National Domestic and Family Violence Bench Book

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Forced marriage - Key Literature

Australia

Burn, Jennifer and Simmons, Frances, '*Without consent: forced marriage in Australia'* (2012) 36(3) Melbourne University Law Review 970.

This article pre-dates changes to Commonwealth legislation specifically criminalising forced marriage. The authors review the challenges involved in defining forced marriage and the degree to which the practice overlaps with other forms of exploitative conduct such as servitude and slavery and its potential to be included as a domestic and family violence behaviour.

Love, H., Dank, M., Esthappan, S., & Zweig, J. (2019) *Navigating an Unclear Terrain: Challenges in Recognizing, Naming, and Accessing Services for "Forced Marriage."* **Violence Against Women, 25(9), 1138–1159.**

In exploring the nature of forced marriages and filling the gap in existing research related to the practice in the United States, the study sought to answer the following questions: (1) what factors put an individual at risk of forced marriage; (2) how do social norms influence and support the practice of forced marriage; (3) how do people forced marriages are imposed on seek help; and (4) how are service providers and justice system stakeholders responding to cases of forced marriage. To answer these questions, interviews were conducted with 24 members of the South Asian community in the Washington, DC metropolitan area who had experienced forced marriage either directly or knew someone who had. Eleven of these interviewees had first-hand experiences with the practice (these participants will be referred to as 'respondents'). Fifteen relevant stakeholders such as service providers, counsellors and religious leaders were also interviewed.

The study provided that the existing – although limited - literature exploring the practice of forced marriage has found that the parties the marriages are imposed upon face several barriers when trying to access help. The interviews conducted during the study supported these findings. The main barriers identified were: lack of awareness of services; difficulties in disclosing forced marriage, especially to professionals; and inadequate service provision options offered to people who experience forced marriage

Respondents' Experiences

Most participants provided that they had very limited access to information about services for forced marriage and/or associated rights or were unaware that they existed altogether. "In some cases, respondents' unawareness of services was compounded by the fact that the term 'forced marriage' did not fit their understanding of their experience" (1147). Counsellors and other service providers reported a similar reluctance to use the term. When respondents were aware of forced marriage services, they reported that they were often reluctant to access them due to the "stigma associated with intimate violence and with disclosing details of one's personal life to others" (1148). Stakeholders provided that in addition to this stigma, power and gender dynamics within clients' families or fear of family members being subjected to criminal ramifications also acted as barriers to respondents seeking help.

Most of the participants "agreed that responding to forced marriage is more complex than arresting those who are 'forcing' the marriage" (1150). In fact, many respondents were reluctant to engage in exit strategies that required them to be separated from family members despite the fears of service providers that remaining with or returning to family would allow respondents to be subjected to coercion again. Instead, respondents believed that either nuanced policy responses or "services aimed at addressing he structural causes that facilitate power imbalances and victimisation within relationships, rather than services narrowed to focus on a specific crime or instance of abuse" would be more effective (1150).

Stakeholders' Experiences

Stakeholders reported that they faced several barriers while trying to deliver services to clients. The three most common were: inconsistent organisational understandings of forced marriage; the lack of standardised methods for identifying clients; and the unmet need for cultural competency. Most stakeholders reported that their organisations did not have a working definition of forced marriage and that they personally only have very limited exposure to forced marriage cases.

When stakeholders did claim to understand the concept, there were large inconsistencies between their definitions. For example, some stakeholders described cases of forced marriage as falling "along a spectrum of coercion in which their clients faced pressure but did not view themselves as victims of force" while others thought of the concept as a form of gender-based violence. The article provided that these inconsistencies "hold tangible ramifications for the quality of services clients receive" and were indicative of the need for increased training. The article also noted that Along with these inconsistencies, "[s]ervice providers also differed in their methods for screening and identifying clients" (1152).

Lyneham, Samantha and Samantha Bricknell, *When saying no is not an option: Forced marriage in Australia and New Zealand* **(Australian Institute of Criminology Research Report No. 11 June 2018).**

Report abstract:

Australia is one of a small number of countries to criminalise forced marriage, introduced into the Criminal Code 1995 in 2013 as a slavery-like practice. However, unlike other nations where forced marriage is a criminal offence, there has been little formal examination of the nature and context of forced marriage in Australia and the consequences (positive and negative) of criminalising this practice.

This report uses interviews with victim/survivors of forced marriage, community members and government and non-government stakeholders in Australia and New Zealand (where forced marriage is not criminalised) to describe the perceptions and realities of forced marriage, including the circumstances of the marriage, experiences of victim/survivors while married and their help-seeking behaviours, and post-marriage support and consequences. It also examines the course of intervention adopted in Australia to respond to forced marriage and the cultural challenges to these interventions.

McGuire, Magdalena, *'The Right to Refuse: Examining Forced Marriage in Australia'* (Report: Good Shepherd Youth & Family Service, Domestic Violence Victoria and Good ShepherdAustralia New Zealand, 2014).

This project drew on *The Right to Refuse* forum (a cross-sectoral forum on forced marriage which was held by the research partners) and the literature to devise some key findings about forced marriage. These findings include:

> Forced marriage is a form of violence against women and girls. It can lead to a range of negative consequences for victims, including physical, sexual, and psychological violence, economic abuse, denial of education, social isolation, and mental health problems

> Forced marriage and arranged marriage are two distinct practices. While forced marriage is unlawful and harmful, arranged marriage is an acceptable practice (to the extent that it allows potential partners to consent to the marriage). Currently, there is little awareness in the community about the difference between forced marriage and arranged marriage.

> Little is known about the prevalence and manifestation of forced marriage in Australia. Nonetheless, it is clear that forced marriage happens to a diverse range of women and girls in the Australian community. Young women and women with cognitive impairments can be particularly at risk of experiencing forced marriage.

> Forced marriage cases are complex and cross over multiple service sectors. It is rare for victims of forced marriage to present with only one problem for which they require assistance.

> Many women and girls who have experienced forced marriage will require the assistance of domestic violence support services. Domestic violence services can be the first place where forced marriage is identified and responded to.

> Women and girls who have experienced forced marriage can be reluctant to engage with services. A key way to address this barrier is to establish a relationship of trust between the victim of forced marriage and a worker within the relevant service.

Vidal, Laura, *Opportunities to Respond to Forced Marriage within Australia's Domestic and Family Violence Framework* **Issues Paper, 2019, Good Shepherd.**

Currently in Australia, responses to the practice of forced marriage are heavily embedded within a criminal justice framework. This paper considers whether there are opportunities to prevent and respond to forced marriage within existing and more holistic domestic and family violence laws and policies instead. It discusses the relationship between forced marriage and family violence, the drivers and impacts of forced marriage, the gendered nature of family violence and forced marriage, policy and legislative responses, general trends in legislative responses, existing intervention orders, and the proposed forced marriage protection order scheme. A table noting where forced marriage is recognised within current Commonwealth and state and territory legislation is included as an appendix.

International

Karma Nirvana, *'Survivors of Honour Based Violence and Forced Marriage in the UK'* **(Sample study, 2008).**

On 11th April 2008 a dedicated line for reporting honour based violence (HBV) issues was opened in the United Kingdom. 1069 calls were received in the four months since inception. The aim of this report is to provide an overview of all the calls received by the line and then more detailed analysis of a sample size of approximately 10% (100 calls). Findings include:

> 65% of callers were the actual victims of abuse.
> The vast majority of victims were female (89%).
> Approximately one third of all victims were below 22 years of age. 11% of victims were aged 16 years and under, whilst the highest percentage of victims were aged 17 years of age (16%).
> A large percentage of victims were Muslim and of Pakistani origin
> Members of the victim's immediate family (including husbands and partners) were the main perpetrators of abuse.
> Forced marriage and honour based violence were the main triggers for abuse.
> Almost 80% of all callers quoted forced marriage as the type of abuse being perpetrated against them and approx. 70% quoted HBV. Other forms of abuse reported included physical, emotional, psychological, reluctant sponsor, financial, sexual and abuse of children.