



Protecting Immigrant
Women and Girls
Fleeing Violence

June 4, 2018

U.S. Department of Homeland Security
Citizenship and Immigration Services
Office of Policy and Strategy
Samantha Deshommes, Chief
Regulatory Coordination Division
Submitted VIA Electronic Mail to: dhsdeskofficer@omb.eop.gov

**RE: Additional 30-day period for Comments on USCIS Form I-129F
Petition for Alien Fiancé(e) K-1
OMB Control Number 1615-0001
FR Doc No: 2018-09498**

Dear Chief Deshommes:

The Tahirih Justice Center is a national policy and direct services organization that has assisted survivors of forced marriage and other gender-based violence for over twenty years. As such, Tahirih has developed significant, unique legal and policy expertise on forced and child marriage as domestic problems in the United States (U.S.) impacting both multi-generational American and immigrant families from dozens of different countries of origin. Through our specialized Forced Marriage Initiative (FMI), we have helped hundreds of survivors and individuals at risk of forced marriages, in cases spanning nearly 40 states and more than 20 foreign countries when U.S. women and girls have been taken abroad for the marriage.

The causes of forced marriage often vary and overlap and it is most often parents and others close to the victim that are the primary perpetrators. While forced marriages can happen at any age, individuals under the age of 18 are especially vulnerable as they often lack the legal rights and access to resources necessary to escape. Women and girls are disproportionately victimized through forced marriage, which often intersects with other forms of gender-based violence including child abuse, intimate partner violence, sexual assault, stalking, and human trafficking.

At present, the U.S. marriage-based immigration process can in some cases unwittingly facilitate forced marriages, involving forced sponsorship of a foreign fiancé(e) or spouse. In our experience, families commonly file visa petitions without the forced sponsor's knowledge or consent. Once a victim learns what her family has done, she may be afraid to take steps to withdraw sponsorship. She may fear retribution, as well as legal consequences to herself or to her family.

In light of our understanding of forced marriage case dynamics, we offer the following suggested changes to the I-129F Form and Instructions in order to promote more effective deterrence of perpetrators as well as education and empowerment for victims. Furthermore, implementing our suggested changes will enable USCIS adjudicators to better leverage immigration laws, policies, and discretionary tools to detect and prevent forced sponsorship in cases of forced marriage and to alert victims of their rights and

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available resources. Finally, as noted below, our suggested changes largely reflect language that has already been approved and used by USCIS in its public education on forced marriage (see <https://www.uscis.gov/humanitarian/forced-marriage>), and therefore will not pose a significant burden for the agency.

We appreciate the opportunity to submit these comments and we look forward to your feedback. For additional information, please contact me at archip@tahirih.org or 571-282-6153.

Respectfully submitted:

A handwritten signature in black ink, appearing to be 'Archi Pyati', with a stylized flourish at the end.

Archi Pyati
Chief of Policy

ITEM	CURRENT LANGUAGE	PROPOSED CHANGE	EXPLANATION
<p>Form I-129F INSTRUCTIONS p. 1</p> <p>Who May File Form I-129F?</p>	<p>You may file this petition if you are a U.S. citizen...</p>	<p>Add the following advisory at the end of this section's instructions:</p> <p><i>NOTE: USCIS requires all U.S. citizen or lawful permanent resident sponsors of foreign spouses to file an Affidavit of Support on their behalf (Form I-864 or I-134). While In some U.S. states, marriage is permitted between individuals who are under the age of 18, Affidavits of Support can only be filed by those who are 18 years of age or older pursuant to INA Section 213(A)(f)(1)(B). Therefore, you must be at least 18 years of age in order to sponsor your spouse to immigrate to the U.S. and obtain lawful permanent resident status.</i></p>	<p>This advisory might deter some perpetrators from forcing a child to marry and then sponsor a foreign fiancé(e) or spouse prior to turning 18. By delaying the intended marriage until the potential sponsor has reached legal adulthood, the sponsor at risk will be more empowered to advocate on her own behalf to protect herself from an unwanted marriage. The sponsor will also have more rights and resources available to her, and more time to access help and safety-plan, potentially avoiding or limiting the physical, sexual, and other abuses that accompany forced marriage.</p>
<p>Form I-129F INSTRUCTIONS p. 9</p> <p>Specific Instructions Part 7.</p>	<p>This section must contain the signature of the person who completed your petition, if other than you, the petitioner...along with your petition.</p>	<p>Add the following advisory at the end of the instructions for Part 7:</p> <p><i>NOTE: If you are the preparer of this form and are filing it in support of a marriage-based visa petition, note that the United States (U.S.) government is opposed to forced marriage and considers it to be a serious human rights abuse. In some U.S. states, forced marriage is a crime, and in all U.S. states, people who force someone to marry may be charged with violating state laws, including those against domestic violence, child abuse, rape, assault, kidnapping, threats of violence, stalking, or coercion. People who force someone to marry may also face significant immigration consequences, such as being inadmissible to or removable from the U.S.</i></p>	<p>Perpetrators may genuinely or opportunistically try to justify forced marriage and other family-based violence based on the asserted belief that a marriage is in an individual's best interests. The impact of forced marriage on the victim is still devastating, however, whatever the intent. This advisory is intended to disabuse perpetrators of any idea that their intent will shield them from accountability.</p> <p>Also, in the majority of forced marriage/forced sponsorship cases we encounter, perpetrators file and sign visa petitions and related forms without the victim ever seeing the forms. While both the instructions and form contain warnings for</p>

			<p>preparers about fraud generally, explicitly notifying preparers that the U.S. recognizes forced marriage as a human rights violation that can expose them to both criminal and immigration consequences could serve as a powerful deterrent.</p> <p>Note that the language we are proposing is identical to the language USCIS already uses publicly at: https://www.uscis.gov/humanitarian/forced-marriage.</p>
<p>Form I-129F INSTRUCTIONS p. 13</p> <p>Penalties</p>	<p>If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-129F, we will deny your Form I-129F and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.</p>	<p>Add the following advisory at the end of the instructions for Penalties:</p> <p><i>NOTE: If you have been or are being forced into marriage, you are not at fault and you have not violated any U.S. laws by entering into the marriage. Furthermore, non-governmental legal and social services agencies may be able to offer you, at no or low cost, a range of assistance including safety planning and emergency housing, as well as assistance with family law matters like obtaining a court order of protection from those who are threatening or abusing you, terminating the marriage through annulment or divorce, and securing a court order granting you custody of children. For more information, visit the USCIS webpage on forced marriage at https://www.uscis.gov/humanitarian/forced-marriage and the U.S. Department of State’s webpage on forced marriage at https://travel.state.gov/content/travel/en/international-travel/emergencies/forced-marriage.html.</i></p>	<p>Often, forced marriage victims are afraid to come forward and seek help for fear not only of the consequences to their family and others but also to themselves. Victims may fear legal consequences when forced to sign forms and/or attest to information under duress. This language will reassure victims that they are not at fault, particularly if they believe their safety is at risk if they refuse to sign.</p> <p>Victims may also be unaware of resources available to help them. Providing this information will put both perpetrator-preparers, as well as victim-sponsors that do have access to the form, on notice that victims of forced marriage have recourse and resources available to them. This may deter perpetrators, or empower victims with potentially life-saving referrals they may need to flee a violent home.</p>

			The first sentence in this proposed advisory is taken verbatim from USCIS' website at https://www.uscis.gov/humanitarian/forced-marriage .
FORM I-129F p. 8 Part 2 Information About Your Beneficiary (continued) Question #52.	Provide the nature and degree of relationship (for example, third cousin or maternal uncle).	DELETE "maternal uncle" in this sentence.	If the sponsor's spouse is her uncle, she is already required to specify this in her response. Using "maternal uncle" as an example, however, unnecessarily lends legitimacy to what is often an exploitative or forced marriage involving a young girl and a much older male relative.
FORM I-129F p. 10 Petitioner's Declaration and Certification	Copies of any documents...I understand that USCIS may require me to appear for an appointment...I will be required to sign an oath reaffirming that...3) all of this information was complete, true, and correct at the time of filing. I certify, under penalty of perjury, that all of the information in my petition and any document submitted with it were provided or authorized by me, that I reviewed and understand all of the information contained in, and submitted with, my petition, and that all of this	Add the following advisory at the end of the Petitioner's Declaration and Certification: <i>NOTE: If you have been or are being forced into marriage, you are not at fault and you have not violated any U.S. laws by entering into the marriage. Furthermore, non-governmental legal and social services agencies may be able to offer you, at no or low cost, a range of assistance including safety planning and emergency housing, as well as assistance with family law matters like obtaining a court order of protection from those who are threatening or abusing you, terminating the marriage through annulment or divorce, and securing a court order granting you custody of children. For more information, visit the USCIS webpage on forced marriage at https://www.uscis.gov/humanitarian/forced-marriage and the U.S. Department of State's webpage on forced marriage at https://travel.state.gov/content/travel/en/international-travel/emergencies/forced-marriage.html.</i>	Including this advisory in the form itself, as well as the instructions as previously suggested, will help put both perpetrator-preparers, as well as victim-sponsors that may see the form, on notice that victims of forced marriage have recourse and resources available to them. Please see our explanation above, for p. 13 of the form's instructions, for additional details. Again, the first sentence in this proposed advisory is taken verbatim from USCIS' website at https://www.uscis.gov/humanitarian/forced-marriage .

	information is complete, true, and correct.		
<p>FORM I-129F p. 11</p> <p>Part 6</p> <p>Interpreter’s Contact Information, Certification, and Signature (continued)</p>		<p>Add a Question #7:</p> <p><i>(checkbox) I am a member of the sponsor’s family.</i></p>	<p>Having served hundreds of victims of forced marriage, Tahirih has noted certain common dynamics which, while not definitive proof, may serve as “red flags” to indicate a forced marriage. This is particularly true when several of these dynamics, listed below, are present in the same case:</p> <ul style="list-style-type: none"> • interpreters and/or preparers are related to the sponsor • the sponsor and spouse/fiancé(e) are related • there is a significant age discrepancy between the sponsor and spouse/fiancé(e) • the sponsor and spouse/fiancé(e) haven’t met in person • the sponsor is under age 18 <p>USCIS can already discern ages and age discrepancies, as well as familial relationships between the parties from the existing questions on the form. Adding a question to identify when interpreters are related to the sponsor (and preparers; see comment immediately below) will likewise help USCIS determine which cases may warrant special scrutiny such as a private interview without the sponsor’s specific interpreter (and/or preparer) present.ⁱ</p>

			<p>Unfortunately, it is still possible that victims will not seek help during an interview, for fear that the perpetrator will find out and retaliate. However, during a USCIS-initiated private interview, USCIS can confidentially provide victims with life-saving resources.</p> <p>The burden to USCIS in providing such information will be minimal; USCIS already distributes the International Marriage Broker Regulation Act pamphlet, originally intended to advise and arm foreign fiancé(e)s and spouses with critical information about their rights and resources in the U.S.ⁱⁱ This information is equally important for U.S. sponsor-victims to understand, since they are often kept in the dark about their rights by their families or by their upbringings which may have kept them more insular than integrated. Also, as noted above, USCIS has also already approved the information on its website regarding forced marriage and can simply provide the link to individuals who trigger the “red flags” above and therefore could be victims.</p>
<p>FORM I-129F p. 11</p> <p>Part 7 Preparer’s Statement Question #7.a.</p>	<p>(checkbox) I am not an attorney or accredited representative...petitioner’s consent.</p>	<p>Add the following to Question# 7.a, with a note that you may check more than one box</p> <p><i>(checkbox) I am a member of the sponsor’s family.</i></p>	<p>Please see the explanation immediately above.</p>
<p>FORM I-129F p. 12</p>	<p>By my signature, I certify, under penalty of perjury,</p>	<p>Add the following text to the current Preparer’s Certification:</p>	<p>Including this additional certification in the form itself, in addition to providing this</p>

<p>Part 7 Preparer's Certification</p>	<p>that I prepared this petition at the request of the petitioner. The petitioner then reviewed this completed petition and informed me that he or she understands all of the information contained in, and submitted with, his or her petition, including the Petitioner's Declaration and Certification, and that all of this information is complete, true, and correct. I completed this petition based only on information that the petitioner provided to me or authorized me to obtain or use.</p>	<p><i>By my signature, I certify, under penalty of perjury, that I prepared this affidavit at the request of the sponsor, with her or his consent, and without using force, fraud, or coercion...</i></p> <p>Add the following additional certification:</p> <p><i>I further certify, under penalty of perjury, that I am aware of the following:</i></p> <ul style="list-style-type: none"> • <i>The United States (U.S.) government considers forced marriage to be a serious human rights abuse. In some U.S. states, forced marriage is a crime, and in all U.S. states, people who force someone to marry may be charged with violating state laws, including those against domestic violence, child abuse, rape, assault, kidnapping, threats of violence, stalking, or coercion.</i> • <i>People who force someone to marry may also face significant immigration consequences, such as being inadmissible to or removable from the U.S.</i> 	<p>information in the instructions, will help emphasize to perpetrators that it is unlawful to force someone to marry. Please see the explanation above, for p. 9 of the form's instructions, for additional details.</p> <p>Again, the language we are proposing is identical to the language USCIS already uses publicly at: https://www.uscis.gov/humanitarian/forced-marriage.</p>
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¹ When USCIS determines that a private interview is warranted, USCIS could use an interpreter through its language line instead of anyone suggested by the sponsor or her family.

ⁱⁱTahirih was the principal advocate for the International Marriage Broker Regulation Act (IMBRA), enacted as part of the reauthorized Violence Against Women Act in 2006. IMBRA changed marriage-based immigration laws and processes to better prevent the abuse and exploitation of so-called "mail-order brides."