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## Forced / Non-Consensual Marriages TOOLKIT for service providers

# *What is a forced marriage?*

*A forced marriage is a form of violence and an abuse of human rights. It is a practice in which a marriage takes place without the free consent of the individuals getting married. Forced marriage can happen to anyone; of any gender, of any age.*

# *Forced / Non-consensual Marriages: A toolkit for service providers*

This Forced Marriage (FM) toolkit is designed as a guide to assist service providers in dealing with cases of forced marriage in Ontario and to facilitate open discussion with different stakeholders, including youth and their families. It contains practical information for the identification and prevention of forced marriage, information on the law in Canada / Ontario and how it intersects with forced marriage cases, as well strategies for intervention, and policy recommendations to enhance supports in forced marriage cases.

In creating this toolkit, we have aimed to be inclusive of all communities. However, the information here may not necessarily be suitable, relevant or appropriate for all groups. We encourage the users of this toolkit to adapt this document to suit their needs as well as the needs of the people they work with to make it more accessible and relevant.

Funding for this Project has come from the Ontario Trillium Foundation and Canada's Department of Justice. The South Asian Legal Clinic of Ontario is a community legal clinic funded by Legal Aid Ontario (LAO). We provide legal advice, representation, public legal education, community development and law reform work for the low-income South Asian community in the Greater Toronto Area.

**Legal information presented in this guide is for information purposes only and does not constitute as legal advice. Independent legal counsel should be sought for specific cases. SALCO will not be responsible for any loss or damage caused by reliance on any statement, made negligently or otherwise, contained in this booklet.**

Policy Templates provided are samples to be used as per an agencies own mandate and current policies.

The Case Management and Contingency Matrix provided should be used in conjunction with the rest of this toolkit, which provides valuable contextual information.

## Acknowledgements

The South Asian Legal Clinic of Ontario (SALCO) would like to thank the members of the 'Forced Marriage Project Advisory Committee' and the 'Network of Agencies Against Forced Marriages' for sharing their input and expertise on the issue of forced marriage. Their guidance and contribution to the project and development of the resources has been vital. (A list of agencies and community partners is available at [www.salc.on.ca/forced-marriage](http://www.salc.on.ca/forced-marriage))

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"Facilitator's Guide: For Community Education on Violence Against Women in the Domestic Sphere." published by the Toronto's Working Women Community Centre's.

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# **SECTION 1:**

# **INTRODUCTION**

**What is Forced Marriage to  
Surviving Forced Marriage:  
Sandeep's Reflections**

## *Project Mission Statement*

Beginning a dialogue around the issue of forced/non-consensual marriages in order to:

- Prevent Coercion
- Promote Safety, and
- Build Community Accountability

The ultimate aim of the project is to encourage dialogue and build public and institutional accountability in responding to the issue of forced marriages in ways that confront and do not perpetuate racism, gender oppression, and other forms of violence.

The Forced Marriage Project at SALCO denounces the threat and practice of forced, non-consensual marriage. We commit to identifying strategies that promote the safety and security of all individuals and their right to choose marriage freely.

## *Principles of Unity\**

We believe that:

### **Forced Marriage is:**

- An issue of violence
- An abuse of human rights
- Faced by both men and women
- Present across all cultural, religious and socio-economic backgrounds
- Experienced by minors, youth and adults of all ages
- Condemned in all religions and cultures

### **Forced Marriage is NOT:**

- A 'cultural practice'
- An 'immigrant' issue
- A 'thing of the past'

### **Forced Marriage can be addressed by:**

- Taking an anti-racist/ anti-oppressive approach
- Institutional commitment to fighting violence/abuse of human rights
- Building public and community accountability
- Creating safe spaces that encourage open and inclusive dialogue
- Prevention-focused initiatives across communities
- Engaging with both youth and parents/caregivers/family members
- Ensuring service to both men and women; of all sexual orientations

\* SALCO strongly identifies the issue of forced marriages as an issue of violence and abuse of human rights. As an organization that serves South Asians in the Greater Toronto Area (GTA), we are often presented as the ‘face’ of the issue, invariably playing into the marginalizing discourse that ‘Forced marriages are a South Asian/immigrant cultural practice.’ SALCO denounces this ‘culturalization’ of violence and encourages an anti-oppressive and anti-violence framework of working on the issue of forced marriages. Agencies working or beginning their work on the issue of forced marriages are invited to adopt these ‘Principles of Unity’ as a framework to their work.

## *Forced Marriages Project: History & Development of the Toolkit*

‘Forced/ Non-consensual Marriages: A toolkit for service providers’ was developed in response to community need for resources around the issue. Increasingly, the South Asian Legal Clinic of Ontario

(SALCO) had been encountering cases where Canadians of various backgrounds had entered into matrimonial arrangements by their families through false pretences, physical abuse, emotional abuse and exploitation.

In addressing these cases of non-consensual or forced marriage, SALCO began to uncover a number of policy, legal, and social barriers to addressing the issue. These barriers and gaps include, but are not limited to: lack of protocols at the institutional level; jurisdictional issues; lack of trust between communities and authorities; cultural stereotyping and racism, complexities related to the immigration and refugee process; the context within which the practice is located, including social and economic concerns; lack of capacity to address an incident i.e. at the school level; and lack of knowledge around the issue.

The toolkit is developed as the first step towards addressing these barriers and developing community accountability around the issue.

It is structured around four central themes; forced marriage identification, intervention, prevention and advocacy. In this FM Toolkit you will find:

- Information about the practice of forced marriage
- Case studies to assist in determining prevention and intervention strategies
- Resources that can be shared directly with service users affected by forced marriages
- Activities to help service providers explore their own perspectives about forced marriages
- Activities to be completed in groups with youth and/or parents/caregivers/ family members

## *Who is this Toolkit For?*

- Service providers, social workers, teachers, child and youth workers and other professionals and volunteers from the community interested in addressing and opening up discussion on forced marriage among colleagues and community members
- Community agencies and organizations wishing to engage with staff and volunteers around the issue of forced marriage

## Objectives of this Toolkit

- To provide information to service providers about forced marriage in order to facilitate discussion, self-reflection and the application of information
- To serve as an anti-oppressive and anti-racist educational tool that is respectful of diversity and makes forced marriage a visible topic
- To create partnerships among community agencies in order to provide opportunities for organizations to work in partnership towards the common goal of preventing forced marriage and domestic violence

## Surviving a Forced Marriage: Sandeep's Reflections

*I was raised to always obey and never question "the family decision." In my personal situation I felt I had no choice or way out. I was told it's what the family wanted and it's the right thing to do. The biggest fear I had was bringing shame on the family. I felt helpless, lonely and scared to tell anyone.*

*I felt betrayed. That the family I loved could use me as a pawn and subject me to this hurt and pain was too overwhelming to understand.*

*The emotional trauma of the forced marriage resulted in me suffering a nervous breakdown and later being diagnosed with Chronic Fatigue. Physically I was a visible wreck.*

*I was shunned by the community who judged me without facts or details.*

*It gave me a sense of validation knowing there were people and agencies out there willing to provide support, advice and a listening ear that weren't going to judge me.*

Sandeep, once a victim of circumstance, now, calls herself a survivor out of choice. She is an advocate against forced marriages and speaks actively to raise awareness around the issue. Sandeep was a guest speaker at the 'Right to Choose: an International Symposium on Forced Marriage' in Toronto in 2008. She lent her voice to the issue, sharing her story and demanding a more collaborative and supportive service response. Sandeep continues to speak to diverse audiences and lend her experience to different organizations around creating safe and supportive spaces to engage communities around addressing forced marriages. By sharing her story she wants to give hope to others. As she says, "my story could be your story, which together becomes our story."

A decorative graphic consisting of a series of orange dots arranged in a curved, wave-like pattern that flows from the top left towards the bottom right, framing the text.

## **SECTION 2: IDENTIFICATION**



# *How to identify cases of forced marriages?*

*“She is not coming to school anymore. She seemed stressed out. I’m not sure what is going on with her.”*

*“He seems to be on edge, moody. He says he doesn’t want to go back home for summer.”*

*“She says she wants me to talk to her parents. I’m not sure if that is appropriate for me.”*

*“I cannot interfere. It is your family’s culture.”*

This section will help you identify and understand the practice of forced marriages.

## *What is a forced marriage?*

Forced marriage is a form of violence and an abuse of human rights. It is a practice in which a marriage takes place without the free consent of the individuals getting married. Forced marriage can happen to anyone; of any gender, of any age.

## *Who gets forced to marry?*

Forced marriages can happen to anyone, regardless of gender, race or age. While it is not always the case, an individual usually faces pressure to marry from parents, relatives or caregivers.

## *How do forced marriages happen?*

Forced marriage happens when violence is used to force a person to agree to marriage.

### **Forced marriage is a form of violence.**

This violence may take emotional, mental or physical forms. In a forced marriage, consent is extracted under duress, including but not limited to: fraudulent inducement, violence, physical abuse and (especially in the case of minors) psychological or emotional manipulation. It may include:

- Physical and sexual violence
- Threatening behaviour
- Confinement
- Abduction
- Mental and social pressure using religious and cultural justifications
- Restrictions on lifestyle such as limitations on movement, association, dress code, education and career choices
- Financial control
- Isolation from community and family members
- Other demeaning, humiliating and controlling behaviour

### **Forced marriage involves coercion**

In a forced marriage, one or both individuals are coerced into giving their consent. It is not full and free consent; to coerce someone is to force them to act or think in a certain way by use of pressure, threats, or intimidation.

### **Methods of coercion may include:**

Shaming the victim in the name of upholding the family's reputation

- Stressing that if the woman or man says no, it will affect their parent's health

- Being told that refusing will effect their siblings' future chances of getting married;
- Threats from a parent, a sibling or a close family member to kill or harm themselves if the marriage does not take place.
- Inducing fear of losing immigration status

Sometimes, if the woman or man continues to resist the arrangement they may experience forms of violence listed above. In some cases, the individual may commit suicide to escape the pressure or the family may murder the individual for resisting the marriage.

## *Why would someone force a person into marriage?*

Parents or caregivers' who force marriages may often believe that they are responsible for and have the right to control their child's life. They may believe that they know what is best for the person, and that they have the right to decide their child's future. Marriage, in their context, may be perceived as their right to choose for their child. Each act of coercion can be read through the lens of power and control.

Motives for forced marriage may stem from the context of an individual's:

- Sexuality
- Religious or cultural beliefs
- Economic status
- Immigration status
- Peer community pressure

### *Exercise:*

What are some other motives that you believe would play into your clients being forced or being the person who forces their child into marriage? Make a list.

**Example 1:** Parents or caregivers' may perceive that they have the right to controlling sexual freedom, particularly of women — including perceived promiscuity, or being gay, lesbian, bisexual or transgender.

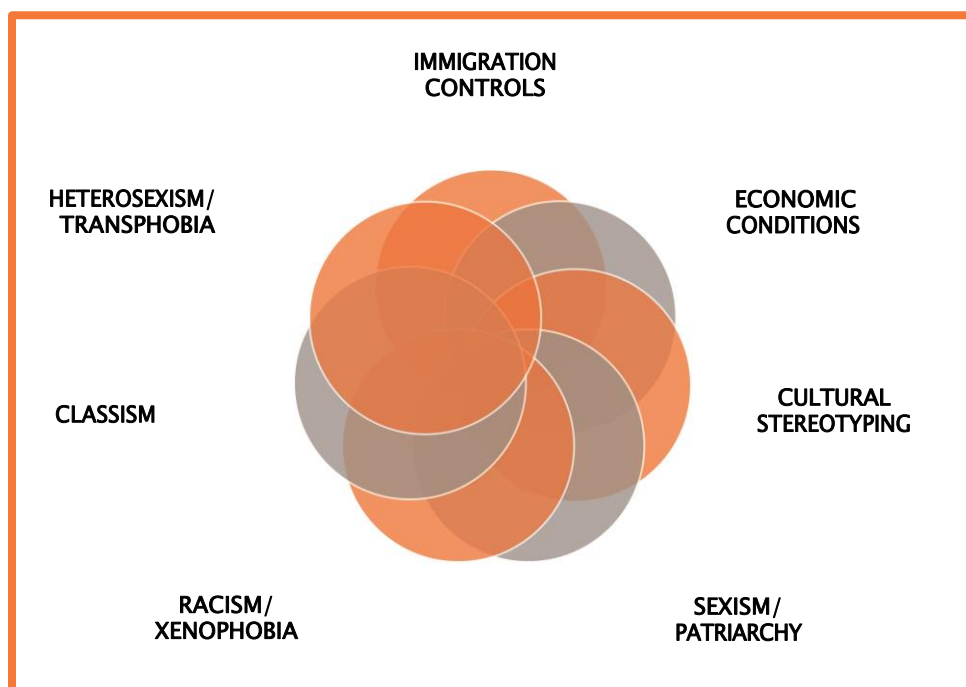
While it is important to have an understanding of the motives that drive parents/caregivers to force their children to marry, these motives should not be accepted as justification for coercion.

**Example 2:** Parents or caregivers' may have strong ties with their countries of origin. Often, in either responding to pressure from the extended family abroad or the community in Canada, they may force their child into marriage to assist with claims of residency or citizenship.

## *Contextualising the practice of forced marriage*

There are no excuses or valid justifications for the practice of forced marriage. It must, however, be noted that individuals arranging forced marriages are often themselves victimized by complex interacting factors. These factors may include (see diagram below):

It is important to consider how perpetrators of violence may themselves be victims of systemic oppressions. It is vital for service providers to remain non-judgmental, anti-oppressive and anti-racist in doing anti-violence work with diverse communities. Community workers should be aware of how systemic factors constrain and stereotype communities.



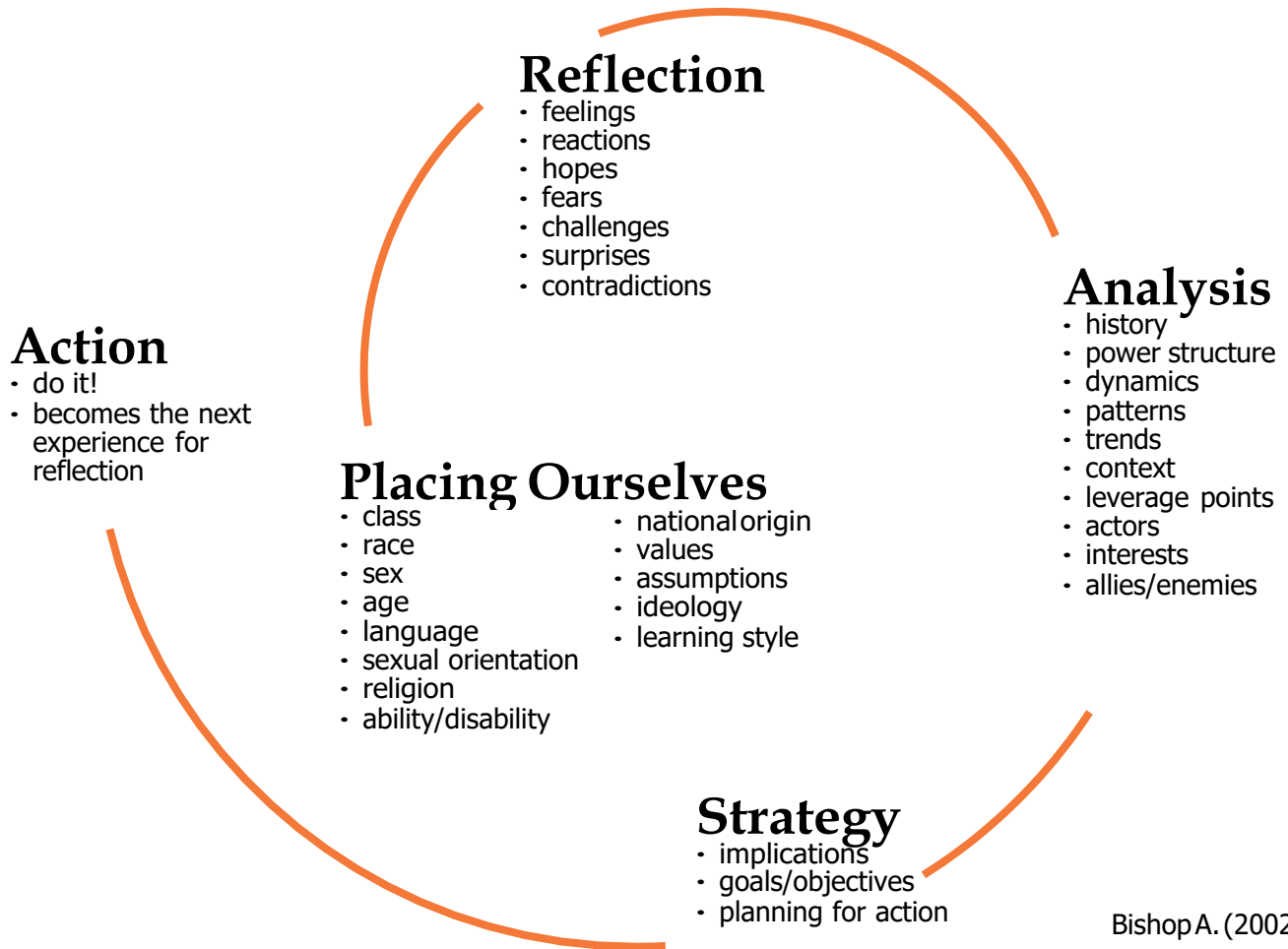
## *Are Forced Marriages a concern in Canada?*

Cases of forced marriage are increasingly coming to the attention of police, social service agencies, healthcare providers, educational, and voluntary organizations across Canada. These forced marriage cases have involved individuals and families from diverse backgrounds. Some forced marriages may take place in Canada with no overseas element, while others involve a partner coming from overseas or a Canadian being sent abroad and forced to marry.

The exact number of forced marriage cases encountered in Canada is not known as the guidelines for identifying or reporting these cases have not been established. Absence of institutional protocols, stigma and lack of awareness about forced marriage cases lends itself to significant under-reporting of its occurrence. With greater awareness and understanding of the issue of forced marriage, the number of cases reported is likely to increase, establishing a critical need for a strong community response.

## *Exercise: Locate yourself!*

Before reading further, take the opportunity to reflect on your social location and how it may impact your understanding of forced marriages. Throughout this toolkit, we encourage you to be aware of your reactions, opinions and feelings about the perpetrators and victims of forced marriages. The diagram of the Spiral Model of Learning illustrates what types of reflection and self-location can contribute to the sort of strategies and action necessary for the prevention of forced marriages.



Bishop A. (2002).

## *Common Myths about Forced Marriages*

### **MYTH: There is no difference between an arranged marriage and a forced marriage.**

Unlike a forced marriage, an arranged marriage can involve freedom of choice. See the following comparison:

#### **Arranged Marriage**

- The topic of marriage is freely discussed, with input from the person who wants to marry.
- The person, with freedom of choice, agrees to marry. While the families are involved, the final decision is made by the person.
- An agreement to marry is made. Arranged marriage takes place.

#### **Forced Marriage**

- Marriage is discussed by the parent/s, and a marriage partner is proposed to the person.
- There is no freedom of choice for person the involved. Violence and pressure is applied to make them marry.
- The person is married against their will. Forced marriage takes place.

In sum, all forced marriages are arranged, but all arranged marriages are not forced. In arranged marriages, families arrange the match, but there is freedom of choice.

### **MYTH: Forced Marriage is a thing of the past.**

Forced marriages happen in Canada and in many different parts of the world. There are documented cases, and survivors who can attest to this fact. Like many forms of domestic violence, many victims don't come forward and the practice is shrouded in secrecy. Awareness and work on prevention is needed to respond to these conditions.

### **MYTH: Forced marriages happen only in certain cultures.**

Forced marriages can occur in any culture, any class, any faith and in any place.

### **MYTH: Forced marriages only happen to young women.**

Forced marriages have happened to people of all ages and gender. While many cases of forced marriage involve violence against women, many men are also victims of this practice. Victims can include trans-gendered and trans-sexual individuals, and queer men and women - individuals who are also vulnerable due to homophobia.

### **MYTH: Forced marriages are a private family matter.**

Forced marriages violate human rights and contravene domestic and international laws. Like marital abuse, they are not a private family matter.

## *Warning Signs of Forced Marriages*

Forced Marriage is a hidden problem, but one which can have a significant impact. Cases of forced marriage may often present themselves within other problems. Possible indicators of a threat of a forced marriage may include:

- Appointments are often missed
- The person appears frightened, excessively anxious or depressed
- The person is always accompanied when attending a consultation
- Injuries are inconsistent with the explanation of the cause of accident
- One partner appears aggressive and overly dominant/ the other is passive and afraid
- Worsening academic performance
- Absence or poor attendance at school or work
- Depression
- Self harm
- Eating disorders
- Regular visits to health care professionals with no obvious illness or reason
- Attempted suicide

Please note that consent from the victim is essential if other agencies are to be contacted. Unlike child abuse, the reporting of adult abuse is not required by law.

### *Exercise: Perceptions*

What are some of your perceptions about forced marriages? Make a list of your first reactions.

# *Consequences of Forced Marriages*

## **For the Victim:**

While consequences vary in each case, some victims of forced marriage may experience:

- Continued coercion, possibly related to immigration or finance
- Emotional, financial, sexual or physical abuse
- Isolation
- Estrangement from family
- Increased vulnerability to domestic violence
- Stigma
- Mental health concerns related to trauma, depression, anxiety, self-harm, eating disorders or suicidal thoughts

## **For the Community:**

The consequences of forced marriage are significant on communities, they may include:

- Further stigmatization and stereotyping of communities in which incidents of cases are noted
- Heightened racism, xenophobia and homophobia
- Strained family relationships and family breakdown
- Increased incidences of violence in community
- Possible increase in use of services addressing domestic violence; including shelters, counselling services and health care services





# **SECTION 3: INTERVENTION**

# *How to intervene in cases of forced marriages?*

*“When a client walks in, sometimes, all I have is that one meeting to provide all the information that they need to keep themselves safe.”*

*“I have no way of contacting her. I don’t know if she has already been taken abroad.”*

*“There are resources out there. Youth shelters, counsellors ...”*

## *What can you do?*

### **The Role of Service Providers in Forced Marriage Cases**

Service providers who are new to the issue of forced marriage may initially have trouble identifying cases. It is important to remember that forced marriage has many parallels with domestic violence and that victims may turn to a service provider only as a last resort. As in cases of domestic violence, this reluctance may be because of stigma and fear that talking about the issue, even to friends, will be found out by parents/caregivers. Cases of forced marriage may not present as such initially; the victim may come to see you because of self-harming behaviour, depression, anxiety, missing school or withdrawing from social activity. These warning signs are just some of the factors that should prompt service providers to consider whether a forced marriage is part of what brings a client to see them.

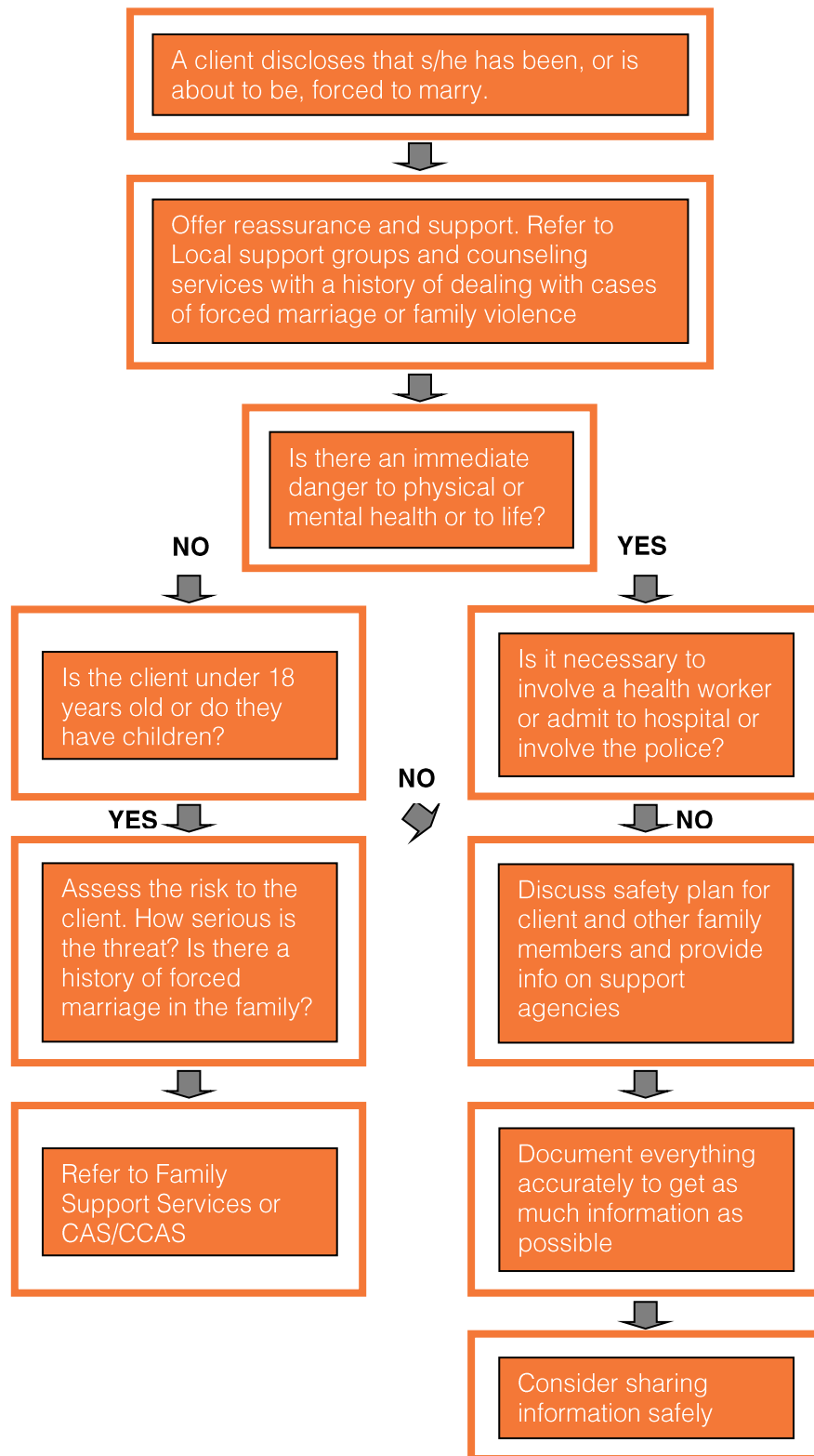
Forced marriages occur either within Canada or abroad. In either scenario, service providers may assist with safety planning, education about rights and responsibilities, looking into the resources and assistance available to the individual and connecting them with the appropriate services. In addition to these practical steps, the service provider can also assist the individual by offering non-judgmental, empathetic support and counselling, if appropriate. The service provider should remain aware that the person seeking assistance may be at risk of experiencing violence or harm if their family learns that they have sought assistance from any community agency. Safety and exposure to risk must always be considered when creating an action plan or offering a client advice in cases of forced marriage and domestic violence.

It is unlikely that one person or agency will be able to address all of the issues associated with forced marriage cases. However, as a first point of contact, a service provider equipped with knowledge of the issue may be an invaluable resource to an individual who may experience, or has already experienced, a forced marriage.

### *Exercise:*

Review the sample case response steps on the following page. Do these steps work for you in your organization? If yes, add questions that you may ask the client. Add resource agencies or service providers that you may refer the client to at different stages. Create a personalised response flowchart that you may use to work with your clients.

# *SALCO's Forced Marriage Case Response Flowchart*



# *Guidelines when working with people experiencing forced marriage*

## **Provide a Safe Environment**

- With reassurances about confidentiality. Advise the client of your legal and professional responsibilities in this regard.
- By listening without judgment — the client may confide in you about personal matters related to sexuality, relationships forbidden by their families, and/or other areas of their private lives. Confidentiality is of utmost importance. Reassure as many times as possible that this information will not be shared.
- Making sure appointments are booked at times when the client can attend in a discrete and safe way (e.g. during a school lunch hour so a young woman can attend unaccompanied without parents/caregivers' knowledge).
- Display relevant information (e.g. related to domestic violence, sexual assault, distress lines, child abuse, women's services, women's services in ethnic/racial communities). Respect Client Rights

## **Respect Client Rights**

It is important to note that whatever a person's circumstances, they have rights and autonomy to make decisions that should always be respected, including:

- Their personal wishes
- Personal safety and the level of risk
- Confidentiality
- Accurate information about rights and choices

## **Know the Legal Position**

Forced marriage intersects with various Canadian laws, including criminal, immigration, and family law. The Legal Chapter in this toolkit will provide more detail on these intersections.

### ***Exercise:***

Develop an internal organizational form that guides you into asking all the questions and collecting all the client information as listed in the sections above. Hold a staff discussion in evaluating the form and ensuring that everyone has access to tools that help improve client safety.

For example, criminal offences that may be applicable include:

- Forced Marriage
- Sexual Assault
- Threatening behaviour/threats to kill
- Kidnapping
- Abduction
- Assault
- Imprisonment
- Murder

It is important to seek independent legal advice to best meet client needs. Immigration law and family law may also be applicable to protect client rights. Inform the client of their legal rights and leave it to the client's discretion whether or not to report to law authorities.

*Remember, reporting may place the client at greater risk. There is one exception to what is stated above, and that is in the cases in which a client is under the age of 16.*

### **Legal Resources:**

For more specific information on family law refer to Family Law Education for Women (FLEW) at **[www.onefamilylaw.ca](http://www.onefamilylaw.ca)**.

To become more familiar with different areas of law and your clients' rights refer to Community Legal Education Ontario's (CLEO) online, easy to understand, legal resource publications at **[www.cleo.on.ca](http://www.cleo.on.ca)**.

You may also want to partner with legal clinics that are in the area or have subject matter expertise. For a list of legal aid clinics in Ontario, and to find referral information, refer to **[www.legalaid.on.ca](http://www.legalaid.on.ca)**.

### ***Exercise:***

Does your organization have a standardised safety planning guide? Does it include the needs of clients who might be facing a forced marriage? Note that often a client may be faced with travel abroad or have particular needs that may not be addressed in your current safety plans. Evaluate your current safety planning guide to include needs of clients who may be facing a forced marriage.

# *Taking the Right Steps*

## **Initial Steps:**

- See the person immediately in a secure and private place
- See the person on their own - even if they attend with others
- Explain all the options to the person and recognize and respect their wishes. If the person does not want social services to intervene, the social worker will need to consider whether the person's wishes should be respected or whether legal reporting duties require that further action be taken
- Reassure the client of social service confidentiality
- Initiate a strategy discussion under child protection procedures to decide whether the young person is suffering, or at risk of, significant harm (in the case of under 16s). Refer to Children's Aid Society website for more guidance. [www.oacas.org](http://www.oacas.org)
- Consider the need for immediate protection and placement away from the family where necessary

## **Additional Steps:**

- Information from case files and database files should be kept strictly confidential and preferably be restricted to named members of staff only
- Give the client, where possible, the choice of the race and gender of the social worker who deals with their case
- Inform them of their right to seek legal advice and representation
- In all cases, assess the risk of harm facing the person and the staff member
- Give them personal safety advice
- Record any injuries and arrange a medical examination. Keep detailed documentation of any injuries or history of abuse, as the police may require this for any subsequent prosecution in related legal matters
- Give the client advice on what service they should expect and from whom
- Maintain a full record of the decisions made and the reason for those decisions
- Ensure that the client has the contact details for their social worker/manager
- Try to refer the client, with their consent, to appropriate counselling services
- Encourage the client to access an appropriate, trust worthy advocacy service that can act on their behalf

## **Remember:**

- Circumstances may be more complex if the person is lesbian, gay, bisexual or transgender
- Male victims of forced marriage may face difficulty in getting their situation to be taken seriously
- When referring a case of forced marriage to other organizations/agencies, ensure they are capable of handling the case appropriately. If in doubt, consider approaching established women's groups who have a history of working with survivors of domestic violence and forced marriage and ask these groups to refer them to reputable agencies

Subject to the need for safety and confidentiality in making enquiries, the following information and documentation should be acquired. It is important to get as much information as possible when a case is first reported, as there may not be another opportunity for the individual reporting to make contact. The case may be reported by a third party or the young person under threat. Whoever reports the case, you should:

- Obtain details of the individual making the report
- Their contact details
- Their relationship with the person

## **Get the Details**

- Obtain the important details of the person under threat including:
  - Date of report
  - Name of individual under threat
  - Nationality
  - Age
  - Date and place of birth
  - Passport details
  - School details
  - Employment details
  - Full details of the allegation
  - Name and address of parents/caregivers
- Obtain a list from a person under threat of all those friends and family who can be trusted
- Establish a code word to ensure you are speaking to the right person
- Establish a way of contacting them discreetly in the future that will not put them at risk of harm
- Obtain any background information including schools attended, involvement by police, doctors or other health services etc
- Record details about any threats or hostile actions against the client, whether reported by the victim or a third party
- Obtain a recent photograph and other identifying documents. Document any other distinguishing features such as birthmarks, tattoos, etc
- Establish the nature and level of risk to the safety of the individual (e.g. are they pregnant, do they have a secret boyfriend/girlfriend, are they self-harming, are they already secretly married)
- Establish if there are any other family members at risk of forced marriage or if there is a family history of forced marriage and abuse

## **Know What Not to Do**

- Do not send the individual away in the belief that it is not your responsibility
- Do not approach the family or friends, unless the individual asks you to do so
- Do not send the individual back to their family without their permission
- Do not breach confidentiality
- Do not attempt to be a mediator



- Do not contact community leaders unless requested to by the individual
- Do not disclose someone's lack of immigration status to police or immigration authorities
- Do not provide legal advice unless you are qualified to do so

## **Planning to Leave / Exit Strategies**

Much of the advice below also pertains to persons who may not be preparing for a planned exit, but as a means of advance preparation should an emergency exit ever be required.

When devising an exit strategy the individual should be fully consulted to ascertain their future needs and have their wishes respected. Safety is paramount. Avoid putting yourself or others at risk.

The following are some recommendations of things an individual should consider when thinking about or devising an exit strategy.

- Open a bank account in his/her name
- Leave copies of important documents such as passport, Social Insurance Number and birth certificate with the police or a trusted friend
- Leave spare clothing, cash, etc. with a trusted person
- Keep help line numbers close at hand
- Have a telephone card or change for urgent telephone calls
- Arrange alternative "emergency" accommodation should the need arise

Encourage the individual to consider:

- Who they could go to in an emergency
- Who would be able to send them money if necessary
- The possible finality of this decision

If the individual is leaving the home:

- Police officers should accompany them if they insist on returning to collect their possessions
- Consider asking a third party to collect the individuals possessions i.e. a social worker
- Refer the individual to appropriate agencies/support groups for information and assistance

Personal possessions to take may include:

- Proof of identity (something with a photograph and signature i.e. passport, student ID card, photo-card driving license, and social insurance number)
- Medication and medical cards
- Address book and photographs
- Marriage/ divorce papers
- Jewellery and clothing

Please note however that no possessions are more important than safety and should be left behind if necessary.

## *Exercise:*

Do you have partnerships with NGOs abroad? If not, what are some agencies that you would refer your client to if they were to be taken abroad?

Create an internal list through collaborating with staff and partner agencies. Refer to [www.salc.on.ca/forced-marriage](http://www.salc.on.ca/forced-marriage) for a list of international resources.

Note: Diverse staff members may have connections with NGOs from their countries of origin. Explore their networks.

## *Cases of Forced Marriages Abroad*

Forced marriages that involve Canadians who are forced to get married outside of Canada are of special concern. These transnational forced marriages are often outside the jurisdiction of Canadian law and may leave the individuals (particularly women and minors) in vulnerable situations in remote areas with limited or no access to support from local services or Canadian authorities.

Forced Marriage may occur overseas. The person may be tricked into traveling abroad on the pretence to see a dying or sick relative or even a family holiday. If they find themselves in this situation, their experience may be similar to that of a hostage. If foreign travel is mentioned and there is a fear that this may be a means of forcing a marriage, ensure they are aware and prepared for the various difficulties they may encounter if they want to return to Canada.

*"Canada opposes the practice of forced marriage and urges all countries to respect their international human rights obligations relating to free and full consent to marriage. Forced marriage constitutes a human rights violation under international law to which Canada is a signatory." — Department of Foreign Affairs and International Trade (DFAIT)*

**It is important to note that your client's immigration status will impact the type of options available to them if they are forced to marry while abroad. Keep in mind that Canadian embassies abroad can only offer assistance to Canadian citizens and that permanent residents and temporary residents must explore the other options described below.**

The options available to permanent and temporary residents of Canada vary based on the individual's country of origin. Non-citizens should be advised to follow the safety planning steps outlined in this toolkit, including maintaining contact with someone in Canada, creating code words if they are in distress and seeking assistance locally if possible.

Resources available to individuals who suspect they may be the victims of a forced marriage or have been forced to marry while abroad are limited. Key options include:

### **Option 1: Accessing Services at the Local Non-Governmental Organizations**

#### ***Services available to Canadian citizens, permanent and temporary residents***

There are a number of independent, advocacy and non-governmental organizations (NGOs) located outside of Canada that may provide assistance to victims of forced marriages. The services of these

organizations are available to citizens and non-citizens, and may include the provision of shelter, referral services and advocacy on behalf of the victim. Often, the Canadian embassy abroad may be able to link permanent residents and temporary residents of Canada to local NGOs or lawyers.

Some of the other agencies that have international presence like Amnesty International ([www.amnesty.org](http://www.amnesty.org)), or, Association for Women in Development (AWID) ([www.awid.org](http://www.awid.org)) might be leads that you may explore in connecting with agencies that work in the countries that your client has been taken abroad to. See **Appendix 1** for more detail.

A comprehensive list of local NGOs has been created through a project in United Kingdom called ‘Strategies to Address ‘Crimes of Honour’, a joint project between CIMEL (the Centre of Islamic and Middle Eastern Law) and INTERIGHTS (the International Centre for the Legal Protection of Human Rights). This ‘Honour Crimes Directory’ is available at <http://www.soas.ac.uk/honourcrimes/directory/>

Forced Marriage Unit (FMU) established in the United Kingdom, has extensive resources dedicated to helping the victims of forced marriage abroad. Contacting them to leverage their partnerships with NGOs abroad may also be a step that you explore. [<http://www.fco.gov.uk/en/travel-and-living-abroad/when-things-go-wrong/forced-marriage/>]

## **Option 2: Emergency Financial Assistance for Canadians Victimized Abroad\***

### ***Funding available to Canadian Citizens who are victims of crimes while abroad***

Emergency financial assistance is available to individual Canadians who are victims of specified serious violent crimes in a foreign jurisdiction for emergency situations of undue hardship where no other source of financial assistance is available. (The specified crimes are homicide, sexual assault, and aggravated assault or assault with serious personal violence, including against a child.) This emergency financial assistance is available through the Victims Fund, which is administered by the Department of Justice Policy Centre for Victim Issues (PCVI).

Any Canadian may apply to the Department of Justice for emergency financial assistance if s/he is:

- the victim of a violent crime in a foreign jurisdiction;
- a family member of a victim who is dead, ill or incapacitated due to their victimization in a foreign jurisdiction; or
- in the case of a child, a parent or the person responsible for the care and support of the child.

The Victims Fund may help cover the following expenses, where the victim has no other source of financial assistance, up to a maximum of \$5,000 (excluding travel costs):

- travel expenses to return to the country where the crime occurred in order to attend the preliminary hearing and/or the trial or equivalent process;
- travel expenses to return to the country where the crime occurred in order to testify at the preliminary hearing and/or trial if the host country is unwilling or unable to pay;
- travel expenses for a support person to be with a Canadian victimized abroad, during the immediate aftermath of the crime;
- expenses for a Canadian victim of crime to return to Canada;
- out-of-pocket expenses due to being a victim of a violent crime; and
- upon return to the victim’s home province or territory, financial assistance for professional counselling that would otherwise be covered by the province or territory if the crime had occurred in that jurisdiction.

## How do you apply?

### **Step 1: Report the crime to the Canadian Embassy or Consulate**

A Canadian who becomes a victim of a serious violent crime in a foreign jurisdiction should immediately attempt to report the crime to the local Canadian Embassy or Consulate. The primary concern of the Embassy or Consulate staff is the victim's personal and physical safety. Consular staff can assist with arranging help in a medical emergency; provide guidance on sources of information about local laws and regulations; contact next of kin, where authorized, in the event of an accident or death; and request that local authorities investigate suspicious circumstances in the event of an alleged or apparent crime or death. Consular staff should notify the Victims Fund Manager that a victim may be applying for emergency financial assistance.

### **Step 2: Contact local police**

If possible, a Canadian victimized abroad should contact local police to report the incident and obtain immediate help with safety concerns. It is a good idea to request a copy of the police report. The police report serves a number of purposes. It may provide the victim with contact information and it may be required for insurance purposes at a later date and if applying for compensation for criminal injuries.

A copy of the police report should accompany the Application for Emergency Financial Assistance from the Victims Fund.

*Caution: While contacting the police is often the first response to emergency situations such as this it is always important to be cautious and evaluate whether contacting the police may increase your client's risk. In remote areas, police may be susceptible to family pressure and give out your client's information to their abuser. Involving a local NGO and using their contacts with the local police may be a safer alternative. If you are unsure about your knowledge of the country or locality where your client has been taken, contact a partner agency that may be able to guide you better.*

### **Step 3: Apply to the Department of Justice for Emergency Financial Assistance**

A Canadian victimized abroad may apply for funding by completing the Application Form for Emergency Financial Assistance for Canadians Victimized Abroad found on the Department of Justice Canada website at <http://canada.justice.gc.ca/eng/pi/pcvi-cpcv/fun-fin2.html>.

The application form may also be obtained by writing to the Victims Fund Manager

Programs Branch, Department of Justice  
284 Wellington Street, 6th Floor  
Ottawa, ON K1A 0H8  
Email: [Victims-Abroad-Fund-Manager@justice.gc.ca](mailto:Victims-Abroad-Fund-Manager@justice.gc.ca)

Applications may be sent electronically, by fax or by mail.

\*Information from: <http://justice.gc.ca/eng/fund-final/cj-jp/fund-fond/abroad-etranger.html> (Appendix 2)

## *Obtaining Help at a Canadian Embassy while Abroad:*

Consular officials can help the client if they are a victim of abuse, require assistance returning to Canada, need a list of lawyers, are concerned about fair treatment under a country's laws or need assistance in a foreign country.

### **Option 3: Services offered through Canadian Embassies and the Department of Justice**

#### **Services Available to Canadian Citizens**

Canadian citizens may utilize services offered by the Global Affairs Canada – Consular Services. The Department of Justice also operates an emergency fund for Canadians who are victimized abroad either through homicide, sexual assault, aggravated assault or assault with serious personal violence, including against a child. Contacting the local police may be crucial to receiving protection as the Canadian consulate may have limited jurisdiction to act on infractions or crimes that occur outside its grounds.

#### **Global Affairs Canada**

It is important to encourage the individual to register with the Global Affairs Canada (GAC) before leaving. GAC offers a registration service to all Canadian citizens living or traveling abroad. GAC can assist the individual in the case of an emergency, such as a natural disaster or civil unrest, or to inform them of a family emergency at home. See **Appendix 3** for the form register.

If your client believes they may be forced to marry abroad:

- Before leaving - They should contact provincial social welfare authorities and the local police.
- If they are already overseas, they should contact the nearest Canadian government office abroad or contact the Emergency Operations Centre at 1-800-387-3124 (in North America) or call collect at 613-996-8885 (where available).

Potential difficulties faced while abroad:

- Individuals may find it impossible to communicate by telephone and email
- Individuals may not have access to their passport or money
- Young women may not be able to leave the house unaccompanied
- They may not receive the support they expect from neighbours, local police, family friends or taxi drivers
- They may also find themselves subjected to violence or threats of violence
- A husband may be able to lawfully impose travel restrictions on his wife and children, preventing their return to Canada. Local laws may also allow him to retain the woman's passport and assets, even if the couple is divorced.

Precautions to take in case travel abroad is unavoidable:

If the client suspects that forced marriage may be the reason for their travel abroad, they should try to avoid going on the trip. However, sometimes foreign travel is unavoidable and refusal or resistance may jeopardize the individual's safety. If traveling abroad is unavoidable, the individual should take the following precautions prior to leaving:

- Address and contact number of the nearest Canadian Government Office in the country that is being visited. A list is available online at: **<https://travel.gc.ca/assistance/embassies-consulates>**
- The offices can help by: Issuing emergency passports, assisting with safe accommodation and transport and working to help the victim return to Canada
- Advise them to take emergency cash in case problems arise in the country of destination together with contact details of someone they can trust to help them
- Advise them not to drink or eat anything offered before the flight as it may be drugged. Remind them that they can always ask for help at the airport - by screaming if necessary.
- Contact the airport prior to departure as the airport authorities might be able to assist.

# Case Management and Contingency Matrix

This guide is for the assessment and management of risk in incidents of forced marriage. It will help support workers in determining what the risks for the client are and what options are available for them. This worksheet is intended to assist both the worker and client to determine the best possible safety processes for themselves, and should be used only after being trained in the subject of Forced Marriage by SALCO. SALCO has an existing toolkit on forced marriage which can be used.

Users should evaluate and document the each current risk factor (current) in addition to any past or history of familiar violence (past) that may be connected or lead to the issue of Forced Marriage. It is important to remember that Forced Marriage does not manifest in a one-time incident, there are many physical, emotional, mental and financial factors that lead to it. Another factor could be that there can be more than one perpetrator to the process. This worksheet is designed to name all the factors of violence and risk, including multiple perpetrators.

Use of this worksheet requires the gathering and documenting of sensitive information. Every effort should be made to keep ALL information confidential, including any information that may jeopardize the client. Please remember that in cases such as forced marriage, it should NOT be assumed that the client's family is safe. This worksheet can be used regardless of age, race, gender and marital status.

This worksheet should be used in conjunction with SALCO's Forced Marriage Toolkit, particularly Section 2: Intervention. Use of the SALCO Forced Marriage Toolkit will support and enhance use of this Case Management and Contingency Matrix:

<http://www.salc.on.ca/SAL0100%20Toolkit%202%5B1%5D.pdf>

## Step 1A

A client discloses that she/they have been or is about to be, forced to marry.

- ☐ Ask the client: How long do we have to talk right now?
- ☐ Determine plan if you have to end abruptly/get cut off.
- ☐ Determine next meeting date before starting.
- ☐ Introduce yourself and your agency, explain the process of this worksheet.
- ☐ Give the client your card/information on how to contact you.
- ☐ Find a safe space to continue the discussion. Ask the client if there is a particular worker they would prefer to talk to.

## ***Step 1B*** – Get Basic Client Information:

Full Legal Name

Date of Case management/Contingency matrix:

Contact details (phone, address, email), Best way to get in contact

Code word for communication:  Date of Birth:  Nationality Status in Canada:

Age:  Place of Birth:  Passport details:

School details:

Employment details:

Name of Evaluator:

## ***Step 2*** – Intersecting Referrals:

☐

Offer reassurance and support. Refer to Local support groups and counseling services with a history of dealing with cases of forced marriage or family violence.



## ***Step 3A*** – Get details and record of conflict/violence:

**I.** Describe the conflict and/or violence you are currently facing in your family or home

**II.** Who is involved in this conflict and/or violence? Partner, Mother, Father, Both parents, Siblings, Cousins, Aunts, Uncles, Community members, Priests/Religious leaders, Others

**III.** Is there a history of this violence/threat or forced marriage to you \*OR\* other family members (including parents, siblings, cousins, etc.)

**IV.** Have you or your family been in contact with any authorities (police, CAS, social workers, lawyers, guidance counsellor, etc.) Yes or No. If yes, please give details on when and who?

**V.** Are you concerned for the safety of anyone living at home? Yes/NO If yes, please elaborate from who and how?

**VI.** Do you feel safe at home to share how you are feeling? If yes, with who?

## Step 3B

☐

Determine if you are obligated / want to make a referral to a Children's Aid Society (CAS). This will be based on your own professional obligations / workplace policy.

- Referrals can also be made to police and/or legal services based on your assessment with the client of how they want to proceed.

## Step 4 - Additional Information:

**VII.** Who have you talked to about the family violence or forced marriage?

**VIII.** Are you in school? YES/NO - If yes, what school and have you told anyone at school?

**IX.** What is their contact information?

**X.** Do you feel like you are being followed by the people harming you: YES/NO - If yes, describe what the following looks like and who is doing it?

**XI.** Are you still living at home: YES/NO

**XII.** Are you thinking of leaving home: YES/NO - If no, are you needing a safe place to stay? YES/NO

**XIII.** Have you ever been suicidal or wanted to harm yourself? YES/NO - If yes, when?

**XIV.** Has anyone in your family been suicidal or harmed themselves? YES/NO - If yes, who:

**XV.** Have you witnessed or heard of forced marriages or any other type of violence happen in your family? YES/NO - If yes, who?

**XVI.** Where did it happen? Canada, Overseas:

**XVII.** If a forced marriage were to happen for you or your family, where are possible places it may take place? Canada, Overseas:

**XVIII.** Where are places you have travelled in the past with your family/the people causing the harm?

**XIX.** In case of potential travel abroad, do you have a safety plan for travelling? \*\*\*\*If not, ask for contact details, passport information, place of travel, information about closest embassy, notify DFAIT.



## ***Step 5 - Client Safety Plan:***

*Page 7 and Page 8 of this document can be printed double-sided and folded into a brochure style safety plan to be given to the client to take with them.*

*The “Safety Plan Brochure” that follows on the next 2 pages should be completed with a client when it is decided that they need a safety plan, a copy should be given to them to keep, and a copy should be placed in your file.*

*Make sure to attach your business card / contact information, any other agency referrals to this Safety Plan.*

*Please remind the client to keep this Safety Plan with a safe person/place and hidden from perpetrators.*

**XIII.** Address of place you can go in case of emergency:

**XIV.** Do you have any money of your own saved up? YES/NO

**XV.** If yes, do you have your own personal bank account?

**XVI.** If no bank account, can you set one up or stash money with friends?

**XVII.** Take a picture and make photocopies of your important documents, who can you give a copy of your important documents to where you can safely get to them later?

**XVIII.** Where are your important documents? (Passport, SIN card, Health Card, Birth Certificate, Driver's License, Indian Status card, this Safety Plan, etc.?)

**XIX.** Is there medication you need to take regularly? YES/NO

**XX.** If yes, where can you safely store some spare medication in case of emergency?

**XXI.** Where and with who can you leave a set of spare clothes, cash and any other things you would need in case of an emergency?

**XXII.** How will you get in touch with them?

**XXIII.** List emergency numbers, bus routes, bus schedules, and directions you need here:

# Information

**Client Safety Plan:** *This is a Safety Plan. Please keep it in a safe place for use when you need it.*

**I.** Who can you trust right now?

**II.** Their address:

**III.** Phone number:

**IV.** Do you have a secret code that you share with people you trust to ensure you know it's them you are speaking to? Create one and share it with your safety team. **DO NOT** write it here.

**V.** What are safe ways to contact the people or service providers you trust?

**VI.** How will your trusted people contact you?

**VII.** Are you in school?

**VIII.** If yes, what is your school information? Who can you trust there?

**IX.** Is there a trusted person at your workplace?

**X.** What is their information and contact?

**XI.** What are some identifying markers about yourself that would be recognizable to those who know you? (ie: tattoos, piercings, birthmarks, etc.)

**XII.** Please attach a recent picture of yourself and if you have a picture of the person who is causing you harm/forcing you into marriage, or describe yourself and that person(s) here:

## Step 6



Ensure that the client has a copy of their contingency plan and access to resources that they might need.

**Set up a follow up time with them and ask them who else they would like this information to go to. Consider sharing information safely with service providers that may be able to assist the client (with the client's permission).**



*Agency Use Only*

## *Contingency Matrix for Service Providers*

**People/Threats to client:**

**Places/Times where client is safe:**

**Services and Agencies client is already connected to:**

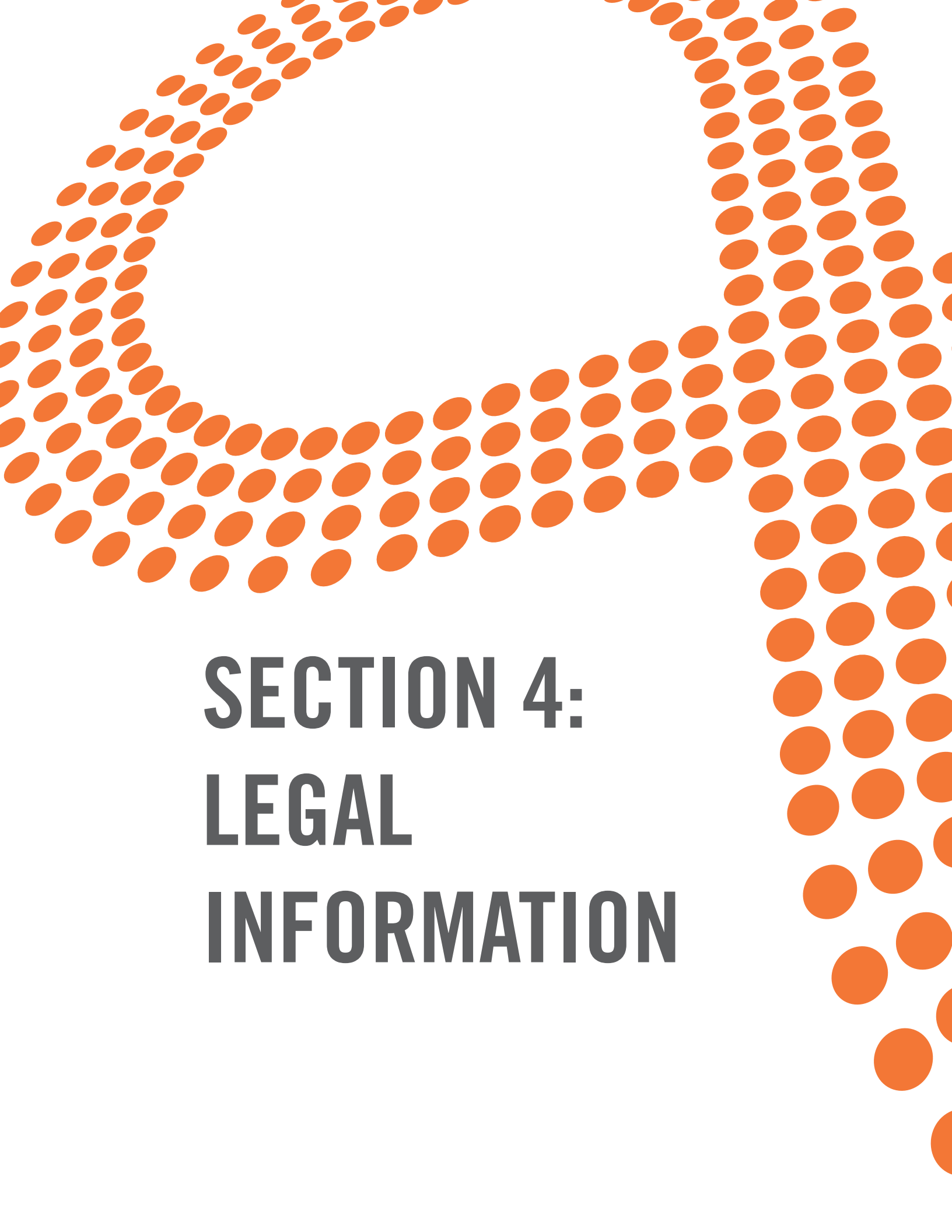
**What protection from these threats/people look like:**

**Places/Times areas where client is NOT safe:**

**Referrals Needed:**

**Next Steps:**



A decorative graphic consisting of a large, stylized, abstract shape made of orange dots. The shape is composed of many small, overlapping circles, creating a textured, organic form that resembles a large, stylized letter 'L' or a bracket. It is positioned on the right side of the page, extending from the top to the bottom.

# **SECTION 4: LEGAL INFORMATION**

## *Disclaimer*

This toolkit has been designed for service providers who work with clients who have experienced forced marriage and related gender based violence. The purpose of this toolkit is to provide broad and general information on Canadian and International laws that pertain to forced marriage in Canada.

It is not meant to be legal advice but rather a guide to promote an understanding of the law as it applies to forced marriages in Canada or to Canadians abroad. Forced marriage is a complex and multi-layered form of abuse. Every case is unique and the laws outlined below may vary depending on the situation. We strongly recommend using information in this tool kit with our earlier publication on service provider tool kit on Forced Marriages for better understanding of complexities and context of issue of Forced Marriages in Canada.

This document is for information purposes only. If you need legal advice on a forced marriage issue we strongly advise you to speak directly with a lawyer / legal representative.

The South Asian Legal Clinic of Ontario (SALCO) is a not-for-profit legal aid clinic that was first established in 1999. SALCO's mandate is to provide access to justice for low-income South Asians in the Greater Toronto area. As a specialty clinic funded by Legal Aid Ontario, SALCO provides advice, brief services and/or legal representation in various areas of poverty law.

## Introduction

A marriage is something that must be entered into with the full and free will of the people getting married. Both individuals should feel that the marriage is something that they have chosen for themselves: with full and free choice.

Forced marriage is a practice in which a marriage takes place without the free consent of the individuals getting married, where pressure or abuse is used to 'force' one or both people to marry against their will. A forced marriage can happen to anyone; of any gender, of any age.

Forced marriage is a type of violence. This violence may take emotional, mental or physical forms where an individual may be 'forced' by: using threats, beating them, isolating them, using restrictions on them, inducing guilt, and, many such forms of coercion. In some cases, individuals may be taken abroad to be forced to marry. A marriage that is forced is a form of violence and an abuse of human rights. It is against the law in Canada to force someone to get married.

As per Canadian laws both parties must freely consent. Forcing somebody to get married is a criminal offense under s. 293.1 of the Criminal Code. In addition, s. 2.1 of the Civil Marriage Act stipulates, "Marriage requires the free and enlightened consent of two persons to be the spouse of each other." Concept of Consent assumes that the person making decision has a power to act and a reflective, determined, and unencumbered exertion of this power in making decision of marriage. Additionally, it is an act that should be unaffected by fraud, duress, or mistake when these factors are not the reason for the consent.

Forced marriages are often a hidden form of violence. Due to a common misconceptions and lack of awareness forced marriage issues can be overlooked.

Increasingly, community service agencies and healthcare providers are beginning to address forced marriages.

### **There are a number of ways to get involved and stop forced marriages.**

**1) Understand the Issue:** This legal toolkit, along with other SALCO's forced marriage toolkit and community partner materials are for community education, to develop a stronger understanding of the forced marriages issue.

**2) Make connections:** A Network of Agencies Against Forced Marriages exists, which includes a range of committed community partners, who are equipped to further address the forced marriages issues.

**3) Understand the misconceptions:** There are many myths that exist about forced marriages. Learn about the misconceptions in order to become an informed community member.

**For more information:** <http://salc.on.ca/forced-marriage>

# Canadian Federal Laws

Federal laws are laws that apply to all provinces and territories in Canada. When it comes to forced marriage issues, there are many areas of law that may be relevant, depending on the situation. Areas of federal law to consider in a forced marriage situation would be:

## 1) Canadian Charter of Rights and Freedoms:

### **Section 7:** Life, liberty and security of person

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.<sup>1</sup>

### **Section 15(1):** Equality before and under law and equal protection and benefit of law

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.<sup>2</sup>

### **Section 28:** Rights guaranteed equally to both sexes

Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons<sup>3</sup>

The Charter is considered the most important law in Canada, therefore, these rights and freedoms are applicable to victims of forced marriage and should be exercised when advocating for clients. Protection to the victims/survivors of Forced Marriage can be extended in a Human Rights Framework between the state (federal, provincial and territorial governments) and individuals.<sup>4</sup> The federal laws as outlined above provide an overarching individual human rights that can be asserted by victims of forced marriage. This can also apply where Canadian law or policy have had a negative impact or worsened the victims situation.

## 2) Family Law:

**Valid Marriage:** A marriage is only considered legally valid if both parties to the marriage provided free and informed consent at the time of marriage. It cannot be under duress (forced), coercion or threat.<sup>5</sup>

**Annulment:** The person who did not consent to the marriage must make a declaration that the marriage was based on fraudulent circumstances or duress if they want to declare it null and void. The guilty party or any heirs to the party cannot make the declaration. Annulments can be

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<sup>1</sup> CONSTITUTION ACT, 1982 (<http://laws-lois.justice.gc.ca/eng/const/page-15.html>)

<sup>2</sup> CONSTITUTION ACT, 1982 (<http://laws-lois.justice.gc.ca/eng/const/page-15.html>)

<sup>3</sup> CONSTITUTION ACT, 1982 (<http://laws-lois.justice.gc.ca/eng/const/page-15.html>)

<sup>4</sup> Mattoo, Deepa. "Forced Marriages in Canada". Online Webinar. March 31 2015.

<sup>5</sup> Mattoo, Deepa. "Forced Marriages in Canada". Online Webinar. March 31 2015.

hard to obtain and many forced marriage victims may choose divorce as the easier option to end a forced marriage.<sup>6</sup>

**NOTE:** No-contact orders against the perpetrators of violence may be available through provincial child protection legislation as well as under the Family Law act. This means that if a client is leaving an abusive situation and/or forced marriage, they can apply for a no-contact order for themselves and their children through this provincial legislation.<sup>7</sup>

### 3) Immigration Law:

Immigration law in Canada is constantly evolving. Currently the law that apply in a forced marriage situations come from the Immigration and Refugee Protection Act (“IRPA”) and Regulations, which states:

#### **Sponsorship:**

Applicants must prove that their marriage is valid, both in Canada or where the marriage took place.<sup>8</sup>

If a victim of forced marriage sponsors their spouse, they are financially responsible for them for up to three years from the day they become a permanent resident. They can end the relationship at any time without risk to their immigration status, but there may be issues if the spouse or partner ends up on social assistance (i.e. Ontario Works or Ontario Disability) because of the relationship ending.<sup>9</sup>

#### **Permanent Resident (PR):**

If you are a permanent resident in a forced marriage, and you have your PR card or applied **before October 25, 2012**, your sponsor cannot withdraw the sponsorship. Your status will not be compromised if you leave an abusive situation or forced marriage.<sup>10</sup>

#### **Conditional Permanent Residence (CPR):**

If you have been sponsored into a marriage **after 2012**, or applied after October 25, 2012 the Conditional Permanent Residence category has changed to implement a new regulation. The regulation states that you must cohabitate in a conjugal relationship with the spouse that sponsored you for two years **AFTER** you receive your permanent resident status. If you do not, you can lose your PR status and be removed from Canada.<sup>11</sup>

**EXCEPTION:** If you are a victim of forced marriage, you can now apply for an exception to the conditional permanent resident status, you must show proof that abuse occurs and that it is a forced marriage beyond your consent. You can request an exception from condition at any time

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<sup>6</sup> *Kawaluk v. Kawaluk*, [1927] 3 D.L.R. 493 (Sask. K. B.), cited in *S.(A.) v. S.(A.)*, [1988] O.J. No. 1407 (QL) at para. 28 (S.(A.)).

<sup>7</sup> *Ibid* - Conference report: forced marriage conference (October 2012) and Training Materials (October 2012) Also see “Provincial Laws” in this toolkit.

<sup>8</sup> IRPA Regulation, s. 2

<sup>9</sup> [http://owjn.org/owjn\\_2009/component/content/article/57-immigration-law/335-sponsorship-breakdown](http://owjn.org/owjn_2009/component/content/article/57-immigration-law/335-sponsorship-breakdown)

<sup>10</sup> Guide 5289: Citizenship and Immigration Canada.

<sup>11</sup> [http://owjn.org/owjn\\_2009/component/content/article/57-immigration-law/335-sponsorship-breakdown](http://owjn.org/owjn_2009/component/content/article/57-immigration-law/335-sponsorship-breakdown)

during the two-year conditional period. For more information you can call the Citizenship and Immigration Canada (CIC) Call Centre at 1-888-242-2100.<sup>12</sup>

### **Temporary Resident Permit (TRP):**

A TRP is when someone is granted a visa to enter Canada and/or stay in Canada under a short-term visa. You must prove to the Canada Border Services Agency (CBSA) officer that your need to be in Canada is greater and outweighs the safety or health risks to Canadian society.<sup>13</sup> This option may be available in two specific circumstances: 1) If the victim claims that they were trafficked into a forced marriage, there is a possibility of advocating that the victim be granted a TRP. 2) The victim can prove that they have substantial connection to Canada, they can apply for a TRP. This is an option that would require advocacy from the service provider and proof of the circumstances that show the need for the TRP.<sup>14</sup>

### **Sponsorship ban for five years:**

As part of the government's new regulatory changes to the *IRPA*, after June 10 2015, if a victim of forced marriage is sponsored to come to Canada by a spouse and subsequently divorces that spouse, that victim of forced marriage is still banned from sponsoring a new spouse for five years from the date they landed.<sup>15</sup>

### **Repatriation of Survivors:**

If someone is being taken out of Canada to potentially be forced into a marriage, there are ways that you can ensure that there are safety nets set up to get them back into Canada. You can:

- Contact Global Affairs Canada  
Consular Services in Ottawa and local consulate /High Commission abroad.
- <http://www.international.gc.ca/international/index.aspx?lang=eng>
- Network of over 260 Canadian embassies, high commissions, consulates and honorary consulates in 180 countries.  
<http://travel.gc.ca/assistance/embassies-consulates>
- Consular officers, based both in Canada and abroad, assist thousands of Canadians each year, in crisis situations ranging from stolen passports to parental child abductions.
- Consular assistance 24 hours a day, seven days a week, through the Emergency Watch and Response Centre. [sos@international.gc.ca](mailto:sos@international.gc.ca)
- Travel.gc.ca website - Government of Canada's official one-stop-shop for comprehensive international travel information. New Travel Smart mobile app also available.
- Sign up with the "Registration of Canadians Abroad Service"  
<http://travel.gc.ca/travelling/registration>
- Contact the nearest Canadian government office abroad or contact the Emergency Operations at 1-800-387-3124 (toll-free from the U.S. and Canada only), 1-800-267-6788 (in North America) or call collect at 613-996-8885 (where available)<sup>16</sup>

<sup>12</sup> <http://www.cic.gc.ca/english/department/media/backgrounders/2012/2012-10-26b.asp>

<sup>13</sup> Temporary Residence Permit Guide. CIC. <http://www.cic.gc.ca/english/information/inadmissibility/permits.asp>

<sup>14</sup> Mattoo, Deepa. "Forced Marriages in Canada". Online Webinar. March 31 2015.

<sup>15</sup> Operational Bulletin. CIC. March 2 2012. <http://www.cic.gc.ca/english/resources/manuals/bulletins/2012/ob386.asp>

<sup>16</sup> Mattoo, Deepa. "Forced Marriages in Canada". Online Webinar. March 31 2015.

#### 4) Criminal Law:

There is a number of existing *Criminal Code* provisions that can be used in cases of forced marriage. This variety of offenses can all be ways that forced marriage manifest and can happen individually or together.

- Uttering threats (s. 264.1);
- Assault (causing bodily harm, with a weapon and aggravated assault) (ss. 265-268);
- Sexual assault (causing bodily harm, with a weapon and aggravated sexual assault) (ss. 271-273);
- Kidnapping (s. 279);
- Forcible confinement (s. 279(2));
- Abduction of a young person (ss. 280-283);
- Procuring feigned marriage (s. 292);
- Removal of child from Canada (with intent to commit act outside Canada that would be one of listed offences if committed in Canada) (s. 273.3);
- Extortion (s. 346);
- Intimidation (s. 423);
- Sexual offences against children and youth (ss. 151, 152, 153, 155 and 170-172);
- Failure to provide necessities of life and abandoning child (ss. 215 and 218);
- Abduction of a young person (ss.280-283)
- Breach of a court order, recognizance (peace bond), and probation order (ss.145(3), 127, 811, and 733.1);
- Spousal abuse, abuse of a child and abuse of a position of trust/authority are aggravating factors in sentencing (s. 718.2).

If your client is interested in pursuing criminal action against their perpetrator and the police have not yet been involved, your client would have to call the police to lay charges, (a report could be made in person at a local police station) which would lead to an investigation, which could result in charges being laid. If your client is considering laying charges, please seek legal advice as there may be potential consequences that they should be aware of before they proceed.

It is important to note that once the police are contacted it is within their power to investigate regardless of what a forced marriage victim wants. If a perpetrator is charged with a criminal offence only the Crown Attorney can decide if the charge will be withdrawn. The victim will not have the power to withdraw charges. Ensure that you have connected your client to a lawyer or legal clinic and are aware of the potential positive and negative consequences that could ensue if they speak to the police.

### ***Criminal case law around Forced Marriage:***

*R. v. Bandesha, 2013 ABCA 255 (CanLII):*

The Crown appeals from a conditional discharge given for assault causing bodily harm. The respondent was one member of a four-person group who attacked, pushed, kicked and beat a family member, also pulling out a large clump of her hair by the roots. She was kicked in the stomach when lying on the floor. She was an adult. The group did this to coerce her to marry someone whom she did not want to marry, and not to marry someone whom she did wish to marry. The attack occurred in the victim's own home, where the ringleader also lived, and where the respondent was visiting. She left her home and stayed in a women's shelter for about three weeks. In this case, there was a conditional discharge given, there was no conviction and the Crown is currently appealing the conviction.<sup>17</sup>

## ***Changes to Civil and Criminal Law***

### **Zero Tolerance for Barbaric Cultural Practices Act**

Bill S-7 is a bill that was put forward in late 2014 that has recently become law in Canada. There are substantial changes that this bill would make to the Immigration and Refugee Protection Act, the Civil marriage Act and the Criminal Code of Canada.

Part 2: Changes to Civil Marriage Act: legal requirements for a free and enlightened consent to marriage and for any previous marriage to be dissolved or declared null before a new marriage is contracted. There would also be a requirement of a minimum age of 16 years for marriage.<sup>18</sup>

Part 3: Changes to the Criminal Code: it would be an offence for an officiant of a marriage to knowingly solemnize a forced marriage, as it would become an offence to celebrate, aid or participate in a marriage ceremony knowing that one of the persons being married is doing so against their will or is under the age of 16 years. If that marriage was performed outside of Canada where a child (under the age of 16); was removed to take part in the marriage; that would also be an offence.<sup>19</sup>

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<sup>17</sup> Mattoo, Deepa: *Presentation: Legal Systems to know in Forced Marriage cases and beyond*. 2014.

<sup>18</sup> <https://openparliament.ca/bills/41-2/S-7/>

<sup>19</sup> <https://openparliament.ca/bills/41-2/S-7/>



## Provincial Legal Framework

Information in this section is provided in the chart below, province by province. This chart outlines provincial legislation that could be relevant in a forced marriage case in relation to domestic violence and other manifestations of forced marriage.

Province/Territory	Age of Majority	Relevant Legislation
Alberta	18 <sup>20</sup>	<ul style="list-style-type: none"> <li>Under 16: Cannot get married. Exception: Female under 16 can get married if she is pregnant or mother of a living child, still needs consent or can apply to the Queen's bench to forgo parental consent. (<i>Marriage Act, RSA 1980 cM-6, s. 17</i>)</li> <li>Under 18: If either party is under 18, consent must be obtained by the guardian of the minor(s), except if the guardian is mentally incompetent, consent of that guardian is not required. (<i>Marriage Act, RSA 1980 cM-6, s. 19 (2)(b)</i>)</li> <li>Consent is not required and the marriage is not void if there has been "carnal intercourse" between the parties before the ceremony, the marriage was consummated, the couple lived and cohabited as spouses after the ceremony or if the person has already turned 19. (<i>Marriage Act, RSA 1980 cM-6, s. 22 (1) (a) (b) (c); s. 22 (2) (c)</i>).</li> <li>You can apply for a Queen's Bench Protection Order under this act if you are experiencing "family violence" which can also happen in forced marriage situations. Perpetrators who do not adhere to these protection orders or fail to comply with them could be subject to fines and imprisonment. (<i>Protection Against Family Violence Act, 2000, c. P-27, s. 2</i>)</li> <li>Child Abduction: Alberta has signed onto the CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION for any child that is "abducted" from Alberta until they turn the age of 16. (<i>INTERNATIONAL CHILD ABDUCTION ACT Chapter I-4 1986 cI-6.5 s3</i>)</li> </ul>

<sup>20</sup> Age of Majority Act RSA 1980 cA-4 s1

Province/Territory	Age of Majority	Relevant Legislation
<b>British Columbia</b>	19 <sup>21</sup>	<ul style="list-style-type: none"> <li>Under 19: Marriage with parental OR Public Guardian and Trustee OR the Supreme court's consent (MARRIAGE ACT [RSBC 1996] CHAPTER 282, s. 28 (1) (2))</li> <li>Under 16: Application to the Supreme Court shows the marriage to be expedient and in the interests of the parties or with the parents permission. (MARRIAGE ACT [RSBC 1996] CHAPTER 282, s. 29 (1) (2))</li> </ul>
<b>Manitoba</b>	18 <sup>22</sup>	<ul style="list-style-type: none"> <li>Over 16/under 18: Marriage is allowed if party is widowed/divorced or consent is given by parents/guardian or judge of Family Court (<i>Marriage Act C.C.S.M. c. M50. s. 18(1)</i>)</li> <li>Protection or Prevention Orders can be made by a Justice of the Peace when there has been forced confinement, sexual abuse, psychological/emotional abuse or an intentional/reckless or threatened act/omission that caused (or caused a reasonable fear of) bodily harm or property damage to the victim. (<i>The Domestic Violence and Stalking Act, C.C.S.M. c. D93</i>)</li> <li>Protection Orders and torts can be made against those who force a child (under 18) to engage in sexual conduct under duress/force/coercion and/or engages in human trafficking. Human trafficking involves abducting, recruiting, transporting, harbouring, controlling, directing or influence someone's movement and uses force/intimidation/deception/fraud/abuse to go into prostitution, forced labour or have their organs or tissues removed. (<i>The Child Sexual Exploitation and Human Trafficking Act C.C.S.M. c. C94, 1(2) (3).</i>)</li> </ul>
<b>New Brunswick</b>	18	<ul style="list-style-type: none"> <li>Under 18: Parties who have never been previously married can marry with parental consent.</li> </ul>

<sup>21</sup> Age of Majority Act. [RSBC 1996] CHAPTER 7, s. 1

<sup>22</sup> The Age of Majority Act, C.C.S.M. c. A7

Province/Territory	Age of Majority	Relevant Legislation
<b>Newfoundland/Lab</b>	19 <sup>23</sup>	<ul style="list-style-type: none"> <li>Under 19: Marriage if parents, guardian, director of Child, Youth and Family Services consent. A minor has capacity to enter into a domestic contract, subject to the approval of the court. (Marriage Act, SNL 2009, c M-1.02, s. 65 (2))</li> <li>An emergency protection order can be made through this act. (Family Violence Protection Act, SNL 2005, c F-3.1, s. 4)</li> </ul>
<b>North-West Terr.</b>	19 <sup>24</sup>	<ul style="list-style-type: none"> <li>Under 15: If female is pregnant and has a doctor's note, they can get married or with written permission from the Minister. (Marriage Act R.S.N.W.T. 1988,c.M-4, s. 21 (1) (a) (b))</li> <li>Under 19: Minors have the capacity to enter into a domestic contract, subject to the approval of a court. No marriage unless written permission from the Minister. (Marriage Act R.S.N.W.T. 1988,c.M-4, s. 43 (1))</li> <li>Survivors can apply for an Emergency protection order or order under Criminal Code under this Act. (Protection Against Family Violence Act, S.N.W.T. 2003,c.24, s. 2)</li> </ul>
<b>Nova Scotia</b>	19	<ul style="list-style-type: none"> <li>Over 19 years of age may apply for a marriage licence in Nova Scotia. If you are under 19 years of age you must first obtain the consent of both parents. If you are under the age of 16 years you must have the consent of both parents and also get the consent of the Court ( Solemnization of Marriage Act, RSNS 1989, c 436)</li> <li>An emergency protection order can be made by the victim against their perpetrator through Domestic Violence Intervention Act.</li> </ul>

<sup>23</sup> Age of Majority Act, SNL 1995, c A-4.2

<sup>24</sup> AGE OF MAJORITY ACT R.S.N.W.T. 1988,c.A-2

Province/Territory	Age of Majority	Relevant Legislation
Nunavut	19 <sup>25</sup>	<ul style="list-style-type: none"> <li>Under 15: Not allowed unless the female is pregnant and has a doctor's note, they can get married or with written permission from the Minister of Justice. (CONSOLIDATION OF MARRIAGE ACT R.S.N.W.T. 1988,c.M-4, s. 21 (2.1) (a))</li> <li>Under 19: Minors have the capacity to enter into a domestic contract, subject to the approval of a court. (Consolidation of Marriage Act R.S.N.W.T. 1988,c. M-4, s. 43)</li> <li>Validity of Marriage: Action can be taken by a party who was a minor at the time of the ceremony to a judge to declare the marriage as not valid if: there was no consent at the time of marriage, the marriage was not consummated or the parties did not cohabit as spouses. (Consolidation of Marriage Act R.S.N.W.T. 1988,c. M-4, s. 48 (1) (a) (b) (c)) EXCEPTION: If the judge has received evidence/proof that sexual intercourse had taken place between the parties before they got married. (Consolidation of Marriage Act R.S.N.W.T. 1988,c. M-4, s. 48 (2))</li> </ul>
Ontario	18 <sup>26</sup>	<ul style="list-style-type: none"> <li>Under 16: cannot marry</li> <li>Over 16/under 18: Marriage with parental consent, court order or permission from Minister of Consumer &amp; Business Services (Marriage Act, R.S.O 1990, c. M.3, s. 5 (2).) Consent (according to section above) is NOT required if the minor was previously married but divorced or the spouse died. (Marriage Act, R.S.O. 1990, c. M.3, s. 5 (3); 2005, c. 5, s. 39 (1).) If they have withdrawn from parental control, they have equal right to housing without discrimination. (Human Rights Code, R.S.O. 1990, c. H.19)</li> <li>Over 18: free to marry</li> </ul>

<sup>25</sup> CONSOLIDATION OF AGE OF MAJORITY ACT R.S.N.W.T. 1988,c.A-2

<sup>26</sup> Age of Majority and Accountability Act, R.S.O. 1990, c. A.7

Province/Territory	Age of Majority	Relevant Legislation
<b>P.E.I.</b>	18 <sup>27</sup>	<ul style="list-style-type: none"> <li>Under 16: Marriage if the female is pregnant or the mother of a living child as proven by a medical practitioner. (Marriage Act, RSPEI 1988, c M-3, s. 17 (2))</li> <li>Over 16/Under 18: Can get married with parental or court consent (Marriage Act, RSPEI 1988, c M-3, s. 18 (1) (a))</li> <li>An emergency protection order can be made by the victim against their perpetrator through the Victims of Family Violence Act, RSPEI 1988, c V-3.2</li> </ul>
<b>Quebec</b>	18	<ul style="list-style-type: none"> <li>Under 18/16 or over: Can get married, but minors who are not emancipated need parental consent to marry (Civil Code of Québec, CQLR c C-1991)</li> </ul>
<b>Saskatchewan</b>	18 <sup>28</sup>	<ul style="list-style-type: none"> <li>Under 16: A provincial court judge could decide that the age of the person should not prohibit the marriage. (The Marriage Act, 1995, c.M-4.1, s.19.)</li> <li>Over 16/Under 18: Marriage with parental consent and if not, they may apply to a judge of the Court of the Queen's Bench or of the Provincial Court of Saskatchewan. (The Marriage Act, 1995, c.M-4.1, s. 25.)</li> <li>Annulment of marriage: Where someone was a minor at the time of the ceremony, the court may consider it not valid if consent was not present at the time of the marriage, the marriage was not consummated, the parties did not live together after the ceremony as husband and wife or if there was sexual intercourse that happened before the ceremony. (The Marriage Act, 1995, c.M-4.1, s.32)</li> <li>Similar to the Protection against family violence act in Alberta, which survivors can be granted an emergency intervention order. (Emergency Protection for Victims of Child Sexual Abuse and Exploitation Act, Chapter E-8.2 of the Statutes of Saskatchewan, 2002) and (Victims of Domestic Violence Act, 1994, c.V-6.02, s.2; 2010, c.15, s.8)</li> </ul>

<sup>27</sup> Age of Majority Act, RSPEI 1988, c A-8

<sup>28</sup> Age of Majority Act, 1972, c.1, s.2; R.S.S. 1978, c.A-6, s.2.

Province/Territory	Age of Majority	Relevant Legislation
<b>Yukon</b>	19 <sup>29</sup>	<ul style="list-style-type: none"> <li>Under 19: Marriage with parental consent OR court order (Marriage Act, SY 2012, c.17, s. 40)</li> <li>Annulment of marriage: Where someone was a minor at the time of the ceremony, the court may consider it not valid if consent was not present at the time of the marriage, the marriage was not consummated, the parties did not live together after the ceremony as husband and wife or if there was sexual intercourse that happened before the ceremony. (Marriage Act, SY 2012, c.17, s. 45 (1))</li> <li>Victim can apply for an Emergency intervention order against their perpetrators through this act. (Family Violence Prevention Act, SY 2005, c.7, s. 4)</li> </ul>

To date, six provinces (Alberta, Manitoba, Nova Scotia, Prince Edward Island, Newfoundland and Labrador and Saskatchewan) and three territories (Northwest Territories, Yukon and Nunavut) have proclaimed specific legislation on family violence:

**Alberta:** Protection Against Family Violence Act

**Manitoba:** Domestic Violence and Stalking Act

**Newfoundland and Labrador:** Family Violence Protection Act

**Northwest Territories:** Protection Against Family Violence Act

**Nova Scotia:** Domestic Violence Intervention Act

**Nunavut:** Family Abuse Intervention Act

**Prince Edward Island:** Victims of Family Violence Act

**Saskatchewan:** Victims of Domestic Violence Act

**Yukon:** Family Violence Prevention Act

These civil statutes are designed to complement protections in the Criminal Code. They offer further protection to victims of family violence. Civil measures provided include emergency intervention orders which may grant the right for only the victim to remain in the home and use the family vehicle. They may also restrain the abuser from communicating with or contacting the victim or members of the victim's family.

Other jurisdictions provide for family violence protection orders under their family law legislation, for example, the Family Law Act in British Columbia.<sup>30</sup>

<sup>29</sup> Age of Majority Act, RSY 2002, c.2, s. 1

<sup>30</sup> <http://www.justice.gc.ca/eng/cj-jp/fv-vf/laws-lois.html>

# International Law Framework

The United Nations and international law makers have had forced marriage on their radar for many years. There are international documents, consensus and agreements that address this issue. These declarations do not necessarily form part of international law, but at times they are powerful tools in applying diplomatic and moral pressure to governments that violate any of its articles. It is widely accepted that there is a requirement for the free and informed consent of both parties to a marriage, and Canada is a signatory of several international conventions relating to forced marriage.<sup>31</sup>

This international legal framework is the foundation for fighting forced marriage at home and abroad.<sup>32</sup>

Canada is signatory (and bound) by the following international treaties:

## 1) **Universal Declaration of Human Rights, 1948:**

Article 16(2) states: "Marriage shall be entered into only with the free and full consent of the intending spouses."<sup>33</sup>

## 2) **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):**

In particular Article 16 of General Recommendation 21 on Equality in Marriage and Family Relations which states:

- a. 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:
  - i. The same right to enter into marriage;
  - ii. The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- b. 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.

This Convention also states:

"16. A woman's right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being. An examination of States parties' reports discloses that there are countries, which, on the basis of custom, religious beliefs or the ethnic origins of particular groups of people, permit forced marriages or remarriages. Other countries allow a woman's marriage to be arranged for payment or preferment and in others women's poverty forces them to marry foreign nationals for financial security. Subject to reasonable restrictions based for example on woman's youth or consanguinity with her partner, a woman's right to choose when, if, and whom she will marry must be protected and enforced at law."<sup>34</sup>

<sup>31</sup> [http://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/mar/chap4.html#a4\\_1](http://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/mar/chap4.html#a4_1)

<sup>32</sup> [http://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/mar/chap4.html#a4\\_1](http://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/mar/chap4.html#a4_1)

<sup>33</sup> <http://www.un.org/en/documents/udhr/>

<sup>34</sup> <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm><http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

- 3) *Convention on the Rights of the Child (CRC)*:** While this convention does not speak directly to forced marriage, it is relevant to protecting children (under 18 years of age) from violence, abuse and coercion and ensuring that they have access to education, housing free of violence and promotion of social, spiritual and moral well-being and physical and mental health.<sup>35</sup>
- 4) *International Covenant on Civil and Political Rights (ICCPR)*:** Similar to the previous convention, this covenant speaks to the international recognition that all persons should have the “inherent dignity” of a human person, that enjoys civil and political freedom, freedom from fear and that every person should be able to enjoy his/her civil, political, economic, social and cultural rights. Most importantly, it speaks to the right of all peoples to have self-determination, will not be subject to torture or cruel treatment or be held in slavery, forced or compulsory labour.<sup>36</sup>
- 5) *International Covenant on Economic, Social and Cultural Rights (ICESCR)*:** Article 10 speaks specifically to consent in marriage:
- “Article 10: The States Parties to the present Covenant recognize that:
1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.”<sup>37</sup>

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<sup>35</sup> <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>36</sup> <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>37</sup> For more information on where to find further information on international conventions, laws and covenants, please see the Department of Justice's “Annotated Bibliography on Comparative and International Law Relating to Forced Marriage.” (<http://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/mar/pdf/mar.pdf>)



## Legislation in Other Countries

Many countries have legislation that is intended to deal with the issue of forced marriage, including criminal laws that make forced marriage a crime. The following is a collection of criminal / civil laws in some other countries that deal with the issue of forced/non-consensual marriage.<sup>38</sup>

### Australia:

Forced Marriage in Australia is a Criminal offence via the *Commonwealth Criminal Code Act 1995*. It is illegal to force someone into marriage or marry a person who you know does not consent. Forcing someone to get married is punishable by up to four years in prison. If the person is under 18, the punishment is seven years in prison and increases again if a child was taken overseas to be forced into a marriage. It is illegal to marry under any circumstance under 16 years of age and if both people are under 18.

### Belgium:

Forced marriages is punishable with a jail term of one month to two years or maximum fines of 500 to 2,500 Euros. An attempted forced marriage is prosecutable with a jail term of 15 days to a year or a fine of 250 to 1,250 Euros.<sup>39</sup>

### England/Wales:

Parents who forced their children into marriage can be sent to prison for up to seven years. This applies to UK Nationals both within the UK and abroad.<sup>40</sup>

There are civil “Forced marriage protection orders” that victims (or relevant third parties) would have to apply to the court for, which, if breached, would add an additional maximum penalty of five years in prison for the victim’s family who forced them to get married.<sup>41</sup>

At 16 years old, you are able to consent to a marriage, but a person under 18 cannot get married without parental consent. Forced marriage is now a criminal offence, punishable by prison as of June 16, 2014.

### Pakistan:

S. 498C of *Criminal Law (Third Amendment) Act, 2011* – Chapter XXA of Offences against women states: “Prohibition of forced marriage: whoever coerces or compels a woman to enter into marriage can be imprisoned for up to seven years no less than three years and shall be liable to fine of 500,000 rupees.”

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<sup>38</sup> The marriage of two parties is under the assumption that both parties are fully consenting to the marriage. If one or both parties do not consent, the marriage is void.

<sup>39</sup> “Western Resistance: Special Report: Muslim Forced Marriages in Europe,” 8 June 2006, <http://www.westernresistance.com/blog/archives/002305.html>.

<sup>40</sup> The Forced Marriage (Civil Protection) Act 2007 (c 20)

<sup>41</sup> <http://www.bbc.com/news/uk-27830815>

## Norway:

Section 222 of the *General Civil Penal Code* states that anyone who forces someone else into a marriage is guilty of causing a forced marriage. The penalty is prison for a maximum of six years. Anyone who aids or abets will face the same penalty.<sup>42</sup> Section 220 of the Penal Code was amended prevent children being forced to marry. A penalty can be imposed on any person who enters into marriage with a child under the age of 16, or who aids and abets that marriage. The penalty is imprisonment for a period of up to four years.<sup>43</sup>

## Scotland:

Under the Forced marriage etc. (Protection and Jurisdiction Act) (Scotland) 2011, which mirrors the UK's Forced marriage (Civil Protection Act, 2007), you can apply for a specific civil remedy for those threatened with forced marriage. These orders can move someone to a safe place, stop the behaviour of the perpetrator towards the victim, force the perpetrator to give up documents or locations, etc.

As of September 2014, forcing someone into marriage was made a criminal offence punishable by prison.<sup>44</sup>

## United States of America:

California, Maryland, Minnesota, Mississippi, Nevada, Oklahoma, Virgin Islands, Virginia and Washington (DC) are the only states that have laws that pertain to forced marriage. Most of them are Criminal or Penal code offences that are punishable from two years to 10 years in prison. All of them apply to women and some of them include men. Maryland is the only state that includes penalties and criminalization of someone who knowingly aided, abetted, conspired or benefitted financially from the forced marriage.<sup>45</sup> According to forced marriage advocates in the USA, there have been no forced marriage prosecutions under these laws.<sup>46</sup>

## India:

Rights relating to marriage are governed by various religious personal laws, which vary depending on religious community or affiliation.

Relevant legislation include the Constitution, the *Hindu Marriage Act 1956*, the *Muslim Personal Law (Shariat Application) Act 1937*, the *Indian Christian Marriage Act, 1972* and the *Special Marriage Act 1956*.

There are civil laws like the *Prohibition of Child Marriage Act, 2006* and the *Protection of Women from Domestic Violence Act, 2005* which can be used to prevent child and forced marriage as it is understood as a form of domestic violence.

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<sup>42</sup> As with most countries, it is assumed that marriage is void if one party did not consent: Section 1a of the Marriage Act of Norway: "Women and men have the same right to choose a spouse freely. They shall contract the marriage of their own free will and by their own consent."

<sup>43</sup> [https://www.politi.no/vedlegg/skjema/Vedlegg\\_673.pdf](https://www.politi.no/vedlegg/skjema/Vedlegg_673.pdf)

<sup>44</sup> Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 and <http://www.gov.scot/Topics/People/Equality/violence-women/forcedmarriage>

<sup>45</sup> <https://globaljusticeinitiative.files.wordpress.com/2011/12/forced-marriage-laws-of-the-us-states-alanen.pdf>

<sup>46</sup> <http://www.tahirih.org/site/wp-content/uploads/2014/02/Tahirih-MEMO-State-Criminal-Laws-Forced-Marriage-07.29.13.pdf>

In all four types of marriage (Hindu, Christian, Muslim and Special), marriage must have full consent from both parties or parents/guardians. There are fundamental rights of the child and person that guarantee freedom, right to life, equality and association, which is where forced marriage victims could apply for writs of habeas corpus to prevent harassment, continuation of unlawful abuse, etc. In cases of forced marriages, these writs are useful to argue illegal confinement, forced custody, impairment of movement and to reiterate protection of women and girls from going back to abusive family homes.<sup>47</sup>

Under the *Protection of Women from Domestic Violence Act*, the victim could apply for a protection order or cessation of the forced marriage.<sup>48</sup>

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<sup>47</sup> [http://www.interights.org/userfiles/Chapter\\_4.pdf](http://www.interights.org/userfiles/Chapter_4.pdf)

<sup>48</sup> Section 12 (5) PWDVA



A decorative graphic consisting of a series of orange dots arranged in a curved, wave-like pattern that flows from the top left towards the bottom right, framing the text.

# **SECTION 5: PREVENTION**

# *Preventing Cases of Forced Marriages*

*“I want to make sure that each youth knows that they have a choice”*

*“I don’t understand parents who force their children to marry. What could possibly make them believe that this is a good choice for their child?”*

*“We organized a full day seminar with young girls in our community, creating a safe space for them”*

Without effective prevention initiatives, the practice of forced marriages will continue to take place. The majority of work around forced marriage involves prevention. In order to effectively prevent forced marriage, community members of all ages need to be involved in building awareness around the issue. This section of the toolkit contains strategies on how you can facilitate conversations with youth and parents/ caregivers to raise awareness. These conversations should challenge people’s beliefs about forced marriages and highlight its negative effects.

## Community Engagement Methods

In order to reach as many community members as possible, please think creatively about how and where these activities and information about forced marriage can be shared.

Consider holding discussions and completing activities in:

- high schools and middle schools
- university and high school clubs & associations
- religious centres
- health clinics
- youth groups
- drop in centres and groups
- book stores
- community centres
- parenting groups
- a moderated online discussion forum
- university classes
- college classes
- arts-based drop-ins
- public events organized around the issue
- reading groups or book clubs
- community agencies
- senior's centres and groups

Conducting workshops and discussion on forced marriage in these settings may introduce the topic and related concepts to new audiences. In addition to working with community members, further engagement with school systems, government officials and management at service agencies will also help extend awareness efforts to new audiences.

- While designing a workshop, ensure:
- confidentiality and respect for participant views
- activities are focused on creating a dialogue
- anti-racist, anti-oppressive approach
- including arts-based, or, interactive activities where topics can be approached through a more nuanced direct /indirect way sharing of information or designing activities that add to participant empowerment (either through an activity that gives them tools to deal with an issue or sharing information that makes them feel equipped in handling the topic on hand)
- incorporation of an advocacy component, where participants view themselves as agents of change.

*Safe space:* is an environment where participants feel safe sharing their opinions, where judgement is reserved and diversity of each member and their perspective finds group support. The environment should not become hostile, judgemental or unsafe for participants to express their thoughts. This is possible by setting group ground rules, creating activities that encourage inclusion of all members and by creating a group agenda that is focused on creating a positive environment.

*Note: A way of evaluating whether the exercises that you have created are relevant or not would be to look at the “Principles of Unity” outlined in the Introduction section of the toolkit. Are the exercises anti-oppressive? It is very important to create exercises that reinforce the principles outlined and where forced marriage as an issue is addressed through an anti-violence perspective.*

*Example: Are the examples of forced marriage cases you use in the workshops inclusive of all religions, communities and cultures? Are you creating outreach materials that would include diversity of audiences?*

## Youth-Focused Activities

It is important to keep group activities for youth exciting and engaging. Facilitators must be prepared to answer questions and to maintain consistent energy levels in these sessions. Depending on the group dynamics and preferences, arts-based activities, role play or written activities may be appropriate.

While planning youth work around forced marriages, it may be important to approach the topic from several familiar issues — like, violence in dating relationships, or, intergenerational conflict. The beginning of the workshop should focus on breaking the ice, making participants feel safe about sharing their opinions and experiences and then introducing topics that require a more intrusive conversation. An alternative is to use case studies, or role plays, where the issue is approached from an outsider perspective. Closing activities should focus on debriefing and ensuring that participants are able to connect with service providers should they need help.

Some possible workshops and discussions to have with youth may include:

- Gender as a construct
- Rights & Responsibilities
- Safety planning — for youth and their other family members
- Intergenerational communication

*Caution: If your youth group may include members below the age of 16, consider organizational policies around disclosure. If abuse is disclosed, is the workshop facilitator equipped to handle the situation?*

### Objective 1:

To create a dialogue around gender construction and its impact on how it shapes their reality.

#### **Activity: Gender Mosaic**

This activity involves making collages of images of men and women using magazines, newspapers, catalogues or flyers to examine how gender roles are constructed. Ask participants to include every third image they see of each gender in their collage, along with images that appeal to them.

When participants have completed their collage, ask them to consider the following questions:



1. Are the images in the collages reflective of a mix of racial groups?
2. Do you see a range of age groups represented?
3. How are men and women portrayed differently?
4. What activities are men and women participating in?
5. What rooms or spaces are men shown in?
6. What rooms or spaces are women shown in?

Ask the youth to create a list of types of characteristics that are valued in the images they have collected. These values may include youthfulness, thinness or whiteness.

Ask the participants to make a list of the people and characteristics that are missing or underrepresented in the images they have seen. These omissions may include people of size, older people, people of colour or people with disabilities.

Next, ask the participants to make a list of the qualities that they value in people and the values they have learned from their families and parents/caregivers. Ask them to consider whether the images that they have collected reflect their beliefs and values and to discuss why they value alternative images and characteristics.

## **Objective 2:**

Allow space for youth to critically think about the reality of a forced marriage.

### **Activity: Case Study and Discussion**

- Provide participants with a case study of a young woman or man who does not wish to marry the person their parents have set them up with.
- Read the case study aloud.
- Write the following questions on flipchart, and facilitate a discussion:
  - How would you feel if this was you?
  - Imagine what you might do in this scenario.

### ***Exercise:***

Does your organization conduct workshops with youth? Is violence prevention or healthy relationships a part of your youth work? Consider adding a forced marriage case study to a violence prevention workshop. Or, add an activity where youth discuss intergenerational issues and create communication strategies that mitigate conflict with parents.

## Parent-Focused Activities

It is also important to keep activities for parents/caregivers interesting and engaging. Similar to youth activities, facilitators must be prepared to answer questions and to maintain consistent energy levels in these sessions. The goal of these sessions is not to judge parenting skills or styles. It is to enhance communication with children by discussing topics that are often considered difficult or taboo.

Some possible workshops and discussions to have with parents/caregivers may include:

- Intergenerational Issues - traditional role expectations, dating, sexuality
- Post-migration stress
- Discussion of parenting fears/challenges
- Legal rights and responsibilities
- Gender roles and constructs

### Sample Activities for Parents on Forced Marriage

**Objective 1:** To better understand the difference between an ‘arranged marriage’ or ‘marriage with choice’ and a ‘forced marriage’.

#### **Activity: By choice or forced?**

Hand out the spectrum with all 8 stages to participants.

Divide them into pairs and have them decide at what number is the marriage ‘forced’.

Go through questions and answers as a large group. This is a chance to dispel myths and answer questions that participants may have.

**Objective 2:** To allow space for parents to critically think about case studies.

#### **Activity: Case Study and Discussion**

Provide participants with a case study of a young woman who does not wish to marry the person her parents/caregivers have set her up with. For examples of case studies, see Section 6.

Read the case study aloud.

Write the following questions on flipchart, and facilitate a discussion, with questions such as:

- Imagine this happened to your family. How would you react?
- Can you think of a time when a marriage in your family/community didn’t work? What are your thoughts about this?

1	<i>Parent/s start to think about their child getting married.</i>
2	<i>Parent/s begin to talk about their child's marriage, perhaps suggesting or looking for potential partners.</i>
3	<i>The topic of marriage is freely discussed, resulting in a mutual acceptance or rejection of ideas or options.</i>
4	<i>An agreement to marry is made. Whilst the families of those who are marrying are involved in the process, the final decision lies with those who are to be married.</i>
5	<i>Marriage is discussed, but with no mutual acceptance or rejection of ideas.</i>
6	<i>There is pressure to marry, which may take the form of emotional blackmail or appeals to conform to traditional family roles and values.</i>
7	<i>Demands to accept a marriage proposal are accompanied by physical, mental and/or emotional pressure and violence.</i>
8	<i>The people concerned are manoeuvred into going through the marriage ceremony against their will.</i>

***Closing Activity:***

(Can be used for both parents and youth)

After these activities, ask participants to reflect on what they will take away from the workshop.

Ask them the following questions and have them reflect silently:

- Have you learned anything new or surprising about yourself?
- Do you have ideas on how you might make these changes?
- How do you feel now that the workshop has ended?
- Are you feeling something different from when you walked into the room?
- Ask each participant to share one thing they will take from the workshop into their lives.

***Exercise:***

Do you have partnerships with NGOs abroad? If not, what are some agencies that you would refer your client to if they were to be taken abroad? Create an internal list through collaborating with staff

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# **SECTION 6: CASE STUDIES**

# *Examples of Forced Marriage Cases*

*“I can’t wait to finish school really. But if I don’t stay on for tenth grade I’ll have to get married.”*

*“My mom was saying - You have to marry him or your dad will divorce me.”*

*“My parents have told me that if I promise to marry this man when I graduate then I can carry on at university. But since I’ve been here I’ve met someone else and now I don’t know what I’m going to do.”*

*“We don’t want to leave our families; we just don’t want to be forced into a marriage.”*

The cases listed in this section are fictional. They have been created to represent the diversity and nuances of situations that a client that has been or is in a threat of being forced into marriage may find themselves in. Use these sample case studies to evaluate your ability to respond, develop case response systems and engage with other staff members in your organization to discuss and create tools that are relevant to meeting needs of clients facing forced marriages.

You may also, as you walk through some of these cases, discover gaps in your ability to meet client needs - develop partnerships with agencies that you may refer clients to, constantly ensuring that safety and risk assessments guide your casework.

Another alternative would be to schedule a training session with South Asian Legal Clinic of Ontario (SALCO) on forced marriages. To request a full session please contact the South Asian Legal Clinic of Ontario.

## Exploring a Case Study

A 25-year old man always felt depressed in school and was taking drugs to try and ease his depression. When his family learned of his sexuality they choose to disassociate with him. He was struggling with reconciling his sexuality, religion and family expectations. One day he is shocked to see that his parents are paying him a visit. His parents visit only to tell him that he can come back home and have his family back if he marries a woman from the community, who they already approve of so that he can lead a “normal” life. The parents wanted to find a way to “cure” their son. After much thought, he decides to marry this woman in exchange for getting his family back. After their marriage, the young couple argue constantly, which sometimes leads to violence.

### **How can an ally help?**

As you read through the case you may notice several issues that need to get addressed as you work with your client. Assume that your client is the young man.

### **What are some issues that need attention?**

- Finding services/ counsellors that can speak to a man about violence.
- Addressing the mental health issues of depression and drug abuse.
- The young man identifies as someone who is not straight. He has just come out and is dealing with denial and isolation from close family members. He needs support through the process of coming out and accepting his sexuality.
- Violence in the marital relationship. Here, you may need to address the needs of his partner – who may or may not know about his sexuality or the force used to get him married. She may need extensive counselling and support.
- Conflict with parents and isolation from family members.

### ***Tips:***

Refer to the Resource section of the toolkit to find agencies that are responsive to forced marriage cases. Connect with agencies that are a part of the ‘Network of Agencies Against Forced Marriages (NAAFM)’ – they have knowledge and experience that may guide you in framing your response to forced marriages.

You may also refer to “SALCO’s Case Response Flowchart” (in Section 2) as a starting point to work on a case.

### **What are some things that a service provider may do?**

- A mental health agency may also be a referral source for meeting his depression and drug abuse needs where they connect him with support groups or individual counselling.
- An agency that actively helps clients from the LGBTQ community would be another support that would be critical in helping the client come to terms with his sexuality. Getting isolated and facing constant rejection will continue the cycle of violence.

- Parents are a large source of the issues surrounding this case. If the client expresses need in having the service provider talk to them – and, if the agency is equipped to work with families of the clients, then, a mediation, where the parents may be brought into the solution seeking exercise can take place. They may be contacted on the premise of addressing the mental health issues and counselled into talking about his sexuality.

*Caution: Contacting family members is an option if and only if the client themselves express the need. As a service provider, you have to assess the risk of taking this step and follow organizational protocols.*

- Religion is also a source of conflict here. While all agencies may not be able to address this need, it might help to explore if there are books, community leaders or people who the client can talk about his feelings of ‘betraying’ his faith or community. This is again a nuance that may need either a referral to an agency that is familiar in working on these cases or can offer some guidance to the case worker.
- The young man may also express the need to seek an annulment or a divorce. It is important that at this point you refer him to legal help. Legal aid clinics may be able to help.

Each case is unique and will bring unique challenges that a service provider may or may not be able to address. It is important that in doing this case work service providers seek support from their agencies, and build partnerships with other agencies.

Outlined below are several other cases that explore some other nuances of cases of forced marriages. Work through them to test your ability to respond and make notes of what you may do and what you may need to seek help for. You may also use these cases in holding workshops or training sessions with service providers in your agency.

## *Case Study:*

A 17-year old girl begins developing an eating disorder and starts missing school when she realizes that she has approached that “specific age” and her life will completely change. She remembers how her older sister had to get married at the age of 17 to someone twice her age, but of the same culture and same faith.

She knows her sister is very unhappy because her sister does not love the man, but at least he is able to financially support the family while her sister stays at home with their kids.

The 17-year old girl is nervous about her impending marriage; she knows her husband will be her cousin who is 35-years old, and someone she has seen at family parties. She is not interested in pursuing a marriage with him, but her parents said they would disown her if she does not marry him. She does not know who turn to for help? If her family disowns her she doesn't know where to go. She wants to get out of this situation.

***What can an ally do?***



## *Case Study:*

A 26-year old woman visited a social worker at a local community centre and discussed how she was no longer comfortable living with her husband. He would not allow her to leave the house, he would lock the door behind him when he would leave, and refuses for her to get a job or go back to school. Whenever she tried to speak up, he would hit her and keep her under house arrest. When she sought comfort through her family they only tormented her by saying that “divorce is frowned upon in religion, and that if he is abusing you, then you need to become a ‘better’ wife.” The woman also reveals that her marriage to this man was forced.

After explaining this situation to the social worker, the social worker just advises her to run away and forget community pressures. The social worker gives her brochures of shelters she can turn to for help and the steps she needs to take for looking for employment. The young woman feels lost.

***How can an ally help?***

## *Case Study:*

A young 16-year old woman just found out that she is pregnant. She is from a very conservative family and her boyfriend wants nothing to do with her or the baby anymore. The young woman decides to confide in her family about her pregnancy. After much physical and mental abuse, her parents stated that she must marry someone else to maintain the family's social status. The parents do not want anyone to know that their daughter had a baby out of wedlock. The parents stated that if she does not marry the man they choose they will kick her out of the house and leave her to “die on the streets.” The young woman decides to marry the man her parents choose for her. Her parents get her married. The mother also warned her that she must sleep with her husband to make him think he got her pregnant.

The young woman gives birth to the child, and the husband still believes it is his child. However, throughout the relationship he is always beating her and claiming she is not good enough for him. The young woman wants to leave the relationship.

***How can an ally help?***

## *Case Study:*

A young woman travels overseas on vacation with her family. Instead of the promised family holiday, her parents take her to their remote family village. She finds out that everyone is intending to get her married. She is confined within the house, emotionally pressured and unsure of what to do. She text messages her friend in Canada and tells her what is going on. She wants to return to Canada and needs help in returning home. Her friend begins searching for information from the net, and, confides in the counsellor at school. She is afraid for her friend's safety.

***How can an ally help?***

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# **SECTION 7: ADVOCACY**

# Advocacy

*“Forced Marriages are wrong. As a service provider that works with youth, I recognized the gaps in our organization in handling these cases. We have now started hosting violence prevention workshops that not only address dating violence, but also talk about forced marriages, where we acknowledge families as a potential source of abuse and open up space for young people to talk about these issues...”*

*“We serve clients only after violence has occurred in their lives. Understanding the issue of forced marriages made us come together as an organization and ask our funders to provide funding that lets us focus on the prevention piece – where our work is now not limited only to serving people after violence has occurred, but where we hold workshops, and encourage people to come talk to us if they feel they are under threat...”*

*“Canada has to have a response to these cases. If my client is abroad, I need to know that there is someone there who will ensure that they return safely to their country. We definitely need to let everyone know that we care and will protect all Canadians...”*

Advocacy around forced marriage must involve building community awareness and accountability around the issue. This requires moving beyond the client perspective towards broader community and systemic change so that forced marriages no longer occur.

As identified in previous sections of the toolkit, there are many barriers that must be addressed for the prevention and abolition of forced marriages. Some of the barriers and gaps that must be addressed include:

- the lack of protocols at the institutional level
- jurisdictional issues
- lack of trust between communities and authorities
- complexities related to the immigration and refugee process
- the context within which the practice is located, including social and economic concerns
- lack of capacity to address an incident ex. at the school level
- lack of knowledge around the issue.

Here are some ways in which you can address the barriers and advocate against forced marriages:

- Develop an organizational response to addressing forced marriages
- Join the 'Network of Agencies Against Forced Marriages' and actively participate in coalitions that fight against violence and create a collective response
- Challenge the traditional understanding of how violence plays out predominantly in an intimate partner setting.
- Create anti-racist and anti-oppressive anti-violence programs where violence experienced by marginalised communities is not 'different', 'cultural' or 'barbaric' – but treated as what it is – a manifestation of violence – which is an issue of patriarchy, and power and control.
- Expand provision of prevention focused anti-violence work. Systemic shift in addressing gender based violence is critical where agencies have equal focus on pre-crisis services that aim at addressing patriarchy –and preventing violence from happening in the first place.
- Research that focuses on understanding the issue of forced marriages as it plays out in Canada is critical. Currently, there is no research that either grounds the understanding of forced marriage in Canada, or, expands on the needs of agencies addressing them.
- Advocate creation of institutional protocols and availability of government response systems that enable clients that are facing a forced marriage abroad to return to Canada safely.
- Training of service providers on addressing forced marriage cases, where, each service provider feels equipped to handle clients with diverse needs.
- Media portrayal of forced marriages that focuses on not the 'uniqueness' of the issue but on the common experience of violence that is experienced by communities across the world would help remove the stigma associated from the issue and address it in a way that allows communities to feel safe. Media focus on the lack of services, institutional protocols or government response may also be used as a tool to energising Canada in responding to the issue.
- Developing international partnerships that create safety for all clients if they are taken abroad against their will. In particular, these partnerships should enable not only Canadian citizens but also, permanent residents, temporary status and non-status Canadians to access help.

## ***Exercise:***

How will you advocate against forced marriages? Outline the different roles that you play as a community member, a service provider, a parent, a sibling, a person of a religious faith, or, as a citizen of a country. How will you leverage these roles and the social power that comes with holding these to address the issue of forced marriages?

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# **SECTION 8: POLICY RECOMMENDATIONS**

# Education Policy

## 1. Introduction

The Forced Marriage Project at the South Asian Legal Clinic of Ontario (SALCO) recommends that educational institutions (Secondary schools, Colleges or Universities) should promote understanding and prevention of *Forced Marriages*. This includes understanding forced marriages as a form of abuse and be willing to provide the means of addressing incidents amongst their students or employees on request of assistance or accommodation. This template policy has been prepared to help *service providers, their employees* (employees) and *service recipients* (students) understand the framework and obligations regarding duty to accommodate on the basis of *Forced Marriage* and should be read in conjunction with appropriate abuse, harassment, bullying and gender equity policies while serving survivors of abuse/sexual abuse.

This document contains SALCO's recommendations on forced marriage as it intersection with issues of education. Portions of this document can be incorporated into your own agency's policy work.

### 1.1 Definitions

#### 1.1.1 Forced Marriages

Forced Marriages as per SALCO's Forced Marriage Project and Network Against

Forced Marriages (NAAFM) definition of Forced Marriages is:

*"A marriage is something that must be entered into with the full and free will of the people getting married. **Both** individuals should feel that the marriage is something that they have chosen for themselves: with full and free choice.*

*Forced marriage is a practice in which a marriage takes place without the free consent of the individuals getting married, where pressure or abuse is used to 'force' one or both people to marry against their will.*

*A forced marriage can happen to anyone; of any gender, of any age.*

*Forced marriages are a form of violence*

It is important to note that many times Arranged Marriage and *Forced Marriage* as terms are used interchangeably. SALCO's definition and interpretations of *Forced Marriage* clearly demonstrates that while arranged marriage has the full, free, and informed consent of both parties who are getting married, *Forced Marriage* does not. **Lack of consent is the critical distinguishing factor in a forced marriage.** The reasons for *Forced Marriage* are multifaceted and can often include a person's religious or cultural beliefs, socio-economic status and/or security, preservation of heritage, immigration status and pressure from the community.

If your institution is unclear or unfamiliar about Forced marriage, please refer to the Legal and service provider toolkit that is provided on SALCO's website. You can also call SALCO to request further resources.

### **1.1.2 Prevention**

Have literature and education materials regarding *Forced Marriages* readily available in accessible places such as the library, student lounge, employee lounge, policy manuals, website portals and other possible accessible spaces identified by the institute. This policy will be a part of the institution or communicated to employees and service recipients (students); ensure that all members are aware of their responsibilities under this policy.

As part of the prevention strategy, the process and procedure of the registration of Canadian's travelling abroad and emergency contact information while abroad will be readily made available to service recipients (students) and employees. Please read the policy regarding Department of Foreign Affairs and international trade and development in conjunction with this policy.

### **1.1.3 Threat**

The educational institution would recognize that the policy for providing assistance and accommodation under this policy extends to the employees and/or service recipients (students) who are facing threat of *Forced marriage* that includes violence, financial abuse, psychological abuse, extortion, and harassment, the abuse of power or impending travel abroad.

### **1.1.4 Risk Assessment**

It is recommended that CIC and its employees utilize a variety of Risk Assessment tools to assess the risks faced by the survivors of abuse. It is suggested that any assessment of risk should include comprehensive questions regarding risk of threat of potential Forced Marriage, current forced marriage of service recipient or a forced marriage in which service recipient was previously in before accessing services. SALCO has included a link to its Case Management Tool, which can also be used in whole or in part to assess risk.

### **1.1.5 Confidentiality**

It is suggested that Forced Marriage victims should be treated as victims of abuse as per confidentiality policies of the agency serving them. For examples this may include: victim-advocate; doctor-patient; therapist/counselor-patient.

## **1.2 Application of Template Policy**

This guideline/resource applies to all employees, volunteers, accountability officers and their staff, and their staff and other persons acting on behalf of the institution that is screening service recipients who have experienced abuse and *Forced Marriage*.

### **1.2.1 How to use Template Policy**

This template has been designed to be used in conjunction with other relevant policies that are currently implemented. Boards should utilize this template in constructing one that reflects the ways that the institution will support staff and service recipients when they are faced with the issue of Forced marriage. It can be helpful to include it in already existing policies for sexual, domestic or other types of violence and accommodation policies.



### 1.3 Service Recipients (Forced Marriage Survivors / Victims)

This guideline/resource applies to all service recipients. The service recipients include individuals who access services and facilities operated or contracted by the institution. This shall include programs and services delivered by a third party individual or organization that has been contracted by the institution at any level.

## 2. *Extension of Definition of Victim of Abuse*

### 2.1 Duty to Accommodate Service Recipients (Forced Marriage Survivors / Victims)

This policy applies when an individual's experience of violence stems from or is related to *Forced Marriage*. It extends the duty of accommodation on the basis of *Forced Marriage* for inclusive placement practices, programs, facilities, communication, and all services. This policy further imposes an obligation on the institution to take appropriate steps to fully explore any accommodation request and refuse only if not mandated by the Code or if undue hardship can be demonstrated.

### 2.2 Undue Hardship

Undue hardship is a justification for management to deny an accommodation request based on the fact that the granting of the accommodation would result in serious difficulties and/or complications for the service provider. In the capacity of an employee, the service provider has an obligation to assess accommodation requests to the point of undue hardship. An employer and service provider will make all reasonable and genuine efforts to accommodate the need of employees and service recipients.

The burden for proving undue hardship lies with the management assessing the request for accommodation. Undue hardship is decided on a case-by-case basis, this policy sets out three elements in assessing whether an employee and service provider can claim undue hardship: i) if there is unreasonable cost to the service provider to make the accommodation available, ii) checking prior availability of outside sources of funding, if any, to alleviate some of the costs of accommodation and iii) health and safety requirements to be waived, if any, involved with the accommodation.

### ***3. Rights and Responsibilities of Employees and Service Recipients***

The service recipients of the service provider have a right to information and assistance to exercise their right to accommodation and responsibility to appropriately identify and request accommodation based on *Forced Marriage*.

#### **3.1 Rights to Information, Assistance and Privacy**

The employee and service provider will make available to service recipients general information, brochures, forms needed to make an accommodation request. The service provider will provide appropriate assistance as per the policy and on the procedural requirements for making an accommodation request i.e. information on accommodation assessment procedures and complaint procedures. The service provider will ensure that a copy of this Guideline/Resource, Accommodation Policy, Human Rights and Anti-Harassment Policy and copy of relevant legislations is available to employees and service recipients. The service provider will attempt to deal with accommodation requests in a timely manner. The employees and/or service recipients can seek and receive confidential and neutral advice from the human resources department of the Service Provider. The employees and service recipients have a right of privacy and confidentiality of accommodation requests and assessment as per privacy legislation. The service provider is required to accommodate service recipients in ways that respect their dignity and right to privacy.

#### **3.2 Responsibilities to Identify and Request Accommodation**

The employees and service recipients are required to clearly identify their need of accommodation and make requests in writing on the appropriate confidential forms. The service recipients may be required to give relevant evidence to support their accommodation needs and assessment of accommodations options and/or solutions.

## ***4. Role of Management: Assessment and Implementation***

Upon receiving the request, the management (supervisor, manager or any other designated person in-charge), in consultation with the employees and service recipients concerned and other experts (i.e. Subject matter expert, Lawyer and social worker as providers by Service Provider's application process etc.) as necessary, should undertake the following steps:

### **4.1 Investigation**

Investigate accommodation solutions and options regarding employees' and service recipients' requests in good faith and explore if accommodation is a legal obligation for all employees, facility and service providers under the Code and related jurisprudence. Identify various options, if available, to make the accommodation possible.

### **4.2 Assessment**

Assess the need to make accommodation available for the employees and service recipients who have made the request. The service provider is required to assess and explore all possible avenues of accommodation. Additionally, assess if the accommodation can be proactively made available through other service recipients. Further assess any costs involved for providing accommodation and analyze benefit and detriments arising from the various possible alternatives of accommodation.

In some cases, a request may involve issues beyond the expertise of the management. Accommodation policy of the service provider should require that at the time of any consultation or completing related documentation, the dignity and privacy of the service recipients making the request should not be compromised. If information about the accommodation request needs to be shared, only facts pertinent for identifying the appropriate accommodation should be shared.

### **4.3 Implementation**

Management should follow up with the requester in writing, identifying the accommodation solution, necessary details, and implementation and review period. There should be discussion-based decision on timeframes for implementation and review.

Management will document each stage in the accommodation process. Efforts shall be made to adopt the accommodation preferred by the employees and service recipients. However, if there is an equally effective accommodation solution, service providers may choose to proceed with the one that is the least costly and easiest to provide.

#### **4.4 Denying Accommodation**

The duty to accommodate on the basis of *Forced Marriage* does not create an endless obligation on the institution. Request of accommodation might be denied if there is insufficient evidence for the need of accommodation. If the requester does not co-operate in the assessment process in good faith, does not provide documentation requested or if the management finds contradicting evidence especially in cases where they consult a subject matter expert.

In case of denial of accommodation it shall be communicated to the requester in writing explaining the process of escalating the request to senior management and/or filing a complaint. Denial of accommodation should not impose any burden, obligations or disadvantages on the service recipients who requested accommodation.

#### **4.5 Complaint Process**

If a requester for accommodation believes the request has not been handled in accordance with the Accommodation Policy, the employee or service recipient may have option of discussing with senior management in the division to review the decision and lodge a complaint to the senior management of service provider.

#### **4.6 Interim Accommodation**

It is required that if decision making on the accommodation requested takes longer than reasonable timeframe the management should make efforts to provide an interim accommodation where possible until a final decision is made.

#### **4.7 Reasonable Accommodation**

In some cases if the service provider has explored all the options for accommodation and the only option available is reasonable but inconvenient; the employee or service recipient who made request for accommodation is obligated to accept that accommodation option.

## 5. Contacts

### **South Asian Legal Clinic of Ontario (SALCO)**

45 Sheppard Avenue East, Suite 106A

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**Tel:** 416-487-6371

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[www.salc.on.ca/forced-marriage](http://www.salc.on.ca/forced-marriage)

## 6. Related Links – External

<http://www.justice.gc.ca/eng/contact/link-lien.html>

<http://www.justice.gc.ca/eng/cj-jp/yj-jj/tools-outils/index.html>

<http://www.justice.gc.ca/eng/csj-sjc/just/06.html>

## 7. Relevant Legislation

### **Canadian Charter of Rights and Freedoms**

<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

### **Canadian Human Rights Act**

<http://laws-lois.justice.gc.ca/eng/acts/h-6/>

### **Universal Declaration of Human Rights.**

<http://www.un.org/en/universal-declaration-human-rights/index.html>

# Health Care Policy

## 1. Introduction

The Forced Marriage Project at SALCO recommends that health care providers recognize emotional, physical or sexual health concerns stemming from a Forced Marriage incidents as issues of “*Primary Health Concern*.” All the definitions used for victims of abuse should include *Forced Marriage* as a form of abuse and “*Screening of Abuse*” and “*Screening of Sexual Abuse*” should be extended to them with appropriate “*Risk Assessment*”, “*Counselling*” and “*Support*”. Under this policy, a person who has experienced a threat of *Forced Marriage* or *Forced Marriage* abuse can request to be screened for abuse, referral for appropriate assessment and any other accommodations as extended to victims of abuse. This template policy has been prepared to help *service providers* and or *their employees* (employees) and *service recipients* understand the framework and obligations regarding duty to accommodate on the basis of *Forced Marriage* and should be read in conjunction with appropriate safety and health policies while serving survivors of abuse/sexual abuse.

### 1.1 Definitions

#### 1.1.1 Forced Marriages

The Regulated Health Act (1991) or any other Act does not currently define Forced Marriage. SALCO’s Forced Marriage Project and Network Against Forced Marriages (NAAFM) definition of Forced Marriages is:

*“A marriage is something that must be entered into with the full and free will of the people getting married. **Both** individuals should feel that the marriage is something that they have chosen for themselves: with full and free choice.*

*Forced marriage is a practice in which a marriage takes place without the free consent of the individuals getting married, where pressure or abuse is used to ‘force’ one or both people to marry against their will.*

*A forced marriage can happen to anyone; of any gender, of any age.*

*Forced marriages are a form of violence.”*

It is important to note that many times arranged marriage and *Forced Marriage* are inappropriately used interchangeably. SALCO’s definition and interpretations of *Forced Marriage* clearly demonstrates that while arranged marriage has the full, free, and informed consent of both parties who are getting married, *Forced Marriage* does not. **Lack of consent is the critical distinguishing factor in a forced marriage.** The reasons for *Forced Marriage* are multifaceted and can often include a person’s religious or cultural beliefs, socio-economic status and/or security, preservation of heritage, immigration status and pressure from the community.

### **1.1.2 Primary Health Concern**

Primary health care refers to an approach to health and a spectrum of services beyond the traditional health care system. It includes all services that play a part in health, such as income, housing, education, and environment. Primary care is the element within primary health care that focuses on health care services, including health promotion, illness and injury prevention, and the diagnosis and treatment of illness and injury.<sup>1</sup>

### **1.1.3 Screening of Abuse**

Health Care providers utilize various tools to routinely check for indicators of abuse when identifying individuals at risk for abuse or injury. Screening of abuse and sexual abuse should include simple and direct questions irrespective of them showing signs of such abuse or not. A sample list of questions is included in SALCO's Case Management Tool.

### **1.1.4 Risk Assessment**

Health Care providers also utilize a variety of Risk Assessment tools to assess the risks faced by the survivors of abuse. It is suggested that any assessment of risk should include comprehensive questions regarding risk of threat of potential Forced Marriage, current forced marriage of service recipient or a forced marriage in which service recipient was previously in before accessing services. SALCO has included a link to its Case Management Tool, which can also be used in whole or in part to assess risk.

## **1.2 Application of Template Policy**

This guideline/resource applies to all employees, volunteers, accountability officers and their staff, and their staff and other persons acting on behalf of agency that is screening service recipients who have experiences *Forced Marriage*.

### **1.2.1 How to use Template Policy**

This template has been designed to be used in conjunction with other relevant policies that are currently implemented. Boards and employers should utilize this template in constructing one that reflects the ways that the institution will support staff and service recipients when they are faced with the issue of Forced marriage. It can be helpful to include it in already existing policies for sexual, domestic or other types of violence and accommodation policies.

## **1.3 Service Recipients (Forced Marriage Survivors / Victims)**

This guideline/resource applies to all service recipients. The service recipients include individuals who access services and facilities operated or contracted by the institution. This shall include programs and services delivered by a third party individual or organization that has been contracted by the institution at any level.

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<sup>1</sup> <http://www.hc-sc.gc.ca/hcs-sss/prim/about-apropos-eng.php>

## 2. *Extension of Definition of Victim of Abuse*

### 2.1 Duty to Accommodate Service Recipients (Forced Marriage Survivors / Victims)

This policy applies when an individual's experience of violence stems from or is related to *Forced Marriage*. It extends the duty of accommodation on the basis of *Forced Marriage* for inclusive placement practices, programs, facilities, communication, and all services. This policy further imposes an obligation on the institution to take appropriate steps to fully explore any accommodation request and refuse only if not mandated by the Code or if undue hardship can be demonstrated.

### 2.2 Undue Hardship

Undue hardship is a justification for management to deny an accommodation request based on the fact that the granting of the accommodation would result in serious difficulties and/or complications for the service provider. In the capacity of an employee, the service provider has an obligation to assess accommodation requests to the point of undue hardship. An employer and service provider will make all reasonable and genuine efforts to accommodate the need of employees and service recipients.

The burden for proving undue hardship lies with the management assessing the request for accommodation. Undue hardship is decided on a case-by-case basis, this policy sets out three elements in assessing whether an employee and service provider can claim undue hardship: i) if there is unreasonable cost to the service provider to make the accommodation available, ii) checking prior availability of outside sources of funding, if any, to alleviate some of the costs of accommodation and iii) health and safety requirements to be waived, if any, involved with the accommodation.



### ***3. Rights and Responsibilities of Employees and Service Recipients***

The service recipients of the service provider have a right to information and assistance to exercise their right to accommodation and responsibility to appropriately identify and request accommodation based on *Forced Marriage*.

#### **3.1 Rights to Information, Assistance and Privacy**

The employee and service provider will make available to service recipients general information, brochures, forms needed to make an accommodation request. The service provider will provide appropriate assistance as per the policy and on the procedural requirements for making an accommodation request i.e. information on accommodation assessment procedures and complaint procedures. The service provider will ensure that a copy of this Guideline/Resource, Accommodation Policy, Human Rights and Anti-Harassment Policy and copy of relevant legislations is available to employees and service recipients. The service provider will attempt to deal with accommodation requests in a timely manner. The employees and/or service recipients can seek and receive confidential and neutral advice from the human resources department of the Service Provider. The employees and service recipients have a right of privacy and confidentiality of accommodation requests and assessment as per privacy legislation. The service provider is required to accommodate service recipients in ways that respect their dignity and right to privacy.

#### **3.2 Responsibilities to Identify and Request Accommodation**

The employees and service recipients are required to clearly identify their need of accommodation and make requests in writing on the appropriate confidential forms. The service recipients may be required to give relevant evidence to support their accommodation needs and assessment of accommodations options and/or solutions.

## ***4. Role of Management: Assessment and Implementation***

Upon receiving the request, the management (supervisor, manager or any other designated person in-charge), in consultation with the employees and service recipients concerned and other experts (i.e. Subject matter expert, Lawyer and social worker as providers by Service Provider's application process etc.) as necessary, should undertake the following steps:

### **4.1 Investigation**

Investigate accommodation solutions and options regarding employees' and service recipients' requests in good faith and explore if accommodation is a legal obligation for all employees, facility and service providers under the Code and related jurisprudence. Identify various options, if available, to make the accommodation possible.

### **4.2 Assessment**

Assess the need to make accommodation available for the employees and service recipients who have made the request. The service provider is required to assess and explore all possible avenues of accommodation. Additionally, assess if the accommodation can be proactively made available through other service recipients. Further assess any costs involved for providing accommodation and analyze benefit and detriments arising from the various possible alternatives of accommodation.

In some cases, a request may involve issues beyond the expertise of the management. Accommodation policy of the service provider should require that at the time of any consultation or completing related documentation, the dignity and privacy of the service recipients making the request should not be compromised. If information about the accommodation request needs to be shared, only facts pertinent for identifying the appropriate accommodation should be shared.

### **4.3 Implementation**

Management should follow up with the requester in writing, identifying the accommodation solution, necessary details, and implementation and review period. There should be discussion-based decision on timeframes for implementation and review.

Management will document each stage in the accommodation process. Efforts shall be made to adopt the accommodation preferred by the employees and service recipients. However, if there is an equally effective accommodation solution, service providers may choose to proceed with the one that is the least costly and easiest to provide.

#### **4.4 Denying Accommodation**

The duty to accommodate on the basis of *Forced Marriage* does not create an endless obligation on the institution. Request of accommodation might be denied if there is insufficient evidence for the need of accommodation. If the requester does not co-operate in the assessment process in good faith, does not provide documentation requested or if the management finds contradicting evidence especially in cases where they consult a subject matter expert.

In case of denial of accommodation it shall be communicated to the requester in writing explaining the process of escalating the request to senior management and/or filing a complaint. Denial of accommodation should not impose any burden, obligations or disadvantages on the service recipients who requested accommodation.

#### **4.5 Complaint Process**

If a requester for accommodation believes the request has not been handled in accordance with the Accommodation Policy, the employee or service recipient may have option of discussing with senior management in the division to review the decision and lodge a complaint to the senior management of service provider.

#### **4.6 Interim Accommodation**

It is required that if decision making on the accommodation requested takes longer than reasonable timeframe the management should make efforts to provide an interim accommodation where possible until a final decision is made.

#### **4.7 Reasonable Accommodation**

In some cases if the service provider has explored all the options for accommodation and the only option available is reasonable but inconvenient; the employee or service recipient who made request for accommodation is obligated to accept that accommodation option.

## 5. Contacts

### **South Asian Legal Clinic of Ontario (SALCO)**

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## 6. Related Links – External

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<http://www.justice.gc.ca/eng/cj-jp/yj-jj/tools-outils/index.html>

<http://www.justice.gc.ca/eng/csj-sjc/just/06.html>

## 7. Relevant Legislation

### **Health Facilities Special Orders Act**

<https://www.ontario.ca/laws/statute/90h05>

### **Health Insurance Act**

<https://www.ontario.ca/laws/statute/90h06>

**Health Protection and Promotion Act** (except section 7 in so far as it relates to the Healthy Babies, Healthy Children program as described in the guidelines published under section 7)

<https://www.ontario.ca/laws/statute/90h07>

### **Home Care and Community Services Act, 1994**

<https://www.ontario.ca/laws/statute/94l26>

### **Canadian Charter of Rights and Freedoms**

<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

### **Canadian Human Rights Act**

<http://laws-lois.justice.gc.ca/eng/acts/h-6/>

### **Universal Declaration of Human Rights.**

<http://www.un.org/en/universal-declaration-human-rights/index.html>

# Housing Accommodation Policy

## 1. Introduction

The Forced Marriage Project at SALCO recommends that all “Special Priority Housing Policies”, which provide priority access to social housing for victims of abuse include *Forced Marriage* as a form of abuse, and that “*Special Priority*” should be extended to them. Under this policy, households that have a member or members who are abused can request to be included in the Special Priority Household Category, which provides priority placement on the social housing waiting lists. This template policy has been prepared to help *service providers* and or *their employees* (employees) and *service recipients* understand the framework and obligations regarding duty to accommodate on the basis of *Forced Marriage* and should be read in conjunction with the “The Special Priority Housing Policy” for survivors of abuse.

### 1.1 Definitions

#### 1.1.1 Forced Marriages

The Special Priority Policy under the Social Housing Reform Act, 2000 (SHRA) or any other Act does not define Forced Marriages. SALCO’s Forced Marriage Project and Network Against Forced Marriages (NAAFM) definition of Forced Marriages is:

*“A marriage is something that must be entered into with the full and free will of the people getting married. **Both** individuals should feel that the marriage is something that they have chosen for themselves: with full and free choice.*

*Forced marriage is a practice in which a marriage takes place without the free consent of the individuals getting married, where pressure or abuse is used to ‘force’ one or both people to marry against their will.*

*A forced marriage can happen to anyone; of any gender, of any age. Forced marriages are a form of violence.”*

It is important to note that many times arranged marriage and *Forced Marriage* are inappropriately used interchangeably. SALCO’s definition and interpretations of *Forced Marriage* clearly demonstrates that while arranged marriage has the full, free, and informed consent of both parties who are getting married, *Forced Marriage* does not. **Lack of consent is the critical distinguishing factor in a forced marriage.** The reasons for *Forced Marriage* are multifaceted and can often include a person’s religious or cultural beliefs, socio-economic status and/or security, preservation of heritage, immigration status and pressure from the community.

#### 1.1.2 Screening of Abuse

Housing providers utilize various tools to routinely check for indicators of abuse when identifying individuals at risk for abuse or injury. Screening of abuse and sexual abuse should include simple and direct questions irrespective of them showing signs of such abuse or not. A sample list of questions is included in SALCO’s Case Management Tool.

### **1.1.3 Risk Assessment**

Housing providers also utilize a variety of Risk Assessment tools to assess the risks faced by the survivors of abuse. It is suggested that any assessment of risk should include comprehensive questions regarding risk of threat of potential Forced Marriage, current forced marriage of service recipient or a forced marriage in which service recipient was previously in before accessing services. SALCO has included a link to its Case Management Tool, which can also be used in whole or in part to assess risk.

## **1.2 Application of Template Policy**

This guideline/resource applies to all employees, volunteers, accountability officers and their staff, and their staff and other persons acting on behalf of agency that is screening service recipients who have experiences *Forced Marriage*.

### **1.2.1 How to use Template Policy**

This template has been designed to be used in conjunction with other relevant policies that are currently implemented. Boards and employers should utilize this template in constructing one that reflects the ways that the institution will support staff and service recipients when they are faced with the issue of Forced marriage. It can be helpful to include it in already existing policies for sexual, domestic or other types of violence and accommodation policies.

## **1.3 Service Recipients (Forced Marriage Survivors / Victims)**

This guideline/resource applies to all service recipients. The service recipients include individuals who access services and facilities operated or contracted by the Housing Service Organization. This shall include programs and services delivered by a third party individual or organization that has been contracted by the organization and its affiliates.

## ***2. Extension of Definition of Victim of Abuse***

### **2.1 Duty to Accommodate Service Recipients (Forced Marriage Survivors / Victims)**

There is a duty to accommodate when an individual's experience of violence stems from or is related to *Forced Marriage*. This policy extends duty of accommodation on the basis of *Forced Marriage* for inclusive placement practices, programs, facilities, communication, and all services. This policy further imposes an obligation on the facility and service providers to take appropriate steps to fully explore any accommodation request and refuse only if not mandated by the Code or if undue hardship can be demonstrated.

### **2.2 Undue Hardship**

Undue hardship is a justification for management to deny an accommodation request based on the fact that the granting of the accommodation would result in serious difficulties and/or complications for the service provider. In the capacity of an employee and service provider, the employee providing services has an obligation to assess accommodation requests to the point of undue hardship. The employer and service provider will make all reasonable and genuine efforts to accommodate the need of employees and service recipients.

The burden for proving undue hardship lies with the management assessing the request for accommodation. Undue hardship is decided on a case-by-case basis, this policy sets out three elements in assessing whether an employee and service provider can claim undue hardship: i) if there is unreasonable cost to the service provider to make the accommodation available, ii) checking prior availability of outside sources of funding, if any, to alleviate some of the costs of accommodation and iii) health and safety requirements to be waived, if any, involved with the accommodation.

### ***3. Rights and Responsibilities of Employees and Service Recipients***

The service recipients of the service provider have a right to information and assistance to exercise their right to accommodation and responsibility to appropriately identify and request accommodation based on *Forced Marriage*.

#### **3.1 Rights to Information, Assistance and Privacy**

The employee and service provider will make available to service recipients general information, brochures, forms needed to make an accommodation request. The service provider will provide appropriate assistance as per the policy and on the procedural requirements for making an accommodation request i.e. information on accommodation assessment procedures and complaint procedures. The service provider will ensure that a copy of this Guideline/Resource, Accommodation Policy, Human Rights and Anti-Harassment Policy and copy of relevant legislations is available to employees and service recipients. The service provider will attempt to deal with accommodation requests in a timely manner. The employees and/or service recipients can seek and receive confidential and neutral advice from the Housing office of Service Provider. The employees and service recipients have a right of privacy and confidentiality of accommodation requests and assessment as per privacy legislation. The service provider is required to accommodate service recipients in ways that respect their dignity and right to privacy.

#### **3.2 Responsibilities to Identify and Request Accommodation**

The employees and service recipients are required to clearly identify their need of accommodation and make requests in writing on the appropriate confidential forms. The service recipients may be required to give relevant evidence to support their accommodation needs and assessment of accommodations options and/or solutions.



## ***4. Role of Management: Assessment and Implementation***

Upon receiving the request, the management (supervisor, manager or any other designated person in-charge), in consultation with the employees and service recipients concerned and other experts (i.e. Subject matter expert, Lawyer and social worker as providers by Service Provider's application process etc.) as necessary, should undertake the following steps:

### **4.1 Investigation**

Investigate accommodation solutions and options regarding employees' and service recipients' requests in good faith and explore if accommodation is a legal obligation for all employees, facility and service providers under the Code and related jurisprudence. Identify various options, if available, to make the accommodation possible.

### **4.2 Assessment**

Assess the need to make accommodation available for the employees and service recipients who have made the request. The service provider is required to assess and explore all possible avenues of accommodation. Additionally, assess if the accommodation can be proactively made available through other service recipients. Further assess any costs involved for providing accommodation and analyze benefit and detriments arising from the various possible alternatives of accommodation.

In some cases, a request may involve issues beyond the expertise of the management. Accommodation policy of the service provider should require that at the time of any consultation or completing related documentation, the dignity and privacy of the service recipients making the request should not be compromised. If information about the accommodation request needs to be shared, only facts pertinent for identifying the appropriate accommodation should be shared.

### **4.3 Implementation**

Management should follow up with the requester in writing, identifying the accommodation solution, necessary details, and implementation and review period. There should be discussion-based decision on timeframes for implementation and review.

Management will document each stage in the accommodation process. Efforts shall be made to adopt the accommodation preferred by the employees and service recipients. However, if there is an equally effective accommodation solution, service providers may choose to proceed with the one that is the least costly and easiest to provide.

#### **4.4 Denying Accommodation**

The duty to accommodate on the basis of *Forced Marriage* does not create an endless obligation on the institution. Request of accommodation might be denied if there is insufficient evidence for the need of accommodation. If the requester does not co-operate in the assessment process in good faith, does not provide documentation requested or if the management finds contradicting evidence especially in cases where they consult a subject matter expert.

In case of denial of accommodation it shall be communicated to the requester in writing explaining the process of escalating the request to senior management and/or filing a complaint. Denial of accommodation should not impose any burden, obligations or disadvantages on the service recipients who requested accommodation.

#### **4.5 Complaint Process**

If a requester for accommodation believes the request has not been handled in accordance with the Accommodation Policy, the employee or service recipient may have option of discussing with senior management in the division to review the decision and lodge a complaint to the senior management of service provider.

#### **4.6 Interim Accommodation**

It is required that if decision making on the accommodation requested takes longer than reasonable timeframe the management should make efforts to provide an interim accommodation where possible until a final decision is made.

#### **4.7 Reasonable Accommodation**

In some cases if the service provider has explored all the options for accommodation and the only option available is reasonable but inconvenient; the employee or service recipient who made request for accommodation is obligated to accept that accommodation option.

## 5. Contacts

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## 6. Related Links – External

<http://www.justice.gc.ca/eng/contact/link-lien.html>

<http://www.justice.gc.ca/eng/cj-jp/yj-jj/tools-outils/index.html>

<http://www.justice.gc.ca/eng/csj-sjc/just/06.html>

## 7. Relevant Legislation

### **Housing Services Act**

<https://www.ontario.ca/laws/statute/11h06>

### **Canadian Charter of Rights and Freedoms**

<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

### **Canadian Human Rights Act**

<http://laws-lois.justice.gc.ca/eng/acts/h-6/>

### **Universal Declaration of Human Rights.**

<http://www.un.org/en/universal-declaration-human-rights/index.html>

# Immigration Policy

## 1. Introduction

The Forced Marriage Project at SALCO recommends that victims/survivors of *Forced Marriages* with precarious or conditional immigration status need specialized services and accommodations. Organizations serving victims/survivors should make sure that they serve them and accommodate their needs according to the situation they are in.

Along with providing appropriate “*legal referral*” that most clients might need, there are also appropriate “*risk assessment*” that are necessary when determining the immigration status of the individual. There is a need for specialized and sensitive “*confidentiality*” training for “*immigration intake*” for screening of “*conditional permanent resident status*”, “*sponsorship undertaking*” and “*sponsorship ban*” applications and individuals. Organizations and employees need to have protocols and procedures in place for appropriate assistance and accommodations related to any immigration assistance that victims/survivors might need. Service providers will need to consider potential “*risk*” they might face, their “*substantial connection to Canada*” their “*settlement*” in Canada and “*prevention*” of *Forced Marriages* as an issue of abuse in the immigration context.

This template policy has been prepared to help *service providers* and or *their employees* (employees) and *service recipients* (victims/survivors) understand the framework and obligations regarding duty to accommodate on the basis of *Forced Marriage* and should be read in conjunction with appropriate Immigration Regulations and Policies.

### 1.1 Definitions

#### 1.1.1 Forced Marriages

Forced Marriage according to Citizenship and Immigration Canada is defined as:

*“Forced marriage is when consent is not freely given by at least one of the parties to the marriage. Unlike arranged marriages which take place with the consent of both parties, in forced marriages, individuals are coerced to marry, usually by family members, through threats, physical violence, or emotional manipulation. Permanent residents in a forced marriage can request an exception to the condition if they are unable to meet the condition due to abuse or neglect during the two year period.”*

SALCO’s Forced Marriage Project and Network Against Forced Marriages (NAAFM) definition of *Forced Marriages* is:

*“A marriage is something that must be entered into with the full and free will of the people getting married. **Both** individuals should feel that the marriage is something that they have chosen for themselves: with full and free choice.*

*Forced marriage is a practice in which a marriage takes place without the free consent of the individuals getting married, where pressure or abuse is used to ‘force’ one or both people to marry against their will.*

*A forced marriage can happen to anyone; of any gender, of any age.*

*Forced marriages are a form of violence.”*

It is important to note that many times arranged marriage and *Forced Marriage* are inappropriately used interchangeably. SALCO’s definition and interpretations of *Forced Marriage* clearly demonstrates that while arranged marriage has the full, free, and informed consent of both parties who are getting married, *Forced Marriage* does not. **Lack of consent is the critical distinguishing factor in a forced marriage.** The reasons for *Forced Marriage* are multifaceted and can often include a person’s religious or cultural beliefs, socio-economic status and/or security, preservation of heritage, immigration status and pressure from the community.

### **1.1.2 Prevention**

The department should have literature and education materials regarding *Forced Marriages* readily available in accessible places such as public entry ports, employee lounges, policy manuals, website portals and other possible accessible spaces identified by the institution. This policy will be communicated to employees and service recipients (victims/survivors); ensure that all members are aware of their responsibilities under this policy.

As part of an ongoing prevention strategy, registration of Canadian’s travelling abroad procedure and emergency contact information while abroad should be readily made available to service recipients (individuals leaving and entering the country) and employees. Please read the policy regarding Department of Foreign Affairs and international trade and Development in conjunction with this policy.

### **1.1.3 Threat**

Citizenship and Immigration Canada would recognize that the policy for providing assistance and accommodation under this policy extends to the employees and/or service recipients (victims/survivors) who are facing threat of *Forced marriage*. This could include violence, financial abuse, psychological abuse, extortion, and harassment, the abuse of power or impending travel abroad.

### **1.1.4 Risk Assessment**

Service providers also utilize a variety of Risk Assessment tools to assess the risks faced by the survivors of abuse. It is suggested that any assessment of risk should include comprehensive questions regarding risk of threat of potential Forced Marriage, current forced marriage of service recipient or a forced marriage in which service recipient was previously in before accessing services. SALCO has included a link to its Case Management Tool, which can also be used in whole or in part to assess risk.

### **1.1.5 Confidentiality**

It is suggested that Forced Marriage victims should be treated as victims of abuse as per confidentiality policies of the agency serving them. For examples this may include: victim-advocate; doctor-patient; therapist/counselor-patient.

### **1.1.6 Conditional Permanent Resident**

As per Immigration and Refugee Protection Regulations (IRPR) Sections 172.1 to 72.4 the Conditional Permanent Resident regulation requires that the sponsor and sponsored partner must live together in a genuine, marriage-like relationship for 2 years from the date the sponsored partner becomes a permanent resident. Only certain sponsored partners are given conditional permanent residence after their application for permanent residence is approved

(applications after October 25, 2012). But, if they do not follow the condition, or their relationship ends before the 2-year conditional period ends, the sponsored partner could lose permanent resident status. If this happens, the sponsored partner may be removed from Canada.

Sponsored partner is required to apply for an exception from conditional permanent residence based on the exception of abuse as Forced marriage as defined above.

#### **1.1.7 Sponsorship Undertaking**

As per the IRPA, a sponsor signs a financial undertaking for 3 years in a spousal/conjugal relationship. If the relationship breaks down, the sponsor remains financially responsible until the end of the three-year undertaking period, irrespective of the cause of the breakdown. This includes situations where the spouse or partner has requested an exception of the condition, due to abuse or neglect.

#### **1.1.8 Sponsorship Ban**

As per section 130 of the Immigration and Refugee Protection Regulations (IRPR), a sponsored spouse or partner is barred, for a five-year period from sponsoring another spouse or partner.

#### **1.1.9 Settlement in Canada**

Settlement and establishment in Canada is unique to each case and it can be demonstrated through various factors but not limited to; lease agreements, language training, education, work history, school record, community support, family support, volunteering record etc.

#### **1.1.10 Substantial Connection to Canada**

Substantial connection to Canada is unique to each case and can be demonstrated through factors such as: community connection, schooling, memberships, involvement and volunteering with social agencies, proof of association, length of stay in Canada etc.

### **1.2 Application of Template Policy**

This guideline/resource applies to all employees, volunteers, accountability officers and their staff, and their staff and other persons acting on behalf of the institution that is screening service recipients who have experienced abuse and *Forced Marriage*.

#### **1.2.1 How to use Template Policy**

This template has been designed to be used in conjunction with other relevant policies that are currently implemented. Organizations and institutions should utilize this template in constructing one that reflects the ways that the institution will support staff and service recipients when they are faced with the issue of Forced marriage. It can be helpful to include it in already existing policies for sexual, domestic or other types of violence and accommodation policies.

### **1.3 Service Recipients (Forced Marriage Survivors / Victims)**

This guideline/resource applies to all service recipients. The service recipients include individuals who access services and facilities operated or contracted by the institution. This shall include programs and services delivered by a third party individual or organization that has been contracted by the government at all three levels Municipal, Provincial and Federal.

## 2. *Extension of Definition of Victim of Abuse*

### 2.1 Duty to Accommodate Service Recipients (Forced Marriage Survivors / Victims)

This duty occurs when an individual's experience of violence stems from or is related to *Forced Marriage*. This policy extends the duty of accommodation on the basis of *Forced Marriage* for inclusive placement practices, programs, facilities, communication, and all services. This policy further imposes an obligation on the facility and service providers to take appropriate steps to fully explore any accommodation request and refuse only if not mandated by the Code or if undue hardship can be demonstrated.

### 2.2 Undue Hardship

Undue hardship is a justification for management to deny an accommodation request based on the fact that the granting of the accommodation would result in serious difficulties and/or complications for the service provider. In the capacity of an employee and service provider has an obligation to assess accommodation requests to the point of undue hardship. An employer and service provider will make all reasonable and genuine efforts to accommodate the need of employees and service recipients.

The burden for proving undue hardship lies with the management assessing the request for accommodation. Undue hardship is decided on a case-by-case basis, this policy sets out three elements in assessing whether an employee and service provider can claim undue hardship: i) if there is unreasonable cost to the service provider to make the accommodation available, ii) checking prior availability of outside sources of funding, if any, to alleviate some of the costs of accommodation and iii) health and safety requirements to be waived, if any, involved with the accommodation.

## 3. Rights and Responsibilities of Employees and Service Recipients

The service recipients of the service provider have a right to information and assistance to exercise their right to accommodation and responsibility to appropriately identify and request accommodation based on *Forced Marriage*.

### 3.1 Rights to Information, Assistance and Privacy

The employer and service provider will make available to service recipients general information, brochures, forms needed to make an accommodation request. The service provider will provide appropriate assistance as per the policy and on the procedural requirements for making an accommodation request i.e. information on accommodation, assessment procedures and complaint procedures. The service provider will ensure that a copy of this Guideline/Resource, Accommodation Policy, Human Rights and Anti-Harassment Policy and copy of relevant legislations is available to employees and service recipients. The service provider will attempt to deal with accommodation requests in a timely manner. The employees and/or service recipients can seek and receive confidential and neutral advice from the department. The employees and service recipients have a right of privacy and confidentiality of accommodation requests and assessment as per privacy legislation. The service provider is required to accommodate service recipients in ways that respect their dignity and right to privacy.

### 3.2 Responsibilities to Identify and Request Accommodation

The employees and service recipients are required to clearly identify their need of accommodation and make requests in writing on the appropriate confidential forms. The service recipients may be required to give relevant evidence to support their accommodation needs and assessment of accommodations options and/or solutions. For example: the service recipient should be identified by their need of applying for an exception from *conditional permanent residence* and appropriately referred for assistance to apply for an *exception from conditional permanent residence*.



## ***4. Role of Management: Assessment and Implementation***

Upon receiving the request, the management (supervisor, manager or any other designated person in-charge), in consultation with the employees and service recipients concerned and other experts (i.e. subject matter expert, lawyer and social worker as providers by service provider's application process etc.) as necessary, should undertake the following steps:

### **4.1 Investigation**

Investigate accommodation solutions related to immigration needs of the service recipients and options regarding employees' and service recipients' requests in good faith. Explore if accommodation is legal obligation for all employees the facility and service providers under the Code and related jurisprudence. Identify various options, if available, to make the accommodation possible.

### **4.2 Assessment**

Assess the need to make accommodation available for the employees and service recipients who have made the request. The service provider is required to assess and explore all possible avenues of accommodation. Additionally, assess if the accommodation can be proactively made available through other service recipients. Further assess any costs involved for providing accommodation and analyze benefit and detriments arising from the various possible alternatives of accommodation.

In some cases, a request may involve issues beyond the expertise of the management. Accommodation policy of the service provider should require that at the time of any consultation or completing related documentation, the dignity and privacy of the service recipients making the request should not be compromised. If information about the accommodation request needs to be shared, only facts pertinent for identifying the appropriate accommodation should be shared.

### **4.3 Implementation**

Management should follow up with the requester in writing, identifying the accommodation solution, necessary details, and implementation and review period. There should be discussion-based decision on timeframes for implementation and review for appropriate screening and referral to a lawyer or immigration consultant.

Management will document each stage in the accommodation process. Efforts shall be made to adopt the accommodation preferred by the employees and service recipients. However, if there is an equally effective accommodation solution, service provider may choose to proceed with the one that is the least costly and easiest to provide.

#### 4.4 Denying Accommodation

The duty to accommodate on the basis of *Forced Marriage* does not create an endless obligation on the institution. Request of accommodation might be denied if there is insufficient evidence for the need of accommodation. If the requester does not co-operate in the assessment process in good faith, does not provide documentation requested or if the management finds contradicting evidence especially in cases where they consult a subject matter expert.

In case of denial of accommodation it shall be communicated to the requester in writing explaining the process of escalating the request to senior management and/or filing a complaint. Denial of accommodation should not impose any burden, obligations or disadvantages on the service recipients who requested accommodation.

#### 4.5 Complaint Process

If a requester for accommodation believes the request has not been handled in accordance with the Accommodation Policy, the employee or service recipient may have option of discussing with senior management in the division to review the decision, lodge a complaint to the senior management of the service provider.

#### 4.6 Interim Accommodation

It is required that if decision making on the accommodation requested takes longer than reasonable timeframe the management should make efforts to provide an interim accommodation where possible until a final decision is made.

#### 4.7 Reasonable Accommodation

In some cases if the service provider has explored all the options for accommodation and the only option available is reasonable but inconvenient, the employee or service recipient who made request for accommodation is obligated to accept that accommodation option. For example: if screening of the person coming through as an immigrant is not available, an in-house agency should make all reasonable efforts to refer the service recipient to most appropriate agency or lawyer for assistance.

## 5. Contacts

### **South Asian Legal Clinic of Ontario (SALCO)**

45 Sheppard Avenue East, Suite 106A

Toronto, ON M2N 5W9

**Tel:** 416-487-6371

**Fax:** 416-487-6456

[www.salc.on.ca/forced-marriage](http://www.salc.on.ca/forced-marriage)

## 6. Related Links – External

[www.cic.gc.ca](http://www.cic.gc.ca)

<http://www.justice.gc.ca/eng/contact/link-lien.html>

<http://www.justice.gc.ca/eng/cj-jp/yj-jj/tools-outils/index.html>

<http://www.justice.gc.ca/eng/csj-sjc/just/06.html>

## 7. Relevant Legislation

### **Citizenship Act**

<http://laws.justice.gc.ca/eng/acts/C-29/>

### **Department of Citizenship and Immigration Act**

<http://laws.justice.gc.ca/eng/acts/C-29.4/>

### **Immigration and Refugee Protection Act**

<http://laws.justice.gc.ca/eng/acts/i-2.5/>

### **Canadian Charter of Rights and Freedoms**

<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

### **Canadian Human Rights Act**

<http://laws-lois.justice.gc.ca/eng/acts/h-6/>

### **Universal Declaration of Human Rights.**

<http://www.un.org/en/universal-declaration-human-rights/index.html>

# *Canada (Federal) Policy*

## *1. How to Use This Policy Recommendation*

This document contains SALCO's recommendations on forced marriage as it intersects with matters of federal jurisdiction. Portions of this document can be incorporated into your own agency's policy work.

## *2. What is Forced Marriage*

The definition of Forced Marriage as drafted by the Forced Marriage Project at the South Asian Legal Clinic of Ontario (SALCO) in partnership with Network of Agencies Against Forced marriages (NAAFM) is:

*"A forced marriage is a form of violence and an abuse of human rights. It is a practice in which a marriage takes place without the free consent of the individuals getting married. Forced marriage can happen to anyone; of any gender, of any age."*

This definition has been drafted with discussion and consultations with community advisory and experts in the field of Forced Marriage. In addition to the definition it is emphasized that, **forced marriages are not the same as arranged marriages**. In an arranged marriage, whilst family members match the couple to be married, both parties have a choice as to whether or not to agree with the marriage.

Forced marriage is sometimes interpreted as a religious practice, but it cannot be justified on religious grounds: every major faith condemns it and freely given consent is a prerequisite of Christian, Jewish, Hindu, Muslim and Sikh marriages. Forced marriage is not an issue that is specific to any religion, ethnic group or culture. Forced marriage occurs in many different communities and types of families.

## *3. Key Statistics on Forced Marriage*

Thirty agencies have reported serving 219 forced marriage cases since January of 2010. The vast majority of the agencies that responded were located in Ontario and 2 agencies were located in Quebec. The surveys were completed for both confirmed and suspected cases. The inclusion of suspected cases was important since majority of the agencies do not have a definition of forced marriage and the front line workers are assisting these individuals regardless of the organization's mandate. The clients who do not label themselves as being forced into a marriage (but do meet the criteria) can also be captured in suspected cases, portraying a more accurate picture of the issue. The survey data shows that the respondents dealt with 69 forced marriage cases in 2010, 64 cases in 2011 and 77 cases in 2012<sup>1</sup>.

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<sup>1</sup> 9 surveys did not provide the year of intake but were included in the study as the respondents were asked to include forced marriage cases they had encountered since January 2010.

According to the results, although there is a small increase in the reported cases in 2012, the minor increase indicates that while awareness on the issue and service provider's ability to recognize forced marriage may be on the rise, it has been gradual.

## 4. Points to Consider

The Forced Marriage Project at SALCO denounces the threat of forced, non-consensual marriage, and has committed to the following principles since 2007<sup>2</sup>:

- To identify strategies to promote the safety, security, and right to freely choose marriage of all individuals, with particular attention to children and youth, in all contexts including the family, school, religious and cultural communities.
- To recommend public policy options and procedural mechanisms that ensure the rights of individuals to safety, security and the freedom to choose marriage are protected.

SALCO is a poverty legal clinic and our work in the field of Forced Marriages is rooted in the realities of marginalization and racism that our communities and clients face. SALCO's approach towards policy framework to assist victims of forced marriages needs to be rooted in the human rights framework and we believe that;

- *Whereas all individuals have fundamental human rights, including the right to safety and security;*
- *Whereas all individuals have the right to freely choose marriage and a spouse;*
- *Whereas children and youth require a positive environment in which to mature, and a positive relationship with their parents, in order to make healthy decisions about their lives;*
- *Whereas children and youth lack the freedom to make decisions that contradict the will of their parents and are, therefore, especially vulnerable to actions that may not be in their best interest<sup>3</sup>*

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<sup>2</sup> Deepa Mattoo, OCASI Conference, May 2007:  
[http://atwork.settlement.org/downloads/atwork/D2\\_Forced\\_Marriages.pdf](http://atwork.settlement.org/downloads/atwork/D2_Forced_Marriages.pdf)

<sup>3</sup> <http://salc.on.ca/Documents/FM/SAL0100%20Toolkit.pdf>

## 5. Federal Structures Identified for Policy Recommendation

The federal public departments and agencies and the policy initiatives that impact the lives of Forced marriage Victims Canada are the 15 partnership organizations that comprise the Family Violence Initiative (FVI).

The FVI is led by the Public Health Agency of Canada on behalf of 15 partner departments, agencies and crown corporations, with the goal of reducing family violence in Canada. The Government of Canada provides funding to support and complement activities across eight member departments: Public Health Agency of Canada, Canada Mortgage and Housing Corporation, Immigration, Refugee, and Citizenship Canada, Department of Justice Canada, Department of Canadian Heritage, Royal Canadian Mounted Police, Statistics Canada and Status of Women Canada. Other departments, Indian and Northern Affairs Canada, Health Canada, Human Resources and Skills Development Canada, Correctional Service of Canada, Public Safety Canada, Service Canada and the Department of National Defense also address family violence issues.

The FVI manages the National Clearinghouse on Family Violence, an information hub on violence within the family.

## 6. Area for Policy Recommendations

We have identified Citizenship and Immigration Canada, Public health Agency of Canada, Department of Justice from the Family Violence Initiative (FVI) where recommendations are necessary and have correspondingly created template policies for agencies that provide services for Immigration and Settlement and Health Services. In addition, we have identified Department of Foreign Affairs, International Trade and Development and their initiative for vulnerable children and early and child marriage that directly impact the victims of Forced marriages.

## 7. Key Policy Recommendations

1. That all the definitions used for victims of abuse include *Forced Marriage* as a form of abuse and “*Screening of Abuse*” should be extended to them with appropriate “*Risk Assessment*”, “*Counselling*” and “*Support*”.
2. That all public health care providers recognize that issues of abuse such as emotional, physical or sexual health concerns stemming from a Forced Marriage incidents are issues of “*Primary Health Concern*”. Under this policy, a person who has experienced a threat of *Forced Marriage* or *Forced Marriage* abused can request to be screened for abuse, referral for appropriate assessment and any other accommodations as extended to victims of abuse.

3. That all victims/survivors of *Forced Marriages* with precarious or conditional immigration status need specialized services and accommodations within Immigration and Refugee Protection Regulations.
4. That the definition of forced marriages is adopted in regulation as per Operational Bulletin (OB) 480 for operational guidance to Citizenship and Immigration Canada (CIC) and the Canada Border Services Agency (CBSA) for Forced marriages for Conditional Permanent Residence should be extended for “Gender Persecution” and “Humanitarian and Compassionate Grounds Application for Permanent Residence”.
5. That CBSA Officers should be given specialized and sensitive “*confidentiality*” training for Forced marriage cases especially in “screening of “*conditional permanent resident status*”, “sponsorship undertaking” and “sponsorship ban”.
6. That forced marriage victims should be exempted from “sponsorship undertaking” and “sponsorship ban”.
7. That Forced Marriage victims should have a category to apply for “Temporary Resident visa” and “Permanent Residence on Humanitarian and Compassionate Ground” on the basis of Gender Violence experienced by them in conjunction with appropriate Immigration Regulations and Policies.
8. That the Department of Foreign Affairs International Trade and Development Canada’s Vulnerable Unit that is responsible for the assistance to victims who face threat or possibility of Forced Marriages abroad, provide uniform assistance through their consular services abroad.
9. That for all the cases of forced marriage abroad dealt by Department of Foreign Affairs International Trade and Development, they allocate and request supervision to a respective office according to the geographic region where the victim is located should the situation include a component of “Safe Landing” when victims are repatriated to Canada.
10. That Federal initiatives such as FVI organize Federal/ Provincial and Territorial Forums to tackle the issue of Forced marriages in a more collaborative way.

## 8. Key Theme

Forced marriage victims need collaborative assistance from government institutions and social service agencies at the federal, provincial and municipal levels. It is important to look at the policy changes in conjunction with legislative changes, regulatory policies and human right accommodations in order to support the client in meeting their needs.

## 9. Contacts

### **South Asian Legal Clinic of Ontario (SALCO)**

45 Sheppard Avenue East, Suite 106A

Toronto, ON M2N 5W9

**Tel:** 416-487-6371

**Fax:** 416-487-6456

[www.salc.on.ca/forced-marriage](http://www.salc.on.ca/forced-marriage)

## 10. Related Links – External

<http://www.justice.gc.ca/eng/contact/link-lien.html>

<http://www.justice.gc.ca/eng/cj-jp/yj-jj/tools-outils/index.html>

<http://www.justice.gc.ca/eng/csj-sjc/just/06.html>

## 11. Relevant Legislation

### **Canadian Charter of Rights and Freedoms**

<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

### **Canadian Human Rights Act**

<http://laws-lois.justice.gc.ca/eng/acts/h-6/>

### **Universal Declaration of Human Rights.**

<http://www.un.org/en/universal-declaration-human-rights/index.html>



# Ontario (Provincial) Policy

## 1. How to Use This Policy Recommendation

This document contains SALCO's recommendations on forced marriage as it intersects with matters of provincial jurisdiction. Portions of this document can be incorporated into your own agency's policy work.

## 2. What is Forced Marriage

The definition of Forced Marriage as drafted by the Forced Marriage Project at the South Asian Legal Clinic of Ontario (SALCO) in partnership with Network of Agencies Against Forced marriages (NAAFM) is:

*"A forced marriage is a form of violence and an abuse of human rights. It is a practice in which a marriage takes place without the free consent of the individuals getting married. Forced marriage can happen to anyone; of any gender, of any age."*

This definition has been drafted with discussion and consultations with community advisory and experts in the field of Forced Marriage. In addition to the definition it is emphasized that, **forced marriages are not the same as arranged marriages**. In an arranged marriage, whilst family members match the couple to be married, both parties have a choice as to whether or not to agree with the marriage.

Forced marriage is sometimes interpreted as a religious practice, but it cannot be justified on religious grounds: every major faith condemns it and freely given consent is a prerequisite of Christian, Jewish, Hindu, Muslim and Sikh marriages. Forced marriage is not an issue that is specific to any religion, ethnic group or culture. Forced marriage occurs in many different communities and types of families.

## 3. Key Statistics on Forced Marriage

Thirty agencies have reported serving 219 forced marriage cases since January of 2010. The vast majority of the agencies that responded were located in Ontario and 2 agencies were located in Quebec. The surveys were completed for both confirmed and suspected cases. The inclusion of suspected cases was important since majority of the agencies do not have a definition of forced marriage and the front line workers are assisting these individuals regardless of the organization's mandate. The clients who do not label themselves as being forced into a marriage (but do meet the criteria) can also be captured in suspected cases, portraying a more accurate picture of the issue. The survey data shows that the respondents dealt with 69 forced marriage cases in 2010, 64 cases in 2011 and 77 cases in 2012<sup>1</sup>.

<sup>1</sup> 9 surveys did not provide the year of intake but were included in the study as the respondents were asked to include forced marriage cases they had encountered since January 2010.

According to the results, although there is a small increase in the reported cases in 2012, the minor increase indicates that while awareness on the issue and service provider's ability to recognize forced marriage may be on the rise, it has been gradual.

## 4. Points to Consider

The Forced Marriage Project at SALCO denounces the threat of forced, non-consensual marriage, and has committed to the following principles since 2007<sup>2</sup>:

- To identify strategies to promote the safety, security, and right to freely choose marriage of all individuals, with particular attention to children and youth, in all contexts including the family, school, religious and cultural communities.
- To recommend public policy options and procedural mechanisms that ensure the rights of individuals to safety, security and the freedom to choose marriage are protected.

SALCO is a poverty legal clinic and our work in the field of Forced Marriages is rooted in the realities of marginalization and racism that our communities and clients face. SALCO's approach towards policy framework to assist victims of forced marriages needs to be rooted in the human rights framework and we believe that;

- *Whereas all individuals have fundamental human rights, including the right to safety and security;*
- *Whereas all individuals have the right to freely choose marriage and a spouse;*
- *Whereas children and youth require a positive environment in which to mature, and a positive relationship with their parents, in order to make healthy decisions about their lives;*
- *Whereas children and youth lack the freedom to make decisions that contradict the will of their parents and are, therefore, especially vulnerable to actions that may not be in their best interest<sup>3</sup>*

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<sup>2</sup> Deepa Mattoo, OCASI Conference, May 2007:  
[http://atwork.settlement.org/downloads/atwork/D2\\_Forcible\\_Marriages.pdf](http://atwork.settlement.org/downloads/atwork/D2_Forcible_Marriages.pdf)

<sup>3</sup> <http://salc.on.ca/Documents/FM/SAL0100%20Toolkit.pdf>

## 5. Ontario Structures Identified for Policy Recommendation

The provincial public departments, agencies and policy initiatives that impact the lives of Forced Marriage Victims in Canada include the Ontario Women's Directorate, Ministry of Attorney General, Ministry of Community and Social Services, Ministry of children and youth Services of Ontario and the Ministry of Municipal Affairs and Housing. Many agencies in Ontario espouse a commitment to respond to and eliminate woman abuse. Some agencies have well-established programs with a long history of responding to diverse forms of abuse including Forced marriages. Other agencies have newer programs. The responses to women who are affected by violence, however, varies, both within and across sectors. The responses tend to shift and vary based on a plethora of factors in the victim's life such as their income level, immigration status, language and place of residence.

## 6. Area for Policy Recommendations

We have identified that recommendations are necessary for Ontario Women's Directorate, Ministry of Attorney General, Ministry of Community and Social Services, Ministry of Municipal Affairs and Housing. We correspondingly have created template policies for agencies that provide services for Immigration and Settlement and Health Services. In addition, we have identified the Department of Foreign Affairs and International Trade and Development and their initiative for vulnerable children and early and child marriage that directly impact the victims of Forced marriages as important to these recommendations.

## 7. Key Policy Recommendations

1. All the definitions used for victims of abuse should include *Forced Marriage* as a form of abuse and "*Screening of Abuse*" should be extended to them with appropriate "*Risk Assessment*", "*Counselling*" and "*Support*".
2. All social workers and frontline workers at Ministry of Community and Social Services and Ministry of Municipal Affairs and Housing recognize that issues of abuse such as emotional, physical or sexual health that stem from a Forced Marriage incident are issues of "*Abuse*." Under this policy, a person who has experienced a threat of *Forced Marriage* or *Forced Marriage* abuse can request to be screened for abuse, receive a referral for appropriate assessment and any other accommodations as extended to victims of abuse.
3. All victims/survivors of *Forced Marriages* will be considered for the "Special Priority Policy" that provides priority access to social housing. The definition of Victims of abuse should include *Forced Marriage* as a form of abuse and "*Special Priority*" should be extended to them.

4. Front line workers at Legal Aid Ontario, a legal service agency funded by Ministry of Attorney General, will all be trained for screening Forced Marriages as an issue of abuse. Legal Aid certificates for the services for women facing abuse will be extended to victims of Forced marriages.
5. Police Officers at all Ontario police services should be given specialized and sensitive “confidentiality” training for Forced marriage cases.
6. Front-line workers in health, education, justice and community services are trained to improve responses to victims of Forced Marriages.
7. Education and training for crown attorneys and police services so that victims of Forced Marriages are served appropriately and more attention is given to survivor needs.
8. Training materials teachers and education sectors for youth to help them understand the nature of Forced marriages with prevention focus.
9. Long-term housing, income support and mental health services available to all victims of Forced marriages.

## *8. Key Theme*

Forced marriage victims need collaborative assistance from government institutions and social service agencies at federal, provincial and municipal levels. It is important to look at the policy changes in conjunction with legislative changes, regulatory policies and human right accommodations in order to support the client in meeting their needs.

## *9. Contacts*

### **South Asian Legal Clinic of Ontario (SALCO)**

45 Sheppard Avenue East, Suite 106A

Toronto, ON M2N 5W9

**Tel:** 416-487-6371

**Fax:** 416-487-6456

[www.salco.on.ca/forced-marriage](http://www.salco.on.ca/forced-marriage)

## ***10. Related Links – External***

<http://www.women.gov.on.ca/english/>

<http://www.justice.gc.ca/eng/contact/link-lien.html>

<http://www.justice.gc.ca/eng/cj-jp/yj-jj/tools-outils/index.html>

<http://www.justice.gc.ca/eng/csj-sjc/just/06.html>

## ***11. Relevant Legislation***

### **Housing Services Act**

<https://www.ontario.ca/laws/statute/11h06>

### **Canadian Charter of Rights and Freedoms**

<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

### **Canadian Human Rights Act**

<http://laws-lois.justice.gc.ca/eng/acts/h-6/>

### **Universal Declaration of Human Rights.**

<http://www.un.org/en/universal-declaration-human-rights/index.html>

A decorative graphic consisting of a large, stylized, abstract shape made of orange dots. The dots are arranged in a way that creates a sense of depth and movement, with some dots being larger and more prominent than others. The shape is composed of several curved lines that meet at the top and bottom, forming a large, open, and somewhat irregular frame.

# **SECTION 9: RESOURCE LIST**

# Resource List

It is very unlikely that any single agency will be able to meet all the needs of a person who is at risk of being forced into marriage, or is actually forced into marriage. Instead, it is essential to use a multi-agency approach.

**[www.salc.on.ca/forced-marriage](http://www.salc.on.ca/forced-marriage)** is set up to be a primary source of information on seeking help around the issue of forced marriages. It has an updated list of 'Network of Agencies Against Forced Marriages,' community partners that have experience and knowledge to help you.

The Network of Agencies Against Forced Marriages

(NAAFM) includes a range of committed community partners, who are equipped to further address the issues surrounding a threat of or a forced marriage.

This resource list is updated monthly at  
**[www.salc.on.ca/forced-marriage](http://www.salc.on.ca/forced-marriage)**

## *Below is a list of current (May 2016) NAAFM members:*

### **Access Alliance Multicultural Community and Health Services**

Programs and services for immigrants and refugees Multiple locations in GTA  
340 College Street, Toronto (416) 324-8677  
[www.accessalliance.ca](http://www.accessalliance.ca)

### **Agincourt Community Services**

Address needs of children, youth, seniors, newcomers & underserved communities  
4155 Sheppard Avenue East, Suite 100, Toronto (416) 762-8798  
[stopforcedmarriage@gmail.com](mailto:stopforcedmarriage@gmail.com)  
[www.agincourtcommunityservices.com](http://www.agincourtcommunityservices.com)

### **Bloor Information and Life Skills Centre**

Immigration, settlement and counselling services  
672 Dupont Street, Suite 314, Toronto  
(416) 531-4613  
[www.bloorinfo.org](http://www.bloorinfo.org)

### **Council of Agencies Serving South Asians**

Resource for information, research, mobilization & coordination on social justice  
2401 Eglinton Avenue East, Suite 212, Toronto  
(416) 932-1359  
[www.cassa.on.ca](http://www.cassa.on.ca)

### **India Rainbow Community Services of Peel**

Settlement, health, education and social services  
Locations throughout Peel Region  
(905) 275 2369  
[www.indiarainbow.org](http://www.indiarainbow.org)

### **Justice for Children and Youth**

Legal support for age 17 and under  
415 Yonge Street, Suite 1203, Toronto  
(416) 920-1633  
[www.jfcy.org](http://www.jfcy.org)

### **Midaynta Community Services**

Settlement and counselling services  
1992 Yonge Street, Suite 203, Toronto  
(416) 544-1992  
[www.midaynta.com](http://www.midaynta.com)

### **Newcomer Support Services Toronto**

Settlement services for women  
745 Danforth Avenue, Suite 401, Toronto  
(416) 469-0196  
[www.newcomerwomen.org](http://www.newcomerwomen.org)



**South Asian Legal Clinic of Ontario**

Advice, services, and legal representation to low- income South Asians  
45 Sheppard Avenue East, Suite 106A  
(416) 487-6371  
[www.salc.on.ca](http://www.salc.on.ca)

**The Alternative for Her Community Centre (TAFHCC)**

Recreational programs and culturally sensitive social services  
2975 Don Mills Road, North York (by appointment)  
(416) 949-7411  
<http://thealternativeforher.tripod.com>

**The Alliance for South Asian AIDS Prevention (ASAAP)**

Health promotion, support and advocacy for South Asians affected by HIV/AIDS  
20 Carlton Street, Suite M126, Toronto  
(416) 599-2727  
[www.asaap.ca](http://www.asaap.ca)

**The Arab Community Centre of Toronto (ACCT)**

Settlement and integration services  
5 locations across the Greater Toronto Area  
(416) 231-7746  
[www.arabcommunitycentre.com](http://www.arabcommunitycentre.com)

**Thorncliffe Neighbourhood Office (TNO)**

Settlement, employment and counselling services  
45 Overlea Boulevard, Unit 108A, Toronto  
(416) 421- 8997  
[www.thorncliffe.org](http://www.thorncliffe.org)

**Toronto Community Housing Corporation**

Social housing provider  
(416) 898-2640  
[www.torontohousing.ca](http://www.torontohousing.ca)

**Toronto Police Service**

Policing, safety and criminal justice  
40 College Street, Toronto (Head Office)  
(416) 808-7041  
[www.torontopolice.on.ca](http://www.torontopolice.on.ca)

**Women's Health in Women's Hands**

Inclusive healthcare services for women  
2 Carlton Street, Suite 500, Toronto  
(416) 263-4889  
[www.whiwh.com](http://www.whiwh.com)

*Would your agency like  
to join NAAFM?*

Contact SALCO at  
[www.salc.on.ca/forced-marriage](http://www.salc.on.ca/forced-marriage)

## 24-hour Emergency Contacts:

### **Emergency**

911

### **Community Connection**

211

[www.211toronto.ca](http://www.211toronto.ca)

### **Ontario Victims Support Referral Line**

1-888-579-2888

416-314-2447 (Toronto)

### **Distress Centres of Ontario**

[www.dcontario.org](http://www.dcontario.org)

### **Distress Centres of Toronto**

[www.torontodistresscentre.com](http://www.torontodistresscentre.com)

416-408-HELP (4357)

Toronto: 416-408-0007 (TTY)

### **Assaulted Women's Helpline**

1-866-863-0511

416-863-0511 (GTA)

1-866-863-7868 (TTY)

#SAFE (#7233) (cell)

[www.awhl.org](http://www.awhl.org)

### **Femaide (Francophone phone line)**

1-877-336-2433

1-866-860-7082 (TTY)

### **Kids Help Phone**

1-800-668-6868

[www.kidshelpphone.ca](http://www.kidshelpphone.ca)

### **Ontario Association of Children's Aid Societies**

[www.oacas.org](http://www.oacas.org)

### **Children's Aid Society of Toronto**

416-924 4646

[www.torontocas.ca](http://www.torontocas.ca)

### **Telehealth Ontario**

1-866-797-0000

1-866-797-0007 (TTY)

## Community Resources

Community Resources vary for location to location. For more assistance please contact the South Asian Legal Clinic of Ontario:

### **South Asian Legal Clinic of Ontario (SALCO)**

416-837-6371  
[www.salc.on.ca](http://www.salc.on.ca)

## Other Resources:

### **Ontario Council of Agencies Serving Immigrants (OCASI)**

Training Manual: "Family Violence against Immigrant & Refugee Women: Community Development Strategies."

This training is intended for immigrant service and other community-based organizations that are in a unique capacity to reach vulnerable and/ or isolated immigrant women and their communities. It addresses the need to enhance domestic violence prevention strategies to reach immigrant and refugee women, including women without legal immigration status, trafficked women and women from racialized low-income communities.

<http://www.ocasi.org/index.php?catid=180>

### **Ontario Women's Health Network**

Database features over 50 different topic areas that range from women's services for breast cancer, menopause and depression to violence, self-help and anti-poverty initiatives.

<http://www.owhn.on.ca/directory.htm>

### **Toronto Community Services Guide for Non-Status Persons**

[http://www.settlement.org/downloads/atwork/Community\\_Social\\_Planning\\_Council-Guide\\_to\\_Services\\_for\\_Non-Status.pdf](http://www.settlement.org/downloads/atwork/Community_Social_Planning_Council-Guide_to_Services_for_Non-Status.pdf)

### **Ontario Women's Justice Network**

- An online legal resource for women's organizations and individuals working on issues related to justice and violence against women and children.
- OWJN's mandate is to demystify the legal system. To this end, they examine various justice issues, such as sexual assault and partner abuse.
- OWJN provides such legal information as a glossary of legal terms, fact sheets, and commentary on laws and court cases pertaining to women's experiences.

<http://www.owjn.org>

### **Sexual Assault Support Centres in Ontario**

Also refer to local contact information for police departments, hospitals, counselling services, legal representation, etc.

<http://www.ocrcc.ca/centres.html>

## ***International Resources***

### **Forced Marriage Unit (FMU):**

020 7008 1500

+44 20 7008 1500 (from abroad) (24-hours line)

<http://www.fco.gov.uk/en/travel-and-living-abroad/when-things-go-wrong/forced-marriage/>

### **Forced Marriage Awareness:**

[www.forcedmarriage.nhs.uk](http://www.forcedmarriage.nhs.uk)

[www.forcedmarriage.net](http://www.forcedmarriage.net)

### **Honour Crimes Directory (developed by CIMEL and INTERIGHTS)**

A comprehensive list of local NGOs has been created through a project in United Kingdom called “Strategies to Address ‘Crimes of Honour’”, a joint project between CIMEL (the Centre of Islamic and Middle Eastern Law) and INTERIGHTS (the International Centre for the Legal Protection of Human Rights). This ‘Honour Crimes Directory’ is available at <http://www.soas.ac.uk/honourcrimes/directory/>



# APPENDICES

# Appendix 1

## Emergency Contacts

- **Email:** [sos@international.gc.ca](mailto:sos@international.gc.ca)
- **Telephone:**
  - **From inside Canada**  
613-996-8885 (Ottawa)  
1-800-387-3124 (toll-free from the U.S. and Canada only)
  - **From outside Canada**  
Call the nearest embassy, consulate or high commission  
<http://travel.gc.ca/assistance/embassies-consulates>  
+1 613-996-8885 (call collect where available)

## Canada's Consular Services

- Network of over 260 Canadian embassies, high commissions, consulates and honorary consulates in 180 countries. <http://travel.gc.ca/assistance/embassies-consulates>
- Consular officers, based both in Canada and abroad, assist thousands of Canadians each year, in crisis situations ranging from stolen passports to parental child abductions.
- Consular assistance 24 hours a day, seven days a week, through the Emergency Watch and Response Centre.
  - [sos@international.gc.ca](mailto:sos@international.gc.ca)
  - 1-800-387-3124 (toll-free from the U.S. and Canada only)
- Travel.gc.ca website - Government of Canada's official one-stop-shop for comprehensive international travel information. New Travel Smart mobile app also available.

## Vulnerable Children's Consular Unit

- The Vulnerable Children's Consular Unit (VCCU) was created in 2013 to address the increasing number of complex children's consular cases and develop specialized policies for our consular officers abroad encountering these cases.
- Cases involving children are usually more complex and time consuming; typical cases involve parental abductions; custody issues; abduction prevention information; child welfare and protection; forced marriages (at any age).
- As of December 2015, Global Affairs Canada was handling at least 2000 active consular cases involving children and family distress. The majority of cases involve child protection and abduction issues.

## From Canada's Department of Justice Website:

- <http://justice.gc.ca/eng/fund-fina/cj-jp/fund-fond/abroad-etranger.html>

## *Appendix 2: Financial Assistance for Canadians Victimized Abroad*

### **Overview**

The Federal Victims Strategy consolidates all federal government work related to victims of crime into one objective: to give victims a more effective voice in the criminal justice system.

The Victims Fund provides grants and contributions to support projects and activities that encourage the development of new approaches, promote access to justice, improve the capacity of service providers, foster the establishment of referral networks, and/or increase awareness of services available to victims of crime and their families. The Fund does not provide criminal injuries compensation for victims of crime.

### **Who is eligible?**

Canadians who have been the victim of a serious violent crime in a foreign country may be eligible for financial assistance through the Victims Fund. As of April 1, 2007, financial assistance is available to individual Canadians who are victims of specified serious violent crimes in a foreign jurisdiction for serious situations of undue hardship where no other source of financial assistance is available.

### **Who can apply for this funding?**

Any Canadian may apply to the Victims Fund for financial assistance if he or she is:

- the victim of a serious violent crime in a foreign jurisdiction;
- a family member of a victim who is dead, ill or incapacitated due to their victimization in a foreign jurisdiction
- in the case of a child, a parent or the person responsible for the care and support of the child.

Financial assistance may be available in the case of the following crimes committed in a foreign jurisdiction:

- Homicide
- Sexual assault
- Aggravated assault
- Assault with serious personal violence, including against a child.

### **Objectives**

The objectives of the Victims Fund are to:

- promote access to justice and participation by victims in the justice system;
- promote the development of law, policies and programs for victims;
- promote the implementation of principles, guidelines and laws designed to address the needs of victims of crime and articulate the victim's role in the criminal justice system;
- increase knowledge and awareness of the impact of victimization, the needs of victims of crime, available services, assistance and programs, and relevant legislation;

- encourage governmental and non-governmental organizations to identify victim needs and gaps in services, and develop and deliver programs, services and assistance to victims; and,
- promote capacity-building within non-governmental organizations.

## Financial Assistance

The Victims Fund may help cover the following expenses where the victim has no other source of financial assistance:

- travel expenses to return to the country where the crime occurred in order to attend the preliminary hearing and/or the trial or equivalent process;
- travel expenses to return to the country where the crime occurred in order to testify at the preliminary hearing and/or trial if the host country is unwilling or unable to pay;
- travel expenses for a support person to be with a Canadian victimized abroad, during the immediate aftermath of the crime;
- expenses for a Canadian victim of crime to return to Canada.

The Victims Fund may help cover the following types of expenses where the victim has no other source of financial assistance, up to a maximum of \$10,000:

- Hospital and medical expenses due to being victimized;
- Expenses to replace stolen official documents;
- Upon return to Canada, financial assistance for professional counselling;
- Funeral expenses if the crime resulted in the death of the victim; and/or
- out-of-pocket expenses due to being a victim of a violent crime.

Canadians are also eligible to receive consular services while outside of Canada through the Department of Foreign Affairs Canada. To find out the nearest Canadian embassy or consulate visit:

- <http://travel.gc.ca/assistance/embassies>

## Points to Consider

### ***What expenses are not covered by the Victims Fund?***

The Victims Fund does not cover:

- expenses covered by the applicant's medical insurance or travel insurance;
- lost wages;
- compensation costs;
- legal fees;
- losses incurred due to the victim's own criminal behaviour; or,
- expenses incurred for crimes that took place before April 1, 2007.



## How to Apply for Funding

### ***Step 1: Report the crime to the Canadian Embassy or Consulate***

A Canadian who becomes a victim of a serious violent crime in a foreign jurisdiction should immediately attempt to report the crime to the local Canadian Embassy or Consulate. The primary concern of the Embassy or Consulate staff is the victim's personal and physical safety. Consular staff can assist with arranging help in a medical emergency; provide guidance on sources of information about local laws and regulations; contact next of kin, where authorized, in the event of an accident or death; and request that local authorities investigate suspicious circumstances in the event of an alleged or apparent crime or death. Consular staff should notify the Victims Fund Manager that a victim may be applying for financial assistance.

### ***Step 2: Contact local police***

If possible, a Canadian victimized abroad should contact local police to report the incident and obtain immediate help with safety concerns. It is a good idea to request a copy of the police report. The police report serves a number of purposes. It may provide the victim with contact information, and it may be required for insurance purposes at a later date or for provincial compensation for criminal injuries.

A copy of the police report, where available, should accompany the Application for Financial Assistance from the Victims Fund.

### ***Step 3: Apply to the Department of Justice for Financial Assistance***

A Canadian victimized abroad may apply for funding by completing the Application Form.

The application form may also be obtained by contacting the Victims Fund Manager:


- By phone at: 1-888-606-5111
- By email at: [Victims-Abroad-Fund-Manager@justice.gc.ca](mailto:Victims-Abroad-Fund-Manager@justice.gc.ca)
- By Fax at: (613) 941-2269
- By writing at:  
Victims Fund Manager  
Department of Justice  
Programs Branch  
284 Wellington Street, 6th Floor  
Ottawa, Ontario K1A 0H8

Applications may be sent electronically, by fax or by mail.

Applications are reviewed for completeness and eligibility for funding. Decisions on the eligibility of an applicant and the amount of funding are made as soon as possible after a properly completed application is received. Applicants are advised by letter of the decision, including confirmation of the expenses that will be covered.

## Appendix 3

This document may not be fully accessible. For an accessible version, please visit [Registration of Canadians Abroad](#).



Government  
of Canada



Gouvernement  
du Canada



### Registration of Canadians Abroad

Sign up for the Registration of Canadians Abroad service before you leave Canada or while you are abroad.

**Registration enables the Government of Canada to contact and assist you in case of an emergency abroad or a personal emergency at home.**

**This service is:**

- free
- fast
- confidential
- mobile-friendly

**For more information**  
**[travel.gc.ca/register](https://travel.gc.ca/register)**  
+1 613 944 6788

### Inscription des Canadiens à l'étranger

Utilisez notre service d'Inscription des Canadiens à l'étranger avant de quitter le Canada ou pendant votre séjour à l'étranger.

**Votre inscription permet au gouvernement du Canada de prendre contact avec vous et de vous aider en cas d'urgence à l'étranger ou d'urgence personnelle à la maison.**

**Ce service est :**

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- rapide
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- accessible au moyen d'appareils mobiles

**Pour de plus amples renseignements**  
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+1 613 944 6788



Download the *Travel Smart* app at  
**[travel.gc.ca/mobile](https://travel.gc.ca/mobile)**

Téléchargez notre application *Bon Voyage* à  
**[voyage.gc.ca/mobile](https://voyage.gc.ca/mobile)**

A decorative graphic consisting of a large, stylized, abstract shape made of orange dots. The shape is composed of several curved lines of dots that sweep across the upper half of the page. The dots are arranged in a way that creates a sense of movement and depth. The color is a vibrant orange.

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