



National Consultation: Should Forced Marriage be a Crime in the United States?

Consultation Report
June 1 – 2, 2016

TAHIRIH JUSTICE CENTER FORCED MARRIAGE INITIATIVE

The Tahirih Justice Center Forced Marriage Initiative offers assistance to anyone who is fleeing a forced marriage regardless of age, race, class, gender, immigration status, nationality, sexual orientation, or religion. We partner with survivors and other advocates to end to forced marriage in the United States through direct services, education, outreach, and public policy advocacy.

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Acknowledgments

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About Forced Marriage

A forced marriage is one that takes place without the full and free consent of one or both parties and typically involves force, fraud, or coercion. A person denied his or her right to choose whether, when, and whom to marry is likely to suffer related harm such as psychological, sexual, and physical abuse.

In the United States, forced marriage can impact individuals of any race, ethnicity, religion, gender, age, or national origin and people of all economic and educational backgrounds. In a 2011 survey conducted by the Tahirih Justice Center, service providers in the United States reported encountering as many as 3,000 known or suspected cases of forced marriage over a period of just two years.

Forced marriage can happen for many reasons, and the motivations are often complex and varied. A common justification is adherence to community norms, custom, or tradition, and the desire to preserve these elements through control over whether, when, and whom a person marries. Sometimes a marriage is seen as necessary to prevent any behavior that might be perceived as having brought shame or dishonor to the family, such as dating outside one's community, engaging in sexual activity, or becoming "too westernized." Immigration or economic reasons can also be factors.

Despite many advocates' best efforts, forced marriage remains a serious but neglected problem in this country, and survivors of forced marriage and those at risk continue to fall through the cracks of the systems and programs set up to protect individuals from abuse.

Consultation Goals

This consultation was intended to create a space for an open and honest conversation about the potential risks and benefits of creating a distinct criminal offense of "forced marriage" in the United States. Given that this was the first opportunity many of us had to convene in person, we also sought to strengthen relationships among advocates, experts, and survivors working on the issue of forced marriage in the United States. Additionally, we saw this as an occasion to lay the foundation for ongoing dialogue about the complexities and nuances of this issue. We expected to conclude with a preliminary understanding of the potential impacts of criminalization and an assessment of what further inputs will be needed to advance the conversation.

The purpose of this consultation was not to function as a focus group to test out possible criminalization positions or a consensus building exercise driving towards a joint position.

While we hoped to have a robust conversation, we were clear that this was not meant to be the final or definitive exchange on criminalization and that the consultation would ultimately not provide a full opportunity to flesh out all arguments. In fact, we anticipated that our dialogue would likely raise more questions than answers.

Broadly speaking, the day and a half convening was divided as follows:

Day 1: Focused on relationship-building, laying the groundwork for dialogue, and opening preliminary conversations about expectations and fears in regards to the conversation about criminalization.

Day 2: Moved into a more in-depth analysis of the issue of forced marriage as well as the concepts of consent, justice, and healing and what is needed to better serve and protect individuals at risk and survivors.

Ultimately, it is our hope that this convening and those that follow will build collective momentum for an advocacy strategy on forced marriage with concrete policy recommendations for government agencies and/or legislation.

Background

This report summarizes the proceedings of the one and a half day consultation which took place in Washington, DC on June 1 and 2, 2016. The meeting was organized by the Forced Marriage Initiative at the Tahirih Justice Center and brought together 30 participants from across the United States. Participants included members of the Forced Marriage Working Group (FMWG), a core group of advocates contributing deeply to efforts to address the problem of forced marriage in the United States that was founded by Tahirih in 2011, as well as allied professionals, experts, and survivors.

At the foundation of this consultation was the understanding that forced marriage is a form of family violence. However, research and debate is ongoing in the United States as to what extent, and in what circumstances, a criminal approach to family violence actually reduces violence, and advocates are exploring what legal (or non-legal) systemic approaches to family violence actually best protect and support survivors. There is also limited and ambiguous forced marriage-specific data to draw on to inform this conversation, as only a fraction of states (8, plus Washington, DC and the U.S. Virgin Islands) have specific criminal laws against forced marriage, and those laws have not led to prosecutions. There is likewise insufficient data to draw on from the experiences of other countries that have criminal statutes against forced marriage, especially as some such laws have only recently been enacted; then, too, there are significant differences in country context that can diminish the relevance of the comparison.

The question of whether to criminalize forced marriage in the United States has become increasingly pressing for several reasons:

- Several other Western countries, including close U.S. allies the U.K., Canada, and Australia, have recently criminalized forced marriage;

- Policymakers are directly asking advocates for their position on criminalization, and some policymakers are keen to introduce bills to criminalize forced marriage in the very near term;
- The media is directly asking advocates for their position on criminalization, and there has been an uptick in coverage of forced and child marriage in the United States driven by the revelation of alarming child marriage statistics and the launch of multi-state legislative campaigns to end child marriage;
- More U.S. advocates, including survivor-advocates, are taking public stands in support of criminalization;
- The criminal approach already taken to female genital mutilation/cutting (federally, and in 24 states to date) is prompting policymakers and the media to suggest a similar approach to forced marriage; and
- A unique window of opportunity to legislate federally on forced marriage will open with the upcoming reauthorization of the Violence Against Women Act (VAWA) that will not re-open again for several years.

As such, Tahirih aimed to create space for dialogue and discussion among a diverse group of advocates, experts, direct service providers, and survivors. This convening was the first in what we intend to be a series of in-person meetings with the aim of placing those most deeply invested in this issue at the center of the conversation around criminalization (see Appendix A for the full Consultation Framework and Vision prepared by Tahirih).

In preparation for the consultation, a comprehensive background reading list was provided by Tahirih to invitees (Appendix B). It included comparative reports and journal articles on whether and how other countries have taken a criminal approach to forced marriage, and what the impact has been, as well as U.S.-focused reports and journal articles about forced marriage.

Main Points Arising From the Consultation

Throughout the convening, participants were encouraged to share their experiences, understanding, and perspectives with regard to forced marriage. Many shared practical knowledge gained from working with clients, and some spoke from personal experience and reflections. Overall, participants were impressed by the diverse impact of forced marriage in the United States as well as the commonalities in motives and coercive tactics that cut across communities. There was wide recognition that gaps in the systems intended to protect victims of violence make preventing forced marriages and assisting survivors uniquely challenging.

When discussing possible solutions to this problem, the group questioned whether criminalization would have a positive impact on prevention and intervention efforts. We devoted substantial time to the discussion of the potential for unintended negative impacts of criminalization. While several potential benefits of criminalization were offered, the possibility that criminalization could ultimately have little or no impact on prevention was also discussed.

There was broad agreement that additional time and space should be devoted to continuing these difficult conversations to allow advocates and survivors to drive any legal and other solutions to the problem of forced marriage in the United States.

Forced Marriage Cases are Complex and Present Unique Challenges

One of the major themes that arose from this consultation was that forced marriage cases are incredibly complex, and survivors and service providers often face novel challenges as they work to define and achieve safety. These complexities stem both from the motivations behind forced marriage as well as the contexts in which forced marriage often takes place.

Participants spoke about their own personal experiences and made observations from within their communities and those of the clients they serve. Many identified with and served clients from diverse backgrounds, including a wide range of immigrant communities and multi-generational American communities. By the end of the consultation many felt they could better grasp the nuances, layers and gray spaces of forced marriage and understand the intricate family dynamics at play as well as the intersections between forced marriage, domestic and sexual violence, and other forms of oppression and control.

- Participants raised the importance of understanding the distinct contexts faced by particular communities including poverty, war, and migration, and the ways in which these can also serve as driving factors behind forced marriage.
- Participants highlighted common dynamics across community backgrounds, in particular collectivist decision-making frameworks (i.e., the idea that what is perceived as best for the family/community is best for the individual), isolation, using faith-based threats and manipulation, and historical patterns of abuse.
- Participants identified a wide range of norms and expectations as contributing to an environment of coercion around marriage in many communities. These included expectations that all women should be married and that they should marry by a certain age; perceptions of a woman's "value" or marriageability by her family or community; restrictions on marriage partner choice based on religion or ethnicity; stigma around divorce; and control of female sexuality and reproduction.
- In particular, controlling female sexuality stood out as an overarching value that drives forced marriage across a wide range of communities, and participants were eager to discuss this dynamic. Virginity as a measure of a girl's worth as well as a reflection on the reputation of her family was identified as a commonly held belief across communities, and several advocates noted forced marriages arising out of a perceived need to protect virginity, and by extension, family honor. Some participants also noted that despite the importance of this underlying issue, discussing sexuality is often extremely taboo and remains relatively unaddressed within communities, creating a major barrier to progress.
- Participants also raised the point that young adult clients often face barriers to autonomous decision-making because they have not had the opportunity to develop decision-making skills. Several noted the pervasive ways in which families could exert emotional pressure and coercive control (including by heaping praise when an individual makes the "right choice"), and how this could hinder a young person's development of independence and self-agency. Some called into question whether "full, free, and

informed consent” to marry was even possible in such a family context and cited various compelling reasons a victim might perceive she has limited options to prevent or leave a forced marriage, including because other loved ones (e.g., siblings, children) might suffer.

- Participants also highlighted the nuances in terminology used to describe forced marriage and the impact of word choice on survivors’ ability to identify abuse. The terms “arranged marriage” versus “forced marriage” were intensely discussed with some advocates speaking to the existence of true choice within arranged marriages, and others raising challenges in being able to differentiate between arranged and forced marriage in contexts where individuals have been isolated and may have learned to comply with their parents’ wishes and accept community norms without question.

“You may not feel your boundary was breached if you didn’t have that boundary to begin with.”

- Other participants felt that this distinction should be seen through a framework of collectivist rather than individualistic decision-making and sense of identity and noted the impact of these concepts on how we serve and perceive forced marriage clients. They emphasized the importance of understanding the potential loss of identity that clients may face and recognizing clients as survivors who are “navigating multiple truths.”
- Participants also noted that high levels of isolation among some victims, particularly those from insular communities that do not often come into contact with outsiders or service providers, combined with financial barriers resulting from a lack of independence, can also contribute to a sense that an individual at risk may have no other viable options or safety nets.
- Many commented on patterns of abuse and control as well as complex family dynamics common to forced marriage situations that make them challenging for service providers to address. These included situations involving multiple perpetrators within the home and extended networks and frequent multi-victimization within families and across generations. In particular, participants shared several examples of abusive or complicit mothers and mothers-in-law who were often acting within a context of limited choice and autonomy and were themselves survivors of forced marriage and domestic violence. Participants similarly noted how some family members are “complicit” only because they feel they have no other choice and cannot intervene or help one individual without causing harm to that individual, themselves, or another family member.
- Some also mentioned a lack of communication within families and the challenges that this poses in identifying and responding to varying levels of coercion and abuse around marriage choice, both for service providers and survivors. Some noted that often clients will not even voice opposition to their parents due to fear of the consequences for behavior that may be perceived as rebellious. Whether these fears are justified or overblown is then difficult to ascertain and creates major barriers to safety planning and risk assessment. Some observed that this lack of communication within families frequently leads to what was referred to as an “arc of no return,” where a client remains hopeful that a marriage will not actually happen, up until the point when significant commitments and plans have been made. This then makes it more difficult for them to prevent the marriage and requires a far more urgent response.

Talking About Criminalization is Equally Challenging and Complex

There was significant doubt among participants that criminalizing forced marriage as a standalone measure would provide increased protection for the majority of individuals at risk. While there was a sense that criminal law and the criminal justice system could be useful tools, several participants noted that there are serious challenges utilizing them in most instances given the complexities of forced marriage cases and the family/community contexts in which forced marriages happen. Many also voiced fears and skepticism of the criminal justice system as a whole and the potential for unintended consequences.

- On the whole, service providers shared that most clients they serve do not wish to pursue criminal charges given the complex feelings of love and loyalty they have for their families, combined with the fear of personal backlash or ostracization and further stigmatization by their communities.
- Participants also expressed the sentiment that, given the current political context of anti-immigrant sentiment, Islamophobia, and racism, this is an unsafe time to introduce such criminal legislation as such an effort could be appropriated by existing xenophobic dialogue and rhetoric and implemented in a way that disproportionately impacts minority communities.
- Additional concerns were raised that a criminal vs. civil law approach could further isolate certain communities, exacerbate “racial, ethnic, and faith-based tensions,” and contribute to the problem of disproportionate minority contact with the criminal justice system.
- Participants pointed out that individuals often face practical barriers when attempting to access support from the criminal justice system even when existing criminal justice remedies are available (for example, in states where forced marriage is criminalized or where the situation involves existing crimes such as rape, physical abuse, or abduction). These barriers include the economic impacts of perpetrator incarceration on the victim, language access issues, and growing fear and mistrust of law enforcement.
- The fact that civil, criminal, and immigration laws are so deeply entangled in the United States was also cited as contributing to the complexity and difficulty of finding a solution to forced marriage that would not set in motion other negative legal impacts.
- There was a genuine struggle with how to hold perpetrators accountable and change social norms and whether criminalization would open or close doors to these goals. Participants shared questions along this theme – wondering, for example:
 - “Would I report a friend? Or a family member?”
 - “What would encourage families of victims to help stop a marriage or report it?”
 - “What would help victims speak up and out?”
 - “...if we criminalize forced marriage, does that open a dialogue with families/communities...or does it forever close the door to that dialogue?”
 - “Is criminalization required to offer the institutional mechanisms needed to push social values/norms change? On the other hand – does criminalization hinder social values/norms change?”
- Participants also expressed fear that – instead of serving as a deterrent – criminalizing forced marriage will simply drive forced marriage further underground, and survivors will become increasingly isolated. However, others countered that given the current hidden

nature of forced marriage, it is hard to imagine how it could become more underground than it already is.

- Participants shared concerns that a low number of prosecutions, or failed prosecutions, under a new criminal statute could be used to minimize the extent of the forced marriage problem and thus lead to a continued lack of funding for support services and research.
- Several participants raised the need for a broader conversation about what justice looks like for survivors of forced marriage, expressing doubts about whether the criminal legal system provides the best route to justice.

“When the criminal justice system doesn’t feel like a system of justice, I don’t want to put my hands or my sisters’ hands in it. How can this be the right time on a national level [to criminalize forced marriage] before we have addressed the issues of the system?”

- Ultimately, this paved the way for a deeper conversation around the meaning of justice and the role of law in achieving justice for survivors and whether or not justice was necessary for healing. During this discussion, the point was made that survivors of forced marriage are not monolithic: the meaning of justice and the process of healing will differ for each person, and as such a “one size fits all” or “do no harm” model is likely unattainable.
- Others agreed and noted that determining what survivors want and need can depend on who you ask and where they are in the healing and recovery process.
- These complexities led several participants to underscore concerns about whether and how “forced marriage” could be defined given that only so much nuance can be built into a criminal law. They flagged the consequences of defining it too broadly (over-criminalization, and provoking a “chilling effect” on victims) or too narrowly (leading to a lack of accountability because families might excuse their actions as acceptable, and prosecutors might only pursue the worst cases or charge other crimes instead).
- Overall there was a sense in the room that advocates want to increase protections and supports for survivors but that criminalization, if pursued, may be just one piece of that process. Participants expressed a need for more time to explore what survivors want, what other avenues may exist to provide survivors and individuals at risk what they need, and how criminalization may fit into that narrative.

Alternatives to Federal Criminalization

Participants were eager to explore alternative approaches and solutions before concluding that criminalization on the federal level was necessary. There was a keen desire to identify more civil legal options and non-legal options and to develop a comprehensive package of responses that focus on prevention, intervention, funding for services, and outreach. While participants reflected that criminalization may be a pathway to obtain funding for civil and non-legal options, some voiced an unwillingness to criminalize the practice simply to achieve funding, especially if there may be other negative consequences. Throughout these discussions, a number of individuals encouraged the group to reflect on the successes and failures of the domestic violence movement and efforts to address female genital mutilation/cutting (FGM/C) in the United States. Much of the group described the ultimate goal as to shift community beliefs and attitudes such that forced marriage is abandoned

altogether, and many wondered if criminalization was necessary or useful in our efforts to reach that goal.

- Participants raised the point that the current lack of a criminal offense can at times provide the opportunity for service providers to work creatively with law enforcement to meet client needs. This latitude, they commented, might be constrained by laws and protocols which prescribe required actions when a forced marriage is reported and may not allow for more flexible, case by case, survivor-led responses.
- There was wide agreement that there is a need for increased civil remedies that incentivize engagement with authorities by allowing protective measures to be taken on behalf of individuals at risk without forcing them to prosecute their loved ones and family members. Immigration protections under the Violence Against Women Act were cited as an example.
- Participants also felt that strengthening civil options risked fewer negative consequences than criminalization and could equally recognize the wrong while more directly benefiting survivors, including through financial awards (damages awarded at trial). However, advocates shared mixed experiences using existing state civil laws, which often must be tied to criminal actions, making it difficult in cases where a crime has not yet occurred or where the abuse is primarily emotional.
- Some suggested that one way to address the challenges survivors face when trying to leave a forced marriage would be to reform state-based divorce and annulment laws to make it easier to dissolve or annul a marriage based on force or fraud while protecting or enhancing financial entitlements and supports for survivors.
- Participants also discussed the benefits and challenges of using current laws to prosecute perpetrators. They expressed that in some more severe cases it is already possible to prosecute other crimes which occur alongside the forced marriage, such as assault (physical or sexual) or abduction. Some still felt, however, that failing to directly address forced marriage as a crime in itself may deny true justice to the victim.
- Participants raised the fact that forced marriage can be criminalized at the state level under provisions such as human trafficking statutes and that this may be an alternative avenue to criminalizing on the federal level.
- Some participants proposed addressing state-based minimum age of marriage laws as an accessible alternative to address and prevent forced child marriage. This was also seen by some as a way to broach conversations about what true consent requires and the politically touchy subject of “how marriage can be something negative.” Some felt this may also help prepare the public and policymakers to better understand forced marriage before federal criminalization of forced marriage is considered.
- Some also felt that addressing forced child marriage through minimum age of marriage legislation might be an alternate impetus to advance advocates’ priorities such as a hotline, public education and health funding, and guidance for Child Protection Services, among other goals.
- Reflecting on the recent joint guidance to states issued by the U.S. Departments of Justice and Education concerning the rights of transgender students, advocates wondered if DOJ could do something similar related to guidance for states on civil protection orders for individuals facing forced marriage.

- There was also a strong emphasis on the need for increased outreach and education efforts that focused on the negative impacts of forced marriage among impacted communities. Some participants noted that without such efforts, criminalization will have little impact, because communities may not appreciate why an approach to marriage that they feel is positive has been outlawed, thus diluting such a law's deterrent effect.
- Some shared a desire for faith-based leadership while recognizing that the involvement of faith leaders may give the impression that forced marriage is a faith-based problem. Nevertheless, several felt that official statements from a diverse group of prominent faith leaders condemning forced marriage and stating that forced marriage has no basis in religion could send a powerful message to communities and move the needle on attitudes, beliefs, and behavior change.
- Participants also suggested that while some forced marriages might be properly addressed through criminal law, other forced marriages that fall in the "gray space" of unhealthy family relationships might be better addressed through prevention efforts including community-based education and social norm change to address root causes. The need to strengthen community-based programs so that they are ready to help, and so that referrals do not give "false hope" to survivors, was also emphasized.

Cautious Consideration of the Opportunities That Criminalization Could Unlock

There was a recognition that there are a wide range of possible outcomes to criminalization, both positive and negative. While the complexities of the issue and the fears many had about the potential for unintended consequences at times felt daunting, there were several participants who pointed out the ways in which criminalizing forced marriage could be empowering for survivors and unlock doors for other avenues of protection, support, and services.

- Several individuals noted that criminalization would make a powerful normative statement that forced marriage is unacceptable and stressed the impact that sending such a message would have on victims and their ability to negotiate safety and claim their rights.
- Some raised the point that the threat of bringing a criminal prosecution could be a deterrent factor for some families and noted that clients have expressed this sentiment as well, even if they would never actually seek to prosecute. Survivors in the room shared the view that a federal criminal statute against forced marriage would have been beneficial in their situation, both in regards to their own recognition that what they were experiencing was abuse and also to their ability to negotiate with their families.

"I am challenged by my own reactivity to locking up one's parents while I also firmly believe in accountability, justice, and social condemnation of all oppressive acts."

- Participants also pointed to possible tangible benefits, such as national attention and access to resources including crime victim compensation funds, a helpline/hotline, federally-funded research, as well as the potential to leverage more mainstream organizations and networks for public education. For example, after the criminalization of FGM/C, the Department of Health and Human Services designated funding and a number to call for information, the Department of Education hosted a national webinar,

the Department of Justice hosted community roundtables, and reports were issued by the Centers for Disease Control and Prevention and the U.S. Government Accountability Office. Participants reflected, however, that even in the FGM/C space, so much more is needed.

- Others noted that having a clear federal criminal statute may also encourage service providers and others, including law enforcement, child protection, and judges, to intervene more readily and effectively.
- Finally, some participants commented that because civil marriage license laws do not reach all types of forced marriages (e.g., marriages performed overseas and religious marriages performed without a license), the question of criminalization may come into play to try to give “teeth” to those civil laws, and in some states, criminal laws already apply to unlicensed marriages.

Careful Drafting and Implementation are Essential if Criminalization is Pursued

Participants tended to agree that a federal criminal law would have to be carefully drafted and implemented in order to ensure that it actually protects individuals from harm and avoids significant negative consequences for victims and their communities. There was wide agreement that survivors and advocates must be central to the process of drafting if a federal criminal statute is pursued.

- Several participants pointed out that criminalization could only be an effective deterrent tool with adequate outreach and education efforts.
- Participants agreed that victims must be empowered by any solution, not further harmed by it, necessitating a thoughtful evaluation of the process and outcomes of criminal remedies.
- In addition, the fact that cases often involve multiple victims, perpetrators, and victim-perpetrators raised questions about what punishment would fit the crime. Many cautioned that criminal penalties should be calibrated carefully in order to deter perpetrators but also encourage victims to come forward.
- Sequencing and packaging was a clear concern among most participants. Some felt that legal remedies should be introduced gradually, in tandem with robust education, outreach, training, guidance, and funding. Others stressed that putting civil protections in place first and conducting a robust awareness and education campaign would be critical to encourage victims to come forward.

What We Want to Know

Participants emphasized that much remains to be learned and discussed before reaching any conclusions, including:

- More information on the evolution of the movement to end FGM/C in the United States, and what steps or strategies led to which current outcomes.
- Analysis of the long-term impacts of the criminalization of domestic violence, including as it relates to the disproportionate incarceration of people of color.
- Direct input about criminalization from a diverse range of community members, community leaders, and survivors impacted by forced marriage in the United States.

- Reflections and data on the impact of criminalization on survivors and service providers in countries that have criminalized forced marriage. In addition, understanding whether and how survivor agency has been preserved in prosecutions in these countries would be helpful.
- More research, not only on the scope and prevalence of the problem but also on the detrimental impacts of forced marriage, particularly the negative health outcomes (including individual physical health, mental health, family health, and public health).
- Analysis of alternatives to criminalization, specifically whether there is something a criminal law could do that a well-crafted civil law, such as a specific type of protection order, could not.
- Exploration of other avenues for funding prevention work that may not have been tapped or approached from the right angle.

What We Need to Talk About

Participants agreed that this initial, in-person conversation was a critical step in developing a shared understanding of forced marriage and in envisioning ways to prevent it. Some topics that require further discussion include:

- Forced marriage and potential solutions in the broader context of patriarchy, attitudes towards women and girls, and the control of female sexuality.
- Root causes of forced marriage and effective community-based solutions.
- The different meanings of justice and safety and all the ways in which survivors define and achieve justice and safety for themselves.
- Trauma-informed approaches to ending forced marriage.

Who Else Needs to Be a Part of This Dialogue?

Participants commented that they walked away from the consultation with an expanded understanding of and appreciation for the diverse viewpoints of the other individuals in the room. There was consensus that still more diverse voices and perspectives need to be part of these discussions in order to ensure that we are being as inclusive as possible and exploring all available solutions and potential impacts. Below is a list of other stakeholders and experts that participants cited as essential voices to include as we move the conversation about forced marriage and criminalization forward:

- Survivors and survivor-advocates from diverse communities, faith backgrounds, racial and ethnic identities, and in different stages of healing
- Community change agents
- Faith leaders
- Judges from civil and criminal law backgrounds
- Prosecutors
- Law enforcement professionals
- Forced marriage experts from other countries that have gone through the criminalization process
- Government officials who control or influence funding streams

- Government agency representatives who can tell us what is possible and what could be possible if we had the right strategy
- Researchers
- Family law experts
- Healthcare professionals
- Service providers with expertise in domestic violence and sexual assault

What's Next?

As the consultation came to a close and participants reflected on their experiences, all were hungry to capitalize on the progress made at this consultation and to keep the momentum going. To that end, the group came up with a list of action items:

- Develop a coordinated response to slow legislators from racing to criminalization and allow the time and space this groups needs to formulate the best possible package of recommendations.
- Work together to host a national survivor consultation to gather input from diverse survivor voices on the question of criminalization.
- Survey clients on the criminalization question and feed that input into our next consultation.
- For those who work within affected communities: Hold listening sessions on forced marriage criminalization and share their findings with the group.
- For those positioned within domestic violence and sexual assault coalitions: Reach out to individual programs and ask about incidence of forced marriage to get a better sense of how often forced marriage survivors are being identified and served by those programs.

Commitment to Keeping the Conversation Going

Attendees emphasized the need to reconvene in short order and to make it possible for other key stakeholders to participate. Several suggested that the next in-person convening should be held outside of Washington, DC to allow those located elsewhere to more easily participate. While many praised the success of the event, there was an emphasis on the need for increased financial resources and support in order to make it possible for more diverse voices and survivors from across the country to participate in future consultations. Notably, a few participants named specific individuals or organizations that were not present given a lack of financial support to attend. While emphasizing the immense value and importance of coming together in person, some suggested that – given the financial burden that travel presents to many participants and potential participants – virtual convenings (webinars, conference calls, etc.) could be a low-cost/low-burden strategy to keep the conversation going between in-person convenings. Given this feedback, Tahirih is committed to seeking out funding for future consultations to relieve the financial burden of participation and enable all invitees to attend.

The Forced Marriage Initiative at the Tahirih Justice Center is eager to implement these suggestions alongside other members of the Forced Marriage Working Group and plans to ensure that this is just the first in a series of meetings, with the aim of placing those most deeply invested in and impacted by forced marriage at the center of the conversation around all policy solutions, including criminalization.

Appendix A - Consultation Framework

Framework for Consultation: Should Forced Marriage be a Crime in the U.S.?

The long-standing questions around whether and how to criminalize “forced marriage” are becoming increasingly time-sensitive in the U.S., for several reasons:

- Several other Western countries, including close U.S. allies the U.K., Canada, and Australia, have recently criminalized forced marriage;
- More U.S. advocates, including survivor-advocates, are taking stands in support of criminalization;
- Policymakers are directly asking advocates for their position on criminalization, and some policymakers are keen to introduce bills to criminalize forced marriage in the very near term;
- The media is directly asking advocates for their position on criminalization, and there has been an uptick in coverage of forced and child marriage in the U.S. driven by the revelation of alarming child marriage statistics and the launch of multi-state legislative campaigns to end child marriage;
- The criminal approach already taken to female genital mutilation/cutting (federally, and in 24 states to date) is prompting policymakers and the media to suggest a similar approach to forced marriage; and
- A unique window of opportunity to legislate federally on forced marriage will open with the upcoming reauthorization of the Violence Against Women Act (VAWA) that will not re-open again for several years.

In this context, key stakeholders risk exclusion from critical deliberations and developments in the months ahead if they have not developed a position on criminalization.

Engagement by members of the Forced Marriage Working Group and other allies is vital to ensure careful consideration of the complex issues raised by criminalization; to promote the inclusion of diverse perspectives; and to elevate survivor voices.

Consultation Vision

What It Is	What It Isn't
<ul style="list-style-type: none">• A safe space for dialogue• An opportunity to build community, encourage engagement, and lay foundations for ongoing dialogue• The first in a series of forums to explore complexities and nuances, and to understand and appreciate different perspectives, with additional exchanges to come in the months ahead• A preliminary assessment of what further answers or inputs are needed to advance the dialogue• A moment for advocates to benefit from being in “listening/learning” mode so as to better inform their own individual/organizational positions	<ul style="list-style-type: none">• A platform for debate or position-pushing• A full opportunity to flesh out all the arguments• The final or definitive exchange on criminalization, or the place to develop a final product• A juncture at which decisions or conclusions are expected from participants• A “focus group” opportunity to test out possible criminalization positions• A consensus-building exercise driving towards a joint position statement

Appendix B - Consultation Background Reading

Recommended Background Reading: National Consultation on Forced Marriage and Criminalization in the U.S.

Introductory Note:

The Utility of Looking to Other Countries' Experiences with Forced Marriage and Criminalization

Many U.S. advocates want to know what lessons can be drawn from other Western countries that have made forcing someone to marry a crime. For several reasons, however, other countries' experiences may not give a fair indication of what the U.S. could do or expect.

Variables that can affect how much these experiences can “translate”, or the extent to which other countries' approaches can be transplanted to the U.S. context, include:

- country and population size (affects feasibility of implementation);
- demographics (including whether forced marriage is perceived as prevalent in particular ethnic, immigrant, or religious communities);
- politics, including integration/isolation/marginalization/hostility to certain groups;
- whether there is a single, unified legal system or instead a federal-state division of authority;
- whether federal authorities have the power to pass civil laws concerning marriages and family abuse;
- whether convictions for criminal offenses also trigger immigration consequences like deportation; and
- whether practical foundations for legal solutions have been laid, including stakeholder consultations and engagement and commitments to public education and outreach, training for professionals, and specialized services and supports for victims.

Still, considering the experiences of other countries¹ can be very helpful as U.S. advocates try to flesh out the many nuances to this complex topic, and especially to identify the key variables that can significantly affect outcomes. In addition, in some other countries advocates and policymakers have been grappling with the criminalization question for nearly 20 years, and in recent years, they have produced many thoughtful reflections and in-depth reports.²

¹ We acknowledge that experiences in the U.S. and other countries with taking a criminal approach to family and intimate partner violence generally, and to female genital mutilation/cutting in particular, could also be instructive to consider; however, providing reference resources for those other topics is beyond the scope of this compilation, and differences in context could pose similar challenges to translation.

1. Selected Non-U.S. Resources

For the reports of the two national consultations the U.K. held on the question of criminalization, please see:

- [Forced Marriage – A Consultation – Summary of Responses](#). U.K. Home Office (June 2012). (Further government materials are also available on the [Home Office website](#), and dozens of individual stakeholder responses are easily retrieved through online search engines.)

Of 297 groups and individuals responding to this consultation, 54% were in favor of criminalization, while 37% were against it; 9% were undecided. However, some advocates have criticized the process that led to these tallies (for example, asserting that the timeframe was rushed and that a group submission endorsed by many organizations was single-counted). The government also held 3 consultation events to seek the views of frontline staff and victims on whether current civil legislation was working and if not, whether criminal legislation would help.

Many respondents felt that government agencies were still not sufficiently fulfilling their statutory duties and that current remedies and sanctions were not being used effectively. There was broad support for criminalizing breaches of Forced Marriage Protection Orders (FMPOs).

The government decided to make forced marriage and the breach of FMPOs a criminal offense, and also committed to several actions (such as expanded training and public awareness campaigns, and funding to assist repatriated victims) to minimize any negative effects of criminalization and to bolster the effectiveness of the existing civil remedies and practical supports.

- [Forced Marriage – A Wrong, Not a Right – Summary of Responses to the Consultation on the Criminalisation of Forced Marriage](#). U.K. Forced Marriage Unit (June 2006).

A total of 157 organizations and individuals responded to this earlier consultation. The majority felt that the disadvantages of creating a new specific offense of forcing someone into marriage would outweigh the advantages and potentially drive forced marriage underground.

As a result, the government committed to 3 recommendations for non-legislative activity – increasing training for professionals and engaging more with affected communities; increasing work with statutory agencies to share best practices and implement guidelines; and ensuring that existing legislation is fully implemented and making better use of civil remedies and the family courts – with a pledge to re-consider criminal legislation only once there had been progress in all three areas.

For general reference, please see:

- [Forced Marriage Unit Statistics 2015](#). U.K. Home and Foreign & Commonwealth Offices (March 8, 2016).

Reports and Journal Articles

[Forced marriage from a gender perspective](#). Directorate General for Internal Policies, Policy Department C: Citizens' Rights & Constitutional Affairs, Women's Rights & Gender Equality Cmte., European Parliament (February 2016).

This 239-page study examined over 30 countries (both European Union (EU) member states and others), with input from dozens of national experts and stakeholders. It provides an overview of relevant international/EU legislation, policy, and deliberations, as well as national policies, civil law and criminal law; assesses the effectiveness and possible consequences of criminal legislation; and presents case studies on Denmark, Germany, Slovakia, Spain and the U.K. The study includes an extensive bibliography and two uniquely helpful annexes: one contains all the national statutes (in criminal, civil, and immigration law) related to forced marriage in all 30+ countries surveyed, and the other summarizes the relative handful of forced marriage prosecutions that have taken place in EU member states.

Kerstin Braun, ["I don't take this man to be my lawfully wedded husband": considering the criminal offence "forced marriage" and its potential impact on the lives of girls and young women with migrant backgrounds in Germany](#). German Law Journal, 16(4) (2015), pp. 845-870.

This article examines 2011 amendments made to the German Criminal Code to make forcing someone to marry an offense in its own right (and cites subsequent reporting rates and cases); questions whether criminal law effectively addresses forced marriage; contemplates non-legislative measures that could afford more holistic protection; and argues that to assist victims in practice, more than criminal law is needed.

[Addressing forced marriage in the EU: legal provisions and promising practices](#). European Union Agency for Fundamental Rights (2014).

This report focuses on France, Germany, the Netherlands, Sweden and the United Kingdom; presents national survey data on characteristics of victims and perpetrators, among other statistics; reviews both criminal laws and relevant civil laws on minimum marriage age, annulment, and immigration; highlights a range of promising non-criminal initiatives to protect and support survivors, such as online counseling or hotlines/helplines, shelters and public education campaigns; and includes an extensive bibliography and annex charting whether and how EU Member States have enacted a specific crime of forced marriage.

Alexia Sabbe, Marleen Temmerman, Eva Brems and Els Leye, [Forced marriage: an analysis of legislation and political measures in Europe](#). Crime, Law and Social Change: An Interdisciplinary Journal, Vol. 62, No. 1 (2014).

This article notes that although governments are paying more attention to forced marriage, the serious physical and psychological health consequences for women, including sexual violence, have received little consideration, and the solutions adopted are mostly legal. It argues that ethnic minority population groups bear the greatest burden of criminalization and stringent immigration policies, and that specific criminal laws make it more difficult for victims to come forward, while offering very little or no protection in return.

["This is not my destiny." Reflecting on responses to forced marriage in England and Wales](#). Marai Larasi and Sumanta Roy, Imkaan, and Ruth Tweedale, Rights of Women (2014).

This research report by Imkaan (a U.K.-based black feminist organization dedicated to addressing violence against women and girls (VAWG) and Rights of Women (an organization that specializes in providing legal advice and support for women experiencing gender-based violence) draws on 8 workshops across England and Wales that included sessions for victim/survivors of forced marriage and other forms of VAWG as well as sessions for professionals with a responsibility for addressing forced marriage. The project looked at current levels of awareness and knowledge of the law and perceptions on its usefulness, including existing civil and criminal remedies and the criminal offense on forced marriage to be implemented in June 2014 (a few months after the workshop sessions concluded). It includes recommendations for addressing forced marriage as part of an integrated VAWG approach.

Frances Simmons and Jennifer Burn, [Without Consent: Forced Marriage in Australia](#). Melbourne University Law Review, Volume 36: 970 (2013).

This article reviews the challenges in defining forced marriage and the degree to which the practice overlaps with other forms of exploitation such as servitude and slavery. The authors caution against prioritizing prosecutions over preventative and protective strategies, and argue that the creation of specific forced marriage criminal offenses should be accompanied by new, family law-based civil remedies, targeted support services, and an investment in community legal education and consultation.

Renee Kool, [Step forward, or forever hold your peace: penalising forced marriages in the Netherlands](#). Netherlands Quarterly of Human Rights (2012).

This article criticizes Europe's policy in favor of penalization of forced marriages, warning that it "holds the risk of strategic misuse of human rights law for political benefit," of being unenforceable and purely symbolic, and of fueling xenophobia. The author pays special attention to the political discourse and substantive legal context and challenges in the Netherlands, but also briefly reviews laws and public debates in Norway, Belgium, France, England, Scotland, Germany, and Switzerland.

Max Wind-Cowie, Phillida Chetham and Thomas Gregory, [Ending forced marriage will take more than a change in the law...](#). Demos (March 2012), pp. 47-60.

This report notes the strong stance the U.K. government has taken against forced marriage both at home and abroad, and characterizes the commitment to criminalize breaches of Forced Marriage Protection Orders and to consult on making forced marriage a specific crime "welcome and necessary but also insufficient." The report urges the U.K. to improve and develop its response to forced marriage to ensure that domestic and international efforts are complementary and coherent, and underscores that the emphasis of frontline agencies needs to remain on preventing, rather than prosecuting, suspected incidents of forced marriage.

Aisha Gill, [Exploring the viability of creating a specific offense on forced marriage in England and Wales](#). University of Roehampton (July 2011).

This study attempted to counter a perceived criminalization bias in the government's inquiries and consultations to date, by conducting an independent consultation into whether forced marriage should be criminalized. The authors received 74 responses from NGOs and

community groups to 10 primarily qualitative, open-ended question. Respondents generally agreed that legislation alone would have limited impact and that holistic support mechanisms, a sustained and targeted training program for professionals, and an equally comprehensive awareness-raising campaign would be necessary to combat the problem.

2. Selected U.S.-Focused Resources

For a compilation of existing U.S. criminal laws directly addressing forced marriage, please see:

- [Criminal Laws Addressing Forced Marriage in the United States](#). Tahirih Justice Center (July 2013).
- Julia Alanen, [Forced Marriage Laws of the U.S. States and Territories](#). Global Justice Initiative (Oct. 20, 2011).

Reports and Journal Articles

Julia Alanen, [Custom or Crime?: Crafting a Competent Framework to Combat Forced Marriage](#). American Journal of Family Law (pre-publication draft; final article forthcoming 2016).

This article, Part III of a four-part series, describes the sparse legal and policy landscape in the U.S. directly addressing forced marriage; cites advocates' efforts to galvanize attention to forced and child marriage in the U.S.; outlines the main arguments advanced by European proponents and opponents of criminalization; and urges a victim-centered, holistic response to forced marriage.

Elizabeth Landau, [Custom or Crime?: Legal Remedies for Forced Marriage Victims and Survivors](#). 30 American Journal of Family Law 46 (Spring 2016).

This article, Part II of a four-part series, covers state criminal laws (both specific to forced marriage, and relating to ancillary criminal acts that may be committed to force a marriage), civil remedies like protection orders or divorce/annulment, and potential immigration issues (both the ways that a victim's vulnerable immigration status can be exploited, and possible humanitarian immigration remedies for foreign-born victims living in the U.S.).

Judith McFarlane et al., [Child Brides, Forced Marriage, and Partner Violence in America](#). Obstetrics & Gynecology Vol. 127, No. 4 (April 2016).

Researchers from Texas Woman's University conducted a 7-year study on 244 mothers who had reported intimate partner violence in the U.S. They found that 17% of respondents faced a forced marriage attempt, and among those respondents, 45% experienced the threat as a minor.

Casey Swegman, [The Intersectionality of Forced Marriage with Other Forms of Abuse in the United States](#). National Resource Center on Domestic Violence (February 2016).

This paper provides information and cites research on forced marriage in the U.S. and its intersections with child abuse, sexual assault and rape, domestic and family violence, stalking, female genital mutilation/cutting, and human trafficking. The research demonstrates that forced marriage is a serious but neglected problem in the U.S., and that

victims continue to fall through the cracks of the systems and programs set up to protect individuals from abuse. The author urges an understanding of the linkages between the mechanisms of power, control, and coercion that may precede a forced marriage, and the forms of abuse that can follow it.

Julia Alanen, [Custom or Crime?: Catalysts and Consequences of Forced Marriage](#). 29 American Journal of Family Law 227 (Winter 2016).

This article, Part I of a four-part series, defines forced marriage and distinguishes it from arranged marriage, describes possible victims and perpetrators, and explores the catalysts and consequences of harmful marriage practices.

Anthony Marcus (John Jay College of Criminal Justice) et al., [Is Forced Marriage a Problem in the United States? Intergenerational Conflict over Marital Choice Among College Students at the City University of New York from Middle Eastern, North African, and South Asian Migrant Families](#). The AHA Foundation (April 2015).

This report draws on interviews from a purposive sample of 100 university students from MENASA backgrounds to document intergenerational conflict over honor, sexuality, and marital choice and to assess whether forced marriage is a problem in the U.S. The report states that the interviews suggest there is significant and widespread intra-familial conflict over marital choice within the MENASA population and that forced marriage may be a problem for some young people in U.S. migrant communities; but the report also notes that definitions and policy approaches derived from Europe may not be suitable to the vastly different receiving country conditions encountered in the United States.

Cynthia Helba et al., [Report on Exploratory Study Into Honor Violence Measurement Methods](#). Westat (under a grant from the U.S. Bureau of Justice Statistics)(November 26, 2014)).

This study defines forced marriage as a form of honor violence; provides statistics drawn from a variety of sources to estimate the prevalence of honor violence in the U.S.; provides information on data-collection possibilities based on a review of literature and surveys, expert interviews, and online and legal searches; and makes recommendations for initial steps for future government data-collection on honor violence.

[Resolution and Report 112B](#). American Bar Association Commission on Domestic and Sexual Violence (passed Aug. 12, 2014).

The resolution condemns forced marriage as a human rights violation and family violence/violence against women. It also urges government-NGO collaboration to develop victim-centered legal reforms to prevent forced marriages and support survivors, and promotes training for the justice system. The underlying report documents forced marriage as a problem in the U.S. and outlines the relevant legal and policy frameworks that currently apply, as well as their shortcomings in addressing the problem.

Julia Alanen, [Too Young to Tie the Knot](#). Vol. 40 Family Law Reporter 49 (October 28, 2014).

This article makes a case for proscribing underage marriages, including by citing international legal instruments that characterize child marriages as forced marriages.

[Voices from the Frontline: Addressing Forced Marriage Within the United States](#). Vidya Sri and Darakshan Raja (Gangashakti, 2013).

This study presents findings from a multi-method research study that includes an analysis of the following: 1) 524 surveys with students, domestic violence professionals and refugee service providers; 2) 52 case reviews of suspected and confirmed cases of forced marriage; and 3) 22 interviews with frontline responders. The study examines the responses, remedies, and protections that are available for victims of forced marriage and presents recommendations of frontline responders, scholars, activists, and survivors for improving responses.

[Abusive International Marriages: Hmong Advocates Organizing in Wisconsin. Chic Dabby-Chinoy, Asian & Pacific Islander Institute on Domestic Violence, in partnership with Wisconsin Refugee Family Strengthening Project \(2012\).](#)

Hmong women working in domestic violence programs organized meetings among advocates, activists, victims/survivors, community leaders and allies to explore possible actions to address abusive international marriages. The term refers to older men residing in the U.S. marrying underage girls in Asian countries (with age differences up to 70 years), and can include abuses such as forced marriages and transnational abandonment. The report documents the complexities of the problem and its impact on Hmong communities; highlights survivors' stories, and articulates a vision and strategies for community change.

[A Closer Look at Forced and Early Marriage in African Immigrant Communities in New York City](#). Dr. Ramatu Bangura, Sauti Yetu Center for African Women and Families (Sauti Yetu Occasional Report, Vol. 3)(2012).

This report focuses on the lived experiences of African immigrant and refugee girls and young women in New York City, aiming to support policies informed across a variety of immigrant communities that protect the health, well-being, and futures of immigrant young women. It includes case studies and other findings revealed through focus groups and interviews with 30 young women aged 16-21, of whom "all but 2 faced pressures to marry or were already married before the age of 18."

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).

This article examines the nature, catalysts, and consequences of forced and early marriage customs; evaluates the efficacy of applicable domestic, foreign, and international laws and remedies; gauges the capacity of minors to meaningfully consent to marriage; analyzes competing theories about whether harmful marriage practices are best addressed through civil or criminal laws; and explores the role of community-led development efforts to spur social change. It integrates lessons learned by countries with well-developed forced marriage protection regimes by weaving a global perspective throughout the domestic analysis.

[National Survey on Forced Marriage In Immigrant Communities in the United States](#). Heather Heiman and Jeanne Smoot, Tahirih Justice Center (September 2011).

This national survey of forced marriage in the U.S. identified as many as 3,000 known and suspected cases encountered by over 500 respondents (largely legal and social services-providers) from 47 states over the 2-year period 2009 to 2011. Victims and their families came from diverse religious backgrounds and, with respect to immigrant families, originated

from at least 56 different countries. The report provides valuable insights into challenges that service providers encounter as they try to identify and assist individuals facing forced marriages, barriers to help-seeking, and the complex dynamics involved in forced marriage cases.

[An Introduction to Forced Marriage in the South Asian Community in the United States](#). Debjani Roy, Manavi (Manavi Occasional Paper No. 9)(2011).

This in-depth paper presents the findings of a 10-question web-based survey that Manavi conducted in June 2010 amongst frontline advocates at 12 U.S.-based South Asian women's organizations, including that 83% of agencies had worked with women in the prior 5 years who faced the issue of forced marriage and its consequences, such as domestic violence or sexual assault. It also draws on additional research and casework to highlight numerous case stories and illustrative scenarios to describe the dynamics of forced marriage in South Asian families in the U.S., including the impact on men and on individuals identifying as LGBTQ.

¹ For short opinion pieces from the U.K. that present key arguments often advanced pro/con a criminal approach, please see:

- [“Criminalising forced marriage has not helped its victims.”](#) Aisha Gill, *The Conversation* (June 17, 2015)
- [“Criminalising forced marriage in the U.K.: why it will not help women.”](#) Amrit Wilson, *openDemocracy* (January 13, 2014)
- [“Forced marriages blight lives, but criminalizing them would not work.”](#) Aisha Gill and Khatun Sapnara, *The Guardian* (April 9, 2012)

- [“A new law which explicitly categorises forced marriage as a crime represents a crucial milestone in efforts to protect women’s human rights.”](#) Kaye Quek, London School of Economics blogpost (February 5, 2014)
- [“Let’s criminalise forced marriage: secular and Islamic perspectives.”](#) Tehmina Kazi, *openDemocracy* (January 20, 2014)
- [“When Marriage is a Crime: A New UK Law Could Save Lives.”](#) Jasvinder Sanghera, *The Daily Beast* (June 21, 2012)

For extensive additional reference resources, including news articles, please visit the [Forced Marriage Initiative resource library](#)