



Response of Good Shepherd Australia New Zealand to Discussion Paper – Forced and Servile Marriage

Submission Paper
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Further information

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1. Introduction and capacity to comment

Good Shepherd Australia New Zealand welcomes the opportunity to comment on the Discussion Paper on Forced and Servile Marriage. Good Shepherd Australia New Zealand is the organisation managing the ministries and works of the Sisters of the Good Shepherd in Australia and New Zealand, a Catholic order of nuns. Our mission is to promote a world of justice and peaceful co-existence, and to enable people of all cultural, religious and social backgrounds to enjoy the fullness of life that is the right of every human being.

Each year we support tens of thousands of women, families and young people across Australia and the Asia-Pacific region. Our top priority is a commitment to women and Indigenous persons as the most marginalised and economically disadvantaged groups in society. Within this service area we run programs for vulnerable women, children, refugees, Indigenous Australians, trafficking victims, and survivors of domestic violence. This practical experience enables us to comment on measures to ensure the centrality of the safety and wellbeing of women and children in the administration of the law.

We strongly believe both legislative and non-legislative measures are necessary to address the problem of forced and servile marriage in Australia. We believe that action is required across the continuum of prevention, intervention and postvention to support victims of forced and servile marriage, and to deter such marriage practices in Australia. To that end, we believe the following principles should underpin proposed reform:

1. Need for community engagement and education
2. Additional immigration and emigration safeguards to prevent forced and servile marriage
3. Systemic service provider coordination and training
4. Obligation to identify and support women and children who are victims of forced and servile marriage
5. Civil penalties to empower and protect women and children
6. Criminal penalties to deter and prosecute offenders.

For the purposes of this submission Good Shepherd understands forced and servile marriages to be marriages entered into without the full and free consent of both partners. Arranged marriages are not forced marriages, as both partners and their families must agree to an arranged marriage. Servile marriages are a subset of forced marriages involving slavery-like



marriage practices in which one partner, typically the woman, is treated like a chattel, in other words transferred, sold, or inherited.

2. Overview of forced and servile marriage in Australia

Forced and servile marriage is a human rights issue predominantly impacting women and girls. For example, the Forced Marriage Unit in the United Kingdom has found 85 percent of cases affect women and girls (Seal, 2009). A study in the United States indicated that half of recent immigrants cited increased domestic violence since emigrating (Anderson, 1993), and another found that abuse of married immigrant women was twice the national average (Stepnitz, 2009). Such marriages also mainly impact cultural, ethnic, and religious minorities in Australia.

'All manner of atrocities are going on under the name of culture. There's a fine line between [servile] marriage and slavery.' (Migrant Resource Centre Manager, 2011)

It is important to keep culture, religion, and language in mind when considering the challenges facing victims and how best to ensure their human rights through systems of support.

Forced and servile marriage affects thousands in Australia

Good Shepherd welcomes the Attorney-General's Department discussion paper as the first step in government recognition that forced and servile marriage potentially impacts many women and children in Australia and should be addressed. We suspect thousands are affected by trafficking, slavery, and forced and servile marriage in Australia. One domestic violence professional in a specialist service for women from culturally diverse backgrounds said, 'Forced and servile marriage is our bread and butter. It affects 99 percent of the 800 women we work with each year.' Immigrant battered women are also 'highly represented in shelters, legal aid, and ethnic welfare services' (Easteal, 1996). The following account illustrates some of these issues:

'The Australian husband ran a farm, and met his Southeast Asian bride online. After she arrived, he had her working 18 hours a day, 7 days a week on the farm, while he drank and did drugs.' (Immigrant Domestic Violence Professional, 2011)

In the United Kingdom, nominal data and a few highly publicised incidents resulted in the enactment of the Forced Marriage Act in 2007. The Act created the Forced Marriage Unit (FMU)



to work with embassy staff abroad to rescue victims, assist potential and actual victims in and outside the UK, develop guidelines for and train professionals, and educate the public. In 2008 the FMU assisted about 400 actual and potential victims, and by 2009 that number had quadrupled to more than 1600 (Forced Marriage Unit, 2011) with more than 5000 calls to the hotline (Seal 2009). A 2008 report indicated there are at least 3000 (Revill), and likely more than 5000 victims of forced marriages in Britain each year (Casciani, 2010). In 2009, the British government repatriated 300 victims, 40 percent under age 16 (Talwar, 2010). Similarly in Australia, a Migrant Resource Centre Manager in Tasmania affirms that, '[t]he law must recognise that this is going on here in Australia, now. It is hidden under the veil of culture and will continue until prevented by law.'

Good Shepherd recognises that forced and servile marriage potentially impacts thousands of women and children in Australia and should be addressed.

Human rights obligations

'Australia allowed these women to come, and must then take responsibility for them.'
(Immigrant Domestic Violence Professional, 2011)

Australia is under international obligation to criminalise servile marriage (Supplementary Convention, 1957), and has human rights obligations through the Universal Declaration of Human Rights and a myriad of treaties (See Appendix) to ensure that men and women 'are entitled to equal rights as to marriage, during marriage and at its dissolution,' and that marriage 'be entered into only with the free and full consent of the intending spouses' (Universal Declaration, 1948). These obligations imply a strong need for both criminal and civil legislation, as well as education and service support measures.

'Two Sudanese women I know were taken at gunpoint at ages 13 and 14 by men in refugee camps in Kenya. They speak no English, and the men brought them into Australia as wives. They each have five children, because the men want the government payments. They've both been badly beaten, raped and abused by other men in the community, and after ten years are finally back in contact with their families in Africa.'
(Migrant Resource Centre Manager, 2011)



Good Shepherd recommends that the Australian Government is active in its commitment to supporting vulnerable members of our society confronting forced and servile marriage and that this commitment should include world best practice criminal and civil legislation.

3. Suggested legislative reforms

Good Shepherd underscores the importance of enacting both criminal and civil legislative reforms.

'Legislation is important. These issues slip under the radar.' (Centre Against Sexual Assault Professional, 2011)

'Police are willing to intervene, but the only crime they can use is domestic violence.' (Migrant Resource Centre Manager, 2011)

In addition to language, culture and other impediments, victims often face the daunting prospect of police reporting resulting in criminal charges against family and close community members. One professional who works with hundreds of victims of forced and servile marriage in Australia each year indicated only 1-2 percent of her clients would choose to pursue criminal charges, and if that were their only legal avenue, would choose to stay in the marriages (Immigrant Domestic Violence Service, 2011). The importance of civil legal remedies is evident in interviews with professionals who indicate that most women say, 'I do not want to separate from my husband. I want the violence to stop' (Immigrant Domestic Violence Worker, 2011).

The importance of criminal penalties and deterrence as well as civil provision is illustrated by the following story:

'A young Iraqi woman was sent here and forced to marry her first cousin. Her mother in law then made her to wash oily clothes from the family mechanic business, and clean and cook for a house of ten, even when her hands were chapped and bleeding. She wasn't allowed to leave the house. After working with us for 8 months to flee the marriage, her husband's family paid to send her back to Iraq. Her family in Iraq said if

she didn't return to her husband, they'd kill her for the dishonour.' (Immigrant Domestic Violence Worker, 2011)

Good Shepherd believes empowering women with the choice to pursue civil and criminal avenues increases reporting and access to support for actual and potential victims.

Encapsulating offences occurring in and outside Australia

'If a man lies and brings a woman over on a visa saying she is a sister or daughter, it's almost impossible for her to prove marriage.' (Immigrant Domestic Violence Worker, 2011)

From 2001 to 2007 the number of spouses and fiancées entering the country nearly doubled to 30,000. In 2005, 3 percent of registered marriages were between Asian-born women and Australian-born men (Brock, 2009). One study found that Filipina women in Australia between 20 and 39 were 6 times more likely to be victims of homicide than Australian women. In addition, available information indicated no perpetrator was Filipino, and all but one perpetrator were married to or intimately involved with the victim (Schloenhardt, 2009).

UNICEF estimates that 42 percent of girls in Africa are married before the age of 18, and that there is a clear link between Female Genital Mutilation and child marriages (Child Marriage and Forced Marriage, 2011), illustrated in the following account:

'[In order to prepare girls for marriage] in many African cultures, preteen girls are being circumcised on 'shopping trips' from Tasmania to Melbourne. The only way to stop them is to tell families, 'if you do this, you'll be imprisoned.' (Migrant Resource Centre Manager, 2011)

Cross-cultural marriages may be cross-border, or may occur inside Australia. To promote safety of actual and potential victims of forced and servile marriage, to send a clear message that such marriages are absolutely prohibited in Australia, and to ensure compliance with treaty obligations (See Appendix) additional laws should be enacted.

Good Shepherd believes specific criminal and civil offences for forced and servile marriage should capture:

1. An offence occurring in Australia, and
2. An offence committed against an Australian citizen or resident outside Australia, and
3. An offence perpetrated by an Australian citizen or resident outside Australia.

Defining forced and servile marriage broadly to include cultural and religious marriage

We believe forced marriage should be defined broadly, consistent with international obligations as ‘any marriage entered into without full and free consent of both parties’ (cited in Discussion Paper Annexure 1, 2011). Servile marriage as defined in the Supplementary Convention Article 1(c) is a limited and outdated definition (1957, quoted in Discussion Paper, 2011). To encapsulate cases of men and boys in forced and servile marriage (Hill, 2010), as well as children, we believe servile marriage should be defined as any institution or practice whereby:

1. A person, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
2. The spouse of a person, their family, or their clan, has the right to transfer their spouse to another person for value received or otherwise; or
3. A person on the death of their spouse is liable to be inherited by another person; and
4. The person may be a child; and
5. The person may be male or female.

We further recommend the definition of marriage be broadened in laws regarding forced and servile marriage to encompass religious and cultural marriages. For example, de facto marriage ‘does not cover cultures where men and women have separate sleeping quarters in community compounds,’ and ‘marriage is not always an exclusive relationship’ (Migrant Resource Centre, 2011).

'In many cultural marriage ceremonies, families exchange dowries before girls are even 14. We have cases of the girl's family in Australia pinning her down while the new husband rapes her to seal the deal. She continues to live with her family until she's 18, but is sent over to the man when he wants sex. The marriages are rarely registered and very hard to prove.' (Migrant Resource Centre, 2011)

One suggestion so that new legislation captures victims of cultural and religious forced and servile marriages is the following 3-part test: (1) one or both partners self-identify as married, and (2) religious or ethnic community members recognise the marriage, and (3) marriage is binding within the cultural and religious beliefs (Migrant Resource Centre, 2011). Eminent anthropologist Edvard Westermarck defined marriage as a relation of at least two people 'that is recognised by custom or law' (Westermarck, 1936). The Forced Marriage Act in the United Kingdom defines marriage as 'any religious or civil ceremony (whether or not legally binding)' (2007).

We believe a broadened definition of marriage in the forced and servile marriage context encompassing cultural and religious marriages would enhance enforcement of new laws.

Creating a specific criminal offence of forced marriage

Amendment to existing code definitions of slavery could hinder enforcement and confuse jurisprudence. As Chief Justice Gleeson of Victoria said in *R v Wei Tang*: 'It is important not to debase the currency of language, or to banalise crimes against humanity, by giving slavery a meaning that extends beyond the limits set by the text, context, and purpose of the 1926 Slavery Convention.' Similarly, amending the Marriage Act would be too limiting in application of the criminal offence, because it would not allow for a broad definition of forced and servile marriage that would encompass religious and cultural marriages.

'In Queensland I saw many cases of Australian men bringing over Southeast Asian wives, and then offering them up to their mates to rape and sexually abuse. Then they would videotape it and use the tapes to blackmail their wives.' (Immigrant Domestic Violence Professional, 2011)

'A Thai woman's family sent her to Australia to marry. Her mother in law made her work in the basement making jewellery for a family shop. The husband refused to divorce her, and neighbours didn't even know the woman was there until the jewellery business failed and they were evicted.' (Migrant Resource Centre Manager, 2011)

A separate offence is also in conformity with the amended separate offence of debt bondage and the new offences enacted in the federal Sexual Offences Against Children Bill (2010). A separate offence criminalising forced and servile marriages and utilising a broad definition of marriage could be enacted as Division 274 Forced and Servile Marriage (Australia Criminal Code Act, Ch. 8, 1995). New offences could include: forced marriage, servile marriage, aggravated forced marriage for children under 18, and aggravated servile marriage for children under 18.

Good Shepherd believes it is important to enact a separate offence of forced and servile marriage that addresses the behaviour of those who orchestrate, or aid and abet, or profit from such marriages.

Extending civil protection orders and introducing injunctive measures

Courts in Australia have utilised a civil protection order and an interim injunction to protect underage girls from being taken outside of Australia in order to prevent forced marriages (cited in Discussion Paper). There is currently no such protection for adults above the age of 18, whether potential or actual victims of forced or servile marriage.

Through the Forced Marriage Act in the United Kingdom the courts have made 36 forced marriage prevention orders to prevent people from being taken abroad against their will (Casciani, 2010). In addition to language, culture and other access impediments to reporting, victims face the daunting prospect of their reporting resulting in criminal charges against their own family members and close-knit community.

'[Underage] girls are often brought overseas on holiday by their families, especially my clients from Turkey and the Middle East, and forced to marry older men or cousins to

bring the men to Australia and keep wealth within the family.’ (Immigrant Domestic Violence Worker, 2011)

Good Shepherd believes by extending interim injunction measures and civil protection orders to adults, victims can feel more empowered to report, and not be concerned with criminal consequences further complicating their difficult lives.

Safeguarding international marriages through increased regulation

‘A Chinese man sponsored a wife from China, and when the woman arrived she realised the man’s mother, not her husband, had been in contact with her, because he was severely disabled and the mother wanted a new full-time caretaker.’ (Immigrant Domestic Violence Professional, 2011)

Over 42,000 visas were granted for partners to enter Australia in 2008-09 (Schloenhardt 2009). Many of these partners met through international marriage brokering agencies, mostly operating on the internet. Victoria and Queensland have enacted specific legislation regulating marriage brokering, ‘and both states focus on protecting consumers’ (Immigrant Domestic Violence Professional, 2011). That such legislation was enacted is indicative of the problem. For example, it was estimated that in 1994 the marriage brokering industry in Victoria alone had a turnover of more than \$12 million, and 82 percent of the registered complaints concerned only 15 agencies (Introduction Agents Bill, 1997). Further, ‘there were no defined standards of service within the industry, nor were there appropriate information disclosure mechanisms’ (Immigrant Domestic Violence Professional, 2011).

‘Men often have a history of domestic violence with previous partners. I’ve personally encountered five women brought over by the same man on fiancée visas.’ (Migrant Resource Centre Manager, 2011)

It is of further concern that many websites perpetuate dangerous servile stereotypes. Russianbrides.com.au states that ‘Russian women expect their man to be the head of the family. Over-independence and feminism have not spoiled their belief in traditional family values’ (2011). Elenasmodels.com claims, ‘Russian wives are more tolerant and

accommodating, more loyal and generally value their families more' (Why Russian Women Make Good Wives, 2010). Another website claims, 'Unless [Asian girls] are able to marry a western man, they know all too well that their future is bleak. Asian girls are very passive and polite, they possess charm and are extremely attentive to their husband' (Asian Wife, 2009).

After being told about a 22-year-old Russian student bashed to death in her home in Sydney's West by her 64-year-old Australian husband, the owner of Russianbrides.com.au admitted that some of his clients might end up in abusive marriages, but insisted that 'is a private matter,' and 'not something he can or should control' (From Russia with Love, 2004).

Several sites offer so-called psychological tests in which a potential bride must rate her level of agreement with statements such as:

I don't interfere in anything, I prefer the role of a detached on-looker.

Discipline is not a burden, I try to fulfill requests exactly and in specified time.

It is not a chore to regularly polish shoes.

Feeling sorry for yourself is a sin!

A real man remains a sexual hunter anywhere.

A person's intimate life is not subject to social standards.

(Stepnitz, 2009).

Research in the United States indicates that a significant number of mail-order bride agencies are connected to commercial sex trafficking and pornography (Stepnitz, 2009). Further, a Canadian study found the majority of husbands of Filipina mail-order brides were 'between the ages of 40 and 60, previously married, living in rural areas and maintaining antiquated ideals of marriage' (Canada: The New Frontier, 2000). Isolation, lack of access to services, and the risk of domestic violence to women in rural areas is higher than in urban areas of Australia (The Right to be Safe, 2006). Another study found that women brought to Australia to marry within their culture were particularly vulnerable to abusive behavior perpetrated both by the husband and his extended family (Easteal, 1996). One Turkish bride reported:

'My husband's family implemented this curfew on me. They made everything so difficult. I wasn't allowed to listen to radio, watch television or video. They didn't do any shopping. [I was] hungry for days. They kept me in total isolation.' (Easteal, 1996)

A Migrant Resource Centre Manager interviewed for this submission stated that it was important for immigration officials to, 'Keep an eye on employers who bring over a lot of women on work visas. They often keep them as wives, slaves or forced labour, and tell them if they speak up they'll be arrested' (2011). To address similar concerns, in 2005 the United States amended the Violence Against Women Act to regulate international marriage brokering (International Mail Order Bride Enforcement Act, or IMBRA). The Act:

- (1) Requires the broker do the following before contact information can be exchanged:
 - a. Send a foreign national client the following information about a United States client:
 - i. Sex offender registry records, any national, state or local arrest records, temporary or permanent civil protection or restraining orders, engagement in prostitution services, marital history records, ages of client's children under 18, and a client affidavit;
 - ii. All information must be in the foreign national's primary language; and
 - b. Send a foreign national client a government-prepared pamphlet of legal rights and resources available to United States immigrant victims of domestic violence and other crimes; and
 - c. Obtain a foreign national client's signed, written consent that the foreign national client has received the above information and authorises releasing contact information to the United States client;
- (2) Defines 'international marriage broker' as an entity based in or outside the United States that charges fees for providing matchmaking services or social referrals between United States citizens or permanent residents and foreign nationals;
- (3) Ensures compliance through:
 - a. Specific criminal offence for misuse of information with a penalty of a fine and up to 1 year imprisonment;
 - b. Specific civil penalties of not less than \$5000 and not more than \$25000 for reach violation;

- (4) Expects nonprofit 'traditional matchmaking organisation[s] of a cultural or religious nature' and dating services whose principal business is not international.

Recommendations in Canada (Canada: the New Frontier, 2000) and the United Kingdom suggest enactment of a similar law there, because 'consumer husbands hold all the power in the marriage transaction and demand that they are happy with the terms of their purchase' (Stepnitz, 2009).

'I have seen Australian men marry Thai women there, and then force them into prostitution when they bring them back here to Victoria.' (Domestic Violence Professional, 2011)

Current Australian immigration policy requires an immigrant to have a clear criminal background check, psychological report and character test (Brock, 2009). An Immigrant Domestic Violence Worker reported, 'We had a client whose fiancée abused her, and she was the fifth woman he had taken into Australia on a fiancée visa who then reported abuse' (2011). Professionals in Australia working with domestic violence victims ask why the sponsoring men are not required to reciprocally undergo the same checks and send the information to their potential partners (Immigrant Domestic Violence Professional 2011). Both sponsors and potential partners deserve complete explanations of the rights and expectations in marriage in Australia, legal definitions and consequences of forced and servile marriage, trafficking, domestic violence and other related crimes, and an increased peace of mind in the background and character of one another.

Australia has demonstrated a commitment to abused immigrant brides by altering immigration policy for domestic violence victims to allow them to stay in the country if they are abused on a conditional visa. However, 'The women can stay but they cannot work for sometimes 2-8 years, there's not enough housing, no child care, and their communities often ostracise them. How they're surviving no-one knows' (Immigrant Domestic Violence Professional, 2011). Enacting legislation and/or reforming immigration policy would further Australia's demonstrated commitment to protecting these victims, and also prevent potential perpetrators to sponsoring partners by creating a more effective filter. The majority of the cost would be placed on mail-order consumers and brokerages, as the government would only need to periodically ensure brokers are in compliance.



Good Shepherd believes Federal regulation of international marriage brokering, and equalising background, psychological and character assessment requirements for both marriage and fiancé visa sponsors and immigrants are key preventive mechanisms to reduce the incidence of forced and servile marriage in Australia.

Proposed elements of new and amended laws

Good Shepherd believes that the following legislative changes should be considered:

- (1) Enact a specific offence to criminalise the conduct of a person who causes a victim to enter a forced or servile marriage;
 - (a) With broad and separate definitions of forced and servile marriage capturing offences occurring in and outside Australia as outlined above;
 - (b) Servile marriage be proven by conditions of the marriage;
 - (c) Could be codified as Australia Criminal Code 1995, Chapter 8, Division 274
- (2) Include a fault element of intent, or knowledge or recklessness of a person bringing about a forced or servile marriage;
- (3) Encompass cases in which:
 - (a) Victim consent was obtained through coercion, duress, deception or fraud;
 - (b) Victim was incapable of consenting due to incapacity, natural or induced;
 - (c) The marriage did not take place;
- (4) Be consistent with the existing offence of sexual servitude (section 270.6) in the Criminal Code to include a penalty up to 15 years imprisonment;
- (5) Include aggravated offences for victims under 18;
 - (a) With a fault element of intent, or knowledge or recklessness of a victim's age;
 - (b) Be consistent with the existing offence of sexual servitude (section 270.6) in the Criminal Code to include a penalty up to 20 years' imprisonment;
- (6) Criminalise the failure of international marriage brokers to conduct due diligence duties and disclosures;
- (7) Include civil penalties for international marriage broker misuse of information and failure to conduct due diligence duties and disclosures with fines;
 - (a) Could include a shorter criminal imprisonment penalty, possibly up to 2 years;

- (8) Include civil remedies for victims from a person with intent or knowledge or recklessness in bringing about a forced or servile marriage;
- (9) Include an extension of the Marriage Act to allow for injunctive measures and protection orders for actual and potential victims of forced or servile marriage.

Good Shepherd emphasises the importance of enacting both civil and criminal legislation utilising a broad definition of marriage, encompassing acts in and outside Australia, and of policies that prevent forced and servile marriage as well as support victims and deter potential offenders.

4. Suggested non-legislative reforms

The Forced Marriage Unit in the United Kingdom has created general and specific guidelines for professionals to recognise and support actual and potential victims of forced and servile marriage, including the fields of law enforcement, education, social work, medical, and political professionals (Multi-agency Practice Guidelines, 2011). These guidelines are closely aligned with recommendations in Australian studies of Aboriginal persons, immigrants and family violence. For example, a 2006 study by the Social Justice Commissioner of Australia suggested increased government funding and support for:

- (1) Community engagement and human rights education;
 - (2) Working with men to promote prevention;
 - (3) Increased access to counselling and mental health support, and to shelters and refuges;
 - (4) Educating professionals on indicators of potentially harmful behaviours and victims identification;
 - (5) Recognising government accountability and responsibility for vulnerable potential and actual victims
- (Ending Family Violence, 2006).

Good Shepherd supports these recommendations being adapted for victims of forced and servile marriage, and supports 'providing comprehensive and culturally appropriate services' to victims of forced and servile marriage (HumanTrafficking.Org, 2006).



Service provider education and multiculturalism

‘Service providers need better training so they can identify family violence, which is often indicative of forced and servile marriage, on the spot. In most cases we get, the police have been in the home many times and done nothing.’ (Immigrant Domestic Violence Worker, 2011)

Recognising warning signs unique to victims of forced and servile marriage requires improved multicultural understanding among services. One method to address this is increased hiring of multilingual and multicultural workers. Further it must be considered that immigrant workers may need support through their induction into Australian workplace culture. Suggestions in a Victorian study of rural immigrant domestic violence victims similarly recommended that staff recruitment, training and networking have ‘multicultural diversity in mind’ (The Right to be Safe, 2006).

‘A 12-year-old African girl had an ectopic pregnancy. Her husband brought her to the doctor and said he was her uncle, and the doctors and nurses didn’t even ask her a single question. Girls in that culture are not sexually active [by choice] at that age!’ (Migrant Resource Centre Worker, 2011)

Another method of improving multicultural education is through training of service providers, including immigration officials, police, social workers, doctors and nurses, teachers, and politicians conducted by ethno-specialised service providers and non-governmental organisations. Further, there is currently no education on forced and servile marriage for registered marriage celebrants.

Good Shepherd supports increased hiring of multicultural and multilingual service professionals, and careful consideration and collaboration with ethno-experts to engage in service provider multicultural training.

Service provider coordination and funding

'We need more coordination between state agencies. Often because of isolation, women associate with communities who speak their own language, and if they move the men can find them again.' (Migrant Resource Centre Manager, 2011)

Forced and servile marriage cases are often identified by law enforcement and medical professionals through domestic violence issues, yet they may be unconnected with service providers and not know where to best refer victims. Complicated cases require multiple professionals working together to recognise specific cultural indicators of forced and servile marriage and balance competing safety concerns.

Additionally, best practice policies to minimise victim story repetition and promote healing would help victims with immigration issues who are often re-traumatised through the constant repetition of their stories (Immigrant Resource Centre Professional, 2011). Current governmental policies for sexual crime victims do not consider coordination with immigration officials. Such coordination would not only support victims, but also improve information sharing and minimise repetitive and costly use of translators and interpreters.

Further, if victims relocate within Australia or their native country, local law enforcement and social workers should be enabled to support and protect them.

Good Shepherd urges improved coordination and database sharing between law enforcement offices to give consistent support.
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Funding for services

'There was a strong message from women that they must work collectively [with the men]. Although many carry unresolved trauma and grief, inadequate counselling services [are] available. This not only compounds the stress experienced by individuals but also exacerbates the likelihood of violence. Due to isolation, poverty and the relatively small size of many Communities, innocent people cannot escape the violence



as public transport and private vehicles are primarily nonexistent' (Aboriginal and Torres Strait, 2000)

This statement about Aboriginal persons, although relating to family violence, could just as easily apply to potential and actual victims of forced and servile marriage. While victims of forced and servile marriage are predominantly minorities and recent immigrants, some professionals suspect that forced marriages occurring within communities inside Australia are identified even less frequently than cross-border marriages, because of isolation and poverty. To illustrate the potential extent of forced and servile marriage through the amount of violence facing women and girls, it is estimated that 1 in 3 Australian women have experienced physical violence since the age of 15, and almost 1 in 5 have experienced sexual violence. In 2005, over 350,000 women experienced physical violence and over 125,000 women experienced sexual violence inside Australia (National Plan, 2011).

'We have many a client who comes to Australia to get married, and after having sex the guy decides he doesn't like the woman and says, 'Go home.' After a year or more arguing with immigration, the women often end up homeless.' (Centre Against Sexual Assault Professional, 2011)

One Migrant Resource Centre runs a childcare centre, and free programs to teach driving with local police officers as volunteers; both are highly successful at engaging and supporting actual and potential victims of forced and servile marriage in the community, and neither is funded (2011). Despite the marked success of ethno-specific services and non-governmental organisations, specialised providers bemoan competition for funding and numbers as reasons mainstream organisations do not refer cases on to them to better serve the victims with special needs (Immigrant Domestic Violence Worker, 2011). Professionals cite as necessary, but currently unfunded, the following supports:

1. Interpreters for programs for men;
2. Adequate space in refuges and shelters for victims and children;
3. Adequate childcare and other services

Visa restrictions on women working to support themselves and their children are also a barrier to recovery.



Good Shepherd urges increased funding for services supporting victims of forced and servile marriage to demonstrate a strong commitment to human rights in Australia.

Community engagement and education

'We hold information sessions on family and marriage law monthly in a community hall. They're very well attended because we work with community leaders to organise and advertise them. We don't have any funding for them, though!' (Migration Resource Centre Manager, 2011)

'You can tell the men 'This is the case here,' and they say their culture is different, despite signing statements on arrival that they'll uphold the laws of Australia.' (Migration Resource Centre Manager, 2011)

Immigrants and refugees frequently do not understand the legal implications of their actions, and are often unaware of their rights and responsibilities in marriage and family relationships. For example, it is reported that immigrant families routinely increase their daughters' ages on documents, both in Australia and abroad (Immigrant Domestic Violence Worker, 2011). Immigrants may also not understand, or find it culturally difficult to cooperate with, the Australian justice system. For example, using sexually explicit language as required in police reporting may be culturally prohibited and therefore unthinkable.

In 2008 the British non-governmental organisation Karma Nirvana started a tour of schools and community centres to draw attention to forced and servile marriage (Talwar, 2010). The first month of the tour, Karma Nirvana's monthly call average doubled from 400 to nearly 800 (Talwar, 2010). An Australian professional points out the importance of widespread community education and engagement to ensure that young women and men understand the broader community rights and obligations which underpin marriage and family relationships in Australia (Centre Against Sexual Assault Professional, 2011). Another professional, however, offers a caution against targeting children with information on forced and servile marriage, because it could cause parents to take children out of school (Migrant Resource Centre Manager, 2011).

A Victorian study of rural immigrant domestic violence victims, while developed to address the issue of domestic violence, may also suggest strategies for a community response to prevention and support of victims of forced and servile marriages. A community strategy requires that workers be involved in existing activity and education groups to build relationships of trust. Other recommendations are that:

1. The need for workers to facilitate opportunities for both group and individual talking and learning in a non-threatening context;
2. The importance of collaboration between service providers, actual and potential victims, and decision makers;
3. Multilingual printed and non-printed informational materials;
4. Bilingual workers; and
5. Increased information about available services

(The Right to be Safe, 2006).

All of these suggestions are equally applicable to issues of forced and servile marriage. Building relationships takes time. 'It's one thing to give information, it's another to challenge belief systems and a lifetime of experience.' (Migrant Resource Centre Manager, 2011). Positive interactions with police, lawyers, doctors, and other service providers are important to break the barriers of negative stereotypes and distrust of authority and to build positive relationships between vulnerable communities and service providers.

Good Shepherd recommends that the importance of community outreach in prevention as well as identification and support of victims of forced and servile marriage be acknowledged and directly financially supported by the Australian Government.

Research and data collection and periodic reviews

As noted in the Discussion Paper, there is little direct research and data on the prevalence of forced and servile marriage in Australia. Research in the United Kingdom found in 2008 that more than 2000 students went missing from school registrars, a large number of whom are suspected to have been forced into underage marriages (Talwar, 2010). Similar research has not been conducted elsewhere in the world. The following quotes from professionals indicate to

us that current knowledge is only the tip of the iceberg. Further study of the problem is needed so that the methods of addressing forced and servile marriage are improved:

'A Chinese woman started her own business, and her husband put all the papers and savings in his name. Then he held her captive and threatened to shame her and send her home because she was on a temporary spousal visa.' (Migrant Resource Centre Worker, 2011)

'Many students end up supporting themselves in the sex industry, then meet a man who offers to sponsor them. One man said he would sponsor a young Malaysian woman on a fiancé visa, but instead got her a visitor's visa and abused her and threatened to deport her.' (Immigrant Domestic Violence Worker, 2011)

'Often women don't believe they have a right because they are so battered and disempowered, or culturally don't have ownership over their own bodies. They don't understand the protection of Australian law.' (Migrant Resource Centre Manager, 2011)

Good Shepherd recommends that periodic research and review is needed to ensure any enacted measures are both preventing forced and servile marriage, adequately addressing problems, and are supporting the victims of forced and servile marriage.

Appendix: Treaty Obligations

‘Marriage shall be entered into only with the free and full consent of the intending spouses.’

Universal Declaration of Human Rights, Article 16(2)

‘No marriage shall be legally entered into without the full and free consent of both parties.’

United Nations Convention on consent to marriage, minimum age for marriage and registration of marriages, Article 1

‘No marriage shall be entered into without the free and full consent of the intending spouses.’

International Covenant on Civil and Political Rights, Article 23(3)

‘Children should be protected from all forms of sexual exploitation including unlawful sexual activity.’

United Nations Convention on the Rights of the Child, Article 34

‘States shall take measures to combat the illicit transfer and non-return of children abroad.’

United Nations Convention on the Rights of the Child, Article 11(1)

‘States shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.’

United Nations Convention on the Rights of the Child, Article 18(2)

‘States shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.’

United Nations Convention on the Rights of the Child, Article 19(1)

'A woman's right to choose a spouse and enter freely into marriage is central to her life and her dignity and equality as a human being.'

UN Convention on the Elimination of All Forms of Discrimination Against Women, General Recommendation No.21, Comment Article 16 (1)(b)

'Everyone...is [entitled] [t]he right to marriage and choice of spouse.'

United Nations Convention on the Elimination of All Forms of Racial Discrimination, Article 5(d)(iv)

'[A] State may refuse to recognize the validity of a marriage where...one of the spouses had not attained the minimum age required for marriage, or one of the spouses lacked the capacity to give their consent or did not freely consent to the marriage.'

Hague Convention on Celebration and Recognition of Validity of Marriages, Article 11 (3), (4) and (5)

'No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.'

United Nations Convention of the Rights of All Migrant Workers and Members of Their Families, Part III Article 10

'No migrant worker or member of his or her family shall be held in slavery or servitude. No migrant worker or member of his or her family shall be required to perform forced or compulsory labor.'

United Nations Convention of the Rights of All Migrant Workers and Members of Their Families, Part III Article 11(1) and (2)

'States shall put in place...women- and child-focused legislation and policies, to ensure that



instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and prosecuted.'

United Nations Convention on the Rights of Persons with Disabilities, Article 16(5)

'States shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage...so as to ensure that the right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized.'

United Nations Convention on the Rights of Persons with Disabilities, Article 23(1)(a)



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