



ISLAMIC COUNCIL OF VICTORIA

**Submission on the Attorney-General's
Department's *Enhancing Civil Protections
and Remedies for Forced Marriage
Consultation Paper***

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Introduction

The Islamic Council of Victoria (ICV) welcomes the opportunity to respond to the Attorney-General's Department's proposal to enhance civil protections for forced marriage. As the peak representative body for Muslims in Victoria, the ICV's mission is to protect and advance the rights of Muslims in Victoria and across Australia. This includes both supporting access to justice and ensuring that the voice of the Muslim community is heard and respected in policymaking.

The purpose of this submission is to present the ICV's response to the proposal outlined in the *Enhancing Civil Protections and Remedies for Forced Marriage Consultation Paper* published in July 2024, explaining our organisation's response and recommendations on each of the three limbs of the proposal. Part 1 of this submission provides contextual information on Islamic and cultural views on forced marriage. Part 2 addresses the Department's proposal to strengthen civil protections available to victims and those at risk of forced marriage. Part 3 addresses the proposal for enhanced education and awareness raising, focussing on the need for community-led intervention and support as opposed to government-mandated programs. While aiming to address the consultation questions throughout our response, we have selected, in our view, the most pertinent of these questions to the ICV and our community, and summarised our responses as relevant throughout the submission.

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“The best among the believers is the one whose character is the best. And the best among you are those who are best to their wives.”

- Prophet Muhammad, peace and blessings be upon him.

Part 1: Islamic views and cultural context surrounding forced marriage

Islam unequivocally prohibits forced marriage, which includes marriages entered into through force, coercion, threats, or deception. An Islamic marriage is formalised through a contract between the bride and groom, to which both spouses must consent. Force or coercion in agreeing to this contract renders the marriage invalid and voidable. The bride and groom must also be of an age and capacity where they are capable of full consent and sound judgment. It is also considered sinful for parents or third parties to contribute to forcing or coercing a marriage.

The Quran, the primary source of Islamic beliefs and teaching, tells us *“Oh you who believe! You are forbidden to inherit women against their will, and you should not treat them with harshness...”*¹The Hadith, a collection of accounts of the Prophet Muhammad’s sayings and actions, gives several examples of Muhammad condemning or nullifying marriages which women had entered into under force.² Marriage is upheld in Islam as a sacred commitment that requires mutual respect between spouses.

This is emphasised by key Islamic authorities in Australia, such as the Australian National Imams Council (ANIC) who nominate Islamic ministers to be authorised as marriage celebrants. ANIC’s guidelines for marriage celebrants stipulate that they “should not conduct a marriage of a person...under the age of 18 [or if they] suspect that either the bride or groom is forced to marry.”

Nonetheless, individuals who participate in forcing marriages often do so under the guise of preserving religious or cultural traditions. Cultural or family traditions rooted in sexism and control can become falsely conflated with religious rules and traditions. Considerations driving forced marriage within Muslim and other minority communities may include:

¹ *Quran*, Surat An-Nisa, 4:19.

² *Sahih al-Bukhari*, 6968; *Sahih Muslim*, 1419.

- Notions of family honour and reputation
- Strengthening community links or ties between families
- Ensuring the preservation of wealth, land or property within families or communities
- Controlling unwanted behaviours such as perceived promiscuity or relationships that are considered unacceptable

Those participating in the practice of forced marriage may honestly believe they are fulfilling religious obligations, due to misguidance or miseducation, or may simply choose to neglect religious rules in favour of these other considerations. Either way, these deeply ingrained and strongly held beliefs add further complications to combating forced marriage within certain communities.

The ICV welcomes the acknowledgement by the Attorney-General's Department that "forced marriage is distinct from arranged and sham marriages."³ This is an important caveat of which policymakers, service providers, front-line workers, and the wider community must be aware. Among Muslim communities, like in many culturally and linguistically diverse (CALD) communities, it is common for the families of spouses to play a significant, and even a leading role in arranging marriages. This may include introducing suitors, facilitating proposals, or supporting the migration of a potential partner for the purpose of a marriage. This is commonly done with the consent of both spouses, who are happy and willing to take the advice of their families or communities. This is a significant cultural nuance that must be respected, and must not be incorrectly conflated with 'forced' marriage by people outside of these communities or those who aren't familiar with these practices.

Part 2: Building a shared understanding of forced marriage as a form of family and domestic violence and improving victims' access to support

The ICV endorses the government's initiative to recognise forced marriage as a form of family and domestic violence across all Australian jurisdictions, particularly in cases involving abuse, exploitation, or coercive control. Forced marriages often mirror the dynamics of family violence, occurring within a family context and involving perpetrators exerting control through physical, emotional, or psychological abuse.⁴

³ Australian Government Attorney-General's Department, *Enhancing Civil Protections and Remedies for Forced Marriage Consultation Paper*, 2024, 5.

⁴ Shih Joo Tan & Laura Vidal, *Forced Marriage as a Form of Family Violence in Victoria* (2023). Monash Gender and Family Violence Prevention Centre, 29.

Forced marriage victims are often subjected to similar forms of abuse as family and domestic violence victims, which can include physical assaults, emotional abuse, manipulation, financial abuse and coercive control. The support needs of forced marriage victims also align with those of family violence victims, such as requiring legal protections, crisis accommodation, financial support, and treatment for trauma. Moreover, those subjected to forced marriage and other forms of domestic violence often face similar barriers to seeking help, including financial dependence, closeness or sympathy towards the perpetrator, and the need to protect children or other family members. Additionally, in the case of both crimes, women and girls are the primary victims.⁵

Research indicates that the incorporation of forced marriage into definitions of domestic and family violence in Victoria has had positive results according to front-line service providers. A 2023 study that interviewed 22 domestic violence service providers stated that participants “expressed consistent support for the inclusion of forced marriage as a statutory example of family violence,” while also recognising the utility of the current federal law framework which identifies forced marriage as a form of modern slavery.⁶ However, the study also highlighted that “persons affected by forced marriage do not always want to be separated from their families, and there is an important opportunity to map approaches for working with families in response to risk assessment, harm minimisation and behaviour change.”⁷ This is a key factor that distinguishes forced marriage from slavery and human trafficking, and indicates that it is best understood as a form of family violence in which complex cultural, familial and community dynamics are at play.

Moreover, as stated by the Australian Muslim Women’s Centre for Human Rights (AMWCHR), the current framework that treats forced marriage as a form of modern slavery is often confusing and confronting to communities and individuals who are accustomed to forced marriage, such that they reject the notion completely.⁸ As AMWCHR has stated, “when parents and families force their children and women into marriage, they do not believe themselves to be participating in any form of trafficking, slavery or servitude... It is crucial therefore to be mindful of how the topic of forced marriage is to be introduced to communities and individuals.”⁹ Thus, in order to effectively work with families and communities to prevent, intervene in, and redress forced marriage, a clearer and more familiar framework is needed.

⁵ Ibid, 20.

⁶ Ibid, 8.

⁷ Ibid, 10.

⁸ Australian Muslim Women’s Centre for Human Rights, *Submission: National Action Plan to Combat Modern Slavery 2020-24 Public Consultation Paper*, 2020, 8.

⁹ Ibid.

Due to the similar dynamics of the crimes, and the existing level of public familiarity with domestic violence laws, protections and services, the ICV believes that existing legal frameworks and support systems addressing family and domestic violence are generally well-suited to support victims of forced marriage. These legal frameworks include criminal investigation and prosecution, intervention and protection orders, and court orders under the *Family Law Act* for the care and protection of children. Relevant support systems include helplines and advice, crisis accommodation, emergency resources, support for financial independence, community legal services and access to trauma therapy. Access to such remedies and resources is indispensable for victims of forced marriage and other forms of domestic violence alike.

However, while we believe that existing domestic violence frameworks are generally appropriate to support forced marriage victims, services within these frameworks face significant restrictions. Chiefly, existing support services for domestic violence are already under-resourced and under immense strain. It is not feasible to increase the demand for these services by incorporating forced marriage within their scope, without also increasing their funding and capacity.

For instance, community legal centres in Western Australia turn away around 100 domestic violence victims each week due to underfunding.¹⁰ In 2022, major sexual assault clinics in Queensland and New South Wales reported waitlists of up to 18 months.¹¹ Key Australian support services have been struggling to meet demand, often recording severe funding deficits.¹² Services catering specifically to First Nations women are inordinately affected, despite First Nations women in Australia being 33 times more likely to be hospitalised from domestic violence than the national average.¹³ Although the government has renewed funding for family violence responses through the National Partnership Agreement, it remains insufficient to meet the growing demand. Frontline support services have highlighted that the renewed Agreement will

¹⁰ Daryna Zadvirna, 'WA community legal services forced to turn away women experiencing domestic violence,' *ABC News*, 16 May 2024, <https://www.abc.net.au/news/2024-05-16/wa-community-legal-services-forced-to-turn-away-dv-victims/103847122>.

¹¹ Hagar Cohen, 'Sexual assault support services struggling to cope with record demand,' *ABC News*, 18 May 2022, <https://www.abc.net.au/news/2022-05-18/sexual-assault-support-services-struggling-with-demand/101050998>.

¹² Josh Butler & Adam Morton, 'Australia's budget has 'gaping hole' in funds for DV victims, environment and housing, advocates say,' *The Guardian*, 16 May 2024, <https://www.theguardian.com/australia-news/article/2024/may/16/australia-federal-budget-2024-violence-against-women-dv-funding-gap-housing-environment>; Full Stop Australia, *Federal Budget must commit \$1 billion per year to fill urgent gaps in frontline sexual, domestic and family violence services* (Media Release, 25 October 2022).

¹³ Marlene Longbottom, Hannah McGlade, Kyllie Cripps, 'Indigenous women are most affected by domestic violence but have struggled to be heard. It's time we listened,' *The Conversation*, 11 May 2024, <https://theconversation.com/indigenous-women-are-most-affected-by-domestic-violence-but-have-struggled-to-be-heard-its-time-we-listened-229720>; Anthony Furci, 'First Nations experts say Closing the Gap family violence target will not be met without more funding,' *ABC News*, 21 May 2024, <https://www.abc.net.au/news/2024-05-21/first-nations-experts-say-closing-the-gap-family-violence-target/103874672>.

result in countless more victims being denied support.¹⁴ The ICV asserts that incorporating forced marriage within these frameworks will not be effective without significant additional funding and capacity expansion for front-line services.

Moreover, domestic violence service providers need training, resources, and cultural competency to support forced marriage victims from CALD backgrounds. Since forced marriage is particularly prevalent among CALD communities, it is crucial to ensure that those affected feel safe, comfortable and respected in accessing support services within the community. Regrettably, domestic violence services such as crisis accommodation and case management services catering specifically to Muslim and other CALD communities are limited. Victims often report that existing support services are not linguistically accessible or culturally safe environments, being unable to provide religious and cultural accommodations such as halal food, privacy and gender-specific support staff. To adequately meet the needs of forced marriage victims, services must be equipped to provide culturally safe environments with interpreters, counsellors, and caseworkers trained in cultural competence.

Part 3: Strengthening civil protections and remedies

The ICV supports the government's commitment to strengthening civil protections and remedies for those at risk of forced marriage, particularly in cases of coercion or abuse. As the Department aptly acknowledges, forced marriage often occurs in family contexts, with victims not willing to pursue criminal charges against their own family members or seek help from law enforcement.¹⁵ Thus, while the ICV supports the criminalisation of forced marriage, particularly that involving abuse and coercion, as a form of domestic violence, we maintain that criminal sanctions and law enforcement are not the ideal means for victims to seek protection. This would be better achieved by the new civil protections and reforms proposed by the Attorney-General's Department, including the introduction of Forced Marriage Protection Orders, and other court orders as applicable to prevent forced marriage and protect victims.

¹⁴ Kristine Ziwica, 'Albanese's promise on family violence conceals multimillion-dollar cuts,' *The Saturday Paper*, 14 September 2024, <https://www.thesaturdaypaper.com.au/news/health/2024/09/14/albaneses-promise-family-violence-conceals-multimillion-dollar-cuts#hrd>.

¹⁵ Australian Government Attorney-General's Department, *Enhancing Civil Protections and Remedies for Forced Marriage Consultation Paper*, 2024, 14.

3.1 The limitations of criminal law in responding to forced marriage

As the Australian Muslim Women’s Centre for Human Rights (AMWCHR) aptly highlights, existing criminal sanctions under s270.7B of the *Criminal Code Act* are more likely to deter victims from seeking intervention than to deter others from engaging in the practice of forced marriage.¹⁶ In practice, criminal sanctions are of limited efficacy as a deterrent or preventative measure to protect individuals from forced marriage, and they tend to serve an exclusively punitive purpose. For example, despite s270.7B being legislated in 2013, the first conviction for a forced marriage offence in Australia did not come until 2024, and criminal charges were only laid against those who enforced the marriage after the victim was murdered by her husband.¹⁷

Consultation Questions

2. *Should forced marriage be recognised as a form of family and domestic violence? Why?*

The ICV supports recognising forced marriage as a form of family and domestic violence. Forced marriage often shares dynamics with domestic violence, including control, coercion, and physical or verbal abuse within family contexts. Victims often face similar challenges to domestic violence survivors, such as financial dependence and emotional manipulation. Recognising forced marriage within this framework will allow victims to access similar legal protections and support services, which are already well-established and known. It will also increase opportunities for education and preventative initiatives within communities that are accustomed to forced marriage.

3. *What legal, policy changes or additional guidance is needed to better recognise forced marriage as a form of family and domestic violence?*

We suggest several policy changes to accompany this reform. Foremost, we urge the government to increase funding for domestic violence services within grassroots communities, as existing resources are already stretched thin. We also advocate for training for service providers to enhance their cultural competency, ensuring they understand and provide for the specific needs of forced marriage victims from CALD communities. In addition, the ICV supports the enhancement of civil remedies, such as Forced Marriage Protection Orders, which offer victims protection without needing to pursue criminal charges.

4. *What enhancements or additional guidance might be needed to help family and domestic violence services consistently recognise forced marriage as a form of family and domestic violence?*

Enhancements should include tailored training for front-line domestic violence services on the specific cultural and religious contexts of forced marriage. This training must cover the differences between arranged and forced marriages to prevent misinterpretation and stigmatisation. Family violence services must be equipped with culturally safe environments, language support, and religious accommodations ensuring that victims feel comfortable and safe seeking support.

¹⁶ Australian Muslim Women’s Centre for Human Rights, *The Unintended Consequences of Australia’s First Forced Marriage Conviction* (Media Release, 20 August 2024).

¹⁷ Ibid.

The complex familial and cultural dynamics involved in cases of forced marriage, particularly within CALD communities, require sensitive, culturally safe responses that cannot be effectively addressed solely through criminal sanctions or law enforcement. Therefore, a wider variety of preventative and protective measures are desperately needed. These should include measures that prioritise the protection of the victims over the punishment of offenders, and measures that can avoid irreparably damaging families or communities where this is not necessary or appropriate for the victim’s needs. We believe the enhanced civil protections proposed by the Attorney-General’s Department are a step towards achieving this.

3.2 The limitations of law enforcement in responding to domestic violence

The current framework of protection, prevention and punishment for forced marriage largely relies on the effective engagement of law enforcement. Not only might victims be reluctant to seek the help of police, but police forces across Australia have shown significant and concerning patterns of failure in responding to various forms of family violence. These failures demonstrate that police forces are not the ideal first responders in forced marriage situations, and that further non-criminal protections and remedies are needed. In 2015, the report of the Royal Commission into Family Violence stated that police responses to family violence victims seeking intervention were “inconsistent,” and despite standardised codes of practice, victims could not rely on police for an appropriate response.¹⁸ Dismissive attitudes, sexist workplace culture, ineffective training, inattentive judgment and even the type of violence experienced weigh into whether victims are supported and protected, or dismissed by police.¹⁹ A 2022 Report from the Women’s Safety and Justice Taskforce highlighted similar patterns of victim-blaming, and of police discouraging victims from pursuing intervention or other court orders due to a supposed lack of evidence, even where evidence was readily available or victims displayed visible physical injuries.²⁰ Both reports noted that victims’ initial dismissive response from police often deterred them from making future reports, placing them in increasing danger without means of protection.²¹ Additionally, as of 2021, the Victorian Family Violence Reform Implementation Monitor estimates that police responding to domestic violence reports in

¹⁸ Victorian Government, *Royal Commission into Family Violence Summary and Recommendations*, Chapter 14: Police: front-line operations and workforce, 8.

¹⁹ Ibid; Lorraine Mazerolle, Janet Ransley, Elena Marchetti & Lincoln Crowley QC, *Independent review into investigations of police-related deaths, and domestic and family violence deaths in Queensland* (Report, 2022) 81.

²⁰ Women’s Safety and Justice Taskforce, *Hear Her Voice: Women and girls’ experiences across the criminal justice system* (Report, 2022) 17.

²¹ Victorian Government, *Royal Commission into Family Violence Summary and Recommendations*, Chapter 14: Police: front-line operations and workforce, 8.

Victims wrongfully identify the victim as a greater or equal aggressor in no less than 10 per cent of cases, thus wrongfully subjecting the victim to criminalisation, arrest and further trauma.²²

It is also crucial to note that the issue of forced marriage is particularly pertinent among CALD communities, in which Australian police forces have an even more regrettable record of response. Not only do issues such as language barriers and cultural stigmas present additional barriers to victims seeking support, but these victims often face additional discrimination and dismissal from police, including lack of cultural sensitivity, outright discrimination, or refusal to provide essential services such as translators.²³ CALD communities, particularly First Nations communities, are also subject to wrongful criminalisation at far higher rates. Compared to the above misidentification rate of 10 per cent, a report by the Queensland Government found that 50 per cent of First Nations women killed by domestic violence had previously sought police assistance and been misidentified as the perpetrator.²⁴

Finally, forced marriage does not always involve outright physical violence, and will often be characterised by psychological abuse, coercion, threats or manipulation. Data on police responses to these forms of non-physical domestic violence in Australia shows significant shortfalls. The Royal Commission's report highlighted testimonies from several domestic violence service providers that police are less likely to recognise and effectively respond to "psychological and economic abuse," despite these being included in existing definitions and covered by police codes of practice.²⁵ This further substantiates the limited effectiveness of law enforcement in responding to crimes currently identified as domestic violence, let alone in responding to forced marriage.

²² Family Violence Reform Implementation Monitor, 'Misidentification is a significant issue that has enormous consequences for the victim survivor,' <https://www.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-accurate-identification-predominant-aggressor/misidentification-significant-issue-enormous-consequences-victim-survivor>.

²³ Victorian Government, *Royal Commission into Family Violence Summary and Recommendations*, Chapter 14: Police: front-line operations and workforce, 34. Ben Smee, 'Denied a voice': how Australia fails migrant victims of domestic violence,' *The Guardian*, 20 September 2021, <https://www.theguardian.com/australia-news/2021/sep/20/denied-a-voice-how-australia-fails-migrant-victims-of-domestic-violence>.

²⁴ Ben Smee, 'Queensland police misidentified women murdered by husbands as perpetrators of domestic violence,' *The Guardian*, 3 May 2024, <https://www.theguardian.com/australia-news/2021/may/03/women-murdered-by-husbands-labelled-perpetrators-of-domestic-violence-by-queensland-police>.

²⁵ Victorian Government, *Royal Commission into Family Violence Summary and Recommendations*, Chapter 14: Police: front-line operations and workforce, 8. s

Consultation Questions

8. Do you think there are gaps in the existing legal protections available to respond to and prevent forced marriage in Australia? If so, what are those gaps?

The ICV believes that there are two critical gaps in the existing legal framework on forced marriage. First, under existing laws, forced marriage is currently addressed primarily under criminal law and relies on engagement with law enforcement, which can alienate victims and deter them from seeking support or intervention. Second, inaccessibility of protection and support, which requires victims and at-risk individuals to either engage the police or seek out specific service providers such as the Red Cross. Enhanced civil protection measures as proposed in the Consultation Paper, accompanied by measures to increase accessibility and awareness of these measures among the public, would be a positive step in filling these gaps.

11. What evidence, or other types of actions, risks or harms connected to forced marriage should be considered as grounds for seeking a civil protection order for forced marriage?

Grounds for protection orders should focus on acts of violence, threats and coercive control intended to pressure an individual into marriage. This may include physical violence or threats of harm directed towards the victim, their family or others close to them, evidence of emotional abuse, coercive behaviours or economic abuse. This may also include psychological pressure and manipulation, including through the invocation of cultural or religious obligations, as well as indicators of being taken overseas for a marriage, such as coerced travel arrangements or confiscation of travel documents.

13. Are there any other risks or unintended consequences of the proposed protections that should be considered?

Although the ICV supports the utility of enhanced civil protections for forced marriage, there are several risks for the Muslim community and other CALD communities that must not be ignored. These include:

- Limited accessibility of protection: Victims from marginalised communities may struggle to access civil protection orders due to language barriers, lack of awareness, or fear of legal systems. There is also a concern that the protections may not be accessible to undocumented individuals or those on temporary visas, potentially leaving some victims without support.
- Family and community ostracisation: Victims may face backlash from families or close-knit communities when they seek intervention against a forced marriage, leading to isolation and a loss of important social and support networks. In some cases, the fear of ostracisation or damage to one's reputation within a close community may even prevent them from seeking support and intervention.
- Involuntary disclosure: In cases where forced marriage is identified through external interventions such as schools or healthcare professionals, there is a risk that the victim's situation might be exposed without their consent, leading to harm or retaliation from their family. Involuntary disclosure could cause victims to mistrust authorities and services, discouraging them from seeking help in the future.
- Having to return to dangerous situations: If protections are not comprehensive and do not address broader issues such as immigration status or housing support, victims may be forced to return to unsafe living conditions, which could negate the protection granted under court orders.

15. Are there risks associated with giving particular individuals or organisations the ability to apply for a protection order? If so, what are these risks and how could they be mitigated?

Allowing third parties to apply for protection orders may be beneficial in ensuring that victims are supported, and protection is accessible, but presents several significant risks. Firstly, third parties such as support services or organisations may not fully understand and appreciate the victim's cultural, religious or social context, and even their family dynamics, which may lead to applications that do not align with the victim's needs or desires.

Forced marriages often involve complex family and community dynamics, and an individual's safety, security and livelihood may depend on maintaining their family network and reputation. Furthermore, allowing a third party to apply for a protection order may result in an abuse of power by third parties, removing victim's autonomy and imposing decisions that are not in their best interest. Not only can this undermine the autonomy of victim's and at-risk individuals, but can exacerbate danger, lead to further alienation and a complete distrust of support services. While external parties should be equipped to educate on and facilitate applications for intervention, the final decision should always be made autonomously by a victim or at-risk person. Third-party applications should only be initiated at the request of victims or at-risk individuals.

16. Should there be any limits on who can be a respondent for forced marriage civil protections? If so, how should they be defined (e.g. family members only)?

In the ICV's perspective, family members of victims are most likely to be the perpetrators of forced marriage, and new civil protection measures should focus on immediate family members and close relatives. In the case of an Islamic marriage, brides require the approval of their closest male guardian, typically a father, brother, uncle or grandfather for the marriage to go ahead, and relatives acting in this capacity typically have the most potential to engage in forced marriage.

18. How can the views of victim-survivors, including children, best be sought and incorporated into the process for hearing and issuing civil protections for forced marriage?

Case management and intervention plans for victims of forced marriage must involve a victim-centred, trauma-informed approach. Firstly, this must prioritise ensuring their physical safety, so they feel safe to share their experience and provide true information. Where possible, victims should also be protected by confidentiality and anonymity to mitigate fear of repercussions from their families or communities. Secondly, this should involve creating culturally safe and supportive environments where victims feel comfortable to engage with authorities. This should include providing culturally and linguistically appropriate services, including interpreters and cultural mediators to ensure the survivor's views are understood and accurately considered, and treated with discretion and respect.

19. What other supports should be available to people in or at risk of forced marriage, including children, to support them through the civil protection order application process? For example, additional supports through the application process, or additional courtroom protections.

To support individuals, including children at risk of or experiencing forced marriage through the civil protection order application process, the ICV recommends the following supports:

- Specialised, affordable legal assistance: Victims often lack knowledge of their legal rights and the processes involved, and access to legal aid services with expertise and training in forced marriage and family law would help them navigate court procedures.
- Counselling and emotional support: Trauma-informed psychological counselling and support services should be made available, including in-court advocates to offer support during hearings.
- Interpreters and cultural mediators: Interpreters are essential to individuals from non-English speaking backgrounds. Culturally sensitive interpretation and mediation services are vital to ensure both the victim's full understanding of legal procedures, and ensure that decision-makers have an accurate understanding of the victim's circumstances and cultural or family dynamics. Where appropriate, religious leaders should be involved as cultural mediators.
- Courtroom protections and anonymity: Victims will often face retaliation or shame from their family or community for seeking intervention. Measures must be in place to protect identity and maintain anonymity wherever possible.
- Safety planning and crisis accommodation: Many victims will require immediate safety measures during court proceedings, such as access to safe crisis accommodation. Once again, the government should support the development of culturally safe crisis centres and domestic violence support.

Part 4: The need for community-led intervention

The ICV recommends that any new laws, protections and support frameworks to address forced marriage must prioritise community-led support, and place the victim's needs, concerns and autonomy at the centre of all strategies. Primarily, alongside the legislation of new civil protections and remedies, programs must be in place to facilitate easy access to these protections and educate communities about the support available. For this reason, the ICV welcomes the implementation of initiatives such as the Forced Marriage Specialist Support Program (FMSSP).

4.1 Ease of access to protection and support

The introduction of new civil protections, such as Forced Marriage Protection Orders, should be paired with a focus on accessibility and usability for victims. It is critical that these protections are easy to obtain without the need for victims to engage with law enforcement, and that they are well-known in the community and accessible through familiar, trusted organisations. Community organisations should be equipped with the necessary resources, and encouraged to act as an entry point to support, and to triage victims and at-risk individuals to the appropriate support services or authorities. These 'soft access points' should include facilities such as mosques and other places of worship, schools, medical and psychological clinics, youth groups, community and cultural centres, particularly those working with CALD communities. Such organisations are already embedded within communities where forced marriage is prevalent, and likely to be known and trusted to those at risk of forced marriage. Particularly within Muslim communities, the ability to approach a mosque or Islamic organisation as a first point of contact may also reduce the stigma and sense of alienation associated with making reports. The ICV is committed to supporting initiatives that facilitate ease of access to civil protections and support services.

4.2 Cultural consultation regarding intervention measures

The ICV urges the government and relevant authorities to involve suitable religious or cultural leaders in decision-making surrounding forced marriage and forced-marriage cases. This should include a consultative status in major policy development and intervention initiatives, as well as consultation in case-management where appropriate for the victim's circumstances. This is particularly important in cases involving child victims. In many instances, the relevant authorities may make significant decisions regarding the welfare of children from Muslim or CALD backgrounds without consulting community leaders or culturally informed organisations. This can lead to outcomes that do not fully consider the cultural, religious, or social nuances impacting the children and their families, and may ultimately not be

in the best interest of victims. Involving appropriate religious and/or cultural consultants and mediators in decision-making can avoid unintended negative repercussions and further harm to victims.

Consultation Questions

25. Currently, do forced marriage victim-survivors face barriers or difficulties when seeking a declaration of nullity in relation to their forced marriage? If yes, how could these barriers or difficulties be addressed?

Muslim victims of forced marriage may face difficulty in seeking a dissolution of a forced marriage due to the challenge of obtaining both a religious and legal divorce. If a victim is granted a legal divorce or annulment, they may still be considered married under religious law, which creates ongoing emotional, social and community pressures as well as religious obligations between spouses. The ICV is committed to improving access to religious divorce declarations for victims of forced marriage and promoting processes for divorce which avoid further trauma for victims. However, we emphasise that such measures must be developed and enacted by the appropriate religious authorities.

26. What are the risks and barriers for seeking support for people at risk of or in a forced marriage? What strategies could be considered to address these?

Individuals at risk of forced marriage, particularly those from CALD backgrounds, face several significant barriers which may prevent them from seeking or accessing appropriate support. These include:

- Pressure from family and community, including those enforcing the marriage. Fear of ostracism, damage to reputation or retaliation from family can discourage victims from seeking help. This is particularly pertinent in the case of child victims or those who are financially dependent on their families.
- Discussions of forced marriage may be stigmatised or taboo, and victims may fear being misunderstood or judged by their communities, particularly if they seek help from authorities outside of their cultural and religious communities.
- Researching and accessing support services may be hindered by lack of linguistically appropriate resources. Additionally, many individuals from CALD communities may not be aware of access points for support or the legal protections available.

These risks can be mitigated by enhancing community-led support programs and services which appropriately cater to CALD individuals. Community leaders and front-line workers should be educated and empowered to offer culturally sensitive guidance and support, and embedded community organisations should be empowered to act as ‘soft access points’ for support, and guide at-risk individuals to the appropriate services. Procedures must also be in place for service providers to maintain discretion and confidentiality, so victims feel safe to share their experiences and provide accurate information.

27. What risks and barriers might a person face if they seek protection through legal systems? How can these be mitigated?

Victims may fear accessing legal protections and remedies due to a distrust of authorities or fear of harsh repercussions. Firstly, victims may have an existing distrust of authorities, and be reluctant to engage with government services or law enforcement due to fear of discrimination or mistreatment, or previous harmful experiences with authorities. Secondly, where a marriage involves the migration of one spouse, or a spouse is undocumented, fear of deportation may discourage victims from reporting their situation. Finally, victims may fear harsh sanctions or legal consequences for close relatives, including criminal charges or jail time.

To mitigate these risks, accessible legal support must be available to victims and at-risk individuals. This involves ensuring that community legal centres are adequately funded and resourced to handle forced marriage cases, including being able to provide experienced legal practitioners, interpreters and cultural mediators. Appropriate religious or cultural representatives should also be consulted in decision-making processes to ensure an accurate understanding of the victims' circumstances and avoid making decisions which cause further harm and trauma, particularly with regard to child victims. Law enforcement and judicial personnel must be appropriately trained in the cultural complexities surrounding forced marriage, including awareness of non-physical forms of coercion, cultural sensitivities, and the importance of protecting victims without causing additional harm.

4.3 Enhanced education and awareness raising

The ICV supports the Department's proposal to enhance education and awareness-raising to support early identification, intervention and prevention. Community education is key to preventing forced marriage and allowing individuals to make free and informed decisions about marriage. The ICV is committed to supporting and facilitating education on the religious and legal prohibition of marriage by force, coercion or deception within the local Islamic community, and to reducing the occurrence of these marriages. We maintain that such community education must also be community-driven. Religious education in particular must come from the appropriate religious authorities rather than being mandated by the government. We support comprehensive community education initiatives that clearly communicate the Islamic perspective on marriage, emphasising consent, soundness of judgement, and mutual respect. These campaigns should also focus on dispelling myths and harmful cultural practices and reinforcing positive teachings about healthy marriages and family dynamics. For those who may be at risk of forced marriage, particularly girls

and young women, education should also be available outlining the laws on forced marriage in Australia, and the protections, remedies and support services available. The ICV is committed to further developing our own strategy and education programs to prevent forced marriage within our community.

In addition, education efforts must extend to service providers, policymakers, and law enforcement to ensure that all stakeholders involved in responding to forced marriage understand the cultural nuances of these communities. Education and training on the complexities of forced marriage arranged marriage, and different cultural practices are essential to prevent misinterpretation of cultural practices and to avoid stigmatising CALD communities. By empowering communities with knowledge and fostering open discussions about the harms of forced marriage, these educational initiatives can help shift cultural attitudes and reduce the prevalence of forced marriage within Muslim and other CALD communities. They can also create a safer, more informed environment in which victims feel supported in seeking help and protection.

Consultation Questions

5. What topics could education or awareness raising activities focus on?

In relation to the Muslim community, education and awareness raising should have two main focusses: religious education on forced marriage and legal education about the protection and supports available. The primary object of this education should be to protect at-risk individuals, especially girls and young women, by raising awareness about their rights, how to access the new civil protections and where to find support, as well as the measures in place to protect victims and maintain confidentiality. This education should also address the Muslim community at large, raising awareness of the legal prohibition and potential sanctions for those who practice forced marriage. Finally, education within the Muslim community should also address positive family and marital dynamics, including healthy marriage practices from an Islamic perspective.

In relation to service providers and frontline workers, education should focus on understanding forced marriage as a form of domestic violence and recognising risk factors, as well as cultural sensitivity training to ensure that CALD victims feel safe, respected and comfortable to reach out for support.

6. Who should be involved in education and raising awareness in communities affected by forced marriage?

It is crucial that education targeting the broad community is community-driven, developed and delivered by the appropriate religious or cultural leaders and organisations. This will maintain community trust and engagement, as well as ensure religious suitability and cultural sensitivity. The ICV is committed to facilitating and supporting such education within the local Muslim community, and has a record of doing so.

7. Which groups in the community require education and increased awareness of forced marriage (e.g. frontline workers such as police, child protection and/or specific cohorts within the community)?

The ICV recommends that education and awareness raising targets the following groups:

- Frontline workers, including law enforcement, child protective services and domestic violence service providers such as case workers, crisis centres and other support services. This education should focus on enhancing cultural competency and capacity to recognise forced marriage cases and address them in a suitable and sensitive manner.
- Community leaders and workers engaging with at-risk individuals. This includes teachers, healthcare providers, counsellors, religious leaders and cultural representatives who engage directly with their communities, particularly migrant and CALD communities, and are often viewed as a trusted and accessible source of support. These leaders should be educated in understanding and identifying the risks of forced marriage within their respective communities, and be empowered to act as ‘soft entry points’ and triage at-risk individuals to the appropriate services or authorities.
- The wider community, namely those communities in which forced marriage is a pertinent issue. This may include new migrants from backgrounds where forced marriage is common, CALD communities and the general public. Community education should target those who may be at risk of forced marriage, namely young women and girls, informing them of their legal rights and how to access protection and support. Education should also inform the broader community, including parents and guardians of the laws surrounding forced marriage and its definition as a form of domestic violence in Australia, as well as promoting healthy marriage practices.