

Forced Marriage in Australia

Policy Position Paper

Key Facts

1. Forced marriage is an abuse of human rights.
2. Some cases of forced marriage involve trafficking and other forms of exploitation.
3. Victims and perpetrators of forced marriage are not limited to any particular cultural group, religion or ethnicity.
4. Forced marriage victims include both men and women but most reported victims are young women and girls.
5. The *Federal Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* criminalises conduct that forces a man or woman to marry.
6. In the 2014-2015 financial year, 28 per cent of the 93 investigations into human trafficking undertaken by the Australian Federal Police Human Trafficking Teams were related to allegations of forced marriage.
7. A forced marriage is different from an arranged marriage. An arranged marriage is a lawful practice where families take a lead role in choosing the persons to be wed, but the decision to accept or refuse the arrangement remains with the potential spouses. Unlike a forced marriage, an arranged marriage relies on the free and full consent of both parties.

What is Forced Marriage?

A forced marriage is a marriage entered into without meaningful consent. Forced marriage is against the law in Australia. According to Australian law:

A marriage is a forced marriage if, because of the use of coercion, threat or deception, one party to the marriage (the victim) entered into the marriage without freely and fully consenting.ⁱ

This includes early and child marriage: in Australia a person under the age of 18 cannot consent to be married unless aged 16 or 17, with both parental and court consent.ⁱⁱ The forced marriage of a child is an aggravated forced marriage offence.ⁱⁱⁱ This practice also constitutes child abuse and is a violation of children's rights under the *United Nations Convention on the Rights of the Child*.

The crime of forced marriage is a global issue. Victims of forced marriage can be trafficked to another country where marriage takes place, or the victim may be forced to marry someone within their home country. Although there is a lack of reliable information about the nature and extent of forced marriage, we know that forced marriage occurs in Australia, and Australian victims have been trafficked overseas and forced to marry.

Impacts of a Forced Marriage

Victims of forced marriage may suffer a range of harmful, sometimes devastating, consequences. These include psychological trauma which may lead to ongoing mental illness, self-harm and suicidal ideation. Victims may also be impacted by physical injuries, sexual assault and family violence, false imprisonment, estrangement from their family, unwanted or early pregnancies, kidnapping or abduction, and sometimes death. Young girls in particular may be isolated from their peers and prevented from attending school, significantly affecting their social and educational development.^{iv}

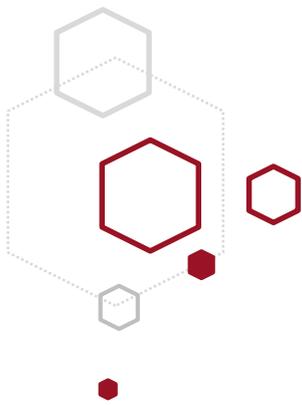
After victims have been forced to marry, they often find it difficult to seek help because of social stigma, family pressure, financial constraints, fear of violence or deportation, lack of legal information about their options and/or concern about their children.^v For some victims who are not Australian citizens, or whose citizenship documents are being withheld from them, difficulty in accessing support is further compounded.

Current Responses to Forced Marriage Victims

The Australian Red Cross provides intensive casework support, accommodation and financial assistance for victims and those at risk of forced marriage through the Support for Trafficked People Program (STPP). Support through the STPP is only available for those victims referred by the Australian Federal Police (AFP).

The STPP Assessment Stream provides up to 45 days of support to victims. This period of support assists victims' recovery and stabilisation so that they are in a better position to make informed decisions about their future options. For all minors, and some adults who qualify, a further 45 days of support is provided within the Extended Intensive Support Stream. Referrals for specialist legal support can also be made to Anti-Slavery Australia, who provide legal assistance to people who have been trafficked and exploited in Australia.

Ongoing support is provided through the Justice Support Stream for victims in cases where the AFP deems it necessary to conduct further investigation, with the victim's cooperation.



Improving Our Response to Forced Marriage

Forced Marriage Networks have been established in Victoria and New South Wales, with plans to be established in other states. The Networks promote culturally sensitive awareness-raising and provide a coordinated response across sectors.

Currently some victims of forced marriage access family violence support services. Given the strain that these services are under in meeting existing demands, coupled with the complex support that is often required, the needs of forced marriage victims are not being addressed.

A specific service system, including a dedicated forced marriage hotline, is required to address the multiple and complex needs of victims, as well as providing expert advice and referrals to professionals and members of the public. This system of support must be collaborative and hold the victim at the centre.

To complement the current criminal response and the associated support, more government funding is needed to extend assistance to those victims who choose not to, or who are unable, to take this option. Addressing the needs of forced marriage victims must go beyond the goal of prosecution, particularly given the complex nature of forced marriage—especially in situations where the victim is a young person and the perpetrator or perpetrators are their parents and/or immediate family members.

Schools are key sites of prevention, detection, intervention and victim support. Professional support should be made available through schools for victims of forced marriage given that many victims are school-aged girls. It is equally important that respectful relationships education in schools includes the issue of forced marriage.

Continuing to strengthen prevention efforts is critical in eliminating forced marriage. This requires more research into the prevalence and nature of forced marriage, and ongoing efforts to raise community awareness of the issue.

Further Information and Resources

My Blue Sky www.mybluesky.org.au

Australian Government Attorney-General's Department <https://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Pages/ForcedMarriage.aspx>

Australian Government Attorney-General's Department, Guidelines for NGOs Working with Trafficked People <https://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Documents/GuidelinesForNGOs-Working-with-trafficked-people.pdf>

Australian Catholic Religious Against Trafficking (ACRATH) www.acrath.org.au

Australian Red Cross <http://www.redcross.org.au/support-for-trafficked-people.aspx>

Australian Federal Police <http://www.afp.gov.au/policing/human-trafficking>

Anti-Human Trafficking: Community Resource <http://www.afp.gov.au/policing/-/media/afp/pdf/a/Anti-HumanTraffickingCommunityResource.ashx>.

Anti-Slavery Australia <http://www.antislavery.org.au/>

ⁱ Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013 (Cth)

ⁱⁱ Marriage Act 1961 (Cth)

ⁱⁱⁱ Criminal Code Act 1995 (Cth)

^{iv} Rosemount Good Shepherd Youth and Family Services (2014), *Forced & Servile Marriage Casebook: Beyond the Stereotypes*, NSW: Rosemount Good Shepherd Youth and Family Services; Simmons, F., and Burn, J. (2013), Without consent: forced marriage in Australia, *Melbourne University Law Review*, Vol. 36, pp. 970 - 1008; McGuire, M. (2014), *The right to refuse: examining forced marriage in Australia*, Melbourne: Good Shepherd Youth & Family Service, Domestic Violence Victoria and Good Shepherd Australia New Zealand; Jelenic, T. and Keely, M. (2013), *End child marriage: report on the forced marriage of children in Australia*, Sydney: University of New South Wales, National Children's and Youth Law Centre

^v Attorney-General's Department (Cth), (2011), 'Discussion paper: Forced and Servile Marriage', <https://www.ag.gov.au/Consultations/Documents/Consultationonforcedandservilemarriage/Discussion%20Paper%20for%20Public%20Release%20forced%20and%20servile%20marriage.pdf>

Forced Marriage in Australia. Policy Position Paper.

Series: Safety & Resilience, Number: 04

Good Shepherd Australia New Zealand, February 2016

Policy Position Papers have been developed by Good Shepherd Australia New Zealand to put forward the key facts and analysis on issues of importance to our practice and policy agenda. They may be revised from time to time to reflect advances in knowledge and new contexts.

© Good Shepherd Australia New Zealand. This publication may be reproduced subject to acknowledgement of the source (no commercial usage or sale).

PO Box 182, Abbotsford VIC 3067 www.goodshep.org.au