



Forced Marriages: What Do Registers of Deeds Need To Know?

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The author appreciates the contributions of Sara DePasquale, Charles Szypszak, and Nancy Hagan.

In 2018, a series of focus groups were conducted to explore ways in which local government staff in North Carolina might encounter indicators of human trafficking during the course of their work. At one session, a Register of Deeds recounted an experience that he had when parents brought a young and seemingly unhappy girl to his office to take out a marriage license with a much older man. The experience left him uneasy, but because the girl had her parents' permission to marry, he issued the license.

Sale of child brides, in particular, is one form that trafficking takes, even here in the United States.¹

The intent of this article is to initiate a discussion of the options Registers of Deeds have when faced with situations that might involve forced marriages or human trafficking.

Arranged Marriages vs. Forced Marriages (and possibly Human Trafficking)

In **arranged marriages**, someone other than the couple being married participates in facilitating the match. If both individuals are fully able to give or withdraw consent and negotiate the details of the wedding or expectations of married life, there is no problem.

However, if either party lacks that freedom to accept, modify, or reject the marital plans, it is a **forced marriage**. They have no choice in the matter and do not willingly give their consent to be married. The disagreement might relate to who the marriage partner is to be, when the marriage might take place, or expectations about roles, education, or responsibilities in married life. "Violence, manipulation, and/or coercion are applied to make the individual agree to marry."²

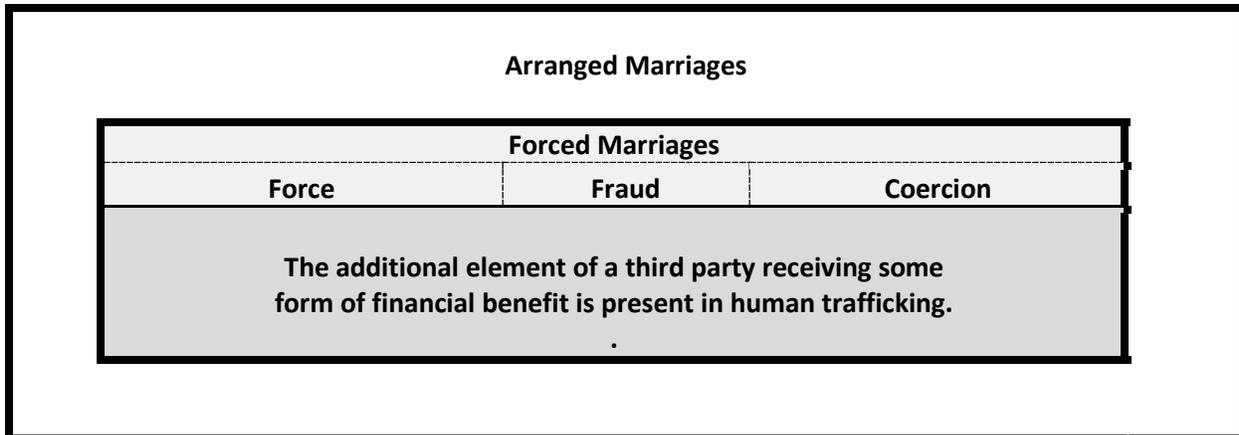
¹ There is no state level data in NC about marriage licenses issued for minors.

² <https://fmp.acsa.community/arranged-marriage-vs-forced-marriage/> accessed on April 4, 2019 by the author.

Arranged Marriages, Forced Marriages, and Human Trafficking

Forced marriages are a sub-set of arranged marriages.

Human trafficking is a sub-set of forced marriages.



A subset of forced marriages involves the exchange of money, financial benefit, or access to financial gain, and that is when the label of **human trafficking** applies. If the victim is an unemancipated minor under age 18, the beneficiary is likely to be the parents or caretakers of the child. If the victim is an adult, the beneficiary might be family members or another person who exerts control, such as a religious or organized crime leader.

The Tahirih Justice Center, an organization that responds to and advocates for victims of forced marriage (www.tahirih.org/), reports the following examples of financial gain for families:

- A family uses a marriage to settle a debt or dispute.
- A family collects a high “bride price.”
- A family has its bills paid by the “suitor” or obtains other benefits from “financial burden sharing.”³

While it does not seem too likely that a Register of Deeds would see evidence of the financial exchange that defines the act of human trafficking, the indicators of a forced marriage, in general, could be visible in the characteristics and dynamics of the people who come to the office for the marriage license.

³ Examples taken from a presentation made by the Tahirih Justice Center and WomanKind at the Freedom Network conference in March, 2019. The session was titled “The Intersection of Forced Marriage and Human Trafficking in the United States.” Learn more at preventforcedmarriage.org and iamwomankind.org



Characteristics of Forced Marriages

What conditions might trigger a forced marriage? While a common scenario – as far as we know today with incomplete information⁴ – is for family members to manipulate a young female bride to marry an older man, other dynamics can come into play, as reported by The Tahirih Justice Center:

- A person comes out as LGBTQ, which contradicts the family’s belief system. The family addresses the shame and judgement by forcing a heterosexual marriage.
- A person is dating outside of expected racial, ethnic, social, or religious groups.
- A person is prioritizing work or education over the expectations of family.
- A person is becoming “too westernized” or otherwise asserting independence.
- A person is blamed and shamed for having been sexually assaulted.
- An unmarried person is perceived to be or actually is sexually active.

In all of these examples, marriage is the tool used to force that person into alignment with family or community values.⁵

In serving victims of forced marriages, The Tahirih Justice Center identified the following commonly used tactics of force, control, or coercion.⁶

1. Emotional blackmail – A parent threatens self-harm or asserts the family’s or the individual’s reputation will be ruined if the individual resists the marriage.
2. Isolation tactics – The family severely limits the individual’s social contacts, freedom to leave the home, or ability to attend school.
3. Social ostracization – The family threatens that the victim will be an outcast in their community.
4. Economic threats – The family threatens to evict the person or withdraw financial support.
5. Threats of physical violence – The family threatens physical harm directly against the victim, or indirectly against loved ones, supporters, or pets.

⁴ Kristof, Nicholas, “11 Years Old, A Mom, and Pushed to Marry Her Rapist in Florida,” The New York Times, May 26, 2017. <https://www.nytimes.com/2017/05/26/opinion/sunday/it-was-forced-on-me-child-marriage-in-the-us.html> Not all states, including North Carolina, collect age data on people who acquire marriage licenses. Using the data that is available, the author states “A great majority of the child marriages involve girls and adult men. Such a sexual relationship would often violate statutory rape laws, but marriage sometimes makes it legal.”

⁵ For a description of how and why forced marriages might happen across the world, refer to: “Types of Forced Marriage,” Forced Marriage Project, <https://fmp.acsa.community/types-of-forced-marriage/>

⁶ Swegman, Casey, “The Intersectionality of Forced Marriages with Other Forms of Abuse in the United States,” VAWnet.org, National Online Resource Center on Violence Against Women, February, 2016. <https://vawnet.org/material/intersectionality-forced-marriage-other-forms-abuse-united-states>



Suggestions for Identifying and Responding to Forced Marriages

Different indicators of forced marriages might be visible to staff in the Register of Deeds office. While one indicator might not be indicative of a forced marriage or trafficking, the presence of multiple factors could be reason for careful attention.

- A dominant person exerts control over the process of getting the license, the behaviors of those getting married, the exchange of information, or the control of identification papers.
- Either one of the parties to be married is sullen, submissive, fails to make eye contact, resists being near or touched by the future spouse, is non-responsive, or seems fearful.

What can a Register of Deeds do if faced with a suspicious situation? Consider these suggested steps to take in the moment:

- Ask to speak alone with each party being married, so that the vulnerable individual is not targeted for negative attention by others present.⁷
- Speak with the parties in a way that assures them that the Register is concerned about their best interest.
- Ask each individual to describe why the marriage is taking place.
- Explain that consent is required and that either individual has the right to refuse to be married.
- Inquire what would happen if the marriage did not take place. If concern about negative consequences are expressed, offer to connect the person with available resources for assistance.
- Refuse to issue the marriage license.

According to Charles Szypszak, Professor of Public Law and Government, at the UNC School of Government, before issuing a marriage license, a Register is required to make a reasonable inquiry about the parties' eligibility to marry under the North Carolina statutes, and part of this inquiry may appropriately involve asking questions about the parties' genuine "intention to marry."⁸ A person who is "incapable of contracting from want of will or understanding" cannot enter into a valid marriage.⁹ When a party is over 16 and under 18 years of age, and a parent or guardian consents as required by statute, the Register still must determine that the minor, for whom consent is being given, understands and is acting voluntarily. Accordingly, if a Register cannot reasonably determine that both of the parties want to be married with free will, the Register should refuse to issue the license. A Register can let the

⁷ Bear in mind that everyone is required by law to report suspected cases of abuse of children or disabled adults/emancipated minors to Child or Adult Protective Services, respectively (see page 5.) When assessing the situation, communicate honestly about any responsibility for mandated reports that might apply.

⁸ N.C.G.S. §§ 51-3, 51-8.

⁹ N.C.G.S. § 51-3.

parties, as well as a consenting parent or guardian, know of the right to bring a civil action in the district court requesting judicial authorization to marry, where questions of capacity can be resolved.

What are other special circumstances the Register should consider?

Language Barriers: If the vulnerable individual only speaks another language or has limited English proficiency, do not let a family or community member interpret. Instead, bring in a neutral person to serve as interpreter. Seek a trained interpreter, if possible.

Mandated Reporting Laws: Certain mandated reporting laws may apply when any of the staff within the Register of Deeds office suspects an individual is being forced and/or trafficked into a marriage. One mandated reporting law applies to disabled adults and emancipated minors and the other to unemancipated minors under the age of 18.

- If staff have cause to suspect that the vulnerable individual who is under 18 and is not emancipated by a court order is being forced into marriage, they should call the Child Protective Services – typically a county department of social services (DSS) or consolidated human services department – where the minor lives or is physically present.¹⁰
- If staff have reasonable cause to believe that the vulnerable individual who is 18 or older or an emancipated minor and who is physically or mentally incapacitated, is being forced into marriage, they should call Adult Protective Services at DSS to make a report.¹¹

The Register of Deeds office that encounters apparent coercion with a marriage license application has no obligation to investigate before or after making a report. DSS will assess the situation reported as to whether the minor is abused, neglected, or dependent and whether the adult is in need of protective services because of abuse, neglect, or exploitation. It is important that the person making the report provide as much information about their concerns as possible. The Register may wait for the DSS assessment before deciding whether or not to issue the marriage license.

The Potential for Violence: Staff may also make a report to law enforcement if they believe the vulnerable individual is being trafficked, which is a crime. Other circumstances may warrant law enforcement involvement.

¹⁰ For more information about mandating reporting of suspected child abuse, neglect, or dependency, see Sara DePasquale, [A/N/D Reporting: Rights, Protections, and Prosecutor Review](#) (UNC SCH. OF GOV'T ON THE CIVIL SIDE BLOG, June 21, 2017)

¹¹ For more information about mandated reporting to Adult Protective Services, see Aimee Wall, [Adult Protective Services: A New Reporting Requirement](#) (UNC SCH. OF GOV'T COATES' CANONS: NC LOCAL GOVERNMENT LAW BLOG, June 23, 2015) and Meredith Smith, [Protecting Against Elder Abuse](#) (UNC SCH. OF GOV'T ON THE CIVIL SIDE BLOG, June 14, 2017).



- If the vulnerable individual expresses a concern of physical harm if the license is not issued immediately, then calling law enforcement is warranted.
- If the vulnerable individual is an adult and wants to leave the situation immediately, calling law enforcement or the local sexual assault/domestic violence centers can be warranted.

IF the situation appears to be a forced marriage for any reason, IF the person asks for help in avoiding the marriage, and IF the other people present are likely to object to a marriage license not being issued, then security becomes an immediate concern. Office safety protocols should be followed. The Register will likely need to seek appropriate assistance for physical protection both (1) in the moment for those who are in the office and (2) long term for the victim.

Community agencies, such as rape crisis or domestic violence shelters, might be called to join in problem-solving for victims. Both the context of the situation and the resources available in the community affect who should be called in, when, and for what purpose.

What Now?

In 2013, only nine states had criminal statutes that specifically addressed forced marriages: California, Florida, Indiana, Maryland, Mississippi, Nevada, Oklahoma, Virginia, and West Virginia.¹² There is currently a debate on whether federal legislation to address the issue is justified.

The School of Government is interested in hearing from Registers about their experiences related to potentially forced marriages or human trafficking. Please contact Margaret Henderson at margaret@sog.unc.edu or 919/966-3455.

Suggested Background Reading:

- “Uncovering the Secret Shame of American Child Brides,” February 26, 2019, ravishly.com/american-child-brides
- Kristof, Nicholas, “11 Years Old, A Mom, and Pushed to Marry Her Rapist in Florida,” The New York Times, May 26, 2017. <https://www.nytimes.com/2017/05/26/opinion/sunday/it-was-forced-on-me-child-marriage-in-the-us.html>
- “Types of Forced Marriage,” Forced Marriage Project, <https://fmp.acsa.community/types-of-forced-marriage/>
- The Tahirih Center www.tahirih.org/

¹² “Criminal Laws Addressing Forced Marriage in the United States,” Tahirih Justice Center, July, 2013. <https://www.tahirih.org/pubs/criminal-laws-addressing-forced-marriage-in-the-united-states/>