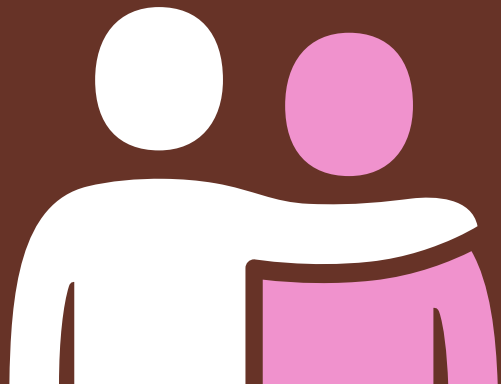




Ministry of Justice and Security

Information on marital captivity

Prevention, helping and protecting victims



Marital captivity occurs when a person is trapped in a religious marriage against her/his will because the marriage cannot be dissolved. For example, because one of the partners does not want to cooperate in the divorce or if the religious rules or the community do not accept divorce. This happens in almost all religions.

What signs point to marital captivity? What is the best way to help victims?



Who is this leaflet for?

The information in this leaflet is intended for professionals, such as social workers and care providers, community workers, teaching staff, legal aid workers and lawyers. But also for people who are active as volunteers in social organisations, within religious or ideological communities, language centres or in neighbourhood centres.

Harmful practices and marital captivity

In the Netherlands, everyone has the right to live his or her life as she or he sees fit. Freedom of religion and/or philosophy of life is important. Freedom of choice and self-determination, for example choosing your own partner or getting a divorce, is not always a matter of course. This situation may even be at odds with self-determination. When this applies to a serious extent, we speak of harmful practices. It may involve marital captivity,

forced marriages, forced abandonment abroad, forced isolation, genital mutilation or (other) violence in the name of family honour. Women are often the victims.

The law is clear on such forms of coercion and violence: they are punishable (including under Section 282, unlawful deprivation of liberty, and Section 284, compulsion, of the Dutch Criminal Code).

Background information on marital captivity



The importance of civil marriage alongside religious marriage

Civil marriage is the legal marriage in the Netherlands. According to Dutch law, a marriage is one that has been performed by a civil servant and in the presence of the partners and at least two witnesses.

A religious marriage or ceremony may only take place after the civil marriage has taken place (Article 68 of the Dutch Civil Code, Book 1). In the Netherlands, two people who only marry in a religious ceremony are not considered married in the eyes of the law. The law regards them as two unmarried persons.

A clergyman is punishable if he/she officiates at a religious wedding before a civil registrar has performed the marriage (Article 449 of the Dutch Criminal Code).

There are several reasons for this order. First of all, legal/civil marriage provides several things for married couples. For example, if children are born within a

legally contracted marriage, the law provides for the spouses to be recognised as the parents. This has consequences for, among other things, the custody of the children and the inheritance after the death of (one of) the parents. The law also provides all kinds of matters concerning money, assets, pension and so on.

A civil marriage is also important in divorce proceedings. The law then protects the rights of both spouses. Consider, for example, the payment of alimony. If the spouses are married only religiously, the law does not provide for anything. As a result, the partner has no rights after a religious divorce. This often causes major problems, especially where children are concerned.

Divorce and religious marriage

Obstacles

It is mandatory to have a civil marriage before having a religious ceremony. But this order does not exclude the possibility that certain problems may arise. A legal divorce does not automatically lead to a religious divorce.

It may happen that the religious community does not perceive the separation of two partners as a divorce because:

1. The other partner refuses to cooperate in a religious divorce, although such cooperation is necessary according to religious doctrine or in the eyes of the family and/or community.
2. The religious doctrine does not recognise divorce or strongly discourages it.
3. The family(-in-law) or social environment exerts pressure not to divorce.
4. The marriage was concluded abroad and partners therefore have to deal with foreign legislation, whereby the law stipulates that the husband is the initiator in arranging a divorce.



Legal options

There are several legal options available to obtain a divorce if the partner refuses to cooperate. You can read about them here: www.rijksoverheid.nl/onderwerpen/huwelijkse-gevangenschap/juridische-mogelijkheden.

Risks



In a situation where religious divorce is obstructed, a person ends up in marital captivity. This happens in almost all religions. It is then often impossible to begin a new relationship or to remarry. This could be considered adultery by the religious community. If the family also perceives this as an affront to their honour, this situation can lead to violence. If forming a new relationship is possible, it is usually only possible outside the religious community and/or country of origin. The risk of violence and/or social exclusion often remains.

In some countries, for example in Egypt and Iran, the religious marriage is the (only) legal marriage. These countries do not automatically recognise divorce under Dutch law. This is because the country considers the manner in which the divorce was granted not to be in accordance with their public order and morals. If a woman

remarries or starts a relationship with another person and she is not yet officially divorced, she runs the risk of prosecution for bigamy or adultery in these countries.

One can be legally divorced in the Netherlands, but still be married in the country where the marriage took place. In such cases, a procedure for recognition of a Dutch divorce, a marriage annulment or a divorce settlement must usually be commenced in the country where the marriage was conducted. This applies to many countries where religious marriage law is the only one applicable and therefore legal, such as Egypt, the Philippines, Iran, Israel, Morocco, Pakistan and Syria.

Further information is available at:
[www.huwelijksdwangenachterlating.nl/
onderzoekwetgevingbuitenland](http://www.huwelijksdwangenachterlating.nl/onderzoekwetgevingbuitenland)

Criminal offences



As mentioned earlier, harmful practices are punishable in the Netherlands. Since 1 July 2013, 'forced continuation of marriage' has also been covered by the general coercion article (Article 284) of the Dutch Criminal Code.

Criminalisation is not limited to the Netherlands. Even when a forced marriage or marital captivity takes place abroad, prosecution is possible on the basis of this penal provision (Article 7 of the Dutch Criminal Code).

Helping and protecting victims



Recognising marital captivity

A woman or man who is a victim of marital captivity is (potentially) affected by the following:

- The partner refuses to cooperate with the divorce.
- A messy divorce.
- Fear of losing the children to the (ex-) partner or in-laws.
- Not being able to start a new relationship without the community criticising her/him.
- Not being allowed to talk about the marriage or private circumstances.
- Social isolation.
- Polygamy.
- No information on right of residence.
- Restriction of movement or even confinement in the home.
- Not being able to apply for a travel document (ID-card or passport) without the consent of the (ex-)partner.
- Threats, physical and/or psychological violence.
- Pressure or threat of increased control by family members.
- Being seen as an adulterer in the country of origin, risking violence and/or punishment there.

Do you recognise one or more of the signs in someone?

This does not necessarily mean that the person is being held in marital captivity. However, it is important to be alert to this. For more information see **'Help for citizens and professionals'**.



Tips

When you want to help a victim, it is important that you give clear and complete information, such as:

- Be clear about the legal framework.
- Give clear advice on what a potential victim can do, who they can turn to and what might cost. Subsidised legal aid is available to citizens on low incomes.
- Give clear advice if a person fears for his/her safety when seeking help, for example in getting a divorce.
- Be aware that family or in-laws may also exert pressure to maintain the marriage.

You can find this information under **'Help for citizens and professionals'**.



Help for citizens and professionals



It is important that you, as a citizen, volunteer or professional, recognise signs early on and know what you can do to help address marital captivity. You can get help for this from various organisations.

Veilig Thuis

If you suspect marital captivity, you can contact Veilig Thuis. This is the advice and reporting centre for domestic violence and child abuse. Victims, perpetrators and bystanders are also welcome at Veilig Thuis for expert help and advice. You can call us anonymously and 24/7 on 0800-2000.

Landelijk Knooppunt Huwelijksdwang en Achterlating (LKHA) (English: Dutch Centre of Forced Marriage and Abandonment)

Professionals can consult the LKHA for information, advice and support in dealing with forced marriages and preventing abandonment.

This national knowledge and expertise centre collects, updates and provides knowledge on forced marriages and abandonment. LKHA deals with complex cases and is the Ministry of Foreign Affairs' point of contact for victims abroad. The LKHA supports these victims and tries to bring them back to the Netherlands.

Het Landelijk Expertise Centrum Eer Gerelateerd Geweld (LEC EGG) (English: National Expertise Centre on Honour-related Violence)

(Threatening with) violence is punishable by law, even if it is done in the name of family honour. Because honour-related violence often involves more people than the nuclear family, the police use a separate method to focus on it: the LEC EGG method. You can contact local police units for instances of honour-related violence. Local police units submit complex cases to the LEC EGG, which supports them in analysing and addressing them. The LEC EGG also carries out scientific research and provides information to (police) officials and other partners.

Use of reporting code for professionals

Professionals in certain sectors are required to use a reporting code to identify forms of domestic violence and child abuse. These professionals must follow the steps of the Reporting Code Domestic Violence and Child Abuse.

See: www.rijksoverheid.nl/onderwerpen/huiselijk-geweld/meldcode.

On this page you can also find a fact sheet with specific focus points in cases of (suspected) honour-related violence.

Help for victims in the Netherlands



112

In case of immediate danger, for example from violence, call 112.

Veilig thuis is the advice and reporting centre for domestic violence and child abuse in your region. This includes all forms of harmful practices, such as marital captivity. Veilig Thuis offers (anonymous) advice and professional support.

 0800 – 2000

Fier offers shelter, assistance and treatment in case of violence in dependency relationships and is specialised in offering safety and protection in case of very serious threats.


 **See** www.fier.nl/english


Sterk Huis offers advice, shelter, help and treatment and is specialised in dealing with honour-related violence.

 **See** www.sterkhuis.nl/contact/

Legal aid

For legal questions regarding marital captivity, among other things, you can contact 'Het Juridisch Loket' or a lawyer specialised in family and divorce law.


 0900 - 8020 (€0.10 per minute)

 www.juridischloket.nl/contact/
[https://zoekenaadvocaat.
advocatenorde.nl](https://zoekenaadvocaat.advocatenorde.nl)

Police in case of immediate danger and violence: call **112**. If there is less immediate danger you can call **0900-8844** or **0800-7000** (anonymously).

From abroad

The Dutch embassy of the country where the victim is located can contact local assistance and local lawyers:

 [www.netherlandsworldwide.nl/
contact](http://www.netherlandsworldwide.nl/contact)


The **24/7 Contact Centre** at the Ministry of Foreign Affairs


 +31 24 724 7247



**Landelijk Knooppunt
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Veilig Thuis

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More information

Information on marital captivity, harmful practices and assistance can also be found at www.rijksoverheid.nl/onderwerpen/huwelijkse-gevangenschap.

This information leaflet is a result of the (H)echt Verbonden trajectory of the municipality of Rotterdam and research into marital captivity by the University of Maastricht in cooperation with the National Working Group Mudawwanah and Atria. Representatives of various religions, lawyers, experts by experience, social workers and researchers also participated in the fight for freedom of choice in relationships.



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