

Forced Marriage

By [Marlene Moses](#) and [Manuel Russ](#) on Mon, 09/01/2014 - 12:00am

Forced marriages may seem to those in the United States like a remote problem that largely takes place in other parts of the world. When one reads new stories of child brides and scant civil or human rights regarding marriage, even in the modern era, most people envision a place that is very far away and culturally different.[1] However, growing amounts of research indicate that, among certain groups in the United States, marriages with an unwilling participant, are much more pervasive than anyone would suspect. In these situations, it is most commonly the female spouse who has been forced into marrying a man against her will and not of her choosing. The methods used to achieve the marriage vary in degrees of coercion, shame and, sometimes, violence or threats of violence, and few people are able to escape the situation later.

A distinction should be drawn between forced marriages and an arranged marriage. In an arranged marriage, either party has the ability to refuse the other, whereas in a forced marriage, one party must marry without their consent.[2] However, the lines between these two types of matrimony can easily become blurry due to familial, cultural and religious pressure to follow through with an arranged marriage. What may appear to one party to have the ability to withhold consent, familial pressure and manipulation of resources on behalf of the victim is a common practice that clouds whether a marriage was truly consensual or not.[3] Further, because of these same pressures, many victims of forced marriage are reluctant to report their status, making the true numbers of forced marriages very hard to accurately assess and to assist on a systematic basis.

Forced marriages occur frequently with victims both under and over 18 years of age. Though it is not the same as human trafficking, it is akin to it in many ways as victims are often transported for the purpose of these marriages and they are often held against his or her will until the marriage is completed. A common scenario is an American citizen, for example, returns to his or her family's country of origin, often under the pretext of visiting, and then is not allowed to return until he or she agrees to marry someone whom his or her family has selected in that country. Sometimes, this involves months or even years of virtual captivity before the victim either submits or finds a way of escaping his or her situation.

However, it should not be overlooked that there are people in the United States of all different cultures who are forced into marriages and find it difficult, if not impossible, to escape their circumstances. People of every religion and ethnic background may be subject to forced marriage even in the United States despite the public perception that only certain religion or immigrant groups have such practices.[4]

The ability of law enforcement and social services to accurately assess and respond to these situations is limited but growing because of increased awareness, reporting and training. There is an ongoing dispute in many jurisdictions worldwide about whether criminalizing forced marriages will alleviate or exacerbate the problem, because of general reluctance to report the problem to authorities or government welfare agencies in the first place and particularly if the victim knows that close family members might suffer criminal penalties for their actions. Though

all nations have laws and sanctions for kidnapping and human-trafficking-related offenses, it is unclear whether these penalties will be sufficient to protect victims of forced marriages. It is also unclear whether specific criminalization of forced marriage itself will help or hurt when it comes to curtailing the practice, as many victims do not want to see their close family members prosecuted.

An additional wrinkle that causes difficulties in these types of cases is jurisdiction. Often, the acts that may constitute a criminal offense do not occur in the country where the victim or even the perpetrators hold citizenship, hampering the ability of the country where the victim resides to effectively address the situation on the basis of criminal statute. Countries other than the United States, like the UK and several EU countries, have attempted to design criminal sanctions specifically to combat the issue of forced marriages.[5] Other countries choose to use only civil penalties as a means of effecting change. The UK has had a civil act since 2007 that allows for remedies on a civil basis for a victim of a forced marriage. After extensive debate, in March 2014, the UK adopted a criminal statute that made forced marriage a criminal offense. The acts give the UK and their courts authority to extend their jurisdiction to events that took place outside of the UK itself as it is frequently the case that a British citizen returns to his or her country of origin, or the family's country of origin and is forced into a marriage there.[6]

Currently in the United States, there are only nine jurisdictions that have criminal laws that specifically address forced marriages, and Tennessee is not one of them.[7] Interestingly, only three of these jurisdictions have enacted their statutes since 1970 and only one has enacted a law since 2000.[8] Consequently, these statutes have not been enacted in an effort to confront recent problems with forced marriages, nor do they appear to be tailored to modern times.[9] That being said, while the United States has not chosen to take as proactive a stand on this issue as other countries have, nonetheless, there is a growing awareness of the issue in the U.S. among law enforcement and other community organizations. This issue takes a much greater degree of awareness and sensitivity in order to detect, so increased law enforcement training is necessary particularly in areas where the problem is most pervasive.

The Tahirih Justice Center is an organization that tracks, among other things like sexual violence and human trafficking, incidents of reported forced marriages in the United States. The Tahirih Center further acts as a resource center for individuals dealing with these issues. In a 2011 survey that the Center conducted on a nationwide basis of only immigrant communities, they documented as many as 3,000 cases of forced marriage or suspected forced marriage during the two-year period of the survey.[10] Further, the survey stated that these results came from more than 50 different immigrant groups and across multiple religious faiths.[11] Obviously, as this survey had a more narrow focus, it cannot be considered a comprehensive study of all of the incidents of forced marriage throughout all segments of the U.S. population, but even these results should demonstrate the growing problem that this issue presents within the United States and not just abroad.

The problem of forced marriage is one that hits closer to home than many readers might suspect, but governments both in the U.S. and abroad are aware of the problem and are taking steps to address it. With the continued support of government and social services, more victims will be able to come forward and, in time, this practice may be drastically reduced.

Notes

1. Damien McElroy, *Iraq Ready to Legalise Childhood Marriage*, telegraph.co.uk/news/worldnews/middleeast/iraq/10753645/Iraq-ready-to-legalise-childhood-marriage.html, April 8, 2014.
 2. *U.S. Department of State Foreign Affairs Manual* Volume 7 – Consular Affairs, pp. 3-4.; Vidya Sri and Darakshan Raja, *Voices from the Frontline: Addressing Forced Marriage within the United States*, hks.harvard.edu/cchrp/research/working_papers/VidyaSri_VoicesFromTheFrontline.pdf, p. 6.
 3. Julia Alanen, “Shattering the Silence Surrounding Forced and Early Marriage in the United States,” *Children’s Legal Rights Journal*, vol. 32, no. 2. (Summer, 2012), Pp. 5-6.
 4. Julia Alanen, “Shattering the Silence Surrounding Forced and Early Marriage in the United States,” *Children’s Legal Rights Journal*, Vol. 32, No. 2. (Summer, 2012), pp. 6-7.
 5. *Criminalization of Forced and Child Marriage*, endvawnow.org/en/articles/629-criminalization-of-forced-and-child-marriage.html, p. 1.
 6. Anti-Social Behavior, Crime and Policing Act of 2014, legislation.gov.uk/ukpga/2014/12/contents/enacted
 7. Vidya Sri and Darakshan Raja, *Voices from the Frontline: Addressing Forced Marriage within the United States*, p. 7. The U.S. jurisdictions that have specific criminal statutes barring forced marriages are California, the District of Columbia, Maryland, Minnesota, Mississippi, Nevada, Oklahoma, Virginia and the Virgin Islands.
 8. *Criminal Laws Addressing Forced Marriage in the United States*, tahirih.org/site/wp-content/uploads/2011/09/Criminal-Laws-Addressing-Forced-Marriage-in-the-United-States.pdf, Pp. 1-12.
 9. *Id.* Some states only provide protection from forced marriage for women or minors.
 10. *Forced Marriage in Immigrant Communities in the United States – 2011 National Survey Results*, tahirih.org/site/wp-content/uploads/2011/09/REPORT-Tahirih-Survey-on-Forced-Marriage-in-Immigrant-Communities-in-the-United-States-September-20115.pdf, pp. 1-2.
 11. *Id.* pp. 2-3.
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MARLENE ESKIND MOSES is the principal and manager of MTR Family Law PLLC, a family and divorce law firm in Nashville. She is a past president of the American Academy of Matrimonial Lawyers. She has held prior presidencies with the Tennessee Board of Law Examiners, the Lawyers' Association for Women and the Tennessee Supreme Court Historical Society. She is currently serving as a vice president of the International Academy of Matrimonial Lawyers. The Tennessee Commission on Continuing Legal & Specialization has designated Moses as a Family Law Specialist; she is board certified as a Family Law Trial Specialist.

MANUEL BENJAMIN RUSS earned a bachelor of arts from Johns Hopkins University, a master of arts from University College London, and a law degree from the Emory University School of Law. He is in private practice in Nashville focusing primarily on criminal defense.