



ANTI-SLAVERY
AUSTRALIA

Parliamentary Inquiry into certain aspects of the Department of Foreign Affairs and Trade Annual Report 2019-20 - child and forced marriage

Submission to Human Rights Sub-committee of the
Joint Standing Committee on Foreign Affairs,
Defence and Trade

DATE SUBMITTED: 1 June 2021

CONTENTS

EXECUTIVE SUMMARY	4
1. FORCED MARRIAGE.....	4
2. REPATRIATION POLICY	5
3. CREATION OF A GRANT	6

ATTACHMENTS

- A. Forced Marriage Case Study**

Anti-Slavery Australia is the only specialist legal, research and policy centre in Australia dedicated to the abolition of slavery, human trafficking and slavery-like practices including forced marriage and forced labour. Anti-Slavery Australia is a Centre of the Faculty of Law at the University of Technology Sydney.

In 2015, Anti-Slavery Australia established [My Blue Sky](#), Australia's first dedicated forced marriage portal providing information, support and legal advice to people in or at risk of forced marriages.

Jennifer Burn and Sandeep Dhillon, Anti-Slavery Australia, University of Technology Sydney.

Acknowledgements

Madeleine Begg-Cotter and Beth Lee, Anti-Slavery Australia

EXECUTIVE SUMMARY

Anti-Slavery Australia welcomes the opportunity to provide submissions to the Human Rights Sub-committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade on the Inquiry into certain aspects of the Department of Foreign Affairs and Trade Annual Report 2019-20 - child and forced marriage.

This submission draws on Anti-Slavery Australia's research and advocacy work as well as our extensive experience in providing legal advice and representation to survivors of modern slavery (including forced marriage) since 2003.

We commend the Department of Foreign Affairs and Trade's (DFAT's) efforts to combat modern slavery under the *National Action Plan to Combat Modern Slavery 2020-24* and the *International Strategy on Human Trafficking and Modern Slavery*. Robust and consistent advocacy in international fora is critical for the prevention of human trafficking and modern slavery (including forced marriage). We support continued efforts by DFAT, in particular Australia's Ambassador for People Smuggling Issues, Ambassador for Gender Equality, and Australia's diplomatic network, to ensure these issues are recognised and addressed internationally.

This submission will focus primarily on further steps that Australia could take to eliminate child and forced marriage by cooperating with non-government organisations and other appropriate means. Our recommendations align with Australia's international obligations and the United Nations sustainable development goals.

Recommendations:

1. DFAT work with Anti-Slavery Australia and other relevant NGOs to develop and implement a repatriation protocol that provides prompt and streamlined assistance to vulnerable Australians overseas that are in, or at risk of, forced marriage.
2. Creation of an Australian Government grant program, administered by DFAT, dedicated to providing financial assistance for repatriation to vulnerable Australians overseas that are in, or at risk of, forced marriage and are seeking to return to Australia.

1. FORCED MARRIAGE

Since the launch of our forced marriage platform in 2015 ([My Blue Sky](#)), Anti-Slavery Australia (ASA) has provided assistance and advice to over 100 individuals who have contacted us directly through My Blue Sky, seeking help in relation to forced marriage. In many of ASA's forced marriage cases, the engagement or marriage of a

child or vulnerable person has taken place overseas. Many are Australian permanent residents and citizens.

In ASA's experience, we have consistently encountered the following barriers when assisting with the repatriation of individuals at risk of, or experiencing, a forced marriage overseas:

- Lack of funds: the majority of individuals taken overseas for forced marriage are minors and/or experiencing other vulnerabilities. It is rare that they are financially independent and this results in an inability to obtain flights, accommodation, transport, mobile phones, and other critical assistance to escape from the situation. This lack of funds often leaves them stranded overseas for prolonged periods (often years) and exposes them to further harm.
- No Australian diplomatic presence in the area where the victim is located: this means individuals may be advised to travel to neighbouring countries to access Australian Government assistance (for example, collecting emergency travel documents). This is often impractical, and near impossible, due to country conditions and associated safety risks.
- Legal issues in relation to minors: in forced marriage matters, often the parents and extended family of the individual at risk are complicit. In the case of minors, we have observed a reluctance from Government to intervene due to a lack of consent from the parents. This means young, at risk individuals overseas are forced to rely upon limited support from foreign civil society organisations (if available, at all) or international organisations.
- Lack of clear Government policy on appropriate responses to forced marriage victims overseas.

We have attached a case study that illustrates the kinds of repatriation matters we assist with, and outlines the issues and complexities highlighted above, as well as the causes and consequences (Attachment A).

2. REPATRIATION POLICY

In every case where a client is located overseas, ASA has worked closely with DFAT's consular operations area and Australian posts overseas when attempting to repatriate clients, and this cooperation has been invaluable. We consider strengthening and formalising this cooperation through a clear repatriation policy/protocol would greatly enhance the Australian Government's ability to respond to child and forced marriage. It would also provide clarity and guidance to civil society in relation to the assistance the Australian Government is able to provide.

Whilst there have been longstanding difficulties in repatriation efforts, these have been exacerbated during the COVID-19 pandemic. COVID-19 has seen the closure of international borders, caps on international arrivals, increasing prices and decreased availability of flights, and the need to pay for quarantine costs upon

returning to Australia. This is compounded by lockdowns in countries individuals are located in, further restricting their ability to leave situations of danger.

These additional obstacles have emphasised the need for clear policies, and we recommend that DFAT work with ASA and other relevant NGOs to develop and implement a repatriation protocol that provides prompt and streamlined assistance to vulnerable Australians overseas that are in, or at risk of, forced marriage.

Given the types of issues raised in forced marriage repatriations, we recommend that DFAT's consular policy and passports policy areas have carriage of the matter.

ASA has developed its own repatriation protocol in forced marriage cases, with an early step being to contact DFAT for assistance. Drawing from our casework experience, we recommend that an Australian Government repatriation protocol should address and provide for the following:

- Clear channels to enable streamlined referrals and communication between DFAT and organisations managing repatriation case;
- Provision of consular assistance to minors, particularly addressing cases where there may not be consent from the parents;
- Provision of travel advice by DFAT;
- Provision of emergency travel documents;
- Provision of emergency financial assistance (to be addressed further below);
- Assistance to access a wider/whole-of-government response where necessary (e.g. hosting case conferences between relevant stakeholders, referrals to other agencies (Department of Home Affairs for visa issues, or AGD in child protection issues));
- Assistance from Australia's diplomatic/consular mission where the individual is located; and
- Any other guidance and assistance the Australian Government is able to provide.

3. CREATION OF A GRANT

Given the individuals we assist are usually minors or vulnerable Australians, it is rare they would be financially independent or have access to funding. In ASA's experience, lack of funding has been one of the critical obstacles to successful repatriation. It has also led to individuals remaining overseas for prolonged periods and being subject to further serious and long-lasting harm.

ASA acknowledges the Australian Government's Hardship Loan Fund developed in response to COVID-19, building on the existing Traveller Emergency Loans program. ASA has already assisted some clients in accessing the Hardship Loan Fund and it has been crucial for obtaining the financial support for individuals to return home. However, we are conscious that this assistance is temporary and will not be accessible to our clients once the initiative comes to an end.

Currently, ASA is reliant on sourcing funds from other civil society organisations. However, the volume of clients and level of financial assistance needed goes beyond the capacity of any funds we are able to secure.

For these reasons, we strongly recommend the creation of an Australian Government grant program, administered by DFAT, dedicated to providing financial assistance to victims of forced marriage needing repatriation. We consider that financial assistance given in the form of grants is the most appropriate in these situations. We also note that this is the approach currently taken in the UK, which has established a Forced Marriage Unit¹ that leads the UK Government's forced marriage policy, outreach and casework, and also funds the repatriation of individuals at risk who are assisted by the UK Foreign Office to return home.²

We recommend DFAT work with ASA and other relevant organisations to develop a similar approach in Australia. We can assist with defining the parameters of any grants, such as eligibility criteria and types of expenses the grant would cover.

The creation of a grant and the development of a repatriation protocol, are practical steps that can be taken immediately by DFAT in cooperation with relevant NGOs to help eliminate child and forced marriage. We consider these steps will provide a holistic, practical and person-centered response to child and forced marriage.

¹ Government of UK, Guidance: Forced marriage, available at <https://www.gov.uk/guidance/forced-marriage>

² See The Guardian article published in January 2019 at <https://www.theguardian.com/society/2019/jan/09/repatriation-fees-for-uk-forced-marriage-victims-abolished>.



UTS Faculty of Law
PO Box 123 Broadway
NSW 2007 Australia
www.antislavery.org.au

E: ASALegal@uts.edu.au
P: +61 2 9514 8115
F: +61 2 9514 9685
UTS CRICOS PROVIDER CODE 00099F

FORCED MARRIAGE CASE STUDY

Yas is 19 years old. She is an Australian citizen and has an Australian passport. Recently, Yas travelled with her parents and siblings to her parent's home country located in the Middle East. Prior to departing, Yas was told by her parents that they would all be going on a two-week holiday to visit relatives. However, on arrival into the country, her parents took away her passport and other travel documents. They also confiscated her phone. They told her that a marriage had been arranged through a connection in the family. She thinks the marriage will take place in a matter of weeks but her parents will not tell her exactly when. Yas does not want to get married. She wants to return to her home in Australia.

Yas believes her parents have arranged the marriage because they are disappointed with her recent behavior and they want to control her. When Yas protested about the marriage, her parents told her that she was selfish and would bring shame on the family if she did not go through with it. Yas believes the marriage has been arranged to strengthen family links and protect her parent's cultural and religious ideals. She is worried that if she doesn't go through with the marriage, she will cut ties with her family forever. She is distraught about losing contact with her siblings. She is cautious about asking for help for fear that her parents will get into trouble in Australia and the impact this may have on her younger brother and sister.

Yas currently lives with a maternal aunt in a remote town in the Middle Eastern country. Her father has returned to Australia but her mother and siblings remain with Yas overseas. The town they are staying in is 500km from the nearest Australian embassy and international airport. Occasionally, Yas is able to access her phone but her messages, emails and web browsing history is monitored by her mother. Yas is not permitted to leave the house alone. Whenever she does leave the house, it is in the presence of family members and she never goes far. Yas believes that even if she could escape the house, travelling as a young single woman in the country would be dangerous and attract attention.

One of Yas's friends, who lives in Australia, was aware about recent conflict between Yas and her family. When she didn't hear from Yas for a few weeks she became worried and called ASA's My Blue Sky hotline. Since that time, ASA have managed to make ad hoc contact with Yas via online messaging.

When interacting with Yas, she presents as extremely scared and anxious. Interactions with her are very brief due to the surveillance from her family, so we do not know the full extent of what she has been through. Yas has indicated she has met her fiancé and she believes that a number of ceremonial practices have already taken place. She does not think she is married yet but a dowry may have already been exchanged. She is afraid that she is running out of time.

Prior to departing Australia, Yas lived at home. She is not financially independent and has only ever been employed on a part-time basis. Yas has no means to support herself but she is interested in further study. Yas cannot rely on support from any extended family in Australia and she does not want to burden the friends that she has living here. Even if Yas could leave her current situation, she cannot afford a flight back to Australia. She is also worried about where she would live when she comes back and feels confused about her options.