

Understanding Protection and Prevention Responses to Forced Marriage in England and Wales

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Understanding Protection and Prevention Responses to Forced Marriage in England & Wales: Briefing for Specialist 'by and for' Forced Marriage/Domestic Violence Services

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About the research

A forced marriage is a marriage that lacks the consent of one or both parties, which is legally recognised as a form of domestic violence that primarily affects women and girls in the UK. Forced Marriage Protections Orders (FMPOs) are civil injunctions designed to prevent forced marriages and protect the victims/survivors. Although approximately 200-250 FMPOs have been granted annually in England & Wales since 2014, little is known about their use and potential impact on the victims/survivors. The aims of this first-ever study of FMPOs is to understand the workings of FMPOs and generate recommendations for improving preventative and protective responses to forced marriages.

A mixed methods approach was utilised drawing on quantitative data on FMPO applications in England & Wales and data from five police forces on FMPOs obtained between 2014 and 2019, and qualitative data from reported judgements on FMPOs (n=37), police case files from five force areas (n=70), life-history interviews with survivors (n=11) and interviews with practitioners (n=42).

Research findings

There is no reliable source of data on the prevalence of forced marriage; the Ministry of Justice data gives an overview of FMPOs but only disaggregates it by age (minors and adults). In relation to the police records, there is an urgent need to improve data recording practices to tag forced marriage and honour-based violence (HBV) more broadly and in relation to FMPOs in particular.

The vast majority of forced marriages took place in the context of childhood histories of neglect and abuse. Gendered control over female sexuality through restrictions on behaviour and mobility was commonplace. The father was commonly, although not always, the primary perpetrator or controller of these gendered household regimes, and domestic abuse perpetrated against the mother commonly co-occurred with abuse against the children. In this context, mothers were often made responsible by the fathers for 'disciplining' the children and managing daughters' sexuality. In a few cases, mothers were the primary perpetrators of the abuse against their daughters.

The dominant patriarchal norms within the family and community, including gendered notions of honour and shame, created a common context for forced marriage. A relationship or association with a boy/man (real, imagined or rumoured) often triggered a forced marriage for women and girls. For men and boys, forced marriage was commonly a punishment for a wayward or westernised lifestyle, rather than a means of controlling their sexuality. Dominant norms regarding binary genders and heteronormativity led to the punishment of 'deviant' sexuality through HBV or forced marriage. In relation to disability, which affects individuals' capacity to give their consent, parents' desire to secure a carer for their disabled child may motivate such marriages. Parents' desire to strengthen transnational family relationships through ensuring that their child marries a cousin, to facilitate the migration of a relative, and/or to secure their own status through their child's marriage to a member of the community were also factors behind forced marriage. Threats of being taken outside the UK in order to be forced into a marriage were common; in a minority of cases, the victims/survivors were taken abroad for the purpose of marriage or were, in fact, married.

Another specific and hitherto less documented dimension of transnational forced marriage relating to Somali victims/survivors was institutional incarceration and violence in detention centres in Somalia.

School closures and inaccessibility of services reduced the routes to help-seeking during the pandemic, at a time when the lockdown imposed prolonged, enforced contact with multiple perpetrators of forced marriage within the home. There remains a need to be alert to the needs of those who were aged 17-18-years old during the pandemic and missed school.

Physical violence, including HBV, was common in the cases in our sample. It was the form of coercion that was most intelligible to the practitioners, particularly the police, who would seek within the victims/survivors' accounts evidence of such violence and direct threats of it, in an attempt to establish the extent to which the victims'/survivors' fear of harm was 'reasonable'. There was also a recognition of emotional or financial pressure, where this was directly applied by parents, for example, by invoking the dishonour brought upon the family or threatening to withdraw support to attend university. However, what was common but not always acknowledged as coercive was the force of gendered social expectations and the fear of community reaction/gossip which shaped family dynamics and created a coercive burden in the absence of directly articulated threats.

In the face of these coercive pressures, victims/survivors often made disclosures to their friends, boy/girlfriends, select family members and co-workers, who encouraged them to contact services, or informed the services themselves where the victims/survivors were unable to do so (due to being held against their will either in or outside the UK). For those who directly contacted the services, schools (for the under-18s) and the police were the most common point of contact, often in a moment of crisis. For those who were trapped overseas, the Forced Marriage Unit was a conduit to other services and repatriation.

Responding to forced marriage entails a complex process of engaging simultaneously with risk management, safeguarding, support service referrals and making decisions regarding FMPOs and possible prosecution. Where multi-agency working was effective, it created a space within which those subjected to forced marriage could recover a sense of agency. However, the gatekeeping performed by services facing financial

constraints, higher thresholds for intervention or support and a lack of (the effective sharing of) knowledge and skills often impeded effective, sustained multi-agency working. Specialist 'by and for' domestic violence services were often central to offering expertise and advocacy especially where statutory services were reluctant to support victims, for example those whose immigration status was insecure or could not be verified.

In most cases, the application for an FMPO was made with the consent of the subject; nevertheless, there were a few cases where the application was made based on the available evidence and an assessment of the risk, against the wishes of the person for whom protection was sought. FMPOs were most effective in preventing a forced marriage at an early stage particularly when the victim/survivor was still in the UK. FMPOs were also effective in facilitating repatriation in many (but not all) cases in the context of a threat of, or a completed forced marriage. Nevertheless, FMPOs were also associated with an increased risk of HBV and other forms of violence and abuse.

A minority of the victims/survivors chose to leave the family home either prior to or shortly after the FMPO was served and their safeguarding was co-ordinated between different agencies, commonly the police, social services and/or the domestic abuse services. However, in the majority of the cases, victims/survivors changed their mind and returned home in the days and weeks after leaving. In such contexts, violence, abuse or some form of emotional pressure seldom ceased. Where the agencies were able to provide a co-ordinated safeguarding response through conducting regular welfare checks, sharing information to monitor and manage the risk and striving to retain the confidence of the victim/survivor, they provided effective protection. However, there were cases where FMPOs and undertakings seemed to be regarded by agencies as the end of the process; meanwhile the violence escalated and the victim/survivor felt abandoned by the services, which eroded their trust.

The withdrawal of support for criminal investigation or indeed for an FMPO and/or the changing of an earlier statement, were all too common occurrences. This was particularly the case where victims/survivors were living in the family home, were subjected to pressure and misinformation about the implications of the FMPO, feared that the police or social services' involvement would bring shame upon the family or get their parents into trouble, or the parents were being investigated by the police for a

criminal offence. Despite the retraction, where the services seemed to understand the complex pressures that the victims/survivors were negotiating and made active efforts to foster trust, they elicited further disclosures if the threat escalated again. None of the 102 cases supported a criminal prosecution of the perpetrators, predominantly the subjects' parents, but almost always availed the protective powers offered by FMPOs, which indicates a respect for the wishes of the victims/survivors but may also indicate gaps in criminal justice responses to forced marriage and breaches of FMPOs.

Breaches of FMPOs most commonly occurred through ongoing harassment, coercion and continued pressure to marry and pressure on a victim/survivor to return to the family home and in some cases, physical violence, (attempted) abduction where they had already left the family home, being taken abroad by their parents for marriage or their parents refusing to return the subjects to the UK, despite the FMPO. Mostly perpetrated by parents, there were also cases where siblings (predominantly brothers) and other family members were involved in breaches.

The reported judgements documented the complex, intersecting inequality faced by disabled people who experienced forced marriage, and their struggle to present themselves as consistent, credible witnesses in court proceedings. This was also the case with young or vulnerable witnesses, who may have changed their statements under immense emotional pressure or were unable to provide clear, detailed narratives of sexual violence. While the judges seemed to understand the continuum between arranged and forced marriages, recognising coercion seemed to require evidence of a directly articulated threat or emotional pressure; the coercive pressure created by the socio-cultural norms and intersecting disadvantages created by age or disability did not always seem to be taken into account.

The medium- to longer-term outcomes for those who sought protection through FMPOs were only possible to discern in a minority of police case files and in the narratives of all of the interviewees. A majority of these victims/survivors had left their family home and had gone on to complete their studies, were engaged in paid work and had subsequently married, but the impact of the abuse they had experienced and their fractured relationships with their families cast a long shadow over their lives.

Conclusion

Childhood contexts and the victims/survivors' location within the social relations of power based on their gender, sexuality, disability and other types of vulnerability are crucial for understanding the 'total coercive burden' that can vitiate consent to a marriage. FMPOs represent an important remedy that can prevent a forced marriage, protect potential victims and assist those who have already been forced into a marriage. However, FMPOs can also simultaneously increase the risk of HBV and other forms of abuse being committed by the parents and wider family against those seeking its protection.

Factors such as a lack of knowledge about the complex coercive pressures on the victims/survivors, fissures between the agencies, missteps in multi-agency working and the gatekeeping of services due to financial constraints often impeded the provision of effective support. Where the agencies worked together and practitioners understood the complex lived realities of the victims/survivors, the risks associated with FMPOs were minimised. Where FMPOs were accompanied by a package of support provided by the agencies, this empowered the victims/survivors and enhanced their safety. Our research found that the injunctive remedy offered by FMPOs has great potential, but there remains much work to be done in order to realise this potential fully.

General Recommendations

1. Develop training to enable professionals to better recognise the nature and forms of coercion, including indirect forms of coercion.
2. Provide regular research-informed training in order to understand any changes in patterns of coercion or emerging forms of coercion, such as institutional incarceration.
3. Develop protocols for taking statements to develop trust with victims/survivors and obtain relevant information for effective safeguarding and prosecution measures.
4. Clearly justify any decision to obtain an undertaking rather than an FMPO, in light of the lower threshold of protection this measure offers.
5. Offer safeguarding training on forced marriage risk management, multi-agency protocols, and inter-agency collaboration and collaborative case management.
6. Develop strong relationships with 'by and for' domestic violence services, which have specialist knowledge of forced marriage and the skills to meet the needs of its victims/survivors.
7. Strengthen professionals' understanding of the complex contexts shaping victim retraction, thus enabling delivery of effective protection and prevention responses to forced marriage.
8. Respond to dual victim needs of protection and prosecution.
9. Develop protocols to effectively manage victim risk when obtaining and serving FMPOs and thereafter.
10. Develop mechanisms to flag up the expiry of an FMPO.
11. Improve data recording practices currently in place within the criminal justice system, such as recording age, gender and ethnicity for forced marriage victims.
12. Improve support from all relevant professionals (i.e., services, police, etc.) for vulnerable witnesses.

Recommendations for specialist 'by and for' forced marriage/ domestic violence services

Role of specialist 'by and for' support

The research findings strongly reinforce the need for more such specialist 'by and for' domestic abuse services to be made available locally to all victims of forced marriage. Recommendations for what these services can offer include:

- Where victims/survivors make a disclosure about sexual violence, specialist sexual violence services should be engaged at the first opportunity to ensure that victims can make informed decisions about reporting this form of abuse to the police and that they receive specialist support to improve their experience of disclosure and support-seeking.
- The effects of violence should be understood in the context of complex and multiple traumas that have long-lasting emotional and psychological consequences. Post-traumatic stress disorder, depression and substance misuse are just some of these effects. 'By and for' domestic abuse services have a unique understanding of the nature, context of impact of forced marriage and HBV.
- Under current no recourse to public funds (NPRF) restrictions, the responsibility for helping victims with NPRF rest overwhelmingly upon charitable organisations that have limited resources—this situation is neither just nor sustainable. Statutory services must be more accountable for vulnerable victims/survivors in order to avoid further compromising the vulnerable and to prioritise victims' safety and work with 'by and for' domestic abuse services which have an understanding of the unique barriers related to immigration-based abuse.

- Independent support through qualified and specialist case workers is critical to improving survivors' awareness of their rights and options, increasing their confidence in the criminal justice system and criminal justice processes (including the role of statutory agencies), improving their immediate and long-term safety, and ensuring that they are given the means to access all the support they require. 'By and for' domestic abuse services have extensive experience of advocacy for minoritised victims of domestic abuse, including forced marriage.

Recommendations for forced marriage-specific services

- Ring-fenced resources for domestic abuse services more broadly and, within that, for 'by and for' domestic abuse services.
- Counselling and trauma-informed services, ideally within an organisation that has an understanding of forced marriage and domestic abuse within racially minoritised communities.
- FMPD training for service professionals to enhance inter-agency collaboration, improve service response, raise awareness of intersecting forced marriage dynamics and their effects on young people and members of the LGBTQ+ community, and raise awareness of legal challenges and policies and protocols critical for safeguarding. Training should also include multidisciplinary high-risk frameworks to foster collaboration and response to families experiencing forced marriage.

Early information and advice about support services

- The findings clearly show the important role of specialist 'by and for' support services that are designed to address forced marriage; it is important for victims/survivors to know about these support services at an early stage.
- Relevant professionals must have access to information about forced marriage and other services. For victims who do not have access to professionals or who distrust particular services, being able to obtain relevant information about support services in health centres and GP surgeries could provide an important avenue for informing them of their rights in relation to this crime.

Therapeutic interventions

- All specialist services need to be working with victims in an intersectional, feminist and gender-responsive way.
- Professionals must probe for abuse, including forced marriage, when a young person presents with mental health issues.
- Safety planning should address both internal and external circumstances—for example, the state of a victim's mental health and the psychological burden of the coercion. Holistic responses, such as body therapy and group work, should be provided to address the effects of trauma on the body.
- The needs of gendered violence survivors are best met via services that are survivor-centred, gender-specific and trauma-informed and that give victims decision-making autonomy. A trauma-informed perspective means practitioners are alert to the power dynamics of the nexus between forced marriage and family abuse in a particular relationship and context, the impact this has on victims and those victims may have coped with it.

About the authors

Sundari Anitha is Professor of Gender, Violence and Work at University of Lincoln, UK. Her research interests lie in two areas: the problem of violence against women and girls (VAWG); and gender, race and ethnicity in employment relations. She has published widely in both areas. She has previously managed a Women's Aid refuge and is a trustee of Asha (a 'by and for' domestic abuse service for South Asian women) and has been engaged in activism and policy-making to tackle VAWG for over two decades. She is Associate Editor of Women's Studies International Forum, and serves on the editorial boards of Violence Against Women and British Journal of Criminology. She was a member of the REF2021 Sociology sub panel.

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