

FORCED MARRIAGE: WHAT SHOULD THE LEGAL RESPONSE BE?

ANNE-MARIE HUTCHINSON OBE, PARTNER AT DAWSON

CORNWELL, LONDON, ENGLAND

www.dawsoncornwell.com

The Universal Declaration of Human Rights, Article 16 (2) ¹states “marriage shall be entered into only with the free and full consent of the intending spouses”.

A Forced Marriage is a marriage in which one or both spouses do not (or in the case of some vulnerable adults, cannot) consent to the marriage.

“Force” in a context of such a marriage can take many forms. It may include physical, psychological, financial, sexual or emotional pressure or an amalgam of all or some of these. It rarely relates to one incident of coercion. There tends to be a pattern of conduct by the perpetrators that covers a long period of time. The pressure to marry is often part of the background in which a child grows up and victims are aware of the expectation to marry from a very young age. Coercive behaviour ranges from emotional pressure exerted by close family members to specific threatening behaviour including abduction, forced imprisonment, physical violence and in some cases threats to kill. Given the family context within which the pattern of behaviour takes place many victims do not understand that their situation, when looked at objectively, amounts to attempts to force them into a marriage. Indeed many find it difficult to understand that their ‘consent’ once given was in fact extracted by coercion. The factual nexus is always complex and it is often hard to pinpoint the moment that family expectations and a culture of obedience reaches the tipping point that amounts to force.

¹ <http://www.un.org/en/documents/udhr/>

Government responses to Forced Marriage throughout the globe have been diverse and disparate. In the UK the existing and present response is set out in the Forced Marriage (Civil Protection) Act 2007 that came into force in the UK in November 2008. That was preceded by a long line of case law under the Children Act 1989, The Matrimonial Causes Act 1973 and under the inherent jurisdiction of the High Court whereby the incidence of Forced Marriage was recognised and addressed. Case law evolved to provide guidance for the prevention, protection and where necessary the repatriation of victims. See *Re KR: (Abduction, Forcible Removal By Parents)* [1999] 4 All ER 954.

Criminalisation

At present there is no specific offence of forcing someone to marry in England. Where there is a Forced Marriage or threatened Forced Marriage a number of offences may be committed (i.e kidnap/assault).

The Choice by Right report was published in June 2000. It was the first comprehensive government commissioned report in respect of the incidence and practice of Forced Marriage. Through the input of government departments (Home Office/Foreign & Commonwealth Office), non-governmental agencies and stakeholders the extent of this human rights abuse was recognised – as was the finding that much of the practice remained unreported and hidden. A public awareness campaign was undertaken and a commitment to set up a dedicated Government unit was made.² Following on from the publication of the Choice by Right report the then Government undertook a consultation as to what the Government response to the practice of Forced Marriage should be. The Government consulted on whether a specific criminal offence of Forced Marriage should be introduced. The response, at that stage, was that on balance the proposal to create a specific criminal offence of Forced Marriage be rejected.³ The main arguments against criminal legislation and the creation of a specific criminal offence were that, it

² www.fco.gov.uk/resources/en/pdf/pdf14/fco-choicebyright2000

³ September 2005 joint Foreign & Commonwealth Office and Home Office Forced Marriage Unit consultation.

Government responses to Forced Marriage throughout the globe have been diverse and disparate. In the UK the existing and present response is set out in the Forced Marriage (Civil Protection) Act 2007 that came into force in the UK in November 2008. That was preceded by a long line of case law under the Children Act 1989, The Matrimonial Causes Act 1973 and under the inherent jurisdiction of the High Court whereby the incidence of Forced Marriage was recognised and addressed. Case law evolved to provide guidance for the prevention, protection and where necessary the repatriation of victims. See *Re KR: (Abduction, Forcible Removal By Parents)* [1999] 4 All ER 954.

Criminalisation

At present there is no specific offence of forcing someone to marry in England. Where there is a Forced Marriage or threatened Forced Marriage a number of offences may be committed (i.e kidnap/assault).

The Choice by Right report was published in June 2000. It was the first comprehensive government commissioned report in respect of the incidence and practice of Forced Marriage. Through the input of government departments (Home Office/Foreign & Commonwealth Office), non-governmental agencies and stakeholders the extent of this human rights abuse was recognised – as was the finding that much of the practice remained unreported and hidden. A public awareness campaign was undertaken and a commitment to set up a dedicated Government unit was made.² Following on from the publication of the Choice by Right report the then Government undertook a consultation as to what the Government response to the practice of Forced Marriage should be. The Government consulted on whether a specific criminal offence of Forced Marriage should be introduced. The response, at that stage, was that on balance the proposal to create a specific criminal offence of Forced Marriage be rejected.³ The main arguments against criminal legislation and the creation of a specific criminal offence were that, it

² www.fco.gov.uk/resources/en/pdf/pdf14/fco-choicebyright2000

³ September 2005 joint Foreign & Commonwealth Office and Home Office Forced Marriage Unit consultation.

would not represent an effective deterrent that it was likely to create an emblematic but ineffective criminal statute – given the difficulties in securing successful prosecution – and further that it would not provide adequate protection for victims. The response pointed to the significant number of existing offences (including kidnapping and offences against the person) which could in appropriate circumstances be utilised for the purposes of a criminal prosecution on a case by case basis. A major objection to the proposed legislation was that it would be difficult to secure sufficient evidence in individual cases to satisfy the criminal burden of proof especially where the constituents of the offence took place overseas.

A major concern of groups working in the charitable and non-governmental sector was that a proposed criminal law would deter victims and potential victims of Forced Marriage from seeking help from public authorities for fear that their family members would be the subject of a criminal prosecution. Many groups in this sector felt that a criminal prosecution would disempower victims and remove the control which victims had over their own life choices. They further pointed to the risk that the prospect of a criminal prosecution would expose the victims to a wide range of pressure and coercion not to involve State Agencies because of the potential criminalisation of their family members. As a result in 2005/2006 the Government did not proceed to introduce a criminal statute. There followed something of a hiatus which was eventually filled by the private members bill spearheaded by Lord Lester of Hearne Hill which ultimately brought into being the Forced Marriage (Civil Protection) Act 2007. This coincided with the setting up of the Forced Marriage Unit a joint Foreign & Commonwealth Office/Home Office initiative (FMU).⁴

That Unit is now the established frontline UK organisation that deals with Forced Marriage on a policy and practical level.

In 2008 the FMU provided advice and support in 1618 cases. In 2009 it provided advice and support in 1682 cases and in 2010 it provided advice and support in 1735 cases. It is hoped that

⁴ www.gov.uk/Forced-Marriage

the increase (which continues) is reflective of successful awareness raising and willingness of victims to seek help rather than an increase in the number of cases.

The current figures from the FMU are that in 2012 it provided advice and support in 1485 cases. As a result of continued public awareness raising the Home Affairs Select Committee (HASC) published a report on 20th May 2008.⁵ That report drew attention to the continued existence of the abusive practice of Forced Marriage and highlighted its scale. It suggested that there was a weakness in the approach previously taken by the government. That was followed by a further report by the HASC on 17th May 2011.⁶ That report identified the continued widespread practice of Forced Marriage and proposed that consideration again be given to the creation of a specific criminal offence.

In December 2011 the Home Office issued a further Forced Marriage Consultation. This followed on from the stated commitment of the government given in October 2011 to criminalise the breach of Forced Marriage Civil Protection Orders and to consult on making “forcing someone to marry a specific criminal offence”. The consultation was to cover two areas, firstly the introduction of a specific offence for the breach of Forced Marriage Civil Protection Order and the introduction of a specific criminal offence.⁷

Questions raised as part of the consultation and arguments in support of the creation of a specific criminal offence of forcing a person to marry

A specific offence could have a deterrent effect and send a clear signal (domestically and abroad) that forcing a person to marry is unacceptable. It was suggested that there was a need to send a

⁵ Report 20 May 2008:<https://www.publications.parliament.uk/pa/cm201012/cmselect/cmhaff/880/88002.htm>

⁶ Report Forced Marriage, 17 May 2011
<http://www.publications.parliament.uk/pa/cm200708/conselect/cmhaff/263/26302.htm>

⁷ <https://www.gov.uk/government/consultations/forced-marriage-consultation>

stronger, clearer message to communities and internationally that Forced Marriage will not be tolerated in the UK and that there will be ‘consequences’ for those who commit this form of abuse. The consultation looked to other nation States that had introduced such a specific criminal statute.

It was suggested that a specific offence could empower young people to challenge their parents and/or families and that creating a specific offence of Forced Marriage could not only act as a deterrent to families who might otherwise resort to this form of abuse, but it could also give victims a stronger sense that what is happening to them is “wrong”, because it is something that is against the law. It was suggested this could make it easier for victims to challenge their parents and wider family. Looking to public awareness and agency responses it was suggested that a specific offence could make it easier for police, social services and health services to identify that a person has been or might be forced into a marriage. Existing legislation it was said may not be easily linked to Forced Marriage and factual scenarios not recognised for what they are. The existing amalgamation of various criminal statutes are, it was said, confusing and complicated and whilst frontline agencies might recognise a Forced Marriage situation they might not recognise that an offence had been committed. In short it was proposed that a specific offence would clarify the issues for law enforcement bodies, make them fully aware of how they should intervene and thus allow them to provide a more effective response.

Finally it was said that a specific offence would provide punishment to the perpetrator. Those who forced a victim, or participated in an act of Forced Marriage, could be convicted of a specific offence and sentenced. Robust sentencing it was said could be seen as acting as a deterrent by demonstrating that people are being brought to account for their actions in a public domain.

Arguments against the creation of a specific offence were outlined:-

Concerns were expressed that victims may stop asking for help and/or applying for civil remedies due to a fear that their families will be prosecuted and/or because of the repercussions from failed prosecutions. The concern, in some groups, is that the creation of a separate and a specific criminal offence might deter victims from not only reporting a criminal offence but from

coming forward to seek help whether by way of civil remedy and protection under the existing Forced Marriage (Civil Protection) Act 2007, or at all. There would be more pressure on a victim not to report instances of fear of a Forced Marriage if the result were that their family members might be the subject of a criminal investigation and receive a criminal conviction. If there were a raft of failed prosecutions (because the evidence did not stand up to the criminal standard not least where all of the ‘evidence’ was abroad) that might lead to a lack of confidence in the remedy and dissuade victims from coming forward. Finally there might develop a perception that all reportings to State Agencies (even those with only a protective remit) might lead to a criminal investigation thus dissuading the victims from seeking any ‘official’ assistance.

There is an argument that the creation of a specific offence rather than being a deterrent would lead perpetrators to engage in other practices in order to avoid prosecution but that they would still force their children to marry. There is a concern that parents might send their children abroad at a younger age and leave them there until they marry or following a marriage leave them abroad within the marriage rather than allowing them to travel back to the UK to sponsor their spouse in to the UK.

Finally it was argued that increased risk of prosecution or the threat of prosecution might make it more difficult for victims to reconcile with their families or parts of their family in the future (which many victims wish to do).

Response to the Consultation⁸

The Response was published in July 2012.

- (i) 54% of consultees were ‘for’ the creation of a specific criminal offence.
- (ii) 37% of consultees were “against” the creation of specific criminal offence
and 9% were undecided.

⁸ <https://www.gov.uk/government/consultations/forced-marriage-consultation>

Most interesting perhaps was that 80% of consultees felt that the existing civil and criminal remedies were not and are not being used actively and consistently.

As a result of the consultation the UK government has announced that it will be legislating with a specific criminal offence of forcing a person into a marriage.

A number of general themes and issues emerged from the consultation responses. Those include:-

- A recognition of an urgent need to tackle Forced Marriage more effectively to ensure that the needs of all victims and potential victims were considered, alongside with the requirement to prosecute those responsible for perpetrating Forced Marriage.
- The need for more effective training for professionals on the implementation of the multi-agencies statutory guidance and how to utilise civil remedies more effectively.
- The need for clarification of the differences between forced and arranged marriage, to ensure that perpetrating the act under the misconception of culture and religion is no longer a justifiable action.
- The need for more funding, for more support services to provide refuge space and support for Forced Marriage victims.
- The need for awareness, training, campaigns in the media and in schools in order to highlight Forced Marriage, as it was felt it is not sufficiently recognised in mainstream society.
- Additional concerns were raised about the impact of Forced Marriage and the proposals to tackle it on minority groups. Approaches to tackling Forced Marriage will have to apply to all communities in order not to stigmatise any particular culture or religions.

Taking into account and recognising the highly sensitive and complex issues that arise within the nexus of a Forced Marriage situation the government announced that it did recognise the concern that a new criminal offence 'may' deter reporting a Forced Marriage.

The government announced that it would therefore ensure that it works closely with partners in implementing legal change and will work closely with partners to ensure that a sensitive and appropriate response to all cases is created and which puts the victim at the centre of the stage.

In 2012 the UK Government stated, "we have decided to make forcing someone to marry a criminal offence. In doing so, we are sending out a clear message that this practice is totally unacceptable and will not be tolerated".

The consultation also made a commitment to making the breach of a Forced Marriage Civil Protection Order a criminal offence.

The aim is to bring a specific Forced Marriage offence into legislation in 2013/2014.

Civil responses

In England and Wales the Marriage Act 1949 (as amended) and the Matrimonial Causes Act 1973 are the statutes which govern the law on, and the validity of, marriages.

The minimum age at which a person can enter into a valid marriage in England and Wales is 16 years. A person under the age of 18 years (but over 16 years) may not marry without parental consent. The UN Convention the Rights Of The Child (Article 1) defines a child as "a person under the age of 18 years". The Child Rights Convention (Article 1), the 1964 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage (Article 2), and the Convention on the Elimination of All Forms of Discrimination Against Women (Article 16) all contain provisions about capacity for marriage and the right to choice in marriage, and appear to agree that 18 years is an appropriate minimum age for marriage. It might be said that the issue of parental consent (16-18 years) is of itself a factor in the continued practice of Forced Marriage in England.

A marriage entered into without consent is not a valid marriage but where a marriage has on the face of it complied with the formal and substantive requirements of the Marriages Act (as

amended) it will be presumed valid and will remain valid unless and until it is adjudged by a court to be void.

Section 12(c) of the Matrimonial Causes Act 1973 provides that a marriage shall be voidable if .. “either party to the marriage did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise”. The crucial question in all cases is whether “the threat, pressure or whatever it is, is such as to destroy the reality of the consent and overbear the will of the individual”.⁹

Nullity petitions must be brought within the period of 3 years of the date of the marriage.

Victims of a Forced Marriage may for various reasons delay in coming forward for assistance. They may not take steps to have their marriage declared void immediately following the event. Often they do so very much as a last resort and when there is no other way “out”. This frequently occurs when the reality of the intention of their spouse to join them in the UK as a spouse becomes a reality.

A clear explanation of the importance of a Decree of Nullity (as opposed to a Decree of divorce) to victims of a Forced Marriage is set out in the case of P-v-R.¹⁰

As Coleridge J said in *P v R (Forced Marriage: Annulment:Procedure)* [2003] 1 FLR 661: ‘In cases where a forced marriage is alleged the proper course is for a petition under 12(c) to be brought before the court. I am informed by counsel for the petitioner that there is a real stigma attached to a woman in the petitioner’s situation if merely a divorce decree is pronounced and it is desirable from all points of view that where a genuine case of forced marriage exists the court should, where appropriate, grant a decree of nullity and as far as possible remove any stigma that would otherwise attach to the fact that a person in the petitioner’s situation has been married. [18] It follows from that that those charged with the decision of whether or not public funds should be made available in these circumstances should be ready, in the right case, to grant public funding to enable such nullity proceedings to be brought. It is necessary for public funding to be made available so that these cases, which are now not rare, can be investigated by

⁹ *Hirani –v- Hirani* (1983) 4 FLR 232

¹⁰ See *P –v- R (Forced Marriage...annulment..procedure)* 2003 1 FLR 661

the court. They are of special significance in the community from which the petitioner originates and it is appropriate that they should be transferred to the High Court and investigated properly and fully in open court.’

Where a marriage has been entered into without consent there is a strong emotional resistance to the remedy of ‘a divorce’ which itself implies an element of consent. Further, divorce in many cultures and religions carries its own stigma – usually of failure or misbehaviour. It is not therefore a sufficient or appropriate remedy for victims of a Forced Marriage.

Development of the concept of a marriage that is not capable of recognition.¹¹

An application was made under the inherent jurisdiction of the High Court for declaration that a marriage was not capable of recognition. The British born spouse was forced to marry overseas at the age of 16 years. She had returned to the UK and carried on with her studies and did not take steps to extract herself from the marriage until after the 3 year period had expired thus a decree of nullity was not available to her. On the facts of the case Mrs Justice Baron found that the ceremony of marriage was entered into under duress so far as the female spouse was concerned and that she had been a subject of duress and coercion. It was found that when she was taken overseas to marry she had her freedom of movement restricted. It was noted that the inherent jurisdiction is a flexible tool which must enable the court to assist parties where statute fails. The Judge reminded herself of what had been said in P-v- R.

Mrs Justice Baron acknowledged the distinction between holding that such a marriage was void at its start and making a declaration that a marriage never existed. Whilst it is not possible to make a declaration that a marriage was void at its inception the Judge found that it is possible to declare that there was never a marriage which is capable of recognition because of coercion, duress and the lack of consent. Accordingly the victim was, pursuant to the inherent jurisdiction, entitled to relief and a recognition of the wrong that had been done to her when she was forced to marry.

¹¹ B –v- I (Forced Marriage) [2010] 1 FLR 1721

For many years petitions for Nullity were a rarity in England and it was a relief that was very rarely used. Since the mid 1990's petitions for the dissolution of marriage by a decree in Nullity on the grounds of lack of consent have come before the Court with some regularity.

Nullity decrees unravel the marriage however they do not of themselves offer any protection from harm and it is a post-facto remedy.

Prior to the inception of the Forced Marriage Civil Protection Act 2007 a line of cases relating to a threatened forced marriage or forced marriage had come before the High Court in England.

The leading and first case was *Re K R (Abduction:Forceable Removal By Parents)* 1999 2 FLR 524. That case related to a female from a Sikh family. She was aged 16 years and thus still subject to her parents obligations and rights. She was a British national living in London who had gone missing in circumstances that caused concern. Her elder sister commenced proceedings in order to locate her (she had in fact been sent to India by her parents and arrangements were being made for her to marry). Mr Justice Singer made it clear that the inherent jurisdiction and proceedings in Wardship would be utilised in order to prevent a Forced Marriage and that where a victim was overseas to locate and assist in repatriating the child. It also made it clear that the Court in its inherent jurisdiction would override Parental Responsibility and take full cognisance of the mature child's wishes and feelings.

From that time there were a significant number of cases where the English High Court made orders to prevent the removal of children from the jurisdiction, specifically prohibiting family members and respondents from taking any steps that would result in the marriage of the minor and specific orders to locate such children. Where a child was already overseas their return to the UK was ordered.

The difficulty was that there were a number of cases coming to the attention of the then, Forced Marriage Unit, which identified chronological adults who were nonetheless in a vulnerable and dangerous situation. These adults were frequently overseas and were seeking assistance to prevent a Forced Marriage, and to obtain assistance and repatriation to the UK.

The next landmark case was Re S -v- K (an adult) (Forced Marriage:Appropriate Leave) [2005] 2 FLR 230. The case related to female adult who had full mental capacity. There was nothing to suggest that she was a vulnerable adult in terms of her capacity to consent to a marriage save that she was overseas in circumstances that gave rise to concerns as to her freedom of movement and she was not able to communicate with the authorities who were seeking to locate her. As she was an adult there was no agency such as social services that had authority and an obligation to intervene and police were only able to treat her as ‘a missing person’.

Mr Justice Singer made it clear that the inherent jurisdiction of the High Court which had been used innovatively to protect children in such cases was also available to make orders to ensure that SK was produced at the British High Commission to be interviewed so that her true wishes and feelings as to her situation could be ascertained and assistance offered to her should she wish to take it.

It was said by Mr Justice Munby as he then was in a further case involving the inherent jurisdiction NS -v- MI [2007] 1 FLR 445 “The court’s protective jurisdiction is also particularly important in this context because, sadly, it is precisely from those who ought to be their natural protectors – parents and other close relatives – that all too typically the victims of forced marriages need to be protected. The law must always be astute to protect the weak and helpless, not least in circumstances where, as often happens in such cases, the very people they need to be protected from are their own relatives. If the court cannot intervene in time to prevent what Singer J in *Re SK*, at para [5] aptly described as these ‘gross transgressions of an individual’s integrity’, then, as he went on to say, the court must attempt, wherever possible, to remedy their consequences”.

The Forced Marriage (Civil Protection) Act 2007 (FMCPA)

The FMCPA became law in England and Wales in November 2008. One of the first cases to come before the English Court under the Act was that of Dr Humeyra Abedin, an adult, non-British national, a GP who had taken leave from her employment in the UK to travel to Bangladesh to visit family. Her whereabouts were unknown and attempts by an NGO in Dhaka

to contact her on behalf of worried colleagues failed. Proceedings were commenced in her name under the FMCPA and the inherent jurisdiction of the High Court. Her case was the subject of international media coverage. Dr Abedin was ultimately repatriated to the UK. In separate connected proceedings a decree of Nullity of the marriage she was forced into was granted.

The FMCPA came into being because it was believed that the amalgamation of reliefs under various statutory provisions and case law insufficiently drew attention to the wrong that they were addressing – the practice of Forced Marriage. Whilst effective on a case to case basis they did not, it was felt, send a strong enough message to the perpetrators and public at large. Further non legal professionals and agencies found the disparate range of remedies difficult to navigate.

It is important to note that FMCPA does not replace the existing and concurrent remedies in civil law in respect of protection of children and adults but adds to them.

The Children Act 1989 sets out the duties and powers of local authorities (social services) in respect of children who are at risk of physical or other harm (including Forced Marriage) and where necessary local authorities can make care orders (Section 31 Children Act 1989) to remove such children from the care of their parents and place them in foster or other alternative care arrangements.

Law enforcement agencies have power to make an emergency protection orders in respect of children with imminent risk of danger into police protective custody. These powers are used sometimes concurrently with FMPCA orders and sometimes alone where children are at risk of a Forced Marriage. Equally where a person is sent overseas, Wardship and the inherent jurisdiction continue to be used in order to assist in protection and repatriation together with FMPCA proceedings. However by far the most commonly used procedure is the FMCPA.

Under the FMCPA:

Force (and related expressions) includes coercion by threats or other psychological means.

Marriage means any religious or civil ceremony of marriage (whether or not legally binding).

Powers – Section 63A

(1) The court may make an order for the purposes of protecting—

(a) a person from being forced into a marriage or from any attempt to be forced into a marriage;
or

(b) a person who has been forced into a marriage.

(2) In deciding whether to exercise its powers under this section and, if so, in what manner, the court must have regard to all the circumstances including the need to secure the health, safety and well-being of the person to be protected.

(3) In ascertaining that person’s well-being, the court must, in particular, have such regard to the person’s wishes and feelings (so far as they are reasonably ascertainable) as the court considers appropriate in the light of the person’s age and understanding.

(4) For the purposes of this Part a person (“A”) is forced into a marriage if another person (“B”) forces A to enter into a marriage (whether with B or another person) without A’s free and full consent.

(5) For the purposes of subsection (4) it does not matter whether the conduct of B which forces A to enter into a marriage is directed against A, B or another person.

(6) In this Part—

“force” includes coercion by threats or other psychological means (and related expressions are to be read accordingly); and

“forced marriage protection order” means an order under this section.

63B Contents of orders

(1) A forced marriage protection order may contain—

(a) such prohibitions, restrictions or requirements; and

(b) such other terms; as the court considers appropriate for the purposes of the order.

(2) The terms of such orders may, in particular, relate to—

(a) conduct outside England and Wales as well as (or instead of) conduct within England and Wales;

(b) respondents who are, or may become, involved in other respects as well as (or instead of) respondents who force or attempt to force, or may force or attempt to force, a person to enter into a marriage;

(c) other persons who are, or may become, involved in other respects as well as respondents of any kind.

(3) For the purposes of subsection (2) examples of involvement in other respects are—

(a) aiding, abetting, counselling, procuring, encouraging or assisting another person to force, or to attempt to force, a person to enter into a marriage; or

(b) conspiring to force, or to attempt to force, a person to enter into a marriage.

63C Applications and other occasions for making orders

(1) The court may make a forced marriage protection order—

(a) on an application being made to it; or

(b) without an application being made to it but in the circumstances mentioned in subsection (6).

(2) An application may be made by—

(a) the person who is to be protected by the order; or

(b) a relevant third party.

(3) An application may be made by any other person with the leave of the court.

(4) In deciding whether to grant leave, the court must have regard to all the circumstances including—

(a) the applicant's connection with the person to be protected;

(b) the applicant's knowledge of the circumstances of the person to be protected; and

(c) the wishes and feelings of the person to be protected so far as they are reasonably ascertainable and so far as the court considers it appropriate, in the light of the person's age and understanding, to have regard to them.

(5) An application under this section may be made in other family proceedings or without any other family proceedings being instituted.

(6) The circumstances in which the court may make an order without an application being made are where—

(a) any other family proceedings are before the court ("the current proceedings");

(b) the court considers that a forced marriage protection order should be made to protect a person (whether or not a party to the current proceedings); and

(c) a person who would be a respondent to any such proceedings for a forced marriage protection order is a party to the current proceedings.

(7) In this section—

“family proceedings” has the same meaning as in Part 4 (see section 63(1) and (2)) but also includes—

(a) proceedings under the inherent jurisdiction of the High Court in relation to adults;

(b) proceedings in which the court has made an emergency protection order under section 44 of the Children Act 1989 (c. 41) which includes an exclusion requirement (as defined in section 44A(3) of that Act); and

(c) proceedings in which the court has made an order under section 50 of the Act of 1989 (recovery of abducted children etc.); and

“relevant third party” means a person specified, or falling within a description of persons specified, by order of the Lord Chancellor.

(8) An order of the Lord Chancellor under subsection (7) may, in particular, specify the Secretary of State.

Further provision about orders

63D Ex parte orders: Part 4A

(1) The court may, in any case where it considers that it is just and convenient to do so, make a forced marriage protection order even though the respondent has not been given such notice of the proceedings as would otherwise be required by rules of court.

(2) In deciding whether to exercise its powers under subsection (1), the court must have regard to all the circumstances including—

(a) any risk of significant harm to the person to be protected or another person if the order is not made immediately;

(b) whether it is likely that an applicant will be deterred or prevented from pursuing an application if an order is not made immediately; and

(c) whether there is reason to believe that—

(i) the respondent is aware of the proceedings but is deliberately evading service; and

(ii) the delay involved in effecting substituted service will cause serious prejudice to the person to be protected or (if a different person) an applicant.

(3) The court must give the respondent an opportunity to make representations about any order made by virtue of subsection (1).

(4) The opportunity must be—

(a) as soon as just and convenient; and

(b) at a hearing of which notice has been given to all the parties in accordance with rules of court.

63E Undertakings instead of orders

(1) The court may, subject to subsection (3), accept an undertaking from the respondent to proceedings for a forced marriage protection order if it has power to make such an order.

(2) No power of arrest may be attached to an undertaking given under subsection (1).

(3) The court may not accept an undertaking under subsection (1) instead of making an order if a power of arrest would otherwise have been attached to the order.

(4) An undertaking given to the court under subsection (1) is enforceable as if the court had made the order in terms corresponding to those of the undertaking.

(5) This section is without prejudice to the powers of the court apart from this section.

63F Duration of orders

A forced marriage protection order may be made for a specified period or until varied or discharged.

63G Variation of orders and their discharge

(1) The court may vary or discharge a forced marriage protection order on an application by—

(a) any party to the proceedings for the order;

(b) the person being protected by the order (if not a party to the proceedings for the order); or

(c) any person affected by the order.

(2) In addition, the court may vary or discharge a forced marriage protection order made by virtue of section 63C(1)(b) even though no application under subsection (1) above has been made to the court.

(3) Section 63D applies to a variation of a forced marriage protection order as it applies to the making of such an order.

(4) Section 63E applies to proceedings for a variation of a forced marriage protection order as it applies to proceedings for the making of such an order.

(5) Accordingly, references in sections 63D and 63E to making a forced marriage protection order are to be read for the purposes of subsections (3) and (4) above as references to varying such an order.

(6) Subsection (7) applies if a power of arrest has been attached to provisions of a forced marriage protection order by virtue of section 63H.

(7) The court may vary or discharge the order under this section so far as it confers a power of arrest (whether or not there is a variation or discharge of any other provision of the order).

Arrest for breach of orders

63H Attachment of powers of arrest to orders

(1) Subsection (2) applies if the court—

(a) intends to make a forced marriage protection order otherwise than by virtue of section 63D; and

(b) considers that the respondent has used or threatened violence against the person being protected or otherwise in connection with the matters being dealt with by the order.

(2) The court must attach a power of arrest to one or more provisions of the order unless it considers that, in all the circumstances of the case, there will be adequate protection without such a power.

(3) Subsection (4) applies if the court—

(a) intends to make a forced marriage protection order by virtue of section 63D; and

(b) considers that the respondent has used or threatened violence against the person being protected or otherwise in connection with the matters being dealt with by the order.

(4) The court may attach a power of arrest to one or more provisions of the order if it considers that there is a risk of significant harm to a person, attributable to conduct of the respondent, if the power of arrest is not attached to the provisions immediately.

(5) The court may provide for a power of arrest attached to any provisions of an order under subsection (4) to have effect for a shorter period than the other provisions of the order.

(6) Any period specified for the purposes of subsection (5) may be extended by the court (on one or more occasions) on an application to vary or discharge the order.

(7) In this section “respondent” includes any person who is not a respondent but to whom an order is directed.

63I Arrest under attached powers

(1) Subsection (2) applies if a power of arrest is attached to provisions of a forced marriage protection order under section 63H.

(2) A constable may arrest without warrant a person whom the constable has reasonable cause for suspecting to be in breach of any such provision or otherwise in contempt of court in relation to the order.

(3) A person arrested under subsection (2) must be brought before the relevant judge within the period of 24 hours beginning at the time of the person’s arrest.

(4) In calculating any period of 24 hours for the purposes of subsection (3), Christmas Day, Good Friday and any Sunday are to be ignored.

63J Arrest under warrant

(1) Subsection (2) applies if the court has made a forced marriage protection order but—

(a) no power of arrest is attached to any provision of the order under section 63H;

(b) such a power is attached only to certain provisions of the order; or

(c) such a power was attached for a shorter period than other provisions of the order and that period has expired.

(2) An interested party may apply to the relevant judge for the issue of a warrant for the arrest of a person if the interested party considers that the person has failed to comply with the order or is otherwise in contempt of court in relation to the order.

(3) The relevant judge must not issue a warrant on an application under subsection (2) unless—

(a) the application is substantiated on oath; and

(b) the relevant judge has reasonable grounds for believing that the person to be arrested has failed to comply with the order or is otherwise in contempt of court in relation to the order.

(4) In this section “interested party”, in relation to a forced marriage protection order, means—

- (a) the person being protected by the order;
- (b) (if a different person) the person who applied for the order; or
- (c) any other person; but no application may be made under subsection (2) by a person falling within paragraph (c) without the leave of the relevant judge.

Applicants

Local Authorities (Social Services) are a 'relevant third party' and will invoke proceedings in respect of children (under the age of 18) or in respect of vulnerable adults who are subject to mental health services support. Frequently police constabularies, NGOs or teachers will seek permission from the Court to bring proceedings. The majority of applications are commenced by the victims themselves. Where a victim is overseas and not able to communicate an application can be made on their behalf on the criteria as set out in SK above on the basis that they would make such an application for their own protection were they physically able to do so.

The object of the exercise is to have the person who may be at risk produced at a secure venue (often an Embassy) so that they can provide their frank views as to their situation in a secure setting and be provided with assistance to return to the UK if that is what they wish for.

Other initiatives which support the Act

Forced Marriage Unit - www.fco.gov.uk/ - is a specialist unit jointly run by the Home Office and the Foreign & Commonwealth Office.

It provides advice assistance and support to victims and to all who contact the unit in connection with issues arising out of a Forced Marriage or a feared Forced Marriage whether in the UK or overseas.

Multi-agency practice guidelines - www.fco.gov.uk

The FMU collates statistics as to the number of cases and type of assistance that it deals with including the gender, ages of the victim and the countries involved: *see annex A*.

A number of practice guidelines have been produced by FMU to assist professionals encountering cases of Forced Marriage in its various scenarios. The primary guidelines are The Multi Agency Practice Guidelines: Handling Cases of Forced Marriage (MAPG, 2009). The practice guidelines are intended to be used by all front line practitioners, volunteers and agencies that work with children and adults who are the victims or potential victims of a Forced Marriage.

The FMU has produced a specific guideline relating to Forced Marriage and Learning Disabilities. The guidelines to deal with situations of Forced Marriage in respect of person, be it a child or adult, who has learning or other disabilities or who is a vulnerable adult.

As public awareness of the incidence of Forced Marriage developed, a trend was noted in the increasing number of cases involving a vulnerable adult.

Re SA (Vulnerable Adult with Capacity: Marriage) [2005] EWHC 2942 (Fam), [2006] 1 FLR 867, involved a 17 year old female who was profoundly deaf and mute and who had an intellectual functioning of a 13 to 14 year old. Her parents were making arrangements for her to enter into a marriage overseas. The Court ordered psychological tests and it was found that she had capacity to consent to a marriage. However she clearly had special needs and low functioning intellectual cognition.

It was held the Court had power to make an order “requiring that the daughter be properly informed, in a manner she could understand, about any specific marriage prior to entering into it, with associated injunctions –

(i) The court’s inherent protective jurisdiction could be exercised in relation to a vulnerable adult who, even if not incapacitated by mental disorder or mental illness, was, or was reasonably believed to be, either: (i) under constraint; or (ii) subject to coercion or undue influence; or (iii) for some other reason deprived of the capacity to make the relevant decision, or disabled from making a free choice, or incapacitated or disabled from giving or expressing a real and genuine

consent. The inherent jurisdiction was not confined to vulnerable adults, nor was a vulnerable adult amenable as such to the jurisdiction; it was simply that an adult who was vulnerable was more likely to fall into the category of the incapacitated in relation to whom the inherent jurisdiction was exercisable than an adult who was not vulnerable.

(ii) The court had power to make orders and to give directions designed to ascertain whether or not a vulnerable adult had been able to exercise her free will in decisions concerning her civil status. The principle that the jurisdiction was exercisable on an interim basis while proper inquiries were made applied whether the suggested incapacity was based on mental disorder or on some other factor capable of engaging the jurisdiction.

(iii) In the context of the inherent jurisdiction, a vulnerable adult could be described (rather than defined) as someone who, whether or not mentally incapacitated, and whether or not suffering from any mental illness or mental disorder, was or might be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation, or who was substantially handicapped by illness, injury or congenital deformity. The principle that the court should seek to prevent damage to children that it could not repair was equally applicable in relation to vulnerable adults.

(iv) While it was no part of the court's function to decide whether it was in a person's best interests to marry, the court was not debarred from considering whether it was in the best interests of someone lacking capacity to be exposed to an ineffective betrothal or marriage.

(v) There was nothing to prevent a local authority from commencing wardship proceedings, or proceedings under the inherent jurisdiction in an appropriate case, as a body with a genuine and legitimate interest in the welfare of the individual in question.

(vi) The daughter was a vulnerable adult who might, by reason of her disabilities, and even in the absence of any undue influence or misinformation, be disabled from making a free choice and incapacitated or disabled from forming or expressing a real and genuine consent. There was a pressing need to intervene to protect the daughter from the serious emotional and psychological harm which she would suffer if she went through a ceremony of marriage with which she did not in fact agree, or if she were to find herself isolated and helpless in a foreign country".

The Mental Capacity Act 2005 operates to identify and protect those who lack capacity to marry (amongst its other powers) and for Orders and Declarations to be made through the Court of Protection.

Immigration responses to Forced Marriage

Many jurisdictions have sought to address the issue of Forced Marriage by the imposition of immigration controls or the creation of immigration offences. This approach is based on the proposition that intended 'victim' spouse is a national of the country in which he or she lives, or has an immigration status that would allow him or her to sponsor a spouse and that the intended overseas spouse is will join them and the family will live in the state of sponsorship.

The issue of appropriate immigration responses came before the Supreme Court of England and Wales in the case of:

R (on the application of Quila and another) (FC) (Respondents) v Secretary of State for the Home Department (Appellant);

R (on the application of Bibi and another) (FC) (Respondents) v Secretary of State for the Home Department (Appellant) [2011] UKSC 45

Historically in the UK a British spouse could sponsor foreign spouse into the UK on a spousal visa from the age of 16 years. In 2003 the immigration rules were changed and the age at which a UK spouse could sponsor their foreign spouse was increased from 16 years to 18 years.

In July 2008 the Home Office announced that it was to increase the minimum age for both the foreign spouse and the UK sponsoring spouse from 18 to 21 years. The change of law became effective from 27th November 2008. The change followed on from the 2007 consultation by the Home Office which proposed several changes to the immigration law in order "to change

practice in this area so that those who are at risk of being pressurised into marriage to a partner from overseas are protected, and that these visas are not abused.¹² The proposals were:-

- i. Raise the visa age to 21,
- ii. Require sponsors to declare an intention to sponsor for a marriage visa before leaving the UK to get married;
- iii. Incorporate a confidential interview with the sponsor into all marriage visa applications;
- iv. Introduce a Code of Practice for officials and immigration Judges on cases where one of the parties in a marriage visa case is felt to be vulnerable, based on significant disparities in age, the main language being spoken, education and time spent in each other's country.
- v. Consider revoking leave if the foreign spouse later abandons the UK-based sponsor after achieving settlement.

Prior to the consultation the Home Office had commissioned independent academics to research into the questions of whether (a) raising the minimum age for sponsors from 16 to 18 has helped to prevent Forced Marriages and (b) whether raising the age further from 18 to 21 or indeed 25 would help prevent Forced Marriage.¹³

The overwhelming conclusion of the research team was that age made very little difference to the incidence of Forced Marriage and further that raising the visa age would not only have little, if any, beneficial impact but indeed might put the victims at further risk and in more danger. The research highlighted a concern that the sponsors would be taken abroad and retained abroad until they had reached the age of 21 years at which point the couple and indeed any children of the marriage would then relocate to the UK. The general pattern of cases at that time (and now) is that there is a short term removal of the UK sponsor abroad for the marriage which is followed

¹² <http://www.ukba.homeoffice.gov.uk/departmentsfromoverseas>

¹³ Hester, M.Khatijada Chantler & Gangoli, G Forced Marriage: the risk factors and the effect of raising the minimum age for a sponsor and of leave to enter as a spouse or fiancé, School for Policy Studies, University of Bristol 2008.

by their return to the UK where upon they will set about meeting the criteria for sponsoring their spouse into the UK (housing, employment, support system etc). The research found that if the removal from the UK is to be longer term there is less possibility of the victim securing advice, help and assistance or indeed opposing the sponsorship from a place of safety. Findings included the following:-

Generally, respondents from the different aspects of the research tended to see a rise in age to 21 to 24 as a potentially negative step. None of the organisations interviewed for the familiarisation visits wholeheartedly endorsed an increase to either 21 or even partially to 24 years. Only four out of 45 (8.9%) stakeholder organisations interviewed wholeheartedly endorsed an age increase to 21 and only three (6.7%) wholeheartedly supported an increase to 24 years. Benefits associated with greater maturity and access to education and potential financial independence were most frequently cited, but these were perceived as largely outweighed by the risks. Risks included young people being taken abroad to marry, the discriminatory nature of the proposals as largely to do with immigration, breaching of human rights, and not actually tackling domestic/EU Forced Marriages.

The Secretary of State declined to accept the findings of the research as was said by Lord Wilson when the case of Aguilar Quila came before the Supreme Court “for good reasons or bad”.

The raising of the sponsorship age whilst based on a policy to prevent Forced Marriage of course caught all marriages of under 21 years olds to a foreign non-EU spouse, whether they were forced or not. Thus it was that a British national and his bride from Chile applied for a judicial review of the rule change. The High Court refused the judicial review. The Court of Appeal¹⁴ where the case was joined with an appeal by a couple from Pakistan granted the judicial review quashing the decision of the High Court holding inter alia:-

“Rule 277 exceeded what was necessary and proportionate to accomplish the objective of excluding parties to forced marriage, and was arbitrary in its effect: the limited extent to which the rule achieved this objective could not justify the adverse impact of the rule on the far larger class of innocent young couples. Further, the policy imperative was only obliquely, partially, and

¹⁴ Aguilar Quila and Aguilar; Bibi and Mohammed v Secretary of State for the Home Department and others [2010] EWCA Civ 1482

in large part speculatively, related to the measure under scrutiny: while the court must be careful to refrain from substituting its judgment for that of the Secretary of State on policy issues, the court was not entitled to refrain from evaluating the strength of the policy imperative and its rationale in deciding whether its impact on innocent persons was proportionate”.

The Government appealed to the Supreme Court¹⁵.

The leading Judgments are those of Lord Wilson of Culworth and Baroness Hale of Richmond, with whom Lords Phillips and Clarke agreed. Lord Brown of Eaton-under-Heywood gave a dissenting judgment. Lord Wilson observed that the impact on the two British claimants was severe in family life terms: ‘These were two British citizens who had lived throughout their lives in the UK and who, aged 17 and 18 respectively had just embarked upon a consensual marriage. The refusal to grant marriage visas either condemned both sets of spouses to live separately for approximately three years or condemned the British citizens in each case to suspend plans for their continued life, education and work in the UK and to live with their spouses for those years in Chile and Pakistan respectively. Unconstrained by authority, one could not describe the subjection of the two sets of spouses to that choice as being other than a colossal interference with the rights of the respondents to respect for their family life, however exiguous the latter might be”.

Both Lord Wilson and Lady Hale were content to assume without comment that the increase in the spouse visa age was taken in accordance with the law and for a legitimate aim, the real question was whether the measure was necessary. To this end, Lord Wilson set out the four questions on proportionality posed by Lord Bingham in *Huang v Secretary of State for the Home Department* [2007] 2 AC 167:

a) is the legislative objective sufficiently important to justify limiting a fundamental right?

¹⁵ R (on the application of Quila and another) (FC) (Respondents) v Secretary of State for the Home Department (Appellant);

R (on the application of Bibi and another) (FC) (Respondents) v Secretary of State for the Home Department (Appellant) [2011] UKSC 45

- b) are the measures which have been designed to meet it rationally connected to it?
- c) are they no more than are necessary to accomplish it?
- d) do they strike a fair balance between the rights of the individual and the interests of the community?

It is universally accepted that forced marriage is a scourge that certainly justifies a public policy response and that question (a) must be answered in the affirmative. Question (b) is more contentious, in addressing this question, Lord Wilson went on to consider the effect of the change in the immigration rules he posed ten questions on the potential link between forced marriage and immigration abuse:

- a) Of the 13 motives for forcing a marriage suggested in para 36 of the guidance published by the Secretary of State in November 2008, how prevalent in the genesis of forced marriages is that of "Assisting claims for UK residence and citizenship"?
- b) From the fact that a forced marriage has precipitated an application for a marriage visa does it follow that the motive behind it was immediately to secure the visa and that, were it not immediately available, the marriage would not have occurred?
- c) Even if by virtue of the amendment, the ages of the girl and/or of the man were such as to preclude the grant of a marriage visa for up to three years, might the parents nevertheless force the girl into the marriage in order, for example, to prevent her from entering into a consensual marriage which they regarded as unsuitable?
- d) Even if the effect of the amendment were to preclude the immediate grant of a marriage visa, might the girl nevertheless be forced to marry the man abroad and thereupon be kept under control abroad until their ages were such as to enable her successfully to sponsor his application for a visa?
- e) In the example at (d) might the girl kept under control abroad there have a lesser opportunity to escape from the forced marriage than if the rules had enabled her to set up home with the man in the UK immediately following the marriage?
- f) Alternatively to the example at (d), might the girl be brought to the UK following the forced marriage and be kept under control in the UK until their respective ages were such as to enable her successfully to sponsor the man's application for a visa?
- g) Even if the preclusion of the grant of a marriage visa for up to three years were to deter her parents from forcing the girl to marry at that stage, might the result be an increased intensity of

control on their part over her for that period – whether by moving her abroad or by continuing to keep her in the UK – and, in either event, would her increasing maturity be likely to enable her to combat it?

h) How readily could one or more false certificates of birth be obtained which would deceive the immigration authorities into accepting that the girl and the man were both aged over 21?

i) Might the effect of the amendment be to precipitate a swift pregnancy in the girl, following the forced marriage and an act or acts of rape, such as might found an application for a discretionary grant of a marriage visa by reference to exceptional, compassionate circumstances?

j) Even if the effect of the amendment were to deter her parents from forcing the girl to marry a man resident abroad without a pre-existing right of abode in the UK, might they instead force her to marry a man with UK or EU citizenship or some other pre-existing right of abode in the UK?

Lord Justice Wilson concluded that the amendment to the rules was rationally connected to the deterrence of Forced Marriages, in answer to Lord Bingham's question (b).

As to questions (c) and (d)

'[The Secretary of State] clearly fails to establish, in the words of question (c), that the amendment is no more than is necessary to accomplish her objective and, in the words of question (d), that it strikes a fair balance between the rights of the parties to unforced marriages and the interests of the community in preventing forced marriages. On any view it is a sledgehammer but she has not attempted to identify the size of the nut.'

Lady Hale in agreeing that the measure was disproportionate pointed to the unquantified nature of the problem and proposed solution, the divided opinion on the benefits of the measure, the fact that the measure might do more harm than good where a young woman was taken abroad to be married then kept there until over the age of 21 and the interference with the ECHR Article 12 right to marry as well as with the Article 8 right to a private and family life.

The majority went further than concluding merely that the Secretary of State had interfered disproportionately with the private and family life of the particular claimants. Effectively, the Immigration Rule which increased the spouse visa age was struck down.

Lord Brown gave a dissenting judgment. He observed that several signatory States to The European Convention on Human Rights have imposed spouse visa ages of 21 or 24 partly for the avowed purpose of deterring forced marriage and that European Union Council Directive 2003/86/EC allows a maximum age of 21 for spouse sponsorship partly to prevent forced marriages. Lord Brown concluded that Lord Wilson's 'perfectly good' questions are largely unanswerable and therefore a 'judgment call' is required and that '[u]nless demonstrably wrong, this judgment should be rather for government than for the courts.' He went further: 'in this particular context the courts should to my mind accord government a very substantial area of discretionary judgment' because 'it is the Secretary of State who has the responsibility for combating forced marriages in the context of immigration and who should be recognised as having access to special sources of knowledge and advice in that regard.'

International Responses

EU States that have raised the spousal sponsorship age pursuant to the Directive 2003/86/EC are:-

Sweden – 21 years

Germany – 21 years

The Netherlands – 21 years

Denmark which is not bound by the Directive raised the age to 24 years in 2002.

Through a range of civil and/or criminal measures, a number of EU member states have looked to address the occurrence and practice of forced marriage.

Some of these countries have a range of criminal offences that may apply in the context of a forced marriage, which may include offences of rape, assault, kidnapping, abduction, false imprisonment, duress, and crimes against sexual freedom. A smaller number of these countries also have more specific legislation to cover the practice of forced marriage or the conduct causing a person into a forced marriage.

The countries that have criminalised forced marriage are in **bold**.

COUNTRY

LEGISLATION

Austria

Forcing someone into marriage is a distinct criminal offence in Austria. Austrians and people living in Austria are facing legal consequences for such actions only if this kind of marriage occurs within the country's borders. From January 2012 the Federal Government has amended the anti-forced marriage law to allow prosecutors to press charges against perpetrators over forced marriages abroad.

Belgium

Forcing someone to marry is a criminal offence.

Bulgaria

The criminal code contains a number of articles that criminalise activities that could be related to trafficking, such as kidnapping, false imprisonment, rape, inducement to prostitution, abduction of a woman for the purposes of sexual exploitation or for the purposes of forced marriage and illegal transport of a person across the border.

Cyprus

Forcing someone to marry is a distinct criminal offence in Cyprus.

Denmark

The Danish Criminal Code includes an offence of unlawful coercion, prohibiting the use of threats by a person to force another person to do something against their will. This offence would apply to marriage if threats were used to force a person into marriage against their will. The penalty for this offence ranges from a fine to a period of imprisonment not exceeding two

	years.
Estonia	Forced Marriage is not a criminal offence – civil courts will annul a marriage if the consent was obtained through fraud or duress.
Finland	Not expressly prohibited by Finnish law, although the law assumes that actions taken against the will of a person are prohibited.
France	No specific offence of forced marriage in the French Criminal Code, although French civil law has been amended numerous times in order to prevent forced marriages and to protect the affected individuals.
Germany	Forcing someone to marry is a distinct criminal offence and can be punished by up to five years in prison. The law also gives non-German citizens who are forced by their husbands/families to leave the country after their marriage a legal right to return to Germany.
Greece	Forced Marriage is not a specific offence in the Greek Penal Code; however the issue may be subsumed under other criminal offences such as coercion through violence or the threat of force.
Hungary	Hungary lacks specific legislation on forced marriage; such situations may be subsumed under other criminal offences such as coercion through violence or the threat of force.
Ireland	Forced Marriage is not a specific criminal offence. The law of nullity allows a marriage to be set aside where it was contracted in the face of fear, duress, intimidation or undue influence.

See Annex A

Forced Marriages in Britain – General FMU Statistics

Further reading

Consultation to specific criminal offence

Ashiana Network – www.ashiana.org.uk

ECHR response – www.equalityhumanrights.com/consultations/responsetoconsultation

Forced Marriage Consultation response Southall Black Sisters – www.southallblacksisters.org.uk

Forced Marriage Consultation Odysseus Trust –
www.odysseustrust.org/projects/fmc_ot_response_march12

Safe Forced Marriage Consultation – www.safedvs.co.uk

Forced Marriage Coram Chambers – www.coramchambers.co.uk

Law Society of England and Wales – www.lawsociety.org.uk/slap/consultation-on-forced-marriage-lawsociety

IKWRO response – www.ikwro.org.uk

Karman Nirvana response – <http://www.karmanirvana.org.uk/>

Henna Foundation response – http://www.hennafoundation.org/forced_marriage.html

Immigration guidance

UK Border Agency Guidance and instruction on Forced Marriage –
www.ukba.homeoffice.gov.uk/citecontentdocuments//forcedmarriage

Roehampton University – Aisha Gill – <http://www.roehampton.ac.uk>

Forced marriage statistics – updated 13 March 2013 – FMU

Ministry of Justice – November 2008/2009 2009/2010 – 2012 applications made under FMPA

Costs of implementation of specific offence of Forced Marriage

<https://www.gov.uk/government/consultations/forced-marriage-consultation>