consent).This is notwithstanding the fact that some States in Nigeria have refused to domesticate the Child's Rights Act (CRA)[12] as a law. It is argued that the supremacy of the CFRN applies to all statutes including the CRA. Section 1(1) of the CFRN provides that "this Constitution is supreme and its

8 Generally, Chapter Four of the 1999 Constitution provides for fundamental rights.
9 F. Salamone, *The Hausa of Nigeria* (University Press of America, 2010) 134.
10 Sections 30, 31 and 36 of the Republic of South Africa Constitution, 1996.
11 Section 6(6)(c) of the CFRN, 1999, as amended.
12 2003, now Cap. C50, Laws of the Federation of Nigeria, 2004.

provisions shall have binding force on authorities and persons throughout the Federal Republic of Nigeria". In addition, the Nigerian Constitution states that:

> …if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail and that other law shall to the extent of the inconsistency be void.

The above has been applied in a number of cases to strike down State and Federal legislation that are not in consonance with the Nigerian Constitution,[13] although religion and culture sometimes stand in the way. The Supreme Court in *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo*[14], held that:

> The right to freedom of thought, conscience or religion implies a right not to be prevented, without lawful justification, from choosing the course of one's life, fashioned on what one believes in, and a right not to be coerced into acting contrary to one's religious belief. The limits of these freedoms in all cases are where they impinge on the rights of others or where they put the welfare of society or public health in jeopardy.

Arising from the decision of the Supreme Court above, it is argued that forced marriages of children under the justification of custom and religion impinges on the rights of children and to this extent is illegal and unconstitutional. A redress of this infringement can be properly sought under section 46 of the CFRN via the Fundamental Rights (Enforcement Procedure) Rules as made by the Chief Justice of Nigeria.

Criminalization of Forced Marriage

The CRA prohibits forced marriage or child marriage. Section 21 of the CRA provides that "no person under the age of 18 years is capable of contracting a valid marriage, and accordingly a marriage so contracted is null and void and of no effect whatsoever." Section 22(1) of the CRA provides that "…no parent, guardian or any other person shall betroth a child to any person," while section 22(2) of the CRA provides that the betrothal of a child is null and void.

Section 23 of the CRA explicitly criminalizes child marriage. According to this section, a person who marries a child or to whom a child is betrothed or who betroths a child, commits an offence and is liable on conviction to a fine or imprisonment for a term of five years or to both such fine and imprisonment. Section 361 of the Criminal Code[15] provides a seven-year term of imprisonment for taking away or detention of a female of any age against her will with the intent to marry her or have sexual intercourse with her or to encourage another to marry her or have sexual intercourse with her. There is also the possibility that a child marriage could result in the offence of rape especially where there is no consent or where it is doubtful whether a child can be considered capable of giving consent. In this regard, the Penal

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13 *Attorney-General of Lagos State v Attorney-General of the Federation* [2003] 12 NWLR (Pt. 833)1 and *Inspector-General of Police v All Nigeria Peoples Party and Others* (2007) AHRLR 179.

14 [2001] 7 NWLR (Pt. 711) 206.

15 Cap. C38, LFN, 2004.

Code[16] sets the age of 14 as the age below which a child is incapable of giving consent.[17] The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act[18] also criminalizes sexual intercourse with a person under the age of 18 and could therefore be the basis for criminal prosecution of persons involved in child marriage. In Ese Oruru's case,[19] Ese Oruru, a girl of 13 years was abducted by one Dahiru from her parents' home in Bayelsa State and taken to Kano on 12th August, 2015. Dahiru forcefully married her and changed her name to Aisha after converting her to Islam in Kano. It took the intervention of the Police to arrest Dahiru in Kano and Ese was returned to her parents in Bayelsa State in March, 2016 pregnant. She later gave birth to a baby girl on 26 May, 2016. Dahiru was charged with the offence of child trafficking, child abuse, rape, kidnap, infringement on the right to freedom of religion and holding a person against her wish before the Federal High Court, Yenagoa. He was tried and found guilty of the offences and was sentenced to 26 years imprisonment. This appears to be the only reported case on this subject in Nigeria.

In Jigawa State, child marriage is only criminalized on the basis that the girl has not reached puberty. Section 15(1) of the Jigawa State Child's Rights Law (CRL)[20]prohibits child marriage but defines a child in section 2(1) as a person below the age of puberty. Puberty is defined earlier in section 2 of the CRL as the age at which a person is physically and physiologically capable of consummating marriage. The view is therefore expressed that this may vary from one person to the other which makes the law subjective and open to abuse.

Notwithstanding the criminalization of forced marriages, the practice still continues unabated. It is expressed that girls whose rights have been undermined may not be aware of such violation as a result of lack of proper education on human rights. There has been lack of adequate reporting or complaints by victims of forced marriages to the relevant law enforcement agencies. This may be due to the fear that the child may be stigmatized in her community for prosecuting her parents or for setting the machinery in motion which may end up in the imprisonment of her parents or guardians.

The Conundrum of the Constitution of the Federal Republic of Nigeria, 1999 on Forced Marriage

The Constitution of any nation is the basic and organic law of the country. It is the *grundnorm* upon which every other norm or law derives its validity. It occupies the highest position among all norms because it regulates other legal norms with respect to how they are created and the extent of their content including judicial decisions.[21] The effect is that as the basic norm, it provides the reason why the other norms which are inferior to it are valid.[22] The Constitution provides for and protects the fundamental rights of the

16 Cap. 53 LFN, 2004.
17 Section 282(1)(e) of the Act.
18 No. 24 of 2003.
19 Erezi, n. 4 above.
20 Laws of Jigawa State, 2006.
21 A Taiwo and IJ Koni, *Jurisprudence and Legal Theory in Nigeria* (Princeton & Associates Publishing Co. Ltd., 2019) 240.
22 *Ibid.*

citizenry. As stated earlier, the CFRN, 1999 provides for the fundamental rights for the citizens without any express provision for the right against forced marriage. However, curiously, the same Constitution seems or appears to impliedly legitimize forced marriage in section 29(4)(b).[23] In section 29(4)(a), CFRN, the Constitution defines full age to mean "18 years and above" but in an unrelated and unimaginable juxtaposition, section 29(4)(b), CFRN provides that "*any woman who is married shall be deemed to be of full age*." This means that the Constitution has given a constitutional backing to forced marriage which the law and international instruments seek to prevent. The reason is simple because where a girl below 18 years is coerced into marriage, the legal implication is that she is of full age and may defeat any action that may be instituted to protect her right because by virtue of the marriage, the girl-child is already deemed to be an adult in law. It is a cardinal principle of law that where the words used in a statute are clear, plain and unambiguous, the court must give it its ordinary meaning.[24] This raises a serious question as to the sincerity and determination to eradicate forced marriage of the girl – child in Nigeria since it is the girl – child that is essentially the victim of forced marriage as a result of the patrilineal society in Nigeria. Again, section 29(4)(d), CFRN is also major setback to the Child Rights Act, 2003 and should be expunged from the Constitution.

Forced Marriage Legislation in the United Kingdom

It will be necessary to consider how the United Kingdom (England and Wales) has addressed the issue of forced marriages. The law and practice in the United Kingdom provides good lessons for Nigeria. There are two principal laws which address the issue of forced marriage in the United Kingdom. They are: the Forced Marriage Civil Protection Act 2007[25]and the Anti-Social Behaviour Crime and Policing Act 2014. While the former makes provisions for civil remedies in relation to victims or potential victims of forced marriages, the latter expressly criminalizes forced marriage. These two legislation will be discussed vis-à-vis their utility and limitations in the United Kingdom.

The Forced Marriage Civil Protection Act, 2007 (FMCPA)

The legislation that is today known as a civil legislation to protect victims and potential victims of forced marriage in the United Kingdom was introduced by Lord Lester as a Private Member Bill to the Parliament of the United Kingdom. The Bill which extensively makes provisions for civil remedies finally metamorphosed into the Forced Marriage Civil Protection Act, 2007 and entered into force in November, 2008.[26] The primary motive of the FMCPA is to enlighten the citizens and residents of the United Kingdom that the practice of forced marriage is completely unacceptable in the United Kingdom and will not be tolerated from any person or group of people who attempts to justify it on the basis of culture and tradition. In this regard, the FMCPA centres its focus on the protection of likely victims of forced

[23] CFRN, 1999, as amended.
[24] *Izedonmwen v. U.B.N*. [2012] n6 NWLR (Pt. 1295) 1; *Abacha v. F.R.N*. (2014) NWLR (Pt. 1402) 43.
[25] Cap 20, Laws of England, 2007.
[26] British Home Office, '*Forced Marriage Consultation'* London, December 2011, 6 – 7. See generally, R. Gaffney-Rhys, "The Development of the Law Relating to Forced Marriage: Does the Law Reflect the Interests of the Victim? (2014) *(*16)(4), *Crime Prevention and Community Safety;* 269 – 293.

marriages from becoming actual victims on the one hand,[27] and to assist victims in cases where such marriages have been celebrated.[28] An interesting fact about the FMCPA is that it clothed the British courts with the wide discretion to grant civil remedies for the purposes of affording legal protection to the victims or potential victims of forced marriages without bringing criminal charges against the members of their family or third parties who perpetuated such marriage.[29] The preamble to the FMCPA reads:

> An Act to make provision for protecting individuals against being forced to enter into marriage without their free and full consent and for protecting individuals who have been forced to enter into marriage without such consent; and for connected purposes.

Section 1 of the FMCPA creates a new Part 4A to be inserted into the Family Law Act ("FLA 1996") 1996. The new Part 4A contains nineteen provisions on forced marriage. This ranges from sections 63A to 63S of the FLA 1996. It is noted that the discussion on the FMCPA shall be made in line with new sections 63A to 63S of the FLA 1996.

A person is said to have been forced into a marriage by another person if the person is forced to enter into a marriage without first obtaining her free and full consent.[30] In this regard, the word "force" includes any coercion by threat or other psychological means.[31] The case of *Re P (Forced Marriage)*[32] is a *locus classicus* on what constitutes consent. In the said case, a 20 year old Pakistani woman travelled with her family to Pakistan and was informed that she will enter into a marriage with a Pakistani national. Although, she strongly protested against the celebration of the marriage, the marriage ceremony eventually held because she was told that if she refused to cooperate, she will not be allowed to travel out of Pakistan again. She refused to consummate the marriage and the parties separated 8 days later. After returning to the United Kingdom, she discovered a year later that her husband was planning to enter the UK as her spouse. She wrote to the authorities citing her objections that she was forced into the marriage and that she did not support the husband's application for permanent leave to remain in the UK. She sought a declaration that her marriage was not capable of recognition under English law.

In granting the declaration, the court held that the burden was on the woman to show on the balance of probabilities that she was forced into the marriage. Following the decision in *Hirani v. Hirani*,[33] the court held that the very important consideration was whether the pressure was "such as to destroy the reality of consent and overbears the will of the individual." The court held that the consent given was not a reluctant

27 M. Borowska, 'The Phenomenon of Forced Marriage' (2013) *Review of Comparative Law,* Vol. XVIII, 34.
28 British Home Office, n. 26 above.
29 Borowska, n. 27 above.
30 Section 63A(4) of the FLA 1996 as provided for in section 1 of the FMCPA, Cap. 20, Laws of England, 2007.
31 *Ibid.* Section 63A(6).
32 [2011] FLR 2060.
33 [1994] FLR 232.

consent but a "no consent at all" on the basis that the woman was subjected to unsatisfactory pressure which overborne her free will.

Section 63A of the FMCPA creates the Forced Marriage Protection Order ("FMPO") for the specific purpose of protecting victims or likely victims of forced marriage. It specifically provides that:

> (1) The court may make an order for the purposes of protecting— (a) a person from being forced into a marriage or from any attempt to be forced into a marriage; or (b) a person who has been forced into a marriage.

In exercising its powers under this section, the court is enjoined to give consideration to all the circumstances of the case which also includes "… the need to secure the health, safety and well-being of the person to be protected."[34] In determining a victim's well-being, the court is further enjoined to take into consideration the victim's wishes and feelings as it considers appropriate taking cognizance of the age of the victim.[35]

It is at the discretion of the court to include any requirement, prohibition or restriction provision which it considers necessary to protect the victim or potential victim in an FMPO.[36] A Forced Marriage Protection Order (FMPO) is directed at persons "…who force or attempt to force, or may force or attempt to force a person to enter into a marriage."[37] It is also directed to any person who conspires with another person, aids, abets, counsels, procures, encourages or assist another person to force or attempt to force a person to contract a marriage.[38]

An application for a FMPO may be made by a beneficiary of the FMPO, a relevant third party[39] or any other person with the permission of the court.[40]In reaching a decision on whether or not to grant an application for leave, the court must take into consideration all the circumstances of the case which includes:

> The applicant's connection with the person to be protected; the applicant's knowledge of the circumstances of the person to be protected; and the wishes and feelings of the person to be protected so far as they are reasonably ascertainable and so far as the court considers it appropriate, in the light of the person's age and understanding, to have regard to them.

34 Section 63A(2) of the FLA 1996 as provided for in section 1 of the FMCPA.
35 *Ibid.* Section 63A(3).
36 *Ibid.* Section 63B(1).
37 *Ibid.* Section 63B(2).
38 *Ibid.* Section 63B(3).
39 *Ibid.* Section 63C(2).
40 *Ibid.* Section 63C(3).

The court is also empowered to make a FMPO on its own pursuant to section 63C(6) of the FLA, 1996 as amended.[41] This will be made in cases where there is a pending family proceedings before the court; the person to whom the FMPO will be directed at is a party to such proceedings or the court in its own wisdom thinks it fit that there is a need to make an FMPO to protect a victim or likely victim whether or not the person is a party to the proceedings before it.[42]

An FMPO can be made *ex parte* by the court where it considers it just and convenient to do so.[43] However, the court is enjoined to allow the person affected by an *ex parte* order to make representations as soon as it is just and convenient at the hearing of a motion on notice in respect of an FMPO.[44] A FMPO may be made by the court for a certain period or until it has been discharged or varied by the court[45]on the application of a party to the proceedings for the order to discharged or varied. The application can be made by a person who is affected by the order in cases where the person is not a party to the proceedings.[46]

It is argued that an FMPO has a number of benefits. The law makes it possible for a relevant third party or any other person to apply for the order. This is encouraging because victims of forced marriages may be physically precluded from making the application (for instance, as a result of their abduction). In other cases, the victims may not be psychologically and emotionally stable to make the application.[47] Where for instance, a victim is kidnapped and held against her will to marry another; and the victim does not want to personally bring an action against her family, a relevant third party could bring an action to protect the victim.[48] So also, in cases where children are involved, and lack the capacity to bring actions, third parties could make such applications on their behalf. It has also been argued that where the victim does not specifically apply for an FMPO, there is a possibility that the victim could easily be reconciled to the family and her immediate community which in all cases is at the victims best interest.[49] This is more so considering the fact that an FMPO could prevent the possibility of criminal prosecution which influences the reconciliation of family members.[50]

An FMPO is made by the court to particularly meet the needs of the person to be protected as the court is enjoined to take into consideration the victim's feelings and wishes. The compliance rate to an FMPO is

41 Section 63C(1) of the FLA 1996 as provided for in section 1 of the FMCPA.
42 *Ibid.* Section 63C(6).
43 *Ibid.* Section 63D(1).
44 *Ibid.* Section 63D(3).
45 *Ibid.* Section 63F.
46 *Ibid.* Section 63G(1).
47 A Gill and A Sundari, "Does Existing UK Legislation Provide Adequate Protection and Remedies for Victims of Forced Marriage?"<http://www.undergraduatelibrary.org/system/files/UA550.pdf> accessed 7 October, 2026. See also Gaffney-Rhys, n. 26 above.
48 *Ibid.*
49 *Ibid*.
50 *Ibid*.

encouraging as there is a sanction attached to the disobedience of an FMPO.[51] Therefore, a victim-oriented approach is adopted which gives the victim the right to influence the ultimate outcome of the proceedings for an FMPO.

Notwithstanding these benefits, the FMPO also has its own challenges. It has been observed that the monitoring level as it relates to the compliance of an FMPO is not encouraging.[52] The victim could be pressured by the family to seek a revocation of an FMPO because the initial responsibility is on the victim to make such application. This was evident in the case of *Bedfordshire Police Constabulary v RU*[53] where the court made an FMPO to protect a sixteen (16) year old girl. On her application for a revocation of the FMPO, the court refused the application on the finding that the girl was being pressured by her family and there was evidence of the existence of the threat of forced marriage. It was the court's diligence that prevented the vulnerable girl's protection from being removed.[54]

The Anti-Social Behaviour, Crime and Policing Act 2014

In order to address some of the concerns associated with an FMPO, the United Kingdom Parliament criminalized forced marriage by enacting the Anti-Social Behaviour, Crime and Policing Act in 2014.[55] The Act also makes it a criminal offence to breach an FMPO.[56] It is, however, noted that the criminalization of forced marriage continues to exist side by side with the civil remedy of applying for an FMPO in the family courts. Section 120 of the Act makes it an offence to breach an FMPO by inserting a new section 63CA to the FLA 1996.[57] The section provides that any person who without reasonable justification does anything that an FMPO prohibits is guilty of an offence.

Section 120 makes it clear that in cases where a person has been convicted of an offence under section 63CA of the FLA 1996 regarding any conduct, the court cannot punish the person for the contempt of violating an FMPO.[58] Similarly, a person who has earlier been punished for contempt of court for a particular conduct cannot be convicted of an offence under section 63CA of the FLA 1996.[59] The maximum penalty for the criminal offence of breaching an FMPO is five years imprisonment or a fine, or both fine and imprisonment. On summary conviction, the person cannot be sentenced to a term of imprisonment exceeding twelve months, or a fine, or both fine and imprisonment.[60]

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51 *Ibid.* Section 630 of the FLA 1996 as provided for in section 1 of the FMCPA Cap. 20, 2007.
52 Gaffney-Rhys, n. 80 above.
53 [2013] EWHC 435 (Fam).
54 A Gill and D Anitha, "The Illusion of Protection? An Analysis of Forced Marriage Legislation and Policy in the UK' *Journal of Social Welfare and Family Law* (2009) Vol. 31(3) 257 – 269.
55 Cap 12, Laws of England, 2014.
56 Section 120 of the Anti-Social Behaviour, Crime and Policing Act, Cap 12, Laws of England, 2014.
57 This Act amends the FLA Cap 27, 1996 in relation to forced marriage.
58 Section 63CA (3) of the FLA Cap 27, 1996 as amended by section 120 (2) of the Anti-Social Behaviour, Crime and Policing Act Cap 12, 2014.
59 *Ibid.* Section 63CA(4).
60 *Ibid.* Section 63CA(5).

Section 121 of the Anti-Social Behaviour, Crime and Policing Act 2014 creates the offence of forced marriage in England and Wales. By section 121(1) of the Act any person, who for the purpose of causing another person to contract a marriage,[61] employs violence, threats or any form of coercion and believes or ought reasonably to believe that the conduct may cause the other person to contract a marriage without their voluntary and complete consent commits an offence.

Where the victim is a child or any other person, who lacks the capacity to consent freely to marriage, the offence of forced marriage "is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form of coercion)."[62] It is noted that the offence of forced marriage, on summary conviction, attracts a jail term not exceeding 12 months or a fine or both fine and the jail term. On conviction on indictment, the court may sentence the convict to a maximum term of 7 years imprisonment.[63] A mother was found guilty in May 2018 after deceiving her teenage daughter into travelling to Pakistan in order to force her to marry a man who was twice her age. The mother had informed the daughter that they were travelling for a family holiday but after they entered Pakistan, the daughter learnt that she was to be married without her consent. On the daughter's protest, the mother assaulted her and threatened to have her passport burned if she failed to cooperate. She was jailed for four and a half years, hence being the first person in England to be convicted of forced marriage.[64] Similarly, in May 2018, another conviction was recorded by the Leeds Crown Court which found a couple guilty of forced marriage after deceiving their daughter into travelling to Bangladesh for the purpose of forcing her to marry her cousin, who after getting her pregnant will proceed to apply for a British visa. When she protested, the "father threatened to slit her throat and '*chop her up'* in 18 seconds - one for every year of her life"[65]The couple were jailed for 8 years.[66]

It has been argued in favour of the criminalization of forced marriage that the Anti-Social Behaviour, Crime and Policing Act[67] will to a large extent deter people from forcing others to marry.[68] However, it has been argued to the contrary that prosecution will hardly secure convictions as victims are in most cases

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61 Section 121(4) of the Anti-Social Behaviour, Crime and Policing Act Cap 12, 2014 defines marriage as "any religious or civil ceremony of marriage (whether or not legally binding)."

62 *Ibid.* Section 121 (2).

63 *Ibid.* Section 121 (9).

64 E Batha, 'Mother Jailed for Forcing Daughter to Marry in Landmark UK Trial' <https://www.reuters. com/article/us-britain-forcedmarriage-sentence/mother-jailed-for-forcing-daughter-to-marry-in-landmark-uk-trial-idUSKCN1102Y4> accessed October 2, 2026.

65 T Gardner, 'Guilty: Leeds Couple who Tried to Force Teenage Daughter to Marry and have Baby with Cousin in Bangladesh' <https://www.reuters.com/article/us-britain-forcedmarriage-sentence/ britain-makes-second-forced-marriage-conviction-in-a-week-idUSKCN1IU2AD> accessed October 2, 2026.

66 F. Perraudin, 'UK Couple Found Guilty of Trying to Force Daughter to Marry' <https://www.theguardian. com/uk-news/2018/may/29/couple-found-guilty-of-trying-to-force-daughter-to-marry> accessed October 2, 2026.

67 Cap 12, Laws of England, 2014.

68 Home Office, *Forced Marriage: A Consultation: Summary of Responses* (Home office, London, 2012).

very reluctant to report cases of forced marriages against their relations.[69] Hence, it is challenging for the prosecution to obtain evidence to prove its case beyond reasonable doubt.[70]

Another disadvantage of the criminalization of forced marriage is that it does not support the victim-oriented approach which is advocated by the FMPOs. Criminalization places more emphasis on punishing the perpetrators of forced marriage than protecting the victim.[71] It is argued that the victim's interest and wishes should be prioritized.

The Use of Civil Remedies as a Control Model to Forced Marriages in Nigeria

In order to counteract forced marriages, protection orders which could either be in the form of a restraining order or a mandatory order of court are potential quasi-criminal remedies to protect the victims or likely victims of forced marriages.[72] In a number of developed countries, protection orders are more often utilized "… to reduce the risk of future threat or harm to victims of violence and may prove more accessible and better-tailored to force marriage cases than criminal charges."[73]

In order to be eligible for a protection order, the burden of proof on the applicant is on a balance of probability and it is not necessary to show that there has been an actual commission of a crime by a person against whom the order is sought.[74] It should, however, be noted that the guidelines for obtaining a protection order varies from one country to the other.[75] Each country has its statutory requirements and procedure before a judge can validly issue a protection order. Notwithstanding this fact, protection orders are extensively at the discretion of the judge, who after hearing the applicant's case, would decide based on justice whether or not to issue a forced marriage protection order.

Forced marriage protection orders could take different forms. The court could make a no-contact order, which is, restraining a person(s) not to come within the reach of a victim or likely victim of forced marriage. It could also make child-custody orders; visitation and supervision orders in favour of an applicant; orders for child-support, medical treatment and counselling; mandatory school attendance; and in cases where there could be a possible flight risk of the child, the court could make an order confiscating the child's passport, therefore preventing her from being taken abroad to contract a forced marriage.[76]

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69 Gaffney-Rhys, n. 26 above; M Aqueel, "The Effect of Criminalising Forced Marriages in the United Kingdom: A Step Too Far" (2015) *Coventry Law Journal*, 16 at 20.
70 *Ibid.*
71 MM Idris, 'Forced Marriages – The Need for Criminalization?' (2015) *(*9) *Criminal Law Review;* 689.
72 EM Landau, "Custom or Crime? Part II of IV: Legal Remedies for Forced Marriage Victims and Survivors" (2016) *American Journal of Family Law,* Vol. 30, No. 1, 1 at 5.
73 CT Benitez, DE McNeil, and RL Binder, "Do Protection Orders Protect?," (2010) *J. Am. Acad Psychiatry Law,* Vol. 38, 376 at 376.
74 Landau, n. 72 above.
75 *Ibid.*
76 *Ibid.*

This list is not closed and the type of order which the court could make will depend on the facts and circumstances of the case before it.

Similar to some of the challenges encountered in the prosecution of the perpetrators of forced marriages, there are some limitations in obtaining a forced marriage protection order. There could be restrictions on those who are qualified to obtain forced marriage protection orders and those against whom such orders could be obtained. The terms of the forced marriage protection order could also pose some challenges in some cases. To this extent, victims or likely victims of forced marriages could be reluctant in testifying against their parents or family relations or to produce any evidence against them which could lead to some negative consequences like jail terms, fines, etc. Victims or likely victims of forced marriages could also consider the adverse impact which an attempt to seek a protection order could have on them personally. In some cases, there could be retaliation by family members against such victims.

The view is, however, expressed that although these limitations are bound to exist, legal practitioners acting for victims of forced marriages are encouraged to consider the peculiarity of each case and exercise proper care when working on each victim's case to understand the dynamics of each family, the uniqueness of each case and the proper remedy to obtain with the consent of each victim.[77] It is, however, doubtful if the limitations stated above would have much impact in cases where the action has been commenced by an independent third party under whose care and protection the victim has been.

CONCLUSION

Finally, the fact that forced marriage of children is still a major issue in Nigeria, especially in the northern part of the country is not in doubt. The view has been expressed that despite the explicit criminalization of forced marriages in Nigeria, incidences of forced marriages have continued unabated. The reasons for this are investigated and the conclusion is reached that the statutory recognition of court protection orders (civil remedies) could at best serve as an alternative and a better option to criminal prosecution at combating forced marriages in Nigeria.

In this regard, the girl child whose rights are likely to be violated or are being violated by the celebration of forced marriages could possibly seek a redress in a court of law either through third parties or their guardian *ad litem*. In most cases, however, the parents of the girl child who are supposed to be their guardian are the major perpetrators of forced marriage. In this instance, where the victim or likely victim is unable to seek a redress in a court of law, applications should be brought *ex parte* by a third party (concerned individual or organization) with the leave of court to seek immediate protection orders on behalf of the child. Designated courts in Nigeria should be clothed with the power to issue *ex parte* protection orders as a matter of urgency in order to protect children who have been threatened to contract

[77] *Ibid.*

forced marriages or those who are already in it. Like all other court orders, a violation of the protection order must be punishable as contempt of court.

An application could be made to court for an order of court (injunction) to prevent a forced marriage from being celebrated. There could also be an injunctive remedy seeking the courts to prevent any form of intimidation or violence by the parents, guardians spouse or proposed spouse of the victim of forced marriage. In cases where the child has been confined or abducted, there could be an application for the disclosure of the whereabouts of the child or a petition in the nature of habeas corpus directing a child in custody to be produced for the purpose of satisfying the court that the child is not held in custody without lawful authority or in an unlawful manner.

Children who are victims of forced marriages should have their cases done *pro bono*. Hearings on cases of forced marriages must be prioritized. In other words, it must be done through a speedy process and family courts should be designated to handle them. This will encourage girls to seek justice and further deter parents or guardians from giving out their children or wards in marriages at a tender age (below eighteen years).

It is also advocated that section 29(4)(b), CFRN should be expunged from the 1999 Constitution because it seems that that provision seeks to give constitutional legitimacy to forced marriage in Nigeria. Section 29(4)(a), CFRN, as the *grundnorm*, duly acknowledges full age to be 18 years. Therefore, all other laws including State laws that provide lesser age below 18 as full age or which provide for puberty as age of maturity be amended to be in conformity with section 29(4)(a), CFRN, 1999.

There is a need for the proper education of the girl child from the primary schools. Children at this stage should be educated on their human rights in order for them to be aware of instances when their rights are being violated. It is argued that a proper enlightenment of the girl child on the legal protection available to her and how to quickly make complaints in court in order to seek protection orders will go a long way in checking cases of forced marriages in Nigeria. It is believed that the implementation of the views and suggestions or recommendations made in this article will help to reduce or minimize the incidences of forced marriage in Nigeria.