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FORCED MARRIAGE AS A FORM OF HUMAN TRAFFICKING



**DEVELOPED BY:
SOUTH ASIAN WOMEN'S CENTRE
July 2012
Revised 2014**



DISCLAIMER

This Guide is intended to assist service providers in helping South Asian survivors of domestic violence through the means of forced marriage and human trafficking. It should be used as a supplement to existing literature on forced marriage and human trafficking¹. This guide is aimed at helping service providers understand the intricacies around forced marriage and human trafficking in the South Asian context.

¹ There have been toolkits, resources and a research report created by agencies in Canada and by the Forced Marriage Unit in the UK.

ACKNOWLEDGEMENTS

In September 2012, the South Asian Women’s Centre launched the Human Trafficking Guide and Toolkit which was titled R.I.G.H.T.S.F.M. Funding for this project was provided by the Ministry of the Attorney General, Victims and Vulnerable Persons Division.

However, SAWC identified the need to create a more contemporary manual, given the changing environment and thoughts on forced marriage and human trafficking. The title of this manual was also changed to “Forced Marriage as a Form of Human Trafficking: A Resource Guide for Service Providers” to reflect the direct focus of the resource guide. This newer, edited version is generously funded by the Ontario Trillium Foundation.

The Resource Guide focuses on Forced Marriage as a form of Human Trafficking (FMHT) and serves as a useful guide for frontline staff and other stakeholders assisting clients facing these issues. Accompanying the original Resource Guide was also a Survivors Guide and brochures in five south Asian languages to help victims/survivors identify and seek support from the list of resources provided. This Resource Guide is dedicated to the numerous clients that SAWC has served who are survivors of abuse and violence as a result of forced marriage and/or human trafficking.

The writers of this guide are Leila Sarangi, Manivillie Kanagasabapathy and Mugdha Arora. Research support was provided by students from Dr. Reena Tandon’s course (South Asia and Canada, 2011) at the Centre for South Asian Studies, University of Toronto.

This easy to read guide for frontline service providers, stakeholders and policy makers has been thoroughly researched, updated and edited by Maryum Anis.

Finally, I would like to acknowledge the members of the Project Advisory Committee who have participated and provided valuable feedback to the project on the original and updated version of the Resource Guide.

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ABOUT SAWC

The South Asian Women's Centre (SAWC) has a long history of serving South Asian women and girls and their needs. SAWC was established in 1982 and has since given a voice to women who have been survivors of violence and abuse. SAWC's focus is to ensuring that women and girls, especially newcomer South Asian women and girls, are empowered socially, culturally and financially to integrate, participate and establish themselves as mentors in the community.

SAWC serves clients from primarily South Asian countries, including Bangladesh, Bhutan, India, Sri Lanka, Nepal, Pakistan, Sri Lanka, Tibet, and from places of secondary migration such as Great Britain, Africa and the Caribbean.

The development of the resource guide was funded through the support of Ontario's Ministry of the Attorney General, Victims and Vulnerable Persons Division. This edition of the resource guide is funded by the Ontario Trillium Foundation.

ABOUT THE PROJECT

Forced Marriage as a Form of Human Trafficking (hereinafter referred to as the "resource guide") examines the intersectionality of Forced Marriage and Human Trafficking (hereinafter referred to as FMHT) in order to develop best practices for assisting FMHT survivors.

This resource guide explores human trafficking through a specific focus. The purpose of the guide is to:

1. Provide a specialized framework that looks at forced marriage as a form of human trafficking and captures the issue of domestic violence.
2. Look at the movement and exploitation of women through the legally sanctioned process of "marriage."
3. Illustrate trafficking of immigrant and refugee women in forced marriage cases.
4. Provide guidance to frontline service providers, stakeholders and policy makers who may come in contact with victims/survivors of trafficking and/or forced marriage.
5. Provide a resource list of services to support victims/survivors.
6. Promote dialogue, research, analysis and community engagement in the form of trainings and consultations designed to empower community members, survivors, service providers and other stakeholders.



The resource guide explores FMHT as part of the framework of domestic violence both before and after marriage. The distinct feature of the project is the commodification of women through the legal means of “marriage.” The aim of Forced Marriage as a Form of Human Trafficking Project is to develop a training curriculum for service providers and frontline staff to assist survivors of FMHT as well as to create a survivor’s guide, to be translated into five South Asian languages. In addition, through funding from the Law Foundation of Ontario, the resource guide has been updated and the brochures have been produced to assist survivors in the same five South Asian languages: Bangladeshi, Hindi, Tamil, Punjabi and Urdu. Additional resources are also included in the Appendices of this resource guide.

²In this resource guide, the term “women” is inclusive of girls and anyone who self-identifies with the gender category. We recognize that when a survivor is under the age of 18, the emotional, legal and physical issues presented in this training document are further compounded with other issues.

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CHAPTER ONE
DOMESTIC VIOLENCE & THE SOUTH
ASIAN CONTEXT



Who is a South Asian?

Canadians of South Asian origin are one of the largest ethnic origin groups in Canada. According to the 2006 Canada Statistics, almost one million people of South Asian origin live in Canada, constituting nearly 4% of the total Canadian population. “South Asian” is a very broad and complex term and identity defined by geographical region as well as cultural and religious practices. It usually denotes the racial and ethnic identity of people descended from the region of South Asia. Countries within this group include Afghanistan, Bangladesh, Bhutan, Burma, India, Iran, Maldives, Nepal, Pakistan, Sri Lanka and Tibet. Many South Asians also claim their ancestry through secondary migration in the Caribbean, Europe and Africa. Self-identification is considered sufficient to be included in the category

South Asians in Canada:

According to the 2011 National Household Survey, there are 1,567,400 South Asians in Canada, consisting of 25% of the total visible minority population³. Majority of the South Asian population (70%) mainly resides in larger urban centres such as Toronto, Montreal and Vancouver. The Chart of Visible Minorities in Canada from Statistics Canada illustrates the population distribution of South Asians in Canada.

Chart of Visible Minorities in Canada (%)

	1996		2001		2006	
South Asian	670,590	2.35%	917,070	3.09%	1,233,275	4.00%
Chinese	860,150	3.02%	1,029,395	3.47%	1,168,485	3.70%
Black	573,860	2.01%	662,215	2.23%	783,795	2.50%
Filipino	234,195	0.82%	308,575	1.04%	389,550	1.30%
Latin American	176,970	0.62%			304,245	1.00%
Arab					265,550	0.90%
Southeast Asian	172,765	0.61%			231,425	0.70%
West Asian					156,700	0.50%
Korean	64,835	0.23%			138,425	0.40%
Japanese	68,135	0.24%			98,900	0.32%
Mixed visible minority	61,575	0.22%			104,215	0.30%
Other visible minority	69,745	0.24%			71,420	0.20%
Total visible minority population	3,197,480	11.21%	3,983,845	13.44%	5,068,095	16.20%
Aboriginal or White	5,330,645	88.79%	25,655,185	86.56%	26,172,935	83.78%
Total population	28,528,125	100.00%	29,639,030	100.00%	31,241,030	100.00%

³Two thirds of South Asians reported East Indian ancestry as well as Pakistani (9.3%), Sri Lankan (8.5%) and 4.7% Punjabi (4.7%) origin.

Research shows that South Asian culture prioritizes duty to family, including extended family, and obligation to one's community and social networks, stressing the importance of not only maintaining strong connections to them but also utilizing them as one's support system. Research also indicates that due to this focus on the family and community, most South Asian individuals strive to remain connected to family members in their country of origin. As the Canadian immigration policies become more restrictive, many are forced to find alternative means to enter the country with aspirations of a better life and opportunities. However, such dreams are often dashed as the harsh realities of re-building a life in a foreign country.

“Studies show that a large percentage of the South Asian community live in impoverished circumstances, falling into the low-income category. 34.6% of South Asian families in Toronto live below the Statistics Canada Low Income Cut Off. Among this group, more than 50% of all Pakistani, Bangladeshi, Sri Lankan and Tamil families are living in poverty. There are significant linguistic, educational and cultural barriers facing members of the South Asian community seeking access to social and legal services.”

(Source: SALCO Minority Report)^{vi}

VIOLENCE AGAINST WOMEN

Understanding the cultural and social context is imperative when assisting South Asian women in abusive situations as the violence perpetuated is influenced by such factors. This is not to say that all South Asian communities, families or individuals experience violence in a similar way but to stress the importance of exploring the intersections of culture and violence against women. This resource guide not only explores the role of culture in the production and propagation of patriarchal and colonial spaces but also the implications for a woman with precarious status in Canada, seeking help.

CHAPTER TWO

DEFINITIONS



PATRIARCHY AND VIOLENCE AGAINST WOMEN AND GIRLS

Patriarchy is a “set of ideas and beliefs that justify male domination over women and girls in society”. Patriarchal systems create and sustain a stratified and unequal relationship between the genders, positioning the female as subordinate to the dominant male. The power and freedom of women is controlled by the dominant group. As the patriarchal ideologies become embedded in society’s collective beliefs, they are further proliferated through various means including, but not limited to, the media, systemic policies and daily interactions such as a conversation with one’s family and community members. Once accepted by society at large, they are then used to justify both overt and covert forms of domestic violence and violation of women’s fundamental rights and freedoms.

Domestic violence is one of the most prevalent forms of patriarchal assertion seen in Canadian society. It can take the form of physical, psychological and/or sexual abuse and exploitation^{4 VIII}. Any violent act(s), threats to cause bodily harm to children, other family members and/or property by an intimate partner and/or family member(s) constitutes domestic violence. Violence against women is a form of domestic violence.

Human trafficking through a forced marriage is a type of domestic violence that disproportionately affects refugee and immigrant women and girls. As marriage and familial duty is considered a very important component of South Asian culture, women are taught to respect their parents’ choice in matters pertaining to matrimony from a very young age. Having reached a “marriageable age”, young South Asian women are under immense pressure to keep familial harmony, combined with lack of agency and inability to take charge of their own lives; many women are coerced into a marriage by their family members and/or close family friends. FMHT constitute a violation of human rights and has severe consequences for its victims including isolation, depression, anxiety, estrangement from one’s family and friends, and increased vulnerability to domestic violence.

⁴Domestic violence, as defined by UNICEF, includes violence perpetrated by intimate partners and other family members, and is manifested through:

Physical abuse: slapping, beating, arm twisting, stabbing, strangling, burning, choking, kicking, threats with an object or weapon, and murder. It also includes traditional practices harmful to women and girls such as female genital mutilation and wife inheritance (the practice of passing a widow, and her property, to her dead husband’s brother);

Sexual abuse: such as coerced sex through threats, intimidation or physical force, forcing unwanted sexual acts or forcing sex with others;

Psychological abuse: which includes behaviour that is intended to intimidate and persecute, and takes the form of threats of abandonment or abuse, confinement to the home, surveillance, threats to take away custody of the children, destruction of objects, isolation, verbal aggression and constant humiliation

Economic abuse: includes acts such as the denial of funds, refusal to contribute, denial of food and basic needs, and controlling access to health care, employment, etc.

FORCED MARRIAGE: A MANIFESTATION OF DOMESTIC VIOLENCE

What is a legally defined marriage?

According to Article 16 of the Universal Declaration of Human Rights, marriage is a right of all men and women of full age providing that the marriage is "...entered into only with the free and full consent of the intending spouses."^{5 IX} Forced marriage is a form of domestic violence.

[Forced marriage] is characterized by coercion, where individuals are forced to marry against their will, under duress and/or without full, free and informed consent from both parties. Men and women of all ages, from varied cultural, religious and socio-economic backgrounds experience forced marriage.^X

Duress can include physical, psychological, financial, sexual and/or emotional pressure. Furthermore, an adult cannot consent to a marriage if there is an existing physical and/or mental disability that prevents him/her from being able to provide full, free and informed consent. Generally, women are more susceptible to being pressured into a forced marriage, a finding corroborated by statistics from the report by the South Asian Legal Clinic of Ontario as well as the Forced Marriage Unit in UK.^{6 XI}

Forced marriage and arranged marriage are often inaccurately conflated with each other. In an arranged marriage, parents, friends or community members seek a compatible match for both individuals and a mutual agreement. However, "full, free and informed consent" exists for both parties prior to proceeding with the marriage. On the other hand, a forced marriage takes place when either spouse is coerced into the marriage, whether physically, psychologically or emotionally. If an individual is manipulated in order to obtain consent or consent is provided under duress, it does not meet the threshold for full and free consent. Tools of manipulation often include emotional blackmail, appealing to the individual's responsibility and religious, social and economic duty to one's family, community and culture as well as the desire to avoid any negative consequences for one's parents and siblings. Other reasons include tradition, immigration/sponsorship and wealth management. Regardless of the reason provided, one common thread of violence that runs through all FMHT cases is the lack of agency of the person(s) being forced into the marriage.

⁵Article 16 of the Universal Declaration of Human Rights states

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

⁶The Forced Marriage Unit (FMU) was established by United Kingdom between the Home Office (police and security) and Commonwealth and Foreign Office (their embassies)



CHILD/EARLY MARRIAGE:

A marriage in which the bride and groom are under the age of 18 is considered a forced marriage regardless of whether the child has given consent. Under international convention, a child is unable to make a fully informed decision to marry, the apparent consent is considered invalid.^{xii} Like forced marriage, child marriage disproportionately affects girls and in many cases, girls are forced into marriage, sometimes before they have reached puberty. The practice of child/early marriage perpetuates gender inequality and has severe ramifications as the child is deprived of her basic rights. In addition to a lack of agency and autonomy, her right to education is violated as she likely has to abandon her education, effectively halting her development. Child brides who are forced into marriage also find their health at risk as they tend to have children very young, usually before their bodies are ready for childbirth. They also have a higher chance of contracting HIV/AIDS and other STIs.^{xiii}

Notes:

HUMAN TRAFFICKING

Human Trafficking is the illegal movement of people for the purposes of exploitation. There are three elements that must exist in order to constitute human trafficking: (1) the act, (2) the means and (3) the purpose. These elements include (1) “the act (recruitment, transportation, transfer, harbouring or receipt)” through (2) “the means (threat or use of force, coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving/receiving payments/benefits to achieve consent of a person having control over another person) for (3) “the purpose of exploitation”^{xiv}. Exploitation includes, but is not limited to, forced labour or service, “slavery and practices similar to slavery”^{xi}, servitude, forced prostitution or any form of sexual exploitation of others or removal of organs. Furthermore, recruiting, transporting, transferring, harbouring or receiving a child⁷ in order to exploit him or her is considered human trafficking.^{8 xv}

Human trafficking exists when an individual is forced to work in slavery-like conditions. It includes the exploitative use of persons to undertake illegal activities, which can include labour fraud. “Debt Bondage” is also commonly found among trafficked individuals being exploited for labour. In debt bondage situations, the victim is indebted to the perpetrator (e.g. for sponsoring the person’s family, etc.) and must repay the debt through physical labour. In cases of forced marriage, a woman may be forced into a marriage and as a partial payment of a family debt, for instance and may then be forced into doing physical labour to pay off the remainder of the debt.

Human trafficking, whether national or transnational, is a very lucrative organized crime that affects men, women and children . The Anti-human trafficking Unit of the United Nations Office on Drugs and Crime (UNODC) has found that women constitute 54% of the victims of trafficking worldwide and majority of these women have been trafficked for sexual and/or labour exploitation. However, many are also coerced into marriage and then trafficked for not only sexual and labour exploitation but also for monetary gain and other benefits, including citizenship. Although the commonly used definition of forced marriage is not inclusive of human trafficking, in certain circumstances, forced

⁷Child is considered to be any person under the age of 18.


⁸The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women/girls and Children (2000), set out minimum international standards for the prevention and combat of trafficking in persons for different forms of exploitation.

Article 3:

- (a) ‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation ... shall be irrelevant where any of the means set forth in paragraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in paragraph (a);
- (d) ‘Child’ shall mean any person under 18 years of age.”

Canada ratified the Trafficking Protocol in May 2002 and accordingly made changes to Criminal Code in 2005. Parliament also enacted the Immigration and Refugee Protection Act (IRPA) in June 2002.

⁹Trafficking in Persons- Global Patterns, Paper presented at the International Symposium on International Migration and Development, Turin, 2006



marriage can fit into the human trafficking framework due to the common elements of forced labour, forced sexual acts, fraud and deception. In such cases, forced marriage is used as a means to traffic persons across domestic and international borders. Additionally, incorporating forced marriage in the human trafficking discussion not only leads to a more nuanced understanding of human trafficking but also provides a legal framework for some remedial action for survivors. Like arranged marriage and forced marriage, human trafficking is often conflated with human smuggling. The key difference between the two practices is based on the role of consent, exploitation and transnationality. Human smuggling is the movement of people through international borders, where the smuggler is gaining monetary compensation for the transportation of the individual(s).

HUMAN SMUGGLING VS. HUMAN TRAFFICKING –A KEY DISTINCTION:

Human smuggling usually takes place with the consent of the person(s) being smuggled and the person's relationship with the smuggler is terminated, and consequently, the exploitation, once the destination is reached. Human smuggling also has a compulsory transnational aspect with the person(s) being smuggled often paying large sums of money to illegally gain entry into a desired country. Human trafficking, on the other hand, takes place without the consent of the person(s) being trafficked and international borders need not be crossed. A person can be a victim of domestic human trafficking and can be trafficked across provincial and/or territorial lines or even without any movement at all. Complicating the process is the issue that individual(s) who consent to being smuggled across borders inherently risk being trafficked which leads to the victims being victimized, abused, enslaved or being held hostage until they pay off their debt. Due to the commonalities of lack of consent, extortion, coercion, seduction and/or deception that exist between forced marriage human trafficking, this resource guide views both issues as they are linked through threads of domestic violence.

This resource guide addresses legal recourse and other remedies available to survivors of human trafficking and forced marriages. It must be noted that while both issues affect men, women and children, women and children are disproportionately affected by forced marriage and human trafficking, and as a result, FMHT. In particular, immigrant and refugee women and children are highly vulnerable to FMHT.



Notes:

Lined area for notes with horizontal ruling lines.

CHAPTER THREE

FORCED MARRIAGE AS A FORM OF HUMAN TRAFFICKING





FORCED MARRIAGE: A VEHICLE FOR HUMAN TRAFFICKING

Forced Marriage as a form of human trafficking is about the local, national and international movement of women, men and children from one location to another through the formal institution of “marriage”. As women and girls are more susceptible to being trafficked through a forced marriage, it is crucial to not only understand the intersections between patriarchal culture and society’s prevalent gender discourses but also the manner in which the individual may have to operate within their cultural boundaries. In order to get a true understanding of forced marriage, it is critical for service providers to understand familial dynamics and the existing duress and coercion of that result in individuals caving into a forced marriage.

A family member, friend or a member of the community coercing or attempting to coerce an individual into marriage can stem from a host of reasons. In addition to religion and/or retention of culture, the perpetrator’s reasons may include marriage as an exchange of favour or settlement of financial debts. In some communities, matrimonial alliances between families are created in order to preserve family wealth and/or status and reneging such alliances can be very damaging to family reputation. The coercion can include physical, mental and emotional abuse. Particularly due to the social consequences of marriage for their family member such as being shamed or ostracized from the community or being threatened that their actions will affect their family’s future opportunities, including marriage eligibility of their siblings, many women are emotionally manipulated into marriage. Furthermore, family obligations that are linked to women and girls’ cultural and/or socio-economic positions can remove their ability to exercise any real choice, or give free and informed consent.

While the parental pressure to enter a marriage with a suitable match is immense, any reason or justification that can be provided for the duress, no matter how compelling, cannot be considered sufficient enough to justify forcing a person into a marriage. In addition to familial coercion, emotional and mental harassment from the community is also common and can have profound effect on the mental state of the woman, often resulting in them succumbing to the pressure and unwillingly entering a marriage.

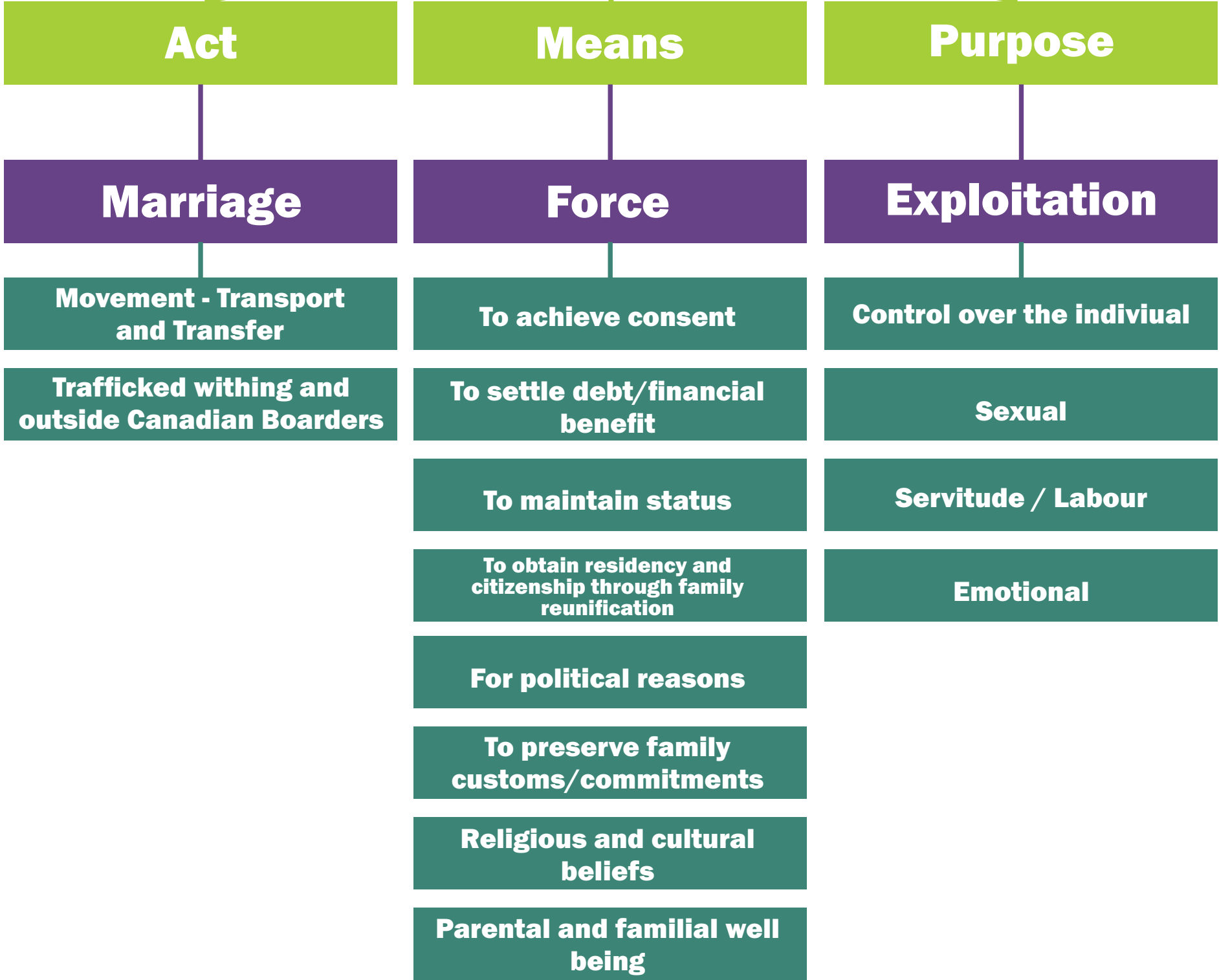
Thus, the intersections of Forced Marriage/Human Trafficking (FMHT) can be defined simply as cases of forced marriage in which the elements of the crime of trafficking – act, means, and purpose of exploitation are evident, and in which coercion is a facet of forced marriage and violence against women.

Domestic violence can take many forms, such as physical, sexual and/or psychological exploitation. When women are forced into matrimony through violence and pressure, they are deprived of and lose their agency and the ability to take charge over their own lives. While examining trafficking conditions it is important to identify exploitation by the spouse and/or in-laws/extended family members along with a transaction between the families.



Notes:

Forced Marriage is Human Trafficking





Forced Marriage

**Lack of Consent
Parental and
Societal
Pressure**

Violence

**Physical, Sexual
Psychological Harm
Lack of personal
liberty**

Trafficking

**Exploitation
Exchange of Favours**

Notes:



CHAPTER FOUR

INDICATORS





IDENTIFYING VICTIMS

Service providers should be sensitive and careful in classifying survivors/victims. They should also avoid assuming the nature of exploitation in cases of human trafficking and/or forced marriages.

In order to assess clients who have been trafficked through the legal definition of marriage, it is very important to learn some of the main indicators of forced marriage and human trafficking. However, as with any situation of violence against women, some, all or none of the indicators may be apparent. The most important step is to build a rapport and develop an open, trusting and safe relationship with clients so they feel comfortable enough to disclose their situation.

Below are some factors that indicate physical, sexual, emotional, situational and economic abuses. It is important to remember that the indicators listed are not exclusive to the category in which they are listed and can also be indicators for other types of abuse (i.e. social stigma can be psychological or situational).

Notes:

Forced Marriage and Human Trafficking Victimization Indicators:

1. PHYSICAL ABUSE*

- Injuries (may be visible or disclosed)
- Recurring illness
- Obvious signs of malnutrition
- Self-harm
- Suicide attempts

2. SEXUAL ABUSE**

- Injuries of a sexual nature
- Forced sexual intercourse/rape
- Other physical indicators with inconsistent explanations

3. PSYCHOLOGICAL ABUSE*

- Depression
- Suicidal ideation
- Guilt associated with family obligations/duty
- Fear of isolation
- Lack of choices or power to choose
- Fear of self-expression
- Self-blame/shame
- Social stigmatization
- Not allowed to socialize or make friends

* Physical

** Sexual

4. SITUATIONAL ABUSE

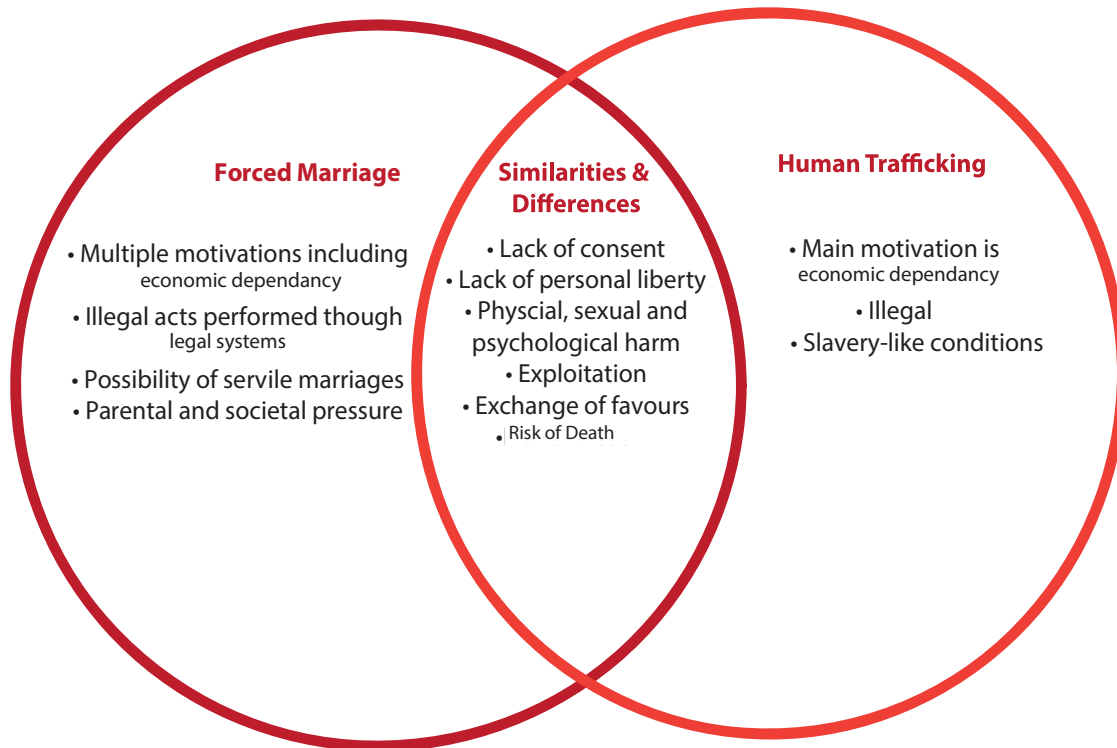
- Concerns about family reputation and/or status
- Lack of knowledge of immigration policies
- Exchange of favours/dowry/gifts/wealth for marriage
- Lack of informed consent to the marriage
- Forced labour
- (Indentured) servitude
- Kept in isolation
- Fear of losing family support/no family support
- Not allowed to contact family back home
- Expulsion or fear of expulsion from family
- Fear of losing child custody/ separation from child(ren) due to deportation
- Does not possess her personal passport or visa documents
- Fear of deportation
- Always accompanied by another individual who speaks for the client and seems to have control over the situation
- Deprived of personal freedom

5. ECONOMIC ABUSE

- Lack of control of finances
- Extreme financial dependence on the spouse and/or his family
- Severe economic deprivation

* When physical and/or psychological indicators are present, it is always recommended that the clients be referred to a medical practitioner to ensure that they receive adequate and appropriate care.

** Sexual indicators are usually not visible. The client may disclose them to the service provider. In these cases, it is very important to listen to the client and not place them in a position where they are forced to disclose their situation to the police or others. Many times for the women and girls, the abuser is family, and they are not emotionally ready to act against them. Rushing a woman can lead her to retract her disclosure to you, and decide to return to her abuser. Women and girls need to be empowered and trusted to make decisions about their bodies with the support of their service providers.



INDICATORS:

Trafficking in Forced Marriage	Assessment Indicators
Force (Forms/Reasons)	
Abduction	
Deception/Fraud	
Protecting Family Honour	
Extortion: achieving financial gain through any of the following: exchange of land/property/jewelry /immigration purposes/fees for education	
Religious and political reasons	
Exploitation	
Seduction	
Forced Pregnancy/Abortion	
Servitude/Physical Labour/Slavery	
Forced Sexual Intercourse	
Physical Abuse by spouse and/or in-laws	
Lack of control over identity documents	
Threats to harm family members made by spouse/in-laws	
Economic Exploitation	

LIVING IN HUMAN TRAFFICKING CONDITIONS

After identifying human trafficking conditions, it is important to investigate signs of exploitation by the spouse, in-laws and/or extended family members along with any transaction(s) between the families. While assisting clients, it is important to establish whether they are a victim of forced marriage, human trafficking, or FMHT. Thus, it is crucial for a service provider to be able to distinguish between forced marriage and human trafficking and understand the nuances of each issue.

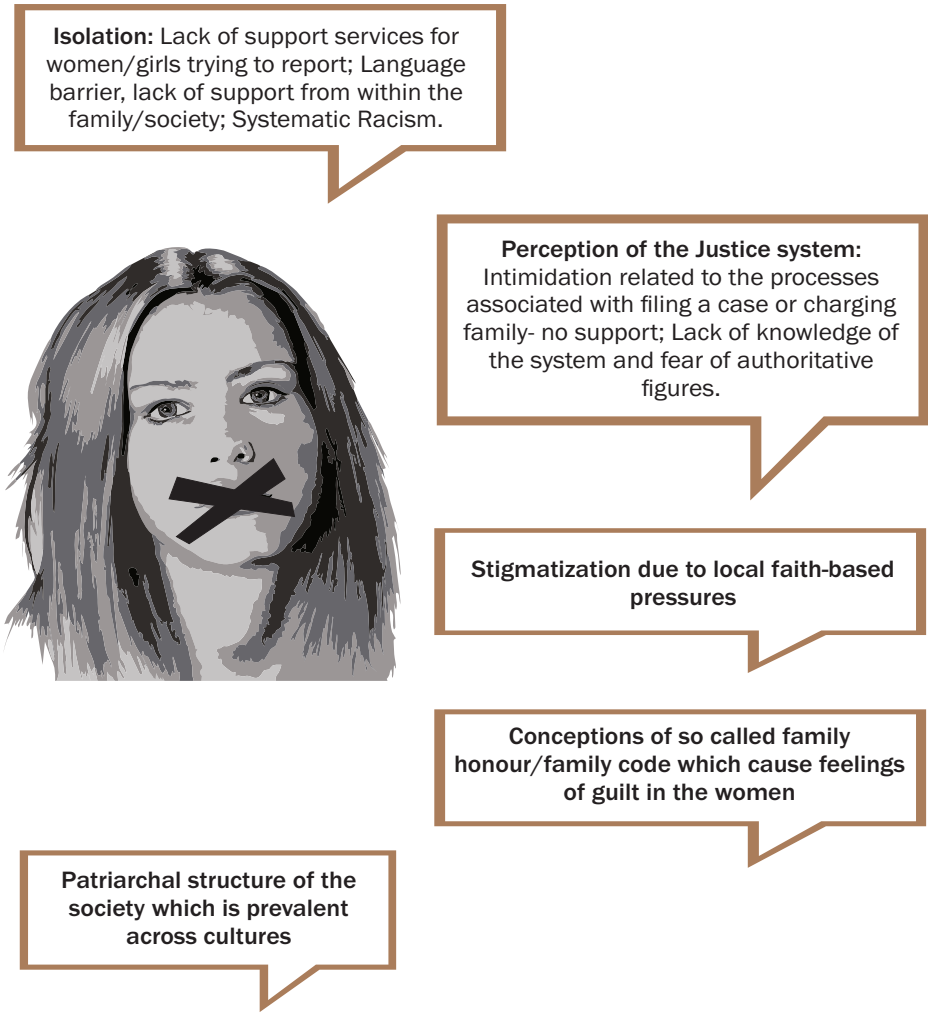
The questions below are focused specifically on evaluating whether the client is living in human trafficking conditions:

1. Was the client brought to Canada under false pretenses?
2. Is the client able to leave the home alone, or is she always accompanied by a family member?
3. Is the client employed in the family business? If so, is she able to seek alternative employment?
4. Is the client able to use a phone at their discretion and without fear of someone listening on another line or tracking their calls?
5. Does the client have access to all of their documents?
6. If the client has children, does she have access to their children's records and other important documents?
7. Is the client being paid? If so, does the client have access to their salary/pay, or is the family controlling it?
8. How many hours does the client work, and under what conditions (as compared to that of a local worker doing the same job)?
9. Is the client receiving proper nutrition?

Notes:

FACTORS LEADING TO UNDER REPORTING

THE FACTORS LEADING TO UNDER REPORTING



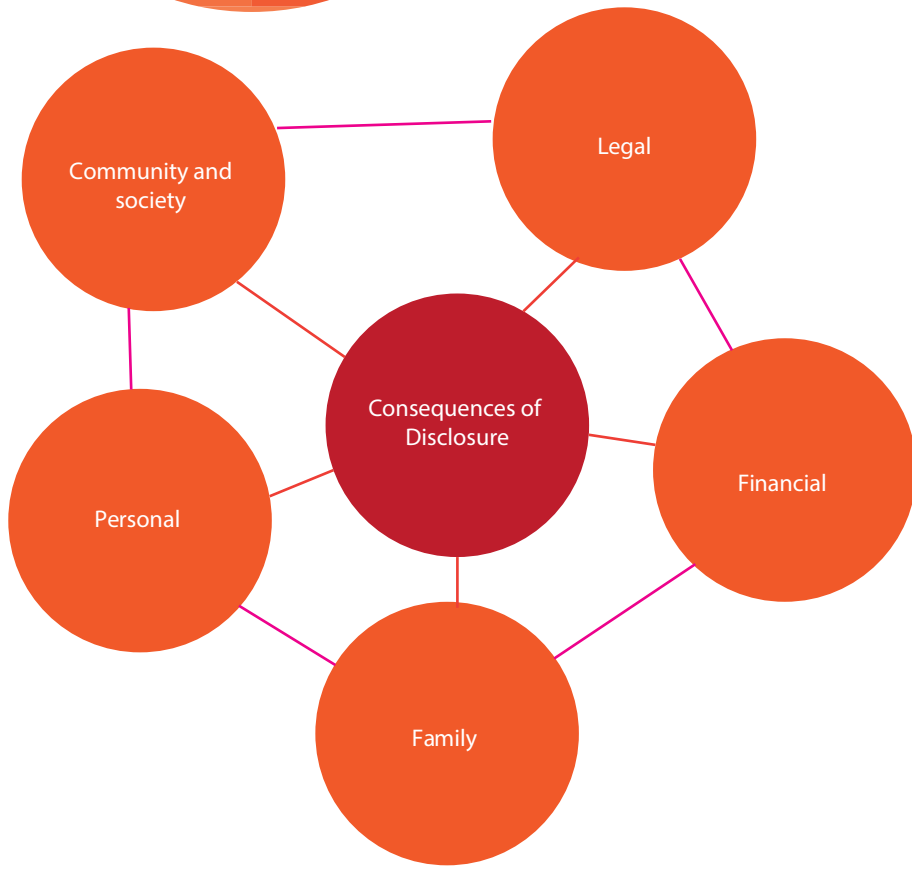
Research suggests that women in South Asian communities do not report their abusive circumstances, making it difficult to document statistics. When investigating cases of trafficking in forced marriage, it is imperative that service providers be very sensitive as they support and offer protection services to clients.

When women or girls decide to flee abusive circumstances, they are doing so under tremendous potential risks. It is important to be mindful of the client's cultural background as it will inevitably dictate her decisions and actions, particularly as the dominant Canadian culture may be foreign to human trafficking victims who have been trafficked across transnational borders. For instance, a woman who has been taught to respect her elders and has not been allowed any autonomy will understandably be hesitant to report her family and leave them to start a new, independent life. Furthermore, cultural silence around forced marriages and domestic violence may make the client hesitant to communicate a violent situation that would embarrass her family. South Asian women have been socialized to remain connected to the community. This affects their sense of belonging and identity in relation to their ethnic community and tends to present a greater barrier for South Asian women than for non-South Asian women. Understanding the cultural lens through which the client is operating facilitates disclosure and is essential in creating a rapport with the client.

While it is tempting to immediately report the perpetrators to the authorities, the client must be informed of the options available to her and her wishes respected, if she is not in immediate danger. In order to prevent oneself from exacerbating the problems faced by the client, it is critical to ensure that the client feels ready to deal with the situation and for the possible negative consequences, least of which usually includes being ostracized from one's family and/or community and possible loss of any support networks she may have. Acting hastily and/or before the client is ready can put the client in further danger, particularly in the cases where the client has been forced into a marriage as an attempt to escape the marriage may be seen as a affront to family "honour".

Findings from client cases suggest that often times women are unable to report the abuse themselves due to some of the following reasons:

1. Being new to the country and feeling isolated;
2. Fear of losing status in their new country;
3. Financial dependence on their family, spouse and/or in-laws;
4. Fear of losing child custody;
5. Language barriers;
6. Fear of not getting safe accommodation;
7. Societal, family and/or community pressure;
8. Feelings of guilt and/or obligation to preserve the forced marriage;
9. Debt incurred as a result of marriage or cultural conceptions of reciprocation – "paying off the debt"; and
10. Lack of awareness and misinformation of the system and their rights.



Notes:

CHAPTER FIVE

SERVICE PROVIDER TIPS





DEALING WITH CONFIDENTIAL INFORMATION

It is vital for agencies to empower women and build confidence in women and girls who are trafficked through forced marriages. The primary focus of individuals serving women should be to ensure the safety of those who approach them for help.

DO'S

- Women are often more comfortable speaking in their first language. It is strongly recommended that service providers work with well trained female interpreters who understand intersectionality and nuances of domestic violence, forced marriage and human trafficking.¹⁰
- Interviews or investigations should be conducted in a culturally sensitive manner.
- If the client is from a community in which dowries, bride price or other customary gift giving is a common element of the matrimonial practices, it can be helpful to inquire about the custom and any resulting consequences of the practice. Open-ended questions are most conducive to acquiring such information.
- Inform the client that her information is confidential and protected, and that disclosure is based on client consent.
- Inform clients that they have legal options, and refer clients to appropriate legal clinics, lawyers and/or legal aid.
- Direct clients to a suitable medical practitioner/counselor if necessary.
- The safety of the client is of highest priority. Clients must be advised to move into safe accommodation if they are in danger.
- Above all else, create a safe space where clients can become active participants in decisions regarding their own future.
- Cases where there are safety concerns for a child, service providers are required by law to inform the police and child protection services (CAS).

¹⁰MCIS (Multilingual Community Interpreter Services) is an NPO, that provides translation and interpretation services in a variety of language including almost all South Asian dialects

DON'TS

- Do not use family members or friends as interpreters. Interpreters should be an impartial third party.
- Do not force the client to take any steps against their family immediately. The client should be given enough time to assess all options and make informed decisions.
- Do not provide legal advice. Service providers are allowed to provide legal information and referral but cannot provide legal advice.
- Do not interact with or share any information with the victim's family members and/or community, including family friends and/or extended family.

South Asian Women and Shelters:

Our research shows that some women feel embarrassed and insecure when dealing with shelter staff, even when the shelter staffs speak the client's language. The feelings expressed by these women can be attributed to the social stigma associated with residing in a shelter. Women who are in desperate situations go to a shelter and often find that they are unable to deal with the breakdown of their marriage and estrangement from their families. In fact, dealing with the shelter structure sometimes makes their situation worse considering they are in an unfamiliar space and the shelter structure often amplifies the vulnerability and lack of control felt by the client. Clients frequently need help to overcome prevalent myths and negative perceptions of shelters as well. Simultaneously, it is suggested that Safe Housing could be a better option for a victim in abusive circumstances.



LEGAL SUPPORT

Canada has ratified the UN conventions against Transnational Crimes and its Protocols and designed its legal framework to prevent and combat human trafficking. Canada has declared internationally that it will work to combat Human Trafficking and has signed and ratified Protocol to Prevent, Suppress and Punish Trafficking in Persons, Specially Women and Children .

The **Criminal Code of Canada** has provisions to prohibit trafficking in persons, benefiting economically from trafficking and withholding or destroying identity, immigration, or travel documents to facilitate trafficking.

Under the Criminal Code of Canada, family members and parents can also be charged with offences, including threatening behaviour, kidnapping and abduction. The husband of the victim in these cases can be charged with rape when forced sexual intercourse occurs without consent. Consent must always be given freely, without fear. Rape and sexual assault can also occur when the husband demands sex, and the woman feels that she does not have a choice but to comply with his demands.

If the client is thinking of leaving the relationship, she should be advised to seek legal advice. If she is concerned about her status in Canada, she may be able to pursue an application to remain in Canada on humanitarian and compassionate (H & C) grounds OR apply for a Temporary Resident Permit (TRP).

Temporary Resident Permits: According to the 2001 Immigration and Refugee Protection Act, immigration officers can issue Temporary Resident Permits (TRPs) to victims of human trafficking for up to 180 days. The permits enable victims to begin to recover from the impact of this crime. Victims who receive the TRPs are exempted from the processing fee and are eligible for healthcare benefits and trauma counseling under the Interim Federal Health Program and may also apply for a work permit . The new measures have been carefully designed so that only bona fide victims of human trafficking benefit from them. Additionally, the Act describes the act of human trafficking as punishable under the law with life imprisonment and a penalty for the perpetrator(s) .

¹¹It is important to note that the TRPs are very difficult to acquire, and are only given for a 6 month period. For more information, please visit <http://www.cic.gc.ca/english/information/applications/visa.asp>

Victims can be referred to the Criminal Injuries Compensation Board for damages under civil law as well. However, studies suggest that although women do want to escape their situations, they hesitate to file complaints against their families and have a strong desire to continue to protect them from legal prosecution.

Agencies should inform clients of their legal options only after a proper investigation has been conducted. It is recommended that agencies refer clients to legal clinics, Legal Aid and lawyers for full legal advice as each case file is unique and requires personalized plans.

Notes:



SAFETY PLAN

One of the most important things that needs to be created for any survivor of FMHT or Domestic Violence is an Exit Plan. The **Exit Plan** enables a survivor to have a strategy in place for when/if they need to escape. Below are some suggestions for a safety plan as well as a list of items that should be in a client's exit plan. Safety plans can be completed together and may need to be customized depending on the client's availability, level of freedom and any other pertinent restrictions.

Creating the Escape Box:

Ensure that the client can create a box with her safety plan and that it can be kept in a safe location, if possible (i.e. at the house of someone they trust). If not, ensure that the box of items is well concealed and in a location that can be easily accessed in times of emergency. Ensure that she is able to keep important documents, preferably originals, and items listed below in their box; it is preferable to have the original documents, if possible.

If the client is unable to safely keep a physical copy of their documents, the client can also scan the documents and upload it to a virtual server such as Dropbox. However, there are additional risks involved in virtually storing the documents as these services can be hacked. Also, if the client does not take adequate steps to conceal the virtual activity or is not well-versed in technology, she may run the risk of the perpetrator discovering her activity and the virtual files.

The important documents include:

- Passport
- Birth Certificate
- Immigration documents
- Marriage License
- Social Insurance Number (SIN Card)
- Health Card
- Children's documents (birth certificates, health and immigration records, etc.)
- Cash*
- Extra house key
- Phone numbers of shelters

**Clients should not rely on credit cards or access to their bank accounts, especially if they are joint accounts and the other family member can prevent the client from accessing them. Cash is always the safest bet. Any amount is encouraged.*

The Code Word System

The code word is perhaps one of the most important and possibly lifesaving tools for clients.

- Have clients create a code word to be used with a trusted person who can call the police or emergency when the code word is utilized. Make sure both parties know that all the client needs to do is call/text or email the code word to get immediate assistance.
- Create a code word with the client which can be used to indicate their inability to speak on the phone or in person because they are being monitored. As a second step, make sure that the trusted person knows how they should respond to that code word, including whether they can call them back at the same number when they have received a voicemail.
- Ensure clients are aware that they must always be sure that they erase their browser history and/or hide their online steps. For how to do this, please refer to the [www.forcedmarriages.ca "Covering Your Tracks" webpage: http://www.forcedmarriages.ca/Cover-Your-Tracks/](http://www.forcedmarriages.ca/Cover-Your-Tracks/) Make sure that your client is aware that there is new programming/software that allows others to monitor their keystrokes and internet searches. If possible, advise clients to use library or public computers when accessing sensitive resources.

Additional Actions

The following are suggestions that can make it easier for a client to leave an abusive situation. These actions are harder to do, and are based on the level of freedom and personal social resources of the client. Advise the client to:

- Set up a separate bank account that only she can access.
- Set up a new email account - keep it private, and change the password regularly.
- Leave copies of documents with a trusted person.
- Designate a safe place to go to in case of emergency.
- Keep emergency contact information in an easily accessible place.
- Keep spare clothes for themselves and their children in a secure place.
- Keep a record of dates and instances of violence and trafficking conditions that could be needed for future legal action.

For a more in-depth safety plan, please see the additional resources available as part of this resource kit.

Safety plans are important, but ensure that your client is aware that the most important thing is her and her children's safety. If she and/or the children feel unsafe, the best option is to leave immediately. Any material possessions can be replaced or retrieved later.



SAFETY PLANS FOLLOW UP FOR SERVICE PROVIDERS

- Inform the client that after leaving, she does not have to return home alone to pick up her things:
- Police officers can accompany clients to retrieve their possessions.
- A third party can also be sent to retrieve her possessions.
- When making a referral to a shelter, make sure that shelter staff are aware that the husband may not be the only perpetrator, and that the woman's own family, (including parents, brothers, sisters and/or extended family) may attempt to force her to return to the abusive situation.
- Ensure that the client is aware that no child under the age of 13 is left alone at home when the client is away seeking help or when they flee.
- Many times clients leave the children at home, unwilling to take them into a potentially dangerous and unknown location, knowing that the family will not hurt the child. This, however can cause greater difficulty when the client attempts to regain custody of the children as it may be used to illustrate abandonment.
- Follow up with referrals to healthcare providers, lawyers and psychological counseling, as needed, during and after the 'escape'.
- If the client takes her trafficker to court, the client will have to relive the trauma. Ensure that clients receive mental health support throughout the entire legal process, as well as after the trial.
- As soon as possible, help the client document the dates, instances and events that occurred which illustrate that they were forced into marriage and/or human trafficking conditions. This will make it easier for the client to re-tell her story as needed to social workers, legal workers, police officers and seek legal and other remedies

CHAPTER SIX

CASE STUDIES





ZAYNA

Zayna was an 18 year old high school graduate when a family friend introduced her parents to a 47 year old from Vancouver involved in the retail business. Zayna felt apprehensive about the match, and when she expressed her concerns to her parents they dismissed them as normal feelings felt by anyone undergoing an arranged marriage. Her parents agreed to the match, and it was understood that her husband would sponsor her once she arrived in Canada under a visitor's visa. When Zayna landed in Vancouver, her passport and other legal documents were immediately seized by her husband. She was beaten and over the next few days, was forced to do cocaine and repeatedly raped by her husband. On the fifth day, he took her to one of his stores where she discovered that the restaurant was being used as a front for a prostitution ring and she was expected to work as a prostitute. Drugged, dazed and confused in an unknown country and afraid for her life, she complied with her husband's orders. She spent thirteen months working as a prostitute during which time she discovered that several of the women had been brought to Canada under the understanding that they were coming to meet or live with their husbands. Soon after, Zayna tried to escape. Unsuccessful in her attempt, Zayna was caught, beaten unconscious and told that if she tried to leave again compromising pictures of her would be sent to her family back in Pakistan detailing what she had been doing since she arrived in Canada. Feeling helpless and numb, Zayna attempted to commit suicide by cutting her wrists. When discovered, she was taken to a local doctor who was familiar with the veiled operation. The doctor treated her wounds, created appropriate documentation needed to ensure the visit looked inconspicuous, and sent her back to the abusers to continue her life as a sex worker.

Discussion Questions:

1. What elements of FMHT do you see in this scenario?

2. How do current Canadian legislatures work for/against Zayna's circumstances?
(consider Bill S-7, 2014)

3. What dangers (if any) should service providers consider in Zayna's circumstances?

4. What measures can be taken to prevent situations like Zayna's?

5. As a Service Provider managing Zayna's case, how do you interact with the Canadian government, and other authorities (if at all).



NADIA

Nadia was a 22 year old woman living in Edmonton when she met her husband. Growing up, her father had been very controlling towards her mother, sister and herself. Her parents had taken her sister to India to get married when she was 18 years old and Nadia had been fighting her family's pressure to get married since she graduated from high school. Somehow she had managed to convince her parents that she should wait until she finished her college diploma. Upon graduating, Nadia began to work as a cashier at her family's grocery store. During this time she met a man who was vacationing from Toronto. Within a matter of weeks, he asked her parents for her hand in marriage and her parents quickly agreed. Although Nadia thought it was too fast, knowing how important this was to her and swept up in a whirlwind romance, Nadia did not object to the match. The marriage ceremony took place within the month and Nadia flew to Toronto to meet her husband. Once she arrived in Toronto, she moved in with her husband and in-laws. She found the environment in her new home to be very similar to her family's and found it relatively easy to fit in. Much like at home, she was required to do all household chores, follow directions from her husband, and parents-in-law. She needed her in-laws' permission to leave the house and any amount of socialization was heavily monitored. The only time Nadia sometimes found herself alone was when she was going to the family restaurant where she was expected to help out every day of the week. Accustomed to this arrangement, Nadia did not protest when she was told that she would not be compensated for her work. She could eat her meals at the restaurant and should ask her mother-in-law for any other needs such as clothes and hygiene products.

Discussion Questions:

1. What elements of FMHT do you see in Nadia's case (if any)?

2. Are Nadia's rights being violated?

3. What dangers (if any) should service providers consider in Nadia's circumstances

4. If Nadia comes to you for assistance, what factors need to be considered?

5. How/Why are Nadia's circumstances relevant to FMHT?



SALENA

Salena was a 24 year old recent graduate with a degree in chemical engineering. Marriage was the farthest thing from Salena’s mind, as she was more interested in starting her career. As a result of this thought process, Salena dismissed her parent’s comments on marriage and settling down. One day, Salena came home to find her Parents, Grandparents, Uncle and Aunt waiting to discuss her marriage prospects. They had found a man who they believed would be a perfect match for her – a 32 year old doctor from Canada. In their conversation, her parents expressed their wishes for Salena to settle down. Her family mentioned their desire to retire and be sponsored to Canada by Salena, if the marriage was successful. Although she wasn’t sure if she was ready for marriage, Salena started to question whether she was being selfish. She knew her family was stressed out about her marriage prospects and had high hopes to live in Canada someday. Overwhelmed with guilt, Salena reluctantly agreed to the marriage. The wedding took place within a month and her husband sponsored Salena. She arrived in Canada when she was 26. Once in Canada Salena was brought directly to her in-laws place, where her husband and the family took her documents and jewelry for safekeeping. She was shocked to find that she could not leave the house unaccompanied. Nevertheless, Salena hoped she could prove herself to be a good daughter-in-law and abided by the house rules. Over time Salena started to feel more like a servant than a wife, she had become the sole caretaker in the house, required to wake up earlier than everyone else, cook, clean and do other household chores. She was forbidden from forming friendships or partaking in any interests or hobbies. She was not included in the family outings and was expected to provide childcare for her sister-in-law’s children. The idea of Salena pursuing a career in her field was not acceptable to her husband and family. At any sign of resistance from Salena, her in-laws were not only verbally abusive to her, but threatened not to sponsor her family to Canada. Knowing how important coming to Canada was for her parents, she kept quiet.

Discussion Questions:

1. What dangers (if any) should service providers consider in Salena’s circumstances?

2. If Salena comes to you for assistance, what factors need to be considered?

3. What external factors related to FMHT prevent Salena from pursuing her career?

4. How/Why are Salena's circumstances relevant to FMHT?

5. How do current Canadian legislatures work for/against Salena's circumstances? (consider Bill S-7, 2014)



CHANDRA

Chandra was a 33 year old from a rural Bangladesh. A family friend, Tony, who had recently gotten divorced expressed an interest in taking Chandra to Canada as a caregiver for his 3 year old daughter. When her parents were not keen on the idea, he proposed to marry her. Her parent's and younger brother were all very quick to agree to the marriage on her behalf. Although uncomfortable with her family's decision, Chandra was told by everyone that she was lucky to have finally found a husband, and one that would take her to Canada. Swept up in the excitement of a life in Canada, she told herself that this was the best option for her. Her new husband applied for her visa under the caregiver program. When Chandra's family expressed concern at this, he told them it was only to expedite the process and that they would do the legal paperwork for the marriage once she was in Canada. Upon coming to Canada, Chandra discovered that her husband had a girlfriend and she really was going to be the caretaker as he had originally suggested. Upon considering her limited options, she decided that she would continue working as a live in caregiver since she was in a strange country where she did not understand the laws, customs and did not speak the language. When she confronted Tony and told him if he was not going to treat her as his wife, then he would have to pay her for the services she was providing, namely taking care of his child. Tony, however, claimed that he was not required to pay her services were paying for her food, shelter and other expenses such as her phone calls to her family back home. Any money left over after this was being used to pay for her plane ticket, fees to process the visa and other government forms, etc. In order to assert his dominance, he also raped Chandra several times. As she already felt uncomfortable speaking to her family about her predicament, the sexual violence made her feel too ashamed to discuss the abuse with her family and friends. Feeling helpless, Chandra resigned herself to a life of abuse.

Discussion Questions:

1. What choices did Chandra have in this situation?

2. How do current Canadian legislatures work for/against Chandra's circumstances? (consider Bill S-7, 2014)

3. What elements of FMHT do you see in this scenario?

4. As a Service Provider, what do you imagine your relationship with Chandra to be like?

5. In what ways is the abuser trying to control the victim?



CONCLUSION





CONCLUSION

Women and girls who have been trafficked through forced marriage generally do not identify themselves as victims of human trafficking. FMHT is a prominent issue that is often misunderstood and there are many underlying factors like social stigmatization and potential harm to their family members, which perpetuate the cycle of abuse.

In order to sufficiently assist clients, forced marriage should be recognized as a form of violence against women and a form of human trafficking under the current legal provisions. In particular, Legal Aid should include extend their mandate to serve survivors of human trafficking and forced marriage in claiming compensatory damages for pain and suffering. Circumstances around the crime and its consequences need to be duly considered to frame the support systems and resources for victims and their service providers.

RESOURCES

Alliance Against Modern Slavery

<http://www.allianceagainstmodernslavery.org/resources>

City of Toronto

Initiatives to Addressing Human Trafficking - Staff Report

<http://www.toronto.ca/legdocs/mmis/2013/ex/bgrd/backgroundfile-63985.pdf>

Initiatives to Addressing Human Trafficking – Council Decision

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX36.13>

New Transitional Housing for Young Victims of Sexual Exploitation and Human Trafficking – Council Decision

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX42.17>

Peel Committee Against Woman Abuse

Creating a Safety Plan

http://www.pcawa.net/uploads/1/4/7/1/14711308/pcawa_safety_handbook_2010_10_28_-_eng.pdf

PACT - Ottawa

Person's Against the Crime of Trafficking in Humans

<http://www.pact-ottawa.org/pact-documents.html>

South Asian Legal Clinic of Ontario (SALCO)

Who, If, When to Marry – The Incidence of Forced Marriage in Ontario

<http://www.salc.on.ca/SALCO%20-%20Who,%20If,%20When%20to%20Marry%20-%20The%20Incidence%20of%20Forced%20Marriage%20in%20Ontario%20-%28Sep%202013%29.pdf>

• All resources can also be found on SAWC webpage under Our Work > Forced Marriage Human Trafficking > Resources.

To access a full list of Support Services that work with South Asian families please visit the SAWC webpage. The document is meant to assist Service Providers across Canada with matters related to Forced Marriage and Human Trafficking.

<http://www.sawc.org/wp-content/uploads/2013/01/FMHT-Resource-List.pdf>


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