



Child and forced marriage

A guide for professionals working
with the Muslim community

About the Australian Muslim Women's Centre for Human Rights



AUSTRALIAN MUSLIM WOMEN'S CENTRE FOR HUMAN RIGHTS
Equality without Exception

Our Strategic Intent

The Australian Muslim Women's Centre for Human Rights (AMWCHR) is an organisation of Muslim women working to advance the rights and status of Muslim women in Australia. We believe Muslim women must be the impetus for change in their status as citizens.

The Australian Muslim community is characterised by diversity and hybridity, and not by a binding vision of Islam or what it means to be Muslim. We are therefore a non-religious organisation reflecting the sectarian, cultural and linguistic diversity within the Muslim community.

As an organisation committed to Muslim women and human rights, we will intervene with facts and informed analysis when Islam is used to undermine the status of Muslim women. Our framework of understanding is the international Muslim women's movement for equality and dignity but our action and concern is focused on the local communities in Australia where Muslim women live.

We work for the rights of Muslim women by:

- empowering women's self-determination
- bringing a human rights approach to bear on issues of inequality and disadvantage
- working with individuals, the community, and government to advocate for equality within the Australian context.

We aim to inspire positive action by others and aspire to continuously enhance the quality, impact and effectiveness of our work.

Our Principles

The foundational principles that informs our approach to our work is that Muslim women's equality is:

- without exception
- without qualification
- without threat

Who are we?

In 1991 the Islamic Women's Welfare Council of Victoria (The Council) was established by Muslim women for Muslim women. The Council was founded on the belief that meaningful change to the status of Muslim women could be achieved through the improved situation of Muslim women individually and by building their collective capacity.

In December 2012, the Council's name was changed to the Australian Muslim Women's Centre for Human Rights to better reflect the Council's significant role as a human rights defender. This change recognises the singularity of our voice and work on Muslim women's human rights across Australia. As advocates of Muslim women's rights, we are in chorus with a multitude of Muslims all over the world supporting a vision of Islam at its most progressive, immediate and pertinent to the challenges Muslim women face. Our work in Australia contributes to the already substantial work on Muslim women's human rights taking place across the world in Muslim and non-Muslim majority countries.

What are the core areas of work we undertake?

We prioritise practical assistance for women to improve their lives in tangible and measurable ways. We work with individuals, groups and service providers in the following areas:

- case work, referrals, secondary consultation and outreach
- advocacy
- community-based programs and service delivery
- capacity building
- leadership development
- policy development
- partnership projects.

We have recently established the Australian Institute for Minority Women (the Institute) to operate as the research and consultancy arm of AMWCHR. The experience of Muslim women as a minority has much in common with women's experiences from other minority groups. The Institute was created because, we believe, the expertise we formed working with Muslim women could be useful to all minority women. As well as providing an insight into the conditions and situations of minorities in Australia generally, the Institute seeks to build an alliance with other minority women in Australia as a gesture of solidarity.

The Institute undertakes the following activities:

- research
- training development and delivery
- publications
- consultancy services

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About this guide

This guide is on child and forced marriage (CFM) in Australia. It aims to provide accurate information on the nature of such marriages and their impact on women and families. Much of the information in this guide has relevance for CFM in all communities, but there is additional information that is relevant only for the Muslim community and may have no relevance to the dynamics of CFM in other communities.

This information guide is based on AMWCHR's 20+ years of experience working with Muslim women on issues such as CFM and family violence. This guide also includes information and research from professionals in other fields of expertise including mental health practitioners, legal personnel and academics. Importantly, this guide reflects the insights and expertise of Muslim women and men who have worked towards the protection and safety of women across the Muslim world.

While the Australian Government has contributed funding to the development of this guide, this guide has been developed by AMWCHR and does not represent the views of the Australian Government.

How to read this guide

It is important to note that this guide has been developed only as an introductory guide to CFM. It is designed to provide you with a sound introduction to the topic and introduce you to the broad range of socio-political factors that can impact how communities respond to your work and intervention. As with all abuses of women and children, the social, political and economic context of women and children's lives are crucial to understanding how to best intervene.

The guide has been developed for the Australian context and looks at the way in which the community sector and legal system in Australia currently responds to the issue of CFM. Since the introduction of criminal offences for forced marriage in 2013, there has been an increased government and service commitment to addressing forced marriage. This has led to significant change in community, government and legal arenas which this guide will explore further.

Because of the complexities of CFM, AMWCHR recommends professionals seek further information, assistance and support in the form of secondary consultation and training when responding to cases of CFM. This information and support can be sought from AMWCHR or the organisations listed in this guide that have specialised knowledge and expertise on CFM matters.



An Australian Government Initiative

*This publication has been developed by the AMWCHR
with support from the Australian Government.*

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Introduction

Worldwide, more than 650 million women alive today were married as children (defined as under 18 years of age). Child and forced marriage (CFM) is a human rights violation and a form of gender-based violence.

CFM occurs all over the world, in developing and developed nations, and is not limited to any particular cultural group, religion, ethnicity or region. Therefore, there are a range of socio-economic and political factors that vary from one context to another that contribute to the continuation of this practice. This also means that the impact and consequences of CFM on women and children can vary considerably depending on the country and context.

Prevalence of child and forced marriage: Global trends and estimates

CFM is a global challenge, spanning continents and cultures. While both girls and boys may be victims, it is overwhelmingly girls and young women who are affected. The International Labour Organization reports that 84 per cent of the victims are girls and women.¹ Child marriages involving only one marriage partner below the age of 18, usually the female, are also quite common. There is often a large age difference between a female child and her male spouse.²

It is also estimated that approximately:

- 650 million girls and women alive today were married before their 18th birthday³
- 51 million girls between the ages of 15 and 19 are currently married.⁴

- 12 million girls under the age of 18 marry each year,⁵ with one in every five girls in the developing world being married before reaching the age of 18⁶
- 15.4 million people, or two in every 1000 people, were living in a forced marriage in 2016.⁷

Factors that affect these trends include:

- There is significantly more investment in boys and men's education and employment. Boys and men also have considerably more power to find their own partners than girls and women.
- More force and control is applied to girls and women's decision-making and women are more vulnerable to force and community and family pressure.

While the countries with the highest rates of child marriage are in West and Central Africa, the countries with the highest number of child brides are in South Asia, due to population size. Approximately half of all child brides today live in South Asia, primarily India.⁸

1 International Labour Organization 2017, Global estimates of modern slavery: forced labour and forced marriage, Geneva.

2 Jain, S & Kurz, K 2007, New Insights on Preventing Child Marriage: A Global Analysis of Factors and Programs. International Centre for Research on Women (ICRW), Washington, DC. www.icrw.org/wp-content/uploads/2016/10/New-Insights-on-Preventing-Child-Marriage.pdf

3 United Nations Children's Fund (UNICEF) 2018, Child Marriage: Latest trends and Future prospects, New York

4 International Centre for Women's Research 2005, Too Young to Wed. www.icrw.org/publications/too-young-to-wed

5 Girl Not Brides, Child marriage around the world, www.girlsnotbrides.org/where-does-it-happen

6 Ibid

7 International Labour Organization 2017, Global estimates of modern slavery: forced labour and forced marriage, Geneva.

8 United Nations Children's Fund (UNICEF) 2018, Child Marriage: Latest trends and future prospects, New York.

Challenges in estimating prevalence

Sustained effort has been made to estimate the prevalence of CFM and identify global trends.

While a significantly clearer picture has emerged as a result, constraints on data collection remain, so the information and data we have today are approximations of the nature and extent of the practice.

Record keeping (including birth and marriage registration) is poor in many countries where such marriages frequently occur, and sustained conflict and political upheavals mean data is simply not available. Misreporting (both accidental and deliberate) is common, and families may intentionally seek to hide the marriage of a child where CFM is illegal.

Another significant challenge to estimating the extent of CFM is the fact that there is no consistent record-keeping of consent at the time of many marriages. Statistics often reflect a few reported cases that rely on self-reporting.

Prevalence in Australia

In Australia, there is no reliable data on the extent of CFM that reflects the true rate of incidence. We also do not have research that comprehensively reflects the drivers and consequences of CFM.

Currently the Australian Federal Police (AFP) makes some of its forced marriage data available publicly and this provides some insight into forced marriage prevalence in Australia. In the 2018 calendar year, there were 72 forced marriage referrals to the AFP (there were 79 in 2017). Not all referrals made to the AFP for forced marriage require investigation or assistance or are indeed forced marriage cases. However, in 2018, out of the 72 cases referred to the

AFP, 34 people in, or at risk of, forced marriage were referred by the AFP to the Australian Government's Support for Trafficked People Program (there were 15 in 2017).⁹

The AFP data is important, as it is the only reliable indicator of actual cases in Australia. But the data itself does not give us actual prevalence, because forced marriage cases may be referred to community and welfare services without actually ever being referred to the AFP. Additionally, we know from other forms of violence against women that police records tend to under-represent the actual rate of incidence. This is because women and children who are victims of crime often do not report to police, and so police records in this area of crime is only an approximation of incidence rate.

Changes in prevalence

Over the last few decades, child marriage has continued to decline around the world.¹⁰ It has been made illegal in many countries across the world and its rates have fallen globally. Based on the latest data available from each country, 21 per cent of young women (aged 20 to 24) were married as children.¹¹ This represents a decrease from 25 per cent 10 years ago, driven predominantly by progress in India, where the marriage of girls under 15 years of age has declined from 10 per cent in 1990 to 6 per cent today.¹² However, It is not possible to assess whether there has been a similar decline in Australia, due to the lack of reliable data.

While the global reduction in child marriage is to be celebrated, no region is on track to meet the United Nation's Sustainable Development Goal target of eliminating this harmful practice by 2030.

9 Australian Red Cross' website on the Support for Trafficked People Program: www.redcross.org.au/get-help/help-for-migrants-in-transition/trafficked-people

10 United Nations Children's Fund (UNICEF) 2018, Child Marriage: Latest trends and Future prospects, New York.

11 Ibid.

12 Ibid.

Marriage and modern-day slavery of women

CFM is considered to be a form of human slavery. If a person is physically transported for the purpose of a forced marriage it can be a form of human trafficking. Servile marriage is also closely connected to slavery and trafficking where a family trades the daughter in exchange for goods or money.

The United Nations Office on Drugs and Crime estimates that 1.4 per cent of the total detected victims of trafficking are trafficked for marriage.¹³ Trafficking for marriage occurs in a number of forms and many of the victims are left in situations of modern-day slavery. For example, according to the 2017 Trafficking in Persons Report,¹⁴ in China, the sex imbalance due in part to the one-child policy had led to a huge demand for brides, both Chinese and foreign. As a result, women have been abducted or lured with false promises from countries such as Thailand, Vietnam, Laos, Cambodia, and North Korea. Chinese men often purchase a foreign bride because the price is much less than the dowries and gifts needed to marry a local woman.

Modern day slavery of children

In child trafficking, minor girls may also be trafficked specifically for the purpose of marriage. Children in marriages may also be forced into prostitution by their spouse or spouse's family.

From the total number of victims that have been trafficked globally,¹⁵ 30 per cent were children, out of which 23 per cent were girls and 7 per cent were boys.¹⁶ The main forms of human trafficking differ from region to region but, according to a recent survey the main forms were: sexual exploitation; begging and forced labour; forced marriage; illegal adoption; forced criminality; forced pornography; and armed combat.¹⁷ The detection of other forms of trafficking may partly reflect the ways in which countries have chosen to criminalise different forms of exploitation.¹⁸ In addition, the study finds that armed groups recruit children for exploitation in forced labour in various supportive roles, from logistics to catering.¹⁹ Recruitment and exploitation of children in extractive industries have been reported conflicts in sub Saharan Africa.²⁰

13 United Nations Office on Drugs and Crime 2016, Global Report on Trafficking in Persons. www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf

14 United States Department of State 2017, Trafficking in Persons Report. www.state.gov/reports/2017-trafficking-in-persons-report

15 United Nations Office on Drugs and Crime 2018, Global Report of Trafficking in persons, Total number of detected victims reported to UNDOC in 2016 (latest) was 25,000, pg. 7. www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf

16 Ibid, pg. 10.

17 Ibid pg. 11.

18 Ibid.

19 Ibid pg. 12

20 Ibid.

Child and forced marriage in Australia defined

To understand child and forced marriage, it is important to understand the requirements of a legal marriage in Australia.

What is marriage?

A marriage in Australia is a legal union between two people who:

- are at least 18 years old²¹
- are not married to anyone else at the time; and
- understand what marriage means and freely consent to marrying.

These rules apply to everyone in Australia no matter what a person's gender, background, culture, race or religion may be.

Consent in marriage

To consent to marriage is another way of saying to permit or agree to marriage. Consent is a key requirement of any legal marriage. Consent is a complex concept and is not simply about obtaining agreement to marriage with a certain person and at a certain time.

Consent in its true form means that each party to the marriage:

- fully understands that a marriage is taking place
- fully understands what the marriage ceremony means
- knows to whom they are getting married
- freely allows, agrees to or wants the marriage.

Real consent means that the people marrying truly agree to or want the marriage, and are free to refuse the marriage without fear and are both able to change their mind before the marriage.

The use of lies, deception, emotional blackmail, guilt, threats, pressure or force is contrary to consent.

The concept of consent and its relationship to force can be straight forward or enormously complex, as in other areas of violence against women.

What is child marriage?

Child marriage is a marriage where one or both participants are under the age of 18 years. Child marriage is against the law in Australia except in very special circumstances when a court gives permission to someone aged 16-17 years to marry a person aged 18 years or over.²² In no circumstances can anyone under the age of 16 marry in Australia.²³

Child marriage is also against the law in a vast majority of countries all over the world, including Muslim majority countries such as Algeria, Egypt, Morocco, Tunisia and Eritrea.²⁴

Child marriage is a form of child abuse. Child marriage often involves threats, confinement, violence, emotional abuse, forced sex, forced pregnancy, and being forced to leave school. In Australia, an adult who has a sexual relationship with a child under 16 can be charged with state and territory criminal offences including rape or sexual assault.²⁵ The child will not face any legal consequences.

What is early marriage?

Early marriage has no clear definition and is often used with the term child marriage interchangeably. Given Australian law holds that a person under the age of 18 years is a child, AMWCHR recommends describing a marriage involving an individual under the age of 18 as a child marriage.

The term early marriage in this guide refers specifically to marriages involving an individual or individuals between the age of 18 and 24 years and is concerned with the way early marriage may be used to limit and curtail a young person's growth and self-determination.

21 In rare circumstances, a court may allow a person aged 16 or 17 to marry a person aged 18 or over. But it is always against the law to force anyone to get married.

22 *Marriage Act 1961*, Section 12. Victoria Available: www.legislation.gov.au/Details/C2017C00382

23 Ibid, Section 12(1) and 12(2)(a).

24 www.girlsnotbrides.org/where-does-it-happen/atlas/

25 *Crimes Act 1958*, Section 49(B) and 49(D), Victoria. Available: www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/ca195882

Between ages of 18 and 24 years, while young people are legally adults, marriage is potentially problematic because the young person is still in a developmentally crucial period of their life both psychologically and physiologically. Additionally, for young Muslim adults there are complex socio-legal factors that affect their ability to freely consent to marriage. For example, Muslim women around the world have identified marriage as a context in which women are disenfranchised by a complex matrix of traditions, practices and laws that limit a woman's progress, self-agency and status.

What is forced marriage?

In Australia, forced marriage is when a person enters into a marriage without freely and fully consenting to the marriage.²⁶ Forced marriage is against the law in Australia. Forced marriage can include where:

- consent is not freely and fully provided because of threats, deception or coercion, or
- a person lacks the mental capacity (for example due to age or a mental disability) to fully understand the nature and effect of a marriage ceremony.

A person under the age of 16 years is presumed to lack the mental capacity to freely and fully consent to a marriage.²⁷

It is AMWCHR's experience that while the media and community sector is often preoccupied by the alarming and sensationalist cases of early adolescent children being forced into marriage, young women between the ages of 16 and 25 are most commonly at risk of forced marriage and often lack the maturity to fully understand the meaning and impact of entering a marriage.

Forced marriage is defined and understood in Australia as a slavery-like practice. Australia's strategy to address forced marriage is included in Australia's *National Action Plan to Combat Human Trafficking and Slavery 2015–2019*.²⁸

What is arranged marriage?

An arranged marriage is when a marriage partner is chosen (or suggested) by the parents or relatives, not by the two people who are to be married. If both partners freely agree or are in favour of their parents' or families' decision and also have the choice to refuse, this is not a forced marriage.

Arranged marriages are common in many cultures around the world. Whether or not the couple to be married get to know each other before the marriage and how well, depends on the family, community and other factors. Some couples may not spend much time together until their wedding day while for others the arrangement works much like an introduction, with the two people meeting frequently, becoming engaged and eventually choosing to marry.

Australia's Legislative Framework

Forced marriage offences

A law against forced marriage was introduced in Australia in 2013.²⁹ The criminalisation of forced marriage in Australia reflects a growing awareness, in both Australia and around the world, including Muslim countries, that CFM causes harm to women and children.

Australia's forced marriage offences state that it is illegal to force a person into a marriage, and to be a party to it.³⁰ There are instances in which both parties to a marriage are victims of forced marriage and in such cases, neither party to the marriage would have committed a forced marriage offence under Australian law.

The forced marriage offences also cover marriages that occur in Australia and those that occur overseas and involve an Australian citizen or resident. This means that it is an offence if an individual was brought into Australia for the purposes of a forced marriage or if they were taken overseas for a forced marriage.

26 *Criminal Code Act 1995*, Section 270.7A. Available: www.legislation.gov.au/Details/C2013C00366

27 *Criminal Code Act 1995*, Section 270.7A *Marriage Act 1961*, Section 13, 14, 16. Victoria. Available: www.legislation.gov.au/Details/C2017C00382

28 Human Trafficking and Slavery, Australian Government Department of Social Services

29 *Criminal Code Amendment Act 2013*, Section 270.7A. Available: www.legislation.gov.au/Details/C2013C00366

30 The law is found at sections 270.7A and 270.7B of the Commonwealth *Criminal Code Act 1995*.

The forced marriage offences apply to cultural or religious ceremonies and registered relationships, regardless of the age, gender or sexual orientation of the parties involved in the marriage. Most importantly for the protection of Muslim women, the forced marriage offences capture Muslim marriage ceremonies and could apply to family members and marriage celebrants, including imams who conduct marriage ceremonies.

Complexities in practice

Formal and informal marriage ceremonies

As stated above, the law makes it an offence to cause someone to enter a forced marriage. The law also recognises religious marriage ceremonies even if the religious figure solemnising the marriage, such as an imam, is not a registered marriage celebrant. The law recognises the religious ceremony and a marriage does not need to be registered civilly for an offence to have been committed. This type of ceremony which does not include the legal registration of the marriage is sometimes defined as an 'informal union'. This means that where a forced marriage has occurred but the marriage has not been legally registered or carried out by a registered marriage celebrant, an offence may have nonetheless been committed depending on the specific circumstances of the case.

This is important when working with Muslim communities because for many Muslims, the Muslim religious ceremony has equal importance, and is sometimes considered more important than the civil process.

Sometimes in cases of forced marriage, the union has occurred informally (religiously, unregistered) rather than formally (civilly registered). In this context, it is important to note that sometimes an imam who is a registered marriage celebrant may not register a marriage even though he is legally authorised to do so. This can occur for a range of reasons that may be unrelated to CFM, for example some Muslim couples may decide that the requirement of legally registering their union is too burdensome or may believe that a civil marriage does not serve any spiritual purpose and therefore is not an Islamic requirement.

Impact Of Child And Forced Marriage

The impact of CFM can vary considerably based on the context in which it occurs. Globally, CFM is believed to have a profound impact on the lives of children and women who are its victims. In addition to sexual and reproductive health consequences, there are a wide range of other physical, psychological and socio-economic impacts on women, particularly for young girls. All these factors disadvantage girls and women who marry young and have a significant impact on their lives.³¹

The impact of forced marriage on women who are not minors has received relatively little attention in the existing literature, and as a result, a significant part of the discussion in this section relates to the effects of child marriage.

Child marriage forcibly ends childhood and forces adulthood on children who are biologically and psycho-sexually children, with bodies, minds and emotional capacity not yet developed for the requirements of marriage or adulthood.³² Instead of being viewed as children, girls are instead defined as wives and mothers.

CFM exposes girls to responsibilities and tasks they are not equipped for. In addition to having a negative impact on girls themselves, the practice of child marriage has negative consequences for children, families, and society as a whole such as, the reinforcement of violence, limited economic development and feminisation of poverty.³³

We are yet to fully understand the impact of CFM on victims. It is a practice that halts the natural psychological and social development of girls at a time of critical growth. The real impact of this is still to be fully understood and is likely to be far greater than our current understanding would suggest. The following is a discussion of some of the likely impacts.

31 Ibid.

32 Girls Not brides, *what is the Impact of Child Marriage?* www.girlsnotbrides.org/what-is-the-impact

33 ICRW & the World Bank 2017, *Economic Impacts of Child Marriage: Global synthesis report*, Washington D.C. www.icrw.org/publications/economic-impacts-child-marriage

Sexual violence, victimisation and exploitation

Sexual violence, including rape, sexual exploitation and servility must be considered as one of the major consequences for victims of CFM because of the very nature of this practice. Being forced into early sexual initiation and the premature onset of sexual activity renders it a form of child sexual abuse, is a violation of a woman's reproductive rights and renders her vulnerable to other forms of sexual/reproductive control and abuse.³⁴ Even when the wife is not a minor, forced sexual relations amount to marital rape and are associated with a range of sexual health and psychological difficulties.³⁵

Increased vulnerability to violence and insecurity

Young married girls are more likely to experience physical, psychological, emotional, social and spiritual abuse by their spouses and their families.³⁶ Married girls are more likely to be forced to live in social seclusion and be dependent on and controlled by their spouse's family. This may result in limited access and control over financial resources, limited mobility, and restricted access to information, social connection and self-development. Limited power over decision-making also places them at a higher risk of violence, exploitation and control.³⁷

Prolonged violence and control can have profound effects on girls' mental, emotional, and social wellbeing. Isolation and a lack of self-agency can also have profound effects on girls' psychological, emotional and social wellbeing, including their self-esteem.

Sexual and reproductive health

Most girls who marry young or as minors have limited access to contraception, reproductive health services and information and lack an awareness of basic sexual and reproductive health rights. Young married girls are also more likely to have unprotected sex due to low negotiating power within their marriages. This also increases their risk of contracting sexually transmitted infections (STIs).³⁸

Early pregnancy and motherhood is among the leading causes of health problems, and of maternal and infant mortality in developing countries³⁹. Early pregnancy among girls whose bodies are not ready often leads to medical complications such as obstetric fistula and haemorrhaging. Even though these severe effects are rare in developed countries because of better healthcare and awareness, immigrant women who were married as children in their home countries many years before emigrating may continue to suffer health consequences and these are not necessarily entirely treatable by modern medicine.⁴⁰

Irrespective of country context, earlier marriage leads to earlier and more pregnancies throughout a woman's lifetime. Children born to adolescent mothers are more likely to suffer from health issues including low birth weight, stunting, undernutrition and late physical and cognitive development, depending on country context.⁴¹ Over the long-term, health complications can lead to increased health expenses, further reinforcing poverty.⁴²

34 ECPAT & Plan International 2015, *Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage*. www.ecpat.org/wp-content/uploads/legacy/Child%20Marriage_ENG.pdf

35 Drif, L., & Bedu, A. 2005. Réflexion sur la problématique des mariages forcés. Paris: Mouvement Français pour le Planning Familial. doublaviolence.free.fr/spip/IMG/pdf/mariage_foce_MFPF.pdf

36 Girls Not Brides 2002–2019, *Violence against Girls*. www.girlsnotbrides.org/themes/violence-against-girls

37 ICRW & the World Bank 2017, *Economic Impacts of Child Marriage: Global synthesis report*, Washington D.C. www.icrw.org/publications/economic-impacts-child-marriage

38 Girls not Brides 2018, *Child Marriage and Sexual and Reproductive Health and Rights*.

39 WHO 2018, Key Facts. Adolescent Pregnancy. Available: www.who.int/news-room/fact-sheets/detail/adolescent-pregnancy

40 Pratts, G & El Matrah, J, 2017, *Marrying Young: an exploratory study of young Muslim women's decision-making around early marriage*, Australian Muslim Women's Centre for Human Rights, Melbourne.

41 WHO 2014, Adolescence Pregnancy Fact Sheet. apps.who.int/iris/bitstream/handle/10665/112320/WHO_RHR_14.08_eng.pdf;jsessionid=D69BBA19220ABA40CE5143C9B8AA955E?sequence=1

42 Ibid

Mental health

Those married young or by force also exhibit poor mental health outcomes. Girls who are married at a young age can experience higher rates of isolation, depression and depressive symptoms, including anxiety.⁴³ While there is no definitive research, the experience of CFM and the other forms of violence which it exposes young women to, such as sexual and family violence, may leave women vulnerable to trauma⁴⁴ and post-traumatic stress.

Girls and women who have been forced to marry against their will may also feel both hopeless and helpless about their situation, which may be generalised to everything else in their life.⁴⁵

Impact on education

CFM can be both cause and consequence of early school departure. The greatest obstacles to girls' education are child marriage, pregnancy, domestic chores and violence.⁴⁶ Early marriage also means a reduction in or a disruption to education. When girls are withdrawn from school, they are much less likely to return and thus lose their opportunity for self-agency and participation in communities and societies.⁴⁷

Children with mothers with little or no education are less likely to receive proper health care and nutrition and are less likely to be immunised against childhood diseases.⁴⁸

Reinforcement of poverty

Like education, CFM is seen to be both a cause and effect of poverty. Such marriages have been strongly linked with poverty and serves to perpetuate the cycle of socio-economic disadvantage.⁴⁹

Young wives tend to have more children, and because of little or no education, fewer independent income options. As a result, their households' income streams may be limited, increasing the risk of poverty triggered by contextual events such as economic instability, conflict and natural disasters. Young mothers also typically lack decision-making power and control over household resources, thereby perpetuating the feminisation of poverty.⁵⁰

43 Strat, Y, Duberstret, C & Foll, B, 2011, *Child Marriage in the United States and its Association with Mental Health in Women*, Paediatrics, Journal of American Academy of Paediatrics.

44 Ahmed, S; Khan, S; Alia, M & Noushad, S, 2013, Psychological Impact Evaluation of Early Marriages, International journal of endorsing health science research www.aeirc-edu.com Volume 1 Issue 2, December 2013

45 Prattis, G & El Matrah, J, 2017, *Marrying Young: an exploratory study of young Muslim women's decision-making around early marriage*, Australian Muslim Women's Centre for Human Rights, Melbourne.

46 The World Bank 2017, Girls' Education. www.worldbank.org/en/topic/girlseducation

47 Girls Not Brides 2002-2019, Education. www.girlsnotbrides.org/themes/education

48 Forshaw, J, Gerver, S, Gill, M Manikam, L & Ward, H 2017 *The Global Effect of Maternal Education on Complete Childhood Vaccination: A Systematic Review and Meta-analysis*, BMC Infect Dis. 28; 17(1).

49 UNICEF, Child Marriage, 2018. data.unicef.org/topic/child-protection/child-marriage

50 Otoo-Oyortey, N & Pobi, S 2003, *Early Marriage and Poverty: Exploring Links and Key Policy Issues*. Gender and Development Vol. 11, No. 2, Marriage.

2

Why does child and forced marriage happen?

Risk factors for child and forced marriage

There are a large number of factors that affect the prevalence and occurrence of CFM. The following section provides an overview of the factors that increase the risk of CFM.

Gender inequality and gender-based violence

CFM is often described as both a cause and consequence of gender inequality. It is more correct in our view to see CFM as a gendered practice and a form of gender discrimination.⁵¹ Most importantly it is a form of gender-based violence. CEDAW defines gender-based violence as 'violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm'.⁵²

CFM is a practice and tradition, and at times, an economic transaction that is embedded in patriarchy and gender inequality.⁵³ Like other forms of gender inequality and gender-based violence, it is a practice that is often designed to ensure women's diminished socio-economic status and to reflect and maintain men's power over women.

While other risk factors such as poverty, insecurity, conflict and humanitarian disasters also appear to correlate significantly with the practice of CFM, it is gender that structures and maintains the practice beyond all other factors.⁵⁴

While boys and young men can be victims of CFM, girls and women are overwhelmingly its victim both internationally and in Australia. AMWCHR would therefore argue that utilising a gender-based approach to understanding CFM is currently the best approach.

Family

Whether they are seeking to protect their child from sexual violence in their society or unburdening themselves of the economic burden of a child, family members are often at the centre of CFM, irrespective of country context.

Many traditions, religions, societies, communities and countries around the world instil the concept of family with significant spiritual, social, economic and cultural value. Countries around the world grant parents considerable control and substantial decision-making power over the life and welfare of their child. While governments also legislate for the protection of children and place limits on the conduct of a parent over a child, children's lives continue to be governed primarily by their parents.

Parents and families often play a key role in CFM. They may support or facilitate CFM to protect their child from sexual violence in their society or unburden themselves of the economic burden of raising a child.

Like gender, family interrelates with every other risk factor for CFM, and must always be considered both in developing an understanding of the practice and developing strategies for its eradication.

Socio-economic deprivation

Irrespective of context, poverty and the economic burden of child rearing continue to be factors that affect the occurrence of CFM. Young women may submit to an unwanted marriage to escape poverty or to unburden their family from their economic caregiving.

When education and employment opportunities for parents and children are limited, this also impacts on the decisions parents make about their children. Parents' educational and socio-economic level

51 UNICEF, 2012, *Gender equality*, www.unicef.org/gender-equality

52 CEDAW Committee, 1992, *General Recommendation No. 19: Violence against women*, 11th Session, para. 6

53 United Nations Development Fund, 2014, DP. *The Human Development Report: Sustaining Human Progress, Reducing Vulnerability and Building Resilience*, New York. hdr.undp.org/sites/default/files/hdr14-report-en-1.pdf

54 Girls Not Brides, 2012, *Why does child marriage happen?* www.girlsnotbrides.org/why-does-it-happen

correlates with when and whether they choose to arrange their daughters' marriages.⁵⁵

In communities where early marriages are expected, families that choose to marry their daughters later may also risk social and financial consequences if the community is not supportive, or in cases where delaying marriage will reduce the likelihood or increase the costs (for example, dowry or bride price) of a suitable match.⁵⁶

Violence, insecurity and unrest

Fear, anxiety, uncertainty, and a family's perceived lack of control of the immediate environment are major drivers of child marriage. Here, CFM can be seen as a form of protection in crisis where there are disruptions to family, community and support institutions.

CFM can be seen as protective by families in humanitarian crises such as natural disasters, armed conflict and displacement. Families may see CFM as a way to protect girls and women from violence such as rape, trafficking, or abductions.

Countries with the highest prevalence of CFM are often fragile states with patterns of conflict, poor governance or extended periods of political and economic crisis.⁵⁷ CFM may be considered by families to be a means of protecting their daughters when the state is unable to do so. In communities who have undergone prolonged crises and uncertainties, these anxieties and sense of insecurity may also continue into their post-crisis lives, even to their new home countries. Thus, being in a new country can itself be a driver of CFM. The fear of being in a new nation may drive parents to marry their daughters early as a precautionary measure to ensure their safety.

Sexuality and honour

Family honour continues to be seen by many communities as intricately linked to the behaviour of women. Some cultural communities in Australia continue to see the preservation of girls' and women's virginity as necessary to a family's honour and maintaining standing and inclusion in the community. For some communities,

all sexual contact outside marriage is seen as immoral and for some families the risk of sexual activity outside marriage will encourage CFM.

In Australia, some families believe the risk of sexual activity prior to marriage is heightened because of the belief that Australian society values sexual freedom and cohabitation, and does not place sufficient restrictions on young people's sexual expression and exploration.

Tradition, faith and identity

In many societies, faith, tradition and cultural values are honoured and there is a strong emphasis on their preservation. Religion and faith are seen to be both necessary for the human soul and fundamental to holding families and societies together. The traditions and practices of previous generations and religious mores are revered and to violate them is considered a serious matter.

Traditional interpretations of religion and traditional cultural communities hold the importance of family above all else and view the needs of women and girls as subservient to the preservation and continuation of family. Women and girls' roles are therefore relegated and prescribed to marriage, bearing children, and raising a family. This limited role means that education and employment may be denied or not valued for girls or women.

In some small communities and regions where CFM is prevalent, families may enforce marriages because it is considered normal to do so and there is little or no awareness that forced marriage has a detrimental impact on the life of girls and women and no awareness it may be against the law.

Social and religious expectations and culturally embedded norms about the role of women and the importance of family are also driving factors for some immigrant families living in Western societies. CFM may be seen as a way to ward off cultural change and preserve tradition, to maintain standing and community cohesion in their small minority community or to assist others to migrate from difficult circumstances in their home countries.

55 United Nations 2011, Secretary General Report on the Girl Child. undocs.org/A/66/257

56 Girls Not Brides, *Poverty*. www.girlsnotbrides.org/themes/poverty

57 Lemmon, G T, 2014, *Fragile States, Fragile Lives: Child Marriage Amid Disaster and Conflict*, Girls Not Brides. www.girlsnotbrides.org/fragile-states-fragile-lives-child-marriage-amid-disaster-conflict

Complexity in practice: Choosing to marry early

It is also worth including in this discussion that some young women also *choose* to marry early at, around, or soon after age 18, willingly accepting their parents' choices and giving up opportunities for further studies and careers. This trend was reflected in a recent study by the AMWCHR.⁵⁸ Many research participants (all young Muslim women) expressed attitudes supportive of early marriage. The reasons for this were complex but primarily related to commitment to family and what young women perceived as cultural and religious dictates.

While not against the law, young women socialised into the belief that their primary role in life is to marry and have a family raises questions about the very nature of consent. If a girl is taught that her value resides exclusively in her role as wife and mother – indeed that it is what is religiously and culturally required of her – it begs the question of how can she make an informed decision about what she wants for herself?

⁵⁸ Prattis, G & El Matrah, J, 2017, *Marrying Young: an exploratory study of young Muslim women's decision-making around early marriage*, Australian Muslim Women's Centre for Human Rights, Melbourne.

3

Child and forced marriage: What about Islam?

A religiously sanctified practice?

While no single religion is associated with the practice of CFM, many associate religion with CFM or see it as a religiously sanctified practice. In relation to Islam, the belief that families have a right to enforce the practice has no basis in text.

Muslims' reverence for marriage does not reflect the fact that marriage is recommended but not obligatory in Islam.

For many Muslims, marriage is a highly favourable practice and institution and is considered as *Sunnah*, that is, an action in life of the Prophet Mohammed (Peace Be Upon Him, PBUH) that is to be followed. While marriage is highly recommended in Islam, it is not sacred; nonetheless, Muslims believe that marriage fulfils half of one's religious obligations.

Islam places a strong emphasis on mutual love and respect between a husband and wife in marriage. Men are also specifically instructed to treat their wives with kindness and respect. The Prophet Muhammad (PBUH) is reported to have said: 'The most perfect in faith amongst believers is he who is best in manners and kindest to his wife'.

Consent in Islam

CFM is not an acceptable practice in Islam and there is both Islamic scripture and traditions which support this view. Marriage is a religious contract between two people, entered into with consent. Consent is integral to an Islamic marriage and the giving of consent for marriage must be witnessed by those acting as witnesses for the marriage ceremony.

Al-Azhar Al-Sharif in Egypt, a significant Islamic religious body, released a new manual on the rights of

Muslim children⁵⁹ emphasising that psychological and physical maturity and a woman's credible permission are prerequisites for a marriage to be valid.

Finally, there is the ruling of the Prophet himself (PBUH) which demonstrates how irrevocable his rejection of forced marriage was:

Khansa Bint Khidam said:

*My father married me ... and I did not like this match, so I complained to the Messenger of Allah (May Allah bless him and grant him peace). He said to me, 'Accept what your father arranged'. I said, 'I do not wish to accept what my father has arranged'. He said, 'Then this marriage is invalid, go and marry whomever you wish.'*⁶⁰

Islam does not condone the use of force and the marriage of a child who lacks the maturity to provide consent. While some Muslims believe that their faith allows for this type of marriage, it is more culture and context that is at the foundation of the practice rather than the religion itself.

Marriage and Muslim women's activism

*The manipulation of sacred text has always been a structural characteristic of the practice of power in Muslim societies.*⁶¹

Fatema Mernissi

Muslim women's human rights movements are as old as the concept of human rights itself. Core to the work of Muslim women globally is re-examining the interpretation of Islam regarding the status of women in marriage. International networks and country-specific Muslim women's organisations have worked to improve the status of Muslim women in marriage because it is seen as an institution in which women's diminished status and vulnerability to violence and abuse is most entrenched.

59 Al Azhar Al Sharif, 2005, *The Islamic Perspective on Protecting Children From Violence and Harmful Practices*, www.academia.edu/38529186/The_Islamic_Perspective_on_Protecting_Children_From_Violence_And_Harmful_Practices

60 Fathul Bari Sharah Al Bukhari 9/194, Ibn Majah Kitabun Nikah 1/602, cited in *Forced marriages are not allowed in Islam*. rabaah.com/fighting-forced-marriage.html

61 Mernissi, F 1991, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*, trans. M.J. Lakeland, Basic Books, New York.

Muslim women's organisations hold the view that equality as citizens cannot be realised for Muslim women if equality in the family is not achieved.⁶² In this context, CFM exists in a continuum of other abuses against women in the institutions of marriage and family. In the past century, Muslim women have worked to enact reforms around: raising the age of marriage and ensuring women's consent; reducing men's legal authority and guardianship privileges over women and children; enhancing the ability of wives to obtain divorces without their husband's consent; increasing a husband's financial liability to divorced wives; restricting a husband's ability to divorce his wife out of court; providing women with the right to pass on their citizenship and nationality to their children; and improving women's right of inheritance to the advantage of female heirs.⁶³

In the Australian context, it is important to note that while Australian law provides a broad range of protections from some of the abuses listed above, it remains that while Muslim women in Australia can secure a civil divorce without discrimination they continue to struggle to secure Islamic divorces.

Another kind of force: Denial of the right to divorce

In many Muslim-majority countries, Muslim women – in addition to being forced to marry – are also forced to stay in marriages against their will through socio-cultural and often institutional limitations on their ability to divorce. While this does not fit the legal definition of a forced marriage in Australia, the inability to divorce and leave a marriage can have devastating effects on women's lives. In Australia, an Islamic marriage ceremony (unless provided by a registered marriage celebrant) and divorce proceedings have no legal standing. However, many women mistakenly believe that a legal divorce is not Islamically sufficient and they need an 'Islamic' divorce to feel 'fully divorced'. This perception allows many men to force women to stay in unwanted and sometimes unsafe relationships by obstructing or refusing to give women an Islamic divorce. Men may force women to remain in marriages by:

- refusing to agree to a separate 'Islamic' divorce in front of an imam; many imams in this situation will not issue an Islamic divorce

- refusing to give an 'Islamic' divorce unless he receives sole custody of children or retains all family assets
- not attending proceedings with an imam or refusing to provide information necessary for an imam to issue an Islamic divorce
- threatening imams who facilitate divorces for women without their husband's consent
- finding imams for the divorce proceedings who will only divorce couples with the husband's consent
- dragging out Islamic divorce proceedings over many years to ensure the social, psychological and economic stress on women as a form of punishment for ending the relationship, and
- forcing women to provide 'gifts' for agreeing to a divorce, such as paying a gambling debt or taking on financial debt.

It is important to note that in Muslim countries, as in Australia, only courts issue divorces and those divorces are considered Islamically binding. While courts in Muslim-majority countries incorporate sharia doctrine on divorce, they also incorporate cultural values and traditions in relation to divorce. Hence they are not wholly 'Islamic divorces' but include local tradition and practice.

Forcing a woman to stay in a marriage is another practice not supported by Islam. Muslim women have the right to divorce their husbands and to rights after a divorce as well, as shown by the following holy scripture:

In the name of Allah, the Merciful, the Compassionate.

If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such a settlement is best; even though men's souls are swayed by greed.

The Qur'an, An-Nisa 4:128

When ye divorce women, and they fulfil the term of their ('iddah), either take them back on equitable terms or set them free on equitable terms; but do not take them back to injure them, (or) to take undue advantage; if anyone does that he wrongs his own soul.

The Qur'an, Al-Baqarah 2:231

62 Musawah, www.musawah.org

63 For the best examples of this work look at Musawah, Women Living Under Muslim Laws and WISE

4

Responding to child and forced marriage

Current challenges in working with the Muslim community in the Australian context

There is a range of socio-political issues that have a profound impact on how the Australian Muslim community understands efforts by the government, community sector intervention and police in combatting CFM. This will require you to consider factors that you may not need to account for when working on other issues or in other communities. The following provides an overview of key factors to consider when engaging with the Muslim community in Australia on CFM.

Engagement with Australian law enforcement to access support

The recent and growing interest in CFM has meant that across Australia there has been a surge in work on the issue by the Australian Government and community services, including in the legal and court systems.

Currently, women and children who are at risk of or who are in marriages contracted by force must contact the Australian Federal Police in order to access some government-funded support programs.

Anecdotal reports indicate that most women and girls do not wish to engage with law enforcement, do not want to involve their families in criminal proceedings. These can be barriers to seeking help from Australian authorities.

Desire to remain with families

While girls and women who seek assistance from authorities do not wish to marry, they often do not wish to leave their families. This can result in significant difficulties for both women and girls at risk of forced marriage, and for service providers in ensuring these individuals are provided protection.

Community awareness and understanding

Awareness raising and shifting community attitudes is as important as responding on a case-by-case basis to CFM. It is AMWCHR experience that once a child or a woman has been placed in a situation where she is being forced into a marriage, the outcome for the victim is likely to be complex, unsatisfactory and potentially detrimental, at least initially, to her wellbeing. This is because children and women may:

- have to leave their families when they may not be developmentally prepared or psychologically ready
- face having their families charged with an offence, depending on the circumstances of the case
- feel that they have no option but to leave their community, culture and religion behind
- be vulnerable to isolation, loneliness and uncertainty or more profound psychological issues such as depression, anxiety and post-traumatic stress
- be forced into socio-economic independence and adulthood self-care before they are ready.

These can be typical outcomes for those removed from home because of abuse. This does not mean we should not remove children from unsafe environments or provide women with options to leave their families in the context of abuse, but we should also be working towards the elimination of the practice with equal commitment to ensure that women do not have to make those decisions and children do not need to be removed from home. Community awareness and shifting attitudes and practices should then be a priority for us.

Policing, security and Muslim communities

As in many societies around the world, Muslim communities feel over-policed⁶⁴, and that surveillance practices are becoming increasingly insidious, finding their way into nearly every aspect of public and private life in the pursuit of potential Muslim

64 Sentas,V, 2014: *Traces of Terror: Counter-Terrorism Law, Policing and Race*, Oxford University Press, Great Britain.

terrorists.⁶⁵ Many communities feel they are targeted and that Muslim identity has become criminalised.⁶⁶

These experiences and beliefs profoundly shape how Muslim communities respond to police, protective services and community organisations who are intervening and placing forced marriage on the public agenda.

Crime, faith and gender-based violence

Race and faith-based gender stereotypes are powerfully present in Australian society as they are all over the world. Themes of violence and brutality are imposed upon who Muslim men are, how they experience their masculinity and how they relate to Muslim women.⁶⁷ Similarly, Muslim women continue to be primarily portrayed as meek victims. Relationships and marriage between Muslim men and Muslim women continue to be seen through the lens of power and subjugation.

These stereotypes all lend themselves to the criminalisation of Muslim men's behaviour towards women and the tendency to want to 'rescue' Muslim women from Muslim men and their religion.⁶⁸

In the experience of the AMWCHR and many in the Australian Muslim community, there is the perception that the state has a pattern of removing their children from home – their young men are being removed and sent to prisons and their young women are being removed to foster homes or state care. These perceptions speak to profound alienation Muslims feel towards services that are designed to protect them and their children. This must be considered by professionals working in the CFM space.

Racism and Islamophobia

Racism is considered core to current manifestations of Islamophobia, constructing Muslims as 'others', characterised by 'incivility, inferiority and incompatibility'.⁶⁹ Racism and Islamophobia are now realities of the Australian Muslim experience.⁷⁰

As community sector professionals we are not immune to racism or Islamophobia and must always be keenly aware that both have structural manifestations in 'laws, policy, programming, or formal pronouncements by state agents'.⁷¹

A failure to recognise broader cultural issues like racism and Islamophobia and the complicated and powerful relationship they have to gender-based violence in minority communities leaves communities feeling alienated from the work we do with them. It prevents the development of successful campaigns to change attitudes and practices. Communities will not engage with issues they believe have been identified through the prism of racism and Islamophobia.

The human trafficking and slavery framework

In Australia forced marriage is part of the human trafficking and slavery framework. Australian laws, policies and programs to eradicate the practice are based on how we understand human trafficking, slavery-like practices and servitude. This is consistent with the *United Nations Convention against Transnational Organized Crime* and its *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*.⁷² Forced marriage is considered a slavery-like practice because it deprives

65 Akbarzadeh, S, 2019 *Australian Muslims' Experience of Policing and Surveillance*, Australian Muslim Women's Centre for Human Rights.9 (Unpublished)

66 Ibid.

67 Abu-Lughod, L, 2013, *Do Muslim Women Need Saving?* Edn. 10/13/13, Harvard University Press, USA.

68 Razack S, 2008, *Casting Out: the Eviction of Muslims from Western Law and Politics*, University of Toronto Press, Scholarly Publishing Division, Canada.

69 Dunn, K, Klocker, N & Salabay, T 2007, *Contemporary racism and Islamophobia in Australia: racialising religion*, *Ethnicities* 7(4): 564–589.

70 Akbarzadeh, S, *The Muslim Question in Australia: Islamophobia and Muslim Alienation*, *Journal of Muslim Minority Affairs*, 36:3, 323–333, DOI: [10.1080/13602004.2016.1212493](https://doi.org/10.1080/13602004.2016.1212493)

71 Beydoun, K 2018, *Rethinking Islamophobia: Islamophobia is far more than merely 'dread or hatred of Muslims', or 'fear or dislike' of the faith and its followers*, Al Jazeera. www.aljazeera.com/indepth/opinion/rethinking-islamophobia-180312085500278.html. Khaled Beydoun is an associate law professor at Detroit Mercy and author of *American Islamophobia: Understanding the Roots and Rise of Fear*.

72 United Nations, 2000, *United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf

a person of the ability to freely and fully exercise their human rights. However, responding to forced marriage in this context must be managed carefully when working with Muslim communities.

There are sound reasons for using the human trafficking framework but it also presents certain challenges and must be managed carefully when working with Muslim communities.

When parents and families force children and women into marriage, they do not believe themselves to be participating in a form of human trafficking, slavery or slavery-like practice. Many in Muslim communities find the language of human trafficking and slavery confronting and shocking, and therefore reject the connection between forced marriage and human trafficking and slavery. It is crucial therefore to be mindful of how the topic of CFM is to be introduced to communities and individuals.

It is also important to be aware that globally, Muslim women activists have not primarily utilised the human trafficking framework to tackle CFM. Instead they have relied on reframing patriarchal interpretations of Islam, reclaiming Muslim marriage and tackling discriminatory laws in relation to Muslim and state law.

Australian Muslim women activists have been working on CFM since the 1970s, primarily using the domestic and family violence framework. Some Muslim women's organisations and activists continue to do so today because they believe a family violence framework produces less resistance from Muslim communities than the human trafficking framework.

Therefore, it is important to understand how communities understand harmful practices as well as understanding various eradication frameworks community activists and organisations utilise. Muslim women have always resisted CFM, but they have done so based on selected strategies that may not be visible to those outside their context.

Diversity, plurality and intersectionality

There are approximately 1.8 billion Muslims across the world, from profoundly different cultures, traditions and countries.

Intra-faith diversity is almost as old as Islam itself. The major source of intra-faith diversity in Islam is that between the Sunnis and Shias. Sunnis form about 80 per cent of the global Muslim population and Shias

(or Shiites) most of the remaining 20 per cent. It is AMWCHR's view that these are conservative figures, and that the Shia communities constitute a greater proportion of the Muslim global population than is currently recognised.

Over time, more sub-groups have developed within these two overarching branches, and with the growth of the Muslim population that diversity has come to include significant social, political and theological differences.

Australian Muslims hail from 179 countries, 70 ethnicities, and more than 130 linguistic groups, making them one of the most ethnically and nationally diverse minority communities in Australian society. The majority of Muslims in Australia are Sunni. But there are also significant populations belonging to the Shia, Alawi, Alevi, Ismaili, Druze, Bohra and Ahmedi communities.

Australian Muslim migration is intensely complex and varied. A great number of Muslims have arrived in Australia as refugees and humanitarian entrants, while others have migrated as skilled migrants. Some Muslims have arrived with no history of education and employment while others have arrived with high levels of education and significant vocational credentials.

Like all minority women, Muslim women lie at the intersection of race, class, sexual orientation and ideological persuasion. CFM cannot be addressed without considering the immense diversity of the community and the interplay between the different categories of identity and considering how they might relate.

There are also matters of intersectionality that must be considered. Intersectionality requires us to look at the ways in which different forms of discrimination – such as sexism, racism or class discrimination – are interconnected and reinforce each other. Muslim and minority women have a complex array of powers and different forms of discrimination impacting on their lives at any one point.

The problem of consent

The concept of consent continues to be one of the most beneficial and yet challenging concepts in feminist theory and legal practice. We all believe we understand when consent has been given and when it has not been given. We assume that in Australia there is reasonable cultural consensus on the nature of consent.

But the term is contextually understood – it is a personally, culturally and politically complex term and there are widely differing views as to what consent is in any specific circumstance.

Feminist legal scholars have demonstrated how understanding of consent can vary widely between people.⁷³ This is also the reality of working on CFM; sometimes it is clear that consent was not given, while in other circumstances the procurement of consent raises concerns as to whether that consent was or could have been provided freely and fully.

73 Larcombe, W et al. 2016, "I Think its Rape and I Think He Would be Found Not Guilty: Focus Group Perceptions of (un)Reasonable Belief in Consent in Rape Law", *Social & Legal Studies*, vol. 25(5), pp. 611-629.F

5

Working with Muslim communities on child and forced marriage: Groupwork and training plan

Introduction

Before commencing work on complex issues such as CFM and with Muslim communities, it is critical that community workers reflect on their personal and organisational attitudes. Our values regarding marriage, gender, migrants, refugees, diversity in general, religion and culture (our own and others') play an important role in how we understand and approach issues and the individuals, families and groups we work. Self-reflection combined with in-depth discussions, feedback and a culture of continuous learning can help unpack these attitudes and possible biases.

There are three common patterns that the AMWCHR observed in the community sector's approach to CFM in the Muslim community. These are briefly explained below:

Unconscious bias: Unconscious bias is most commonly defined as prejudice or bias in favour of or against a person or group as compared to another, in a way that is usually considered inequitable. Everyone holds conscious and unconscious beliefs about social and identity groups. Unconscious bias is said to occur automatically because the brain is designed to categorise our social world and make judgments based on past experiences and background.

Unconscious biases, benefit some people and disadvantage others. We tend to hold negative unconscious biases towards people who are not like us and are most commonly exhibited toward minority groups based on factors such as class, gender, race, ethnicity, religious beliefs, weight, age, able-bodiedness, and sexual orientation.

Gender equality and human rights as western values: Sometimes when working on gender equality and the human rights of women and children, professionals erroneously believe the gender equality and human rights are singularly and solely western values. The dignity and equality of all human

beings and the protection of children from harm are universal values that Muslim women and other minority women have been working on for well over a century.

Overemphasis on culture: A superficial or swift assessment of families or abuse may focus too much on their culture being problematic, thereby neglecting other contributing factors to families' vulnerability such as the socioeconomic factors that place many migrant families at a disadvantage. Poverty, marginalisation and lack of access to resources place significant strain on families and must be accounted for in assessments of children's vulnerability. The failure to correctly identify stressors for the family means that culture might be blamed when in fact it is a source of strength and wellbeing for children.

Group work strategies and training plan

Utilising Groupwork for Information Provision

Before setting up a group for Muslim women on CFM, reflect on the following points.

- 1 Why do you want to run a session on CFM with the Muslim community? And why your organisation specifically?
- 2 Have you worked with the Muslim community previously? Do you have a meaningful relationship with the community you wish to engage with on this issue? We strongly recommend that you never go in to provide information without having established a sound working relationship with the community group.
- 3 Be aware that issues of power, discrimination and violence in the home are always political and therefore the following actions are crucial.

Consult

Consult on how you might deal with such issues. While information provision, skill development and support are all important both for the prevention of and as a response to CFM, ultimately for sustainable change to occur it is critical to affect a shift in community attitudes and this is where the politics of it lie. This is a much neglected yet critical area of work in the family violence sector, particularly with migrant communities.

Be aware and well-trained

Attitudes towards gender, marriage, children, family, parenting, religion, violence, sexual issues, privacy, support-seeking and reporting crimes must all be explored, and where needed, challenged respectfully, appropriately and safely. Understandably, this strategy requires substantial understanding and expertise to be able to handle the sensitivity of the issues involved, especially when working with cultural groups different from your own, and must, therefore, be employed only after workers have undergone training in group facilitation, cultural competency, gender and violence.

Acknowledge your biases

It is important that workers in the community sector make a concerted effort to become aware of and challenge their own biases, cultural assumptions and stereotypes. In Australia, the public space is often filled with stories and generalisations of Muslim women's oppression and men's propensity to violence, especially against women and children. Ultimately, these words and beliefs do find a place in our unconscious and their eradication requires us to be highly self-aware and to consciously and conscientiously reflect on our biases and limitations.

If you decide to proceed, here are some further steps to consider.

Collaborate

Working in partnership with community-based or ethno-specific services can help ensure both greater community participation and a more positive and sustainable impact. It is crucial that collaboration is undertaken in its true sense. This means that both partners, however big or small, have an equal role in decision-making across the life of the project, and

that they both equally develop and implement the program.

Build alliances

Establish alliances with community/ethno-specific organisations with similar values. With Muslim communities, mainstream services often take the quick route of working with religious leaders to address issues commonly dealt with by the community welfare sector. While religious leaders can provide important information about the community, gender-based issues, human rights, and the community, the development and implementation of community education groupwork programs are not generally their area of expertise. Seeking their assistance on these matters places an unrealistic expectation on them to provide information on an area that is essentially not a requirement of their role as religious leaders. Working with community-based professionals from the area means that the process of undertaking community education is not fragmented or compartmentalised but has community input at every stage of the process.

Know existing services

A good understanding of the socio-cultural status and dynamics of the Muslim population in the area you choose to work in can make a significant difference in how you structure your group and its content. Make an effort to find out what services are currently being offered in general and in relation to CFM. Identify the gaps and tailor your group program accordingly. When possible, group consultations can help you gain helpful information not only about what services are available, but their content and effectiveness as well as the group's perceptions of them.

Assess

The issue of CFM does not exist in isolation. Understanding the issues that surround it – socio-cultural factors, family dynamics and systems, sensitive issues within the community, various mechanisms of support and redress – can go a long way in helping you decide in advance how best to work with the group, how to bring up and respond to issues, and adapt the content if needed.

Use interpreters

Work only with trusted interpreters and translators you have worked with before. Additionally, given the sensitivity of the topic, firstly inform participants in your group who the interpreter will be and gain their consent. Never allow interpreters to summarise participants' responses to questions or general group discussion as it is important for participants to feel their full contributions are translated without being edited. It is best to use interpreters when groupwork sessions are simply information delivery, and this can work quite well. More complex forms of groupwork, such as the participatory methodology, are definitely hampered by utilising interpreters and should only be used if no alternative exists. Finally, make sure that the interpreter is comfortable with the subject matter, brief them prior to the session and debrief upon completion of the session. Also, be aware that interpreters may have experienced CFM themselves and therefore the sessions may be difficult for them.

Research

Familiarity with available reports and research on CFM in migrant and refugee communities, including lessons learnt and best practice models, will help workers become more culturally competent in their area of work and allow them to better understand and respond to the unique and specific support needs of girls and families. It is, however, important to note that as with any community, there is not one profile to understand the nature and dynamics of migrant Muslim families and the complexities that contribute to CFM. Nor is there a blueprint for working with them successfully. Workers must commit to a continuous process of learning and apply their knowledge to tailor their services to the needs of their clients.

Be culturally relevant

The techniques used to provide information are critical to how it is understood, processed and applied. Traditional means of community education which entail one-way information provision using speakers, presentations and written material (such as, booklets, information sheets etc) are unlikely to be effective if used alone. In order for the information to be fully understood, appreciated and owned by the migrant community, it must be culturally relevant and appropriate. This includes imparting information using

participatory methods such as groupwork, workshops and experiential sessions that allow open discussion and the asking of questions in a safe and comfortable environment. While such methods are more time- and effort-intensive than one-off community education sessions, the impact is likely to be both more effective and sustainable in the long run.

Respect privacy

Many Muslim migrants prefer culturally and/or language specific groups so they are able to express themselves fully and be better understood without judgment or bias. However, some migrants may also prefer the opposite, fearing that their privacy may be compromised within their own community in culture-specific groups. When group participants are able to choose the kinds of groups in which they participate, based on their personal preferences, concerns, and needs, the impact of groups is likely to be greater.

Build skills

In communities that do not want to discuss issues of CFM, such as newly arrived communities or those having recently escaped conflict or traumatic events, or where professionals feel they lack the skills/working relationship with the community to contend with these difficult matters, a different approach is advisable. For example, one way of approaching the issue is to begin by working on related issues and contributing factors, such as self-awareness, self-esteem, self-compassion, parenting, communication, knowledge of services, emotional management or stress management. Finally, groupwork allows for a range of approaches to be employed simultaneously. Intensive groupwork models may include community education (on CFM, family law etc.), support provision, skill development and attitudinal change as part of their interactive and participatory session plans. A sample session plan for groupwork on CFM is presented below.

Child and forced marriage workshop plans: For mothers

Objectives

- To help mothers understand the basics of psychosocial development and its impact on marriage.
- To help participants understand and question the reasons for CFM.
- To help participants better understand the impact of CFM.
- To provide information regarding the law related to such marriages.

Material needed

Case study, butcher's paper, white board, markers and Blu Tack

Activity 1

Introduction

Time: 15 minutes

Steps:

- 1 Welcome the participants to the group and introduce yourself briefly.
- 2 Ask the participants to introduce themselves by telling everyone their name and one goal they have for their children.
- 3 Present the objectives of the session

Activity 2

Developmental stages and marriage

Time: 45 minutes

Steps:

- 1 Ask the participants what the features of a good marriage are, and what kind of skills this requires. Note these down.
- 2 Ask the participants at what age they think people acquire these skills and are psychologically ready for marriage.
- 3 Present the features of adolescence and discuss whether marriage or marriage decisions at this age are workable.
- 4 Repeat for young adulthood.
- 5 Make the point that readiness for marriage is not just about physical maturity as is commonly believed in many communities, but about mental maturity and experience. Discuss aspects of marriage and family for which teenagers and young people are not ready.

Activity 3

Understanding CFM

Time: 25 minutes

Steps:

- 1 Begin the activity by acknowledging that when parents think about their children's marriage, they want the best for them – they want them to be secure, happy and socially respected.
- 2 Ask the parents how marriage decisions are made in their community – for example, are they arranged, or by the children's choice, etc., or both? Do parents sometimes put pressure on their children, especially daughters to marry someone they don't want to? Do some parents arrange for their daughters to marry fairly early in life?
- 3 Ask the participants what they understand by child marriage. Take a few responses and present a definition.
- 4 Ask the participants what they would consider to be a forced marriage. Take a few responses and present a definition.
- 5 Using the following questions, discuss consent.
 - What is consent?
 - Is consent important in a marriage? Why?
 - What are the ways in which consent may be compromised? Discuss examples such as pressure, emotional blackmail, and giving a girl no other choices, etc. Discuss age as a factor. Even if a girl agrees to be married, if she is underage, her consent is not valid because she is not psychologically mature enough to make such serious life decisions. This is also why the age for driving and voting is also regulated by law. Even if a person wants to and knows how to drive, they cannot legally do so independently before 18.
- 6 Briefly discuss possible reasons for why parents sometimes force their daughters to get married when they don't want to or to someone they do not want to marry, and why, at times, these marriages occur when the girls are very young.

Activity 4

Impact

Time: 30 minutes

Steps:

- 1 Read out the case study
- 2 Divide the participants into two groups. Ask one group to identify the short-term (immediate to 10 years) effects that early or forced marriage could have on a girl's life. Ask them to think about physical (health), psychological, behavioural, socio-economic effects, as well as indirect effects on the family, and note them down. Ask the other group to do the same, but for longer-term effects (10+ years).
- 3 Ask each group to present their responses and discuss briefly adding to them by presenting information.
- 4 Make the following points:
 - CFM has historically been part of many societies' traditions, occurring all around the world, often for the same reasons as the groups identified earlier. With time, however, this tradition was discarded because the consequences became apparent, and people became more aware of individual rights.
 - When parents make such decisions they usually have their daughter's best interest in mind. They are often unaware of the damaging impact this can have, which can affect a girl's entire life in many different ways.
 - Even when they are aware, it is hard to go against decisions that are deeply embedded into the community. Traditions provide a sense of belonging to many people. But what if a tradition is no longer useful? What if it destroys a person's life, and even affects the entire community? It is still worth preserving? Discuss examples of traditions the women have changed for themselves over the years as a result of migration or new information etc.

Activity 5

The law

Time: 20 minutes

Steps:

- 1 Ask the participants if they know of any law related to CFM.
- 2 Explain that there are both international and Australian laws that restrict CFM. Point out that countries around the world, whatever religion they may follow, have signed international treaties that do not allow such marriages.
- 3 Outline the main points of Australian law
- 4 Ask the participants if they have any questions.

Activity 6

Next steps

Time: 15 minutes

Step:

- 1 Ask participants what steps they as women can take to:
 - a prevent CFM and
 - b support girls affected by it.

Support Services in Victoria

There are many professional services around Victoria that can support children and women at risk of child and forced marriage. These services can provide information and support as you work with your client to achieve the best outcome for her. If the services below are not able to assist you, call the Australian Muslim Centre for Human Rights, we may be able to provide additional pathways for support.

Some helpful services in Victoria are:

State-wide 24-hour crisis support

1800 Respect

24-hour counselling support line for persons affected by domestic or family violence and sexual abuse
Telephone: **1800 737 732**

Safe Steps

24-hour crisis support service for victims of family violence. Provides information about options and developing a safety plan, referral to safe accommodation (refuge) for women experiencing abuse in their family relationships.

Telephone: **1800 015 188**

Kids Helpline

24-hour free, private and confidential telephone and online counselling service for young people aged between 5 and 25.

Telephone: **1800 55 1800**

Sexual Assault Crisis Line

24-hour support line for victims of sexual assault.

Telephone: **1800 806 292**

Child Protection Crisis Line

For children whose safety is at risk

Telephone: **131 278** (toll free throughout Victoria)

Victims of Crime Helpline

For male victims of family violence and victims of violent crime

Telephone: **1800 819 817**

Assistance and support

Australian Muslim Women's Centre for Human Rights

A specialist service that works with Muslim women and girls.

Monday–Friday 9am – 5pm

Telephone: **(03) 9481 3000**

Red Cross Australia

Red Cross can support young women who have been forced into a marriage.

Telephone: **1800 733 276**

InTouch Multicultural Centre Against Family Violence

A specialist family violence service that works with multicultural women, their families and communities.

Telephone: **1800 755 988**

Australian Federal Police

For assistance when someone is in, or at risk of forced marriage, or you are worried you or someone you know will be taken overseas to be married.

Telephone: **131 237**.

In an emergency, call Triple Zero (**000**).

Legal advice

Victoria Legal Aid

For free information over the phone about the law and how you can be helped

Telephone: **1300 792 387**

Women's Legal Service Victoria

For free and confidential legal information, advice, referral and representation for women in Victoria.

Telephone: **1800 133 302**

Court Network

Provides information and support to people accessing the court system.

Telephone: **1800 681 614**

My Blue Sky

Provides free and confidential legal advice.

Telephone: **(02) 9514 8115** www.mybluesky.org.au

Notes



AUSTRALIAN MUSLIM WOMEN'S CENTRE FOR HUMAN RIGHTS
Equality without Exception