

APPENDIX 5

Law Society guidance on forced marriages

[April 2004]

FORCED MARRIAGE

[This leaflet was initially published by the Law Society in 2004 as a special single-issue edition of *Family Law News*. The address list it contains was updated for this publication.]

Myths about Forced Marriage

Forced marriage is an abuse of human rights. Failure to tackle cases of forced marriage and the abuses involved is a failure to protect and endorse the rights of all U.K. residents to be treated equally before the law, regardless of race, culture or religious affiliation. Viewed in this light it is clear that fears that tackling this issue is somehow racist or culturally insensitive are out of place. Mike O'Brien, when he was Home Office Minister, said the issue showed that, 'multicultural sensitivity is no excuse for moral blindness'.

However, forced marriage is not an issue confined to any particular culture or ethnic group. It is an issue which transcends race, religion, nationality, ages, and gender.

Forced marriage is not just about a denial of rights at the time of a marriage ceremony. It involves an array of harms, crimes and abuses. These include interruption or termination of education, damage to career opportunities and consequent economic independence, emotional and physical abuse, theft (typically of passport, money or belongings), unlawful imprisonment and restrictions on freedom of movement and association, abduction and kidnap, female genital mutilation, rape, enforced pregnancy, childbirth and in some cases, abortion, murder and mutilation.

The Home Office report 'A choice by right' shows that forced marriage is not as rare as one might suppose. The Community Liaison Unit, a joint Home Office and Foreign and Commonwealth Office initiative, established in October 2000, has already handled over 500 cases of forced marriage which have an overseas dimension. Other organisations in this country handle many more. It is necessary for solicitors to screen carefully for such cases.

FAQS

What is an arranged marriage?

An arranged marriage is one in which family, friends or intermediaries bring together parties to the marriage and have a greater or lesser degree of involvement.

Both partners freely and willingly consent to the marriage. Arranged marriages have a long-standing and very successful tradition. Arranged marriage is not forced marriage and should not be caught by the screening process.

What is the difference between an arranged marriage and a forced marriage?

A forced marriage is a marriage conducted without the valid consent of one or both the parties, where duress is a factor. Duress includes emotional as well as physical pressure. Arranged marriages, unlike forced marriages, are of an entirely voluntary and consensual nature.

Who is the likely victim of a forced marriage?

There is no profile of a typical victim of forced marriage. All major religious traditions and the civil law condemn forced marriages. The Bible and the Qu'ran, for example, stipulate that the free and willing consent of both parties to a marriage is required. Forced marriage also occurs in families of no particular religious affiliation.

Both men and women can be victims. The youngest person dealt with by the Community Liaison Unit was 11 years old and the oldest was 39.

How might a solicitor come across a case of forced marriage?

A few individuals do present at solicitors' offices and explain that they are concerned that they will be forced to marry against their will. However the majority of cases are brought to the attention of solicitors by third parties or in the course of other actions. Third parties could include older siblings or other relatives, teachers or counsellors. Other actions in which forced marriage could be brought to light include immigration applications, criminal actions or claims for criminal injury compensation.

Solicitors may also be made aware of the issue after the marriage has taken place, e.g. because of violence or immigration issues. If real issues relating to the validity of the marriage apply, an immediate approach should be made to the Legal Services Commission for funding for nullity proceedings.

Is there a place in such a case for alternative dispute resolution?

Solicitors must not attempt mediation or any other form of alternative dispute resolution between the victim and their family due to the fatal power imbalance between the parties.

How far should disclosure of the case be made to third parties?

Solicitors must be very cautious about disclosing information relating to their clients to third parties (e.g. family members) and if in doubt should consult the Law Society ethics line. Solicitors must remember that a potential victim may have provided apparent consents to disclosure under duress.

Screening for forced marriage

Given the sensitivity and complexity of the issues involved, and the dire consequences that can flow from inappropriate steps being taken at any stage of a forced marriage case, it is essential that specialist advice is provided by legal practitioners.

Forced marriage affects a significant number of children – that is to say persons under the age of 18 years. Detailed knowledge of the dynamics of forced marriage cases is essential over and above the normal child care/care proceedings criteria.

None of the answers to these questions prove conclusively that there is a forced marriage. For example a group of family may choose to travel together without any ulterior motive. However they should raise questions in the minds of legal advisers.

Questions to consider:

1. Has the potential victim ever been told that the family will make arrangements for their marriage for them?
2. Have arrangements been put in hand for holidays or travel in circumstances which the potential victim considers suspicious?
3. Has the family given notice to colleges/school or have any unusual purchases been made within the family, e.g. jewellery or clothing?
4. Are an unusual number of family members accompanying the potential victim on a holiday?
5. Is there any history of assault/physical abuse during childhood?
6. Has the potential victim been forced to leave school/college at an early stage against their wishes thus ending their full-time education?
7. Has the potential victim had a new passport photo taken recently?
8. Does the potential victim have knowledge of what passport/travel documents they hold? Where are those travel documents? Do they have control over them? Can they get a copy of their passport, or its number to the lawyer?
9. Has the potential victim been asked to undergo any medical tests or treatments which were not explained to them?

10. Has the potential victim been asked to undergo or undergone any betrothal ceremony?

If the client or their representative is likely to be forced into a marriage against their will, then the following issues should be considered:

11. Does the potential victim have any supportive and trustworthy members in their wider family?
12. Are they able to make alternative accommodation arrangements in safety?
13. If a holiday abroad is unavoidable make sure that the potential victim has done the following:
 - (a) They have taken with them the telephone numbers and email address of the Community Liaison Unit.
 - (b) They have left behind with a trusted person:
 - (i) details of what should be done in the event that they do not return by their intended return date.
 - (ii) all information that they may have about the potential area in which they are to be holidaying.
 - (iii) a family tree of who is who in this jurisdiction and their addresses etc.
 - (iv) the names of any relatives in the country to which they are travelling.
14. If Social Services are to be involved are you satisfied that they are aware of the safety needs relating to passports, etc. before approaching the parents/family?

Other legal issues impacting on forced marriage cases

Family lawyers advising clients who are victims of a forced marriage should be aware that there are other issues that may be relevant or that they may need to refer clients to specialists in other fields of law. Some of these other areas may affect the issues and advice given by family lawyers.

Immigration status

If the client is a non UK national and has not yet obtained indefinite leave to remain, he or she may be able to obtain leave to remain in exceptional circumstances such as where there was violence or if there are exceptional reasons to show that there may be violence if the client returns to the country of origin. This might be relevant if there are children whose immigration status may be unsettled and who may be deported with the fleeing parent.

Criminal Proceedings

If the victim of a forced marriage reports offences to the police the police may or may not prosecute the perpetrators of the offence. This may assist in the vic-

tim's application for immigration, housing or benefits despite the adverse impact on the families involved and despite the victim's fear of being involved in such proceedings.

Criminal injuries compensation may be available to the victim

Solicitors should also consider the implications of housing law and benefits entitlements on the victims of forced marriage.

What should solicitors do to help potential victims?

It is of the utmost importance that a solicitor takes instructions from a potential victim her/himself without any member of their family being present at the meeting and for solicitors to stress to their clients that anything they do say to them is in the strictest of confidence. Solicitors may wish to emphasise while giving advice that they may be able to arrange contact even if children are deported but that depending on where the children are living the order for contact may not be enforceable. Nullity proceedings can be taken rather than divorce if divorce will bring dishonour on the victim, but the victim will still have the right to claim for ancillary relief.

What help is available?

The Community Liaison Unit of the Foreign and Commonwealth Office is a dedicated unit which deals with cases of forced marriage. They have provided guidelines for the police and are currently developing similar guidelines for social services. There are a number of voluntary organisations which assist in cases of forced marriage. There are therefore a range of non-law based options for clients who are victims of forced marriage and solicitors should consider these and be aware of local organisations that can assist in caring for those who have suffered forced marriage.

ORGANISATIONS WHICH CAN OFFER HELP

Local organisations may be able to offer assistance in a way which is particularly beneficial to victims. Organisations dealing with domestic violence will also be able to offer help. Social services departments will assist vulnerable adults, children and young people. The police will be able to aid the victims or potential victims of crime. The Community Liaison Unit of the Foreign and Commonwealth Office offer advice and assistance when the parties are abroad. Useful contact details are listed below.

All Wales Saheli Association

A user led service whose key objective is to support Asian and Muslim families and in particular women and young people. It has an open door policy. Saheli works closely with mainstream service providers and clients ensuring that religious, cultural and language barriers are taken into consideration. It offers advice, support or referral to various agencies both locally and nationally.

2 St Martins Row, Albany Road, Roath, Cardiff CF24 3JJ
Telephone: 029 20 49 69 20
Mobile: 07970 292215, 07970 292216
Fax: 029 20 49 86 02
Email: saheli_allwales@hotmail.com

Asian Family Counselling Service

Offers confidential and professional help to all Asian people who may have marital, family or other personal problems. Service is available in Asian languages and is free of charge except for evening and weekend appointments. A new project has been set up dealing with depressed Asians.

Suite 51, The Lodge, Windmill Place, 2–4 Windmill Lane, Southall, Middlesex, UB2 4NJ
Telephone: 020 8813 9714, 020 8571 3933
Fax: 020 8571 3933
Email: afcs99@hotmail.com
Contact: Ms Kulbir Randhawa or Ms Rita Mangat

Ashiana Project

Offers advice, support & safe temporary housing for young South Asian, Turkish and Iranian women escaping any form or degree of physical, sexual, mental or emotional abuse. Also has outreach service at a personal and community level. Staff or volunteers speak English, Punjabi, Urdu, Farsi.

PO Box 816, London E11 1QY
Telephone: 020 8539 9656, 020 8539 0427
Fax: 020 8539 1900
Email: info@ashiana.org.uk

Association of Lawyers for Children

An organisation which promotes justice for children and young people within the legal system in England and Wales.

PO Box 283, East Molesey, Surrey KT8 0WH
Telephone/Fax: 020 8224 7071
Email: admin@alc.org.uk

ChildLine

ChildLine is the UK's free, 24-hour helpline for children in distress or danger. Trained volunteer counsellors comfort, advise and protect children and young people who may feel they have nowhere else to turn.

45 Folgate Street, London E1 6GL
Telephone: 020 7650 3200
Fax: 020 7650 3201
24-hour helpline: 0800 1111

Community Legal Service

Aims to ensure that people can get information and help about their legal rights and understand how to enforce them.

Head Office: 85 Gray's Inn Road, London, WC1X 8TX
Telephone: 0845 6081 122
CLS Direct: 0845 345 4 345

Crimestoppers

Crimestoppers is an independent charity helping to prevent and solve crimes. The scheme allows people to give information anonymously by calling the nationwide telephone number about crimes that affect both themselves and their local community.

Crimestoppers Trust, Apollo House, 66a London Road, Morden, Surrey
SM4 5BE
Nationwide Freephone Telephone Number: 0800 555 111
Office number: 020 8254 3200
Fax: 020 8254 3201

Forced Marriage Unit

If an individual does not want to go through a forced marriage, the FCO and Home Office will do everything it can to help. Any information given is treated confidentially.

G55 Foreign & Commonwealth Office, Old Admiralty Building, London
SW1A 2PA
Telephone: 020 7008 0230, 020 7008 0135, 020 7008 8706
Fax: 0207 008 0199
Email: fm@fco.gov.uk.
Website: www.homeoffice.gov.uk/comrace/race/forcedmarriage/index.html

Get Connected (16–25 year olds)

A free, UK wide, email and telephone helpline that finds young people the best help for a problem. The helpline workers listen, explain the options and make suggestions of services where you can get the best help.

Telephone: 0800 808 4994
Email: admin@getconnected.org.uk
Website: www.getconnected.org.uk/

Imkaan

A national policy and research initiative providing strategic advocacy, capacity-building and training to specialist refuges supporting Asian women and children experiencing domestic violence.

76 Brewer Street, London W1F 9TX
Telephone: 020 7434 9945
Fax: 020 7851 0942
Email: enquiries@imkaan.org.uk
Website: www.imkaan.org.uk

Immigration Advisory Service

Charity giving a free legal advice and representation service to immigrants and asylum seekers.

3rd Floor, County House, 190 Great Dover Street, London SE1 4YB
Telephone: 020 7967 1200
Fax: 020 7378 0665
Email: advice.iasuk.org
Website: www.iasuk.org

Jewish Women's Aid

Group aims to break the silence surrounding domestic violence through education and awareness-raising programmes. JWA operates a national freephone confidential Helpline and runs a refuge for Jewish women and children.

PO Box 2670, London N12 9ZE
Freephone Helpline: 0800 59 12 03
Fax: 020 8445 0305
Email: info@jwa.org.uk
Helpline staffed Mon, Wed, Thurs 9.30am–9.30pm
Languages Spoken: Hebrew, French, German, Yiddish, Parsi

Karma Nirvana

An Asian women's project that provides a support service, advocacy, outreach, free confidential pregnancy tests and local keep fit classes. They will not turn any woman in need of support away (including non-Asian). Home visits, wheelchair access and induction loop. Urdu and Punjabi spoken.

Telephone: 01332 604098/299166
Email: karma.nirvana@btinternet.com
Website: <http://www.karmanirvana.freemove.com>

Law Society

The professional body for solicitors in England and Wales.

113 Chancery Lane, London WC2A 1PL
Telephone: 0207 242 1222
Email: info.services@lawsociety.org.uk

Muslim Women's Helpline

Free confidential support, comfort and practical information to any Muslim female. Available Mon–Fri, 10am–4pm.

Telephone: 020 8908 6715 or 020 8904 8193
Email: mwhl@amrnet.demon.co.uk
Website: www.mwhl.org

Newham Asian Women's Project

Provides advice and support for Asian women and children experiencing domestic violence. Offers a refuge, a second stage hostel and a resource centre where services include legal advice, training, mental health support, counselling, Zindaagi – project on self harm, and a young women's support group and other support groups called Teens.

661 Barking Road, Plaistow, London E13 9EX
Telephone: 020 8472 0528 (general)
Telephone: 020 8552 5524 (advice)
Fax: 020 8503 5673
Email: info@nawp.org
Website: www.nawp.org

Northern Ireland Women's Aid Federation

NIWAF exists to challenge attitudes and beliefs that perpetuate domestic violence. Advice, support and refuge for women and children affected by domestic violence. Provision of 14 refuges and 11 advice centres throughout Northern Ireland.

129 University Street, Belfast BT7 1HP
Telephone: (028) 90 24 9041
24-hour Domestic Violence Helpline Freephone: 0800 917 1414
Fax: (028) 90 23 9296
General email: info@niwaf.org
Helpline email: helpline@niwaf.org
Website: www.niwaf.org

NSPCC (National Society for the Prevention of Cruelty to Children)

A charity specialising in child protection and the prevention of cruelty to children. Offers a multi-lingual helpline for children and advisers.

Weston House, 42 Curtain Road, London EC2A 3NH
Telephone: 020 7825 2500
Fax: 020 7825 2525
NSPCC Child Protection Helpline: 0808 800 5000
Welsh helpline: 0808 100 2524 – Open Mon–Fri 10am–6pm
Email: help@nspcc.org.uk

NSPCC Asian Child Protection Helpline

A free, multilingual service for the UK’s Asian Communities providing counselling, information and advice to anyone who is concerned about the welfare of a child.

Weston House, 42 Curtain Road, London EC2A 3NH
Bengali: 0800 096 7714
Gujurati: 0800 096 7715
Hindi: 0800 096 7716
Punjabi: 0800 096 7717
Urdu: 0800 096 7718
Asian helpline in English: 0800 096 7719
Fax: 020 7825 2790/91
Email: helpline.asian@nspcc.org.uk
Out of office hours: Contact NSPCC Child Protection Helpline 0808 800 5000
Website: www.nspcc.org.uk

Police (emergency service)

999 or contact your local Community Safety Unit

Refuge

Refuge is the UK’s largest single provider of specialist accommodation and support to women and children escaping domestic violence.

2/8 Maltravers Street, London WC2R 3EE
Telephone: 020 7395 7700
Email: info@refuge.org.uk
England: 0808 2000 247 (freephone 24-hour domestic violence, helpline, run in partnership between Women’s Aid and Refuge, LanguageLine and Typetalk available)
Wales: 0808 80 10 800 (freephone 8am–2pm, 8pm–2am)
Scotland: 0800 027 1234 (freephone 24-hour)
N. Ireland: 0800 917 1414 (Women’s Aid freephone 24-hour helpline)

Refugee Council

The Refugee Council is the largest organisation in the UK working with asylum seekers and refugees. It provides advice and assistance to asylum seekers and refugees in London, the Eastern Region, West Midlands and Yorkshire & Humberside.

240–250 Ferndale Road, London SW9 8BB
Telephone: 020 7346 6700
Fax: 020 7346 6701
Advice line: 020 7346 6777

Reunite

Leading UK charity specialising in international parental child abduction.

PO Box 7124, Leicester LE1 7XX
Advice line: 0116 2556 234
Telephone: 0116 2555 345
Fax: 0116 2556 370
Email: reunite@dircon.co.uk
Website: www.reunite.org

Scottish Women's Aid

Provision of support, information and refuge to women, children and young people experiencing domestic abuse.

2nd Floor, 132 Rose Street, Edinburgh EH2 3JD
Telephone: 0131 226 6606
Scottish Domestic Abuse Helpline: 0800 027 1234 (freephone, 24 hours)
Website: www.scottishwomensaid.co.uk

Shelter

Shelter is a national organisation with local solutions working to improve the lives of homeless and badly housed people. We provide free, professional and independent advice to over 100,000 people each year throughout England and Scotland.

Freephone: 0808 800 4444
Telephone: 020 7505 4699 (supporter and general enquiries)
Fax: 020 7505 2030
Email: info@shelter.org.uk

Resolution

An association of over 5000 solicitors who are committed to promoting a nonconfrontational atmosphere.

PO Box 302, Orpington, Kent BR6 8QX
Telephone: 01689 820 272
Fax: 01689 896 972
Email: info@resolution.org.uk

Somalian Women's Centre

020 8752 1787

Southall Black Sisters

A resource centre and black women's group involved in struggles over racism, domestic violence, forced marriages, prisoners and other issues.

21 Avenue Road, Southall, Middlesex UB1 3BL
Telephone: 020 8571 9595
Fax: 020 8574 6781
Email: southallblacksisters@btconnect.com

Victim Support

The national charity which helps people affected by crime, providing free and confidential support to help deal with experiences of crime, whether reported or not.

National Office, Cranmer House, 39 Brixton Road, London SW9 6DZ
Telephone: 020 7735 9166
Fax: 020 7582 5712
Email: contact@victimsupport.org.uk
Victim Support: 0845 30 30 900

Welsh Women's Aid

Welsh Women's Aid works towards providing a service for all women affected by all forms of domestic violence and abuse – physical, sexual, emotional, psychological or economic.

38/48 Crwys Road, Cardiff, CF24 4NN
Telephone: (029) 2039 0874
National Domestic Abuse Helpline 0808 80 10 800 (freephone 8am–2pm,
8pm–2am)
Email: team@wwaid.freereserve.co.uk

Women's Aid Federation of England

Women's Aid is the national domestic violence charity which co-ordinates and supports a network of over 300 local domestic violence organisations, providing over 500 refuges, helpline, outreach services and advice centres.

PO Box 391, Bristol, BS99 7WS

Telephone: 0117 944 4411 (administration)

Fax: 0117 924 1703

Email: info@womensaid.org.uk

Website: www.womensaid.org.uk

Freephone 24-hour National Domestic Violence Helpline: 0808 2000 247
run in partnership by Women's Aid and Refuge.

The Law Society wishes to thank the Community Liaison Unit of the Foreign and Commonwealth Office and Anne-Marie Hutchinson OBE of Reunite for all the help they have given in the production of this leaflet.