



What is forced marriage?

A forced marriage is one in which someone other than the people getting married (usually other family members and particularly fathers) make the decision about who is to marry whom. It could be either person or both who are forced into the marriage. They may or may not know one another.

What is the difference?

The difference between a forced marriage and an arranged marriage is choice. There is no choice for the person being married in a forced marriage. The person to be married will be pressured into accepting the decision made by others. This pressure can include threats and/or physical, psychological or sexual abuse.

In an arranged marriage, even though possible spouses may be selected by family members of the person to be married, that person can say no if she or he does not wish to marry the person being suggested.

What is an arranged marriage?

An arranged marriage is one in which the families take a leading role in choosing the marriage partner, but the choice of whether to enter the marriage is left to the people getting married.



Forced marriage in Canada

- There is little hard data about forced marriage in Canada. Fortunately, recent research conducted by the South Asian Legal Clinic of Ontario (SALCO) provides some important information about the situation in Ontario
- Thirty agencies reported having served 219 forced marriage (FM) clients in a one-year period. Women made up the overwhelming majority of people (92%) affected by FM, with young women between 15 and 24 years of age being the largest group forced into marriage
- Survey data confirmed that forced marriage is not restricted to any particular culture, religion or geographic region. In Canada, forced marriage can be found in a number of different religious and cultural communities



Warning signs

Identifying a possible forced marriage is, of course, the best way to intervene before the marriage takes place. While there are few clear cut warning signs, there are some common red flags, as identified by SALCO in its work:

- A planned marriage where one person is significantly younger than the other
- Fearfulness by a young person about a family trip
- Isolation of a young person prior to such a trip
- A marriage by means of telephone or internet
- Unexplained depression
- Eating disorders
- Self-harm
- A drop in academic or work performance

Young women from poor families or who lack employable skills or education may be particularly vulnerable to being forced into a marriage against their will.



What is consent?

For a marriage to be valid in Canada, both people have to consent. This means they have to have agreed voluntarily, with a clear understanding of the facts and knowing the limitations and consequences of what they are doing. A marriage is considered to be forced if there is no consent. This could be because someone has used coercion – imposed their will by the use of physical or psychological force or threats of such force – or duress – put unlawful pressure on someone to do something that person would not ordinarily do – to get the person to marry someone else.



Implications for women

- A woman forced into a marriage enters it from a position of inequality and with a lack of dignity from which it may be difficult if not impossible to recover. This places her at risk of further harm within that marriage
- Harm can include: physical and sexual abuse and violence, unwanted pregnancy and/or an end to education, which can lead to financial dependency on the husband
- Women in a forced marriage may feel very isolated. They may not know they can leave, especially if they are unfamiliar with Canadian laws and their legal rights
- Leaving may create immigration/refugee problems for her or her spouse or could cut her off from family support



Responses to forced marriage in Canada

Federal laws set out rules about who can marry whom, and provincial laws establish minimum ages at which people can get married. In Canada, the age of consent to marry is either 18 or 19, with younger people permitted to marry in some circumstances.

If a person can persuade the court that she did not consent to the marriage, the marriage can be “voided.” This is different from getting a divorce – if a marriage is voided; it is as though it never happened. However, having a marriage voided is difficult.

In Canada, the courts have done so when they have found that the duress was such that the person’s powers of choice were so affected that there was no consent. Mere allegations of fear are not enough. The courts have said that duress can be established through non-physical pressure if it was severe enough that the person’s mind was overcome by oppression and there was an absence of free choice.

Forced marriage is not prohibited by Canadian criminal law. However, the *Criminal Code* does contain provisions that could address activities related to forced marriage. These include kidnapping and forcible confinement, parental abduction, uttering threats, assault, sexual interference, sexual exploitation and procurement for the purpose of sexual activity.

Ideas for moving forward

The work being done by the South Asian Legal Clinic of Ontario should serve as a model and starting point for work in other parts of the country. Communities wishing to address forced marriage could:

- Work to implement SALCO’s recommendations
- Advocate for further research to determine the extent of forced marriage across Canada
- Engage and provide training for professional associations of those who might see young people who are potential victims of forced marriage
- Develop violence against women and child protection protocols and working agreements that include a response to forced marriage involving children and young people
- Offer cultural competency training to violence against women and community services



Helpful resources

Anis, Maryum, et al. "Who/If/When to Marry: The Incidence of Forced Marriage in Ontario." Sept. 2013, *South Asian Legal Clinic of Ontario*. <[http://www.salco.on.ca/SALCO%20-%20Who,%20If,%20When%20to%20Marry%20-%20The%20Incidence%20of%20Forced%20Marriage%20in%20Ontario%20\(Sep%202013\).pdf](http://www.salco.on.ca/SALCO%20-%20Who,%20If,%20When%20to%20Marry%20-%20The%20Incidence%20of%20Forced%20Marriage%20in%20Ontario%20(Sep%202013).pdf)>.

Foreign and Commonwealth Office, et al., "The Right to Choose: Multi-agency Statutory Guidance for Dealing with Forced Marriage." 2008, *Forced Marriage Network*, 6 Feb. 2013 <http://www.forcedmarriage.net/media/images/righttochoose_118.pdf>.

Foreign and Commonwealth Office. "Forced Marriage: Guidance for Members of Parliament and Constituency Offices." 3 Jul 2009, *The UK Government*, 3 Feb. 2013 <<https://www.gov.uk/government/publications/forced-marriage-guidance-for-members-of-parliament-and-constituency-offices>>.

Government of Canada. "Forced Marriage." 22 Mar. 2013, *Government of Canada*, 4 Feb. 2013 <<http://travel.gc.ca/assistance/emergency-info/forced-marriage>>.

www.salco.on.ca