

# Youth Agency and the Culture of Law



## Preface

“Youth Agency in the Culture of Law” is a curriculum whose inspiration arose out of increasing concerns in the Greater Toronto Area about what is often called “forced marriage”. Forced marriage is easier to define in the abstract than to identify when it occurs in any particular instance. Generally it occurs when someone is compelled to marry someone against his or her will. The compulsion or coercion might come from parents or broader kinship networks. Forced marriage is distinguished from “arranged marriage” in that the latter, while often involving parents and kinship networks, is premised upon the person marrying having the final say of who he or she chooses to marry. In short, the most salient and significant feature of forced marriage is that the person getting married has not given his or her consent.<sup>1</sup> Where this definition becomes problematic is determining who has the capacity to give consent, and more importantly, what forms consent (or its absence) might take. Is silence evidence of consent or its absence? How does the cultural context inform whether someone consents or not? If someone’s community or family context so strongly frames the practice of “forced marriage” as to render the practice normal or simply “what has always been done”, what would consent look like in that context?

At the time of drafting, various countries have adopted legislation criminalizing forced marriage, with the implication of sociologically criminalizing communities that are often affiliated with that practice, in particular the South Asian community.<sup>2</sup> Criminal legislation and similar forms of state regulation provided immediate satisfaction that something is being done. But their short-term gains are offset by the fact that they are heavy-handed instruments that reflect short-term political visions often framed by election cycles rather than a longer-term interest in civic engagement with communities, or educational development across different sectors of society.<sup>3</sup> This curriculum project is, in large part, a response to such political tactics in the hope of highlighting the need for situating a practice like forced marriage within a broader analysis of the cultural content of Canadian law on youth and

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1. For an important online resource on forced marriage, visit <http://www.forcedmarriages.ca>

2. One example is the Government of Canada’s Bill S-7 introduced in 2015 and entitled *Zero Tolerance for Barbaric Cultural Practices Act*, which amended various federal statutes, including the Criminal Code, to address the phenomenon of forced marriage.

3. For a critique of such legislation, see Sherene Razack, *Casting Out: The Eviction of Muslims from Western Law and Politics* (Toronto: University of Toronto Press, 2008).

their capacity to consent to a range of civic activities.

“Youth” is an ambiguous category in terms of its legal meaning. The law generally creates a bright-line dividing minors from those who have reached the age of majority, which is defined differently across jurisdictions, but is often designated as eighteen (18) years of age. Those below 18 are minors and so do not have full legal capacity, despite the fact that they may be citizens of the state. Not all minors, though, are the same. There is a chasm of difference between a six year old and a sixteen year old, and the law does not ignore that difference. But how the law takes the difference into account, for what purposes, and why, give content to what this curriculum considers the law’s culture on youth agency and civic participation. The extent to which a high school teenager may or may not have certain capacity to engage in legally regulated activities speaks volumes about how the law understands, appreciates, and represents what it means to be a teenager in what many might view as a particularly precocious age range.

To understand the law’s culture of youth agency and civic engagement, this curriculum introduces students to three important legal concepts that inform legal debate about youth agency under the law. The three concepts are: age of majority, guardianship, and minimum marriage age. These three legal concepts have been the subject of various legal disputes, forcing the judiciary to explain why these concepts are important, and what they imply about the capacity of minors to make choices for themselves and exercise a robust form of citizenship and/or legal capacity. From a pedagogic perspective, these legal concepts offer three axes around which students can then address more provocative topics such as forced marriage.

These three concepts offer the broader legal context in which this curriculum situates the issue of forced marriage and conversely emancipation. For those new to the issue of “forced marriage”, the idea of being able to choose one’s marital partner may be a taken-for-granted assumption. That someone (even a classmate) might be forced to marry someone without his or her consent might provoke retorts such as “Why didn’t/can’t you just say no?” Part of the larger coercive context of forced marriage is the fear (whether real or imagined) that to say “no” is effectively to exit the family, and all the supports it provides (economic and otherwise). But suppose one were to simply say “no” when faced with the possibility of forced marriage? What will happen to that person? And more to the point, what will the law do for that person,



especially if that person is a legal minor who is viewed under the law as having limited legal capacity? The discussion of emancipation is meant to reveal the challenges posed by the law's culture of youth when faced with teenagers who feel compelled to leave the custodial care and comfort (economic and otherwise) of their family. To couple both of these topics in this fashion highlights the larger context of forced marriage in light of the law's culture of teenagers who have not yet reached the age of majority.

This curriculum was inspired by the ongoing debate and discussion on forced marriage that has been spearheaded by the South Asian Legal Clinic of Ontario (SALCO). SALCO has been a national leader tracking incidents of forced marriage, and enhancing the capacity of various NGOs, educational institutions, and government agencies on this complex issue. The University of Toronto provided the institutional home for the development of this curriculum. Pamela Klassen and the Religion in the Public Sphere Program provided early incubation for this project to take shape. The Faculty of Law and its then-dean Mayo Moran provided initial financial support for the research and development that gave important content to this curriculum. The Factor-Inwentash Faculty of Social Work and its dean Faye Mishna provided important funding for hiring an exceptional curriculum drafter, Persia Etemadi, who brought her talents to bear in every part of this curriculum. Dean Mishna also hosted a community forum on the curriculum which allowed us to ensure the curriculum would meet the needs of frontline workers in different communities affected by forced marriage. Sarah Pole, Director of Law in Action Within Schools (LAWS) hosted a teacher focus group to review the curriculum in order to ensure its usefulness and effectiveness for classroom purposes. Lastly, the project would not have come to fruition without the generous support of Canada's Justice Department, whose Family, Youth and Children section (and in particular Ms. Hoori Hamboyan) has been an ongoing source of encouragement. We are also grateful to *Maclean's* Magazine for providing permission to reproduce its article on forced marriage as part of this curriculum's resources for educators and students. These institutions and leaders cultivated an important space from which this curriculum could come into existence, and to them we owe a debt of immense gratitude.

A curriculum project such as this is a team effort, and the team behind this project consisted of highly talented and dedicated individuals who appreciated from the outset both the limits of law and the complexity of designing a pedagogic intervention that, in the long term, will foster learning and dialogue

on the difficult and painful topic of forced marriage. Jenna Preston, now a practicing family law lawyer, provided extensive legal research on the legal concepts of age of majority, minimum marriage age, guardianship, and emancipation. Her tireless efforts yielded rich results that appear in the pages of this curriculum. Persia Etemadi was the principal drafter of this curriculum. For two years, she patiently devoted her attention to this project, working and reworking drafts in light of ongoing consultations with curriculum consultants, teachers groups, and community stakeholders. This project would not exist without the work by both Jenna and Persia; they are the heart and soul of this project. Stephen Blair provided helpful research from an education perspective in the initial stages of the project. We were extremely fortunate to bring Allan Hux out of retirement to advise us on this curriculum. Allan's professional career has been devoted to enhancing the capacity of teachers and the experience of students in the classroom. Whether at the Toronto District School Board or in his own capacity as a curriculum designer, Allan has a reputation for excellence, commitment to teacher development, and support for the classroom experience. Allan reviewed every part of this curriculum to ensure its effectiveness in the classroom. He also beta-tested an early version of the curriculum at the 2014 OHASSTA conference, which generated constructive feedback to enhance the final version. Deepa Mattoo of SALCO supported this curriculum at the outset. Thanks to her and the efforts of SALCO, we are able to include as part of this curriculum the impressive graphic novel that SALCO developed to create a climate for productive dialogue and conversation on forced marriage.

Finally, we are thankful to the teachers, academics, community members, and frontline workers who showed an interest in the project, attended our workshops and forums, and provided thoughtful feedback that has shaped the development of the curriculum. Our understanding of the issues presented in the curriculum has been enhanced by their involvement.

Dr. Anver M. Emon  
Director, Curriculum Project  
Professor and Canada Research Chair in Religion, Pluralism and the Rule of Law  
Faculty of Law  
University of Toronto

# *Youth Agency and the Culture of Law*

## **Part I: Teachers Guide**



# Teacher's Guide:

## Youth Agency in the Culture of Law

### Introduction

The curriculum on “Youth Agency and the Culture of Law” comprises 5 documents that allow students and community members to explore legal tropes about youth and agency in Canada’s legal culture, and their implications for reflecting on decisions regarding marriage and emancipation. These documents will complement the graphic novel, **It’s My Choice: Who, If, When to Marry?**, published by the South Asian Legal Clinic of Ontario and included in PDF format in Part III of this curriculum.

The resources entitled **Forced Marriage** and **Emancipation or Leaving Home** offer important sites in which the legal tropes of guardianship, minimum marriage age, and age of majority intersect. Individuals must freely enter into a marriage contract. They must genuinely give their consent and cannot be coerced. They must be of the legal age of 18 to make their own decision about entering into a marriage. Between the ages of 16 and 18 individuals need the consent of their parents to marry. However, they can voluntarily withdraw from parental control and in some risky circumstances they may constructively withdraw from parental control. In special circumstances young people under the age of 16 may marry. The resources on concepts of the **Age of Majority**, the **Minimum Marriage Age** and **Guardianship** outline the origins of these key concepts around the importance of age, maturity and capacity to make decisions in the European and Canadian contexts. References to relevant statutes and key cases set out the Canadian values and the legal reasoning that underpin the decision-making capacity of Canadian youth, their parents and guardians.

Teachers may use these documents in a number of different ways. The simplest and the least class-time intensive approach is to combine the graphic novel, *It’s My Choice: Who, If, When to Marry*, with the *Forced Marriage* handout to have the students explore this major life decision and the personal, family, cultural and legal issues that influence their environment when making a decision. This would be an appropriate place to start for teachers of Grade 11 Law and Family Studies courses that are examining family law and would take 2 – 3 classes. See the Model I lesson suggestions on these documents.

Teachers of Grade 12 Law, Grade 12 Canadian and World Issues Geography and the Equity courses would find the lesson on Forced Marriage an excellent starting point for an inquiry into human rights and international law particularly as it relates to the rights of children, youth and women.

Teachers may have students investigate the five documents sequentially and discretely or in groups simultaneously. The three models proffered will outline strategies for different approaches depending on how much time the teacher can allocate to this unit and the

pedagogic goals for the class. Teachers are invited to consult Curriculum Connections (<http://www.edu.gov.on.ca/eng/curriculum/secondary/subjects.html>) to see the overall and specific curriculum expectations that these resources help students address in 12 courses.

- Canadian & World Studies:
  - Law
    - Grade 11 – CLU3M
    - Grade 11 – CLU3E
    - Grade 12 – CLN4U
  - Geography
    - Grade 12 – Canadian and World Issues – CGW4U
- Social Sciences and Humanities:
  - Equity
    - Grade 11 – Gender Studies – HSG3M
    - Grade 12 – Equity and Social Justice: From Theory to Practice – HSE4M
    - Grade 12 – World Cultures – HSC4M
  - Family Studies
    - Grade 11 – Dynamics of Human Relationships – HHD3O
    - Grade 12 – Families in Canada – HHS4U
  - General Social Sciences
    - Grade 11 – Introduction to Anthropology, Psychology, and Sociology – HSP3U and HSP3M
    - Grade 12 – Challenge and Change in Society – HSB4U



## Model I (2-3 Classes)

### Lessons on the Graphic Novel, *It's My Choice: Who, If, When to Marry* and Rachel Browne's 12 Jan. 2015 *Maclean's* article, "Against their Will: Inside Canada's Forced Marriages" and the Five Youth Agency and the Culture of Law Resources

This project explores the issues of marriage and forced marriage by inviting students to examine the cultural dynamics of marriage and their rights under the *Charter*, international law and family law in Ontario.

The graphic novel, *It's My Choice: Who, If, When to Marry*, presents 3 fictional cases, "Maya and Sam", "Karine and Sheila", and "Ash," that are based on a number of true stories. These stories present brief, gripping and touching situations that will engage students. But it is important to move beyond the emotive and look at the cultural and legal context that young people and their families face in Ontario and Canada.

Rachel Browne's 12 Jan. 2015 *Maclean's* article, "Against their Will: Inside Canada's Forced Marriages" outlines examples of forced marriages in communities outside of the South Asian communities. Three individuals and 4 communities are highlighted in this article and a student handout highlights these. Browne draws on the research of Karlee Sapoznik at York University, Deepa Mattoo at SALCO, staff at the Barbara Schliker Clinic, Yegi Dadui at the Sherbourne Health Clinic and 13 other agencies in the Woman Abuse Council of Toronto. Browne offers some comments on the federal government's proposed law, Bill S-7, "Zero Tolerance for Barbaric Cultural Practices Act," and some of the criticisms of this bill. If teachers would like to vary the background of the victims of forced marriages in Canada and to have students read beyond the graphic novel, *It's My Choice*, then they may add the 3 case studies of "Lee Marsh", "Antua Petrimoulx", and "Elizabeth" in "Against their Will". To use the "Children of Lev Tahor" as a case study would require a student group to do additional research. Information is readily available on Canadian media sites. This would be a good challenge for some of the top students in the class. Teachers may decide to combine the cases from these 2 sources and assign the 2 more detailed cases ("Lee Marsh" and "Elizabeth"), from Rachel Browne's article and broaden the number of groups doing case inquiries to 5 from 3.

We have written 5 resources that present the legal context and a number of scenarios and relevant cases that will deepen students' understanding of the legal culture of youth agency in the Ontario and Canadian contexts.

1. **Forced Marriage** explores some of the legal issues raised in *It's My Choice: Who, If, When to Marry* and the *Maclean's* article "Against their Will: Inside Canada's Forced Marriages".

2. **Emancipation or Leaving Home** explores the circumstances under which children

can withdraw or be removed from the care of their parents and examine who is responsible for supporting the child: the parents, the province, or the child her/himself. Two cases and a scenario invite students to investigate the complexity of youth rights and responsibilities under this area of law.

**3. Age of Majority** provides a brief historical overview of the concept of “age of majority” from Roman times to the U.N. *Convention on the Rights of the Child* and then looks at cases on the right to vote and to accept or reject medical treatment.

**4. Age of Marriage** shows how highly regulated marriage is in law and invites the questions, why is there a minimum age and why are there exceptions? Three Canadian cases allow students to explore the rationale behind different provincial laws and exceptions on the minimum age for marriage and to consider the values that underpin the law.

**5. Guardianship** had its roots in Roman society and was applied to minors, women and mentally incapable adults. The principle of “best interests of the child” is important for children, youth and incapable adults. The Supreme Court of Canada set out the limits on guardians of mentally incapable adults in the *E. (Mrs.) v. Eve* case.

## Lesson 1 – How do we make decisions? 2 to 3 classes

Class 1: conduct the brainstorming activities and introduce the graphic novel, ***It's My Choice: Who, If, When to Marry***

Class 2: have the student groups complete the reading of their story and report to the rest of the class.

Class 3: some classes may need part of the third period to complete the reporting. Assign and have students complete a reflection activity.

### List of Student Handouts

- Factors Influencing My Decisions & Actions
- Factors Influencing Other People's Decision to Marry
- Factors that May Influence MY Decision to Marry
- Some Positive Influences from My Family & Community
- Notes on It's My Choice: Who, If, When to Marry
- Notes on It's My Choice: Who, If, When to Marry and Forced Marriage
- Notes on Against their Will: Inside Canada's Forced Marriages
- My Notes on Resources, Page 1
- My Notes on Resources, Page 2
- 5 Questions on Our Group Inquiry
- Reflection: How would you plan to talk with your parents or guardians about "marriage" and your future marriage in particular? What do you think would be their reaction to the topic?

### Assessment for Learning and as Learning

Have students complete the brainstorming sheet(s).

Observe student engagement in group discussions.

Have students take notes and complete the 5 Questions on their story and the "Note Summary" sheets on the other group presentations.

### Assessment of Learning

Have students complete a reflection piece on 1 of the topics suggested or on 1 topic that they suggest and that you approve.

## Lesson 1 Framework

1. Invite students to brainstorm the factors that influence our decision-making processes with the following question:

**What forces in society may influence and shape the ways we think and act?**

Use a think, pair, share, strategy to have students explore these issues.

Have individual students start with a web with **My Decisions and Actions** in the middle and give them a few minutes to jot down the factors that they think influence them.

Then have the students share with a partner and add to their webs. Have 2 pairs join together and create a new web on chart paper. Post the chart paper and allow time for a gallery walk if you wish or do a whole class debrief having students share their ideas. Some factors and influences that students may include are:

friends, peers, mother, father, parents, siblings, school, religion, media, advertising, internet, Facebook friends, other social media, You Tube, TV, films, celebrities, actors, athletes, money, work, co-workers, boss / employer, hobbies and partying.

Many influences can be clustered around groups such as family, community, media, peers, etc.

Next ask students to rank the factors that are currently most important in influencing their decisions. You could ask students to rank the top 3 or 5 or another number that you think is appropriate. Debrief this exercise. Stress that each person is different and that the factors that influence us do change over time as we get older and we have new experiences. Some factors remain powerful throughout our lives and others change. They may write the numbers on the factors on their web.

Ask students to suggest

When are these factors positive influences?

When are they negative influences?

or

Which factors are positive influences?

Which factors are negative influences?

Which factors can be both positive and negative influences?

2. Now ask students what factors influence other people's decision to marry. Ask them what factors influenced some of the people they know who have married. These could be siblings, cousins, parents, other relatives, family acquaintances, community leaders, friends, celebrities, etc.



Ask the students if they think the people they are discussing freely consented to the marriage.

Return to the personal and ask them which factors you think will be most important in influencing your decision to marry someday based on your values?

These activities can be done as multiple webs or as brainstorms in small groups and then extended to the whole class.

3. If the teacher has students who are having difficult relations with their family, they may wish to have a final brainstorm to draw out some of the positive influences that a family provides to present a balanced context prior to reading the graphic novel. Note that if a few students are perhaps facing crises, you should refer them to the supports in the ***Emancipation or Leaving Home*** resource.

4. The above activities have set the stage for students to explore the graphic novel, *It's My Choice: Who, If, When to Marry*. This document may be approached in groups. There are 3 different stories in the novel, "Maya and Sam", "Karine and Sheila", and "Ash." Assign at least two groups of students to each story. Have the students read their story and prepare a report to the class. Depending on your class this may be an open-ended read and report or you can offer some guiding questions. Some examples are suggested below which will help the teachers as they circulate among the groups. You may also consider the questions outlined in the supporting handout, ***Forced Marriage***. This document should be copied and given to students as part of this lesson or as a follow-up assignment, possibly for homework.

A. Questions to consider for ***Maya and Sam***, pp. 1 - 15:

1. How old was Maya when her parents raised the topic of marriage and what was her situation?
2. Why did Maya's parents, aunts and uncles want Maya to get married?
3. Why was Maya opposed to their suggestions?
4. How did her brother, Avi's, experience complicate the family situation?
6. How did Maya's parents try to control her and what arguments did they use to try and convince her to marry Sam?
7. What do you think is the parents' most powerful argument?
8. Where was the wedding and why did Maya and Sam go through with the wedding?

B. Questions to consider for ***Karine and Sheila***, pp. 17 - 25:

1. Why was Sheila having disagreements with her parents?
2. What is IZZAT and why was this important?
3. Why did their parents take Sheila to Pakistan and what happened?
4. What happened to Karine's relationship with her parents when she turned 18?

5. Whom did Karine turn to for support and assistance?
6. What plans did Karine develop and who helped her carry them out?
7. What legal rights does Karine have?
8. How do you feel about Sheila and Karine's stories?

C. Questions to consider for **Ash**, pp. 27 - 37

1. Why did Ash immigrate from Sri Lanka to England?
2. Why did Ash decide to immigrate to North America after graduating from university?
3. Why did he find Montreal a supportive community?
4. Why did young people not talk to their parents about dating in Sri Lanka?
5. How did Ash's parents find out that he was gay and what was their reaction?
6. What did Ash's parents think he should do?
7. What terms did his parents use that showed their misunderstanding of homosexuality and what was Ash's reply? ( parents' words: "cured, this, choice, not normal, curse, shame"; Ash's reply: "This is what I am. I can't change it. I'm sorry.")
8. Why and how did Ash's parents pressure him into marrying?
9. What happened to Ash's marriage? Why did he tell his wife that he was gay and how did she react?
10. How did each of them feel about the experience?
11. What lessons did Ash learn from his experience that he could share with Karine and other young people?

5. As the student groups report on their story, have the class take a few notes. Students may use the organizer provided or simply take their own notes on each of the other 2 stories as a basis for comparison and reflection.

6. Provide students with the **Forced Marriage** handout for key background material on the Canadian and Ontario legal context and terms such as coercion, consent, annulment, duress, and oppression.

7. You may want to have a 4<sup>th</sup> group of students report on the *S(A) v S(A)* case as part of the stories on young people who have been forced to marry. This case from Ontario in 1988 involves a girl, "S", who was under the age of 18, and in fact was only 16 at the time of her marriage. We would recommend that you take the time to discuss this handout in class 3 or 4, but if you are pressed for instructional time, this would be one way to share the information with the class.

8. If you would like to add some of the cases from Rachel Browne's 12 Jan. 2015 *Maclean's* article, "Against their Will: Inside Canada's Forced Marriages" this would allow you to increase the number of cases from 3 to 6. The 3 case studies of "Lee Marsh", "Antua Petrimoulx", and "Elizabeth" in "Against their will" provide an opportunity to explore

additional cases from different communities. More research would be needed to explore the Lev Tahor community as a case study.

D. Questions to consider for **Lee Marsh**

1. How old was Lee when her mother started “shopping her around”?
2. Where did Lee’s mother showcase her and how did she make her dress?  
Why?
3. How did Lee feel when her mother announced whom she had to marry and when?
4. Why didn’t Lee tell her mother how she felt or object to the wedding?
5. How was the decision to marry announced to the community and why did this make it very difficult for Lee?
6. What was Lee’s marriage like and how did it trigger memories of past abuses?
7. How was the Jehovah Witnesses practice of “dis-fellowshipping” used and why was it so powerful?

E. Questions to consider for **Antua Petrimoulx**

1. When and where was Antua born and what was her name?
2. How did her mother and siblings view and treat her when she was growing up?
3. Why did her mother force her to marry at the age of 20?
4. How was Antua treated by her family and the police when she left her marriage?
5. How did Antua get into Canada and how has her life been here?

F. Questions to consider for **“Elizabeth”** ?

1. What were the basic expectations around marriage for members of “Elizabeth’s” community?
2. How was courtship conducted by men and women in her community and who ultimately selected her to be his bride?
3. What happened with “Elizabeth’s” fiancé and why did they not marry?
4. How did women and men in “Elizabeth’s” community react when she complained about the conduct of her fiancé and how did they treat her?
5. What did “Elizabeth” learn through the Agincourt Community Centre’s forced marriage project and what is happening to her fiancé in England?
6. How did “Elizabeth’s” parents treat her?
7. Why does “Elizabeth” support Bill S-7 ?

9. Ask students to reflect on one or more of the following questions. If the teacher wishes to collect an Assessment of Learning assignment, share or develop a simple writing task rubric and set the appropriate length parameters.

How would you plan to talk with your parents or guardians about “marriage” and your future marriage in particular? What do you think would be their reaction to the topic? Would they be open to hearing your ideas? Would you be willing to listen to theirs? What ground rules would you set for the potential inter-generational differences of opinion in a discussion?

What topics would you raise and what topics, if any, would you avoid and why? Which topics would you anticipate agreement on and on which topics would you expect to disagree? For example: age to marry; characteristics of a partner (age, ethnicity, religion, education level; career path) size and cost of a wedding; pre-marital sex; responsibilities of newlyweds; emotional or economic support by the parents for the 2 newlyweds; grandchildren; possibility of marriage breakdown. After this conversation, if you thought it would be appropriate to discuss your “legal rights,” it would be very important to do more research on questions of age, permission, and support. See the other four *Youth Agency and the Culture of Law Resources* and the support agencies referenced in them.



Handout:  
Factors Influencing My Decisions & Actions

My Decisions  
& Actions

Handout:  
Factors Influencing Other People's Decision to Marry

\_\_\_\_\_'s  
Decision to  
Marry

Handout:  
Factors that May Influence MY Decision to Marry

MY  
Decision to  
Marry

Handout:  
Some Positive Influences from My Family & Community

ME



Handout:  
Notes on *It's My Choice: Who, If, When to Marry*

FACTORS/ STORIES	Maya and Sam	Sheila and Karine	Ash
Young person's attitudes towards marriage			
Parents' attitudes towards marriage			
Community's attitude toward marriage			

Handout: Notes on <i>It's My Choice: Who, If, When to Marry</i>				
FACTORS/ STORIES	Maya and Sam	Sheila and Karine	Ash	
Young person's options				
Legal issues				

Handout:  
Notes on It's My Choice: Who, If, When to Marry and Forced Marriage

FACTORS/ STORIES	Maya and Sam	Sheila and Karine	Ash	1988 Ontario Case of "A" v "S"
Young person's attitudes towards marriage				
Parents' attitudes towards marriage				
Community's attitude towards marriage				

Handout:  
Notes on It's My Choice: Who, If, When to Marry and Forced Marriage

FACTORS/ STORIES	Maya and Sam	Sheila and Karine	Ash	1988 Ontario Case of "A" v "S"
Young person's options				
Legal Issues				

Handout:

Notes on “Against Their Will: Inside Canada’s Forced Marriages” by Rachel Browne, Maclean’s 12 Jan. 2015

FACTORS / STORIES	Lee Marsh	Antua Petrimoulx	“Elizabeth”	Children of Lev Tahor
Young person’s attitudes towards marriage				
Parents’ attitudes towards marriage				
Community’s attitude towards marriage				

Handout:

Notes on “Against Their Will: Inside Canada’s Forced Marriages” by Rachel Browne, Maclean’s 12 Jan. 2015

FACTORS / STORIES	Lee Marsh	Antua Petrimouix	“Elizabeth”	Children of Lev Tahor
Young person’s options				
Legal issues				

Handout:  
My Notes on Youth Agency and the Culture of Law Resources, Page 1

Groups	Forced Marriage	Emancipation or Leaving Home	Age of Majority
1.			
2.			
3.			
4.			



Handout:  
My Notes on Youth Agency and the Culture of Law Resources, Page 2

	Minimum Marriage Age	Guardianship	Rights in International Law
1.			
2.			
3.			
4.			

Handout:  
5 Questions on Our Group Inquiry, \_\_\_\_\_,  
in Resource \_\_\_\_\_

1.

2.

3.

4.

5.

## Handout: Reflection

**Reflection:** How would you plan to talk with your parents or guardians about “marriage” and your future marriage in particular? What do you think would be their reaction to the topic?

**Consider:** Would they be open to hearing your ideas? Would you be willing to listen to theirs? What ground rules would you set for the potential inter-generational differences of opinion in a discussion?

What topics would you raise and what topics, if any, would you avoid and why? Which topics would you anticipate agreement on and on which topics would you expect to disagree? For example: age to marry; characteristics of a partner (age, ethnicity, religion, education level; career path) size and cost of a wedding; pre-marital sex; responsibilities of newlyweds; emotional or economic support by the parents for the 2 newlyweds; grandchildren; possibility of marriage breakdown.

After this conversation, if you thought it would be appropriate to discuss your “legal rights,” it would be very important to do more research on questions of age, permission, and support.

You may write this in the first or third person, or you may script it in dialogue with or without comic characters of yourself and your parents.

## Reflection

## Model II (5+ Classes)

### *My Choice: Who, If, When to Marry?, “Against their Will: Inside Canada’s Forced Marriages” and the 5 Youth Agency and the Culture of Law Resources*

#### Lesson 1: Forced Marriage

Start with the graphic novel and the *Forced Marriage* resource and follow Lesson 1 above for the first 2 – 3 classes.

#### Lesson 2: Law’s Culture on Youth Agency

This model uses the resources on age of majority, guardianship, and minimum marriage age as legal tropes by which to infer the law’s culture of youth. These three tropes offer conceptual anchors for the students to approach the materials on forced marriage and emancipation. This was the conceptual approach taken to designing the curriculum. But for teaching purposes, you can adopt different approaches. For instance, you may wish to introduce the forced marriage/emancipation materials first, and then proceed to the other three topics. Or you can reverse the lesson order and get students to understand the three legal tropes *before* addressing forced marriage and emancipation. The ordering depends on the curricular needs of the class.

For Lesson 2, divide the students into groups and assign 2 or 3 groups to each of the five resources. Allow 1 to 2 periods for the student groups to prepare their reports to the class. Allow 2 - 3 periods for students to report on their learning. Give students the **Framing Question** appropriate to their resource. Encourage students to use the QUESTIONS FOR CONSIDERATION in their section of the resource to guide their inquiry. Consider posing the **Concluding Question** to the class following the group presentations on a specific resource as a way to start the summary and consolidation discussion. With some classes especially in grade 12 courses these activities may be designed as student-led seminars.

Have the groups work independently on a specific aspect of the assigned resource such as the historical roots of the concept or 1 of the cases introduced in the resource. Below are some possible framing questions and group assignments for each of the resources. Each resource has a list of Key Terms; provide the specific list to the groups on that resource and ask them to produce a definition of the term(s) in their group’s section and post it as part of their report to the class. To promote students’ inquiry skills, ask each individual or each group to create 5 questions on their topic and collect these for Assessment for Learning. Give students 1 – 2 periods to read their section of the resource, prepare 5 questions and their report to the class. Student reports should be about 5 minutes. When students have been assigned a case study or a specific court case, encourage them to present their key points to the class in a role play as the plaintiff/ petitioner, respondent, and judge.

## 1. Forced Marriage

Note that the Forced Marriage handout has key background information on the core concepts that underpin the laws for a legal marriage in Ontario and Canada's responsibilities under international law to uphold the rights of children and women. For students in grades 11 or 12 who may wish to undertake a research project on this issue, there are useful links provided to research reports and to international treaties and conventions. If you dealt with this handout as part of Lesson 1, then you may proceed to the remaining 4 handouts. If not, here are the directions to include Forced Marriage as one of the 5 group assignments.

*Framing Question: What are the essential criteria to conclude a legal and valid marriage contract in Ontario?*

Possible Group Topics

- a) *S(A) v S(A)*
- b) What are Canada's obligations under international law and how well does Canada enforce them?
- c) What are the options and support for people facing forced marriages?
- d) In what order would you recommend that a friend approach these groups?  
Contact Justice for Children and Youth to see what advice they would offer.

*Concluding Question: What are the differences between a divorce and an annulment and the legal criteria for the court to grant them? Why would most people like "A" who were forced to marry prefer an annulment?*

## 2. Emancipation or Leaving Home

*Framing Question: When should youth consider taking the extreme step of leaving home and what are the challenges, risks and supports available?*

Possible Group Topics

- a) Case Study – Tarek and his Parents
- b) *Letourneau v Haskell*
- c) *Children's Aid Society of Peel (and D) v S(P)*
- d) Child Protection and Children Under 16 Years of age.

*Concluding Questions: Do you think that Ontario should join Quebec and a number of American states and set up a court process to allow young people under the age of 18 to apply for "emancipation"? What criteria should the province set?*

## 3. Age of Majority

*Framing Questions: What are the main differences between people who have reached the age of majority and people who are below that age? Why do we have to have 1 age apply to everyone in Ontario but not in Canada?*

### Possible Group Topics

- a) How and why has the age of majority changed from ancient Rome to today and why does Roman law matter?
- b) What is the proper voting age? Arguments in 3 places: Alberta, Ontario, California
- c) *Consent for Medical treatment: Manitoba (Director of Child & Family Services v C(A) (interpretation of "best interests of the child")*
- d) What is the connection between the U.N. *Universal Declaration of Human Rights* and the U.N. *Convention on the Rights of the Child* and how does the U.N. enforce these treaties and conventions and on whom do they rely?

### Concluding Activity:

*Have students brainstorm all the activities that have an age limit: starting school, dropping out of school; driving, drinking, adult movies, seniors' discounts, pilot's license, voting, joining the military, signing a contract, writing a will, buying real property, running for elected office, Senator, Judge, etc.*

### Concluding Question:

*How important are capacity and independence in determining when a person has reached the "age of majority" or adulthood in a society? What other criteria do you think are important?*

## 4. Minimum Marriage Age

*Framing Question: Why do we have laws that say who can and cannot marry? Why a minimum marriage age?*

### Possible Group Topics

- a) *Re Evans*
- b) *Fox v Fox*
- c) *A (E) (Next Friend of) v Manitoba (Director of Child & Family Services)*

### Concluding Question:

*Why is the birth of an expected child or the presence of a child an important factor in leading the courts to make an exception to the minimum age of marriage? What other factors appear to be important as well?*

## 5. Guardianship

### Framing Question:

*Why do minors require guardians?*



### Possible Group Topics

- a) How and why has guardianship changed from ancient Rome to today and why were women lumped in with minors and incapable adults?
- b) Case Study of Tyler and Faria in Ontario: What would happen if their parents divorced, or died and they received an inheritance?
- c) *Manitoba (Director of Child & Family Services) v C (A)*
- d) *E. (Mrs.) v. Eve* on sterilization and substitute decision-making for incapable adults

### Concluding Question:

*Who may be a guardian and what are the limits on the power of a guardian as revealed by these cases?*

## 6. Children and Youth Rights in International Law

### Framing Question:

*How are the rights of children and youth in the area of marriage and family law recognized in international law? (See Forced Marriage, Age of Majority, and the specific U.N. treaties and conventions.*

### Possible Group Topics

- a) How might young people facing coercion in a family's plans for them to marry reference the U.N. *Universal Declaration of Human Rights* and to whom could they turn for help?
- b) How might young people facing coercion in a family's plans for them to marry reference the U.N. *Convention on the Rights of the Child* and to whom could they turn for help?
- c) How might young people facing coercion in a family's plans for them to marry reference the U.N. *Convention on the Elimination of all Forms of Discrimination Against Women* and to whom could they turn for help?

### Concluding Questions:

*Which federal and provincial government Ministries could young people turn to for support, what social agencies could they turn to for support, and how could they most effectively mobilize the media to their case?*

*How could you bring pressure to bear on the federal government to sign the U.N. conventions and protocols that Canada has not accepted?*

### **Model III (Variable Class Time)**

#### **Dealing with the 5 Youth Agency and the Culture of Law Resources Separately or Sequentially**

Some teachers may wish to take one or more of the five Youth Agency and the Culture of Law Resources and devote a class to the concepts in these documents because they meet directly one or more of the curriculum expectations in their course. Teachers are invited to reproduce the specific resource and distribute it to the class. Each resource has a number of QUESTIONS TO CONSIDER that will direct student investigations. The framing and concluding questions above will assist teachers in planning their lesson on this specific topic and set of concepts.