

Custom or Crime? (Part I of IV) Catalysts and Consequences of Forced Marriage

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This article is the first in a four-part series about forced marriage in the United States. Part I defines forced marriage and distinguishes it from arranged marriage, informs the reader about who could be a forced-marriage victim or perpetrator, and explores the catalysts and consequences of harmful marriage practices. Part II evaluates existing US legal remedies and resources for combatting forced marriage. Part III explores the fierce, ongoing debate over whether forced marriage laws should be civil or criminal in nature. Part IV sets forth recommendations for a comprehensive national response to protect and empower US-based victims and survivors seeking to avoid or flee forced marriages.

*Everywhere, people are rallying around the belief that women's rights are human rights. They are coming to grips with what it means that societies cannot flourish if half their people are left behind.*¹ —Hillary Rodham Clinton

Most Americans are stunned to discover that a 2011 national study conducted by the Tahirih Justice Center revealed as many as 3,000 cases of forced marriage across 47 states in the preceding two years alone.² And Tahirih Executive Director Layli Miller-Muro warns, "We've already learned

enough in the survey to tell us we're just hitting the tip of the iceberg."³

FORCED MARRIAGE AND ARRANGED MARRIAGE

Forced marriage is often conflated with arranged marriage, making it difficult to recognize

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as a form of gender-based violence.⁴ The term “forced marriage” describes circumstances in which one or both spouses enter into or remain in a marriage against their will, under physical force or psychological duress, or without free and valid consent.⁵ Parents or other family members, community elders, religious leaders, matchmakers, international marriage brokers, or even human traffickers can broker forced marriages. Forced marriage is distinct from “arranged marriage,” wherein both parties freely consent to receive assistance from a third party to identify a prospective spouse, but the ultimate decision of whether, when, and whom to marry rests entirely with the bride and groom.⁶

The US Department of State draws a bright line between *forced* and *arranged* marriages: “Arranged marriages have been a long-standing tradition in many cultures and countries. The Department respects this tradition, and makes a very clear distinction between a forced marriage and an arranged marriage.”⁷ In reality, the line between *forced* and *arranged* marriage is a blurry one, and the two can be difficult to distinguish. A marriage can even begin as *arranged* and end up *forced*.⁸

There have been at least 3,000 cases of forced marriage in 47 states the last two years.

Although bridenappings⁹ do still occur, most forced marriages are the product of far subtler, though no less insidious, coercive measures.¹⁰ John Fotheringham, consultant at Fyfe Ireland Solicitors, experts in matrimonial law, said: “The literal shotgun marriage—marry this man or we’ll kill you—is extremely rare. What is more likely is marry this man or we’ll withdraw your university funding, or your mother will kill herself, or you’ll bring shame on the family. That is still a forced marriage.”¹¹ In an attempt to illustrate the subtleties that can hinder people’s ability to differentiate between the two, the United Kingdom’s Oxfordshire National Health Service (NHS) situates *arranged* and *forced* marriages along a consent continuum.¹² According to NHS:

A marriage becomes forced if there is any duress, whether physical or mental, to marry without free and valid consent. It is the perception of the individual under

pressure to marry which matters when defining duress. As one woman said: “A person knows when they are being forced into marriage against their will—that has to be the starting point”.¹³

It is the perception of each individual spouse—not the perceptions of the parents, advocates, or authorities—that determines whether a marriage is forced or consensual.

SOME RECENT EXAMPLES

Although numerous forced marriages have made the news, most Americans still perceive forced marriage as a practice that impacts only others in developing countries. Recent news reports documenting “honor”-based violence in immigrant families in the Americas illustrate that, when families migrate, their customs and belief systems migrate with them.¹⁴ In Phoenix, Ariz., an Iraqi immigrant woman was arrested on allegations that she padlocked her 19-year-old daughter to a bed and burned the girl’s face and chest after the girl refused the marriage that her parents had arranged for her to a 38-year-old man.¹⁵ Police said the girl’s younger sister was also arrested for holding her down during the assault.¹⁶

A 14-year-old Greenfield, Calif. girl was sold by her Mexican-national father into marriage with an 18-year-old man in exchange for 100 cases of beer and a few cases of meat.¹⁷ When her new spouse failed to deliver the promised bride price, the girl’s father asked the police to retrieve his daughter and bring her home.¹⁸ By the time the authorities intervened, the girl’s husband had already earned statutory rape charges by consummating the marriage.¹⁹

A Peoria, Ariz., father of Iraqi origin was recently convicted in connection with his daughter’s death after he ran her over with his car in what was characterized as an “honor” killing.²⁰ The man had warned his daughter a few weeks earlier that “something bad would happen” when she fled the marriage arranged by her parents and became involved with a man of her own choosing.²¹

The families of the forced-marriage victims identified in the Tahirih study represent 56 different countries of origin and a diverse range of faiths.²²

Nor are harmful marriage practices in the Americas limited to foreign nationals or immigrant communities. As soon as she turned 18,

Lee's mother squeezed her into a revealing gown and paraded her before the single men of Montreal's Jehovah's Witness congregation. Five weeks later, Lee found herself married to a man of her mother's choosing. "Once the announcement was made in church that we were getting married," Lee explains, "I couldn't back out of it. I wanted to run, but I didn't dare. The Witnesses believe that when you're married, you are obligated to deliver sex whenever your husband wants it. It brought back [sexual abuse] I had gone through as a child and I became extremely depressed and suicidal."

Warren Jeffs' Fundamentalist Church of Jesus Christ of Latter-Day Saints (FLDS) and the Tony Alamo Spiritual Ministry are two widely publicized examples.²³ Elissa was one of numerous young girls forced into marriages in secret ceremonies conducted at a roadside motel in the Nevada desert by Texas polygamist Warren Jeffs, who identifies himself as an FLDS prophet.²⁴ Elissa testified that Jeffs forced her into a marriage with her adult first cousin when she was just 14 years old.²⁵ Prosecutors say the forced marriage resulted in Elissa's rape.²⁶ "I was trapped," says Elissa, "I felt like I had nowhere to turn. I did not want to go through with this marriage. I felt, honestly, what it was like to die."²⁷

A marriage becomes forced if there is duress.

Amy, Desiree, and Jeanne were forced into marriage by polygamous self-proclaimed prophet Tony Alamo and counted among his flock of abused underage wives. The girls were in their early teens when Alamo took them as "spiritual" wives and required them to have sexual intercourse with him.²⁸ The youngest of Alamo's wives was just eight years old when her pastor forced her to wed.²⁹

The so-called "shotgun wedding," wherein parents force a pregnant daughter and the presumed father of the fetus to marry, is the most notorious contemporary harmful marriage practice.³⁰ This custom persists in US families of nearly every imaginable race, faith, and heritage.

In order to craft effective, culturally competent solutions, US lawyers and other responders must gain a nuanced understanding of the catalysts and consequences of harmful marriage customs in

communities where forced and early marriage are mainstream practices.

CATALYSTS FOR FORCED MARRIAGES

To understand and eliminate harmful marriage practices in the United States, it is essential to situate marriage customs within any given community's broader cultural context. Parents around the world cite a wide variety of justifications for forcing their children into marriage, including:

- Controlling sexuality (particularly the sexuality of women and girls);
- Controlling unwanted behavior (*e.g.*, alcohol or drug use, wearing make-up or behaving in what is perceived to be a "Westernized manner");
- Preventing "unsuitable" relationships (*e.g.*, outside the ethnic, cultural, religious, or caste group);
- Protecting "family honor";
- Responding to peer group or family pressure;
- Attempting to strengthen family links;
- Achieving financial gain;
- Ensuring land, property, and wealth remain within the family;
- Protecting perceived cultural or religious ideals;
- Ensuring care for a person with special needs when her parents or existing caregivers are unable to fulfill that role;
- Assisting claims for lawful residence and citizenship; and,
- Fulfilling long-standing family commitments.³¹

Extreme poverty and humanitarian crises are additional catalysts of forced and early marriage practices, particularly in immigrant families who bear a heavy burden of responsibility for the welfare of

extended family members in developing or conflict-ridden countries.

Women's advocate Debjani Roy explains that, in certain cultural traditions in which "marriage is seen as a union of not only individuals, but of families," parents remain integrally involved in selecting spouses for their children:

[I]t has been the parents' primary duty, role and responsibility to arrange the marriage of their son and/or daughter. Historically...in many parts of the world, individuals were married at a younger age. Due to their lack of experience, they were not entrusted with the decision as to who they would marry...[M]arriage was and often still is seen as a union of not only individuals, but of families. One reason for this is because the joint family, where generations of family members live in the same household, used to be the standard living arrangement...[U]pon marrying...the bride would move to her husband's home, as custom dictated...it [was] only logical for parents to assume the responsibility of selecting spouses for their sons because the bride was part of the whole family environment.³²

Although the worldwide average age at time of marriage is gradually increasing, even parents of *adult* sons and daughters are sometimes unwilling to entrust their children with the choice of whether, when, and whom to marry.³³

When families migrate their customs and beliefs migrate.

Deeply rooted traditional social mores—such as fears surrounding promiscuity, homosexuality, and extramarital pregnancy—precipitate many forced marriages. Forced marriage survivor and advocate Jasvinder Sanghera describes *honor* as "a learnt complex set of rules that an individual has to follow in order to protect the family name and maintain family position."³⁴ An individual who is perceived to have violated this code of conduct may be severely punished in the name of protecting or defending the family's "honor." Nonconforming behaviors as simple as wearing makeup or Western clothing, talking to a nonfamily member of the

opposite sex, or resisting an arranged marriage can trigger extreme—even fatal—reprisal.³⁵

Questions of Perceived 'Honor'

In countless cultural traditions, a family's perceived honor is inextricably linked to the daughters' virginity prior to marriage.³⁶ Vidya Sri, a US forced-marriage survivor and advocate, told Inter Press Service, "My parents were very strict about family honour. It was [important] to my father that I remain untouched, unspoiled, pure and pristine because I would be of marriageable age very soon."³⁷ Outraged upon discovering that their daughter was dating a boy from her school, Sri's parents sent her to India, telling her she could not return without a husband.³⁸ Under acute emotional coercion by her family, Sri married a man of her parents' choosing.³⁹

In some cultures, girls who have been raped—often perceived as shamed and shameful to their families—are given in marriage to their rapists.⁴⁰ Patriarchy and superstition can also perpetuate the promotion of child marriage. For example, in Nepal some "believe that a parent's soul will rest in peace in heaven if they marry off their daughters before her first menstrual cycle."⁴¹ Many parents force their daughters into nonconsensual marriages in a desperate bid to preserve the family "honor" and the girl's marriageability within their ethnic community.⁴²

In Malaysia, a marriage law and corresponding public campaign aggressively encouraged adolescents to marry, offering monetary stipends, homeownership incentives, and monthly allowances to teens who agree to "tie the knot." Malaysian leaders justified the law by alleging that it will limit the social ills that result from extramarital sex and pregnancies, and reduce the number of abortions and children born out of wedlock.⁴³

Parents who disapprove of their child's non-traditional sexual orientation⁴⁴ sometimes view forced heterosexual marriage as a "solution" or "cure." The United Kingdom's Forced Marriage Unit⁴⁵ reports fielding requests for assistance from numerous young gay persons confronting forced marriages.⁴⁶ When Reviva's⁴⁷ parents discovered that their teenage daughter was gay, they began to arrange weekly meetings with prospective grooms.⁴⁸ Reviva says her parents resorted to exorcism and violence when she resisted being forced into a heterosexual marriage⁴⁹:

The worst thing they tried was burning my hand on the stove. Anything they could

grab, they'd hit you until you'd sort of pass out. They always tried to hit me where it couldn't be seen, to hide the scars. Because don't forget I was meant to get married, so I was meant to have skin that isn't damaged.⁵⁰

At one point, Reviva's father orchestrated an Islamic marriage, *in absentia*, to a man in another country who Reviva had never even met.⁵¹ Reviva repeatedly attempted suicide, a course of action that she says her parents ultimately encouraged:

I was damaging the family honour. I was making the family [look] like a modernised, westernised, filthy family. So what they wanted to do is get rid of what is damaging the honour. They put you in a room on your own, I don't get any food, or any water, and I have to just sit there and wait to die or kill myself.⁵²

To facilitate suicide, her family left a gun, a knife, pills, a can of gasoline, and a box of matches in the room.⁵³ Reviva ultimately escaped with the help of the LGBT Forced Marriage project.⁵⁴

Children with Special Needs

Parents who lack the resources to care for a child with special needs, or who fear that nobody will be left to care for the child when the parents grow old or pass away, sometimes view marriage as an opportunity to ensure the child's long-term care and support, normalize her life, and reduce the social stigma associated with the disability.⁵⁵ According to Mandy Sanghera, a trustee of VOICE UK, a charity that supports people with "learning disabilities" who have experienced crime or abuse:

Some families see marriage as a way of providing a carer for their child, so feel they have their child's best interests at heart... We mustn't forget... that marriage is a right for people with learning disabilities who have capacity. We have to make sure that people are supported to enjoy that right and not forced into marriage.⁵⁶

Poverty

Poverty motivates some families to marry off children that they can no longer afford

to support.⁵⁷ Unbeknownst to eight-year-old Mannal,⁵⁸ when her father ran into financial troubles, he sold her into marriage with a 59-year-old man in return for 30,000 riyals, the equivalent of \$8,000.⁵⁹ "I was negotiated over like a goat" said Hadizatou, another victim, who was sold for the equivalent of \$500 into marriage with a man in his 60s when she was only 12 years old.⁶⁰ Her husband raped and beat her, and forced her to perform hard labor.⁶¹ Hadizatou was sentenced to six months in prison for bigamy after she eventually escaped her abuser and married a man of her own choosing.⁶²

The "shotgun" wedding persists in every race, faith, and heritage.

A devastating natural disaster or humanitarian crisis can also leave families impoverished and vulnerable, prompting some to sell their children into labor or early marriage in order to ensure all of their children's survival.⁶³ Bibi was 15 years old when she died in childbirth after her family sold her into a marriage with a 34-year-old man, and hers is hardly an isolated case.⁶⁴ Rates of early marriage and pregnancy surged dramatically in flood-devastated areas of Pakistan, where families who lost everything sold their young daughters into marriages in an effort to feed and shelter both the child brides and the rest of the family.⁶⁵ According to Plan UK, disasters and emergencies have precipitated many forced and early marriages:

Food insecurity in Kenya has led to the phenomena of "famine brides," drought and conflict in Afghanistan have forced farmers to arrange and receive money for the early marriage of their daughters, and girls in Indonesia, India and Sri Lanka have been pressed into marriages with "tsunami widowers," in many instances doing so to receive state subsidies for marrying and starting a family. Early marriage increased in Indonesia after the 2004 tsunami as families in refugee camps saw it as the only protection for their daughters from rape and in Sri Lanka, where rates of early marriage are normally relatively low, girls have been married to protect them from recruitment into militia.⁶⁶

While such extreme circumstances may strike most Americans as remote, many immigrant families—some of whom came to the United States to escape just such crises—bear staggering burdens of responsibility for extended family members living in developing and conflict-ridden countries. Marrying off a daughter for the bride price, or to enable a loved one to lawfully immigrate to the United States and escape poverty or persecution, presents a viable solution to a pressing problem.⁶⁷

Bride price and dowry traditions can further perpetuate harmful marriage practices by creating an additional financial incentive.⁶⁸ The bride is treated as chattel without any right to self-determination.

Religious Doctrine

Many parents cite religious doctrine as a basis for harmful marriage practices.⁶⁹ The United Kingdom's Multi-agency Practice Guidelines characterize such interpretations of religious doctrine as "misguided."⁷⁰ Sanghera says that her mother quoted religious passages to her in order to convince her to accede to an unwanted marriage.⁷¹ "No religion supports honor crimes or forced marriage," says Sanghera, and "using religion as a defense for such actions is false."⁷²

Although the catalysts of harmful marriage practices around the world may not resonate with mainstream America, Tahirih's Director of Public Policy, Jeanne Smoot, explains their relevance to US advocacy efforts:

In forced marriage cases arising in immigrant communities, it is striking just how much of the old world is carried to the new. While some of these dynamics and drivers may change when a family immigrates to a new host country, they may simply manifest themselves in different ways... [T]hey still inform the family's understanding and framework for what's acceptable and even what's "moral," right, and in a child's best interests.⁷³

The uncertainty and unease that characterize the US immigrant experience compel many first-generation immigrants to adhere to familiar beliefs and customs in order to assert control over an unfamiliar environment.⁷⁴ Only by taking a global view of forced and early marriage customs can we

begin to address these practices in our own immigrant communities.

CONSEQUENCES OF FORCE MARRIAGE

The physical and psychological consequences of forced and early marriage can be devastating and enduring.⁷⁵ Often, the bride is an adolescent girl and the groom a significantly older man.⁷⁶ When a girl marries, she is expected to consummate the union and reproduce. According to the Forum on Marriage and the Rights of Women and Girls, "The young bride's status in the family is frequently dependent on her demonstrating her fertility—often within the first year of her marriage."⁷⁷ Girls who resist consummating the marriage risk being beaten or raped. Even if she succeeds in annulling the marriage, a young bride who has consummated her marriage will likely be ostracized by her family and regarded as unmarriageable in the community with which she identifies.⁷⁸

The power dynamics that are characteristic of underage marriages leave many child brides without the sway to negotiate for safe sex or control over the number and spacing of their babies. According to the United Nations' Department of Economic and Social Affairs (DESA):

Marriage patterns have implications for the status of women, their health and fertility... [E]ntry into marriage usually marks the beginning of exposure to childbearing. Early entry into marriage exposes women to the risks of early childbearing and may also impede improvements in their educational, economic, and social status. Where young females marry older males, large age gaps between spouses could contribute to marginalization of females and low status of women.⁷⁹

Other common consequences of forced marriage include curtailed education, reduced autonomy, servile marriage conditions, domestic violence, sexual assault, and even suicide.⁸⁰ Some families resort to violence or even murder to punish girls who are perceived to have shamed themselves and dishonored their families by resisting or fleeing a forced marriage.⁸¹

In communities where early marriage of girls is commonplace, early sexual activity, pregnancy, and childbirth are also common, resulting in higher

rates of HIV/AIDS and other sexually transmitted infections, increased infant and maternal mortality and morbidity, and other reproductive health issues, such as obstetric fistulae.⁸² According to the Global Health Council on Adolescent Youth:

The immature reproductive and immune systems of adolescent girls increase their risk for sexually transmitted infections and complications during pregnancy and child-birth. Girls aged 15 years and younger are five-times more likely to die during child-birth than women between the ages of 20 and 24 years old.⁸³

The disturbing duality of the husband-as-father power and control dynamic is well illustrated by a recently reported case involving a 13-year-old forced-marriage victim in Washington, DC.⁸⁴ The girl's new husband enrolled her in public school by saying he was her father, and then raped her every night when she came home.⁸⁵ Domestic violence, rape, and sexual assault are pervasive in forced and early marriages, and child brides frequently find themselves in servile conditions.⁸⁶ Married girls are typically removed from school at an earlier age, diminishing their capacity for independence and perpetuating a cycle of poverty.⁸⁷

Under acute emotional coercion, she married a man her parents chose.

Many of the behavioral indicators of forced marriage resemble indicators of domestic violence: physical and sexual abuse; threatening behavior; isolation and imprisonment; abduction; psychological and social pressure, including emotional blackmail; restrictions on lifestyle such as limitations on movement, association, dress code, education, and career choices; oppressive financial control; and other demeaning, humiliating, and controlling behavior.⁸⁸ When 12-year-old Reem protested her father's plans to force her into marriage with her 30-year-old cousin, her father gagged her and tied her up, threatening to kill her for defying him.⁸⁹ Reem tried to commit suicide twice after the wedding.⁹⁰ When she resisted consummating the marriage, her husband raped her, choking and biting her, dragging her by the hair, and overwhelming her by force.⁹¹ Some families resort to extreme

violence, such as beheading⁹² and other methods of "honor" killing⁹³ to punish women and girls who are perceived to have shamed themselves and dishonored their families by resisting or fleeing forced marriages. Aisha fled her forced marriage to escape beatings and abuse, only to be hunted down and severely mutilated as punishment for running away.⁹⁴ Her brother-in-law held her down while her husband used a knife to slice off her ears and nose.⁹⁵ When she lost consciousness from the pain, they left her to die. Aisha awoke choking on her own blood.⁹⁶

People with Disabilities

According to the Ann Craft Trust, an organization that works to ensure that service providers supporting people with disabilities are aware of abuse and protection issues, forced marriage can have grave consequences for persons with disabilities:

The expectation that marriage will be consummated and lead to children means that people with learning disabilities who are forced into marriage may be subjected to sexual assault and rape. As many people with learning disabilities do not receive sex education, they may be ill-equipped to handle unwanted sexual advances, not understand sex, be unaware of contraception and not understand that children can be a consequence of sex.⁹⁷

Real or perceived social stigma, or desperation to ensure that a marriage proceeds, drive some parents to hide their child's disability from the child's prospective spouse and in-laws. Lack of awareness of the disability can undermine marital consent in some countries. Take, for example, the case of "IC:"

IC, a young man with autism and severe learning disabilities, was married over the phone to a woman living in Bangladesh who did not have learning disabilities. The Court of Appeal ruled that the marriage was not entitled to recognition in UK law, and Lord Justice Thorpe said consummating the marriage would be tantamount to rape or indecent assault.⁹⁸

Deliberate deception about disabilities can fuel deep resentment, sometimes leading to abusive

behavior or abandonment on the part of deceived spouses and in-laws who did not anticipate taking on intensive care-giving responsibilities as the result of the marriage.⁹⁹

Some victims, feeling utterly isolated and hopeless, resort to suicide to escape forced marriages. Jasvinder Sanghera, founder of Karma Nirvana, a charity that supports victims and survivors of forced marriage and “honor”-based abuse, describes her sister Robina’s tragic escape:

... what happens in these situations, the disowned person almost always has a secret link back to the family ... I offered to help her – she said, that’s easy for you to say. Her independence was rooted in honour – what the community would say – and she thought that was more important than her own happiness, her own life. I asked her to speak to my mother, and she in turn spoke to our community leader in Derby. This man reinforced the idea of duty. That she had to go back to her husband or it would kill the family – kill their reputation. I begged her not to go back. I was 22, and she was 25 when she went back home. Shortly after that, my sister set herself on fire and committed suicide.¹⁰⁰

Perhaps the least acknowledged of all the harms flowing from forced marriage is the human rights violation that occurs whenever an individual is deprived of the inalienable right to choose whether, when, and whom to marry. The inherent deprivation of dignity, equality, and self-determination renders forced marriage an intrinsic human rights violation, regardless of whether the victim suffers physical or psychological harm.¹⁰¹ This catalogue of harmful consequences, combined with a growing international consensus about fundamental human rights and freedoms, has fueled fierce advocacy efforts to end harmful marriage practices worldwide.

A QUESTION OF CONSENT

*Your yes is only as good as your ability to say no.*¹⁰² —Marai Larasi

The question of *consent* cuts to the core of forced and early marriage analysis. In order for a marriage to be valid, both parties to the union must give full, free, and informed consent. A variety of factors can

undermine the validity of marital consent, particularly when at least one of the parties is a minor.

Social and cultural dynamics can profoundly impact individuals’ decision-making and undermine the validity of consent. For example, a woman or girl whose family hails from a country with social norms and laws that severely marginalize females may feel powerless to assert her dissent to an unwanted marriage.¹⁰³ Exposure to mainstream Western culture and institutions does not necessarily protect or empower women and girls to stand up to parents and elders who hail from a culture bound by different norms. Similar dynamics impact girls raised in profoundly isolated settings, such as those cultivated by Tony Alamo and Warren Jeffs, where community members are confined to a compound and discouraged from having unsupervised contact with the outside world.

The Western cultural tendency to emphasize individualism and individual rights contrasts starkly with many cultures’ conception of the individual strictly in the context of her membership or role in an extended family or community. A South African woman, Nomagugu Ngobese, aptly articulated this tension between rights and culture: “Human rights are individual rights, which is not the way for us. We live communally.”¹⁰⁴ Decision-making can be highly structured and designated to elders, religious leaders, or male heads of family.¹⁰⁵ An individual from a communal culture may not be accustomed to or comfortable asserting personal needs, fears, and desires that conflict with those of other group members, particularly in their presence.¹⁰⁶

To facilitate suicide, her family left a gun ...

Even in a highly individualistic culture, a child’s inclination to please and defer to her parents can render her consent to marry illusory. Subtle or overt cultural and parent-child dynamics can place an intended spouse of *any* age or gender in a position that forces her or him to choose between coerced consent and a culturally inappropriate, possibly dangerous, confrontation. An underage bride, who lacks the maturity to comprehend the unmitigated nature and consequences of marrying or her right to withhold consent, understands all too well the nature and gravity of the consequences for refusing her parents’ directive to marry.

The Convention on the Rights of the Child (CRC) recognizes that “the child, by reason of his

physical and mental immaturity, needs special safeguards and care, including appropriate legal protection..."¹⁰⁷ The determination of the age at which a minor may lawfully consent to engage in a particular activity (be it alcohol consumption, smoking, operating a motor vehicle, military service, sexual activity, or marriage) typically turns upon an assessment of the minimum level of physical and mental maturity required to ensure that the minor's participation is appropriate, voluntary, and informed.¹⁰⁸ According to Stop Violence Against Women, a project of The Advocates for Human Rights, "[P]hysical development does not connote maturity, particularly when social and mental development is still in progress."¹⁰⁹ The United Nations Children's Fund (UNICEF) describes the teenage years as a critical developmental stage; adolescents are still "[learning] to marshal their thoughts, measure their impulses and think abstractly."¹¹⁰ The CRC sets forth that, "Children should be protected from all forms of sexual exploitation including unlawful sexual activity."¹¹¹

A minor's willingness to marry or her parents' willingness to consent thereto are not, *per se*, evidence that the minor has achieved sufficient physical and mental maturity or life experience to fully appreciate the legal ramifications and practical consequences of marriage. The presumption that parental consent somehow validates or obviates the minor's consent to marry is a fallacy. If a minor is of an age at which she is deemed to lack the maturity to *independently* consent to marry, then she lacks the maturity to marry at all, and her parents' consent is inconsequential. Adolescent sex that is defined for compelling public policy reasons as nonconsensual *per se*, based on minors' intrinsic lack of capacity to give free and informed consent, cannot reasonably be rendered consensual solely by virtue of a marriage ceremony. The US Department of State, in its Foreign Affairs Manual (FAM), makes this critical connection: "The Department considers a forced marriage to be a violation of basic human rights. It also considers the forced marriage of a minor child to be a form of child abuse, since the child will presumably be subjected to non-consensual sex."¹¹²

A Principle of Human Rights

It is a well-established human rights principle that every individual has a fundamental right to choose whether, when, and whom to marry. But, the international community also recognizes a bundle of social and cultural rights that inure to

the benefit of *groups* of individuals, such as an ethnic community or a family unit.¹¹³ These groups are entitled to maintain their distinct cultural and religious identities free from state intervention.¹¹⁴ Harmful marriage practices bring groups' rights into stark conflict with individuals' rights, forcing the state to intervene into traditionally private-sphere activities.

The bride's status may be dependent on her fertility.

As legal professionals, government agencies, and civil society organizations begin to coalesce around the compelling shared objective of eliminating forced marriage in the United States, we confront the onerous challenge of striking a delicate balance between respecting groups' rights to perpetuate their cultural identities and traditions and protecting individual group members from human rights violations perpetrated in the name of faith or tradition. [C]ultural acceptance does not mean this is acceptable," says Sanghera, "It's not part of my or anyone's culture to be abused."¹¹⁵

NOTES

1. *The Fight Against Child Marriage*, U.S. Dep't of State's Official Blog (Feb. 7, 2011).
2. *Forced Marriage in Immigrant Communities in the United States: 2011 National Survey Results*, Tahirih Justice Center (2011). <http://victimsofcrime.org/docs/nat-conf-2013/ppt-tahirih-and-sauti-yetu-for-ncvc-conference-sept.pdf?sforsn=2>. The victims/survivors identified represented 56 different countries of origin and many diverse religious backgrounds, including Muslim, Christian (which includes Catholic, Baptist, Evangelical, and Jehovah's Witness), Hindu, Buddhist, Sikh, Jewish, Indigenous Faith, and Shamanism. See, footnote ix.
3. *Forced Marriage in Immigrant Communities in the United States: 2011 National Survey Results*, Tahirih Justice Center (2011). Available at <http://www.tahirih.org/wp-content/uploads/2015/03/REPORT-Tahirih-Survey-on-Forced-Marriage-in-Immigrant-Communities-in-the-United-States.pdf>.
4. Debjani Roy, "An Introduction to Forced Marriage in the South Asian Community in the United States," 9 *Manavi Occasional Paper* 12 (2011).

5. See *Honour Based Violence and Forced Marriage: Guidance on Identifying and Flagging cases*, The United Kingdom's Crown Prosecution Service, http://www.cps.gov.uk/legal/h_to_k/forced_marriage_and_honour_based_violence_cases_guidance_on_flagging_and_identifying_cases/ (last accessed Oct. 14, 2015) (defining forced marriage as "A marriage without the consent of one or both parties and where duress is a factor."); see also Eur. Parl. Ass. Deb. 29th Sess. (Oct. 5, 2005) (defining forced marriage as "the union of two persons at least one of whom has not given their full and free consent to the marriage."); see Eur. Consult. Ass., *Forced Marriages and Child Marriages*, 29th Sess., Doc. No. 10590 (June 20, 2005); Eur. Consult. Ass., *Forced Marriages and Child Marriages*, 29th Sess., Doc. No. 10678 (Sept. 21, 2005). See also *Forced Marriage in Immigrant Communities*, *supra* n.3 ("A forced marriage is one that takes place without the full and free consent of one or both parties. It can happen to either gender, at any age. It may be a marriage that is threatened, or one that has already taken place, either in the United States or abroad. An individual's lack of consent or lack of ability to give informed consent may be caused by a variety of factors, including but not limited to the individual being: [y]ounger than the legal age to marry; [s]ubject to some other incapacity or disability; [or] subject to force, fraud, or coercion. Force, fraud, or coercion can take many forms, including psychological manipulation, emotional blackmail, deception, and physical threats or violence, and—in some cases—even kidnapping or death threats.").
6. See *Honour Based Violence and Forced Marriage*, *supra* n.6 ("An arranged marriage is very different from a forced marriage. An arranged marriage is entered into freely by both people, although their families take a leading role in the choice of partner."). Although forced marriages, too, are often *arranged* by a third party or parties, the above-proffered definition of the term "arranged marriage" (*i.e.*, as involving the mutual consent of the spouses) has achieved broad common usage among system actors in the United States and abroad. Nonetheless, there are advocates who view forced marriages as a subset of arranged marriages, to the extent that the forced marriage was arranged by somebody claiming to act on behalf of the nonconsenting spouse. The descriptive term "child, early, and forced marriage" (CEFM) is increasingly used in the international human rights community to capture the diverse victim demographics and circumstances that characterize harmful marriage practices around the world.
7. U.S. Dep't of State, *Foreign Affairs Manual*, 7 FAM 1743 (2005), <http://www.state.gov/documents/organization/86822.pdf>, last accessed Oct. 14, 2015.
8. Jasvinder Sanghera, Founder & CEO, Karma Nirvana, presentation during webinar, *Practical Tips and Strategies for Forced Marriage Cases*, Tahirih Justice Center (Apr. 27, 2012).
9. Bridenapping involves the physical abduction of an intended bride for purposes of forcing her into a marriage.
10. See, *e.g.*, Lochana Sharma, "Group in Nepal Takes Pride in Kidnapping Brides," *Women's eNews* (Jan. 10, 2012), <http://womensenews.org/story/marriedivorce/120109/group-in-nepal-takes-pride-in-kidnapping-brides>, last accessed Oct. 14, 2015 (detailing the cultural tradition of kidnapping women and girls for marriage that persists among indigenous groups in western Nepal); see also Mia Malan, "Abduction a Perversion of the Past," *Mail & Guardian* (Dec. 15, 2011), <http://mg.co.za/article/2011-12-15-abduction-a-perversion-of-the-past/>, last accessed Oct. 14, 2015 (detailing *Ukuthwala*, an ancient tradition of physically abducting girls and forcing them to marry that persists in parts of South Africa).
11. Gareth Rose, "Call to Prosecute the Husbands Who Knowingly Wed Forced-Marriage Girls," *The Scotsman* (Sept. 17, 2010), <http://news.scotsman.com/uk/Call-to-prosecute-the-husbands.6538333.jp>, last accessed Oct. 14, 2015.
12. See <http://www.ashaforcedmarriage.org.uk/forced-marriage-news>, [<http://www.forcedmarriage.nhs.uk/definitions.asp> (last visited July 31, 2009)]. For example, most would deem a marriage entered into under the following circumstances to be *arranged*, but not *forced*: "Parent/s start to think about their child getting married; Parent/s begin to talk about their child's marriage, perhaps suggesting or looking for potential partners; an agreement to marry is made; whilst the families of those who are marrying are involved in the process, the final decision lies with those who are to be married; arranged marriage takes place." *Id.* Whereas, for both victims and responders, the line between *arranged* and *forced* marriage may tend to blur where: "marriage is discussed, but with no mutual acceptance or rejection of ideas; there is pressure to marry, which may take the form of emotional blackmail or appeals to conform with traditional family roles and values." *Id.* But, few would contest that a marriage is *forced* where: "demands to accept a marriage proposal are accompanied by physical, mental and/or emotional pressure and violence; the people concerned are maneuvered into going through the marriage ceremony against their will." *Id.*
13. *Id.*
14. The most widely publicized case involves four Afghan women in Ontario who were murdered by close

family members who alleged that the victims had violated the family honor by adopting Western attire and behaviors. See "Canada Honor Killing Trial Verdict: Shafia Family Found Guilty," *Huff. Post* (Jan. 29, 2012), http://www.huffingtonpost.com/2012/01/29/canada-honor-killing-shafia-family-guilty_n_1240268.html, last accessed Oct. 14, 2015.

15. David Schwartz, "Phoenix Police Arrest Iraqi Woman for Burning Daughter," *Chi. Trib.*, Feb. 16, 2012, <http://www.reuters.com/article/2012/02/16/us-crime-arizona-iraqi-idUSTRE81F29K20120216>, last accessed Oct. 14, 2015.

16. *Id.*

17. See Ioan Grillo, "Selling Brides: Native Mexican Custom or Crime?," *Time*, Feb. 1, 2009, <http://www.time.com/time/world/article/0,8599,1876102,00.html>, last accessed Oct. 14, 2015.

18. *Id.*

19. *Id.*

20. Nadya Labi, "An American Honor Killing: One Victim's Story," *Time*, Feb. 25, 2011, <http://www.time.com/time/nation/article/0,8599,2055445,00.html>, last accessed Oct. 14, 2015.

21. *Id.*

22. Only 10 percent of the responders' agencies had adopted a working definition of forced marriage; only 22 percent had screening protocols in place that would enable them to identify these cases; and only 16 percent felt their agencies were equipped to help individuals facing forced marriage. *Forced Marriage in Immigrant Communities*, *supra* n.3, at 7–8.

23. Regarding Tony Alamo, see, e.g., *Women Who Claim They Were Child Brides in the USA*, Oprah Winfrey Show (Sept. 7, 2010), <http://www.oprah.com/oprahshow/Women-Who-Claim-They-Were-Child-Brides-in-the-USA-Video>, last accessed Oct. 14, 2015. Regarding Warren Jeffs, see Joseph Diaz, *Elissa Wall Speaks Out About her 'Stolen Innocence'*, ABC News 20/20 (May 16, 2008), <http://abcnews.go.com/2020/story?id=4863899&page=1>, last accessed Oct. 14, 2015; *Elissa Wall, Warren Jeffs' FLDS Church and What I Left Behind*, *Huff. Post* (May 17, 2008), http://www.huffingtonpost.com/elissa-wall/warren-jeffs-flds-church_b_102195.html, last accessed Oct. 14, 2015 (Warren Jeff's conviction was overturned on the basis of faulty jury instructions.); Brent Hunsaker, *Elissa Wall Wants Jeffs Tried Again*, ABC 4 News

(Aug. 4, 2010), <http://www.abc4.com/mostpopular/story/EXCLUSIVE-Elissa-Wall-wants-Warren-Jeffs-tried/4oli2q-VtESszEKzISow5A.csp> (last visited in 2012). See, also, generally, Andrea Moore-Emmett, *God's Brothel: The Extortion of Sex for Salvation in Contemporary Mormon and Christian Fundamentalist Polygamy and the Stories of 18 Women Who Escaped* (2004) (Many of the women whose stories are featured in Moore-Emmett's book were forced into marriage when they were adolescents).

24. See Diaz, *supra* n.24.

25. *Id.*

26. *Id.*

27. See Elissa Wall with Lisa Pulitzer, *Stolen Innocence: My Story of Growing Up in a Polygamous Sect, Becoming a Teenage Bride, and Breaking Free of Warren Jeffs* (2008). Available at <http://www.amazon.com/Stolen-Innocence-Polygamous-Becoming-Breaking/dp/0061734969>.

28. *Id.*

29. See *Women Who Claim They Were Child Brides in the USA*, *supra* n.24.

30. While, in the modern context, one is unlikely to encounter the outraged father of the bride literally ushering a reluctant groom down the aisle at the barrel of a loaded shotgun, more subtle forms of coercion—such as threats of disinheritance, withholding of financial support, or ostracization from the family—can prove equally effective at maneuvering expectant young parents into an unwanted marriage.

31. HM Government, *Multi-Agency Practice Guidelines: Handling Cases of Forced Marriage* 11 (June 2009), <http://www.fco.gov.uk/resources/en/pdf/3849543/forced-marriage-guidelines09.pdf>, last accessed Oct. 14, 2015 [hereinafter HM Government, *Handling Cases*]; see also, V.V. Prakasa Rao & V. Nandini Rao, *Marriage, the Family, and Women in India* (1982).

32. Roy, *supra* n.4. Some parents broker nonconsensual marriages to secure or elevate the family's social status, or out of a sense of duty or social obligation to another family. *Id.* at 14.

33. For information about the contemporary average age at marriage by county see *World Marriage Patterns, 2000*, United Nations, U.N. Dep't of Econ. & Soc. Affairs, Population Div. (2000), <http://www.un.org/esa/population/>

publications/worldmarriage/worldmarriagepatterns2000.pdf, last accessed Oct. 14, 2015.

34. Sanghera, *supra*, n.9. ("That honor code is extremely well known by the victim. It means something different in every community and family. She knows best what the risks are, what's safe and unsafe. Honor is fluid, never static. Risk is fluid, too.")

35. *Id.* "What by western standards are very minor actions by adolescent girls can trigger extreme actions by family members." *Id.*

36. See Nicholas D. Kristof & Sheryl WuDunn, *Half the Sky* (2009). Kristof and WuDunn refer to this phenomenon as the "cult of virginity": "[T]he hymen—fragile, rarely seen, and pretty pointless—remains an object of worship among many religions and societies around the world, the simulacrum of honor. No matter how much gold may sell for, a hymen is infinitely more valuable. It is frequently worth more than a human life." *Id.* at 81.

37. Charundi Panagoda, *U.S.: Forced Marriages Still an Ugly Secret*, Inter Press Serv. (Jan. 26, 2012), <http://www.ipsnews.net/2012/01/us-forced-marriages-still-an-ugly-secret/>, last accessed Oct. 14, 2015. Vidya Sri is the founder of Gangashakti, a US survivor-led grassroots movement working to end violence and forced marriage.

38. *Id.* at 12.

39. *Id.* at 12.

40. See, e.g., "In Morocco, Suicide, Uproar over Marriage Law Tests Islamist Government," *Wash. Post*, Apr. 16, 2012, https://www.washingtonpost.com/world/middle_east/new-arab-order-in-morocco-uproar-over-marriage-law-tests-islamist-government/2012/04/15/gIQA2kxGKT_story.html, last accessed Oct. 14, 2015 (Following the suicide of a teenage girl who was forced to marry her rapist, outraged Moroccan citizens demand reform of a law that protects an alleged rapist if he marries his victim). See also *Afghan Woman: I'll Marry Rapist, 'Even though I Can't Look At Him'*, MSNBC (Dec. 7, 2011), http://worldblog.nbcnews.com/_news/2011/12/07/9252482-afghan-woman-ill-marry-rapist-even-though-i-cant-look-at-him, last accessed Oct. 14, 2015 (19-year-old Afghan woman faces impossible "choice" between spending 12 years in prison or marrying the man who raped her.); see also Mohamed Kabba, "In Sierra Leone, Early Marriages on the Increase," *Awareness Times* (Dec. 13, 2010), <http://news.sl/drwebsite/exec/view.cgi?archive=6&num=16941>, last accessed Oct.

14, 2015 (Local Chief cites poverty as the lead reason for forced marriage of minor girls. In some cases, parents who suspect their daughters have been raped give the girls in marriage to the suspected rapist.).

41. Tara Bhattarai, "Financial Burden and Local Tradition Foster Child Marriage in Nepal," *Global Press Inst.* (Sept. 2010), <http://www.globalpressjournal.com/asia/nepal/financial-burden-and-local-tradition-foster-child-marriage-nepal>, last accessed Oct. 14, 2015.

42. In her previous capacity as director of a national technical assistance project, the author interacted regularly with legal and social service providers seeking assistance on behalf of victims of forced marriage. Some of the author's assertions in this article are derived from her experience working with other advocates on forced marriage cases.

43. "Malaysia Promotes Early Marriage," *Islamic News* (Sept. 3, 2010), http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CC0QFjAA&url=http%3A%2F%2Fglobaljusticeinitiative.files.wordpress.com%2F2010%2F09%2Fislamic_news_in_pdf1.pdf&ei=Nm2MT8f1D4rO9QSLvonkCQ&usg=AFQjCNGNYJu249hkTrIyGrwNKIs8WFD4g&sig2=kO0nTLzB_5HsUlaqEQ57cuw, last accessed Oct. 14, 2015.

44. This could include lesbian, gay, bisexual, transgender, questioning, intersex, and other orientations.

45. Forced Marriage Unit, Foreign & Commonwealth Office, <https://www.gov.uk/guidance/forced-marriage> (last accessed Oct. 14, 2015) (a joint-initiative of the Foreign Commonwealth Office and the Home Office).

46. Adrian Goldberg, *Tale of Gay Woman Forced to Marry to Protect 'Honour'*, BBC News UK, Oct. 24, 2010, <http://www.bbc.com/news/uk-11613992>, last accessed Oct. 14, 2015 ("The government's Forced Marriage Unit (FMU) has received hundreds of calls from young gay men and women...who fear they are going to be forced into marriage by their family, against their will...However, it is thought this emerging trend is just the tip of the iceberg, as more gay men and women seek assistance.").

47. *Id.* "Reviva" is not the girl's real name, which has been changed to protect her safety and wellbeing.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. *LGBT Forced Marriage*, Albert Kennedy Trust, http://www.anncrafttrust.org/Forced_Marriage.php (last visited Oct. 24, 2015).

55. *Forced Marriage of People with Learning Disabilities: A Hidden Problem*, Ann Craft Trust. Available at http://www.anncrafttrust.org/Forced_Marriage.php. "People with learning disabilities may be forced into marriage for the same reasons that anyone is forced into marriage. However, there are reasons which are more specific to these cases. Marriage can be seen as a means of providing a carer and continuing support. Parents may be primary carers. As they get older and less able to provide support, they may view marriage as a means of ensuring continuing care for their son or daughter with learning disabilities. Marriage can be seen as a means of improving the chances of getting a visa to the UK. A person with learning disabilities may be seen as easier to deceive or coerce into such a marriage and into then acting as a visa sponsor. Families may believe that marriage will "cure" learning disabilities and / or allow a person with learning disabilities to lead a "normal" life."

56. Natalie Valios, "Forced Marriage of People with Learning Disabilities," *Community Care* (Aug. 22, 2008), <http://www.communitycare.co.uk/Articles/22/08/2008/109193/Forced-marriage-of-people-with-learning-disabilities.htm>, last accessed Oct. 14, 2015.

57. Zahida Ishrat Khan, "Nuptial Nightmare: Child Marriage in Bangladesh," *Dispatches Int'l* (Oct. 22, 2010), <http://www.dispatchesinternational.org/?p=198>, last accessed Oct. 14, 2015 (A teen girl's mother says she married her daughter off early to reduce her family's living expenses.). See also Bhattarai, *supra* n.42.

58. Not her real name.

59. Anne Szustek, "Married Saudi Girls Can't Divorce Until Puberty," *Ground Rep.* (Dec. 23, 2008) (Mannal's mother's plea for divorce on her daughter's behalf was dismissed by the local court.).

60. Hadizatou Mani, "No Woman Should Suffer the Way I Did," U.S. Dep't of State's Official Blog (Mar. 9, 2009), <https://blogs.state.gov/stories/2009/03/09/hadizatou-mani-no-woman-should-suffer-way-i-did>, last accessed Oct. 14, 2015.

61. *Id.*

62. *Id.*

63. Jamil Bhatti, "Under-Age Marriage Agonizes Girls in Post-Flood Pakistan," *Xinhua* (July 31, 2011), http://news.xinhuanet.com/english2010/indepth/2011-07/31/c_131020928.htm, last accessed Oct. 14, 2015.

64. *Id.*

65. *Id.*

66. See, Juliette Myers & Rowan Harvey, *Breaking Vows: Early and Forced Marriage and Girls' Education*, Plan UK 1, 9 (June 2011), <http://www.plan-uk.org/resources/documents/Breaking-Vows-Early-and-Forced-Marriage-and-Girls-Education/>, last accessed Oct. 14, 2015.

67. For example, the marriage of a US citizen daughter to her foreign national uncle or cousin abroad may be orchestrated by her parents to facilitate a loved one's escape from poverty, strife, or persecution by facilitating his lawful immigration to the United States.

68. In some traditions, the groom's family pays the bride's parents a bride price in exchange for the girl's hand in marriage. In other traditions, the bride's family gives the groom's parents a dowry (e.g., livestock, jewelry, or land), in exchange for which the groom's family assumes responsibility for and possession of the bride.

69. HM Government, *Handling Cases*, *supra* n.32.

70. *Id.*

71. Sanghera, *supra* n.9.

72. *Id.* Sanghera advises that advocates help victims identify an interpretation of religious doctrine that is inconsistent with forced marriage and "honor-based" violence. Because religious leaders hold a position of considerable influence and authority in their communities, they are uniquely positioned to shape social mores and marriage practices. Religious leaders can assume a leadership role in advancing interpretations of religious doctrine that promote gender equality, condemn gender-based violence, and encourage the abandonment of harmful customs and practices, including forced and early marriage. See, Atia Abawi, 'Feminist Imam' Delivers Message in Afghanistan, NBC News (August 30, 2011), http://worldblog.nbcnews.com/_news/2011/08/30/7526183-feminist-imam-delivers-message-in-afghanistan, last accessed

Oct. 14, 2015. Self-labeled 'feminist Imam' Yahya Hendi states "What makes a leader a leader is his or her ability to be courageous. To stand up or take a stand. We all need to challenge ourselves and go out of the box and understand the other from within, not from without." *Id.* Imam Hendi and a group of other imams, rabbis, and priests—members of the group Clergy Beyond Borders—drive a 'Caravan of Reconciliation' around the United States to promote peace and understanding. *Id.*

73. Written Statement from Jeanne Smoot, Director of Public Policy at Tahirih Justice Center, to Author (Apr. 22, 2012) (on file with author).

74. Roy *supra* n.5, at 14 ("The nature of the immigrant experience in the United States, where one is displaced from one's native country, customs, culture, religion and community, carries with it a certain level of burden, unease and insecurity... In the name of self-preservation and for the sake of continuity, immigrant families sometimes may choose to uphold certain beliefs and practices that they grew up around and with which they are familiar. They may even adhere to different versions of those ideas and practices to maintain control in their changing and new environment. This can pose challenges between first generation immigrants and their American born and/or raised children, the former trying to uphold the ways of a world left behind and the latter being asked to balance home life with culturally assimilating at school and as they socialize with people outside of their immediate ethnic or religious community.").

75. Fact Sheet No. 23: Harmful Traditional Practices Affecting the Health of Women and Children, *Early Marriage and Dowry*, Office of the High Comm'r for Human Rights (OHCHR) 8–11, <http://www.unhcr.org/refworld/pdfid/479477410.pdf>, last accessed Oct. 15, 2015.

76. This article addresses primarily forced marriage of girls under the age of 18. In so doing, it is not the author's intent to detract from forced marriage of boys, or adult men and women, circumstances equally deserving of advocacy. The US State Department's forced marriage guidance estimates that, "as many as fifteen per cent [of forced marriage victims] are male." U.S. Dep't of State, *Foreign Affairs Manual*, 7 FAM 1741(a) (2005), <http://www.state.gov/documents/organization/86822.pdf>, last accessed Oct. 14, 2015. But, as Imkaan director Marai Larasi aptly observes, forced marriage impacts males differently than females. Male victims retain freedom of movement and association in a way that females typically do not. Marai Larasi, Director, Imkaan, Presentation at Tahirih Justice Center Policy Briefing: What Can the United States Learn from the United Kingdom's

Experiences with Forced Marriage? (Mar. 2, 2012). Although gender norms frequently render women and girls particularly vulnerable to harmful marriage practices, it is critical that remedies and resources developed to combat forced and early marriage address *all* victim demographics.

77. Naana Otoo-Oyortey & Sonita Pobi, *Early Marriage and Poverty: Exploring Links for Policy and Programme Development*, Forum on Marriage and the Rights of Women and Girls (2003). Link to synopsis: <http://www.khubmarriage18.org/?q=node/48>. Direct link to document: <http://www.khubmarriage18.org/sites/default/files/30.pdf>.

78. "8-year-old Girl Shunned by Family after Rape Sparks Outcry," *USA Today*, July 24, 2009, http://www.usatoday.com/news/nation/2009-07-24-arizona-children-assault_N.htm?csp=usat.me, last accessed Oct. 14, 2015.

79. Press Release, United Nations Issues Wall Chart on Marriage Patterns, United Nations Population Division of the Dep't of Econ. and Soc. Affairs (DESA), U.N. Press Release DEV/2251, POP/771 (June 15, 2000).

80. Many of the behavioral indicators of forced marriage resemble indicators of domestic violence: physical and sexual abuse; threatening behavior; isolation and imprisonment; abduction; psychological and social pressure, including emotional blackmail; restrictions on lifestyle such as limitations on movement, association, dress code, education, and career choices; oppressive financial control; and other demeaning, humiliating, and controlling behavior. See Oxfordshire Nat'l Health Serv. (NHS). Some additional indicators of forced marriage include: "Appointments are often missed; The person appears frightened, excessively anxious or depressed; The person is always accompanied when attending a consultation; Injuries are inconsistent with the explanation of the cause of accident; The partner appears aggressive and overly dominant/the woman is passive and afraid; Worsening academic performance; Absence or poor attendance at school, college or work; Depression; Self harm; Eating disorders; Regular visits to the GP with no obvious illness or reason; Attempted suicide...[and/or] patients experience physical injury (often disguised as accidents) or emotional trauma resulting in depression, suicide or self-harm."

81. *Forced Marriage in Immigrant Communities*, *supra* n.3, at 3 ("Almost half of respondents (46%) who provided information on particular tactics used against victims reported that victims had been subjected to actual physical violence. 13 respondents also reported murder attempts among the forced marriage cases they encountered, and 1 respondent reported an actual murder.").

82. Otoo-Oyortey & Pobi, *supra* n.77 (“The young bride’s status in the family is frequently dependent on her demonstrating her fertility—often within the first year of her marriage—at a time when she is not yet physiologically and emotionally prepared.”); see also Duncan Green, “How Change Happens: Campaigning on Early Marriage in Yemen,” *From Poverty to Power* (Sept. 21, 2010), <http://www.oxfamblogs.org/fp2p/?tag=early-marriage>, last accessed Oct. 14, 2015; see also *Obstetric Fistula in Brief*, The United Nations Population Fund (UNFPA) (“Obstetric fistula is a hole in the birth canal caused by prolonged labour without prompt medical intervention, usually a Caesarean section. The woman is left with chronic incontinence and, in most cases, a stillborn baby. The smell of leaking urine or faeces, or both, is constant and humiliating, often driving loved ones away. Left untreated, fistula can lead to chronic medical problems, including ulcerations, kidney disease, and nerve damage in the legs.”); see also, Jeffrey P. Wilkinson, et al., *Ethical Issues in Maternal Birth Trauma in the Developing World*, The Duke Obstetric Fistula Working Group, (last visited Feb. 10, 2011).

83. *Adolescent Health*, Global Health Council (citing Bearinger LH, Sieving RE, Ferguson J, Sharma V., “Global Perspectives on the Sexual and Reproductive Health of Adolescents: Patterns, Prevention, and Potential,” *Lancet* (2007)).

84. “Forced into Marriage and Raped,” *Mail Online* (Oct. 4, 2011), <http://www.dailymail.co.uk/news/article-2045254/Forced-marriage-raped-shocking-survey-reveals-plight-thousands-women-United-States.html#ixzz1bKpGlyGo>, last accessed Oct. 14, 2015.

85. *Id.*

86. HM Government, *Handling Cases*, *supra* n.32, at 44.

87. Otoo-Oyortey & Pobi, *supra* n.77 (“[E]arly marriages violate the rights of children with often more negative consequences for girls. This compromises their overall development, leaving them socially isolated with little education, skills and opportunities for employment and self-realization. These conditions ultimately make married girls vulnerable to poverty.”).

88. See Oxfordshire Nat’l Health Serv. (NHS). Some additional indicators of forced marriage include: “Appointments are often missed; The person appears frightened, excessively anxious or depressed; The person is always accompanied when attending a consultation; Injuries are inconsistent with the explanation of the cause of accident;

The partner appears aggressive and overly dominant/ the woman is passive and afraid; Worsening academic performance; Absence or poor attendance at school, college or work; Depression; Self harm; Eating disorders; Regular visits to the GP with no obvious illness or reason; Attempted suicide...[and/or] patients experience physical injury (often disguised as accidents) or emotional trauma resulting in depression, suicide or self-harm.” *Id.*

89. See *The Secretary of State’s 2009 International Women of Courage Awards*, U.S. Dep’t of State (Mar. 5, 2009), <http://www.state.gov/r/pa/prs/ps/2009/03/120070.htm>, last accessed Oct. 14, 2015.

90. *Id.*

91. *Id.*

92. Hugh Macleod & Annasofie Flamand, *Fleeing Somali Women Recount Tales of Terror*, BBC News Africa (Oct. 7, 2010), <http://www.bbc.co.uk/news/world-africa-11437595>, last accessed Oct. 14, 2015 (“If a woman refuses a forced marriage, we have reports of them being beheaded and their head sent to their father.”).

93. See, e.g., “Men of ‘Honour’: Cousins ‘Killed for Fleeing Forced Marriage,’” *The Express Tribune with the Int’l Herald Tribune* (Dec. 14, 2010), <http://tribune.com.pk/story/89702/men-of-honour-cousins-killed-for-fleeing-forced-marriage/>, last accessed Oct. 14, 2015; Duncan Kennedy, *Murdered by Her Father for Becoming a Western Woman*, BBC News, Feb. 10, 2011, <http://www.bbc.com/news/world-europe-12416394>, last accessed Oct. 14, 2015 (reporting on a young Pakistani woman whose father slit her throat 28 times in an ‘honor killing’ for refusing an arranged marriage and adopting a Western lifestyle that he felt shamed her family); Kautilya Singh, “Honour Killing: Girl Hacked to Death By Grandfather in Kanpur,” *Indian Express* (Feb. 16, 2011), <http://www.indianexpress.com/news/honour-killing-girl-hacked-to-death-by-grandfather-in-kanpur/750726/>, last accessed Oct. 14, 2015 (“Learning that his granddaughter Malti (19) was planning elope and marry a neighbour belonging to another caste, 65-year-old Babulal Kashyap killed her, the police said”); “Honour Crimes,” *BBC Ethics Guide*, http://www.bbc.co.uk/ethics/honourcrimes/crimesofhonour_1.shtml, last accessed Oct. 14, 2015 (“Honour killing is the murder of a person accused of ‘bringing shame’ upon their family. Victims have been killed for refusing to enter a marriage, committing adultery or being in a relationship that displeased their relatives... In some parts of the world, women who have been raped have also been murdered for the ‘dishonour’ of being a victim and the ‘disgrace’ it brings to their family.”).

94. Aryn Baker, "Afghan Women and the Return of the Taliban," *Time*, Aug. 9, 2010, <http://www.time.com/time/world/article/0,8599,2007238,00.html>, last accessed Oct. 14, 2015.
95. *Id.*
96. *Id.*; see also "Mutilated Afghan Girl Aisha Gets New Nose," BBC News South Asia (Oct. 13, 2010), <http://www.bbc.co.uk/news/world-south-asia-11530849>, last accessed Oct. 14, 2015; "Brave Bibi Holds Her Head High," *The Sun* (Feb. 16, 2011), <http://www.thesun.co.uk/sol/homepage/features/3414607/Pretty-Afghan-woman-had-her-nose-hacked-off-after-fleeing-arranged-marriage.html>, last accessed Oct. 14, 2015.
97. Ann Craft Trust, *supra* n.56.
98. *Valios*, *supra* n.57.
99. See *id.*; Ann Craft Trust, *supra* n.56.
100. Poorna Bell, *How Jasvinder Sanghera, Founder Of Karma Nirvana, Has Saved Thousands Of Women*, Huffington Post (March 10, 2014, updated December 1 2014). Available at http://www.huffingtonpost.co.uk/2014/03/10/karma-nirvana-jasvinder-sanghera-forced-marriage_n_4930835.html.
101. Neglecting to address this fundamental principle does victims a grave disservice, and sends the profoundly misguided message that forced marriage is acceptable, so long as no ancillary harms flow from it.
102. Larasi, *supra* n.77.
103. Julia Alanen, "When Human Rights Conflict: Mediating International Parental Kidnapping Disputes Involving the Domestic Violence Defense," 40 *U. Miami Inter-Am. L. Rev.* 49, 65–66 (2008) ("Numerous states' legal systems severely marginalize women and children. Divorce, or female-initiated divorce, is prohibited. Women's and children's travel and movement are restricted or linked to the permission of male guardians. Women and children are treated as chattel of male partners or other male family members. Maternal custody of children of a certain age-range is precluded. Women are denied property rights and prohibited from working, and are therefore unable to independently support themselves and their dependents.") [hereinafter Alanen, "When Human Rights Conflict"].
104. Karin Brulliard, *Zulus Eagerly Defy Ban on Virginity Test*, *Wash. Post*, Sept. 26, 2008, at A1, <http://www.washingtonpost.com/wp-dyn/content/article/2008/09/25/AR2008092504625.html>, last accessed Oct. 14, 2015.
105. Alanen, "When Human Rights Conflict," *supra* n.104, at 98.
106. *Id.*
107. United Nations Convention on the Rights of the Child, 28 I.L.M. 1448 (Nov. 20, 1989) [hereinafter CRC], at pmb1.
108. *Forced Marriage in Immigrant Communities*, *supra* n.3.
109. *Establishing a Minimum Age for Consent, Stop Violence Against Women: A Project of the Advocates for Human Rights*.
110. *Adolescence: A Time That Matters*, The United Nations Children's Fund (UNICEF) 7 (2002), [http://www.unicef.org/adolescence/files/pub_adolescence_en\(1\).pdf](http://www.unicef.org/adolescence/files/pub_adolescence_en(1).pdf), last accessed Oct. 14, 2015.
111. CRC, *supra* n.108.
112. U.S. Dep't of State, *supra* n.8. Although the State Department acknowledges in its *Foreign Affairs Manual* that nonconsensual sex is a probable consequence of forced marriage of a minor, the Department fails to explicitly address whether a minor child has the requisite capacity to give free and informed consent to marriage or sex.
113. For more information, see *Group Rights*, Stanford Encyclopedia of Philosophy, 2008, <http://plato.stanford.edu/entries/rights-group/>, last accessed Oct. 14, 2015.
114. For example, the international community recognizes a right to respect for privacy in family life. Article 23 of the ICCPR echoes Article 16(3) of the Universal Declaration of Human Rights which provides that, "The family is the natural and fundamental group unit of society and is entitled to protection by society and the state." Article 17 of the ICCPR states that, "Nobody shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." The UNHR Committee decides cases under ICCPR, which the US has ratified, but its interpretations (decisions) are not binding on the US because the US has not signed the Optional Protocol. Although the treaty is not binding, it has persuasive authority.
115. Homa Khaleeli, "Summer is a Dangerous Time For Those at Risk of Forced Marriage," *Guardian* (Aug. 4, 2011), <http://www.guardian.co.uk/lifeandstyle/2011/aug/04/summer-dangerous-forced-marriage>, last accessed Oct. 14, 2015.