

October 3<sup>rd</sup>, 2014

**To: Standing Committee on Citizenship and Immigration (CIMM)**  
**RE: M-505 – Private Members’ Business**

M-505 — April 8, 2014 — MP: Stella Ambler (Mississauga South):

*“That the House call on the government to take action to prevent forced marriages and any kind of non-consensual sponsorship in the immigration system by amending the Immigration and Refugee Protection Regulations so as to: (a) ban the use of proxy, telephone, and fax marriages as a means to spousal sponsorship; (b) disallow explicitly, in section 5, the use of proxy, telephone and fax marriages for the purpose of immigration; and (c) set out administrative measures that communicate clearly to visa officers how to detect a proxy, telephone or fax marriage.”*

### **A JOINT RESPONSE**

We strongly believe that, a marriage is something that must be entered into with the full and free consent of the people getting married. Both individuals should feel that the marriage is something that they have chosen for themselves: with full and free choice.

Forced marriage/non-consensual marriage is a practice in which a marriage takes place without the free consent of the individuals getting married, where pressure or abuse is used to ‘force’ one or both people to marry against their will. A forced marriage can happen to anyone; of any race, gender, of any age.

Proxy Marriage is a marriage where one of the participants is not present and has named a proxy to represent him or her. If the law of the country in which the marriage ceremony was performed permits proxy marriages, they are legal marriages for immigration purposes, provided they are legal under Canadian federal law.

The proposed motion by MP Ambler mistakenly assumes that forced marriages are often done through proxy marriage. Her motion is not based on any supporting evidence that forced marriage generally take place as proxy marriages. Most forced marriages with a Canadian connection are not proxy marriages. Additionally, there are many alarming issues with this proposed motion as listed below:

1. The proposed motion is asking for ban of “Proxy Marriage”. Proxy marriage is a legal form of marriage in Canada, unlike bigamy or polygamy, and it is not possible to ban it under a statute. This form of consent delivery is legally allowed in various cultures, religions and sects all over the world. In fact, even in Canadian law (e.g. family law), parents can consent for their children aged 16, 17 or 18 depending on the province of marriage;

2. The proposed motion reiterates that Citizenship and Immigration Canada (a department of the federal government) continues to misunderstand the incidence of forced marriage in Canada. The South Asian Legal Clinic of Ontario (SALCO) has collected data and presented a report on forced marriage in the Canadian context. There has been no indication from the data collection / research done by SALCO that forced marriage victims face “proxy marriages”. In fact, in the majority of the cases surveyed forced marriage victims were married in person and **not by proxy marriage**. A ban of proxy marriages will do little, if nothing, to protect victims of forced marriage. This proposed motion suggests once again that our law makers and government are focusing on limiting spousal sponsorship under the guise of “protection of victims of forced marriage”. Banning proxy marriage has no nexus to protecting victims of forced marriage based on empirical evidence and data collected about the Canadian experience;
3. The proposed motion to ban “proxy marriages” in spousal sponsorship cases simply uses forced marriages as an excuse/shield to attack the accepted practice of arranged marriage. Many **consensual** arranged marriages are conducted via the legal use of proxy marriage. Those marriages are genuine and consensual and should not be banned in Canadian immigration law. Family reunification, a central tenet of the Canadian sponsorship program, would be directly violated by a ban of legal proxy marriage;
4. The proposed motion is also in direct contravention of the United Nations Convention on Consent to Marriage and the Minimum Age for Marriage and Registration of Marriages, 1962; whereby Article 1.2 clearly addresses the matter of “proxy marriages” and consent: *“it shall not be necessary for one of the parties to be present when the competent authority is satisfied that the circumstances are exceptional and that the party has, before a competent authority and in such manner as may be prescribed by law, expressed and not withdrawn consent.”*;
5. The proposed motion does not consider or address the complicated situations of people in conflict areas or disaster zones where marrying in person may not be possible due to circumstances beyond the applicants’ control;
6. The proposed motion is unnecessary given the current make-up of Canadian immigration law and regulations. The *Immigration and Refugee Protection Regulations* currently investigates sponsorship marriages for genuineness and validity. It is our experience that many sponsorship cases from the South Asia and other targeted communities are already hyper-investigated, and those investigations include a review of the legitimacy of a marriage when it takes place via a proxy marriage process. The current process to vet spousal sponsorship already includes a mechanism to address any concerns about proxy marriages that may not be legitimate; and

7. Finally, the proposed motion is a discriminatory attack against certain communities, including some South Asian communities that customarily marry through the use of proxies - A legal and legitimate mechanism for marriage in their own cultures and under Canadian law.

The proposed motion creates barriers for applicants from specifically targeted communities to reunify with their spouses. We recommend the following:

***Instead of proposing a moot motion, there should be substantial efforts made by Canada to fulfill its international commitment to protect victims of Forced Marriages (which have been outlined in the form of various signed treaties and recent announcements) and extend vehicles of safety and protection to the victims of Forced Marriage not only when they are in Canada but also while abroad.***

Regards,

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**Salina Abji, PhD Candidate, Department of Sociology, University of Toronto**  
**Social Services Network**  
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**Metro Toronto Chinese & Southeast Asian Legal Clinic**  
**Hamilton Community Legal Clinic/Clinique Juridique communautaire de Hamilton**  
**Family Service Toronto (Violence against Women Program)**  
**OCASI - Ontario Council of Agencies Serving Immigrants**  
**Lake Country Community Legal Clinic**  
**Justice for Children and Youth**  
**Agincourt Community Services Association**  
**Community Coalition on Refugee and Immigrant Concerns (CCORIC) of Kitchener Waterloo**  
**Milagros Perez, Resident Services Counsellor, The Redwood**  
**Sarah Shartal (Levinthal)**  
**Parkdale Community Legal Services**  
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