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**When saying no is not an  
option: Forced marriage in  
Australia and New Zealand**

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# Acronyms

AFP	Australian Federal Police
AGD	Attorney-General's Department
AIC	Australian Institute of Criminology
ASA	Anti-Slavery Australia
DFAT	Department of Foreign Affairs and Trade
DIAC	Department of Immigration and Citizenship
DIBP	Department of Immigration and Border Protection (formerly DIAC)
FACS	Department of Family and Community Services (NSW)
FMPO	Forced Marriage Protection Order (UK)
FMU	Forced Marriage Unit (UK)
HTCO	Human Trafficking Contact Officer
IDC	Australian Government Interdepartmental Committee on Human Trafficking and Slavery
NCYLC	National Children's and Youth Law Centre
NGO	Non-government organisation
STPP	Support for Trafficked People Program
UK	United Kingdom
UN	United Nations
UNODC	United Nations Office on Drugs and Crime

# Definitions

## **Arranged marriage**

Distinct from forced marriage, an arranged marriage is organised by the families of both spouses, but consent is still present and the spouses have the right to accept or reject the marriage arrangement.

## **Exploitation**

The exploitation element of human trafficking, which may be a stand-alone crime without the action and means elements being present or proven (see UNODC 2015 for an explanation of the concept of exploitation in the UN Trafficking in Persons Protocol).

## **Forced marriage**

Marriage without the free and full consent of one or both parties to the marriage.

## **Human trafficking**

The recruitment, harbouring or receipt of persons through coercion, threat or deception, for the purpose of exploitation (ie slavery and conditions similar to slavery).

## **Servile marriage**

The status or condition of being sold, transferred or inherited into marriage.

## **Servitude**

The status or condition of a person who is not free to cease providing labour or services, or is significantly deprived of personal freedom. Includes sexual servitude and domestic servitude.

## **Slavery**

The status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including where such a condition results from a debt or contract.

## **Slavery-like practices**

Includes servitude, forced labour, forced marriage, servile marriage, and debt bondage.

# Executive summary

As the world continues to develop better understandings of human trafficking and slavery in modern times, different manifestations of these practices are coming to light. Indeed, human trafficking and slavery continue to affect Australia and the Asia-Pacific region in more clandestine and insidious ways than might have been anticipated. This report addresses forced marriage, a slavery-like practice that has gained increasing attention in Australia and New Zealand since 2010 but has yet to form the focus of primary research that documents the experiences, decisions, views, and recommendations of victim/survivors and of the stakeholders that have engaged with them.

The lack of data on the nature and context of forced marriage in Australia and New Zealand and on the potential consequences, both positive and negative, of criminalising this practice has resulted in insufficient evidence to support prevention and response mechanisms. This research therefore intends to provide policymakers, practitioners, and support providers with comprehensive knowledge about the problem as it affects both countries.

## Objectives and methodology

The research had three primary objectives:

- to explore perceptions and realities around forced marriage in Australia and New Zealand;
- to describe the potential consequences of criminalising forced marriage; and
- to review and identify where further policy development may be required to support the sectors and individuals impacted by this legislation.

To address these objectives, thematic analyses of information derived from interviews with stakeholders (24 interviews with 38 participants), focus groups with stakeholders and community members (5 focus groups with 47 participants), interviews with victim/survivors (6 interviews with 7 participants) and victim/survivor case files (n=10) were conducted.

## The nature and context of forced marriage in Australia and New Zealand

Findings from the research suggest that forced marriage tends to be associated with families and communities characterised by social conservatism, a commitment to tradition and a strict adherence to prescribed behavioural conduct. This environment can produce intense pressure to conform and consequently limited autonomy, often, for women and girls and those (male or female) perceived to be 'different'. The latter includes persons with a disability, those whose sexual preference or sexual behaviour is at odds with desired norms, and those who have aspirations to independent living. In such circumstances, choice is often curbed. This is particularly so for a family interest matter such as marriage.

### *Victim/survivor backgrounds and perceptions of marriage*

All victim/survivors who participated in the research were females who had experienced threatened or actual forced marriages. Victim/survivors became engaged between 12 and 22 years of age, and marriages took place between the ages of 14 and 21 years. Most marriages occurred while the victim/survivor was less than 18 years of age.

None of these victim/survivors were born in Australia or New Zealand; however, most had migrated prior to marriage and often at a young age. The victim/survivors originated from South Asia (Afghanistan, Pakistan and India), Africa (Somalia), and the Pacific (Fiji). Eight victim/survivors identified as being Muslim, two as atheists and one as Hindu. The religion of two victim/survivors was unknown.

In addition, stakeholders identified victim/survivors from Bangladesh, Sudan, South Sudan, Turkey, the Middle East (Iraq, Iran, Lebanon, Oman, Syria, Jordan, United Arab Emirates), China and, notably, Australia and New Zealand. Most victim/survivors identified in Australia were citizens, while those identified in New Zealand were more likely to be newly arrived.

Victim/survivors described growing up in conservative households where the family maintained strong traditional and cultural doctrines. As such, victim/survivors reported contrasting levels of exposure to Australian or New Zealand culture, and were limited in their ability to socialise outside the extended family unit.

Victim/survivors were raised in cultures where arranged marriages were common, and many of them expected that their parents and relatives would be involved in choosing their partner. Nevertheless, the majority of victim/survivors held strong views about their freedom to choose their own partner and when to marry, as well as about the choice to remain unmarried. These views were informed by a variety of factors including the desire to finish their studies, witnessing negative experiences of marriage within their family or community, and disagreeing with what their role as a wife would entail in the home.

### *Marriage practices in the victim/survivors' families and communities*

Victim/survivors reported that it was common for their male and female parents, siblings and cousins to have been forced into marriage in Australia, New Zealand and elsewhere. The community also had a prominent role in determining who and when a person marries. Individuals were identified as being at risk of a forced marriage if they had siblings or cousins who were forced to marry, particularly if the siblings or cousins were female, and if they had siblings that chose their own partner in a community where arranged marriages were expected of them.

### *Expectations and reason for the marriage*

Forced marriage victim/survivors offered a range of motives for being coerced, threatened or deceived into marriage by their prospective husband, family and community members. Most commonly, these reasons included adhering to the family's traditions, culture and faith, and protecting the family's honour. Forced marriage was also employed to control the perceived promiscuity of victim/survivors or to provide migration sponsorship for the husband. In other cases, forced marriage was imposed upon victim/survivors in an attempt to improve their lives, give them greater opportunities to succeed, and improve their financial stability, although these outcomes were never realised. The age and sex of the victim/survivors also contributed to the expectation around becoming married and to the timing of the union.

### *Knowledge of the marriage*

Victim/survivors became aware of their family's intent to marry them at varying times. Few victim/survivors knew when, where and who they would be marrying. It was common for the victim/survivor to have met their intended marriage partner on the same day as the marriage, or a short time before. Victim/survivors indicated that parents, relatives, friends, family friends and community members knew about the intended marriage and/or were present at the marriage. Most victim/survivors believed that those who were present were aware that the victim/survivor felt pressured, had not given genuine consent, and/or did not understand what was happening.

### *Circumstances of the marriage*

Victim/survivors were generally engaged or married to a member of their extended family, commonly a cousin. Those that were not paired with a family member were often matched with a suitor that shared their religion, nationality and/or country of birth, though some suitors were of a different background. According to victim/survivors, some of the partners had migrated to Australia or New Zealand and were already residents or citizens, while others were located abroad and migrated once married. When asked about their partner's consent to marry, victim/survivors provided mixed responses. Some victim/survivors believed their husbands were genuinely willing and pleased to be married, while others believed their husband may also have been forced into the union.

Marriages took place in the victim/survivor's home country, the husband's home country or the country common to both parties, including New Zealand but not Australia. The majority of engagements and weddings took place in private settings, such as a house. Family members played different roles, including instigating, supporting and/or arranging the marriage, organising and/or conducting the ceremony, and witnessing the marriage. The prospective husband's family also played a strong role in instigating the union. Marriages were conducted by family members, community members and religious leaders in cultural and religious ceremonies, as well as by civil marriage celebrants. Few marriages were registered according to Australian or New Zealand marriage laws.

Victim/survivors were coerced, threatened or deceived into entering the marriage. Despite making their refusals obvious, some victim/survivors were explicitly coerced into the marriage, including through threats of violence, while others experienced more subtle coercion as a result of psychological and emotional pressure that made the victim/survivor feel guilty, obliged or dishonoured. In these cases, consent was ostensibly given because the victim/survivor felt they could not refuse. Victim/survivors reported feeling like they were not able to defy their family's wishes, and feeling pressured to go through with the marriage because of the expectations placed on them by parents, relatives and religious leaders, among others.

### *Experiences while married*

Victim/survivor case files and interviews revealed a wide range of abusive, violent, controlling and exploitative experiences while married. These included:

- physical and verbal abuse;
- sexual abuse;
- financial abuse;
- restrictions on movement and social isolation;
- domestic servitude; and
- denial of education and employment.

These abuses were most commonly perpetrated by the husband and members of his family, mainly parents-in-law.

### *Help-seeking behaviours and methods of exiting*

All victim/survivors interviewed for the research successfully left their situations, either before or after the marriage took place. However, victim/survivors were unanimous in their views that leaving their situation was difficult. The method by which victim/survivors exited varied depending on their motivation, their ability to recognise their situation as wrong, their knowledge and access to people and services that could provide assistance, the ability of potential help-givers to recognise, acknowledge and respond to their vulnerability, and other factors that impeded their ability to seek help.

The majority of victim/survivors actively sought assistance from formal sources such as law enforcement agencies, medical professionals, schools and social services and, to a lesser extent, from informal sources such as family, friends and colleagues. Few victim/survivors were assisted to leave as a result of formal or informal interventions initiated by persons who suspected that the victim/survivor required assistance. In only one case did a victim/survivor exit without assistance.

Most victim/survivors had positive interactions and outcomes when they sought formal assistance from authorities and service providers. However, others detailed the inability or unwillingness of formal supports to render assistance when requested. Victim/survivors were less likely to disclose their situation to informal sources. This may be due to the close connection these sources had with the individual's victimisation, either as a perpetrator or supporter of the marriage, or because these sources were of the same cultural background.

### *Barriers to exiting*

Victim/survivors offered a range of reasons why they delayed seeking assistance or did not seek assistance at all, including:

- feeling pressured by parents, relatives and friends to stay in the relationship;
- believing that their experiences of abuse, isolation, surveillance and domestic service constituted a normal marital relationship;
- being threatened with honour-based violence and death;
- shame, stigma and ostracism;
- lack of permanent residency and fear of deportation;
- financial and other dependencies on husbands; and
- not knowing how or where to seek assistance.

### *Post-marriage support and longer-term consequences*

Victim/survivors received a range of services and assistance, including:

- crisis, short-term and longer-term accommodation;
- basic necessities like food and clothing;
- medical services;
- counselling;
- visa and immigration support;
- support in obtaining an annulment or divorce;
- language training;
- education, including full-time schooling and short courses;
- support to develop independent living skills; and
- financial support.

In addition to formal support, victim/survivors also spoke about the benefits of informal support provided by parties who were not involved in the forced marriage including family members, friends and school staff.

However, the post-marriage relationships that victim/survivors had with family members who were involved in their victimisation constituted a mix of support and tension. Only one victim/survivor was able to re-establish a full relationship with her family. Some victim/survivors were able to continue a relationship with one parent (typically a parent not involved in the forced marriage), although the risk of forced marriage, violence or ostracism persisted with the other parent. Most victim/survivors had not had any further contact with their family since leaving the forced marriage situation, with several revealing they had been ostracised or abandoned by their family.

While most victim/survivors showed great resilience in order to overcome the actual or attempted forced marriage, the significant and sustained violence perpetrated against them and, in most cases, the permanent separation from their families meant that some victim/survivors suffered long-term consequences. These included long-term social, financial, physical, emotional and psychological impacts of their victimisation. The mental health consequences of forced marriage and the impacts of family separation were also highlighted by stakeholders. Despite these problems, many victim/survivors returned to their studies, gained employment, and developed the confidence to live independently.

## Interventions for forced marriage

The criminalisation of forced marriage has been met with considerable government and civil society attention. Current interventions for forced marriage in Australia comprise a mix of awareness-raising and education strategies, combined with criminal, civil and regulatory controls. Some of these were developed specifically to prevent forced marriage, while others are measures that address family and domestic violence or child protection matters but can also be applied to protect persons who are at risk of an attempted or actual forced marriage. The strategies mentioned above are consistent with general anti-trafficking (and related anti-exploitation) approaches undertaken internationally. They depend on education and awareness-raising as the primary methods of prevention, and are reinforced by formal mechanisms of response.

At present, awareness-raising and educational activities on forced marriage are targeted at three groups: at-risk individuals, at-risk communities (including potential perpetrators), and guardians responsible for identifying and protecting persons affected by forced marriage. Awareness-raising activities involve education programs proposed for particular settings (eg schools) or comprising group forums in communities where forced marriage is believed to be practised. Educational activities span recent and proposed education and training initiatives for school personnel, marriage celebrants and service providers, as well as for personnel in law enforcement and other relevant government departments—for example, the Department of Immigration and Border Protection (DIBP) and the Department of Foreign Affairs and Trade (DFAT). These initiatives provide instruction on indicators of forced marriage and recommended referral pathways.

Formal controls consist of the 2013 amendments to the *Criminal Code Act 1995* (Cth), which introduced stand-alone offences of forced marriage. There are also a range of measures that existed before the criminalisation of forced marriage. Pre-existing mechanisms include injunctions sought under the *Family Law Act 1975* (Cth) to provide personal protection to minors (section 64B(2)(i)) and prevent them from being taken offshore (section 67AD); grounds on which marriages are void set out in Part III of the *Marriage Act 1961* (Cth); and procedural mechanisms used by DIBP to identify and refuse partner migration visas if there is evidence the sponsor or applicant was coerced into the marriage.

## Challenges to intervention

The intractable nature of forced marriage has required an intervention approach that can not only serve the distinct circumstances of each case but also provide the broad spectrum of responses expected by stakeholders. It also creates other challenges. Of particular importance are the challenges of intervening safely, coordinating the different types of intervention and support, and changing the mindsets of families and communities where forced marriage is practised.

Interaction within the family space inevitably creates resistance. As a consequence, when intervening in cases of forced marriage there are safety issues for the person affected, for supportive family members and for those stepping into this environment to provide assistance. The issue of children's safety is especially pertinent, although not exclusive to such situations. Threats to personal safety, the availability of appropriate services—in particular, short- and long-term accommodation options and support for financial independence—and victim concerns about the potential impact on their family all affect how the response should be carried out. When persons are taken offshore, this scenario is further complicated. Provisions to safely intervene can be hampered in locations where consular assistance is unavailable, or where formal relationships with service providers are not easy to establish or are hindered by local custom.

Coordinating the response is significant in equal measure for Australia and New Zealand. In New Zealand, some level of informal partnership has been established between specific service providers, the police, and child protection services. In Australia, the criminalisation of forced marriage has created a larger cluster of agency involvement. The early period of establishing an intervention framework was, according to stakeholders, characterised by a lack of specialisation outside the small group of agencies who had some previous exposure to forced marriage cases, as well as by the contradictory nature or absence of best practice standards and guidelines. Since then, coordination of effort has been improved through formal partnership mechanisms, as well as through the establishment of forums such as Forced Marriage Networks (currently in Victoria and New South Wales) that bring together central and peripheral stakeholders to receive and share information. Nonetheless, when establishing a multi-actor response to an issue like forced marriage, some disconnection is inevitable, and some questions remain over the extent to which key agencies are working together effectively.

Finally, there is the challenge of changing the mindsets of families and communities where forced marriage is practised. While education about forced marriage is proposed for vulnerable communities, it was not possible in this study to establish the content and extent of those educational programs. Nonetheless, it is clear that prevention will be difficult if education cannot counter the rationales used by families and communities to promote the practice of forced marriage. To achieve this, education activities cannot simply advise community members that forced marriage is now a criminal offence in Australia. They must also be able to demonstrate that consent in marriage does not undermine but, rather, promotes family and/or community values.

According to stakeholders, the significance of criminalising forced marriage was self-evident. It conveyed the strongest message that the practice was not condoned in Australia, and that sanctions would be applied for persons found responsible for the practice. However, stakeholders also expressed uncertainty about the overall protective effect of criminalisation (see also Simmons & Burn 2013). These uncertainties largely concerned the likelihood of a victim/survivor reporting their situation to the police and, in particular, whether they would contribute as a witness to an investigation or prosecution, if it risked their personal safety, their ostracism from family and community and/or a potential prosecution of their parents. Victim/survivors interviewed for the study echoed these concerns. It was agreed among victim/survivors and stakeholders that legislation was an important safeguard, but that the provision of specialised support and alternative means of protection, such as civil penalties, were also essential. Without the latter, some of those affected by forced marriage may not continue to seek assistance.

There are evident complexities in forced marriage cases, which mean that a flexible approach is required. Parallels with family violence and child protection matters may provide a template for the further development of responses to forced marriage. As preventative measures for forced marriage are refined, they will need to develop people's abilities to better identify situations of risk, and also generate confidence that options for support are available, safe and responsive. It will also be critical to identify where intervention is best placed, for adult victims as well as children.

# Introduction

In February 2013, the Australian Parliament passed legislation to amend the law relating to slavery, slavery-like practices and human trafficking, which came into force on 8 March 2013. Among the amendments prescribed in the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* (Cth) (Slavery Act) was the introduction of stand-alone offences into the *Criminal Code Act 1995* (Cth) (Criminal Code) to criminalise forced marriage (IDC 2014).

With the passage of the Slavery Act, Australia is now one of a small number of countries that have taken the step to criminalise forced marriage. However, unlike in other nations where forced marriage has been criminalised (eg United Kingdom, Denmark) or where this is under consideration (eg Sweden), there has been little formal examination of the nature and context of forced marriage in Australia.

Similarly, outside of theoretical articles (eg Simmons & Burn 2013) and consultations undertaken by the Australian government with key stakeholders prior to the aforementioned legislative amendments (including public distribution of the Discussion Paper on Forced and Servile Marriage and of the Exposure Draft of the proposed legislation), there has only been some discussion of the potential consequences, both positive and negative, of criminalising this practice. Few research studies have included the stories of persons who have experienced an actual or threatened forced marriage.

## Data on forced marriage in Australia

One of the most important drivers for researching forced marriage is the acute lack of data and information on this topic. Like other clandestine crimes that occur in private settings, such as slavery, human trafficking and domestic violence, there are few reliable data on the incidence of forced marriage.

In Australia, this is due to ‘a shortage of empirical information, both generally and in an immigration context’, and because of ‘the difficulty in identifying cases’ (Legal and Constitutional Affairs References Committee 2012: 30). As Australia’s Department of Immigration and Border Protection (formerly DIAC) explains, ‘the coercion which characterises

a forced marriage will in most circumstances also deter victims from reporting their situation to immigration or other officials' (DIAC 2012: 3). Further, 'the fact that most forced marriages take place in closed families, groups, communities or societies, makes it particularly difficult to compile reliable statistics on how many...are subjected to forced marriages of any kind every year' (Huda 2007: 11). The hidden and criminal nature of forced marriage inevitably means that the majority of these marriages will not be legally registered and will largely go undocumented.

A further data barrier exists as a consequence of victims being unwilling or unable to report their victimisation for myriad reasons, including, but certainly not limited to, their reluctance to incriminate members of their family. Forced marriage is therefore a crime that will be strikingly under-reported, and official data regarding the incidence of forced marriage must be considered within this context.

Between 8 March 2013, when forced marriage became a criminal offence, and 30 June 2016, the AFP received 116 case referrals, 69 of which were received in 2015–16 (IDC 2016). Forced marriage now represents the most commonly investigated form of human trafficking and slavery in Australia. All referred cases involved young females and most involved Australian citizens or residents at risk of being—or who had already been—taken overseas for forced marriage (Keenan 2016). No matter has yet progressed through the criminal jurisdiction of the courts. However, all known cases of forced marriage that have proceeded through civil jurisdictions of the courts are described in Box 2.

While evidence of the magnitude of forced marriage in Australia is scant, research undertaken by the National Children's and Youth Law Centre (NCYLC) examined 'the nature of frontline encounters with child victims and the nature of victims' needs' (Jelenic & Keeley 2013: 7). Through their research, the NCYLC identified cases of forced child marriage in every state and territory of Australia (Jelenic & Keeley 2013: 8). Of the 91 government and non-government respondents who were surveyed, 55 percent (n=50) had directly or indirectly encountered child clients in or at risk of a forced marriage in the preceding 24 months, with those experiences estimated to have involved more than 250 cases. However, the authors acknowledged the potential for duplication, as it was unknown whether multiple services had engaged with the same victim. Further, some survey respondents did not provide an exact number of cases encountered, but instead offered an approximate range (for example, 8–10 cases). The authors used the lower limit of the ranges to calculate the estimated number of total cases, thus reporting the minimum number of cases cited by survey respondents (Jelenic & Keeley 2013).

Respondents identified the victims as being mostly females—although 15 cases were reported to involve a boy—who were at risk of being transported abroad to be married. Common indicators of forced marriage identified through this research included the sibling of a victim having been forced to marry, and extended absences from school (Jelenic & Keeley 2013). Further, cases often first presented as family and domestic violence, physical abuse or self-harm, before being identified as a forced marriage (Jelenic & Keeley 2013).

The Salvation Army's Samaritan Accommodation, which provides specialist support for trafficked people, has similarly reported that an 'increasing number of service clients were young people at risk of forced marriage' (IDC 2014: 54). However, also among their client group were 'adult women who experienced forced marriage, and adult women seeking asylum because of forced marriage' (IDC 2014: 54).

These findings demonstrate that case characteristics are broader than official records show, and that not all cases are coming to the attention of authorities or being assessed and investigated.

## Data on forced marriage in New Zealand

As there is no criminal offence of forced marriage in New Zealand, there is no official or systematic collection of data on the rates or prevalence of this practice. Anecdotal evidence about the nature of forced marriage derives from women and girls who have experienced actual or threatened forced marriages and who have received assistance from non-government support services, such as Shakti Community Council (Radhakrishnan 2012). Like in many Australian cases, victims in New Zealand tended to seek assistance or were referred to services for domestic violence, and '[t]he fact that they were forced into marriage [was] often captured much later' (Radhakrishnan 2012: 94).

## Purpose of the research

In 2010, the Australian government began public consultation to address the issue of forced marriage with the release of the Discussion Paper on Forced and Servile Marriage (AGD 2010). The discussion paper proposed additional legislative and non-legislative measures to deter against the practice of forced and servile marriage and offer appropriate protection for victims (described in Box 1). Following consultation, new legislative provisions to criminalise forced marriage were introduced to address the practice of forced marriage in Australia. In 2015, it was decided that civil remedies would also be pursued. These are discussed throughout this report.

### Box 1: Options for reform as outlined in the 2010 Discussion Paper on Forced and Servile Marriage (AGD 2010)

#### 1. New criminal offences

Specific criminal offences were proposed to ensure that Australia's legislative framework could comprehensively address forced marriage practices, particularly according to international standards set out in the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956*. Stand-alone forced marriage offences would be supplementary to existing state, territory and Commonwealth laws containing provisions that prohibit exploitation or criminal acts that occur within a forced or servile marriage.

## Box 1: Options for reform as outlined in the 2010 Discussion Paper on Forced and Servile Marriage (AGD 2010) (continued)

### 2. Amendment to existing criminal offences

At the time the options for reform were being considered, the definition of exploitation contained in the *Criminal Code Act 1995* (Cth) only captured conduct that constituted slavery, forced labour and sexual servitude, which was limited to sexual exploitation for a commercial purpose. While in some instances it could have been argued that a forced marriage was a form of sexual servitude, this was limited to situations which involved commercial exploitation. Consequently, many situations of forced marriage would not have been captured under the Criminal Code.

The second reform option therefore proposed an amendment to the definition of exploitation in the Commonwealth Criminal Code that would allow for additional institutions and practices similar to slavery, such as servile marriage, to be captured as a criminal offence.

### 3. Amendment to the *Marriage Act 1961* (Cth)

This option proposed amending the Marriage Act to make it an offence for a person to cause another person (the victim) to enter into a marriage without the person's full and free consent. However, this civil remedy would be limited to the application of the Marriage Act, meaning the offences would only apply to marriages under Australian law.

### 4. Other civil legislative measures

Existing protections provided by the *Family Law Act 1975* (Cth) allow for a person under the age of 18 years to be granted an order to be placed on the Airport Watch List that would prevent the child from leaving the country. These orders, however, do not prevent a marriage from occurring. This option proposed that such orders could be expanded to protect persons of any age who are either at risk of a forced marriage or who have already been forced into marriage. As an example, under the UK's *Forced Marriage (Civil Protection) Act 2007*, the UK Family Court can make an order to prevent a forced marriage from occurring or, if a forced marriage has already occurred, the court can make an order to protect the victim and assist them to be removed from the situation.

### 5. Non-legislative measures

This option advocated for non-legislative measures to address forced marriage including grassroots initiatives targeting front-line personnel likely to come in contact with persons affected by forced marriage as well as the provision of information, education and training, such as measures aimed at informing potential or actual victims of their rights and responsibilities and the availability of support services.

While the discussion paper contemplated the arguments for and against implementing criminal measures, no research has tested these arguments in an Australian context. Therefore, the current research had three primary objectives:

- to explore perceptions and realities around forced marriage in Australia and New Zealand;
- to describe the potential consequences of criminalising forced marriage; and
- to review and identify where further policy development may be required to support the sectors and individuals impacted by the new legislative provisions.

To this end, the research proposed to answer the following questions:

- What is the nature and context of forced marriage in Australia and New Zealand?
- What are the support needs of persons experiencing a threatened or actual forced marriage?
- How do support needs differ depending on situational and personal factors?
- To what extent was support available and utilised by persons exiting a forced marriage? To what extent were the support needs of forced marriage victim/survivors met?
- How are forced marriages identified by stakeholders who may come into contact with victim/survivors?
- What are the actual and/or anticipated outcomes of criminalising forced marriage?
- What additional policy developments might be available and/or required to support relevant sectors in responding to forced marriage?

The Australian setting is compared with New Zealand, where trafficking laws are less comprehensive and forced marriage has not yet been criminalised. The research complements previous AIC research into human trafficking involving marriage and partner migration (Lyneham & Richards 2014).

Forced marriage involving a child is often differentiated or referred to instead as child or under-age marriage. This report uses the term forced marriage to describe all situations of marriage in which consent was not given or is irrelevant to the legal construct of matrimony.

This research report is somewhat unique in its timing, owing to the infancy of the criminalisation of forced marriage in Australia and the implementation of prevention and response initiatives in both Australia and New Zealand. Even so, the timing of this report allows for a summation of the relevant issues and efforts, and for an early examination of their impact on a broad range of individuals and organisations.

# Methodology and data collection

To address the research questions, a qualitative methodology involving four data collections was employed. These are outlined below. Information obtained through these collections was ordered and analysed according to themes that emerged from the data. The findings from the thematic analysis are presented throughout this report.

## Interviews with stakeholders

The researchers conducted 24 semi-structured interviews involving 38 participants. These participants represented a variety of agencies and organisations who have knowledge and expertise on forced marriage or experience providing services and support to victim/survivors of forced marriage, and/or who anticipate coming into contact with victim/survivors in the future. Stakeholders included:

- Commonwealth, state and territory government departments;
- Commonwealth law enforcement agencies;
- victim support providers (particularly specialised human trafficking and slavery support providers, and family and domestic violence support providers);
- social services;
- non-government organisations (particularly organisations that provide services to migrants, refugees, and culturally and linguistically diverse populations);
- faith-based organisations; and
- civil marriage celebrants.

A further 32 agencies/organisations representing state and territory police, victim support, legal aid, migrant and refugee support, and domestic violence support were approached but did not participate.

Stakeholder interviews aimed to elicit professional knowledge about cases of forced marriage in Australia or New Zealand, victim/survivor support needs and risk and protective factors, as well as expert opinions about prevention and response mechanisms. The format of the semi-structured interview was designed to be flexible so that it could be modified to suit the different experiences, expertise and knowledge of the participants.

In Australia, participants were recruited via purposive and snowball sampling strategies. Participants were initially identified via the AIC's existing contacts in the human trafficking and slavery field. Interview participants were then asked to nominate other potential participants who they thought could contribute to the research. These individuals, agencies and organisations were subsequently invited to participate in an interview. The researchers also undertook a comprehensive search of community organisations in New South Wales, Queensland and Victoria that provide services to migrants, refugees and culturally and linguistically diverse populations. The researchers approached these organisations via email and telephone.

In New Zealand, participants were recruited via a purposive sampling strategy. The researchers engaged with Shakti Community Council and Shakti Australia to identify individuals and organisations who were then contacted directly by the AIC researchers to contribute to the project.

Interviews were conducted face to face, where possible, or by telephone, and were conducted with the informed consent of all participants. Prior to attending the interview, participants were provided with an information sheet describing the purpose and scope of the research. Participants were also provided with consent and revocation of consent forms. Each interview lasted approximately one hour. Interviews were audio-recorded with the permission of the participants to ensure that information was accurately captured. Interviews were then transcribed and the interview participant was provided with a copy of the transcript to review and clarify the material if needed, and given the opportunity to make further comments. Where stakeholders are quoted throughout the report, vocalised pauses and utterances such as 'um', 'like', 'uh' and 'you know' have been removed for the sake of readability. The removal of these words has not affected the meaning of the quoted material.

Information derived from stakeholder interviews was supplemented by a subsequent review of public access material on intervention initiatives that have been undertaken by those agencies represented in the interview process, as well as by those that did not participate in the study.

### **Focus groups with stakeholders and community members**

In addition to interviews with stakeholder participants, the researchers conducted five semi-structured focus groups involving a total of 47 participants. Focus group participants were recruited using a purposive sampling strategy that involved targeting civil marriage celebrants, case managers who have supported victim/survivors of forced marriage, and members from communities who were identified as being affected by forced marriage, including culturally and linguistically diverse communities.

Three focus groups were conducted in New Zealand and two focus groups were conducted in Australia. The composition of each group was as follows:

- focus group 1 (Melbourne, Australia): community members, Shakti Australia case managers and volunteers (n=7);
- focus group 2 (Auckland, New Zealand): Shakti Community Council case managers and volunteers (n=11);
- focus group 3 (Auckland, New Zealand): community members, Shakti Community Council volunteers (n=13), and persons who disclosed being in a forced marriage (n=3);
- focus group 4 (Auckland, New Zealand): researchers, youth advocates, NGO representatives (n=6); and
- focus group 5 (Canberra, Australia): civil marriage celebrants (n=7).

Focus groups with case managers, support personnel and civil marriage celebrants aimed to collect the same information as the interviews with stakeholders (see Appendix A). However, one additional question was asked of celebrants to determine what information and/or training on forced marriage was provided to them, if any.

Focus groups were conducted face to face, with the informed consent of all participants. Before the commencement of each focus group, participants were provided with an information sheet and given a verbal explanation of the purpose and scope of the research. Each focus group lasted approximately two hours. Focus group discussions were audio-recorded with the permission of the participants to ensure that information was accurately captured.

## Interviews with forced marriage victim/survivors

Importantly, this research benefits from the experiences of seven victim/survivors of forced marriages who were interviewed in Australia or New Zealand. Interviews with victim/survivors were conducted for the purpose of gathering primary information about the experiences of people who have been threatened with a forced marriage or who have been forced into marriage.

The interviews collected the following data from each victim/survivor participant:

- demographic background;
- marriage practices within their family and community;
- the circumstances surrounding the threatened or actual forced marriage;
- experiences while married;
- help-seeking behaviours, support needs and services that were provided;
- risk and protective factors;
- views on criminal and non-criminal responses; and
- any other recommendations for effective prevention and response.

Six victim/survivors were recruited via a purposive sampling strategy with the assistance of Shakti Community Council and Shakti Australia. Two of these victim/survivors were sisters. One victim/survivor contacted the researchers directly to participate. All victim/survivors had ceased receiving support for a period of at least six months prior to taking part in this research. Interviews were conducted face to face, where possible, or by telephone, and were conducted with the informed consent of all participants. Prior to attending the interview, participants were provided with an information sheet describing the purpose and scope of the research. Participants were also provided with consent and revocation of consent forms. Each interview lasted approximately one hour. Interviews were audio-recorded with the permission of the participants to ensure that information was accurately captured.

## Analyses of victim/survivor case file information

In addition to interviews with victim/survivors, information from 10 forced marriage case files was provided to the AIC for qualitative analysis. The case file information related to persons who participated in an interview and wished to provide additional information regarding their experiences (n=4), as well as participants who declined to be interviewed but consented to the examination of information from their files (n=6).

Case file information pertaining to the victim/survivors who declined an interview was de-identified by Shakti Community Council and Shakti Australia prior to receipt of the information. As with victim/survivor interviews, information was extracted only from inactive case files belonging to victim/survivors who had ceased receiving services for a period of at least six months prior to the research taking place.

Shakti Community Council and Shakti Australia obtained the consent of victim/survivors to extract specific information from their case files for analysis. This information was provided to the AIC based on data extraction instructions that requested:

- demographic information (sex, age, ethnicity, nationality, religion, marital status, number of children, immigration/citizenship status);
- circumstances of the actual or threatened forced marriage;
- experiences while married, if relevant;
- circumstances of leaving the situation; and
- experiences of support.

The analysis of case file information represents an unobtrusive method for supplementing information obtained through victim/survivor interviews, and allowed the AIC to obtain information about additional incidents of victimisation in the absence of an interview with the affected individuals. As a result, 13 unique experiences of actual or threatened forced marriage have been included in the research.

## Limitations

This research has a number of limitations that should be considered when interpreting its findings. First, interviews and focus groups were conducted over a defined time period, between February and November 2014. Since then, the intervention and prevention landscape has continued to develop in order to respond to an increasing number of victim/survivors who have been identified and who have sought assistance, including increased efforts by stakeholders to address this issue. While the various initiatives outlined in this report are current at the time of publication, the findings represent a preliminary exploration of a developing issue and therefore may not be generalisable.

Second, the research is qualitative in nature, and no attempt was made to quantify the prevalence of forced marriage in either country. However, the qualitative methodology has the benefits of describing the experiences of forced marriage victim/survivors in detail, gaining expert opinions and perspectives, and offering informed solutions to prevent and respond to this issue. As such, the qualitative data collected and analysed for the research provide important insights into this crime, and add to the small but growing body of primary research on this topic.

Third, the methodology and sampling strategy resulted in only female victim/survivors participating in the research. However, males may also become victims of threatened or actual forced marriages, and have indeed been identified as such in other Western countries such as the United Kingdom (Charsley & Liversage 2015; Forced Marriage Unit 2014; Samad 2010).

Fourth, while a diversity of organisations that are known to support victim/survivors of forced marriage were asked to facilitate victim/survivor interviews, most victim/survivors were located through one organisation that operates in both Australia and New Zealand. Consequently, the experiences of support for forced marriage victim/survivors interviewed for the research may be specific to that one organisation and not representative of assistance delivered by other support providers.

Fifth, the recentness of the focus on forced marriage, both as a criminal offence and as part of a collaborative effort to respond to the issue, has created a rapid momentum of activity. The material collated through interviews and the review of public access material represents what was disclosed or available at the time of the research, and hence may not cover all initiatives proposed or implemented during the final preparation of the report.

Finally, for practical and ethical reasons, all victim/survivors who either participated in an interview or provided their case file information for analysis had escaped their attempted or actual forced marriages. While this does not preclude them from further risk in the future, it may mean that their experiences are distinctive to individuals who have left their situation and received assistance, and may not be representative of forced marriage situations in which victim/survivors have not exited.

# Definitions and legislative frameworks

## International definitions of forced marriage

Internationally there is some confusion and disagreement about the meaning of forced marriage, and its relationship to similar practices prohibited by criminal and civil legislative provisions. Nevertheless, forced marriage is commonly defined using the presence or absence of certain conditions, usually with reference to consent. A forced marriage is therefore conceptually different to an arranged marriage, where a spouse has been chosen by a third party, usually a parent or other relative, but where both parties give full and free consent, and have the right to accept or refuse the marriage arrangement (AGD nd).

For the most part, definitions of legal (registered) marriage are found in legislation governing a nation's marriage practices. However, forced marriages are also addressed at the international level in United Nations (UN) conventions relating to marriage, human rights, slavery and human trafficking.

The *UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956* (Slavery Convention) and the subsequent *United Nations Office on Drugs and Crime (UNODC) Model Law against Trafficking in Persons* (UNODC 2010: 17–18) refer to the following situations in which a woman (or person) can be enslaved through marriage:

- (i) A woman [person] or child, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her [his] parents, guardian, family or any other person or group; or

(ii) The husband of a woman, his family, or his clan has the right to transfer her to another person for value received or otherwise; or

(iii) A woman on the death of her husband is liable to be inherited by another person. (Slavery Convention: Section 1, Article 1(c); UNODC Model Law against Trafficking in Persons: Article 2(j)).

In short, these circumstances describe situations where a person is sold, transferred or inherited into marriage. While the UNODC *Model Law against Trafficking in Persons* labels these circumstances as practices of ‘forced or servile marriage’, this research asserts rather that such circumstances refer to practices of servile marriage (see below for an explanation on the relationship between forced and servile marriages).

More clearly, the *UN Universal Declaration of Human Rights 1948* states that ‘[m]arriage shall be entered into only with the free and full consent of the intending spouses’ (Article 16(2)), with emphasis placed on the entitlement to ‘equal rights as to marriage, during marriage and at its dissolution’ (Article 16(1)). Comparable definitions of forced marriage are contained in the Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (UN General Assembly Resolution 2018) and in the following international instruments:

- *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1964* (Article 1);
- *International Covenant on Civil and Political Rights 1968* (Article 23(3));
- *Convention on the Elimination of All Forms of Discrimination Against Women 1979* (Article 16(b));
- *International Covenant on Economic, Social and Cultural Rights 1976* (Article 10(1)); and
- *Convention on the Elimination of All Forms of Racial Discrimination 1969* (Article 10(d)(iv)).

The Hague Convention stipulates that nations may refuse to recognise the validity of a marriage if ‘one of the spouses did not freely consent to the marriage’ (Article 11(5)). Further, the *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1964* calls on nations to ‘take all appropriate measures with a view to abolishing such customs, ancient laws and practices’ that limit the complete freedom in the choice of a spouse.

## Australia's legislative framework on forced marriage

In Australia, a marriage is void under the Marriage Act if the consent of either party was not real consent—that is, if it was obtained by duress or fraud (section 23B). However, this does not criminalise the practice of forced marriage—although it is a criminal offence for a celebrant to solemnise a marriage where they have reason to believe the marriage would be void (section 100). Section 270.7A(1) of the Criminal Code defines a marriage as a forced marriage: 'if, because of the use of coercion, threat or deception, one party to the marriage (the victim) entered into the marriage without freely and fully consenting'. Coercion includes obvious means such as physical force, detention or duress, and subtle means such as psychological and emotional pressure that make the victim or their family feel guilty, obliged or dishonoured (AGD nd). Further, consent cannot be given if the victim is incapable of understanding the nature and effect of a marriage ceremony (section 270.7A(1)(b)). This provision applies where, for reasons such as age or mental incapacity, a person cannot give their free and full consent to marry. Specifically, a person under 16 years is presumed to be incapable of understanding the nature and effect of a marriage ceremony (section 270.7A(4)).

The forced marriage offences under the Criminal Code apply to:

- a variety of marriage and marriage-like relationships (eg de facto relationships), including marriages and relationships recognised under Australian law, marriages and relationships recognised by the laws of other countries, religious marriages, and cultural and customary marriages;
- marriages that occur within Australia (including where a person was brought to Australia for marriage) as well as to marriages that occur overseas involving an Australian citizen or permanent resident; and
- adults and children who are forced into marriage by their prospective spouse or another person, such as a relative, community member, celebrant or religious figure (AGD nd; Lyneham & Richards 2014).

The forced marriage offences do not apply to arranged marriages—where a spouse is chosen by a third party but consent to marry is present—or to servile marriages, which may be covered by other slavery or slavery-like offences (AGD nd; Lyneham & Richards 2014).

Forced marriage offences currently carry a maximum penalty of seven years' imprisonment in the case of an aggravated offence, and four years' imprisonment for a non-aggravated offence. There are several circumstances in which a forced marriage offence may be considered to be aggravated, including where the victim is under the age of 18 years.

To date, no forced marriage matter has proceeded through the Australian criminal justice system based on a charge laid under the stand-alone forced marriage offences stipulated in the Criminal Code. However, in 2015 a single case of forced marriage proceeded through the NSW criminal justice system, where a 12-year-old girl was married to a 26-year-old man in a marriage ceremony that had taken place in 2013. Despite the girl's mother objecting to the union, the ceremony went ahead after the girl's father consented to the marriage on the girl's behalf. The ceremony was conducted by a local cleric at the family's home.

The father, husband and cleric were convicted of various criminal offences, including the NSW state offences of procuring a child for sex and persistent sexual abuse of a child, as well as the Commonwealth offence of the solemnisation of a marriage by an unauthorised person under the Marriage Act. The girl's father and the man she was married to were sentenced to eight years and 7½ years' imprisonment, respectively. The cleric was fined \$500, had his Religious Worker visa cancelled, and was deported from Australia (ABC News 2014; Hoerr 2015; Olding & Hall 2014; Wells 2015).

Prior to the criminalisation of forced marriage, some cases of forced marriage were heard in civil jurisdictions of the courts for different reasons (eg applications for declarations that a marriage was void under the Marriage Act; the registration of a child's name on the Family Law Watchlist (formerly the Airport Watch List) monitored by the AFP at all international departure points; and parenting orders under the Family Law Act in respect of the children of the 'marriage'). Recent forced marriage cases that have proceeded through civil jurisdictions of Australian courts are summarised in Box 2. All but one of these cases involved female victims under the age of 18 years.

## Child marriage

The UN Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children (now the Special Rapporteur on trafficking in persons, especially women and children) asserted in 2007 that 'since children are, by definition, incapable of consent or of exercising the right of refusal, child marriage is forced marriage' (Huda 2007: 9). Child marriage is a violation of children's rights under the Convention on the Rights of the Child and an abuse of human rights (HM Government 2014a).

Equally, the *Convention on the Elimination of All Forms of Discrimination Against Women* (Article 16) states that '[t]he betrothal and the marriage of a child shall have no legal effect' and the *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages* calls for the complete elimination of not only child marriages but also the betrothal of young girls before the age of puberty.

Under strictly limited conditions, a person may legally marry in Australia at 16 or 17 years of age with appropriate consents (usually parental), if a judge or magistrate is satisfied that the circumstances of the case are so exceptional and unusual as to justify the authorisation of the marriage (Marriage Act, section 12(2)(b)). However, at least one party to the proposed marriage must be at least 18 years of age (section 12(1)).

While the majority of cases described in Box 2 involve children, these scenarios raise a number of important issues around forced marriage more broadly. First, they highlight the role played by cultural traditions—sometimes including the abuse of such traditions—and parental expectations around who and when their children will marry. In *Kreet & Sampir*, the presiding judge referred to several UK cases in which 'coercion by parents arising from cultural issues has given rise to a finding of lack of consent' (*Kreet & Sampir* [2011] FamCA 22, paragraph 40).

He also stated that ‘if a cultural practice relating to a marriage gives rise to the overbearing of a mind and will so that it is not a true consent, the cultural practice must give way’ (*Kreet & Sampir* [2011] FamCA 22, paragraph 41). However, while important to understand the cultural context of forced marriage, this endeavour must not lead to solutions focused on culture alone to prevent and respond to this issue.

### Box 2: Australian forced marriage cases

#### Kreet & Sampir

The case of *Kreet & Sampir* [2011] FamCA 22 highlights how an individual can be coerced and deceived during childhood and made to marry once they reach the legal age of consent. In 2011, Ms Kreet applied for an annulment of her marriage to Mr Sampir on the grounds that she consented to the marriage under duress. When Ms Kreet was 17 years of age she formed an online relationship with Mr U. Ms Kreet lived in Sydney and Mr U lived in Melbourne. Her parents did not support the relationship and threatened that they would take her to India and arrange a marriage for her to someone else if she did not end the relationship. When she did not end the relationship, her father told her that when she turned 18 they would go to India to find her an appropriate husband, and that he had been considering some of the wedding proposals from Ms Kreet’s uncle. Ms Kreet’s father made threats to Mr U, saying that he would kidnap and rape Mr U’s mother and sisters. He also physically assaulted his daughter by slapping her across the face and hitting her on the back.

Ms Kreet made several attempts to live with Mr U in Melbourne; each time, her parents travelled to Melbourne in an attempt to bring her back to Sydney. On the final occasion they offered her a proper wedding to Mr U in India as an enticement. On arrival in India, however, ‘discussions began about an appropriate suitor and [Ms Kreet’s] passport was taken from her...[Ms Kreet’s] parents then introduced the man who was to become her husband’ (*Kreet & Sampir* [2011] FamCA 22, paragraph 24). Ms Kreet agreed to the marriage under the belief that her father would kidnap and rape Mr U’s mother and sisters if she did not consent. Ms Kreet ‘begged her parents not to force her to go through with the marriage and her father’s response was to continue to threaten harm to Mr U’s family’ (*Kreet & Sampir* [2011] FamCA 22, paragraph 27). After the marriage, Ms Kreet lived with her husband in India while her parents returned to Australia.

Ms Kreet refused physical intimacy with her husband, which culminated in assaults. Shortly after the marriage, an application was made for Ms Kreet’s husband to obtain a visa to come to Australia; however, Ms Kreet withdrew her sponsorship of her husband while on a trip back to Australia, which meant that he could not be granted the visa. The court ruled that although she gave all of the indications of consent (ie a public ceremony), her consent was not real because it was obtained by duress, and therefore the marriage was void.

## Box 2: Australian forced marriage cases (continued)

### Madley & Madley

In 2011, 16-year-old Ms Madley sought assistance from the NSW Legal Aid Commission to stop her parents taking her to Lebanon for an arranged marriage to a man that she had only met on one occasion. In court without her parents, Ms Madley gave evidence that her older sister was also engaged, to a relative of the man that her parents intended her to marry. She said that she had told her parents that she did not want to go to Lebanon for an arranged marriage to a man she hardly knew. However, she was still fearful for her personal safety. The magistrate acknowledged the ‘difficulties that she would have had in expressing those clear views, knowing full well that they are contrary to her parents’ expectations of her and her cultural and religious obligations to obey her parents’ (*Madley & Madley and Anor* [2011] FMCAfam 1007, paragraph 24). However, in making a decision, the magistrate emphasised that ‘it is not the right of any parent to cause their child to be married against their will, whether in accordance with Australian law or otherwise’ (*Madley & Madley and Anor* [2011] FMCAfam 1007, paragraph 21).

The magistrate imposed conditions on Ms Madley’s parents so that they could not remove, attempt to remove or cause her removal from Australia. They were also restrained from ‘assaulting, molesting, harassing, threatening or otherwise intimidating Ms Madley’; from questioning Ms Madley with respect to the proceedings or allowing any other person to do so; and from causing Ms Madley’s removal from any school which she was attending and at which she was enrolled (*Madley & Madley and Anor* [2011] FMCAfam 1007). Ms Madley’s parents had to surrender her passport to the court, and her name was immediately placed on the Airport Watch List.

### Kandal & Khyatt

In the case of *Kandal & Khyatt*, a 17-year-old Australian girl contacted the Australian Federal Police (AFP) to say that she was frightened because she was going to be taken against her will by her mother—and perhaps other family members—to Lebanon to be married. It was also suggested that her stepfather and her father supported her removal from Australia and that a flight had been booked for her departure. The 17-year-old girl sought orders through the then Federal Magistrates Court of Australia (now the Federal Circuit Court) to be placed on the Airport Watch List and requested intervention by the Victorian Department of Human Services. The orders were made ‘so as to protect the Child from physical or psychological harm from being subject to or exposed to abuse, neglect or family violence’ (*Kandal & Khyatt & Ors* [2010] FMCAfam 508, paragraph 17).

**Box 2: Australian forced marriage cases (continued)****Department of Human Services & Brouker**

In 2010, the Victorian Department of Human Services received a report suggesting that a 13-year-old girl had stopped attending school as it was her parents' intention that she would be getting married overseas. Child protection workers who spoke to the child were told that: she was not attending school as her father had said that he did not like her going to school and because she was engaged to be married and was planning to travel overseas in two to three weeks' time in order to meet her fiancée [sic] and be married in [another country]. The child also said that she had been engaged for one month to a 17-year-old man named [name]. [The child] said that she had only seen a photograph of this man. When asked by [the workers] how she felt about getting married, [the child] told us that she did not know what to say as she had not met her fiancé (*Department of Human Services & Brouker and Anor* [2010] FamCA 742, paragraph 9). Justice Mushin formed the belief that the girl did not understand the significance and the consequences of marriage. Further, he believed that she would be deprived of an education, and may have been at risk of sexual exploitation and emotional harm. He also ruled that, since neither the girl nor her potential spouse was of marriageable age, the marriage could not be recognised in Australia. He ordered that the girl be placed on the Airport Watch List at all points of arrival and departure so that she could not be removed from Australia by her parents for the purpose of marriage.

**Essey & Elia**

Ms Elia was 14 years of age when she was forced to engage in a non-legally-sanctioned marriage to 21-year-old Mr Essey with the 'full knowledge...connivance and cooperation of her parents'. Ms Elia provided evidence that she did not consent to the marriage, stating: My Mother pushed me to get married. She would say to me, words to the effect, "You will have your fun. Your dad is strict. You can come and go as you please... You get to go to movies, have popcorn, lollies, ice-cream and chocolate. You get to have fun and live life. What you see of everyone having fun on the TV, this is what it is going to be like. You're very, very lucky" (*Essey and Elia* [2013] FCCA 1525, paragraph 29). While married, Ms Elia's husband forced her to discontinue her education by threatening that he would burn her homework and move them 'so far away that [she] won't ever see people' (*Essey and Elia* [2013] FCCA 1525, paragraph 38). She was physically and sexually assaulted, and subjected to stalking, derogatory taunts, damage to her property, financial control, deprivation of liberty, isolation from family, and being routinely locked in the home. Ms Elia attempted to leave her husband but was forced to return by her mother: My Mother forced me to get back together with him, [the Father]. My Mother would say to me words to the effect, "You live and die. We're all living like that. You have to accept it. It's normal" (*Essey and Elia* [2013] FCCA 1525, paragraph 56). What she had been through, the judge suggested, represents 'a most heinous interference in this young girl's childhood by, it would seem, not only [Mr Essey] but her parents, as well as the most significant family violence' (*Essey and Elia* [2013] FCCA 1525, paragraph 104).

## Box 2: Australian forced marriage cases (continued)

### Nagri & Chapal

The case of Nagri and Chapal involved a 24-year-old Indian-born man who was forced to marry in a cultural ceremony that was later solemnised in a civil ceremony, under duress from his uncle to honour his family.

Mr Nagri began receiving financial and employment assistance from his uncle after arriving in Australia in 2008. In 2011, Mr Nagri's uncle approached him about a woman, Ms Chapal, that he considered to be a suitable wife, and subsequently made arrangements for the pair to meet. It was then decided by Mr Nagri's uncle and mother that Mr Nagri and Ms Chapal were to be married. Mr Nagri advised his uncle that he was in love with somebody else and did not wish to marry Ms Chapal; however, his uncle told him that the marriage must proceed as he had given his word and arrangements had already been made. One month after the ceremony, Mr Nagri confessed to his new wife that he had married her under pressure to honour his family.

In 2012, Mr Nagri applied to the Family Court of Australia for an annulment of the marriage. The magistrate acknowledged that [Mr Nagri's] uncle 'recognised and acknowledged that he played a very significant part in his nephew entering into the marriage...he believed that he had authority, and almost absolute authority, over [Mr Nagri]' (*Nagri & Chapal* [2012] FamCA 464, paragraph 11).

The Family Court ruled the marriage void as the man was subject to 'duress imposed upon him at the time of the ceremony of marriage. Thus, his consent to the marriage was not a true and informed consent' (*Nagri & Chapal* [2012] FamCA 464, paragraph 29). The court also saw that, despite Ms Chapal's statement of consent upon entering her marriage, there was in fact a degree of decision-making by others on her behalf.

Second, these cases highlight the vulnerability of individuals forced into marriage. As the US Department of State (2010: 15) explains:

Forced marriages render the forced party (in most cases a woman) vulnerable to abuse and exploitation by her spouse or his family, who exercise significantly greater power and control. This can trap the victim in conditions of enslavement, particularly in domestic or sexual servitude.

Finally, these cases suggest that, while women and girls may be at greater risk of forced marriage, men and boys can also be victims.

## New Zealand's legislative framework on forced marriage

In New Zealand, there is neither a criminal nor a civil legislative framework for forced marriage. For a marriage solemnised before a marriage celebrant, consent is presumed to be given upon the parties to the marriage stating (or words to similar effect):

I AB, take you CD, to be my legal wife or husband (*Marriage Act 1955*, section 31(3)(a)).

However, for a marriage solemnised by a religious body or other approved organisation (eg The Salvation Army), safeguards must be adopted to ensure that the parties freely consent to the marriage (*Marriage Act 1955*, section 31(4)(b)).

While there are no specific criminal offences for forced marriage, New Zealand Police (personal communication 2014) operationally define a forced marriage as a marriage conducted without the valid consent of both parties and where duress is a factor. Duress may include physical, psychological, financial, sexual and emotional pressure. Duress may occur during the arrangement of a forced marriage and continue once it has taken place. This definition is consistent with the UK's *Family Law Act 1996* (The Crown Prosecution Service nd), where forced marriage was criminalised under amendments introduced through the UK *Anti-Social Behaviour, Crime and Policing Act 2014*.

Other criminal conduct may be perpetrated in the context of a forced marriage. This might include, for example, offences of sexual assault, domestic violence, kidnapping, abduction or duress. The *New Zealand Crimes Act 1961* also contains offences related to slavery which capture servile marriage practices, including:

- for gain or reward, giving in marriage or transferring a woman to another person without her consent (section 98(1)(g); and
- inheriting a woman on the death of her husband (section 98(1)(h)).

## What does it mean to give or obtain consent?

The essence of forced marriage is the absence of consent to enter into the marriage. Some definitions leave unspecified the means by which consent is absent or negated. Other definitions expressly state the means by which consent is negated; namely by duress, coercion, force, deception or threat.

There are myriad considerations for assessing consent. There are both objective and subjective factors, including: the age of the marrying parties (ie both must be at least 18 years of age unless there are compelling circumstances); whether the affected person (or persons) has the mental capacity to understand the meaning, rights, obligations and consequences of a marriage ceremony; whether capacity is diminished due to age, disability or deception; and whether consent can be revoked.

The issue of consent creates an interesting challenge when distinguishing between an arranged marriage and a forced marriage. In an arranged marriage, parents and families play a central role in arranging the marriage, but the prospective spouses have the right to accept or reject the arrangement. Consent is given freely by all parties and not under duress. However, in some cases, 'consent' can be obtained by measures more subtle than force or duress. Often parents will arrange a marriage with no intention of malice and their behaviour may be seen to be justified as protecting the woman or child, strengthening families, and preserving cultural and religious traditions. The Immigrant Women's Health Service in Sydney describes ways in which consent can be obtained for an arranged marriage without malevolence, overt force or duress. Arranged marriages are seen as a way of protecting the reputation, property and wealth of a family:

The parents need not always threaten the child. It might be the opposite. They might offer gifts or jewels. The girls might be living in a strict religious home and the parents will say, 'When you get married, you will be free, and you can do whatever you want', or else they might say, 'You have a cousin and he is in Afghanistan, and if he stays there, he will die, and you must marry him, or else you will carry his death on your conscience' (Overington 2012: np).

The Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, has likewise stated that:

...marriage imposed on a woman not by explicit force, but by subjecting her to relentless pressure and/or manipulation, often by telling her that her refusal of a suitor will harm her family's standing in the community, can also be understood as forced marriage (Huda 2007: 10).

Consequently, '[an] attitude towards marriage as inevitable rather than optional could lead to a blurring of lines between coercion and consent' (Radhakrishnan 2012: 26). Understanding the processes by which the apparent consent of victims is obtained is necessary to understand the drivers of forced marriage, and what can be done to prevent and address it.

## The relationship between forced and servile marriage

The Australian government's *Discussion Paper on Forced and Servile Marriage* (AGD 2010) describes situations of servile marriage in which a person is considered a chattel (ie personal property) that can be sold, transferred or inherited into marriage. Servile marriage implies ownership of a spouse and is considered to be a slavery-like practice (UN Working Group on Trafficking in Persons 2010).

While the discussion paper stipulates that '[t]he terms servile marriage and forced marriage are used interchangeably' (AGD 2010: 3), there is no explicit reference to servile marriage in Australia's legislation relating to human trafficking and slavery. While a servile marriage may be dealt with under separate servitude offences contained in section 270.5 of the Criminal Code, there has been some debate about this omission and the need to explicitly acknowledge the distinction between forced and servile marriages. Similarly, it has been recognised that serious exploitation akin to slavery can occur within marriages that were not forced or servile (Legal and Constitutional Affairs Legislation Committee 2012; Lyneham & Richards 2014). This indicates that while a servile marriage is likely to be forced, an individual could be forced into a marriage that is not servile; and also that an individual could consent to a marriage that is or later becomes exploitative. This suggests that forced marriage and servile marriage should be viewed as separate but related concepts. The common feature of the two is the denial of personal freedom, which breaches human rights.

While servile marriages are defined as a slavery-like practice under the UN Slavery Convention, it is important to recognise that not all forced marriages or servile marriages are cases of human trafficking and slavery. Rather, '[human] trafficking and forced marriage intersect when marriage is used both in conjunction with force, fraud, coercion, or abuse of power and as a means to subject wives to conditions of slavery, often in the form of domestic or sexual servitude' (US Department of State 2010: 15).

# The nature and context of forced marriage in Australia and New Zealand

We need to talk about it not from a cultural perspective but from a context perspective (Stakeholder personal communication 2014).

It's so ingrained in the culture that saying no is not even an option (Stakeholder personal communication 2014).

## **Vulnerabilities to forced marriage**

While it is erroneous to suggest that culture is the foundation for forced marriage (Dustin & Phillips 2008; Volpp 2000), it would be equally wrong to suggest that there is no link between forced marriage and cultural practice or tradition. Stakeholders were asked what they considered to be the main risk factors associated with forced marriage as it occurs in Australia and New Zealand. Their responses generally reflected an acknowledgement that forced marriage was more visible in families and communities that are characterised by conservatism and strict adherence to social doctrines that compel conformist behaviour.

Forced marriage may be supported by a number of social factors. At the core of these is social conservatism, designated by one stakeholder as ‘the greatest risk factor’ when considering forced marriage (Stakeholder personal communication 2014). Social conservatism not only reinforced the observance of traditional standards of behaviour but also entrenched resistance to societal expectations that are at odds with these values (Collet & Santelli 2011; Gangoli, Razak & McCarry 2006; Hester et al. 2007). In the case of forced marriage, this included resistance to being able to choose one’s spouse, being allowed to marry outside the community, and/or being able to say no to a proposed union.

This social conservatism is tied to the desire or pressure to preserve cultural practices and values. A number of stakeholders, including those from migrant communities, described this pressure as being particularly intense for newer migrant groups as they negotiated new lives in the country of migration while wanting to retain some aspects of life in their home country. For some communities, or groups within communities, this could lead to a form of self-imposed isolation. As one stakeholder observed: ‘the communities here are closed...and because they want to keep their identity, really they become more closed’ (Stakeholder personal communication 2014).

Closed community living can have its benefits—such as providing support and reassurance through mutually understood beliefs and practices—but it may also lead to intolerance of the unknown or the different, and a lack of contact with different ways of thinking. At the family or community level, this may be demonstrated through stricter observation of social customs which, in combination with the effort to preserve identity, sees the family or community embracing practices that are not conventionally followed, or are becoming less common, in their country of origin. One stakeholder described this response among some migrant communities as a:

...dichotomy of being hopeful but also being scared about what you’re encountering. And the typical response is to band together and to do what you know. And so sometimes what they’re doing is not even the practice that you would find back in the old country (Stakeholder personal communication 2014).

It can also create a resolution to preserve these ideals:

...there are communities with a sense of entitlement to this practice...it’s always been that way so why does it need to change (Stakeholder personal communication 2014).

The constraints of conformity and limitations on autonomy add an additional layer of vulnerability. This was seen to be more pronounced for women and girls, where being female meant accepting certain forms of behaviour and doing what was expected, even if that meant not having (or not recognising the existence of having) a choice:

...so in the end 'I agree although it is not my wish, it is their wish, because they know more' (Stakeholder personal communication 2014).

...young women only know what we tell them and we tell them this is what you do (Stakeholder personal communication 2014).

In some cases, the trigger for the forced marriage was family concern that a woman or girl was becoming too much like their non-traditional or non-community peers. For others, it was reaching an age where marriage, or the commencement of marriage arrangements, was seen—by others—as the next obvious phase in their life. Family reconciliation was from time to time a contributing factor, with Australian citizens or permanent residents being betrothed or married (often offshore) to overseas-based relatives to enable spousal visas.

Boys and men were not universally freed from similar constraints. It was agreed among stakeholders that males, even in very conservative families and communities, do have considerably more independence than females but that when it came to marriage, choice was not always a consideration. In relation to a case where an Australian born man 'agreed' to marry a woman from his community living overseas, one stakeholder described the contradictions around choice:

...but still he follows his father and mother, what they say and he is 'happy' to bring a girl [into Australia] (Stakeholder personal communication 2014).

'Difference' also heightened vulnerability. Sexual preference or sexual behaviour at odds with parental or community norms, disability or aspirations for independent living (including tertiary education) were three areas that stakeholders identified as incentives to force a person to marry. Promiscuous sexual activity, whether perceived or real, was described as a major risk factor for both women and men from particular communities, as was homosexuality or suspected homosexuality. Marriage for these people was imposed as a means to 'normalise' their behaviour, or at least present a semblance of conventionality to the broader community.

A small group of stakeholders nominated extrinsic factors as further affecting vulnerability. One critical factor was the location of the marriage. Many cases of forced marriage described by Australian stakeholders occurred outside of Australia. Once offshore, extrication was often complicated and options for law enforcement and consular response were often limited (see next section on *The intervention framework*). For local marriages, intervention was somewhat easier to coordinate, but was hampered by limited resources and support services and, crucially, agreed points where action could safely be taken. Tied to the latter issue were considerations about the appropriateness of the response in different cases and during different periods of risk. Vulnerability may also become pronounced where persons who could intervene are concerned about accusations of racism if they do, or about the risk of misinterpreting an arranged marriage as a forced marriage. These and other considerations for response will be explored later in the report.

### Forced marriage narratives

The qualitative data presented in this section are derived from seven in-depth interviews with people who have experienced actual or threatened forced marriages in Australia or New Zealand, as well as from analysis of 10 forced marriage case files. The case files relate to people who participated in an interview and wished to provide additional information regarding their experiences (n=4), as well as people who declined to be interviewed but consented to the examination of their case files (n=6). A total of 13 unique participants provided their narrative for inclusion in the research. Due to the small number of respondents, no distinction is made between people who were interviewed in Australia and those interviewed in New Zealand, to protect their anonymity. Further, no distinction is made between individual participants (eg by designating each participant with an identifier, such as an alias or number), so that their personal information or narrative cannot be compiled. In line with conventional practice, the 13 participants are referred to throughout the analysis as 'victim/survivors'.

It is important to note that while all of the participating victim/survivors received assistance as victims of a threatened or actual forced marriage and were often referred to support services by law enforcement agencies, they have not participated in criminal justice or court processes. At the time of publication, as stated earlier, no forced marriage matter has proceeded through the Australian criminal justice system. The practice is yet to be criminalised in New Zealand.

The experiences of the 13 victim/survivors have been compared and contrasted with knowledge and expert opinion provided by stakeholders regarding the experiences of additional victim/survivors, as well as with information obtained from community members regarding forced marriage practices in their respective communities.

### *Victim/survivor attributes*

The 13 victim/survivors who participated in the research were female. The participants were victim/survivors of threatened (n=4) and actual forced marriages (n=9). Victim/survivors were engaged to be married when they were between the ages of 12 and 22 years, with the modal age being 17 years.

For those that were married, the marriages took place when the victim/survivors were between the ages of 14 and 21 years, with the modal age again being 17 years. Seven of the marriages took place while the victim/survivor was under the age of 18 years. In seven cases, victim/survivors were forced to marry at the same age at which they were engaged, while in the remaining two cases the victims/survivors were married four years after their engagement. At the time of interview, four victim/survivors were still married but had separated from their husbands, three victim/survivors had divorced and one victim/survivor had had her marriage annulled. The marital status of three victim/survivors is unknown.

No victim/survivors of actual or threatened forced marriages were born in Australia or New Zealand, with their migration occurring between the ages of two and 21 years. Four victim/survivors migrated as young children; three victim/survivors migrated approximately one year prior to marriage; and four victim/survivors migrated after the marriage. Migration information was not available for two victim/survivors.

Victim/survivors originated from South Asia (Afghanistan, Pakistan and India), Africa (Somalia), and the Pacific (Fiji). Eight victim/survivors identified as being Muslim, two victim/survivors identified as atheists and one victim/survivor identified as Hindu. The religious affiliation of two victim/survivors is unknown.

These attributes were largely consistent with the information provided by stakeholders who had knowledge and experience in supporting victim/survivors, although a wider range of characteristics and circumstances was also revealed. Stakeholders identified victim/survivors born in Bangladesh, Sudan, South Sudan, the Middle East (Iraq, Iran, Turkey, Lebanon, Oman, Syria, Jordan, United Arab Emirates), China and, notably, Australia and New Zealand. However, most victim/survivors identified in Australia were citizens, while victim/survivors in New Zealand were more likely to be newly arrived.

### *Victim/survivor backgrounds and life prior to marriage*

Victim/survivors were asked to describe their home, school and social lives prior to marriage, as well as their perceptions of marriage while they were growing up. The majority of victim/survivors reported growing up in what they described as 'strict', 'religious', and 'conservative' households where the family maintained strong traditional and cultural ways of life. However, victim/survivors held dichotomous views of whether this constituted controlling or caring behaviours.

The victim/survivors who thought they were brought up in controlling environments described being 'taught to obey', having restrictions on who they could associate with and when they could associate with them, feeling isolated, and being limited in their freedom to visit places without an escort. As one victim/survivor recalled:

My life was nothing really much fun when I was a kid. It was only because my father is really strict. He doesn't really allow me to go to places or anything and we all go together...He didn't allow me to go to people's places and stay with them or hang out with my friends...Because girls have to stay home (Victim/survivor personal communication 2014).

The strict and conservative upbringings of victim/survivors were verified by stakeholders. As one articulated:

I haven't really seen any prime examples of a good, solid, healthy familial environment prior to the forced marriage...I've always seen warning signs or indicators (Stakeholder personal communication 2014).

However, two victim/survivors held more positive views about their strict upbringing, and described how their parents were strong role models who taught them about respect and responsibility through learning to cook, clean and care for the household. For example, one victim/survivor said:

[My life was] good. Yeah it's good...my mum, she showed us cleaning, cooking...My mum make me strong (Victim/survivor personal communication 2014).

Victim/survivors also revealed varying levels of exposure to Australian and New Zealand cultures. Victim/survivors who migrated at an early age generally had greater exposure to Western influences; however, some victim/survivors disclosed that, although they wanted to integrate into the wider community, their families imposed strict cultural boundaries that limited their contact with people from other cultures.

Similarly, victim/survivors were limited in their ability to socialise outside of the extended family unit, especially after migration. One victim/survivor remarked:

My life was really simple, just like go to school, come back. My family was really strict. They just let us go to school and then let us go to the mosque and just come back home...My life wasn't like one of those teenagers that you can go out with your friends shopping and everything. We were just like no phone until you're married, no guy friends, no nothing (Victim/survivor personal communication 2014).

The education level completed by victim/survivors ranged from primary through to tertiary education, though victim/survivors most commonly reached the senior years of secondary school (years 10–12 in Australia or years 11–13 in New Zealand, which equates to approximately 15–19 years of age). Despite all victim/survivors describing their schooling as a positive influence in their lives, the education level attained by victim/survivors was often determined by their family's degree of willingness to support them in their studies. Many victim/survivors were forced to cease their schooling once married, as described later in this section.

### *Perceptions of marriage*

Most victim/survivors were raised in cultures where arranged marriages were common, which meant many of them expected that their parents and relatives would be involved in choosing their partner. Nevertheless, the majority of victim/survivors held strong views about the freedom to choose their own partner and when to marry, as well as to choose to remain unmarried. These views were informed by a variety of factors, including the desire to finish their studies before getting married, witnessing negative experiences of marriage within their family or community (eg seeing the subordinate treatment of wives), and disagreeing with what their role as a wife would entail in the home.

One victim/survivor described how her negative feelings towards men while growing up had informed her perceptions of marriage:

As I grew up, I saw how the men around me were. I didn't really like men...I could never imagine myself being married...I thought, if the men around me are my only available options and if love doesn't exist then I might as well not get married (Victim/survivor personal communication 2014).

Another victim/survivor explained that because her mother had had a negative experience in an arranged marriage with a man from the same community, she did not want to endure the same experience:

My mum suffered a lot through an arranged marriage, so I used to tell her I didn't want to marry any guy from my community...[I told my mum] I will marry a guy that's Muslim but no one from our culture because the men are critical and treat their wife so badly (Victim/survivor personal communication 2014).

Victim/survivors acknowledged giving little thought to marriage while they were growing up and, in some cases, not understanding the meaning of being married. Instead, they focused their attention on their studies and assisting their families. For example, one victim/survivor said:

I did not have any idea what marriage was, and I did not want to get married because I had never thought about it...We went to school here and we loved it...I think we got more freedom. We started to explore our ideas and we wanted to go to university. We didn't want to get married (Victim/survivor personal communication 2014).

Another said:

I never wanted to [get married]. I didn't even think about getting married when I was a little girl or anything...I always wanted to become someone and actually help my family (Victim/survivor personal communication 2014).

### *Marriage practices in the victim/survivors' families and communities*

Victim/survivors reported that it was common for both their male and female parents, siblings and cousins to have been forced into marriage, whether in Australia, New Zealand or another country. Outside of the family unit, victim/survivors spoke more broadly of marriage practices in their communities and the influence of the community in determining who and when a person marries:

Basically your parents choose your spouses...[The community's] expectations, their values really affect how parents bring up their kids and how kids in general can act and what sort of attitudes and values they can adopt...It is very controlled in a way...the community is highly influential in how things go (Victim/survivor personal communication 2014).

Stakeholders emphasised that an individual was at greater risk of a forced marriage if they had siblings or cousins who were forced to marry, particularly if the siblings or cousins were female. Individuals were also identified as at risk if they had siblings that chose their own partner in a community where arranged marriages were expected of them.

### *Expectations and reason for the marriage*

#### **Tradition, culture, faith and family honour**

It is not religion that does this. It is just people (Victim/survivor personal communication 2014).

Forced marriage victim/survivors offered a range of motives for being coerced into marriage by their prospective husband, family and community members. Most commonly, these reasons included adhering to the family's traditions, culture and faith, and to protect the family's honour.

When one victim/survivor who came from a strict traditional family adopted some aspects of Western culture, her actions received condemnation from her family, including threats to harm and kill her. She was also repeatedly warned by the men in her household that were she to cross the traditional moral boundaries they would be required to protect the family's honour by having her married. She was subsequently engaged at 12 years of age.

Six other victim/survivors reported being forced into marriage to preserve the family's honour or to prevent dissension from the strict moral and cultural rules established by their families and communities. Similar reasons for forced marriage were presented by stakeholders who had provided support to victim/survivors:

...one of the key factors of the forced marriage in Australia is the fear of losing their culture and religion...These children have grown through the years...[with] parents assisting them to have a good future, and a good future means that they have to preserve the good aspects of their culture and tradition. So being married to [a person of] the same ethnic background or the same religious practice is very important for them because that's the way that the parents and the rest of the family can assist them. It's through these ways, through cultural traditions, that they're being supported' (Stakeholder personal communication 2014).

...we see women born in Australia but living to the expectations of the generation before. And seen to be bringing shame on the family for being more Westernised, perhaps, than the family would like her to be, in terms of the cultural norms (Stakeholder personal communication 2014).

### **Promiscuity and homosexuality**

Closely associated with attempts to preserve family honour and maintain cultural mores, forced marriage was used to control the perceived promiscuity of victim/survivors. As one victim/survivor explained:

Some of the times, parents don't even want to marry their child off but due to some sort of suspicion that she or he may be in a relationship, due to the fact that it may cause dishonour to the family, the child will be married (Victim/survivor personal communication 2014).

In contrast, victim/survivors were also married as a means of protecting them from the perceived promiscuity of others. One victim/survivor spoke of her father's overprotectiveness, and his view that marrying her and her siblings would guard them from being targeted by promiscuous men. She explained that 'if he gets us married, we would be safe' (Victim/survivor personal communication 2014).

In a similar scenario, one victim/survivor became pregnant after being sexually assaulted at 14 years of age by a man whom her parents had chosen as a potential marriage partner but whom she had rejected. When her family became aware of her pregnancy, she was made to marry the man.

Stakeholders recounted similar experiences of victim/survivors they had supported, with one stakeholder arguing that in some communities forced marriage is often a response to the cultural shame surrounding promiscuity and homosexuality. Another stakeholder detailed the experience of a 30-year-old victim/survivor who was:

...taken under false pretences to another country, because the family didn't like the boyfriend she was seeing and so they wanted to make sure she had the appropriate boyfriend (Stakeholder personal communication 2014).

Similarly, a teenage girl who was allegedly 'not dressing properly...not talking properly, being too Westernised' was repatriated to her family's home country 'to make sure she played the game...so that she was a good girl' (Stakeholder personal communication 2014).

### **Interracial and interfaith relationships**

Interracial and interfaith relationships were also seen as dishonouring the family, and were therefore used as a justification for forcing a person into marriage. One victim/survivor recalled how she and her sisters were forced into marriage because her parents reacted negatively towards her other sister choosing to marry someone from a different ethnic background:

[My second sister] had a love marriage. It was interracial so my parents were not happy. So from the day that my sisters were married, my parents started looking for a guy for me as well (Victim/survivor personal communication 2014).

Another victim/survivor formed an online relationship with a man of a different faith, whom she married and became pregnant with shortly after meeting in person. When her family became aware that she had married without their consent and to a man not of their faith, they made plans for her to marry her cousin.

### **For the purpose of migration**

In many communities, marriage can be an important instrument for establishing and strengthening networks. It can be a means of making connections abroad, and reinforcing or expanding connections in a country. As such, immigration reasons were cited by victim/survivors and stakeholders who identified that families were forcing their children into marriage in order to 'sponsor to bring in more of the family' (Stakeholder personal communication 2014):

There are some indicators that it has been about bringing a family member back, as in [the parents] send the female over to marry because this person needs to get the visa to get in (Stakeholder personal communication 2014).

These comments are supported by two victim/survivors who believed they were forced to marry in order to provide sponsorship for their husbands' migration. As one victim/survivor recounted:

I just feel like he got married to me because of the visa...he married me because he wanted to come here (Victim/survivor personal communication 2014).

In the other case, a victim/survivor's family arranged her marriage to a cousin overseas against her will. Her family then pressured her to sponsor her husband to migrate. To secure residency for the man, the victim/survivor was then forced to marry him again in a legal marriage ceremony once he had relocated to be with her.

### **Better life or opportunities**

In contrast to victim/survivors who reported that they were forced into marriage for the benefit of their husband, family or community, three victim/survivors reported that their parents married them in an attempt to improve their lives, to give them greater opportunities to succeed, and to improve their financial stability. This is illustrated by one victim/survivor who explained:

When I was in Fiji, my parents said, 'Marry a guy who lives overseas, your life will be better than Fiji.' Because we were quite poor at the time, we didn't have much money and everything. So my parents just said, 'Your life will be much more nice and all.' Because he was from overseas, he had a good job...I was in poverty at the time. So they were thinking it was the right choice (Victim/survivor personal communication 2014).

Stakeholders provided similar insights into the motivations of parents who were seeking a better life for their child. Stakeholders believed that, in some instances, parents made the decision to force their child into a marriage because 'they are relatives, and they have money, and they have businesses, and we can assist our children to have a better life' (Stakeholder personal communication 2014). Therefore, 'a lot of the parents really do think it's for their children's own good,' especially if they are 'coming from a poorer family and marrying up,' or if they are 'from a non-Western country and marrying into a family that lives in a Western country' (Focus group, personal communication 2014).

However, stakeholders also spoke of the deceit exhibited by the receiving families with regard to what married life would be like. Thus, the family may have been convinced to marry their child against his or her wishes because:

...what they were sold was a false picture of who these people actually were and what their intentions were...which is quite devastating not just to the person forced to marry but also the parents could be regretting it in the end. What they thought was a good idea turned out not to be, and those people are not who they represented themselves to be (Stakeholder personal communication 2014).

Last, stakeholders identified that civil disruption could create an environment in which forced marriage may occur as a result of parents seeking a better life for their child:

...most of them [are] displaced because of the war, there's poverty and there's cultural aspects that girls have to marry, and this is [the] reason that sometimes the families/parents choose to give them away...[he can] provide her with settlement and with [a] good life (Stakeholder personal communication 2014).

### **The victim's age and sex as risk factors**

Age can be a risk factor that contributes to an individual's vulnerability to forced marriage. Some participants believed they were forced into marriage because they were approaching a traditionally or culturally accepted age at which a girl should be married.

For example, one victim/survivor said that it was ‘common [for] most girls to get married at the age of 16 or 17 or 18 [years]’ in her community (Victim/survivor personal communication 2014). Another victim/survivor recalled how her father told her that he ‘want[ed] all [his] daughters to get married at an early age’ (Victim/survivor personal communication 2014). Similarly, one victim/survivor explained that in her culture a girl is expected to marry ‘as soon as [she] matures’ (Victim/survivor personal communication 2014). However, another victim/survivor revealed that in her community ‘they’re not even teenagers and they get married’ (Victim/survivor personal communication 2014).

Stakeholders also commented on the importance of age as a risk factor for forced marriage, with some describing age as ‘immaterial’ to perpetrators of forced marriage (Focus group, personal communication 2014).

Along with age, many victim/survivors believed that being female made them more vulnerable to forced marriage. One victim/survivor illustrated the gender difference as follows:

I haven’t seen one of my [female] cousins who is actually pursuing a good career. But all the male cousins, they are in Australian universities doing an MBA (Master of Business Administration). They have businesses, cars and houses and everything. But the women— no (Victim/survivor personal communication 2014).

Another alluded to the influence of patriarchal structures on the forced marriage of females:

I think it’s more to do with the males in our society feeling threatened if a woman is more intelligent than they are or if they’re pursuing something that’s better than them...And the other thing would be if we don’t work, if we don’t go to university, we have no source of income. We have no independence, so we are dependent on them (Victim/survivor personal communication 2014).

### *Finding out about the marriage*

Victim/survivors became aware of their family’s intention to marry them at varying times. While victim/survivors were raised in cultures where arranged marriages were expected, few knew when, where and who they would be marrying. One described how she found out as follows:

...all of a sudden [my parents] announced that I was getting married...just like that, out of the blue (Victim/survivor personal communication 2014).

Two other victim/survivors emphasised the short time frame between finding out about their parents' intentions and becoming engaged or married:

I was told by my father that, 'This day he is coming, you have to meet him, the family and get married on the same day' (Victim/survivor personal communication 2014).

First time I went and saw him, the second day we got engaged (Victim/survivor personal communication 2014).

Victim/survivors also expressed feeling deceived and manipulated into becoming engaged or married. As one victim/survivor explained:

Things really happened quickly and I was manipulated into the marriage. I didn't know I was signing a marriage contract. They told me it's just an engagement but I really didn't understand the system over there. I was feeling very confused and scared yet they made me promise that if I just got engaged to him, they said it's an engagement and that if I don't like him I can just leave him...there was a lot of emotional blackmailing going on (Victim/survivor personal communication 2014).

Of the few victim/survivors who knew about their intended marriage, one explained how she tried to plead with her parents to not get married:

It was really difficult. I felt like I was in a darkness because during that whole four years' time, I used to tell my family every single day, my mum and dad, that I didn't want to get married to this guy because I didn't like him or we had no future and stuff like that (Victim/survivor personal communication 2014).

### *Others' knowledge of the marriage*

Victim/survivors indicated that parents, relatives, friends, family friends and community members knew about the intended marriage and/or were present at the marriage. Sometimes the victim/survivors knew the people present at the engagement or wedding but in other cases they had either limited or no prior contact with them. Most victim/survivors believed that those who were present were aware that they felt pressured, had not given genuine consent, or did not understand the nature and effect of the marriage ceremony. For example, one victim/survivor remarked:

There were some family and friends [at the wedding]. I think it seemed to be all right with them (Victim/survivor personal communication 2014).

Similarly, another victim/survivor was pressured by her family to keep her forced marriage a secret from others, which indicates they may have known it was wrong. She said:

My parents came to New Zealand as well and friends and families were invited as well. It was as if they were hiding something. When we got engaged, they told us not to put anything on Facebook and not to tell anyone. It was like they were hiding something (Victim/survivor personal communication 2014).

In contrast, some of those with knowledge of the intended marriage attempted to stand up for two of the victim/survivors. One victim/survivor explained:

My cousins were not happy. They fought with my dad but then they can't do much because I'm the daughter and he can do whatever he wants to. So they can't really say much (Victim/survivor personal communication 2014).

Another commented:

My mum, dad and my sisters and brothers, they were there, and my other relatives, their cousins. They were all happy apart from my mum's family side because they knew what sort of family they were. So they told my mum, they warned her before that don't give your daughter to these kind of people. But my mum and dad, they didn't listen (Victim/survivor personal communication 2014).

However, such attempts to intervene were unsuccessful, and the victim/survivors were still made to marry the suitor chosen for them by their parents.

Other victim/survivors acknowledged that guests may not have been aware of the coercive nature of the engagement/wedding. As one victim/survivor explained:

[My friends knew], but I could hardly understand the situation myself. So they couldn't really understand (Victim/survivor personal communication 2014).

## *Circumstances of the marriage*

### **Location**

The location of the engagement or marriage ceremony can play an important role in maintaining secrecy and ensuring the victim/survivor's compliance. Marriages took place in the victim/survivor's home country, the husband's home country, or the country common to both parties, including New Zealand but not Australia. The majority of engagements and weddings took place in private settings, such as a house, rather than in a public setting like a place of religious worship. One victim/survivor said:

Most of the registration is done at home...I think you can call the people to your house and you conduct a ceremony, and then you just sign it there (Victim/survivor personal communication 2014).

Stakeholder responses echoed those of victim/survivors, though stakeholders more strongly indicated that 'most of them are actually Australian citizens who are taken offshore for marriages as opposed to marriages occurring here in Australia' (Stakeholder personal communication 2014).

### **Role of family members**

Family members played different roles including instigating, supporting and/or arranging the marriage; organising and/or conducting the ceremony; and witnessing the marriage. The majority of victim/survivors had little to no involvement in finding a suitor or planning the marriage ceremony. In most cases, the victim/survivor's parents were the instigators of the marriage. However, in one case it was the prospective husband's parents who were searching for a wife for their son. This victim/survivor explained:

My husband's parents were looking for a girl from Fiji...They talked to my parents on the phone and they said they wanted me to get married with their son. They discussed everything with my parents, not me (Victim/survivor personal communication 2014).

Stakeholders also identified that the prospective husband's family can play a strong role in instigating the marriage.

### Type of marriage

Marriages were conducted by family members, community members and religious leaders in cultural and religious ceremonies, as well as by civil marriage celebrants, although these persons were typically part of or close to the family. Few marriages were registered according to Australia or New Zealand's marriage laws; however, three victim/survivors participated in legal marriage ceremonies. These included one marriage ceremony conducted by a civil marriage celebrant who was a member of the victim/survivor's family, and another marriage ceremony conducted by a religious leader abroad but which was later registered in New Zealand. A third victim/survivor was forced to marry her husband a second time in a legally registered marriage ceremony, after first marrying him in a cultural ceremony overseas.

Only one marriage involved a dowry or other type of exchange for the victim/survivor to wed. This victim/survivor's family arranged for her to marry a man twice her age. Although she expressed that she did not want to marry him, her parents made her do so. Her family paid her husband and his family a dowry of cash and gold worth NZ\$70,000. After arriving in New Zealand, a ceremony was held at the local place of religious worship for the benefit of the community. The marriage was never registered.

### Consent

...it's not about parents consenting on behalf of children...that individual has to be freely consenting to the marriage...[W]ithin our community different people have different ideas and different conceptions of marriage... but at the same time there is that fundamental basis of consent (Stakeholder personal communication 2014).

Inherent in cases of forced marriage is the absence of the free and full consent of one or both parties to the marriage. According to the Criminal Code, consent can be negated by means such as coercion (eg physical force, detention, duress, psychological pressure or emotional pressure), threat or deception. These were present in all cases examined for this research.

In some cases, the victim/survivors were deceived or explicitly coerced into the marriage, despite making their refusal clear and obvious to their parents, relatives and others. When one victim/survivor questioned her parents as to why they had not asked for her consent, they replied:

We never got asked whether we wanted to get married so why would you. Why should we ask you? Just do as we say and it's for the best (Victim/survivor personal communication 2014).

She went on to explain that:

Whether I wanted it or not, they would force me to do it (Victim/survivor personal communication 2014).

Similarly, a second victim/survivor described how she had never been asked for her consent to get married:

It wasn't like did they ask me if I wanted to get married or not. They were just like, 'No, you've got to get married to this guy whether you like it or not' (Victim/survivor personal communication 2014).

Another victim/survivor also described having no influence over her father's decision that she and her sister would get married:

We did not have a choice to think or discuss with him whether it's going to happen or not. He just told us one day that when [my sister] finishes her studies we will both go to Pakistan and this is what we're supposed to do (Victim/survivor personal communication 2014).

In other scenarios, consent was obtained from the victim/survivor through obvious means, such as being threatened with physical harm. For example, when one victim/survivor was asked if she had ever told her father that she did not want to get married, she replied:

[If I said no] he would have hit me, beaten me up and lastly he would have grounded me...He would have just found someone else and got me married to someone else...I couldn't fight with him any longer...I said no but he started fighting and was like: 'If you don't, then you'll come back and I won't send you to school, you'll just have to stay home and do housework.' He actually scared me...I had to say yes (Victim/survivor personal communication 2014).

In most cases, consent was obtained by more subtle means such as psychological and emotional pressure that made the victim/survivor feel guilty, obliged or dishonoured. In these cases, consent was ostensibly given because the victim/survivor felt they could not refuse.

Victim/survivors reported feeling like they were not able to defy their family's wishes, and feeling pressured to go through with the marriage because of the expectations placed on them by parents, relatives, and religious leaders, among others.

One victim/survivor detailed the emotional blackmail her mother used to create the fear that coerced her and her siblings into marriage:

Three of our engagements happened on the same day [her, her sister and her brother]... [my mother] told them, 'If you don't want to do the marriage, you can just stop it and if you're not ready or don't want to do it.' But they want to do it. Because they're scared that if they don't agree with that, then if they get married to someone else and if they leave them, then my mum would tell them, 'See, I told you that you should have did what we said or else none of this would have happened to you.' That's the reason only they agree to the marriage (Victim/survivor personal communication 2014).

The same victim/survivor also described the dishonour she would face if she were to refuse the marriage, and how this made her feel obliged to consent to the marriage. She was told by her mother:

'What's done is done. You can't change it now because if you change it now or we break it now [the engagement], people are going to talk about it and say there must be something wrong with this girl or she might have found someone else and that's why she wants to break up the engagement and people are going to talk in the community' (Victim/survivor personal communication 2014).

Another victim/survivor highlighted the more subtle means by which her parents forced her to marry against her will. She spoke of the guilt that her parents would induce if she were to marry a man from a different background:

Even if they [her parents] won't say it directly, they'll say, 'I've brought you up and I wish you would get married to this guy, he's from the same caste' (Victim/survivor personal communication 2014).

In another scenario, the victim/survivor ostensibly chose her husband and consented to the marriage, based on a photograph she was provided of the man, but when she met him and his father she changed her mind. In this case, she felt pressured to continue with the arrangements because of the coercion of the community and the threat of shame the family would face as a result of her refusing the marriage.

In the above instances, it may appear as though the victim/survivors had a choice; however, this choice was superficial because of the emotional pressure placed on them.

Stakeholders agreed that consent is a vexed issue where there is a spectrum of resistance, as is the case in situations of sexual assault. As one stakeholder analogised:

...it's like a rape victim who didn't actually make any overt [opposition], who didn't resist or didn't struggle because they were concerned about the impact of that, that there would be violence or something like that. It doesn't make it any less a rape (Stakeholder personal communication 2014).

However, stakeholders suggested that the lack of resistance—or even acceptance—by forced marriage victims is often underpinned by the social and cultural importance of marriage which is instilled in children from a young age. Thus, marriage is a way of ensuring the continuation of the cultural and social traditions of the family and the community. Consequently, 'the cultural connectedness and responsibility and accountability [of the child] is by far a lot bigger than their own individual desire' (Stakeholder personal communication 2014). Some stakeholders also suggested that there are 'generational hierarchies where children are afraid to disobey their parents' and that children 'feel obligated to say yes because of the cultural context' (Focus group personal communication 2014).

Stakeholders also raised the issue of bribery and 'invisible' coercion being used as methods of ensuring the child's compliance. As explained by one service provider:

They'll encourage her as well as threatening her in an invisible way...[Victims] are telling me that, 'My father will not talk to me in months if I refuse to marry the man. My mother will not let me go out, not let me have a social life with my friends and so they will cut me off. They are not punishing me physically. I eat, I drink, I wear [clothes]—but other things blackmail me. If I want something, [my parents will say], "Okay, we'll get it for you if you get married to this man"' (Stakeholder personal communication 2014).

Further, stakeholders commented on the possibility of victim/survivors accepting unwanted unions due to the consequence of refusal being ostracism from their family. As one community member articulated:

...the option of being totally isolated from your family if you run away is just too scary to consider (Focus group personal communication 2014).

### *Information about the person the victim/survivors were forced to marry*

Victim/survivors offered little information about the person they were engaged or married to. This may be partly due to their limited contact with the suitors prior to marriage and the tenuous nature of their relationships whilst married. It may, in part, also be because the potential or actual husband played a secondary role to parents, relatives and community members in forcing the victim/survivor into the marriage and perpetrating violence against them. It may also demonstrate the secretive nature of the marriages, and highlight the fact that information about their prospective partner was withheld. For example, few victim/survivors knew the age of the person they had married or were expected to marry. Of the victim/survivors who knew their partner's age, they generally commented that their partner was significantly older than them and that this was an aspect of the union they felt uncomfortable about. For example, one victim/survivor commented:

I was 17 and the guy that [my father] found was 25 years old. I was like, 'How is this going to work? Are you crazy?' (Victim/survivor personal communication 2014).

Another said:

This guy, he was 10 years older than me...we couldn't even talk to each other (Victim/survivor personal communication 2014).

Victim/survivors revealed that it was common for their partner to be a member of their extended family (such as a cousin), but this did not mean that the victim/survivor knew more about their partner. Of the victim/survivors who were engaged or married to someone outside of their family, some were partnered with suitors who shared their religion, nationality and country of origin, while others were partnered with suitors of a different background. According to victim/survivors, some of the husbands had migrated to Australia or New Zealand at varying times in their lives and were permanent residents or citizens, while others were located abroad and migrated once married.

Victim/survivors provided mixed responses when asked about their partner's consent to marry. Some victim/survivors believed their husbands provided genuine consent to be married, while others believed their husbands may also have been forced into the union.

For example, one victim/survivor described her chosen partner as being ‘very enthusiastic in going ahead with the marriage’ (Victim/survivor personal communication 2014), while another revealed that ‘it was as if he was marrying for his parents too’ (Victim/survivor personal communication 2014).

The spurious nature of consent in forced marriage cases was highlighted by the testimony of a third victim/survivor who said that her husband ‘did want to get married...and was happy about it,’ but provided the caveat that because the union was arranged by his family he felt he had to ‘agree to it whether [he] liked it or not’ (Victim/survivor personal communication 2014).

### *Experiences while married*

...my mum told me that if a woman goes through this situation they’ll go to Heaven, but I reckon you don’t have to suffer your life all these years just to go to Heaven. You can choose the right to go to Heaven, you don’t have to suffer violence (Victim/survivor personal communication 2014).

Victim/survivor case files and interviews revealed a wide range of abusive, violent, controlling and exploitative experiences while married. These experiences are largely consistent with those of persons exploited within intimate relationships, and victims of domestic violence (Lyneham & Richards 2014; Richards & Lyneham 2014).

#### **Physical and verbal abuse**

Physical and verbal abuse was experienced by all victim/survivors while married. These abuses were most commonly perpetrated by the victim/survivor’s husband and his family. As one victim/survivor indicated:

Most of the cases, it’s [the in-laws] who cause more problems between the partners than the partner himself (Victim/survivor personal communication 2014).

One victim/survivor described how her husband and her father-in-law regularly perpetrated violence against her:

[My husband and father-in-law] are doing this to me all the time—beating, hitting, abusing...kicking me and saying, ‘Don’t kick too hard because she’s pregnant’ ...And I have an earring and [my father-in-law] pull my ear like that and it’s bleeding, my ear (Victim/survivor personal communication 2014).

Another victim/survivor detailed the violence enacted by her husband and several members of his family:

I struggled there for seven months. No contact, no talking, nothing, just housework and then suddenly my mother-in-law, they started torturing me, they started to threaten me just, like, I can't talk to my parents and I can't tell my stories or my stuff to anyone else. And my partner was the same, he was a mother's boy. And the sister-in-law, she was pretty much hard on me. Life was very hard at the time. My partner started beating me; there was a lot of violence. All that beating and torturing, everything was there...The whole family [was hurting me] except for my father-in-law (Victim/survivor personal communication 2014).

Another victim/survivor was subjected almost nightly to physical, verbal and sexual abuse, and forced to consume alcohol. Indeed, many victim/survivors were regularly subjected to sexual violence throughout their marriages, as detailed below.

### Sexual abuse

While forced marriage in itself may be a form of sexual abuse (The Crown Prosecution Service nd), victim/survivors also reported actual or attempted sexual assault, forced exposure to pornography, and forced and unwanted pregnancy within their marriages. These abuses were most commonly perpetrated by husbands but, in a small number of cases, were also perpetrated by fathers in law and other male relatives of the husband.

One victim/survivor described how she did not realise that being married would require her to have a sexual relationship with her husband and how, because she expressed that she did not want to be married and have sex, her husband would sexually assault her as punishment:

After I got married, he started raping me and everything like that because I didn't agree; I told him that I wanted some time to see what marriage was like. I just thought they do the wedding and stuff. I didn't know about the physical relationship or anything like that (Victim/survivor personal communication 2014).

The same victim/survivor discussed how her husband also refused to believe that she was a virgin, and accused her of having sex with other men. As a result, he forced her to undertake a virginity check with a doctor. She described her mother's reaction when she sought help from her:

It was really hard, I didn't even expect that, and when I tried to go to my mum she was like, 'He's your husband. Whatever he tells you, just do it, whether you like it or not. Even if he tells you to sell yourself, you have to do it because he should be your main priority in everything.' It was really hard and tough life (Victim/survivor personal communication 2014).

In the case of another victim/survivor, she revealed how every night her husband would watch pornographic films and force her to re-enact what he had watched. He would also force her to have sex while menstruating, and masturbate in front of her. He would threaten to kill himself if she did not have sex with him and became physically violent towards her. Other controlling behaviours he exhibited included measuring the amount of toilet paper she used. As a result of the ongoing sexual abuse, this victim/survivor suffered from poor sexual and reproductive health, as well as chronic back pain.

One victim/survivor revealed how her father-in-law would secretly observe and indecently assault her:

My father-in-law, he started to ill treat me. He started to abuse me physically and touch me and all that. He started to touch me and peep through the bathrooms when I was having my shower. And when I'm sleeping, it was summer, so I'd always open the window and he comes from outside (Victim/survivor personal communication 2014).

Similarly, another victim/survivor disclosed that her husband's brother would indecently assault her while she slept:

His young brother tried to sleep with me...He say to me, 'When you sleep, I touch your body'. And I just cry, cry, cry, cry (Victim/survivor personal communication 2014).

Three victim/survivors were also denied reproductive choice, and became pregnant as a result of being sexually assaulted. One victim/survivor felt pressure to have a child, while another was subjected to repeated sexual abuse over many years, resulting in several pregnancies and births while under the age of 18 years. The latter victim/survivor was made to deliver her first child at home, without medical support. In response to one victim/survivor becoming pregnant to her boyfriend, she was forced to marry a man of her family's choosing. Victim/survivors also experienced pressure to terminate pregnancies that were unwanted by their family, husband, or husband's family.

### Financial abuse

In addition to physical, verbal and sexual abuse, a limited number of victim/survivors also experienced financial abuse. This included being denied access to wages and personal bank accounts, and not having influence over the distribution and spending of the family's finances. One victim/survivor also described how her husband took all the savings from her bank account:

When I was working, my [bank] card was with my husband. He knew the PIN [personal identification number]; I didn't even know my PIN...I asked him for my card, and he gave me my card and I asked him for my PIN and he told me my PIN. Then I went and I wanted to buy something and I was swiping, but it says that it was declining. Then I went to the bank and I asked them and they said that there's no money in the card. He took all the money out. I had no money with me. Like, not even a cent (Victim/survivor personal communication 2014).

Another victim/survivor revealed that her husband and his family made various financial demands on her, including continuously harassing her and her family for more dowry.

### Restricted movement and isolation

All victim/survivors who were forcibly married reported experiencing isolation, surveillance and restrictions on their freedom of movement, to varying levels. Victim/survivors were forbidden from leaving the house for long periods of time, and were only able to leave if they were escorted by their husband or his family. Their contact with family and friends was also scrutinised or denied, and their use of telephones and computers was limited, monitored or forbidden. In many cases, the victim/survivors' opportunities to study were disallowed, as discussed below. One victim/survivor recalled:

I was not allowed to leave the home and I was not allowed to talk to my parents, I wasn't allowed to go meet my friends and family (Victim/survivor personal communication 2014).

Another victim/survivor, who was physically confined to her room by her husband and only allowed out when he returned home, described the isolation she felt:

I wasn't even able to go out of the compound. I used to stay alone during the day time. I couldn't even go alone to town or anywhere. I just used to stay home (Victim/survivor personal communication 2014).

The same victim/survivor disclosed how being denied the use of telephones isolated her further:

He took my phone's charger so I can't charge my phone and call anyone. And my mother-in-law, she used to take the landline phone with her to work just so I can't call anyone or get in contact with anyone (Victim/survivor personal communication 2014).

Other victim/survivors described feeling isolated as a result of being banned from making friends, socialising and communicating with family members. One victim/survivor explained:

I have no friends. No friends. When I was with them [my husband and his family], I have no friends...I can't talk anymore and I have no friends...I want to call my mum, to let them know what I'm doing. But they can't leave me alone. If they are going, I must go with them (Victim/survivor personal communication 2014).

Many other victim/survivors described being escorted when they left the house, being kept under surveillance within the house, and having communications monitored.

### **Domestic servitude**

While confined to the home, many victim/survivors experienced domestic servitude. Servitude is defined under the Criminal Code (section 270.4) as a slavery-like condition, and refers to the condition of a person who provides labour or services because of the use of coercion, threat or deception, where that person is not free to cease providing the labour or services, or is not free to leave the place where they provide the labour or services; and who is deprived of personal freedom in respect of aspects of the person's life other than the provision of labour or services. Domestic servitude occurs where the labour or services are provided in a private dwelling.

Victim/survivors described being forced to take care of all the domestic duties and housework, which included the cleaning, washing, cooking and caring for other members of the household. One victim/survivor told of how she was restricted from communicating with anyone outside the household, and was expected to take care of the domestic duties:

I was just supposed to work inside the house, do domestic duties and just listen to my mother-in-law, my sister-in-law, and just clean the house and not contact anyone, no phone, no internet, nothing at all...Life was pretty hard. I had to work all day, all night to cook breakfast, lunch, dinner, housework, vacuum house and wash clothes. That was my job (Victim/survivor personal communication 2014).

Another victim/survivor was made to look after her father-in-law who lived with her after she was married. Her father-in-law would sleep in the same room as her, and she described her living arrangements as being as if she had a second husband to take care of. She was only permitted to speak when her father-in-law allowed her to, and he would not talk to her for significant periods of time, sometimes up to one week. He would make her sit with him for extended periods of time and she was not allowed to leave. Of that time she said, 'I think I'm going to die as well. They eat me from the inside' (Victim/survivor personal communication 2014).

Victim/survivors were also required to maintain the garden, as described by one victim/survivor:

I must give food all the time, cook...cleaning all the time...I work like a man. Like, you know, the grass. Two hours of grass. Mowing all [the grass] and collect[ing it] with my hands...My nails are gone (Victim/survivor personal communication 2014).

While the majority of victim/survivors were only required to perform domestic work, one victim/survivor was also forced to work illegally on a fruit farm to earn money for her husband and his family. This victim/survivor was made to rise at 4.30 am each day to begin household tasks, such as cooking for a family of seven, packing their lunches, washing their clothes by hand, and dusting and sweeping the house. She would then work at the fruit farm during the day, after which she had to make dinner and tidy up the house. She never received any payment for working on the fruit farm as her husband collected the money.

### **Denial of education and employment**

The vast majority of victim/survivors were forced to stop studying once they were married, or discontinued due to the stresses they faced in their home lives. For example, one victim/survivor's education was interrupted to be taken abroad for marriage. On her return, she stopped attending school because she felt she could not manage both her school and home lives. She explained:

I was in the middle of exams and we had to go [overseas for marriage] but when I came back I couldn't really focus on anything because I was so behind in my studies and the other thing was there were so many problems going on sometimes he wouldn't even let me go to school. Most of the time I wouldn't even sleep for two or three days...So even when I'd go to school the next day, I couldn't really process the classes so I just dropped out of school (Victim/survivor personal communication 2014).

Another victim/survivor described being forced to stop attending school once she was married because she was expected to stay at home:

It was okay for about a week [after I got married], and from the second week all the drama started. And then I just got so upset and I was really crying and looking at my friends, that they're studying and they're graduating. That hurt me a lot because I was one of the students who was in the smart category, so [my teachers] always thought I would be someone, that I'll study and be someone. But I was just here, married, staying at home. When I was married, my life was hell, a living hell (Victim/survivor personal communication 2014).

A third victim/survivor disclosed how she was deceived about being able to return to her studies once she was married. She said:

I wasn't really happy because I wanted to study. But then I told my partner that I actually want to study and he was like, 'Okay, fine. After marriage, you can do your studies'. And I was actually happy about that, that at least I'm going to finish my studies. But then when I got married, then he didn't even send me there and all the time I had to stay at home and do stuff for him. So it was like that and I was really sad after that, that he didn't actually send me for my further education at all (Victim/survivor personal communication 2014).

For the few victim/survivors who were allowed to continue studying, the threat of being forced to stop their education was often present.

### *Help-seeking behaviours and methods of exiting*

I stood up for myself because I believed that I am not wrong, that as an individual I deserve respect and that I deserve the right to choose who I want to marry and how I want to live my life, and just because I don't want to marry doesn't mean that I am a bad person (Victim/survivor personal communication 2014).

All victim/survivors interviewed for the research were able to leave their situations, either before (n=4) or after (n=9) they were forced into marriage. However, victim/survivors were unanimous in their views that leaving their situation was difficult.

Despite this consensus, the method by which they exited varied depending on their motivation, the ability to recognise their situation as wrong, their knowledge and access to people and services that could provide assistance, the ability of potential help-givers to recognise, acknowledge and respond to their vulnerability, and other factors that impeded their ability to seek help. Ultimately, what enabled most victim/survivors to exit their situation was the knowledge that what was happening to them was wrong, the motivation and ability to do something about their predicament, and the support from formal and informal sources who they had contacted or who recognised that the victim/survivor required assistance.

### Motivations for exiting

The majority of victim/survivors were motivated to leave their situation and actively sought assistance to do so (as discussed below in the *Active help-seeking* section). However, a small number instead left their situation via intervention from a third party (as discussed below in the *External intervention* section). Among those victim/survivors who were motivated to leave, various triggers and realisations underpinned their decisions to seek assistance or to leave the attempted or actual forced marriage. The most common motivations for leaving were:

- the realisation that their situation was different compared to others;
- gaining the knowledge that they could choose who and when to marry;
- as a reaction to the immediacy of the forced marriage; and
- the loss of a protector, such as a parent not involved in the forced marriage.

These motivations, while reflecting differences in the victims' individual experiences, ultimately provided the main catalyst for each of them to leave their situation. For example, several victim/survivors witnessed the healthy relationships that their peers had with their partners and families, which made them acutely aware of their own unhealthy relationships. As one victim/survivor explained:

I think it was the fresh, different perspective, as well, from our friends, from our peers, you know, listening to their stories. That they're going to soccer with their dad. They can play sports. Why can't we? (Victim/survivor personal communication 2014).

Knowing that the forced marriage was imminent also prompted some victim/survivors to flee or seek assistance to prevent the marriage from occurring. Likewise, the realisation that the people who were supposed to protect them, such as parents, relatives and husbands, were the ones that were going to force them into marriage or perpetrate violence against them, motivated victims to leave. For example, one victim/survivor who was sexually abused by her father-in-law made the decision to leave her situation when she realised her husband was not going to protect her:

If [my husband] can't protect me, there's no point of staying with him. It's not that he'll lock me up and it gives me protection. It actually makes me go more crazy and psycho, just sitting there in four walls for 24 hours (Victim/survivor personal communication 2014).

For two victim/survivors who were sisters, it was the departure of their stepmother (who they considered to be their protector) from the family home that triggered them to leave. One of the victim/survivors said:

One day we came home from school and there was a letter lying on the table saying that she has left because she cannot stay with our dad. He's too promiscuous and things like that. We got really close to her because when she was around he would never hit us. So we were really close to her. So when she left, that left a big gap and we were shocked (Victim/survivor personal communication 2014).

The other continued:

We knew that he would escalate things quicker now, because she's left and he's angry and he needs to channel his anger at someone (Victim/survivor personal communication 2014).

They believed this was the turning point in their decision to seek assistance.

Victim/survivors not only provided a range of motivations for exiting their situations but also detailed the different methods they had employed to do so. These methods reflect the ability of victim/survivors as help-seekers, and illustrate the important role played by potential help-givers.

### **Methods of exiting**

Exit methods have been classified into three categories: victim/survivors who were active help-seekers, victim/survivors who did not seek assistance but exited as a result of an intervention, and victim/survivors who exited without assistance. These are described below.

#### ***Active help-seeking***

The majority of victim/survivors actively sought assistance to leave their situation. For some victim/survivors, it was one critical incident that prompted them to seek help. For others, it was an accumulation of incidents over time. Victim/survivors sought assistance from either formal or informal sources.

### *Formal help-seeking*

Formal sources of support that victim/survivors engaged with included law enforcement, medical professionals, schools and social services. In seeking help, few victim/survivors disclosed that they were in or at risk of a forced marriage. More commonly, victim/survivors sought assistance for issues associated with their mistreatment, such as medical concerns (eg sexual and reproductive health problems), mental health concerns (eg depression and suicidal ideations), and fearing for their safety. In these instances, their situation was not immediately recognised as relating to forced marriage, but was identified as a domestic violence, family violence or child protection matter. Most victim/survivors had positive interactions and outcomes when they formally sought assistance from authorities and service providers. However, others detailed the inability or unwillingness of formal supports to render assistance when requested.

### *Law enforcement*

In providing support to victim/survivors, the main role of police involved removing the at-risk person from their situation and referring them to a support provider and/or a women's shelter. This was regardless of the policing jurisdiction (local or national), whether the police were responding to an incident in Australia or New Zealand, or whether legislation existed at the time of responding. For example, one victim/survivor detailed how the police assisted her to leave her situation:

They came and checked on me and then they said, 'So what do you want? What's your first priority?' And I wasn't actually feeling safe around my father-in-law so I told them that my first priority is my safety. So then they told me to go pack [my] bags and then they took me out from there. That's how I came out. The police are good (Victim/survivor personal communication 2014).

However, there were also some victim/survivors who reported negative encounters, largely as a result of not receiving what they considered to be adequate or appropriate assistance. Other victim/survivors revealed that the police 'did not really pursue anything' and were 'not even doing anything about it' when they sought assistance (Victim/survivors personal communication 2014).

Victim/survivor narratives also revealed that no police interactions resulted in the arrest or charging of an alleged offender or in the further investigation of a forced marriage offence, and in only two cases was a perpetrating husband charged with a related offence such as physical assault, sexual assault or threats of harm. Stakeholders also held concerns around police support being 'event-based', which may leave victims 'at significant vulnerability between incidents' and does not provide continuity of service provision (Stakeholder personal communication 2014).

Often, stakeholders witnessed that the police's response was reacting to the physical and sexual violence experienced within the forced marriage, rather than to the forced marriage itself. Consequently, stakeholders encountered victims who sought assistance from the police for being forced to marry but did not receive the desired response because they could not demonstrate that they were at immediate risk of a forced marriage or other unlawful behaviour.

### *Medical professionals*

The majority of victim/survivors were satisfied with the level of support provided by medical professionals. For example, one victim/survivor, who became pregnant following the forced marriage, disclosed her abusive situation to her midwife during a home visit. The midwife gave the victim/survivor her business card and told her to get in touch if she needed assistance. When the abuse happened again, the victim/survivor contacted the midwife for help.

A second victim/survivor was able to exit her situation after she sought treatment from her doctor for mental health problems she developed as a result of being forced to marry and as well as the subsequent violence she experienced. She recognised the opportunity to speak candidly with her doctor, and requested that her mother remain in the waiting room during a consultation. She stated:

I told [the doctor] that I didn't want my mum to be around because every time I talked to my doctor my mum would be there so if I opened my mouth about the situation she would tell me to stop talking or change the subject. So when my mum was not around I just told them this is what's happening and I was forced into marriage and I wasn't happy and my husband was treating me really badly and everything, and then they helped me out [by referring me to a support provider] (Victim/survivor personal communication 2014).

### *Schools*

Schools were a common avenue by which victim/survivors sought help, yet appeared unwilling or ill equipped to adequately respond to disclosures. Victim/survivors reported approaching teachers and school counsellors but failing to receive the same level of engagement experienced when disclosing to medical professionals or police.

In several cases, victim/survivors reported feeling pressured by school teachers and counsellors to return to their abusive family situations. For example, when two victim/survivors told their school teacher they were going to be taken abroad for marriage, the school contacted a lawyer who encouraged them to return to their father. One of the victim/survivors explained:

I think she thought that we were quite young...I think she was trying to scare us to actually go back because she thought it wasn't that bad...She said, 'There's been no problems at school. You guys are faring quite well in your academic tests, so what's the problem?' We tried to tell her that we think that we are in danger and he is going to send us back to [redacted] and get us married (Victim/survivor personal communication 2014).

In this case and others, the school's lack of understanding around forced marriage impeded its ability to effectively protect victim/survivors. While these instances pertain to individuals who actively sought help, this research also uncovered other cases where schools had the opportunity to intervene after suspecting there was a problem with a student but failed to do so. These cases are described below in the *External intervention* section.

### *Social services*

Common types of social services that engaged with and/or encountered victim/survivors of forced marriage were child protection or victim support agencies. In these cases, victim/survivors engaged with the services following a referral, or by contacting them directly. Victim/survivors reported that assistance was not always forthcoming as services either did not view their situation as one of immediate threat, or were unable to intervene because the age of the victim/survivor did not fall within a younger, higher-priority age group (0–10 years). Cultural insensitivity and a lack of understanding of forced marriage also resulted in an inappropriate response:

I think they couldn't understand the cultural difference. In our culture, mum, dad and kids don't sit down and discuss things. It's like dad or mum has said something and that's the end of the world. You can't change it. You can't discuss...They did send [our father] to anger management classes and the family therapy. I said this would never work...after a couple of days, he was back to his normal self (Victim/survivor personal communication 2014).

In providing assistance to another victim/survivor, a child protection agency engaged with local community members for cultural understanding. However, as the members were part of the victim/survivor's own community, they masked the seriousness of her situation and the child protection agency determined that the victim/survivor and her young children were not exposed to the levels of danger and harm that would require them to intervene. As a result, they advised the victim/survivor to return to her abusive situation.

In addition to the avenues discussed above, stakeholders identified other ways victim/survivors sought assistance, including disclosure of being in or at risk of a forced marriage to immigration officers who process visa applications (ie partner migration visa categories), both in Australia and offshore. Typically, the Australian sponsor is the party claiming that their family has forced or is attempting to force them into a marriage in order to sponsor that person's visa application to enter Australia. As persons less than 18 years of age generally undergo a private interview during the processing of a partner migration application, victim/survivors have this opportunity to disclose concerns about a forced marriage.

Additionally, stakeholders revealed that victim/survivors disclosed their forced marriage situations to youth legal services, legal aid, and the Consular Emergency Centre (a 24-hour service for Australian citizens). However, stakeholders agreed that it was most likely that victims would seek assistance for issues associated with their mistreatment rather than explicitly disclose the forced marriage.

### *Informal help-seeking*

Informal sources of support included family, friends and colleagues. Compared to the typical help-seeking behaviours of victims of crime, victim/survivors of forced marriage were less likely to disclose their situation to or seek assistance from informal sources. This is likely due to the close proximity of these sources to the individual's victimisation, either as a perpetrator or supporter of the forced marriage. Often, these sources were also of the same cultural background and thus did not understand why the victim/survivor would wish to leave the situation.

In one case, a victim/survivor sought help from her colleague because this was the only person she trusted who was far enough removed from the situation to help her without alerting her family. She explained how she disclosed her violent situation and asked for help to leave:

I used to share everything with [my colleague]. I used to tell her this is what is happening at home, and she used to be there for me... And then I told her this is what is happening, my husband has locked me down. He said he is going to come back and whenever he's back, then I can come out...She went and told her mother-in-law and the mother-in-law was like, 'It's not right, they should just call the police' (Victim/survivor personal communication 2014).

This victim/survivor was too afraid to contact the police herself, so her friend's mother-in-law contacted them on her behalf. The police then went to her house where she was provided with assistance.

Another victim/survivor sought help from her cousins to remove her from her situation after the violence became worse and she was threatened with deportation. She explained:

My mother-in-law, she said that I was going back to Fiji, they're going to cancel my visa, they're going to take the partnership [visa] away and they're going to send me back...My sister-in-law, she scratched my eyes with her nails so I was bleeding. My cousins were just outside the house and I called them, they came here and took me to the police station straight away (Victim/survivor personal communication 2014).

### ***External intervention***

Only a small number of victim/survivors were assisted to leave following formal or informal interventions by persons who suspected that the victim/survivor required assistance. For example, one victim/survivor was intercepted by police at the airport after an anonymous informant reported that she was going to be taken abroad by her family to be married. The police transported her to a safe house, where the support providers helped her to obtain a protection order against her family.

Another victim/survivor was assisted by her doctor after the doctor had noticed that she had scars from self-harming. The doctor called a support provider who took her to a safe house. A third victim/survivor became increasingly depressed after finding out she was going to be taken abroad for marriage. The change in the victim/survivor's mood and behaviour at school prompted her teacher to refer her to the school counsellor. The victim/survivor then informed the school counsellor about what was going to happen to her, and the counsellor referred her to a support provider. One victim/survivor was assisted by a passer-by who responded to her attempted suicide. The passer-by took her to the police station, where she was referred to a support provider.

The above scenarios highlight the willingness and ability of concerned community members to recognise and respond to cases of forced marriage and/or to the abuse and self-harm inflicted upon victims of this practice.

However, victim/survivors also reported that in some instances persons failed to render assistance in cases where it was needed by the victim/survivor. For example, when one victim/survivor's school found out she had stopped attending classes because she was married, they failed to intervene. The victim/survivor said:

They were calling to see where I was and everything, but once they found out that I didn't come because of the certain situation then they knew exactly what was going on. And plus, I had an Indian teacher and she knew exactly what was going on. They didn't really react to it that much because they know in our community these things are normal so they can't really do anything to help. Even if they do something about it, the school will get blamed and everything for it. They just want to stay away from these matters (Victim/survivor personal communication 2014).

Despite opposition from her family and community, another victim/survivor continued to attend school after she became pregnant by the man she had been forced to marry. Her classmates and teachers knew that she was pregnant, but no support or intervention was provided by the school.

Similarly, stakeholders raised concerns about schools failing to provide intervention and support, being ill-equipped to respond, or being unaware of how to best respond:

...if there's not a good response...I'm sure there's people who are just deciding 'I'll just go ahead and do what my family wants me to do. It's too hard because I can't get the help that I need. It's too hard...I'll just go back'. And, I think, it's certainly been our experience that that's contemplated (Stakeholder personal communication 2014).

One stakeholder commented that, although teachers may be well-placed to be alert to the indicators of forced marriage, they often do not know what to do about it. Further, stakeholders provided examples of cases where children had disclosed to a teacher that they were at risk of a forced marriage, but the teacher had subsequently shown support for the parent's decision to have them married. For example, one stakeholder revealed:

...we had a young woman make a disclosure to a guidance counsellor who was of the same ethnicity of this young girl, who subsequently told her just to do what your parents tell you to do (Stakeholder personal communication 2014).

While one stakeholder told of a medical professional 'who was very switched on, very clued on in regards to forced marriage issues' (Stakeholder personal communication 2014), other stakeholders doubted the capacity of people coming into contact with victims to respond appropriately and without placing the victim at further risk.

### ***Exiting unassisted***

In only one case did a victim/survivor exit without any assistance from others. This victim/survivor credited her ability to leave unassisted to being an independent and educated person:

It took place and then after a while I said this is not going to work out because we can hardly speak to each other. It was a time where I was building up my strength. I was becoming wiser about life and just basically was feeling very hopeful about life, and I didn't think that this man would help me in achieving my goals and dreams, that he would be of any support to me because he didn't have those ideal

characteristics of a husband...We were going to have a bigger ceremony to officially declare our marriage...I refused to go ahead with that because it sort of came to me and I was like, 'No, I'm not going through with this.' I just kept saying no...and I refused and I fought for a divorce...I guess the reason I got out was because of the fact that I am an educated woman and I have a free thinking outlook on life (Victim/survivor personal communication 2014).

### *Barriers to exiting*

Victim/survivors offered a range of reasons why they delayed seeking assistance or did not seek assistance at all, including:

- feeling pressured by parents, relatives and friends to stay in the relationship;
- believing that their experiences of abuse, isolation, surveillance and domestic service constituted a normal marital relationship;
- being threatened with honour-based violence and death;
- shame, stigma and ostracism;
- lack of permanent residency and fear of deportation;
- financial and other dependencies on spouses; and
- not knowing how and where to seek assistance.

In summary, the predominant reasons for not seeking assistance were: fear and/or normalisation of violence; pressure to stay in the relationship from threats of ostracism by family, friends and the community; and a lack of independence and financial capability.

### **Fear and/or normalisation of violence**

Many victim/survivors were verbally threatened by their family, their husband and their husband's family, including threats of honour killings if they were to refuse the marriage or leave the relationship. However, not all victim/survivors recognised this as being abnormal and illegal. As one victim/survivor explained, in her culture 'hitting is a normal thing', which meant that when she experienced violence perpetrated by her husband and his family she felt compelled to 'just be quiet and ignore them' (Victim/survivor personal communication 2014). While this victim/survivor believed violence was a normal part of being married, other victim/survivors knew violence was wrong but were taught to tolerate it. One victim/survivor explained why she endured the violence perpetrated by her husband:

As a child my parents said that after marriage you have to be under your husband, your husband is your everything. Your whole life, you have to live and die there, once you're married. Never mind you're ill-treated, never mind you're tortured, anything after you're married, you have to be with the same partner for your whole life and have to obey their parents, respect them (Victim/survivor personal communication 2014).

Another victim/survivor told of how speaking out against marital violence would be met with ridicule:

Basically in our country, if you tell anyone about these things [abuse/forced marriage] they will just start laughing at you. They would be like, 'This is the woman's life, you've got to expect it...All husbands are like that' (Victim/survivor personal communication 2014).

Victim/survivors were also threatened with violence, including honour-based violence, and killings as a result of the shame they would bring to their family and community if they did not commit to the marriage or if they sought to obtain a divorce. One victim/survivor disclosed being threatened with an honour killing:

My family would have tried killing me because they did warn me that they would kill me (Victim/survivor personal communication 2014).

Another described having her life and her sister's life threatened:

We heard that our dad was looking for us [when we ran away]...He's angry and he threatened us. We heard from our mum, he said that if he ever finds us...he would make sure that he kills us (Victim/survivor personal communication 2014).

Stakeholders also said that gender-based violence was of significant concern for victims attempting to exit an attempted or actual forced marriage. For example, one stakeholder highlighted the continued risk of retribution that one victim faced from members of her family:

Everywhere she went she had members of her family find her...she didn't feel safe anywhere and she didn't stop long enough to be able to engage in any support because she actually didn't believe any supports could help her. She didn't believe the police could help her and she basically said, 'They don't care if they go to jail, if they can hurt me they will because they don't care and they're happy to go to jail because they also know they'll get out in eight years' (Stakeholder personal communication 2014).

### **Pressure to stay in the relationship and threats of ostracism**

Commonly, victim/survivors were pressured to return to their husbands and/or accept their situation as inevitable. Victim/survivors were told that they 'need to go back', to 'respect and listen to what [their husband and his family] say' and to 'get on with things and not complain and not make a big fuss' (Victim/survivors, personal communications, 2014). In most cases, victim/survivors were coerced into returning to their husbands and abusive households, though victim/survivors also returned because they feared the consequences of leaving.

One victim/survivor revealed that her mother was still trying to make her return to her husband on the day of the annulment. She said:

On the day my annulment was happening [my mum] said in front of everyone, 'No, I still want her to go back to her husband.' After all that happened, she saw it and everything like that, but she still wants me to go back to him (Victim/survivor personal communication 2014).

Victim/survivors were also accused of being 'crazy' and 'drama queens', and were not supported by family or friends in their decisions to leave their situation. When their family's attempts to lure them back to the marriage failed, many victim/survivors were shamed, abandoned or ostracised by their families and communities. As one victim/survivor explained:

When I left my husband, no-one supported me, not even my father, not even my mother, no-one supported me. They wanted me to go back to my husband but I couldn't because once I came out the house, I couldn't go back...I told them what was happening to me, but they didn't believe me (Victim/survivor personal communication 2014).

A second victim/survivor was told she would not have a future if she separated from her husband and she 'would be condemned and a symbol of shame for the whole community' (Victim/survivor personal communication 2014). A third victim/survivor revealed that she had been disowned by her family, and ostracised and condemned by her community, including the community leaders who accused her of bringing shame and dishonour to the community.

### **Lack of independence and financial capability**

Victim/survivors also reported feeling dependent, especially financially, on their husbands, and not knowing where and how to seek help. This lack of independence was attributed by one victim/survivor to cultural expectations around the role of women in intimate relationships:

I think that's one of the most important parts of our culture that a woman cannot be independent. She has to depend on you. And I think that's what's so hard for women to actually get away from situations, because they don't have anything. They have no knowledge of anything at all (Victim/survivor personal communication 2014).

Another victim/survivor described her lack of knowledge about how to seek assistance:

So when I come here, even I don't know how to call police. That's why I'm stuck here. Now I understand. When they tried to [kick and punch me], when the doctor check-up, they said something happened. I have a record. So it's my big mistake. I never informed police, I never inform to the doctor (Victim/survivor personal communication 2014).

Financial barriers to exiting an abusive marriage were detailed by another victim/survivor:

A lot of the girls will not want to get out due to the fact that sometimes they are experiencing financial difficulties, financial abuse, and they don't have a lot of money saved up or they don't have money at all, they don't know where to go (Victim/survivor personal communication 2014).

Stakeholders identified similar barriers to exiting a forced marriage situation. These included financial dependence, shame, and an inability to self-identify as a victim.

Notably, stakeholders acknowledged the significant risk of violence; first, if a victim resists a forced marriage, and again if they attempt to leave. Stakeholders explained that the inability of victims to conceptualise their experience as a forced marriage or as a crime also impacted on their willingness and ability to seek assistance:

Many women will talk about the confusion that creates – when they know it's not right and they don't feel right, but they are trying to live up to family expectations and feel really torn between the two (Stakeholder personal communication 2014).

Stakeholders considered that shame also prevented victim/survivors from seeking assistance and receiving support. One service provider recalled the resistance of a 17-year-old female to receiving support for a forced marriage situation because:

...she was more concerned about being away from her family than being killed. Because the fear and anxiety of not knowing how the family was going to respond and bringing shame onto the family was a greater concern for her than her own life (Stakeholder personal communication 2014).

Another stakeholder explained that victim/survivors were also fearful of excommunication as a result of bringing shame to their families, friends and communities:

I feel that they're really scared of being outcast by the community. Not only family and friends, but the whole community. They don't want to socialise with that girl (Stakeholder personal communication 2014).

In this instance, socialising with victims may be seen to be supporting the victim's decision to reject the marriage, and assisting the victim to leave, which may have consequences for their own standing within the community.

Finally, stakeholders explained that 'many women just go back [because] it's actually the only financially viable thing to do' (Focus group, personal communication 2014).

In addition to a lack of cultural competency among help-givers, stakeholders also identified problems while engaging with interpreters. As one stakeholder ruminated:

How do I work with a client in such a way that the power of the interpreter is so minimal? The interpreter does have a lot of power in those contexts because he or she will be the only person who would have a clue in both languages...in small communities the issue of confidentiality becomes really huge (Stakeholder personal communication 2014).

While another pointed to the possibility of information being translated incorrectly:

We can't always rely on the interpreter not supporting the cultural norms and/or just not understanding domestic violence...So we have had incidences where we have felt pretty sure that what we are saying to the woman is not being relayed to her in the way that we are asking for it to be relayed. There might be bits of information left off or it's changed slightly (Stakeholder personal communication 2014).

Stakeholders suggested that misinterpretation could be deliberate or inadvertent; either due to cultural or linguistic differences or to a lack of experience.

### *Experiences of support*

Most victim/survivors offered insights into the formal support they received after exiting their situations. As acknowledged in the *Limitations* section, victim/survivors almost exclusively received support from a single service provider operating in both Australia and New Zealand, and therefore the perspectives provided by victim/survivors may not be representative of service provision more generally.

As all victim/survivors separated from their families, at least initially, they received a full range of assistance, including:

- crisis, short-term and longer-term accommodation;
- basic necessities like food and clothing;
- medical services;
- counselling;
- visa and immigration support;
- support in obtaining an annulment or divorce;
- language training;
- education, including full-time schooling and short courses;
- life and independent living skills; and
- financial support.

Victim/survivors described feeling 'safe,' 'happy,' 'good,' 'supported,' and 'independent' as a result of receiving these services. One victim/survivor commented:

I'm so happy they helped me out because they were so supportive, they were like a family. They helped me out through everything...They kept me sane because I left home without the support...They kept me safe and supported me every step of the way...Whether it was emotional support or financial, they just gave me everything I needed (Victim/survivor personal communication 2014).

Another described the independence she has gained after receiving support:

When I left the house and I came in touch [with the support provider], my life was changed. They taught me how to be independent, stand on my own feet and everything. They provided me with education and everything. And now I'm quite settled and working...They were very helpful...I'm thankful today where I am (Victim/survivor personal communication 2014).

A third victim/survivor praised the breadth of assistance she received, and the opportunity for victim/survivors to share their experiences with others:

We used to go to classes as well. We used to have counselling from the counsellors and they used to tell us about safety, protection and how to budget your money. There were lots of classes...There were other girls as well. We used to sit and talk about our problems and stuff. Talking to them makes you feel their problem is bigger than our problems so all of us just think like that and we just relax. That it's just not us, there's lots of people out there as well. All this time, I thought it was just me but there's more people out there. It happens to them (Victim/survivor personal communication 2014).

One victim/survivor spoke of the anger she initially felt towards the service provider, who was obliging her to learn new skills, but in hindsight she realised the benefit of this for her independence:

At the time, I am angry. They force me, they're not helping me. But they force me to go out...They find a little job for me...Little, little things. Now I can speak [English]. Before, I can't speak English. But now, I have a little bit of confidence (Victim/survivor personal communication 2014).

While victim/survivors identified these services as being beneficial during their period of support, they were not forthcoming about whether there was any other support they would have liked to have received but did not. By virtue of their age and maturity, it may be difficult for victim/survivors to reflect on this, or to know what else they may have needed or found beneficial. This may be something that comes with hindsight.

In addition to formal support, victim/survivors also spoke about the benefits of informal support provided by family, friends and schools. Of her friends, one victim/survivor said:

They were very supportive emotionally, and a lot of them were just amazing. Whenever I need to talk, I could call them and really have some sort of family. I feel like everything was rapidly changing and nothing made sense, whereas my friends and a connection to my home over here really gave me a sense of hope and affirmation (Victim/survivor personal communication 2014).

Two other victim/survivors spoke of the support they received from their friends and their school to continue their education. One said:

I think our school played a very important role. All the teachers and all the friends we had, from the same ethnicity, they looked for apartments for us [when we decided to leave our family] (Victim/survivor personal communication 2014).

The other continued:

We sat for exams in the safe house as well. So the principal sent the exam papers and everything (Victim/survivor personal communication 2014).

In addition, stakeholders commented on not only the importance of but also the difficulties in obtaining a divorce or nullification of a forced marriage. This process has the potential to re-traumatise victim/survivors, who may be required to re-tell their experiences of forced marriage to a court or as part of mediation or other avenues of resolution, such as counselling provided by a religious institution. The husband must also be notified of the intent to divorce or to nullify the marriage, which may place the victim/survivor in danger of being located and experiencing further violence. Obtaining an annulment or divorce for a religious or cultural marriage may also be problematic since it may require the agreement of the husband, his family, community members and religious leaders before it is legally recognised.

### *Post-marriage experiences*

Victim/survivors who had exited their situations ceased receiving support at points in time ranging from six months to 10 years before being interviewed. This meant that some victim/survivors had time to reflect on the longer-term consequences of the attempted or actual forced marriage, while others could only comment on the short-term effects they suffered. While most victim/survivors showed great resilience to overcome an actual or attempted forced marriage, the significant and sustained violence perpetrated against them and, in most cases, the permanent separation from their families, has meant that a limited number of victim/survivors have suffered long-term consequences. These include long-term social, financial, physical, emotional and psychological impacts of their victimisation.

Two victim/survivors revealed how, after two years of being separated from their father, they were still experiencing the consequences of their threatened marriages. They were depressed and had suicidal ideations, but displayed resilience in their recovery. Reflecting on that period of their lives, one said:

We were so smart in high school. We were dux. But suddenly, the progress just went down straight away. And we were too ashamed to actually probably ask for help as well (Victim/survivor personal communication 2014).

The other commented on their feelings of failure after deciding to separate from their family, and on why they felt they could not ask for assistance during this time. She said it was because:

We are supposed to show the people that [leaving the abusive situation] is successful. And we were ashamed because we were losers. We had no money, we had no food, we were failing in our exams. We couldn't go back to our friends, because they were doing their masters and bachelors and everything and we were nothing (Victim/survivor personal communication 2014).

Stakeholders also drew attention to the mental health consequences of forced marriage and the impacts of family separation, including departing from the social and cultural mores around the notion of family and around how a child is expected to behave within the family unit. As one service provider explained:

[Forced marriage] challenges the very nature of what it means to be a family, and what parents are meant to be. I've had numerous conversations with some of our clients who've experienced this and they [say], 'I just don't understand how my parents can do this, they're supposed to love me, they're supposed to care for me, they're supposed to protect me. Why won't they protect me?' So there's this real disconnect about what should be and what is, so I feel a lot of that underpins the mental health issue that we see (Stakeholder personal communication 2014).

Despite the hardships that victim/survivors faced post-marriage, many displayed incredible resilience in relation to many aspects of their lives. Many victim/survivors were forced to cease their education, yet seven either returned to their secondary studies, commenced tertiary studies, or undertook short learning courses. Similarly, six victim/survivors gained voluntary or paid employment after leaving their situations. For example, one victim/survivor began volunteering for a migrant community organisation because she 'wanted to help other girls' from her community (Victim/survivor personal communication 2014). Another victim/survivor described how her manager assisted her to return to work following her forced marriage. She said:

After I got my visa, I went back to work. The boss changed but the manager was the same. He kind of knew about my problem as well. He tried to help me and give me a job and stuff (Victim/survivor personal communication 2014).

Resilience is further demonstrated by the victim/survivors' positive outlooks following their forced marriage experiences. Reflecting on her experience, one victim/survivor said: 'I'm at a point in my life where I have achieved so many things and it just has been worth it' (Victim/survivor personal communication 2014). Another spoke of the confidence and assertiveness she has gained through her experience:

One thing that has happened after I've been through all this, I can actually speak for myself. If I don't like it, I just say that I don't like it. I just stand up for myself more (Victim/survivor personal communication 2014).

### *Relationship with family*

The relationships that victim/survivors held with their families post-marriage constituted a mix of support and tension. Very few victim/survivors re-established a relationship with their family. Most have had no further contact since leaving the forced marriage situation, with several victim/survivors revealing they had been ostracised or abandoned by their family members. The parents and siblings of one victim/survivor abandoned her and moved to another country because they wanted to escape the shame and community gossip that resulted from her failed marriage. Another victim/survivor revealed that she and her sister were 'shunned' by their family and that there was 'no point reconnecting with them' (Victim/survivor personal communication 2014). Similarly, a third victim/survivor explained that her father no longer talks to her because she refused to return to her husband. She recalled her father saying: 'If you won't go back we are over, our relationship is over' (Victim/survivor personal communication 2014).

Three victim/survivors were able to continue a relationship with one parent (typically the parent who was not the primary coercer but was complicit due to a lack of intervention); however, the risk of marriage, violence or ostracism persisted with the other parent.

Only one of the victim/survivors was able to re-establish a full relationship with her family. She believed the reason for this was because she had proved that she could become successful in life without a husband. Through study, volunteering and paid work she restored her family's sense of honour. She said it was 'all about showing them that there is an alternative, another way of living that may not be their ideal way but it isn't wrong' (Victim/survivor personal communication 2014).

### *Forced marriage of boys and men*

Victim/survivors also commented on cases of forced marriage involving boys and men from their communities and families. As one victim/survivor commented:

It's not just the girls who are forced, it's the boys who are forced as well...[My friend] married because of the parents' happiness. He wasn't ready for the marriage or anything, and they just fixed it. He had to say yes (Victim/survivor personal communication 2014).

Another victim/survivor revealed that her 18 year old brother was also going to be forced into marriage by her father, though she stipulated that he was going to refuse because 'he obviously has a choice because he's a guy' (Victim/survivor personal communication 2014). The apparently enhanced freedom of men and boys was also conveyed by another victim/survivor who stated that:

In cases of forced marriage, men are usually just expected the same thing of them [as for women]...yet men have much more freedom in how they are brought up, in how they can act, what they can do. Much more freedom than girls have (Victim/survivor personal communication 2014).

In contrast, stakeholders remarked that despite the common stereotype that it is easier for men to choose their marriage partner and avoid forced marriage, men/boys may also experience 'incredible duress' (Stakeholder personal communication 2014). Stakeholders suggested that third-generation migrants—those who have been raised in Australia or New Zealand and have adopted Western ideologies pertaining to marriage—who wish to choose their own partner may be at increased risk of forced marriage.

Comments provided by victim/survivors and stakeholders therefore illustrate that, although men and boys may also be confronted with forced marriage, the context in which they experience forced marriage may be different to the context for women and girls.

# The intervention framework

...ideally we don't want to be prosecuting people for forced marriage – we want to be preventing it before it happens (Stakeholder personal communication 2014).

Current interventions to forced marriage in Australia largely comprise education, training and awareness-raising initiatives along with a combination of criminal, civil and regulatory controls. These interventions are consistent with those applied or proposed for the UK, various Scandinavian and European Union countries, and North America, but exceed those in place in New Zealand. A third category of intervention—the critical role of service providers in identifying and supporting victims of forced marriage – is recognised, although not discussed in detail here.

The purpose of this section is to summarise the progress of intervention adopted in Australia following the criminalisation of forced marriage, and to identify the inherent challenges that complicate and may counter the effectiveness of these responses. Due to the limited formal initiatives undertaken in New Zealand, the situation in Australia is not contrasted with New Zealand. This section also includes an examination of how forced marriage interventions can be mapped to the different scenarios for forced marriage that occur in Australia, in order to illustrate potential gaps in response.

## The intervention landscape

Four forced marriage scenarios emerged from the research, based on:

- the citizenship/migration status of the victim;
- the citizenship/migration status of the marriage partner;
- the country location for the engagement/marriage; and
- the country location of residence.

In the first scenario, an Australian citizen/resident is forced to marry another Australia citizen/resident, and the marriage takes place in Australia. In the second scenario, an Australian citizen/resident is forced to marry a foreign national, and the marriage may take place in Australia or offshore. In the latter case, the married partners may stay offshore or return to Australia.

In the third scenario, a foreign national is forced to marry an Australian citizen/resident, and the marriage may take place offshore or in Australia. In the latter case, the foreign national immigrates to Australia. In the fourth scenario, a foreign national is forced to marry another foreign national. The marriage takes place offshore, and at some point the couple immigrate to Australia.

The majority of interventions for forced marriage target situational precursors. There are fewer interventions that target offenders. These encompass both community education and related community engagement and criminal justice responses, and act through impacting on perceptions of risk and reward, and by removing excuses.

## Education, training and awareness-raising

...a youngster went to school with a letter saying 'I need two weeks leave, can I go?' And [the principal] said 'Well, what are you going for? A holiday?' And she said 'No, I'm going to get married'. And the principal just didn't quite know what to do' (Focus group personal communication 2014).

Education, training and awareness-raising activities form the visible core of anti-trafficking initiatives in Australia, and the response to forced marriage has been similarly shaped. Stakeholders nominated education and awareness-raising, supported by specialist training, as the fundamental protective factor for forced marriage. These interventions have been adopted by government and civil society as a primary method of prevention. Education and training programs implemented or proposed for implementation have been developed for three key audiences—people at risk; people who by nature of their occupation may come into contact with people in or at risk of a forced marriage; and communities where forced marriage is understood to be more likely to occur. A fourth audience, which has been the focus of broader education, is the general population.

### *Education and awareness-raising*

Forced marriage education and awareness-raising programs are necessarily multi-focused. As noted above, they are designed to target different audiences and consequently need to be shaped around content and intended outcomes that are suitable for each audience. Examples of deliberately wide-reaching tools include:

- the *Forced Marriage Community Pack*, developed by the Australian government in partnership with the National Roundtable on Human Trafficking and Slavery Communication and Awareness Working Group, and now translated into six languages (Arabic, Dari, Farsi, Somali, Tamil and Urdu);
- the My Blue Sky website ([www.mybluesky.org.au](http://www.mybluesky.org.au)) administered by Anti-Slavery Australia

(ASA), also funded by the Australian government, combined with the forced marriage module of ASA's e-learning platform; and

- the Salvation Army's The Freedom Partnership *Community Action Toolkit*.

These provide a mix of online resources that are relevant and accessible to an inclusive group of users, including persons at risk, family members, service providers, educators and the general public. Other programs involve direct engagement with identified stakeholders and at-risk populations through workshops and other formal modes of communication, such as the NSW government's *Child not Bride* campaign launched in 2015, and specialist workshops delivered by the ASA Interactive program initiative.

Two sites identified by stakeholders as crucial for education-based interventions are schools and at-risk communities. Schools are one of the safest places for minors to participate in education modules related to forced marriage and to receive information on options for assistance if they, their siblings or friends are at risk of forced marriage. Since the criminalisation of forced marriage, there has been some NGO-led effort to introduce forced marriage education to students, staff and parents. For example, Australian Catholic Religious Against Trafficking in Humans (ACRATH) received funding from the Australian government in 2014 to develop a forced marriage kit for Australian secondary schools titled *My Rights – My Future: forced marriage*. The purpose of the kit is to raise awareness among secondary school students, teachers, support staff and parent groups about forced marriage in Australia, and it is intended for nationwide dissemination across government, Catholic and independent schools through the My Blue Sky website. The kit was pilot-tested with school students in NSW, Victoria and South Australia in 2015. More localised, school-based education has already commenced, such as the Victorian Immigrant and Refugee Women's Coalition's *The Choice is Yours* campaign, which includes school-based presentations on forced marriage. However, there is no public documentation of either the extent of uptake of forced marriage education programs in Australia or the intention of education departments and school bodies to support similar electives. This suggests that independent initiatives are the norm at present. Most of the visible effort to date affecting schools involves staff education programs (see *Training programs* section below).

Education programs targeting at-risk communities are also in their infancy. Launched in early 2015, the NSW government's *Child not Bride* campaign includes a sustained course of community engagement involving community and religious leaders, community workers, healthcare professionals and service providers as campaign advocates; consultations with selected peak organisations and the Forced Marriage Network; and workshops specifically for women and girls and designed to initiate/expand community discourse on forced marriage. While the content of such campaigns is generally not publicly available, the way they have been rolled out has received some criticism, mostly to do with the apparently minimal consultation with targeted communities in the development of campaign activities (Stakeholders personal communication 2015).

In addition, the Australian government has developed a Family Safety Pack which comprises fact sheets with information about Australian laws relating to forced marriage, family and domestic violence, and sexual assault. The pack is available to new migrants to Australia. The *Forced and Early Marriage* fact sheet describes what is considered a legal marriage in Australia and provides contact details for the AFP, a counselling service, and interpreter services.

### *Training programs*

In contrast to the education initiatives described above, training interventions are designed for specific practitioners and tailored to specific roles in identifying and countering forced marriage. Training programs under development or already implemented comprise agency-initiated programs for frontline personnel as well as external programs created for selected stakeholders. At present, these stakeholder groups are schools (teachers and support staff), marriage celebrants, and law enforcement and other government personnel. In addition to these training programs, there are some individual training projects, such as the project organised by the Australian Muslim Women's Centre for Human Rights with government funding.

### **Schools**

Schools provide an environment in which people in or at risk of a forced marriage may feel safe to discuss their circumstances in confidence and to seek support. It is also, potentially, the only place away from home which a child has the family's permission to go to. This means that it may also be the only place away from home where a child's situation may be recognised by a responsible guardian. Of the 50 organisation respondents to the NCYLC report on under-age marriage who reported coming across cases of forced marriage, schools accounted for around one-fifth (Jelenic & Keeley 2013). Both anecdotal information and court transcript analysis show that teachers and support staff have played a pivotal role in both identifying and assisting students at risk of forced marriage (Simmons & Burn 2013). In the handful of relevant cases described by stakeholders who took part in this study, teachers were noted as having helped girls to contact the police and/or provide them with emotional support and guidance. Other accounts, however, described a few instances in which schools failed to identify or act on signs that girls were about to be married or taken offshore, largely because the schools did not know what to do or where they could report the matter.

To assist school personnel, the Australian government has provided funding to develop and pilot a module on forced marriage as part of tertiary education and personal development courses, in addition to the work undertaken by ACRATH described above. Similarly, the NSW Department of Education has collaborated with ASA to incorporate content on forced marriage into existing training courses for teachers and other relevant school staff.

### **Marriage celebrants**

Legal marriages in Australia are regulated under the *Marriage Act 1961* and Marriage Regulations 1963 (Cth). All marriages must be presided over by an authorised celebrant—a minister of religion, civil celebrant or registry official—who has the legal obligation to obtain a notice of intention to marry from both parties to the marriage, documentation on each party's date and place of birth, and a declaration there are no legal impediments to the marriage. As described earlier, a marriage may be deemed void if genuine consent was not given by one or both parties—that is, if consent was obtained through duress or fraud; if there was deceit regarding the true identity of the marriage partner or the nature of the ceremony that was to be performed; or if the person was not capable of understanding the nature and effect of the marriage ceremony.

Along with schools, marriage celebrants have been an initial focus of government-sponsored preventative activity, which has largely taken the form of specialist training. At time of writing, the primary consumers of training on forced marriage are civil celebrants, who are obliged to undertake ongoing professional development as part of their registration requirements. In 2013, in response to the criminalisation of forced marriage, celebrants received compulsory training in the obtainment of proper consent and on the validity of a marriage more generally. This training accompanied amendments to celebrant guidelines that related to the assessment of proper consent, and recommended responses to situations where the genuineness of consent was questionable (Australian Government 2014).

Civil celebrants consulted for the study valued the training provided on forced marriage. In particular, the codes of practice and amendments to the guidelines provided a useful framework for celebrants to more confidently confirm the validity of consent and, where appropriate, withdraw their involvement in suspect marriage arrangements. However, celebrant stakeholders believed that the likelihood of civil celebrants being approached to conduct a forced marriage was relatively small. As stakeholders observed and as described above, most forced marriages in Australia were solemnised by a minister of religion, typically under religious law. Engagement with religious celebrants is the next focus of government-sponsored preventative activity aimed at marriage celebrants, spearheaded by work from one faith-based NGO. The role—and potential complicity—of religious leaders in forced marriage ceremonies will require a new method of engagement, one that addresses both the legal and moral consequences of presiding over a forced union.

### **Law enforcement and other government training**

Training for law enforcement and other government personnel on the detection and investigation/handling of suspected forced marriage matters is integrated into comprehensive training packages delivered by the AFP, Department of Immigration and Border Protection (DIBP) and Department of Foreign Affairs and Trade (DFAT). AFP training is provided by the Human Trafficking team under the Australian Policing Strategy to Combat Trafficking in Persons 2011–2013, and includes an annual Human Trafficking Investigation Program for AFP, state/territory and foreign police service investigators and for DIBP officers.

The program includes a module on forced marriage. The training materials incorporate indicators to assist investigators and other first responders in their assessment of alleged cases of human trafficking, slavery and slavery-like practices. Due to the distinct circumstances of forced marriage, the AFP created an additional separate category for indicators of forced marriage (see Table 1). Indicators are also used by officers in the AFP's Operations Coordination Centre to assist them in determining initial response to reports and referrals on trafficking matters received from the public.

**Table 1: AFP indicators of forced marriage**

Family history of elder siblings leaving education early and/or marrying early
Depression; self-harming; attempted suicide; social isolation; substance abuse
Unreasonable restrictions from the family and excessive parental restriction (eg not being allowed out or the person always being accompanied)
Young person expressing concern regarding an upcoming family holiday
Extended absence from school/college; truancy; drop in performance; low motivation
Poor attendance in the workplace; parental control of income; limited career choices
Evidence of family disputes/conflict; domestic violence/abuse; running away from home; isolation from the community

Source: AFP

Departmental human trafficking training is also routinely provided by DIBP and DFAT. DIBP training is available to onshore and offshore departmental officers, with specialist training reserved for Human Trafficking Contact Officers (HTCOs), who are themselves responsible for training compliance officers, and overseas-based Senior Migration Officers (Integrity) (Trafficking) who direct training and raise awareness among local staff. Compliance officer training relevant to potential abuse of the partner migration visa system (see below) includes instruction on how to assess the genuineness of a marriage relationship, identify potential under-age marriages, and recognise indicators from partner migration visa applications that either the sponsor or applicant has not consented to the arrangement.

DFAT-led training is given to consular officials prior to overseas postings, and the recommended consular management of alleged or suspected cases of offshore forced marriage involving Australian citizens and residents is outlined in the Consular Operations Handbook. These resources describe reporting, case management and safety considerations for suspected forced marriage situations, and establish recommended communication arrangements with the victim/survivor or a trusted family member or acquaintance during the period of engagement. They also outline issues specific to children that include the issuing of passports (see below) as well as processes for negotiating arrangements in countries where under-age marriage or unions resembling forced marriages are condoned.

The risk to children has also required coordinated responses with state and territory child protection authorities. Those commenting to the NCYLC report on under-age marriage noted the harms associated with forced marriage were consistent with statutory definitions of physical, sexual and emotional abuse of a child, and with the legislative grounds under which a child protection matter can be reported. However, respondents to the study also acknowledged that understanding and training on under-age marriage among child protection authorities was limited (Jelenic & Keeley 2013). In 2014, the NSW Department of Family and Community Services (FACS) developed a forced marriage screening tool for inclusion in the Mandatory Reporter Guide (listed in the decision tree for immediate report to FACS for suspected or known sexual abuse of a child aged 0–15 years, sexual abuse of a young person aged 16–17 years and/or psychological harm). FACS also introduced a separate dial option for the Child Protection Helpline to enable people to directly report concerns regarding forced marriage involving children. Training for operators and case workers, at least at FACS, is proposed and likely to be part of core and refresher training modules available to case workers.

## Criminal, civil and regulatory controls

There are a range of controls that may be invoked, either to protect children and adults from entering a forced marriage; or to protect them from their spouse or family member, where they have been forcibly married; or to enable them to annul the marriage and/or prosecute those involved in the forced marriage. However, data on the extent to which these have been sought or granted are not publicly available, nor is it possible to ascertain whether these data could be collected in a form in which forced marriage matters could be correctly or consistently identified.

### Court orders

A number of court orders are available to protect minors where there is a legitimate and imminent risk of forced marriage. An injunction may be sought under Division 9 of the *Family Law Act 1975* (Cth) to provide personal protection to a child (section 68B(a)). Parenting orders may also be issued where the matter relates to the care, welfare or development of the child (section 64B(2)(i)). The child or parent, another family member or other concerned person may apply for a parenting order to determine details about living arrangements, contact and communication with parents, and other conduct.

Where there is a risk that the minor will be taken offshore, and the minor already has an Australian passport, an order can be made under section 67AD of the *Family Law Act* for the passport to be delivered to the court and for the minor to be put on the AFP Family Law Watchlist. The latter covers all international departure points in Australia. If the minor does not yet have a passport, a Child Alert application can be made to DFAT to prevent a passport being issued. In circumstances where a minor has already been taken offshore and there is genuine concern for the welfare of the child, a passport may be issued in the absence of parental consent to allow the minor to return to Australia.

There are no comparable orders available to adults at risk of forced marriage. Protection orders for family and domestic violence are an option for injunctive relief. However, these orders only apply to conduct in Australia and ‘are not designed to respond to the specific issue of forced marriage’ (Simmons & Burn 2013: 998).

### *Partner migration sponsorship*

Intimate partners of Australian citizens or permanent residents must apply for either a Partner visa (subclasses 820 and 801—for spouses, same and opposite sex de facto partners) or a Prospective Marriage visa (subclass 300—for fiancés) to enter and remain permanently in Australia. Partner visas allow migrants to move to Australia based on their spousal or de facto relationship with an Australian citizen or permanent resident. Prospective Marriage Visas permit a non-citizen to enter Australia to marry an Australian sponsor (see Lyneham & Richards 2014 for further outline of visa requirements). A sponsor to a subclass 300 visa must be 18 years or older. For a subclass 820 visa, if the married sponsor is younger than 18 years then a parent or guardian must assume sponsorship for the incoming partner.

Published data from DIBP show that four suspected forced marriage matters were referred to the AFP in 2013–14 (DIBP 2014; more recent data are not published). DIBP stakeholders participating in the study suggested that at time of interview, ‘just under 10’ cases had been identified in which a partner visa was referred for further assessment based on indicators in the visa application that the relationship was not genuine and which were suggestive of a forced marriage. In each case, it was the visa sponsor who was the unwilling partner (all female and all over 18 years of age).

Compliance officers use a combination of decision-making references when assessing visas, including Procedural Advice Manuals, which assist in the interpretation of migration regulations attached to each visa category, and country-specific risk matrices. While no formal guidelines to identify forced marriage were in development at the time of interview, training courses for compliance officers now include modules on assessing marriage relationships. Additionally, both sponsor and application forms for partner migration visas include a question on whether the sponsor or applicant was forced or coerced—respectively—into entering the relationship. All sponsors under 18 years of age are required to undergo a private interview during the processing of a partner migration visa application, which provides them with an additional opportunity to disclose their situation. Further, only those partner visa applicants who lodge on the basis of a married relationship can be under the age of 18 years at the time of application. Partner visa applicants who lodge on the basis of a de facto relationship must be at least 18 years of age at the time of application. The same requirement applies to Prospective Marriage visa applicants.

Where a case is assessed as indicative of a forced marriage, the refusal of a visa is usually based on the rationale that the relationship was not found to be genuine. It was noted by DIBP stakeholders that this reason provided the ‘safest’ option for the sponsor, rather than compliance officers finding a lawful criteria that designated there was ‘no sponsorship’ (Stakeholder personal communication 2014). The former finding is one that could be appealed, but the latter finding—according to DIBP stakeholders—has the potential to tempt suspicion of the sponsor by those complicit in the forced marriage.

In the event that the sponsor applies to the Migration Review Tribunal for a review of the decision, DIBP can issue a non-disclosure certificate in relation to the evidence, so that it is not divulged during the tribunal hearing. This measure is undertaken in view of previous known situations of sponsors being coerced to sponsor partner migration visas.

### *Family violence provisions*

Special provisions under Division 1.5 of the Migration Regulations 1994 give persons on Prospective Marriage visas (subclass 300) or Temporary Partner visas (subclass 820) who have experienced family and domestic violence by their Australian citizen or permanent resident partner the ability to apply for permanent residence. Evidence of violence may be:

- judicially determined—by way of a court injunction under the Family Law Act; the issue of a protection order against the alleged perpetrator (partner); or a conviction against the alleged perpetrator); or
- non-judicially determined—completion of a statutory declaration citing experience of violence and two forms of evidence such as a medical report/hospital report/discharge summary, a police report/witness statement, a report from a child welfare or child protection authority, or a statutory declaration from a family and domestic violence service/shelter/counsellor/registered psychologist or family relationship consultant/counsellor.

Family violence provisions are available to Partner visa applicants who are living in Australia (ie not offshore) and to Prospective Marriage visa applicants who are living in Australia and who married their sponsor before the visa expired.

### *Enforcement of civil remedies and criminal penalties*

Means to sanction conduct related to or constituting forced marriage were summarised above but are briefly repeated here:

- the introduction of stand-alone offences of forced marriage as a slavery-like practice under Division 270 of the *Criminal Code Act 1995* (Cth); and
- offences under Part VII of the *Marriage Act 1961* (Cth)—marrying a person not of marriageable age (section 95), solemnising a marriage if there is reason to believe the marriage is void (section 100), solemnisation of a marriage by an unauthorised person (section 101), or proceeding with a ceremony in which it is known the person solemnising the marriage is not authorised (section 102).

In addition, paragraph 23B(1)(d) of the *Marriage Act 1961* (Cth) provides that a marriage is void if the consent of either or both of the parties is not real consent because it was obtained through duress or fraud. Offences under state laws may also be pursued, as they were in one high-profile case involving a child in NSW. In this case the husband was convicted of offences under section 66EA (persistent sexual abuse of a child) of the *Crimes Act 1900* (NSW), and the father under section 66EB (procuring a child under 16 for unlawful sexual activity).

In November 2015, the Criminal Code was amended to expand the definition of forced marriage to include circumstances in which a person is incapable of freely and fully consenting because he or she is incapable of understanding the nature and effect of a marriage for reasons such as age or mental capacity. Under the amendments, any person under the age of 16 years will be presumed to be incapable of understanding the nature and effect of a marriage ceremony. Penalties for forced marriage offences were also increased, not only to ensure they are commensurate with the most serious slavery-related facilitation offences but also to appropriately reflect the seriousness of forced marriage as a slavery-like practice, a form of gender-based violence, and an abuse of human rights. Forced marriage carries a maximum penalty of seven years' imprisonment, or nine years' imprisonment for an aggravated offence (that is, where the victim is younger than 18 years). If a victim who is younger than 18 years is taken abroad for the purpose of forced marriage, the maximum penalty becomes commensurate to the penalty for child trafficking (25 years' imprisonment; AGD nd).

The case studies described earlier demonstrate the successful nullifying of a small number of marriages where consent was not obtained. Since the amendment to the Criminal Code in March 2013 to 30 June 2016, 116 matters have been referred to the AFP for assessment and 113 accepted for investigation (IDC 2016). The status of these cases was not available to this study.

## Challenges to intervention

The criminalisation of forced marriage has been met with considerable government and civil society attention. This intense response is due to the intractable nature of forced marriage, as well as to sensitivities around where the practice is localised, the heightened risk to children, the familial setting, and the need to improve the capacity of existing entities involved in prevention, detection and support to respond in a genuinely coordinated manner. These complexities interact to produce a situation that stakeholders unanimously acknowledged will be equally complex to resolve. As one stakeholder recognised:

...from that perspective...it doesn't look like crime, it doesn't look like violence, it doesn't look like the kinds of things we're used to dealing with (Stakeholder personal communication 2014).

The distinct circumstances of individual forced marriage cases compound the generally recognised challenges to intervention. According to stakeholders, each case presents a different scenario of complicity, victimisation and the amount and type of difficulty experienced by the affected partner to avoid or leave the marriage. Such distinctiveness invokes a 'need to be creative' in the response that is eventually undertaken (Stakeholder personal communication 2014).

The following describes three of the primary challenges in preventing and responding to forced marriage:

- addressing motivations around forced marriage;
- providing safe options for victim/survivors and concerned family members; and
- creating a sustainable connected system of intervention and support.

It concludes with a consideration of the impact, if any, of criminalising forced marriage.

### *Changing mindsets*

He's lived in Australia for 20 years or so. You would think that his mind would be changed. He would get accustomed to some of the customs and the ways of thinking. We did. But he would never (Victim/survivor personal communication 2014).

I never expected something like that would happen to me because I was living in New Zealand and I thought my family wouldn't think that way (Victim/survivor personal communication 2014).

So you can provide some education to schools, but how do you do that?...it's the whole community...needs to be educated. I don't see anything...I think they've criminalised it and said there you go...where do we start? (Stakeholder personal communication 2014).

The ultimate challenge in preventing forced marriage is changing mindsets. Such an objective entails not just influencing individuals, families and communities that may consider forced marriage as accepted practice; it also needs to capture, within these settings, those who may have recourse—or who want to intervene—and to provide assurances that intervention is permissible and safe.

Forced marriage will only be prevented when marriage is communally accepted as an undertaking involving the full and free consent of both parties. It will only be preventable if accountability is reinforced by family, peers and other influential persons. The latter argument was reflected in the observations of one stakeholder:

Where we don't see change, or it's much harder to find, is where...they may not be familiar or there are more entrenched cultural norms around forced marriage... there is a much greater risk for two reasons. One, the offender is not likely to respond to any accountability interventions that take place. Two, the family will support her being harmed, even if the offender is held accountable. So if he, for example, is arrested, then she is at just as much at risk from the family as she is from him (Stakeholder personal communication 2014).

To generate that acceptance, grass-roots education is vital among communities in which forced marriage is alleged to occur. This education may represent the best opportunity for change. One of the objectives of proposed community consultation and broader education strategies is to instil acknowledgement and respect for what is lawful and acceptable when it comes to marriage in Australia. This includes ensuring an understanding of the consequences if respect for the law (and the rights of those affected) is lacking. However, in so doing, there needs to be special consideration of both the method of education and the delegate(s) chosen to convey the message. While seemingly innocuous, education may be perceived as patronising or irrelevant by some sectors of the recipient audience. Further, it risks meeting resistance if it tests sensitivities around tradition, gender roles, family cohesion and cultural hegemony. The importance of community buy-in and community leadership to such an undertaking cannot be overstated.

Success is also likely to be limited if education does not address the perceived practical reasons for forced marriage. Practical considerations that are used to rationalise forced marriage may appear incongruous but are often tied to traditional and strongly-held values. Some of these are not necessarily intrinsically negative or harmful, such as the desire to sustain family connections and reinforce social unity. It is the misappropriation of these values in order to enforce conformity and defend principles that produces harm. Other perceived practicalities, however, are less defensible. An effective form of education must be able to demonstrate that choice and consent in marriage does not weaken beliefs or undermine family and community interest in the union. Unless this can be achieved, pronouncements about forced marriage being anathema to individual rights and societal values may only have a muted effect, particularly among strong adherents to the practice.

Changing mindsets is liable to be a long-term prospect. One stakeholder likened the challenge to that of changing attitudes to family and domestic violence, a mission that is still in progress but which has also been preceded by decades of activity to urge focus on the issue. There is no assumption that there will be a swift impact on the mindsets around forced marriage. Universal acceptance of its wrongfulness will require widespread, committed effort and consistent messaging.

In working with communities to build preventative responses to forced marriage, there must also be honest dialogue about who the victims and facilitators of forced marriage are. Forced marriage is conceptualised as a form of gendered violence, by virtue of the fact that the majority of forced marriage victims are women and girls. While boys and men also experience forced marriage as the non-consenting partner (eg in the UK 21 percent of victims recorded by the Forced Marriage Unit in 2014 were male; FMU 2014), in Australia the evidence, while incomplete, suggests few known incidents of resident males at risk of forced marriage. Accordingly, community education and other initiatives have focused on the risks to girls and women. Nonetheless, if in the future there is any suggestion that greater proportions of males in Australia are affected, as is the case in the UK, community education programs will require some adjustment to incorporate the different risks and options for seeking assistance for both females and males.

There is also the need to recognise that facilitators of forced marriages involve both male and female relatives. Facilitation comes not just in the form of complicity in arranging the marriage but also in the perpetration or sanction of the conditions that victims of forced marriage are exposed to once they enter the marital home. Victim/survivor narratives show that, while fathers or close male relatives are often those arranging the forced marriage, female relatives (usually in-laws) can be equally complicit with males in the abuse that is committed post-marriage. Community education must embrace these probabilities and involve women and men in leading the discussion on prevention, as well as target both genders among those less inclined to change practices.

A second stream of education concerns processes for intervention. Most of the victim/survivors interviewed for this study eventually sought or accepted assistance because the abuse could not be endured any more. Stakeholders, primarily service providers, described the apprehension and confusion experienced by victims and family members in making the decision to act. The perceived enormity of the potential consequences produced this trepidation—of being blamed, punished and/or ostracised by the family, and possibly the community; of their parents or close relatives being arrested and prosecuted; and the immediate risks to personal safety.

When we're providing advice about simple steps that you can take, the perception is that it is way bigger and that something really, really bad is going to happen to my family (Stakeholder personal communication 2014).

Along with the fear of potential consequences, the fear of authority and the fear of the unknown are also significant factors in shaping help-seeking behaviour. As mentioned above, one of the principles of proposed education in vulnerable communities is to encourage the recognition that forced marriage is a crime and has no place in Australia. A related consideration is how this message is interpreted by its audience, including the potential consequences for those violating the law.

This is as relevant to those in or at risk of forced marriage as it is to those perpetrating the crime. While stakeholders and victim/survivors interviewed for the study showed general support for the criminalisation of forced marriage (see below), there was acknowledgement that some victim/survivors, particularly children, will be reluctant to report their circumstances—from fear not just of what will happen to them but of what they think will happen to their parents or other relatives. Those working with vulnerable populations must therefore deal carefully with describing what it will mean to initiate a response, while at the same time taking into account all possible risk factors.

The fundamental challenge of this second stream of education is how to convey that the steps taken to exit a forced marriage can be done safely and in a way where the person exiting the forced marriage feels they have some level of control. As one stakeholder observed:

I think people are very scared, because they think whatever they say is going to initiate a whole chain reaction of events over which they have no control. And it's not true...there is a certain amount of control that people do have but for some reason they don't have that reference point, or they've never engaged with the criminal justice system before or any civil system as well (Stakeholder personal communication 2014).

A sense of control is essential to decision-making as well as to understanding what the ensuing outcomes are likely to be.

## How to intervene safely

It's worse than domestics. It's domestics times ten (Stakeholder personal communication 2014).

A lot of services are with the basic aim of leaving your parents. They don't understand that girls can't leave their parents, that there are implications to that sometimes, even life threatening implications...I wish that someone had told me that I did have a choice, to have just communicated that message to me, instead of just saying that I could just leave my parents (Victim/survivor personal communication 2014).

Establishing interventions that prioritise safety is not a unique consideration for forced marriage: there are obvious parallels between family and domestic violence matters, cases of child abuse and neglect, and the approaches used to protect victim/survivors of forced marriage. Each of these scenarios is complicated by the family setting and by the need to accurately assess the risks associated with intervention.

Family intervention almost inevitably creates resistance. Resistance can come in the form of families resenting the opinion from an outside authority that their actions taken to force a family member into marriage are wrong and must be monitored or sanctioned. Families may believe that any disruption to family harmony, even if it is recognised to have adversely affected a family member, can and should be resolved privately by the family themselves. One stakeholder described such a situation for the family of a woman they were providing support to:

...nobody in this whole family who cares about this risk is even yet willing to go to the AFP just to seek an alert, at the airport or something. Because they all have this thing 'we can solve it ourselves, we can solve this issue ourselves'  
(Stakeholder personal communication 2014).

It can also incite or exacerbate conflict, which carries the threat of further isolating and endangering the victim and anyone in the family who is supporting them.

The age at which many find themselves at risk of forced marriage has necessarily prompted calls for action from state and territory child protection authorities. Nonetheless, there are some potential restraints on the role or response child protection authorities can deliver in specific forced marriage scenarios. One particular problem raised is the fact that the majority of forced marriage cases involve children who are teenage girls aged 15 years or older, an age group that is generally not prioritised by child protection authorities. Similarly, there are constraints on short- and long-term living arrangements for affected young people from this age cohort, if they choose or need to be removed from the family. Out-of-home care is defined as a tertiary response in child protection matters, in that it is utilised only where the child's welfare is at immediate risk and family preservation cannot be expected. Service providers who had previously had limited experience with or responsibility for children were now concerned with the 24-hour care of young people. Finding suitable accommodation for children who wish to or have to be removed from the family continues to be a primary challenge for service providers.

To ascertain a child's situation in the first place creates its own risk, particularly for those who have been taken offshore. Any matters reported to the AFP—or, for offshore cases, managed by consular officials—cannot be formally acted upon without sufficient evidence, obtained directly from the child, that their safety is compromised:

You still have to establish that there is a high degree of risk that the child doesn't want to go and the child is concerned...We can't do that without speaking to the child, but speaking to the child creates risks sometimes for the child (Stakeholder personal communication 2014).

The decision to intervene in offshore cases is fundamentally dependent on whether assistance has been requested, whether ongoing communication can be established, and whether consent to intervene is given. Consular staff generally cannot act on behalf of a child or arrange for their removal if the parents have not been contacted or if the child does not consent to the family being contacted. Notwithstanding this, consent is waived if the person's safety is at immediate risk.

The ability to intervene is, in turn, dependent on the systems and resources available to arrange for the person's return to Australia. Resources identified by DFAT include the level of assistance that can (or will) be provided by local authorities; the extent and dependability of service providers; telecommunications access; and the facility to organise travel documents and other credentials at short notice. Above all else, the response must comply with local procedures, which in itself may introduce significant barriers and affect safety. In certain countries these relate to restrictions on female mobility, where permission to travel is governed by a male authority and can, in some circumstances, be denied through a court order.

For those children and adults who are encouraged or choose to leave the marriage and/or their family, there is the potential threat of further persecution or violence—and not necessarily from their betrothed/marital partner. The more extreme cases described earlier concerned family members or in-laws tracking down and intimidating women who had left their marriage, to the point that these women were having to constantly move location and, in one case, move to another country. For other victim/survivors, initial harassment eventually subsided but they remained fearful that threatening behaviour might resume.

The question of family preservation versus priority to protect was a point of debate. Where a person's safety was in immediate danger, there was no question among stakeholders that intervention should at least be considered, if not undertaken. In other situations, the decision not to respond needed to respect the choice of the victim, even 'when we don't like those choices' (Stakeholder personal communication 2014). The majority of the cases detailed in this study concerned migrant women, mostly newly arrived, who had tentative or newly established connections with the community they had married into or identified with. Other cases cited in the media or now coming to the attention of authorities and service providers involve girls and women who grew up in their community. The 'choice' to decline assistance may be invalid, due to acquiescence in the marriage, coercion through pressure, and fear of the family's response. While leaving a forced marriage can liberate victim/survivors from servitude and abuse, it can also lead them into a period of isolation, in which separation from family and community may be lasting if reconciliation is impossible. For some, the prospect of separation is perceived as the more distressing situation, as explained by one stakeholder about a client:

She was more concerned about being away from her family than being killed (Stakeholder personal communication 2014).

For others, the practical challenges faced after having to leave the family home can affect the decision to seek support. The realities of independent living, particularly for young people, may be perceived as too intimidating, particularly if it affects family bonds:

Yes, there would be freedom, but you have responsibility as well. Responsibility to your own education, to paying the rent, to working. At a very young age, especially if it's under-age, you will have to have responsibilities of an adult. Are you willing to do that? And if you are, then yes, you might go ahead...You need a social support, a strong network, people that you could go to (Victim/survivor personal communication 2014).

The role of family mediation in forced marriage cases is a contentious issue. Official UK guidelines do not support mediation, as the risk to children is considered to be too substantial in cases of forced marriage (HM Government 2014a). The Danish experience, based on a form of mediation developed specifically for resolving intercultural conflict, also expresses caution yet finds potential for resolution, particularly in cases where the threat of forced marriage is due to conflict between parent and child (Danna & Cavenaghi 2012). Local stakeholders were divided on the role of mediation, with the majority generally opposed to its use. Others recognised a possible place for mediation, but only where safety could be monitored, where parents were less belligerent, and where the threat of familial exclusion was too distressing an outcome for the victim. The Danish cross-cultural transformative mediation model is based on the creation of a contract that stipulates the agreed occurrence and location of family contact, and options for the daughter/son to receive assistance where requested (Danna & Cavenaghi 2012). Further, the mediator is supported by service provider, law enforcement and legal professional representatives who work together to discuss approaches to the mediation. Such a structured model might be considered for cases in Australia in which conditions of safety can be guaranteed.

Stepping into the family environment creates its own safety risks for persons intervening in cases of forced marriage. Safety concerns are particularly pertinent to case workers and other frontline responders who come from or represent the community in which forced marriage incidents have been identified. Assistance is paramount, but implications for staff safety are a priority. The extent to which this impacts on broader contact with communities is of consequence. Among this group of providers, the permeation of disquiet about treading too far into private concerns is a matter for further examination.

## Connecting response

It's all very well to raise awareness of the issue, but you need a service response also...at the moment, I think the service response is probably inadequate (Stakeholder personal communication 2014).

It is important to note that the qualitative information used to inform this section was collected 12 to 18 months after the criminalisation of forced marriage. Since that time, there have been further efforts to improve connections between law enforcement, other government and civil society responses (eg the Forced Marriage Networks). Nonetheless, it is still worth repeating the opinions that were expressed at the time of interview, as these relate to other intervention challenges that are reviewed here and may still be apparent.

One of the fundamental obstacles in creating the response to forced marriage was an initial lack of specialisation. Stakeholders were candid in their assessment of general capabilities, expertise and resources to prevent, identify and intervene in forced marriage matters. Many cases—involving women who were already forcibly married—presented as domestic violence (see Lyneham & Richards 2014). In these cases, the underlying situation was only ever revealed, if it was revealed at all, when either the victim or another person was upfront in giving an account of their experience. The skill or ability to identify a potential forced marriage was considered even more lacking outside the conventional service provider environment:

It's a fine line sometimes and really unless we're told by the person or a third party that feels sorry for them and wants to help and gives us that information then...it's very hard to know that there is a forced marriage situation (Stakeholder personal communication 2014).

The complexity of the cases, the recentness of the issue and the limited guiding material on appropriate responses to forced marriage have similarly affected confidence in the consistency and appropriateness of the response that has been put together:

...it's kind of new to us. Even in the UK...there still isn't much research available on best practice for victims of forced marriage. And it seems...the suggestions that are put forward are just appropriations of practices for victims of trafficking (Stakeholder personal communication 2014).

While the AFP is the primary referral point for allegations of forced marriage, service providers continue to be an important first port of assistance. Among some of the service providers interviewed, there was a concern that, as the issue of forced marriage intensified, a surfeit of groups had emerged claiming expertise which they did not necessarily have. For others, there was regret that only a small group of service providers had been consulted and that, at the time of interview, there was a lack of government-sponsored, coordinated information sharing. One stakeholder recounted their conversations with various organisations who were handling suspected forced marriage cases but 'were just treading water and trying to make it work as best [they could]...because they didn't know about the support, what's out there' (Stakeholder personal communication 2014).

A vital need was the dissemination of consistent guidelines on how to recognise a forced marriage situation and implications for intervention. The third edition of *Guidelines for NGOs: Working with trafficked people* (updated since stakeholder views were recorded and released in November 2015) includes information on best practice in responding to instances of forced marriage. Also identified was the need for a defined referral pathway, including a one-stop directory of recognised government and civil society agencies and their specialised roles in responding to forced marriage. At least one agency interviewed had taken the initiative to create such a resource that documented the availability of supports and services in different jurisdictions, and where the gaps existed. At time of writing, the AGD were also developing a jurisdictional service directory for forced marriage referrals.

Equally important was the fundamental need for time to establish how to provide appropriate support. There was a sense from some stakeholders, and from service providers in particular, that while extraordinary effort was being directed to the management of forced marriage cases, it was still very much a learning exercise. This learning process reflects the uniqueness of individual cases and the newness for some stakeholders of working with children and/or families, as explained by one stakeholder describing adaptations to the Support for Trafficked People Program (STPP):

We're still formulating exactly what the program will look like for people who are under the age of eighteen who are victims of forced marriage and so far what we have determined is, for example, the initial period that people are on the support program where they don't have to cooperate with the AFP, normally that's 45 days, now that is 90 days for anyone under the age of eighteen, which was primarily designed around forced marriage victims because obviously they are going to have trauma issues and you're dealing with family, which is a lot more complicated, so it was recognised that they're going to need that much more time to work through where they are, where they're going, whether they want to cooperate with the criminal justice process, and to give them that space to work it out (Stakeholder personal communication 2014).

The adequacy of intervention can have a profound impact on people at risk, affecting their confidence and their understanding of the support being offered:

I'm sure there's people who are just deciding 'I'll just go ahead and do what my family wants me to do. It's too hard because I can't get the help that I need. It's too hard...I'll just go back'. And, I think, it's certainly been our experience that that's contemplated, you know, by people (Stakeholder personal communication 2014).

It also affected the confidence of service providers in the assistance they were coordinating.

Some of this need has since been addressed with a rubric developed by the Australian government in collaboration with the National Roundtable on Human Trafficking and Slavery's Communication and Awareness Working Group, which outlines recommended support options and providers. In addition, as previously mentioned, Australian government funding has been provided to ASA to develop a referral network web portal, and indicators prepared by the AGD, ASA and AFP have been disseminated to relevant organisations. As well as these resources, there are the activities of the Forced Marriage Networks, and state and territory workshops to discuss forced marriage with frontline officers and service providers, which are hosted by the AGD in partnership with the AFP and ASA.

## The effect of criminalisation

The significance of criminalising forced marriage in Australia was, for stakeholders, clear-cut: it conveyed an absolute message that the practice of forced marriage is not condoned in Australian society and that there is preparedness to take punitive action against those who engaged in the practice. However, stakeholders were undecided as to the true protective nature of criminalisation. First, there is the question of the perceived consequences for victims who report to the police or another authority and the extent to which this weakens their resolve to seek help. Immediate consequences include threats to personal safety, jeopardising family relations and community inclusion, and the possible fate for implicated family members (and see FCO & Home Office 2005; Samad & Eade 2002; Simmons & Burn 2013). Second, there is uncertainty as to whether laws proscribing forced marriage would have any real deterrence effect, particularly on those committed to continuing the practice.

There is no doubt that some victim/survivors of forced marriage, either through fear for their safety or fear for the unity of their family, will not report their circumstances. From one stakeholder representative of a community in which forced marriage is alleged to occur:

My experience is that parents and families and these cultures are absolutely sure that they've instilled enough fear in the children that they're not going to go and report them (Stakeholder personal communication 2014).

Equally, it is clear that other victim/survivors will put aside any anxiety about the impact on family cohesion to ensure they are removed from the situation:

...this negative impact on the family also results when prosecutions are initiated for cases of domestic violence, incest, rape and sexual assault within families and no one would seriously argue that the public interest in prosecuting these cases is outweighed by these negative factors. However it is equally important that resources be made available to minimise that impact (Stakeholder personal communication 2014).

Whether any forced marriage is successfully prosecuted was a moot point for some stakeholders, as the greater impact of legislating against forced marriage was to offer a solid framework of protection and a 'clearer avenue' for response:

...if we never run a forced marriage prosecution or never convict anybody, I don't necessarily think that's a failing of the legislation. The legislation can still do its job by allowing us to have these protections and to set a normative effect, without needing to use that legislation in court. Sometime I think that's the bigger point to it (Stakeholder personal communication 2014).

Establishing the normative effect will take time. Laws may be in place but risk being ignored or flouted if upholding tradition or conventional practice outweighs a respect for regulations, or if perpetrators believe they can outmanoeuvre authorities. A standard, but not unanimous, response from stakeholders is that criminalisation will drive the practice underground, including further inducement to take children offshore to become engaged or to marry. Among victim/survivors there was the additional learned reality that some parents may just not respond to the seriousness of criminalisation:

...like my mum and dad, they don't really care whether there's a law or not because their honour means more than anything (Victim/survivor personal communication 2014).

Criminalising it, I think, it is important yes...But then again...you can't hurt your kids, right? You can't hurt your wives and things like that. But then, still these things happen behind closed doors (Victim/survivor personal communication 2014).

In other cases, parents appreciate the illegality of the practice but act to conceal the arrangements:

In their mind, the religion and cultural override Australian rules...he knows that under Australian law that's illegal, which is why he did it hush hush (Victim/survivor personal communication 2014).

Victim/survivors generally agreed that forced marriage should be a criminal offence; however, many were cautious of its effect as a deterrent. Rather, they viewed the criminal law as providing a means of redress, not protection. Criminalisation gave significance to the issue, and hence would produce better referral pathways and the provision of more appropriate and specialised support services:

I think if young people knew that they had good support systems and then they had the law, they would be more likely to actually go and ask for help. So if I knew that there is a law, but I know there is no support at all, I would likely just get married (Victim/survivor personal communication 2014).

The implication of these views, echoed by others in similar circumstances, resonates with the discussion above on connecting responses. It also suggests that alternative formal controls might be more appropriate for some victim/survivors or for certain circumstances. One of these is the potential introduction of civil protection and prevention measures. One approach being considered is similar to the forced marriage protection orders (FMPOs) available in the UK, brought in under the *Forced Marriage (Civil Protection) Act 2007*. The application procedure and function of FMPOs are comparable to those of domestic violence orders; applications can be made without notice and a power of arrest is attached, with breaches met with fines or a custodial sentence. The UK initially introduced FMPOs in lieu of criminalisation—although criminalisation has since occurred with the 2015 introduction of forced marriage offences in the *Family Law Act 1996* (UK)—due to reservations about the likelihood of victims choosing criminal prosecution of their families and questions about the practicality and appropriateness of other laws to remedy the issue (Gill & Anitha 2011; House of Commons Home Affairs Committee 2008). These rationales still hold in the UK (see Home Office 2013) and were also identified by stakeholders in Australia and New Zealand.

Civil protections provide an alternative option for victim/survivors; so, too, does the already established domestic violence response system. Suspected cases of forced marriage (and other forms of trafficking and slavery, see Lyneham and Richards 2014) are often established in situations where women are seeking relief from domestic violence.

Other pathways for legal redress exist in the form of state and territory laws used to prosecute cases of domestic assault, sexual assault and related offences—conduct matching the abuse perpetrated on victim/survivors of forced marriage. As mentioned above, a NSW case involving the marriage of a 13-year-old was brought and prosecuted under state sexual assault laws. The reasons for the decision to pursue this case under state laws are not available. Deciding factors in future cases may include considerations around the likelihood of securing a conviction, the penalties available, and mandatory action around domestic violence matters.

The benefits and limitations of criminalising forced marriage will continue to be debated among relevant stakeholders. Of note is that, while the majority of stakeholders to the inquiry immediately preceding the criminalisation of forced marriage in the UK supported criminalisation, many—according to the consultation report—could not state the reasons why they supported making it a criminal offence. Ultimately, and for many of the reasons described above, the widespread recognition of forced marriage as a criminal act will require an acculturation process: educative rather than immediately punitive, generational rather than immediate.

# Conclusion

While there was some understanding of the incidence of forced marriage in Australia and New Zealand, a broader comprehension of this practice did not emerge until the criminalisation of the practice in Australia and exposure of the issue in high-profile cases in both countries. Since early 2013, when forced marriage became a criminal offence in Australia, perceptions around who is complicit, who is affected and the context for forced marriage have been scrutinised. As new cases of forced marriage are reported, this understanding will continue to be refined.

The cases of forced marriage examined for this study revealed consistent themes. Most of the girls and women grew up in conservative families where there was a defined pathway for female family members and marriage was arranged by senior family members, often without the consent of one or both parties. Victim/survivors were married on the cusp of adulthood as a means to uphold tradition, discourage behaviour unacceptable to social values, reunite family or, for migrant women, as a promise of greater opportunities. Their husbands represented a mix of willing and reluctant participants. The former were both agreeable to and endorsed the union. The latter were less enthusiastic, if not indifferent, to the arrangement.

Marital life was strict, severe and traumatic. Domestic violence, in all its forms, was commonplace—physical, sexual and emotional abuse (actual and threatened), imposed social isolation and financial manipulation—and perpetrated not just by the husband but also by the husband's male and female relatives. Women were subjected to domestic servitude and denied the chance to seek some form of fulfilment or independence outside the home, including being subjected to restrictions on continuing education or seeking employment.

A victim/survivor leaving the marital home occurred either by chance or by self-initiative, and was triggered by an escalation of violence and the recognition that family members would not protect them. In all cases, leaving the marriage required the resolve of both the victim/survivor and those helping her to leave. Formal sources of assistance included police, schools, domestic violence service providers, medical professionals and informal sources such as family or friends.

## A different group of victims

The victim/survivor accounts used in this report illustrate the distinct circumstances leading up to and characterising each case of forced marriage. Stakeholders also noted the uniqueness of individual cases, and how this uniqueness complicated the creation of an overarching response plan. In presenting these accounts, questions clearly arise as to how these relate, for example, to the experiences of Australian and New Zealand citizens/residents taken offshore to marry; to migrant women forcibly married overseas and arriving in Australia or New Zealand many years later; to men who are pressured to marry; or to persons from backgrounds apparently not affected by forced marriage.

Family intervention is complex. In cases of forced marriage, that complexity is further exacerbated by the young age of many of the victim/survivors, notions of family piety and gender responsibilities, and sensitivities around perceived intrusion into tradition and private decision-making. Despite the availability of guidelines—for example, those developed by the UK Forced Marriage Unit in the (HM Government 2014a; 2014b)—and related literature (Kazimirski et al. 2009; Stobart 2012), stakeholder comments collated for this study suggested there was an absence of best practice standards for effective service provision. Further, the guidance that had been made available was not always consistently applied. Stakeholders were candid about the learning process that was required to form their agency's response to forced marriage. A few stakeholders were concerned that collective thinking about what interventions should be put in place had not been initiated earlier on. The consensus was that important steps had been taken, but further improvement was needed in coordination and dissemination.

In the period since the interviews were conducted, existing interventions have been supplemented or enhanced. Some measures, primarily controls, already existed but can now be adopted for forced marriage cases, such as injunctions under the Family Law Act and amendments to partner migration sponsorship processes. Others, primarily education and training, were introduced specifically as additional protections against forced marriage. Among the first tranche of actions introduced was action to improve the awareness and capacities of frontline responders, such as teachers and school counsellors, civil celebrants, service providers and those authorities who may come into contact with a forced marriage case through immigration, consular or law enforcement channels. In addition, there was the instigation of forced marriage forums to bring members of the intervention community together to receive and share knowledge. The majority of these initiatives addressed the overriding purpose of preventative action by providing information to at-risk populations and developing tools to identify and prevent forced marriage.

The purpose of the activities mentioned above was to create agency-specific capabilities. Additional capacity-building will require both individual and collaborative contribution. There has been a consolidation of efforts in Australia—for example, important contributions such as the review of services undertaken by the Australian Red Cross as provider to the STPP, and the development of the Forced Marriage Community Pack by the Communication and Awareness Working Group—but there was a suggestion from stakeholders that some gaps continued to exist, particularly around inter-agency coordination.

A review of service responses to forced marriage in the UK noted problems with the establishment of formal partnerships between key players (Kazimirski et al. 2009). Some initial disconnection is inevitable when establishing a multi-actor response to a problem such as forced marriage; a similar assessment might have been made for Australia, despite the efforts to strengthen partnerships.

A case in point is the role for child protection authorities. The NCYLC report (Jelenic & Keeley 2013) described stakeholder-identified problems with case coordination, information sharing and options for joint referral, and the perceived hesitancy of child protection authorities to engage with suspected cases of forced marriage. Similar concerns were raised in this study, as they have been in relation to child protection agencies operating in other jurisdictions (see eg Kazimirski et al. 2009). While a number of child protection authorities in Australia have elevated their focus on forced marriage—which may counter some of the procedural barriers identified—there is still some uncertainty about the extent to which child protection authorities in different states and territories have engaged with the issue.

This question is even more relevant when considering the age of greatest risk for forced marriage. Young people aged 15–17 years are not a priority cohort for child protection, nor are short-term accommodation or longer-term foster care arrangements for this age group. In such cases strong, partnered responses are critical to avoid young clients being moved between services, or left to feel that the only option is to return home. The family and domestic violence support system is recognised as one obvious conduit for support, because many cases of forced marriage come to light when women seek help for domestic violence and the system ‘is already trained around power and control issues’ (Stakeholder personal communication 2014). However, there can be a lack of continuity between the child protection and domestic violence support sectors, as was highlighted in the UK by Kazimirski et al. (2009). This lack of continuity may be due to differences in the overarching philosophies of the two systems, which can act to further complicate the management of child protection matters related to cases of domestic violence (Humphreys, Houghton & Ellis 2007). The capacity for the two systems to work cohesively on forced marriage cases is yet to be seen.

Even where synchrony can be achieved, there is the question of whether the domestic violence system is the right place for the under-18 years age cohort—or indeed if this is where the majority of victim/survivors of this age group are actually seeking assistance. Worthy of equal consideration is the availability of organisations that combine cultural competence and specialist services to best support victim/survivors of forced marriage. Gill and Anitha (2009) described the steady decline of funding for such organisations in the UK, at the expense of increased resources for criminal justice responses. Current disquiet around funding for domestic violence and related services in Australia—including those catering for specified populations, such as those from culturally and linguistically diverse backgrounds—will remain pertinent as the incidence of not only family and domestic violence but also forced marriage continues to receive attention.

While there are evident issues for persons under the age of 18 years, the current focus of intervention, including measures already in existence, is arguably somewhat less comprehensive for older victim/survivors. One potentially important measure that is missing, although it is now being examined by the Australian government, is the use of civil protection and prevention measures; specifically, orders comparable to the FMPOs applied in the UK. In summarising the UK experience with FMPOs, Simmons and Burn (2012) highlight the practicality of civil remedies in cases of forced marriage. FMPOs may be applied for on behalf of, and not necessarily by, the victim; the term of the order may be specified or stipulated as indefinite; and breaches of orders are considered a contempt of court and are potentially punishable by a custodial sentence. Concerns that FMPOs were not providing as strong a legal response as anticipated, despite steady increases in applications, ultimately led the UK government to criminalise forced marriage. Nonetheless, the contribution of FMPOs, in particular the alternative legal option they provide for persons at risk of forced marriage, warrants their consideration in the Australian response. Still, some further assessment is vital to consider some of the issues raised by UK stakeholders around the effective use of FMPOs (Home Office 2013) and any subsequent improvements that should be made to the scheme if implemented in Australia.

In considering the intervention landscape, the question has been raised as to whether persons affected by forced marriage represent a different, or rather specific, group of victims. Victim/survivors of forced marriage present under unique circumstances. They also represent a group of victim/survivors who may not want to be permanently removed from their families, and this is particularly true for minors. To this end, any intervention must be flexible enough to provide protection as well as recognise the personal conflict experienced by some victim/survivors as they negotiate the best outcome for themselves.

## Appropriate intervention

Findings from this study demonstrate there are a range of avenues for prevention and detection. As noted above, some of the options for prevention will require time for deeper integration, and certain options for particular age cohorts will need further fine tuning. However, recognisable gaps are being examined; specifically the absence of civil remedies. While the intervention framework might still be a work in progress, there is currently a group of safeguards in place sufficient to protect victim/survivors of forced marriage.

Not all of these measures are foolproof, and not all of them address specific circumstances. Among some stakeholders is the concern that the onus of prevention and protection continues to remain with the victim/survivor. To be truly effective, the preventative measures adopted in Australia need to give precedence to measures that not only better identify situations of risk but also generate confidence that options for assistance are both available and safe. This is because, in some instances, the victim/survivor will be the one who initiates help-seeking. While the details of referrals to the AFP could not be made available to this study, an interesting inquiry might be to learn from these cases what it was about these people that led their situation to be reported to the police. Of particular interest are any cases of self-referral (even if via an intermediary) and the potential to gauge what the circumstances and stimuluses were that enabled or compelled them to report their situation when they did. It is not the

intent to suggest through such examination that the onus of identification be placed on victims, but may help to define the avenues of help-seeking that are commonly used, and how those pathways are negotiated.

It is anticipated that a strong preventative response to forced marriage will lessen its prevalence. Since 2013, the criminalisation of forced marriage in Australia and the attention given to this issue have provided those in or at risk of a forced marriage with additional recourse. Reporting may be discouraged by fears around personal safety or family exclusion, compliance with community expectations, and/or unawareness of available supports, among other factors. It is doubtful whether absolute prevention is possible unless the fundamental rationales for the practice of forced marriage are negated. Two predominant themes in the national response to family and domestic violence are offender accountability and the changing of attitudes (COAG 2011). In the context of forced marriage, accountability is only effective if it is pre-emptive rather than reactive, and if it is reinforced by family, peers and influential community members. Reinforcement requires contributions from community-based female and male educators, who will be key partners in broader approaches to changing attitudes around marriage and consent. Education is likely to start with the demographic most affected by forced marriage, that is, women and girls but, to be most effective, men and boys must also enter the conversation. Male ‘champions’—similar to those engaged in family and domestic violence awareness programs but with a more localised role initially—have a realistic capacity to change mindsets. Those with the most clout, such as community elders and religious leaders, are the obvious candidates for educator roles but, ideally, men and women from a wider spectrum of backgrounds should be brought in.

Legislation provides an important safeguard, but only where the intervention and support system for victims of forced marriage is sustained by a strong coordination between and within government and non-government agencies, a better understanding of referral pathways, and confidence, for victim/survivors and for those safeguarding them, in the efficacy of the protective mechanisms that are in place. The clarity of messaging around forced marriage will be equally critical in these years following criminalisation: to emphasise the illegal nature of the practice and to counter potentially intractable views about the place of forced marriage in conventional family relationships.

While it is still evolving in New Zealand, the intervention experience in Australia demonstrates a mix of mechanisms that aim to remove people from vulnerable situations, provide formal and informal surveillance, and dissuade potential perpetrators by increasing the perceived risk and possible consequences of their actions. The effect of these interventions is already perceptible; however, evidence will need to be collated over the longer term to ascertain the effectiveness of current mechanisms including the extent to which they successfully address different preventative emphases. The formal evaluation of anti-trafficking efforts is uncommon, both in Australia and internationally. Nonetheless, given the marked attention given to the issue of forced marriage by government and non-government sectors, it is vital that evaluation is undertaken in the future to assess the implementation and effectiveness of individual schemes as well as how these are working in concert. Of particular importance is the identification of those schemes that are genuinely preventative and sustainable, and hence correctly focused to genuinely produce safe outcomes for persons at risk of forced marriage.

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