



Child, early or forced marriage in the Australian Muslim community

A guide for young women

About us



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

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 are a non-religious organisation reflecting the sectarian, cultural and linguistic diversity within the Muslim community. We take a non-religious, non-sectarian approach to our work and adopt a social justice lens when Islam is used to justify any infringement against women. This allows us to work with all Muslim women. We believe that there is not one view of Islam that represents all Muslims in Australia and that this diversity of Muslims in Australia is a strength.

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.



Australian Government
Department of Home Affairs

An Australian Government Initiative.

About this booklet

People from many different backgrounds – many nationalities, cultures, races and religions – make up Australia's population. This means that there are also many different understandings, traditions and experiences related to marriage – such as what marriage means, at what age it can or should happen and how it should happen. It is now well recognised around the world, including in Australia, that child and forced marriages go against a person's basic human rights. The basic rights to safety and choice are covered in the Universal Declaration of Human Rights (1948) and special rights for women and children are covered as well.

Protecting the rights of children and young people is important to many families and communities both in Australia and around the world. These rights have been added to Australian law to protect children and young people and anyone else who is being forced into a marriage.

We have developed this information booklet to help young people from migrant and refugee communities better understand what happens in these situations, what their rights are and what the laws in Australia are regarding child, early or forced marriage (CEFM). Our organisation works mostly with the Muslim community, so this booklet focuses on Muslims; however, much of the information here is also relevant for other ethnically diverse communities. The booklet draws on examples that are specific to the challenges that Muslim young women face.

What about boys and men?

In our experience working on the issues of child, early and forced marriage, communities have sometimes discussed that boys and men are also affected by this issue although it is much less common than girls and women. While this booklet talks about the issue from the perspective of Muslim girls and women, the information can be applied to boys and men as well. The law against child marriage and forced marriage in Australia applies to boys and men as well and while the pressures for men and boys might be slightly different, the impact and outcomes are very similar.

Marriage in Australia

Let's start by developing a common understanding of what marriage is.

What is marriage?

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

- are at least 18 years old¹
- are not married to anyone else at the time
- 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.

What is consent in marriage?

The word consent is another way of saying **permission**.

It means that both parties are getting married with the **full knowledge** that the marriage is taking place, and to whom they are getting married to. It requires both parties to freely allow, agree to or want the marriage.

For a marriage to take place, consent must be **real**.

This means that you must truly agree to or want the marriage and are free to refuse the marriage without fear of punishment or consequences should you not want to get married or wish not to marry a particular person, or should you change your mind before the marriage.

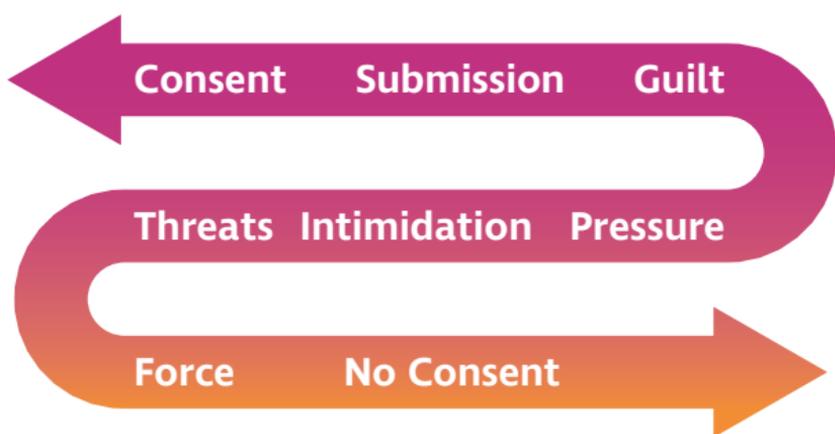
¹ In rare circumstances, a court may allow a person aged 16 or 17 to marry a person aged 18 or over, but it is always against the law to force anyone to get married.

It means that each person:

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

Islam defines marriage as a contract between two people, entered into with consent. Consent is very important to an Islamic marriage, so much so that the giving of consent is part of the Muslim marriage ceremony and the giving of consent for marriage must be witnessed by those acting as witnesses for the marriage ceremony. Like Australian law, Islam holds consent as absolutely necessary for a marriage to be recognised.

The use of lies, tricks, threats, pressure or force in marriage are the opposite of consent. For example, getting married just to make your parents happy is not consent. We can think of consent as a scale or continuum: on one end there is consent and on the other end there is no consent given; in the middle, there are all the different ways we may be pressured, forced, intimidated or threatened into giving our permission.



Now that we understand what marriage and consent in marriage is, let's talk about what the different kinds of marriages mean.

Let's start with what a forced marriage is

A forced marriage is when a person has been made to marry someone **against their will**, that is, without their permission or consent. Forced marriages can happen to anyone regardless of age.

Force can take many forms. It can be physical force, emotional pressure, threats, tricks, deception, coercion or blackmail. It means creating a situation in which the person feels she or he has no choice, is trapped, and finds it difficult or impossible to refuse without severe consequences. It can also mean pushing a person who is either not old enough or not mentally capable enough (e.g. because of a mental disability) into marriage.

Forced marriage is against the law in Australia as well as in many Muslim countries in the world.

What is child marriage?

Child marriage is a marriage where one or both people getting married are **under the age of 18**.

Child marriage is a forced marriage because of the understanding that children are not emotionally and mentally mature enough to give consent to a decision as serious as marriage.

Any marriage of a person under 16 is against the law. In very special circumstances, it is legal for a person aged 16–17 to marry a person aged 18 or over if a court gives permission.

Child marriage is a form of child abuse as it often involves threats, imprisonment, violence, emotional abuse, forced sexual relations, forced pregnancy, and being forced to leave school.

What is an early marriage?

Early marriage is when a young person gets married as a very young adult, that is, **soon after the age of 18**. This may be by choice or by force.

Sometimes people use the term early marriage for child marriage, but in this booklet, we make the difference between the two clear because child marriage is against the law in Australia while early marriage (soon after the age of 18) is not (unless it is forced).

What about arranged marriage?

An arranged marriage is when a marriage partner is chosen (or suggested) by the parents or relatives and not by the two people who are to be married.

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 they do so, depends on the family and community. Some couples may not spend much time together until their wedding day while others may go through an introduction and subsequently meet each other more regularly before an engagement and the eventual marriage.

If both partners freely agree to or are in favour of their parents' or families' decision and also have the free choice to refuse, this is not a forced marriage. Arranged marriages, where there is no force, are not against the law.

Sham or fake marriages

There is also something called a sham or fake marriage which is illegal. This means marrying someone to gain some sort of advantage such as getting a visa to enter or reside in Australia.

Age of marriage in Australia		
Under 16 years	16–17 years	18 and over
Strictly against the law to get married if you are under 16 years old.	Against the law unless you have parental consent, permission from a court and you are marrying someone 18 years or over.	Legal to get married unless it is a forced marriage and you have not given (or are incapable of giving) free and full consent. This could include if you are being pressured, threatened, forced or afraid to say no for any reason.

Why do child, early and forced marriages happen?

There are many reasons why in some communities families marry off their children, mostly daughters, early, sometimes even before they are adults. Some of them are:

Lack of consent – Women and girls are sometimes not given the option to say no or are pressured into getting married because they are seen as not knowing what is best for themselves.

Gender inequality – At the heart of the issue of child, early and forced marriage lies gender inequality. This is related to how society sees and treats girls/women and boys/men, and their different expectations from them in terms of roles and behaviours.

Gender roles and traditions – Traditional gender roles demand that a woman's main role in society is to start and raise a family, and therefore in many traditional communities this process tends to begin early. Such traditions can be hard to challenge, and so they often continue without questioning.

How do child, early and forced marriages happen?

There are several different ways in which girls under the age of 18 or young adult girls are persuaded or forced to marry. Some of them are:

- Girls are sometimes persuaded through genuine love, affection and concern that their marriage will be good for the family.
- Girls are sometimes told that it is important to fulfil cultural or religious norms, rules, responsibility or duty.
- Some girls are tempted with incentives or psycho-emotional bribes – such as more money, freedom from strict parental control, or freedom to be independent and pursue their personal goals.
- Girls can also be tricked into marriage.
- Some girls can be subjected to fear tactics or direct intimidation, for example, the threat of harm to themselves or their family if a marriage is refused.
- Other girls fear being socially isolated by family and community if they choose not to marry.

Why would young girls choose to be married early?

Some young women may choose to marry early or willingly accept their family's decision to marry them early without any force being applied. Some reasons for this are:

Cultural or religious duty – Girls may see early marriage as completely normal or a cultural/religious duty and many girls are brought up to believe that marriage is their main and most important goal in life.

Not much choice – Many girls believe that they have no choice but to conform to the family and society's expectations. This means they have not consented to the marriage.

Freedom – Many girls may see marriage as a way of gaining freedom by escaping an overly restrictive family.

Escape from family issues – Marriage may be an escape from family problems such as conflict, abuse, or financial issues.

Love and romance – Many girls see marriage as linked to romance and fairytale fantasies.

Having sexual relationships – Marriage provides the only acceptable way for young people in many communities to freely interact with and engage in emotional and sexual intimacy with a partner.

Why would parents and families force their daughters to get married?

Fears and motivations that encourage families to continue this tradition include:

Women's/girls' voices are not valued – In traditional, male-dominated settings, women's and girls' opinions and wishes are often not given much importance, and force and pressure may be used to enforce what the family thinks is best.

Fear of sexual relationships – Families may feel scared that young girls may become involved in sexual relationships which are not approved of or not allowed, in many cultural/religious communities.

The family-knows-best idea – Many families believe that young people, especially girls, are not capable of making serious decisions and thus their parents/experienced relatives must take control of their lives.

Financial reasons – Parents may believe their daughter will become more financially secure at an early age through marriage.

Religious interpretation – Some families may have an understanding that marriage is a religious obligation and should be completed when a girl reaches maturity.

To manage 'bad' behaviour in girls – In traditional societies, marriage is often seen as a solution to what families see as behavioural problems in their sons or daughters, such as rebellious or non-conforming behaviour, increased independence, or lack of responsibility.

Attachment to culture – Communities and families that are new to Australia sometimes become even more attached to traditional norms when they feel that their children will forget their culture. Persuading their child to marry someone from within the culture is a way to keep the community's culture alive.

The law in Australia

The law in Australia aims to protect you.

A law against forced marriage was introduced in Australia in 2013, stating that **it is illegal to force a person into a marriage, and to be a party to it** (unless you are a victim of the forced marriage yourself). This includes both religious and cultural marriage ceremonies.

Forced marriage is where one party to the marriage (victim) marries the other person without freely and fully consenting because of the use of coercion, threat or deception; or because they were incapable of understanding the nature and effect of the marriage ceremony.

The law is designed to protect both adults and children by making it an offence to coerce, threaten or deceive a person into getting married. Forced marriage has recently (2018) also been included in the Family Violence Protection Act 2008 (Vic) as a form of family violence.

These laws apply to:

- legally recognised marriages, as well as cultural or religious ceremonies and registered relationships
- marriages that happen in Australia (including where a person was brought to Australia to get married), as well as where a person is taken overseas to get married
- the involvement of any person in the forced marriage, including family members, friends, wedding planners and marriage celebrants
- anyone no matter what gender, age, sexual orientation, culture or religion.

What does Islam say about child, early and forced marriages?

Many Muslim women and girls who fear or experience a forced marriage or other forms of family violence, value and take guidance from the Qur'an and what Prophet Muhammad (Peace be upon him – PBUH) says about these issues. People have a lot of opinions on what religion says, but many of these are not based on what is written in the Qur'an and may be simply what the culture and family have practised for many years.

Here are some key messages and values in the Qur'an about women and girls:

- The Qur'an asks men to treat women and girls well, and to respect their rights.
- The Qur'an emphasises mutual harmony, love and respect between a husband and wife.
- It promotes justice and good treatment of women and supports their rights and responsibilities just as for men.
- It emphasises that consent (permission) has to be given by both the man and the woman who are getting married.

Similar to the Qur'an, the Prophet Muhammad (PBUH) in numerous *hadiths* or sayings, has been recorded emphasising the importance of a woman's consent in marriage. Below are some examples from the Qur'an and a *hadith* that focus on the issue of marriage and consent.

In the name of Allah, the Merciful, the
Compassionate

***The Believers, men and women, are protectors
one of another***

At-Tawbah 9:71

In the name of Allah, the Merciful, the
Compassionate

***It is He who created you from a single person,
and made his mate of like nature, in order that he
might dwell with her (in love).***

Al-A'rāf 7:189

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'.***

*Fathul Bari Sharah Al Bukhari 9/194,
Ibn Majah Kitabun Nikah 1/602*

So, based on these key messages and values, many scholars make the strong point that a religion which speaks strongly of protection, justice and equality could not possibly favour force, abuse and violence against women at the same time.

Getting help

Now that we know what the different types of marriage are and what the law says about each of them, it's important to understand how to get help. This could be either getting help for yourself or for someone you know. You may be feeling a strong sense of guilt, shame and betrayal for wanting to go against your family and community and asking for help, and this may cause you a lot of stress, but there are people who you can talk to about your situation and your options.

Worrying about all this can be very hard and stressful. There are often a lot of questions, mixed feelings and fears that can be confusing. This is because these issues are personal and involve our families and the people closest to us.

Someone who is at risk of being in a child, early or forced marriage may worry about:

- upsetting their family
- being judged by people
- losing their family/community
- what to do – who to go to for support and advice
- what the process will involve – what they will have to do and how it will affect their family
- financial issues
- their future.

You may also feel scared and guilty and blame yourself for either causing an unpleasant situation and for what some would see as hurting your family. Remember that you are not alone in dealing with this; there are many people who can help you understand and deal with these feelings.

All these worries are completely normal and understandable. People in society, even our own family members and family friends, may have a lot of opinions on marriage, relationships and women's roles which may make us feel even more confused and scared about what decision to make.

When this happens, it can help to take a step back, give yourself time to think about the situation with a clear head, reach out for support and then decide what to do.

If the situation is an emergency, call the police. If not, talking to someone whose opinion you trust may help you to think more clearly. You could also get professional advice from a legal or support service and then make a decision based on your needs and safety for now and for the future.

Support services

There are many professional services around Victoria that can support young women in making informed decisions about marriage. These services can provide helpful information and support you in your immediate needs through counselling, legal aid and safe accommodation. The workers at these services are trained to listen to you, keep all your information private and to not judge your decisions.

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

Support services

State-wide 24-hour crisis support

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-hours 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 overseas to be forcibly married

Assistance and support

Australian Muslim Women's Centre for Human Rights

A specialist service that works with Muslim women and girls.

Monday – Friday 9:00am – 5:00pm

Telephone: (03) 9481 3000

Assistance and support

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

My Blue Sky

Provides support (including free, confidential legal advice) to people at risk of forced marriage

Telephone: (02) 9514 8115, info@mybluesky.org.au

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



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