

**Conceptual & Operational Considerations  
on Forced Marriage and Trafficking in Persons  
for the ASEAN Region**

# Conceptual & Operational Considerations (1)

- Marriage including associated crimes is primarily regulated in national law
- International human rights law recognizes the right to marry, at full age, based on free and full consent
- There is no international definition of forced marriage
- Yet, forced marriage is considered a human rights violation and gender-based violence

## Conceptual & Operational Considerations (2)

- Some forms of forced marriage are recognized in international law as ‘institutions and practices similar to slavery’
- Given the link to the TIP Protocol, these must hence be considered forms of exploitation
- Yet, political and judicial actors often find it difficult to link marriage and trafficking in persons in practice

# Conceptual & Operational Considerations (3)

- Where links are established, there are broadly 3 approaches in law:
  - a) Forced and child marriage are included as explicit examples of exploitation in TIP laws;
  - b) Forced and child marriage are subsumed under the concept of ‘practices similar to slavery’ in TIP laws
  - c) Forced and child marriage are understood as part of broader forms of exploitation that touch upon violations of human dignity
- When forced marriage is included as exploitation in TIP laws, it is often enough to prove that a marriage has been brought about by force
- The links are more difficult to establish in other contexts

# Conceptual & Operational Considerations (4)

- Under international law, states have a responsibility to respect, protect and fulfil human rights
- However, some responses to forced marriage in Southeast Asia undermine the human right to marry and amount to gender-based discrimination
- Southeast and East Asia have long histories of arranged marriages and marriage migration, and forced marriage may be seen as a subset of these
- Efforts to increase transparency, oversight and accountability may be more effective than those that ban and criminalize marriage migration