

# Early and Forced Child Marriage on Girls' Education, in Migori County, Kenya: Constraints, Prospects and Policy

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Received: May 18, 2015

Accepted: July 8, 2015

Online Published: August 9, 2015

doi:10.5430/wje.v5n4p72

URL: <http://dx.doi.org/10.5430/wje.v5n4p72>

## Abstract

Early and forced marriage infringes rights of women and girls globally, undermining initiatives to raise involvement in education, reduce maternal mortality, increase employment and enterprise levels. Parental and Communal involvement in Early and Forced Child Marriage negatively influence Girls' Education, which hinders their participation in social, economic and politics in adulthood. The study focused on constraints, prospects and policy direction for improved participation of women in national development. The target population were young mothers who ideally should be in school but are out of school. The study targeted 30 women who got married before attaining age of 18 years thus falling victims of Early and forced marriage. The study used both primary and secondary data; Key data was derived from field research while secondary data were sourced from books, policy documents, conventions and registration and reports as well as school records. Questionnaires and structured interview schedules were utilized to solicit primary data. Findings revealed that quality education is determinant of perceptions held by parents on practice of early marriage. Weak or non-challant attitude on the implementation of policies and legislative frameworks tended to perpetuate repugnant traditional and cultural practices. Again, the belief that girls are a source of wealth in certain communities and amount the poorest segment of the society aggravate the early and forced marriage pandemic. The study recommends review of existing laws to strengthen legal and policy frameworks through adherence to: Registration of Marriages, minimum Age for Marriage, African Charter on the Rights and Welfare of the Child, as well as proceed to set legal standards and prevent early and forced marriage.

**Keywords:** *Early Marriage, Forced Marriage, Girl Child Education*

## 1. Introduction

Early and forced marriage impedes girls' education, psychological well-being and health. This practice inevitably denies young women of school age right to education necessary for personal development, preparation for adulthood, and effective contribution to future well-being of family and society. In each year, around 70,000 girls die in labour since their bodies are not mature for child bearing, WHO and UNICEF (2012). Further still about 14 million teen and adolescent girls get married, and others are forced into marriage arrangement by parents yearly, UNICEF (2012). To revert this, education is crucial in mitigating incidences of early and forced marriage. This means that enhancing access to quality education for girls while at the same time enlightening community to amend societal norms that enable early and forced marriage to continue.

In 2012 UNICEF estimated that internationally, approximately 400 million women aged 20-49 (or 41% of the entire population of women of this age) got into matrimony before reaching 18 years. UNICEF, (2012) further noted, although the proportion of child brides has generally decreased over the last 30 years, in some regions child marriage remains habitual, even among the youngest generations, in rural areas predominantly among the poorest. Among young women aged 20-24 internationally, 1 in 3 (or 70 million) were married despite the fact that they were children and around 1 out of 9 (or 23 million) entered into marriage or union before achieving 15 years of age. Herrenkohl, (2005) posits that if current trends persist, child brides married off yearly would have grown more than 14% annually from 14.2 in 2010 to 15.1 million by 2030. Though the biggest number of child brides resides in South Asia, nations with higher rates of early and forced marriages are in Africa, UNICEF, (2005). In fact, of the 41 nations with

prevalence of over 30 per cent globally, 30 are housed in Africa.

According to Othieno (1968) marriage is a contract bringing status and identity among *Luo* women. The *Luos* regard marriage as sacred bond which once contracted should not be broken. Even when the marriage breaks, the community has the right to bury the wife upon death. Once a marriage is contracted whichever party derailing the arrangement is liable to scandal, disrespect and loss of status in the community, Puthenpurakal, (2005). Such a party may also lessen chances for a second marriage. Furthermore, the right to consent to marriage is recognized in the Universal Declaration of Human Rights, (UDHR), (1948) which recognizes consent as “free and full” when one of the parties involved is not sufficiently mature to make informed judgment about life partner (Article 16 of 1948 UDHR). This implies that marriage should only suffice when involved parties are 18 years of age, of sound mind and fully aware of the demands of the arrangements which they are joining. In support of this position, caucus on abolition of all kinds of segregation against women (2012) emphasized protection from child marriage. Article 16 accentuates to betrothal and marriage of a child shall have no legal effects given a child’s inability to make informed decisions on family unions. In Kenya for instance the Children’s Act 2001 affirms that children under 18 years are expected to be in school and stiff penalties are taken against parents violating this legislation.

However, despite the existence of such laws, a number of communities or parents particularly the impoverished still tend to marry off their daughters in complete disregard of legislations which stipulates age 18 as the age of majority. Further, child marriage is linked to their rights which include; expressing own views freely, protection from abuse, shielding from repugnant traditional practices and guarding against child labour and hazardous environment which inhibit chances of participating in schooling. In support of this position, UN convention on the Rights of the Child, emphasizes involvement in schooling rather than marriage to assist every child grow and make informed decisions on future engagements rather than marriage at young age. For instance, UN Convention on the Right of the Child (1989) reclaimed during the Children’s Act (2001) emphasizes that inappropriate traditional adherence for instance female genital mutilation (FGM) which is commonly practiced among pastoralist communities who frequently marry off their daughters during formative stages of their lives and worse to much older men when such children are not fully developed to make own decisions.

In Kenya, such repugnant traditional practices have been blamed on sentimental attachment to upholding traditional practices, high value to cattle ownership and daughters being viewed as source of wealth UNICEF, (2012). The poor for instance view daughters as a bridge to greater wealth or pathway to riches. Such a belief is held by communities resident in kajiado and Tharaka counties where it was observed that early and forced marriage is rampant where girls below age 15 are consistently married off to much older men in exchange for herds of animals. In Kajiado girls who are 12 or much younger have their marriage pre-arranged by parents and relatives who force them into such arrangements when they are supposed to participate in schooling. The initiation ceremonies occur much earlier making children feel that they are old enough to get married rather than pursue education whose return remain remote. According to Andiwo, (2002) girls drop out of school to get married, while a few make a decision to marry after getting pregnant though some succumb to parental and communal pressure to be married off. Andiwo, (2002) further stresses that orphan hood is increasingly pushing the girl child in early marriage as a way of making stable living which in many instances is not the case.

Messopir (1998) indicated that early motherhood responsibilities exposed girls to suffering in the hands of cruel and abusive partners which denies them opportunity to pursue and complete education like boy counterparts. She further emphasizes that premature marriage overburdens, dehumanizes and traumatizes girls into servitude who often relapse into hopelessness. Messopir (1998) further argued that marrying at age 13 and having four children at age 18 was not only traumatizing, and taxing often resulting in the collapse of such marriages as the future always remain bleak for the young and underage mothers. In an effort to address such situations from deteriorating into desperation, UN convention on the Rights of the Child (1989), the African charter on the rights and welfare of the child 1999 which was domesticated during Children’s Act 2001, that abhors early marriages or forced marriages, repugnant traditional practices and any other practices preventing the girl child from participating in education.

Drawing from these, Kenya has entrenched in the constitution 2010 the right of every child to acquire basic education of 12 years and criminalized activities, practices and aspects of various cultures which dissuade girls from completing the basic education cycle. Further, to eliminate female genital mutilation (FGM) which has contributed greatly to early and forced marriages has been outlawed through legislation, viz Children’s Act 2001, Kenyan constitution and government subsidized free primary education. Despite these efforts, majority of families are not able to fully meet the demands of purportedly free and compulsory basic education opting for easier pathways for acquiring wealth and hastening the transition of girl child into early motherhood. Minimal parental and community

support often encourage parents to give in to incentives from suitors for underage girls lowering chances of completing even primary education. Poverty and cultural practices have been identified as key impediments to retention in the school system and encouraging early and forced marriages. Early marriages therefore deny the girl child Right to decide the appropriate time to marry and to who, which many times perpetuates illiteracy and underdevelopment.

To reverse this trend, strengthening access to education from early childhood through primary to secondary would create sense of independence, ability to make own decisions and use acquired knowledge to manipulate environment for sustainable development. More still, Elaine and Nussey (2011) affirmed that delayed marriage allow girls to stay in school longer, acquire more skills, become more literate or knowledgeable and likely not to be susceptible to manipulation. By implication delayed marriage may result in low fertility, sexual initiation at maturity and consensual marriage resulting from strong knowledge base for growth and development. Further support for this position arises from analysis by International Center for Research on Women (ICRW) (2007), established that strong association subsists between higher age at marriage and educational attainment.

In instances where girls spend longer years in school, they acquire skills for survival, gain independence and confidence critical for negotiating consented sex or marriage lowering incidences of forced and early marriages. To this end, inability to expand educational opportunities for girls at the grass root, eliminate poverty which stands at about 57%, dismantle traditional practices which promote early marriages and assure free and compulsory basic education to wipe out this malpractice. On the same vein, UNICEF, (2011) supports the view that providing quality education, creating friendly learning environment and nurturing interactive learning process tend to encourage girls to remain in school longer. In addition, UNICEF (2011), further emphasizes expanded opportunities, campaigns against early marriages, integrating sex education across curricula and training teachers on girl's specific attributes for enhanced participation and retention in school beyond basic education. This entails supporting a complete cycle of quality education by focusing on girls' rights in addition to adopting approaches which build friendly education for girls. For example:

- Ensuring educational opportunities are available for all.
- Conducting communicational campaigns on the risks associated with early and forced marriage.
- Supporting girls' reproductive health needs
- Preparing educators to recognize girls' rights and gender fairness

Further analysis by International Centre for Research on Women (ICRW), (2007) found a strong association between higher age at marriage and informative levels. This implies that girls' education is the most important factor associated with untimely marriage. Further still, UNICEF (2011), posits that timely enrolment and duration of education is essential in guarding girls against untimely marriages. Analysis by Jain and Kurz (2007) indicated that legally restricting marriage ceremonies for girls below 17 years enhances average feminine education by lowest amount of 9%. Further analysis by Jain and Kurz (2007) established that postponing marriage by 1 year increases adult literacy by 5.6%. In this context, advancing education and school custody for girls plays an imperative role in eliminating early and forced marriage. Additionally, educated girls are more likely to have skills, knowledge and confidence to claim their rights. Achieving education for all and Millennium Development Goals (MDGs) demands quality education for sustainable development.

Human rights instruments, such as the UN Convention on the Elimination of Discrimination against Women (CEDAW), (2011), UN Convention on the Rights of the Child (UNCRC), (1989) and Universal Declaration of Human Rights (UDHR) (1948) broadly resist to premature and coerced marriages. For instance, Article 12 of the CRC (1989) highlights the rights of children to participate in decisions that affect them and Article 16.2 of UDHR (1948) states that spouses should give their full and free consent to marriage. While states have enacted legislation and taken administrative measures to prohibit early and forced marriage, many domestic frameworks still provide exceptions, UNICEF, (2011). For instance in Kenya especially in rural areas girls are faced with a myriad of problems, Nyambetha *et al.*, (2001). Majority of the girls do not know their rights and are not confident in expressing themselves so they end up in early and forced marriage which inhibit progress towards educational goals.

According to Pratt, (2012) inadequacies in enforcement, monitoring, legislation and setting legal age of marriage for both boys and girls is particularly problematic. Consequently, there exist insufficient measures to address the origin of early and forced marriage. For example, poverty, gender inequality and weak legislature. More still the extent to which the state is supporting proper funding for organizations providing support for victims of early and forced marriage remains an impediment to realizing goals of education. Based on this realization, the government should

criminalize all activities supporting early and forced marriage through endorsing of legislation that disallows untimely marriages. Creating awareness on the negative consequences of early and forced marriage is likely to allow girls to access quality education and delay marriage (Lane, 2011)

Sifuna (1986) noted that, age at marriage for girls amongst the Maasai averaged 14-18 years, while the Moran married (the first wife) at the age of 20 years and above. Traditionally soon after the initiation for girls, marriage could take place immediately Ghimire, (2006). This occurs among the Maasai, where a girl is no longer considered a 'girl' but 'a young unmarried woman' after circumcision (Messopir, 1988; Sifuna, 1986). The practice of early and forced marriage has however been discouraged by the Kenyan authority which is yet to be translated into legislation. Furthermore, this has been consistently discouraged and campaigned against by WHO as a health hazard since 1952. Based on this, little has been done to stamp out the practice, and the Maasai continue to believe that any uncircumcised person is not a grown up.

## **2. Causes of Early and Forced Marriage**

### *2.1 Conflicts, Disasters and Emergencies*

According to Simeltonet *al.*, (2012), food insecurity has resulted to the occurrence of hasty marriages, leading to captivity of girls who end up as wives against their will. Emergencies and disasters increase economic pressure on families escalating early and forced marriages. For example flooding along river basins of Nzoia, Tana, Nyando, Galana and Yala as well as Tana River plains in Coast provinces and North Eastern. Additionally, drought and disagreements in Afghanistan have forced farmers to arrange and receive money for early matrimony of their daughters, (Adamec, 2005).

### *2.2 Poverty*

According to Ackerly, (2009), in low income backgrounds, girls may be perceived as economic encumbrance. The impression of girls' panorama to earn income as comparatively disadvantaged pushes immature girls out of their home(s) to get married. On a global scale, girls from the needy 20% of households are more likely to be victims of early marriages. Poverty combined with the traditional practice of preference for boys influences parents to take sons to school rather than daughters in circumstances of economic constraints. When a community is faced with high poverty level, young women's education is compromised, leading to early pregnancy and forced marriage.

### *2.3 Gender Inequality*

Analysis by Cohoon, (2010) indicate that girls and women assume lower societal status emanating from cultural and traditional beliefs. Such beliefs suppress girls' capability to participate in equal roles in society. For instance in 10 nations experiencing greatest incidences of early and forced marriage, 5 contain regulations consenting girls to be married much earlier than boys. Once denied access to formal education, young girls develop into uneducated adults with inadequate tools and resources for future generation of educated women.

### *2.4 Weak Legislature*

Analysis by Vallillee, (2015), depict that early marriages in some countries are widespread, to an extent that prosecutions are rarely brought. While nations have legalized right to marriage, including minimum age and consent, these laws may be applied and few prosecutions brought against law breakers. Consequently marriage is not considered directly in the Convention on the Rights of the Child. Practitioners regard other rights (e.g. health, education, life, development and survival) or the CRC general principles such as interests of the child. To this effect, guidelines for Periodic Reports requiring that, governments must indicate minimum marriage age for girls and boys should be effected.

### *2.5 Traditional and Religious Practices*

According to Harenskiet *al.*, (2010), it is a common belief in most nations that marriage safeguards against inappropriate and immoral behavior. Wilson, (1967), opined that cultural practices among the *Luos* have led to boys and girls being married of at a tender age in areas where people still follow traditional rules and regulations. The *Luos* also believe that a girl who has reached puberty and dies before she is married and is not deflowered will remain a malevolent ghost, causing barrenness to all of her female kinsfolk. It is said that the dead will return to reproach the living unmarried girls in visions and in dreams and ask them "why did our fathers and our brothers allow me to go into the grave without tasting the joy of man?" Ogotu, (2007). This culture has enhanced early and forced marriage.

2.6 Problem Statement

Early and forced marriage is a life-changing reality for many girls, more so in developing countries. Young girls below the age 18years are forced into precipitate marriages which contributes to sexual health complications, violence, abuse, forced sexual relations, illiteracy as well as maternal and child mortality. Studies by UNICEF (2012), indicates that more than 60 million girls worldwide had married before attaining the age of 18. Should the present tendency persists then an additional 100 million girls everyday will become brides over the next decade. In the past two years, 40% of girls in Kenya were married before their 18<sup>th</sup> birthday, 61% in Kajiado alone. At this rate, Kenya will see 35,000 more girls married off hence the need for this study.

2.7 Purpose and Objectives

The purpose of this study was to assess the implication of early marriage on girls’ education in Migori County. Success of this study is of great importance to: The ministry of education in providing education for all.

2.8 Theoretical Framework

The study adopted Feminist sociological theory by Chafetz, (1997). All societies are structured around reasonably stable patterns that establish how social interaction will be carried out. One of the important social structures that organizes social interaction is status, a position a person occupies that is a significant determinant of how an individual will be defined and treated. Individuals whose status sets are comprised of low-ranked ascribed statuses more than high-ranked achieved statuses are near the bottom of the social stratification system and vulnerable to social stigma, prejudice, and discrimination. Though there is no known society in which the status of female is consistently ranked higher than that of male. By implication gender inequality, weak legislature, traditional and religious practices and poverty have contributed to discrimination against the girl child, thus enhancing early and forced marriages.

2.9 Conceptual Framework

A conceptual framework was utilized to explain the cyclical relationship between causes and consequences of early and forced marriage. Premature and forced marriage adds to a cycle of poverty, ill health, illiteracy and hopelessness. Education is the only key to breaking such cycles. Girls married early are expected to experience violence, abuse and forced sexual relations, reduced levels of sexual and reproductive health, and lower levels of education with corresponding high rates of illiteracy whose penalty comprises of: Violence, abuse and forced sexual relations, Sexual and reproductive health and ignorance and inadequate education.

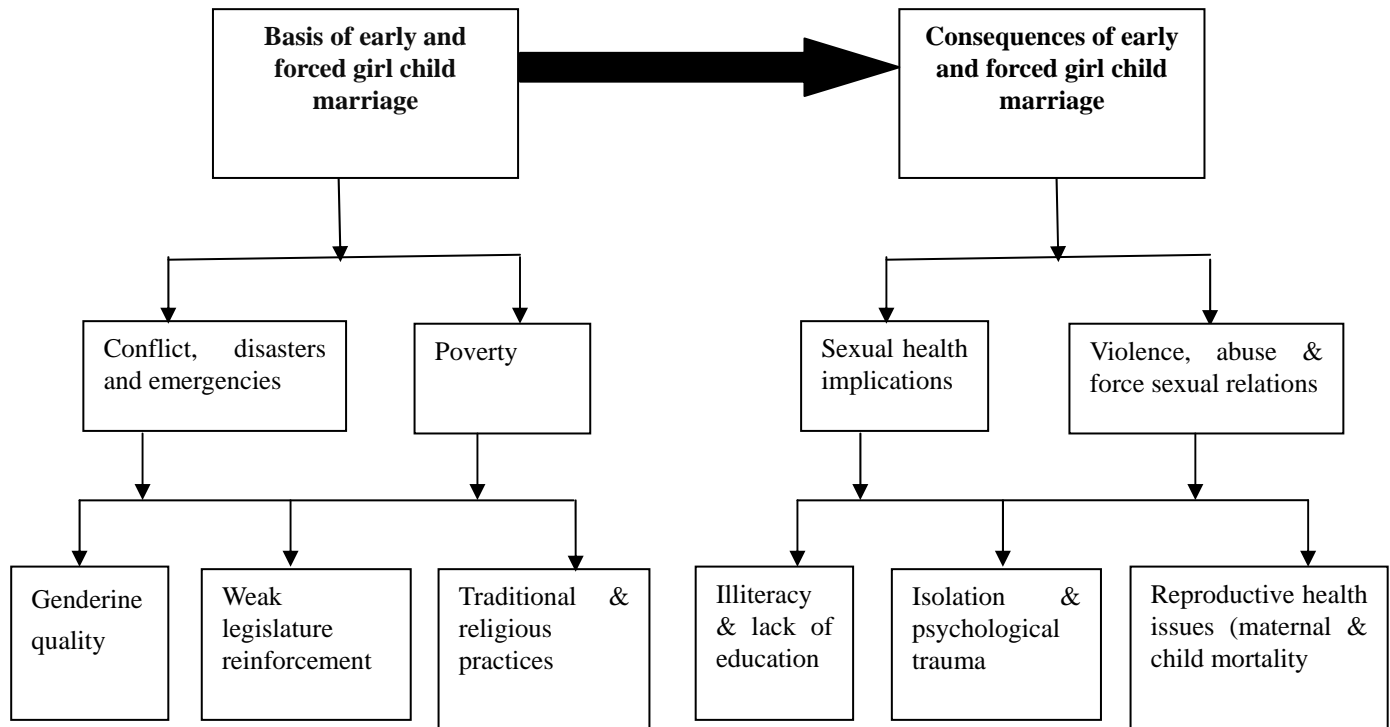


Figure 1. Conceptual Framework

### 3. Data and Methodology

According to Blessing *et al.*, (2009), research methodology is the approach as well as the set of supporting guidelines and methods to be utilized as a blueprint for carrying out research design. The use of primary and secondary data provided opportunity to examine the impact of early and forced marriage. Primary data were sourced through in-depth interviews and field research carried out in the area of study. Secondary data and quantitative data were sourced from survey of literature in books and journal articles, theses, government official publication and reports as well as school records. Simple random sampling and purposive technique was utilized in selecting respondents comprising of 30 women who got married below 18years. The data collection instruments used in this study was interview schedules and questionnaires. Qualitative information was organized following key thematic areas. The second step involved description of the responses to produce interim reports; areas that required additional information were identified and the requisite data sourced. The third step involved systematic analysis and interpretation of the interim reports. Quantitative data were processed, verified and tabulated using Microsoft Excel Package.

### 4. Study Findings

This chapter presents and analyzes data collected on early marriage for girls among the *Luo* community of Nyatike District. It also presents characteristics of the research subject from whom the information was gathered. The study investigated the age of the women at the time of marriage.

**Table 1.** Age of the Women at the Time of Marriage

Age of respondent	No. of women married before age 18	% of women married before age 18
10-12	4	13.33%
13-15	14	46.67
16-18	12	40.00

From table 1, cumulatively 4(13.33%) out of the 30 respondents were between ages 10 to 12, 14(46.60%) were between the ages of 13 15, while 12(40%) were between the ages 16-18. The right to 'free and full' consent to a marriage is recognized in the Universal Declaration of Human Rights – with the recognition that consent cannot be realized when one of the parties involved is not sufficiently mature to make an informed decision about a life partner. This is supported by Article 12 of CRC and Article 16 of UDHR.

The study aimed at examining the religious' background of the respondents and their understanding of early and forced marriage.

**Table 2.** Percentage against Religion

Religion	Frequency	percentage
Catholics	12	40%
Protestants	16	53.33%
A.T.R	2	6.67%

From table 2, the study noted that, 12(40 %) out of the 30 respondents belonged to the Catholic Church which was situated several miles away from the site of study. The data also indicated that 16(53.3%) of the respondents belonged to different protestant churches. i.e. Seventh Day Adventists, Anglican Church of Kenya, Jehovah witness and many other upcoming Churches. Similarly, 2(6.67%) of the respondents belonged to the ATR for instance NomiyaLuo Mission, Legion Maria, and Roho Israel. It is evident that the ATR are becoming extinct. The ATR advocates for the observance of the traditional Africans beliefs and members of their churches adhere and comply with the *Luo* traditional rules customs; this may be a reason why the traditional practice of early and forced marriage is still practiced. Leaders of the ATR groups are allowed to practice wife inheritance and other traditional practices related to marriage like arranged marriage for their children. Such practices have therefore encouraged early and forced marriage and have also led to the spread of HIV/AIDS. When asked about their views concerning early and forced marriage, one respondent stated:

.....my mother determined my marriage since we were extremely unfortunate. Early marriage is acknowledged as custom in my society and my religion. I therefore got married untimely as a sign of respect to my family and society.

This finding corresponds with the findings of Harenskiet *al.*, (2010) who argued that the significance of preserving family honor as well as virginity of girls in most countries is so high such that the majority of parents push their daughters into marriage before they are grown-up.

**Table 3.** Frequency Distribution of the Education Level of the Respondents

Level of education	Frequency	Percentage %
No education at all	7	12%
Primary	18	76%
Secondary	4	8%
Post-secondary	1	4%
Total	30	100%

The study investigated the educational level of the respondents. The data revealed that 7(12%) out of the 30 respondents had no education at all, 18(76%) had primary education, 4(8%) had secondary education while 1(4%) had post-secondary education. The implication of inadequacy of education is that, girls mature up with no sense of right to consent their own decisions and little experience in articulating concepts. Moreover, absence of self-esteem or sense of ownership of their own body exposes them to unwanted pregnancy and make vulnerable to infections. This malpractice is likely to diminish when educational levels for girls are raised. When asked to give remarks on early and forced marriage one woman said.....

.....my father made the decision to marry me and I was not given a chance at all. I did not know about a planned marriage because I was only in standard six and very young. I was compelled to go away from school to get married. My advice to other girls is to say no to untimely marriages and embrace education. Had I completed school and college I would be earning a salary to support my family but this is not the case.

These findings supports the findings of Elaine & Nussey (2011) who argued that if marriage is postponed, girls are much more likely to stay in school lengthily hence be educated. Thus, keeping girls in school maybe the only best way of promoting later consensual marriage, while contributing to delayed sexual initiation, lower rates of HIV and other morbidities

## 5. Conclusions and Recommendations

From the findings it is concluded that untimely and coerced marriages is prevalent in the rural areas. It was established that inadequate education attainment has an effect on early marriages. The findings established that few girls and women have secondary and post-secondary education and most of the girls get married before attaining Kenya Certificate of Primary Education (KCPE). It was clearly evident from the study that early marriage had taken its toll on school completion.

## 6. Recommendations

These recommendations derive from the study findings.

**Ministry of education to bar early and forced marriages right from the grass root level addressing causes of early and forced marriages through:**

1. Addressing economic realities and keeping girls in school.
2. Carrying countrywide campaigns against early and forced marriage with a call to end the scourge.
3. Funding and supporting organizations that raise awareness about children's' rights including the right not to be forced into untimely marriages.
4. Providing enforcement programs accompanied by special financial assistance for providing bursaries to enable girls from poor backgrounds to access quality education.

5. Use of media to raise public awareness about the rights of the child and the impact of premature marriage.

**Educate and engage traditional and religious leaders:**

1. To develop and adopt commitment to ending early and forced marriage and sensitize the community members to report early and forced marriage practices.
2. To engage governments and communities in getting girls to school right from basic education to secondary level.

**Supporting policy frameworks:**

1. Reviewing customary and civil law in the light of internationally agreed human rights in addition to standards of marriage.
2. Reviewing existing laws and strengthening legal and policy frameworks.
3. Designing effective systems of marriage through emphasizing lawful period of matrimony.

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