

Forced marriage

A forced marriage exists when a person marries without freely and fully consenting as a result of being coerced, threatened or deceived, or because they are incapable of understanding the nature and effect of a marriage ceremony, for reasons including age or mental capacity [[Cth Department of Home Affairs Forced Marriage website](#)]. This is different from an arranged marriage where both parties consent to the marriage being organised by their families [[McGuire 2014](#)]. Causing a person to enter a forced marriage is a criminal offence under the Commonwealth [Criminal Code Act \(1995\)](#); and due to the absence of ‘real consent’, a forced marriage would be void under the Commonwealth [Marriage Act \(1961\)](#).

Forced marriage is conceptualised as a slavery-like practice because it deprives people of their equal enjoyment and exercise of basic human rights and freedoms. The circumstances in which a person is coerced, threatened or deceived so as to diminish or negate their capacity to voluntarily **consent** to marriage may also involve a range of **domestic and family violence behaviours**, including physical violence, honour-based violence, threats to kill or harm, restriction of movement or psychological oppression. These behaviours may be perpetrated by the other party or members of either party’s family who seek to control behaviour that challenges cultural norms, to protect family honour, or to prevent a marriage that is considered unsuitable [[McGuire 2014](#)]. The person may be sent overseas to be forcibly married, or seek asylum in Australia to avoid forced marriage in their country of origin; or a non-citizen forcibly married in Australia may fear being returned to their country of origin and having to face family punishment [[Burn & Simmons 2012](#)].

Available data in Australia indicates forced marriage is a practice that disproportionately affects women and girls [[Karma Nirvana 2008](#)]. However reliable data for Australia is not available as forced marriage is believed to be significantly underreported [[McGuire 2014](#)]. Some of the reasons for underreporting include: social stigma, family pressure, financial constraints, actual and threatened further violence and abuse, concerns about the welfare of children, lack of access to legal information or representation, and fear of deportation where the **perpetrator threatens to withdraw sponsorship** of the victim’s temporary immigration visa.

Children at risk of forced marriage may, under the [Family Law Act 1975](#), apply to the Family Court of Australia for parenting orders prohibiting conduct that would enable the marriage, for example confiscating passports, restraining the child’s removal from the country, or placing the child on the Airport Watch List. Currently, there are no equivalent provisions available to adults at risk of forced marriage; however they may seek protection under applicable domestic and family violence legislation [[Burn & Simmons 2012](#)].

Forced marriage may be one aspect of a complex pattern of behaviours engaged in by perpetrators in order to control another person, sometimes referred to as **coercive control**.