



**Submitted by:** Ethnic Communities Council of WA Inc. (ECCWA)

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## **Introduction**

Despite the criminalisation of forced marriage in Australia having come into effect a decade ago, the first conviction took place only this year followed by a three-year imprisonment of the mother who orchestrated the forced marriage which ultimately resulted in the homicide of her daughter by her new husband.

Taking the Attorney General's Department's recent public consultation as well as one conducted by the Australian Red Cross in 2019 as leading examples, we have facilitated our own consultation program along with an online survey. Here we will explore the outcomes of the discussions, survey responses and our assessment of recent academic responses to policies, specifically focusing on the response of host countries where such practices are mainly prevalent in immigrated populations. We will then provide a list of suggestions for how forced marriage in Australia could be approached through policies, services and education.

## **About ECCWA**

The culturally and linguistically diverse communities of Western Australia are represented by and have support from the Ethnic Communities Council of Western Australia (ECCWA), a preeminent advocacy group. Our goal is to advance equality of opportunity, harmony, and inclusivity for all.

## **1. Consultation Outcomes**

On September 17<sup>th</sup> 2024, we facilitated a consultation group session in person for those who have experienced forced marriage; 20 people from various organisations participated, including our two staff members and two board members. Simultaneously, we have created an online survey targeting those directly or indirectly involved in forced marriage for a better understanding of the current situation surrounding forced marriage, particularly in Western Australia. Here we will discuss our findings and the voice of those with first-hand experience of forced marriage.

### **1.1 Online questionnaire**

For our online questionnaire, we received a total of 10 anonymous responses. The link for the summary of the questionnaire responses can be found below:

[https://forms.office.com/Pages/AnalysisPage.aspx?AnalyzerToken=08dI8kz6yBA6sIXZ0ngUjuiM7u6uGDik&id=FhJfZLUmTUeMOuldAl7gY-BtZYoQvu9ClRndp\\_Pwod9UMURFTTFGSEpUSkpHUUJEUUZIqzIVVzBUVy4u](https://forms.office.com/Pages/AnalysisPage.aspx?AnalyzerToken=08dI8kz6yBA6sIXZ0ngUjuiM7u6uGDik&id=FhJfZLUmTUeMOuldAl7gY-BtZYoQvu9ClRndp_Pwod9UMURFTTFGSEpUSkpHUUJEUUZIqzIVVzBUVy4u)

Overall, the respondents' acknowledgement of forced marriage centred around the notion of consent and coercion, with the majority of them condemning the practice as undermining some sort of moral values. The prevalence of forced marriage in their respective community shows that there are a substantial number of cases, especially considering that this is a topic that people tend to keep to themselves. Most respondents think there should be more interventions both by the state and those who know the victims, and all responded that there should be more open communications in their communities. None of the respondents were aware of any community programs that target forced marriage.

## 1.2 Public consultation

There was an abundance of issues and suggestions raised by people in various positions who participated in our public consultation; many of these points are in line with our research of other countries.

First, the challenges discussed included:

1. **Limited intervention power:** The power of the police and other service providers such as marriage celebrants to intervene in suspected cases of forced marriage is very limited without pre-established protocols, often ending up sending the victims back home.
2. **Lack of funding:** Police and social services often lack the resources to intervene in a timely manner.
3. **Fear of social penalties:** Victims often choose not to report their case in fear of sending their family members to jail, and further social penalties and repercussions from their community.
4. **Lack of post-rescue support:** There is inadequate support for post-rescue victims such as safe housing, legal protection, and financial aid. An important point was made that financial dependency on the partner often poses a further restraint on the victims from escaping forced marriages or domestic violence. Furthermore, the recent housing shortage has posed further difficulties in providing safe accommodation to the rescued victims.
5. **Forced marriage cases in other communities** that are not necessarily connected to a particular ethnicity (e.g., cult groups, strict Christian households against LGBTQ+).

Next, the suggestions included:

1. More dynamic approach in **education** of consent and forced marriage that involves the entire communities, *including* faith leaders and older generations in active mutual discussions.
2. More **prompt allocation of resources** (financial, staff, accommodation etc.) once cases are identified.

3. **Confidential “safe spaces”** where victims can turn to without a fear of their family members becoming aware of them reporting (e.g., **counselling, hotlines**).
5. **Education opportunities** for the victims to enhance their employability and obtain financial independency.
6. **Initiatives and interventions** with a strong message of the Australian society against forced marriage, while minimising alienation of certain communities.
7. **Safe housing and support** for the post-rescue victims.
8. **Comprehensive training** for law enforcement and service providers (similar to those conducted by the Australian Federal Police) in wider sectors *including schools* to recognise the signs of forced marriage in various cultural contexts and intervene appropriately according to a shared protocol.
9. **Accurate and effective representation** of forced marriage that does not alienate any cultures or communities, but delivers a strong message that forced marriage is condemned legally and ethically in Australia no matter the reason.

## 2. Policy-Making in Other Host Countries

In many western countries such as the US, the UK, Germany and Belgium, the issue of forced marriage across borders has been approached via immigration policy. Many academic evaluations, often rather critical, show a widespread trend of demanding a much more ‘nuanced’ state intervention and public discourse associated with it to be less centred around gender or particular culture. Such criticisms are also seen in the media release by the Australian Muslim Women’s Centre for Human Rights on the recent conviction this year, and they reflect the dilemma in host countries that criminalisation of forced marriage and state intervention necessarily mandate all citizens and residents to accept the illegality of it to ensure consistency with the values of the nation as a whole, while those directly involved often have a much more nuanced and ambiguous perception of such practices.

## 3. Our Suggestions

Based on the outcomes of our consultation, we propose that:

1. There be **more resources** allocated to the law enforcement and other services so that identification of forced marriage cases leads to more **prompt actions**, as the longer it takes the more in danger the victims will be.
2. There be more **comprehensive education** of forced marriage and cultural contexts in schools, law enforcement, service providers and communities in a way that it does **not** alienate or demonise any cultures, while simultaneously sending a **strong message** that forced marriage is absolutely condemned in Australia by law.
3. There be more thorough **support for the post-rescue victims** that will lead to their **financial independence**, while providing them with **safe housing** if imminent danger is

identified within the household.

4. Representation of and initiatives against forced marriage be done in a way that **does not alienate or demonise** any cultures or communities, while sending a **strong message that it is legally condemned in Australia**.

The recent policies against forced marriage in several host nations and the academic reactions show a disparity that reflects the dilemma between the public good and individual needs. Although navigating such a dilemma often proves to be difficult for policy makers, it is possible to seek a **broad consensus centred around the notion of consent and individual freedom** which are widely shared by Australian citizens. We believe that the clear distinction between consent and non-consent will be crucial in judiciary and legislative interventions. For example, the criteria could involve the extent of knowledge the victim had of the situation and whether they had a choice to refuse before entering forced marriage.

Furthermore, while inaccurate or misleading association of cultures and forced marriage should be avoided, we do not consider it problematic to openly discuss such practices in relation to particular cultures if they do in fact bear internal aspects that tend to encourage them. While it is helpful to clarify that **the criminalisation is not to be taken as a universal moral condemnation of the practice nor is it meant to morally alienate any communities**, we must simultaneously stress **the importance of individuals as Australian citizens or residents understanding and committing to the law**. While we strongly recognise the importance of the public discourse addressing that **forced marriage is not exclusive to certain cultures**, we suggest the state to encourage a broader acceptance of the Australian attitude against forced marriage amongst all citizens and residents as a crucial key to reducing forced marriage cases.

Lastly, we would like to encourage further discussions on and support for the potential social costs that the victims may bear as a consequence of speaking up for themselves as is often the case. The concern of expected isolation or even attack from their community is one of the most influential deterrents for the victims from seeking outside support and reporting the case. We suggest there be **more resilient and readily available public services that allow the victims to retain their connections with their family and community** directly or indirectly. Furthermore, we strongly suggest there be independent opportunities for those who experienced forced marriage in one or the other can connect with others regardless of whether they wish to report their case in order to **minimise isolation and further withdrawal of individuals**.



**Mrs Barbara van Reyk** has retired after 25 years in legal practice as a senior lawyer at the State Solicitors Office, specialising in criminal justice issues mainly in the sentencing of offenders. After retirement, she served two years on the Prisoners Review Board and is now an advocate with the Ethnic Communities Council of WA.

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