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## NO! TO CRIMINALIZATION OF FORCED MARRIAGES: A STATEMENT

A Forced marriage is a form of violence and an abuse of human rights. It is a practice in which a marriage takes place without the free consent of the individuals getting married, and can happen to anyone regardless of gender, religion or age.<sup>1</sup> This definition of Forced Marriages evolved from extensive discussions and debates among member agencies of the South Asian Legal Clinic of Ontario's (SALCO) advisory group in 2007 to 2009. The advisory group was later renamed as the Network of Agencies against Forced Marriages (NAAFAM). This definition was also informed by Recommendation 21 of the United Nations Committee on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which states, "A woman's right to choose a spouse and enter freely into marriage is central to her life and her dignity and her equality as a human being " without force or coercion."<sup>2</sup>

The criminalization of forced marriages is controversial issue at the forefront of conversation in Canada and across the world. It is critical that we explore criminalization within the Canadian context in considering its value to Canadian survivors of forced marriage. In Canadian criminal law, there are sufficient existing provisions that can be applied in various situations of Forced marriage cases, such as laws around duress,

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<sup>1</sup>SALCO/NAAFAM functional definition finalized in 2009 as documented in the meeting minutes of advisory.

<sup>2</sup>[General recommendations made by the Committee on the Elimination of Discrimination against Women - United Nations Entity for Gender Equality and the Empowerment of Women](#)

harm, assault, kidnapping and other types of violence. In our experience existing laws can be and have been used to assist survivors of Forced Marriage.

Unfortunately recent study has shown that in a substantial number of cases of forced marriages families are the perpetrators of violence, and ironically they are also the only social support a the victim has.<sup>3</sup> This complexity makes it difficult and isolates survivors even further if they decide to pursue criminal course of action against the perpetrators (i.e. family members). In our interactions and experience with hundreds of forced marriage (FM) clients they have repeatedly expressed concern about getting family members into trouble with the law and wanting to protect their families regardless of their own victimization. FM clients have indicated that they would be hesitant to seek any outside assistance if this would result in criminal consequences for family members.

SALCO's 2013 report; 'Who if when to marry: A report on incidents of Forced Marriages in Ontario' strongly recommends against including FM's as a separate criminal offence under the Criminal Code. Criminalization of FM's creates barriers for victims who need access to justice. First, victims will be more unlikely to report FM's because of their internal struggle with placing their family at risk. Second, due to the increased stigma, perpetrators of FM will be more skilled at hiding their attempts at forcing a marriage. The unfortunate result of creating these barriers is that victims will go deeper underground, instead of seeking support.<sup>4</sup>

In addition, it's also our experience that criminalization might become a tool to further target and over police racialized communities. Anecdotally, we have already

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<sup>3</sup> From our study....find the citation

<sup>4</sup>Anis, M., Konanur, s. and Mattoo, D (2013) Who if when to Marry : The incidence of Forced marriage in Ontario.

seen an increased targeting of South Asian families by the police under the guise of “honour” and forced marriage. In addition, there is no supporting evidence that the criminalization of forced marriage would serve to prevent it.

We strongly believe that the criminalization of forced marriage is NOT the right answer for Canada. This statement is made based on the work that SALCO has done with other national stakeholders, and most importantly with hundreds of victims of forced marriage throughout Canada. While we agree that prevention is important in the discussion around forced marriage in Canada, we believe that education is the most effective preventative tool in this debate. We suggest that educating and raising awareness within the Immigration, Law Enforcement, and Health and Education sectors is the best practice.

Finally, we stand for victims/survivors of forced marriages, whose voices have told us time and time again that they would not come forward if it meant criminal sanctions for their own family. We must continue to ensure that victims/survivors (and not perpetrators) are at the centre of the Canadian debate on the criminalization of forced marriage in Canada.

No! To Criminalization of Forced Marriage – endorsement list

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