

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

**Research Response Number:** GBR31236  
**Country:** United Kingdom  
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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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**Questions**

- 1. What measures have been adopted by the British authorities to combat domestic violence, particularly in the South Asian community? Have these measures been effective?**
- 2. What measures have been adopted by the British authorities to fight against crimes of honour and to punish the perpetrators (please refer to criminal law provisions, if any)? Have these measures been effective?**
- 3. Are holders of British passports entitled to enter, reside and work in any of the other European Union countries?**

**RESPONSE**

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There are numerous recent reports examining the issue of domestic violence in Britain in general; and in particular forced marriage and “crimes of honour” among the South Asian and other immigrant communities. The reports indicate that there have been a number of recent measures adopted by the British authorities to address these issues. These include legislation such as the *Domestic Violence, Crime and Victims Act, 2004* which revised the definition of a perpetrator of domestic violence to include any family member (plans for a specific law on forced marriage were dropped as it was believed that the existing legislation was adequate); the setting up of a government Forced Marriage Unit which deals with over 250 cases a year and which has consulted with a wide range of groups in formulating its approaches; and

support for women's shelters for women from South Asian and other communities who are fleeing violence and forced marriages. It is not clear how effective these measures have been overall, since there continue to be cases of general violence against women, and an unknown number of forced marriages continue to take place. However, reports indicate that government and other assistance is available to those women who seek protection from violent family situations. There have also been some successful prosecutions of perpetrators of domestic violence or forced marriage; and some cases where potential victims were successfully afforded legal protection against a forced marriage.

The 2005 US Department of State report on the United Kingdom states in its section on Women:

The law prohibits domestic violence against women, including spousal abuse, and the government strictly enforced the law with penalties ranging up to life imprisonment. Nonetheless, violence against women continued to be a problem. According to the Home Office, two women per week died from domestic violence in England and Wales, which accounted for 16 percent of all violent crime. The Home Office's crime statistics for April 2004 through March recorded 24,120 indecent assaults on women. The law provides for injunctive relief, personal protection orders, and protective exclusion orders (similar to restraining orders) for women who are victims of violence.

The law, which was enforced strictly, criminalizes rape, including spousal rape, and provides substantial penalties ranging up to life imprisonment. The Home Office's crime statistics for April 2004 through March recorded 14,002 rapes of women. The government provided shelters, counseling, and other assistance for victims of battery or rape and offered free legal aid to battered women who were economically reliant on their abusers.

While the law makes it a crime to practice female genital mutilation, or to assist another person in its practice, either domestically or abroad, NGOs reported that the practice continued in isolated incidents among immigrant communities during the year. In May the Scottish Parliament passed the "Prohibition of Female Genital Mutilation (Scotland) Act 2005," providing similar definitions and punishments as in the laws for England and Wales.

While the government does not collect statistics on "honor killings," it has identified 12 such cases in the past 5 years. In November a Bangladeshi father and his two sons were sentenced for up to 20 years' imprisonment for killing an Iranian after learning that his daughter, whom he had already promised to marry to someone else, had become pregnant by the victim (US Department of State 2006, *Country Reports on Human Rights Practices 2005: United Kingdom*, 8 March – Attachment 1).

In recent years, the UK Government's Foreign and Commonwealth Office, in conjunction with other government departments, set up a Forced Marriage Unit which deals with about 250 cases a year. Its website states that it works with consular staff in overseas countries to assist victims who have been taken overseas for a forced marriage; and conducts outreach exercises in target communities in the UK. One case study quoted on the website gives an example of the work of the Unit:

M, aged 23, wanted to marry a Bangladeshi man whom she had met whilst he was visiting family in the UK. Her family objected and M was regularly beaten. Her family wanted her to marry a cousin in Bangladesh.

On 10 July 2002, M went to Bangladesh and married her boyfriend a few days later. After the marriage, she contacted her family who then managed to trace her in Bangladesh. They convinced her to go to their home village as it was traditional for a girl to return to her parents and then be

returned to her husband in an honourable way. However, once she went with them, they locked her up in a house. She was told she would not be allowed to leave until she divorced her husband and married the person they had chosen for her.

M's husband found her and took legal action in a magistrate's court to try to obtain her release. He heard that M had been subjected to physical abuse, was unwell and not receiving medical treatment. M's family threatened to kill her husband if she told the court that she was being held against her will. M therefore said that she did not want to go with her husband.

M's husband did not give up. He contacted the Forced Marriage Unit. We liaised with the British High Commission in Dhaka, who contacted a local Non Government Organisation (NGO) that helps with many cases of forced marriage. The NGO and its lawyers submitted a Habeas Corpus petition to court, demanding M's release. The lawyer requested that the court allow her husband to speak to her privately. The judge agreed and M had a chance to speak to her husband who persuaded her that her only chance was to speak up in court and to say that she wanted to go with him. She found the courage to do this and the judge had no option but to release her. M's lawyer insisted on a police escort to Dhaka where M and her husband were taken to the High Commission. They have since returned to the UK together ('Travel Advice: Forced Marriage Unit (FMU)' (undated), Foreign and Commonwealth Office website, <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1094234857863> – Accessed 2 February 2007 – Attachment 2).

A Forced Marriage website has also been set up as a joint exercise between the Foreign and Commonwealth Office, the Home Office, and the National Health Service, at <http://www.forcedmarriage.nhs.uk/>. It provides advice and contact numbers to victims and potential victims. One page on the site provides information on the legal situation <http://www.forcedmarriage.nhs.uk/thelaw.asp>; and another gives advice to employers and teachers on warning signs in victims <http://www.forcedmarriage.nhs.uk/warning.asp>. The Home and Foreign and Commonwealth Offices have also collaborated with the Association of Chief Police Officers to issue guidelines for police who deal with cases of forced marriage [http://www.lbp.police.uk/publications/dealing\\_with.htm](http://www.lbp.police.uk/publications/dealing_with.htm).

Two recent documents published by the Foreign and Commonwealth Office and the Home Office are attached.

A 2005 report called *Forced Marriage: A Wrong Not a Right* is a consultation document which invites responses from concerned groups, and looks in detail at the issue, weighing up the advantages of creating a "specific criminal offence relating to forced marriage" [the government eventually decided not to create this offence, as will be seen in further reports below]. It also examines the non-legislative options already available, such as working with police, community groups, the health sector and religious elders. The section entitled "What is Forced Marriage?" summarises all the relevant legislation that is currently available in the United Kingdom, including the marriage laws of England, Wales and Scotland; and criminal laws dealing with kidnapping, child abduction, false imprisonment, assault and battery, threats to kill, public order offences, harassment, child cruelty, sexual offences, blackmail and others. It states that children under seventeen who are in danger of forced marriage are entitled to statutory protection under the *Children's Act 1989*. Of the legal protection of adult victims, the report states:

The options available for the protection of vulnerable adults are limited and will depend on the nature and definition of the "vulnerability". One course of action is to apply to the court through a "next friend" under the inherent jurisdiction of the court. The court then makes a "next friend" declaration on behalf of the vulnerable adult. This can lead to injunctions and other steps relating

to the protection including barring from overseas travel or from undertaking a marriage etc. Other provisions of the Mental Health Act 1983 may also apply in certain specific cases.

In the recent *Re S.K.* judgement, the Family Division of the High Court used its inherent jurisdiction to protect an adult at risk of forced marriage. In that case the court gave directions to ascertain whether or not the victim had been able to exercise her free will in decisions concerning her civil status and her country of residence by requiring that she be seen by an appropriate official at the British High Commission overseas. These directions were accompanied by injunctive relief against named parties prohibiting them from threatening, intimidating or harassing her or using violence against her, an injunction against a marriage ceremony taking place. Where the whereabouts of a person (including a child) are unknown “bench orders” or other directions can be made to secure the attendance of persons who have that knowledge at court to provide information about her whereabouts. In doing so the court set a precedent that it could intervene to help vulnerable people in these circumstances outside the narrow criteria of childhood and vulnerability previously understood.

Victims can also obtain non-molestation orders through the civil courts, with powers of arrest in appropriate cases. The range of people against whom such orders can be obtained is extensive (Foreign & Commonwealth Office and Home Office 2005, *Forced Marriage: A Wrong not a Right*, 5 September, <http://www.fco.gov.uk/Files/KFile/forcedmarriageconsultation%20doc.pdf> – Accessed 1 February 2007 – Attachment 3).

Of the prevalence of forced marriage, the report states:

Forced marriage is in many ways a hidden problem. Many victims do not realise that they are the victims of a human rights abuse; many will never ask for help. As such it is difficult to know the extent of the problem. The Forced Marriage Unit deals with approximately 250 forced marriage cases a year, but we know many more cases exist that are not reported. Approximately 15% of these cases involve male victims. The Unit are aware of cases from Pakistan, Bangladesh, India, Yemen, Mauritius, Turkey, Sri Lanka, Tanzania, El Salvador, Somalia, Mali, America and Hong Kong. Over half the cases reported to us involve families of Pakistani origin. The next largest group are Bengali, followed by Indian families. This list of countries is not exhaustive and we suspect that there many other communities experience problems of forced marriage (Foreign & Commonwealth Office and Home Office 2005, *Forced Marriage: A Wrong not a Right*, 5 September, <http://www.fco.gov.uk/Files/KFile/forcedmarriageconsultation%20doc.pdf> – Accessed 1 February 2007 – Attachment 3).

A 2006 report summarised the responses to the above document. It quotes an instance of successful legal protection of a victim (p.2), and contains a useful chart summarising the relevant legislation, which includes reference to the *Domestic Violence, Crime and Victims Act, 2004* (p.6). It also includes graphs of the prevalence of forced marriage (p.15-16). The report states that when the *Domestic Violence, Crime and Victims Act, 2004* was being examined in parliament, one of the initiatives that developed out of it was the decision to run a consultative process to decide whether the existing laws were adequate for dealing with forced marriage (p.11) (Foreign & Commonwealth Office, Scottish Executive, and Home Office 2006, *Forced Marriage: A Wrong not a Right: Summary of Responses*, 7 June, <http://www.fco.gov.uk/Files/KFile/05062006%20Final%20FM%20Report%20NJA.pdf> – Accessed 2 February 2007 – Attachment 4).

The contents page of the *Domestic Violence, Crime and Victims Act, 2004* is attached, and the full 98 page document is linked electronically (United Kingdom Government 2004, *Domestic Violence, Crime and Victims Act, 2004*, 15 November, [http://www.opsi.gov.uk/ACTS/acts2004/ukpga\\_20040028\\_en.pdf](http://www.opsi.gov.uk/ACTS/acts2004/ukpga_20040028_en.pdf) – Accessed 2 February – Attachment 5).

A 2004 news report about the *Act* states that it was “the biggest overhaul of domestic violence legislation for thirty years and heralds tough new powers for the police and the courts to tackle offenders, while ensuring victims get the support and protection they need”. Key provisions included:

- \* Making common assault an arrestable offence.
- \* Significant new police powers to deal with domestic violence including making it an arrestable, criminal offence to breach a non-molestation order, punishable by up to five years in prison.
- \* Strengthening the civil law on domestic violence to ensure cohabiting same-sex couples have the same access to non-molestation and occupation orders as opposite sex couples, and extending the availability of these orders to couples who have never lived together or been married.
- \* Stronger legal protection for victims of domestic violence by enabling courts to impose restraining orders when sentencing for any offence. Until now, such orders could only be imposed on offenders convicted of harassment or causing fear of violence.
- \* Enabling courts to impose restraining orders on acquittal for any offence (or if a conviction has been overturned on appeal) if they consider it necessary to protect the victim from harassment. This will deal with cases where the conviction has failed but it is still clear from the evidence that the victims need protecting.
- \* Putting in place a system to review domestic violence homicide incidents, drawing in the key agencies, to find out what can be done to put the system right and prevent future deaths.
- \* Providing a code of practice, binding on all criminal justice agencies, so that all victims receive the support, protection, information and advice they need.
- \* Allowing victims to take their case to the parliamentary ombudsman if they feel the code has not been adhered to by the criminal justice agencies.
- \* Setting up an independent commissioner for victims to give victims a powerful voice at the heart of government and to safeguard and promote the interests of victims and witnesses, encouraging the spread of good practice and reviewing the statutory code (‘Domestic violence, crime and victims bill receives royal assent’ 2004, *LGCnet*, 24 November – Attachment 6).

The following news reports from the last two years deal with issues of domestic violence, forced marriage, and crimes of honour.

An October 2006 report discusses women’s “safe houses” where victims can find refuge. Some of these are in secret locations which do not advertise their presence, because of the danger of violent relatives and “bounty hunters” harassing the women. One refugee had handled 86 new cases in 2005. The report mentions that Scotland Yard had re-opened several murder cases “to check whether they involved honour killings”. In one case, the brother and cousin of a murdered woman were jailed for life “after murdering her because they disapproved of the man she wanted to marry”. Several other cases of forced marriage are described (Judd, Terri 2006, ‘Give me shelter’, *The Independent*, 14 October – Attachment 7).

An August 2006 report mentions that proposals to outlaw forced marriage had now been dropped. There were fears that this would drive the problem underground, as young women

would be afraid to complain in case their parents were prosecuted. However, several spokesmen disagreed with this view and still felt it should be criminalised. The article refers to several community groups which help victims, such as the Southall Black Sisters, and the Karma Nirvana Asian Women's Project in Derby "which deals with an average of seven new cases of forced marriage a week" (Freen, Alexandra 2006, 'The Britons who are forced into marriage', *The Times*, 30 August – Attachment 8).

A July 2006 report refers to cases where a woman who had been involved in an arranged (as opposed to a forced) marriage successfully sued her in-laws for mistreatment (Sulaiman, Tosin 2006, 'Mother-in-law made to pay £35,000 for inflicting four wretched months', *The Times*, 25 July – Attachment 9).

A September 2005 report discusses the case of a woman living in a refuge after fleeing a forced marriage, who lived in fear of "being tracked down by a bounty hunter – a modern-day hired gun employed by those who feel a woman has brought 'dishonour' on her family". The report states that "police are currently reviewing the deaths and disappearance of more than 120 young Asian women to establish whether they were the victims of honour killings. Police, working alongside the Crown prosecution service, hope that the review will establish the true scale of this crime" (Stanistreet, Michelle 2005, 'Women snared into marriages from hell', *The Express on Sunday*, 11 September – Attachment 10).

Another 2005 report discusses a two day conference on honour killings, organised by the British police and the interior ministry. The commander of the London police stated that they were the first police force in the world "specifically to target honour base crimes such as beatings, banishment and murder". The report states:

Metropolitan Police Commissioner Ian Blair, Britain's top policeman, said a recent crackdown on domestic violence in London had seen murders drop by 20 cases over the past year, and that he hoped to translate this success to honour crimes by teaching officers to spot tell-tale signs of intimidation.

Police also planned to increase special six-strong teams of community-based officers around London, and intended to meet that community's needs, from 100 groups to 650 in the next two to three years, Blair told the conference.

"This is policing moving into new territory," he said.

"We have to be resolute and courageous to do this because we are treading in areas where it has not been normal for a Western police service to go.

"But this is a multicultural city, this is probably the most diverse city on the planet and all of our communities need and require protection" ('British police step up fight against "honour killings"' 2005, *Agence France Presse*, 22 March – Attachment 11).

A 2002 *BBC News* report is of interest. It states that a young woman had won a court battle to have her forced marriage annulled ('Forced marriage annulled' 2002, *BBC News*, 23 April, [http://news.bbc.co.uk/2/hi/uk\\_news/scotland/1946135.stm](http://news.bbc.co.uk/2/hi/uk_news/scotland/1946135.stm) - Accessed 2 February 2007 – Attachment 12).

### 3. Are holders British passports entitled to enter, reside and work in any of the other European Union countries?

A recent RRT Research Response looked in detail at the question of whether an EU national has the right to enter, reside and work in another country within the EU. The sources consulted indicated that generally within the European Union, nationals from member countries have the right to enter, seek work, and continue to work within other member countries. In some countries there are restrictions on the kinds of business interests that can be pursued. As long as they are working in a country, they have the right to reside there, and in general may continue to do so while they have the means to support themselves. However, the right to *permanent* residence and to related social benefits, varies from country to country, and usually seems to be granted after a number of years of working and residing temporarily within the country. Some further restrictions apply to nationals from countries that have recently joined the EU [in this particular case, the applicant was from Slovakia] but this would not apply to a British national. Please see the full response for detailed information on freedom of movement, work rights, and residence (RRT Country Research 2006, *Research Response SVK31113*, 11 December – Attachment 13).

#### List of Attachments

1. US Department of State 2006, *Country Reports on Human Rights Practices 2005: United Kingdom*, 8 March.
2. ‘Travel Advice: Forced Marriage Unit (FMU)’ (undated), Foreign and Commonwealth Office website, <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&cid=1094234857863> – Accessed 2 February 2007.
3. Foreign & Commonwealth Office and Home Office 2005, *Forced Marriage: A Wrong not a Right*, <http://www.fco.gov.uk/Files/KFile/forcedmarriageconsultation%20doc.pdf> – Accessed 1 February 2007.
4. Foreign & Commonwealth Office, Scottish Executive, and Home Office 2006, *Forced Marriage: A Wrong not a Right: Summary of Responses*, 7 June, <http://www.fco.gov.uk/Files/KFile/05062006%20Final%20FM%20Report%20NJA.pdf> – Accessed 2 February 2007.
5. United Kingdom Government 2004, *Domestic Violence, Crime and Victims Act, 2004*, 15 November, [http://www.opsi.gov.uk/ACTS/acts2004/ukpga\\_20040028\\_en.pdf](http://www.opsi.gov.uk/ACTS/acts2004/ukpga_20040028_en.pdf) – Accessed 2 February 2007.
6. ‘Domestic violence, crime and victims bill receives royal assent’ 2004, *LGCnet*, 24 November. (FACTIVA)
7. Judd, Terri 2006, ‘Give me shelter’, *The Independent*, 14 October. (FACTIVA)

8. Freat, Alexandra 2006, 'The Britons who are forced into marriage', *The Times*, 30 August. (FACTIVA)
9. Sulaiman, Tosin 2006, 'Mother-in-law made to pay £35,000 for inflicting four wretched months', *The Times*, 25 July. (FACTIVA)
10. Stanistreet, Michelle 2005, 'Women snared into marriages from hell', *The Express on Sunday*, 11 September. (FACTIVA)
11. 'British police step up fight against "honour killings"' 2005, *Agence France Presse*, 22 March. (FACTIVA)
12. 'Forced marriage annulled' 2002, *BBC News*, 23 April, [http://news.bbc.co.uk/2/hi/uk\\_news/scotland/1946135.stm](http://news.bbc.co.uk/2/hi/uk_news/scotland/1946135.stm) - Accessed 2 February 2007.
13. RRT Country Research 2006, *Research Response SVK31113*, 11 December.