DAPHNE II Project

Female Marriage Migrants: Awareness Raising and Violence Prevention

European Commission
Gender, Marriage Migration and Justice in Multicultural Britain

Brief Conference Summary

WORKSHOP 3

Roehampton University, London
European Commission

PROGRAMME

Gender, Marriage Migration and Justice in Multicultural Britain

London, 12th January 2006

* All Refreshments will be available in the Richmond Room

Thursday, 12th January

08.45 – 09.30 Registration and *Refreshments

09.30 – 09.45 Welcome and Introduction by Professor Paul O’Prey, Vice Chancellor, Roehampton University (GO36, Gilbert Scott) and Nathalie Schlenzka, Berlin Institute for Comparative Social Research (BIVS).

09.45 – 10.00 Keynote Address: Hannana Siddique: Southall Black Sisters
10.00 – 10.45  Panel Discussion: **Crimes against Women across Gendered Borders**

*Chair: Dr Aisha Gill (Roehampton University)*

Professor Giovanna Campani, Universita degi Studi di Firenza
Dr Marzia Balzani, Roehampton University
Naomi Abigail, Joint Home Office/Foreign Office Forced Marriage Unit, UK
Marika Grethe, Berlin Institute for Comparative Social Research (BIVS)

10.45 – 11.05  Question & Answer Session

11.05 – 11.30  *Coffee Break*

11.30 – 12.30  **2 Parallel Sessions of Workshop Papers (in each session presentations will be 15 minutes in length, followed by a discussion of 30 minutes)**

**Session 1: (G036) Gender, Culture and Immigration Law**

*Chair: Dr Aisha Gill (Newham Asian Women’s Project)*

1. South Asian Women in the UK and the Law
Kaveri Sharma, London Metropolitan University

2. Immigration Law, Minority Women and Social Welfare Rights
Kate Lewis, Joint Council for the Welfare of Immigrants
Session 2: (Ponsonby Room) Gendered Violence and Refugee Law

Chair: Dr Simona Zavratnik (University of Primorska, Slovenia)

1. Refugee Women and Protection

Elaheh Rambarzini, Refugee Council

2. Rights of Women Seeking Asylum

Debora Singer, Asylum Aid

12.30 – 13.15 *Lunch

13.15 – 13.30 Keynote Address: Alison Stanley, Solicitor, Head of the Immigration Department, Bindman & Partners (GO36, Gilbert Scott)

13.30 – 14.20 Panel Discussion: Race, Gender and State Interventions: Exploring the Tensions

Chair: Professor John Eade (CRONEM)

Cassandra Balchin, Women Living Under Muslim Laws

Professor Roger Ballard, University of Manchester

Dr Amrit Wilson, University of Huddersfield

Corinna Ter-Nedden, Papatya

14.20 – 15.20 2 Parallel Sessions of Workshop Papers (in each session presentations will be 15 minutes in length, followed by a discussion of 30 minutes)
Session 3: (Gilbert Scott) Gender, Marriage and Justice in Multicultural Society

Chair: Nathalie Schlenzka (Berlin Institute for Comparative Social Research)

1. Sharia Councils and Resolving Matrimonial Disputes: Justice Under the Shadow of Law?
Dr Samia Bano, University of Reading

2. Civil and Criminal Justice Protection for Women Subject to Immigration Control
Poonam Joshi, Gender Policy Advisor, Amnesty International

Session 4: (Ponsonby Room) Forced Marriage as Gendered Violence

Chair: Dr Amrit Wilson (Imkaan)

1. Protecting Youth and Controlling Immigration: Danish Action Plan on Forced Marriages and its Impacts
Farwha Nielson, Lokk (Denmark)

2. Challenging Ourselves in Addressing the Needs of Immigrant Women
Shaminder Ubhi, Ashiana Project

15.20 – 15.40 *Coffee Break

15.40 – 16.10 Feedback of Key Points/Recommendations from Seminars

16.10 – 16.25 Closing Remarks: Dr Aisha Gill
Gender, Marriage Migration and Justice in Multicultural Britain

Roehampton University, Whitelands College, London
12 January 2006

The conference will feature national & international experts on key areas of women’s rights, immigration law and domestic violence.

The panels and discussion groups will focus on three sub-themes: inequalities in EU legislation on family reunification, violence & security and marriage rights.

Further information contact:
Dr Aisha Gill
A.Gill@roehampton.ac.uk
Opening of the Conference

Chair Dr Aisha Gill

Dr Gill welcomed participants to the conference by setting out the key conference aims of the day:

- To discuss legal strategies for addressing violence against minority women in the UK
- To discuss the legal remedies determining the status of ‘female marriage migrants’ and the impact of EU legislation
- To develop and identify campaigns for the rights of migrant women

The conference featured national & international experts on key areas of women’s rights, immigration law and domestic violence. The panels and discussion groups focused on three sub-themes: inequalities in EU legislation on family reunification, violence & security and marriage rights.

Workshop sessions were held on the following themes:

- gendered violence and refugee law
- gender, trafficking and transnational labour
- gender, culture and immigration law
- forced marriage as gendered violence

The Gender Marriage Migration Conference in London was then formally opened by Professor Paul O’Prey (Vice Chancellor of Roehampton University). Professor O’Prey mentioned that the Conference on Female Marriage Migrants was important one in addressing social exclusion and citizenship rights within and across societies and across gendered borders. He then went on to thank the Berlin Institute for Comparative Social Research (BIVS) for hosting the co-ordination and partner meeting in London and all the funders and staff at Roehampton University.

Keynote Address: Violence against Women in Black and Minority Ethnic Communities and Immigration Law by Hannana Siddique: Southall Black Sisters

Hannana Siddique started her presentation with a brief overview of Southall Black Sisters (SBS) who have led campaigns and policy work to reform immigration and asylum law for over 13 years in order to assist victims of domestic violence. In particular, its demands have centred on the ‘two-year rule’ (previously the ‘one-year rule’) – an immigration law which requires overseas spouses/partners of UK nationals or those with settlement rights in the UK to remain in the marriage/relationship for a probationary period of two years before being eligible for indefinite or permanent leave. Siddique emphasised that current
immigration controls entrap many women (and children) in domestic violence situations as their right to remain in the UK is dependant on their marriage/relationship. In addition, these women have no recourse to public funds, which is most social security benefits and housing under the Housing Act 1996, and which serves to deny victims of domestic violence access to basic housing services, including refuges, and financial support. Thus women experiencing domestic violence and subject to the two-year rule often face a stark choice: to stay within the marriage/relationship and risk their lives, and those of any children they have, or leave and face deportation and destitution.

Siddique outlined the concessions for victims of domestic violence subject to the probationary period, which were incorporated into the immigration rules in 2002, which enabled victims to permanently remain in the UK if their marriage/relationship ends due to domestic violence. This rule is commonly known as the ‘domestic violence immigration rule’. Although there have been problems with the standard of proof to show domestic violence, which was initially set at a very high level, and although there is more to be done on this and other fronts (such as extending the rule to other categories of victims subject to immigration control and to improve the recognition of gender persecution in asylum law), further reforms have improved this situation. This reform has made significant difference to lives of many women and children subject to immigration control by enabling them to escape without the fear of deportation. However, the Government has limited the full effectiveness of this reform by refusing to allow victims access to public funds, many of whom remain economically dependant on a violent sponsor.

Siddique also referred to the range of work at SBS which has taken place at many levels, including service provision and anti-deportation campaigns for women and children, research, policy initiatives, and national campaigns and lobbying, which has received widespread support from black and minority women’s and other women’s groups, a range of statutory and voluntary agencies, unions, politicians, the media and the general public. She also informed delegates that in 2004, SBS was instrumental in campaigning for amendments to the Domestic Violence, Crime and Victims Bill, which created enough pressure on the Government to announce further reforms on the types of acceptable evidence to prove domestic violence and to give limited funds to the Women’s Aid Last Resort Fund (which are now exhausted). Despite cross party support for the amendments, the Government resisted giving an exemption to the no recourse public funds rule to victims of domestic violence on the grounds that it would “undermine the integrity of the immigration and benefit rules”- in other words, open the floodgates to other claimants subject to immigration control.

Concluding her key note address, Siddique expressed concern that the domestic violence immigration rule cannot be fully effective without the abolition or reform of the restriction on recourse to public funds in the UK. Her recommendation was that women fleeing domestic violence must be entitled to claim essential welfare social security and housing benefits.
Plenary 1: Crimes against Women across Gendered Borders

The first plenary of the conference was chaired by Dr Aisha Gill.

The first speaker was Professor Giovanna Campani, Universita degli Studi di Firenze. She analysed the dichotomy tradition/modernisation, contrasting forms of oppression of migrant women, depending from the tradition, with new forms of oppression depending from the “post-modern” migratory context. The case of female marriage migrants who came to Italy as mail ordered brides or spouses of sex-tourists, illustrated new forms of gender oppression.

She emphasised that family reunification is not any more the main way for women to migrate, as it was in the sixties or seventies. Settled ethnic communities in old immigration countries like Great Britain, Germany and France, are composed by families, where different generations coexist, trying to cope with their cultural differences and their multiple identities. In this complex context, gender must be considered together with other categories like ethnicity: women’s trajectories in migration vary according to the ethnic groups, the “age” of the flows, the changing labour market, the integration policies in the receiving country.

She discussed the way the importance marriage and family as basic dimensions in order to understand gender roles and gender functions in migration. In the present complex context, it is, however, difficult to define the main issues that marriage and family represent: the right to be with their own family is denied to thousands of women coming for work purpose in Western Europe, forced to accept jobs in services to private persons (as live-in maids) that offer no possibility of independent life; at the same time, traditional customary practices give women subordinated roles in the choice of the husband and in family life in many ethnic communities settled in Europe, while the critics of multiculturalism take the opportunity to propose neo-assimilation’s models; marriage can even become a migration gate to enter Fortress Europe, while sex tourism creates new forms of gender oppression, based as well on the West/South, rich-developed world/poor-underdeveloped world dichotomy.

Dr Marzia Balzani, Roehampton University - ‘Honour Killings’: an anthropological perspective

Dr Balzani presentation focused on what has become popularly known as ‘honour killing’ from an anthropological perspective. Preliminary thoughts about discursive formations and research practices were discussed and contributed to clarifying ways in which gendered violence may be conceptualized and towards formulating questions that can guide both academic research and practical action. She highlighted the way in which language and the strategic misrepresentations of ‘honour’ killings in the media had recently produced sensationalized headlines of the murder of South Asian women in Britain.

3 Professor Giovanna Campani, Universita degli Studi di Firenze.
4 Dr Marzia Balzani, Senior Lecturer in Social Anthropology, Roehampton University.
Dr Balzani concluded her paper by emphasising that, while it is clear that more research into gendered violence and more resources for women was needed, there was also a need to acknowledge and conduct research on the majority of British Asians who consider ‘honour’ based violence to be wholly unacceptable.

Naomi Abigail\footnote{Naomi Abigail has worked on the development a number of high profile government policies, and joined the FCOs Forced Marriage Unit in 2005 to lead on “Forced Marriage – A wrong not a right” the Government’s consultation on the potential criminalisation of forced marriages.}; Joint Home Office/Foreign Office Forced Marriage Unit, UK.

Forced Marriage – A wrong not a right” The work of the Forced Marriage Unit in the UK and overseas, charted the developments of the Forced Marriage Unit in London since June 2000, when an official Home Office report “A choice by Right”, highlighted forced marriage, the government since then has been working to help victims of forced marriages in the UK and overseas through casework, awareness raising and developing policy. She also discussed the recent launch of Forced Marriage Unit, a joint venture by Home Office and Foreign Office officials. She reported that the unit currently deal with around 300 individuals per year, probably only a small portion of the actual number of cases of this hidden problem. The UK team liaise with consular staff overseas who carry out missions all around the world to rescue and repatriate British citizens; young men and women who are forced into marriages and often fall victim to subsequent physical abuse, rape and emotional torment.

Naomi also informed delegates about the nation-wide consultation “Forced Marriage – A wrong not a right” which had been completed in December 2005 - with an overwhelming number of responses. She stated that the analysis of these responses will inform ministers in their decision of whether to create a new criminal offence of forcing someone to marry later in 2006. In the mean time, a national publicity campaign was due to be launched in April 2006, based on a number of moving forced marriage case studies. Naomi concluded her presentation with informing delegates that the national campaign on forced marriages in the UK intends to increase awareness of the help available to individuals forced into marriage, empower victims to actively seek help and to educate families about the legal and emotional implications of forced marriages in the UK.
**Morning Workshops and Seminars**

There were sessions on ‘South Asian Women in the UK and the Law’; ‘Immigration Law, Minority Women and Social Welfare Rights’ and ‘The Rights of Asylum Seeking Women’. The seminar was chaired by Dr Aisha Gill.

Kaveri Sharma, London Metropolitan University, South Asian Women in the UK and the Law, spoke about the lack of research into women experiencing domestic violence and how they were dealt with by the legal system and where are the gaps in the law and its approach towards dealing with domestic violence generally and with particular reference to ethnic minority communities in the UK. She presented some of her research findings about the South Asian women experiences of domestic violence, the role of the legal system when offering them relief in the form of legal remedies. The paper drew on the information gathered in detailed interviews with solicitors, conducted in East and South-West London. Kaveri’s initial findings suggest that while there is still a significant difference in the issues that South Asian survivors of violence bring to the lawyers, the legal remedies are tailor-made and limited in their scope in what they offer.

Kate Lewis from Joint Council for the Welfare of Immigrants (JCWI) Immigration Law, Minority Women and Social Welfare Rights, talked about her work as a casework barrister supporting minority women with their immigration status in the UK. Lewis presented different immigration statuses that a female migrant could have and then explored right to access to different rights. She particularly drew out some of the problems that minority women are likely to encounter in obtaining settled status in the UK, accessing the job market and derivative rights, accessing financial assistance, and medical healthcare assistance. Kate also expanded on the issue by reflecting briefly on the comparison between the situation of marriage migrants entering primarily for the purposes of marriage and women who enter primarily for the purposes of work under the managed migration programme. In respect of domestic violence Kate argued that some important positive changes have been incorporated into the Immigration Rules, which allow women (and men) who suffer domestic violence from a British or settled spouse during what is known as the probationary period (period prior to grant of permanent residence) to be granted settled status if certain conditions are satisfied. However, she also pointed out that the positive changes that have been brought about in the UK do not in any way go far enough to address the issues that this vulnerable group of people face.

In concluding her paper, Kate Lewis made a series of recommendations for the conference organisers to take forward on behalf of JCWI:

- Legal representatives need access to information and training around this issue so that they can represent victims of domestic violence both in their immigration case and in any community care matter they have.

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6 Kaveri is a currently a doctoral student at London Metropolitan University.
7 Kate Lewis has been involved in immigration and asylum law for over ten years and has been working at JCWI for over three years.
• Resources need to be more available to representatives and community organisations about the Last Resort Fund, charitable assistance and other organisations who can assist this group.
• Training to increase sensitivity of people working within Government and local Government and even people within the minority communities to cultural and legal issues that a victim of domestic violence with immigration problems will face over and above her British or settled counterpart
• Strategic legal challenges targeting EEA national victims of DV and their immigration position
• Campaigning to expand the scope of the domestic violence rule to include overstayers, illegal entrants and spouses of people with limited leave to remain in the UK
• Campaigning to obtain equality of treatment for spouses of EEA nationals
• That the Government allow access to public funds for spouses in the two year probationary period
• Free access to NHS primary and secondary healthcare for anyone who has suffered domestic violence
• Consideration of what access migrant workers can have to top-up welfare benefits in the event of short term unemployment and sickness

Debora Singer: Asylum Aid, The rights of asylum-seeking women

Deborah Singer provided a short summary of her workshop on women seeking asylum, women seeking protection. The workshop discussed the procedural and practical difficulties in relation to gender – specific persecution, women are often not believed. Additionally, the process is not sensitive to the needs of women, for example the traumatisation that women who have experienced rape or other sexual violence may feel is not individual crime, rather than a political crime (or weapon) and women are regularly told they should simply return to a different part of the country (as opposed to men) (also known as internal flight alternative (IFA) to return to another part of the country, particularly if they are single or lone parents. Often there is inadequate information about what is happening to women in particular countries and a consequent lack of evidence which can be used in asylum claims. Thus for a range of reasons, it can be more difficult for women than to make asylum claims in the UK.

In relation to trafficking the workshop noted that whilst there are initiatives against trafficking, the Government often views it as an immigration issue, rather than an issue of protecting the trafficked women. However in 2004 the Home Office adopted Gender Guidelines, following sustained lobbying from the women’s sector, which set out best practice for responding to women refugee claimants. Guidance includes same sex interviewers and interpreters when questioning women about their experiences of violence, and the reasons for their claims.

8 The Refugee Women's Resource Project was set up in 2000 at Asylum Aid, a registered charity which provides free legal representation and advice to asylum seekers and refugees. The project aims to enable women fleeing serious human rights violations to gain protection in the UK.
Key issues and recommendations which emerged from the workshop included the need to challenge the hierarchy of protection from women from violence based on their citizenship or immigration status. All women should have similar protections from violence. The Government should also provide greater protection to women from violence in the context of asylum. A further list of recommendations is provided on page 23.

**Question and Answer Session**

A. To what extent can and should the relationship between family and state be reconceived in such a way that national or international law can be more effectively mobilized to protect the autonomy of individual family members within family relations?

**Brief response from delegates**

1. The state has ultimate responsibility for protecting the human rights of its citizens and (importantly) its residents. It appears that, within the UK, this is taken seriously – there does not appear to be bias in the legal system towards protecting the family unit over and above the rights of its individual members. Some of the more apparent problems lie within or between the institutions for social services and the police. I.e. not enforcing protection orders; lack of information in the police force about what services are available for domestic violence survivors.

2. Tradition itself is shaped by politics, so these conflicts must clearly be seen as political, although they are sometimes within the framework of culture.

3. Individual family members need to be recognised in their own right in relation to immigration status e.g. wives should be given indefinite leave to remain on the point of entry, gender inequalities must be recognised e.g. in asylum law and gender persecution.

4. Children are already treated differently if regarded in need of child protection and can end up in the position where mothers are deported leaving their children behind. On the other hand under the Hague convention they can be forced into the custody of a violent/abusive parent in another country.

5. There needs to be a negotiable balance – that is the governments across Europe still need to intervene to be able to create mechanisms of safety for women.

B. To what extent can and should conflicts between individual women and ‘tradition’ be defined in political rather than cultural terms?

**Brief response from delegates**

1. Do these need to contradict? In the UK, there are widespread beliefs that conceal and condone violence against women – e.g. that a woman is partially to
blame for rape if she behaved in a flirtatious manner. This is a cultural problem and a political problem. The same is true for traditions of immigrant/ethnic communities – if the tradition violates a woman’s human rights, it is a problem, and it is a problem with both political and cultural dimensions.

2. Most capitalist state’s deal directly with the individual rather than the family, this should be brought to bear.

3. Tradition itself is shaped by politics, so these conflicts must clearly be seen as political, although they are sometimes within the framework of culture.

4. Can and should be discussed in political terms. Needs to be an interrogation of consequences of constructions of ‘tradition’.

C. What are the possible strategies for the improvement of the legal status of ‘female marriage migrants’?

Brief response from delegates

1. Make social benefits open to women who have experienced domestic violence; make it possible for a woman to stay in the country if she leaves a violent partner *after* the two-year probationary period (i.e. in cases where she has not already applied for an indefinite leave to remain).

2. The inequality of women needs to be recognised on marriage. Ideally they should be given indefinite leave to remain when they enter this country as wives and have recourse to public funds. I think this is highly unlikely to happen however – the domestic violence exemption should include recourse to public funds and should be extended to include domestic and sexual slavery which would cover women who enter as ‘mail order brides’ and women who enter where marriage has been forced.

3. The Two Year Rule should be abolished and the criteria for proof should be dealt with on an individual basis not on a general criteria which is the case at the moment in the UK.

D. How can relevant actors on state and non-state level be reached in order to disseminate legislative recommendations at the local/national/international levels?

Brief response from delegates

1. Letter campaigns to MPs; letters to other policy-makers; poster campaigns

2. This is extremely difficult to answer as many pointed out at the conference the discourse in relation to discrimination has now been reformulated in terms of faith, rather than racism/sexism. This leaves women out in the cold. Globally
racism through immigration laws e.g. fortress Europe needs to be put on women’s human rights agendas.

3. There should be local, national and international level campaigns which should feed into each other.

4. Must acknowledge and centralise the role of grassroots organisations in addressing specific forms of gender-based violence.

5. There is untenable contradiction between British law and policy, perhaps informed by immigration control and assimilationist perspectives which continue to take a restrictive and somewhat disdainful attitude towards foreign legal system and the acts of those governed by the those legal systems. On the other hand, under the banner of ‘multiculturalism’ and cultural accommodation, the British state is creating more and more space for ‘religious and cultural considerations’ to be taken into account. In the current global political context, it is not surprising that is particularly visible vis a vis the Muslim community. In this entire process, people’s human rights and the impact all this politicking has on their family matters is over-looked.

6. In relation to the discussion on forced marriages in the UK it is important that there is recognition of how women themselves define ‘forced marriage’ and that there is an understanding of the various grades of coercion that they may encounter in negotiating their rights.

Afternoon Plenary

The afternoon plenary of the conference was chaired by Professor John Eade\(^9\) (Surrey/Roehampton University).

Keynote Address: Alison Stanley\(^10\), Solicitor, Head of the Immigration Department, Bindman & Partners

Alison Stanley’s presentation focused on positive developments in immigration and gender. Alison focussed on the domestic violence concession and the effect of the ‘no recourse to public funds’ rule, and also touched on asylum and human rights, the National Asylum Support Service (NASS), and legal aid.

Alison highlighted key aspects of the domestic violence rule stating that spouses from abroad normally get two years leave ‘on probation’ to see if the marriage works. What happens to the women in the UK as spouses whose marriage breaks down in the probationary period? In the past those women had to return to their home countries. Many women found it difficult, if not impossible, to return

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\(^9\) Dr John Eade is Professor of Sociology and Anthropology as well as Executive Director of CRONEM (Centre for Research on Nationalism, Ethnicity and Multiculturalism) which links Roehampton and the University of Surrey.

\(^10\) Alison Stanley is a solicitor and partner in London civil liberties firm Bindman and Partners. She qualified as a solicitor in 1984 and has worked in the immigration field both in the not for profit and private sectors.
to their home countries as ‘rejected’ wives. Many were forced to remain in abusive relationships due to their inability to access benefits during the probationary period. There was a long campaign, initiated by Southall Black Sisters (SBS), who pointed out that the position of migrant women was being ignored in the debate about domestic violence. Campaigning by key women’s groups in the UK did lead to the incorporation of the concession into the Immigration Rules on 18th December 2002. Alison outlined the problems of the changes which meant that if the ‘hard’ evidence of an injunction, conviction or police caution is not available, then a woman could for example provide a medical or social worker’s report, police intervention reports, or evidence of an undertaking by the abuser. The following drawbacks were identified by Alison Stanley:

- As the woman is not entitled to access benefits whilst her application is pending, the rule only assists those that can find some other way of supporting themselves financially during this period.
- Some evidential problems remain: for example I have had great difficulties getting documentary proof of police intervention.
- The rule only applies to those who are in the United Kingdom as spouses or cohabiting partners. It does not apply to third country national spouses or co-habitees of those admitted under European Union law or women who are here as, for example, dependants of students or work permit holders.
- Nor does it apply to those who have overstayed or who entered the United Kingdom illegally.
- If a woman has suffered domestic violence abroad, and is fleeing from it, she is not covered. For protection for these women, you have to look to asylum and human rights law.

She went on to highlight and question why it is that in reality domestic violence is not considered to be ‘serious harm’ and proposed the following reasons:

- Domestic violence is not taken seriously by decision makers. It is considered less serious, somehow less deserving than officially sanctioned violence.
- There is a failure to analyse the relationship between harm feared and the Convention ground, which I shall return to below.
- The pervasive and universal nature of domestic violence means decision makers assume that it cannot form the basis of a claim.

This is despite the Home Office gender guidelines which specifically state that violence within the family or community can potentially be a form of persecution.

Alison Stanley concluded her keynote paper by saying there are positive developments to celebrate and it should be recognised that campaigners have obtained some redress from the law but there is still much more that needs to be done through campaigning, using the courts and other means to ensure that women’s experiences are recognised and women are given the proper protection guaranteed under international law.
Cassandra Balchin: Women Living Under Muslim Laws: Recognising the Unrecognised: Inter-country cases and Muslim Marriages and Divorces in Britain – A Policy Research by Women Living under Muslim Laws

Cassandra focused on the activities of the international solidarity network, Women Living under Muslim Laws which is an organisation that provides advice and support to individual women seeking to make autonomous choices. Very often these are women in crisis, facing major questions about their marriage. WLULM international coordination office (ICO) has been regularly approached for assistance by individual women and support groups in Britain. Networking organisations have worked with British High Commissions (BHC) and the British government’s Forced Marriage Unit on numerous inter-country cases. These are cases where the cause and action in a problem situation cover more than one country and legal system. They have included forced marriages, domestic violence, child abduction, abandoned wives and wives in polygamous marriages, custody disputes, and honour crimes, all frequently involving questions about the status of a woman’s marriage and/or divorce. Cassandra went on to discuss the research the organisation has conducted on addressing the violations of human rights being suffered by women in Muslim communities in Britain and South Asia in connection with the recognition of Muslim marriages and divorces. The key findings were discussed and Cassandra stated that this is believed to be the first study of the issue to combine sociological, legal and political analysis. The project outcomes were detailed and Cassandra discussed the objectives of the why the research was important in relation to identifying policy changes and recommendations for action that could facilitate women’s access to their rights in cases regarding the recognition of Muslim marriages and divorces. She concluded by stating that while the project outcomes are largely focused on majority Muslim communities from South Asia (Bangladesh, India and Pakistan), the outcomes may to some extent be extrapolated to other Muslim communities in Britain.

Professor Roger Ballard: University of Manchester, Forced Marriage: A Criminal Conspiracy?

Professor Ballard presented his paper on forced marriages in the UK. Ballard started by reminding all participants that forced marriage was valuable weapon in the hands of those who favour the strict control of immigration from ‘less civilised’ parts of the world, especially now that marriage and family reunion has now become one of the few remaining levels whereby potential migrants from the developing world – other than those qualified as doctors and software engineers – can legitimately join those of their relatives who established themselves in Euro-America before the gates of immigration control came clanging down. Her argued that family reunion is a terrible problem, because the UK and signed the European Convention on Human Rights, which means that the UK have a law which provides a guaranteed right to family life. And now all sorts of immigrants

[11] Cassandra Balchin, works with the international network Women Living under Muslim Laws, and is a founding member of the Muslim Women’s Network (UK).
[12] Professor Roger Ballard Director, Consultant Anthropologist based at the Centre for Applied South Asian Studies, University of Manchester.
want to use that guarantee to undermine immigration control. He questioned some of his concerns human rights and the right to choice when people can marry and pointed out the problems of the Government’s interpretation of Article 8. It accepts, as a matter of course, that everyone does indeed have a right to enjoy family life – but not necessarily in a country of one’s own choosing. Moreover that one also has a further backstop. ECHR also allows signatories to weigh those rights against other public policy concerns. He went on to discuss his expert witness work and having prepared well over 300 such reports, it is quite clear that a very high proportion focus in one way or another on issues of family and marriage – and very often on domestic contexts. He stated that it was quite clear from his experience that whilst South Asian families can be hugely supportive when they go well; but when things go badly the consequences for their weakest members – who are usually, but not always, women – can be quite disastrous. Ballard highlighted that marriages can be badly arranged for all sorts of reasons, including:

- Parents being so committed to pursuing their own agenda that they wholly overlook the interests and concerns of their children whose personal futures they are determining
- One parent winning out in the choice of rista (relationship) for an offspring, leading the looser (especially if it is the mother-in-law) to do her best to collapse the relationship at the earliest opportunity, in the hope that her own preferred rista can be implemented next time round
- The exigencies of immigration control, such that a spouse from South Asia may well have to wait a year or more before joining their newly-wed partner in the UK – by when unleashed hormones may well have led to them directing their amorous attentions elsewhere.
- Or simply because the partners proved to be like chalk and cheese, and the relationship between them never gelled.

Drawing on his first-hand ethnographic experience of the internal dynamics of South Asian families, and of acting as an expert witness in numerous cases where marital breakdown within such families has led to proceedings in the criminal, civil and immigration courts, Roger Ballard provided a thought provoking bottom-up exploration of the social processes and the human experiences – and tragedies on forced marriages and ‘honour’ killings in the UK.

Dr Amrit Wilson[13]: University of Huddersfield, Managing South Asian patriarchy – interventions by the British state in South Asian women’s lives

Dr Wilson examined the state’s attempts to categorise and reshape the culture of South Asians communities in Britain, on the one hand through policies of multiculturalism and constructions of faith communities and on the other through the racist and misogynistic policies and processes of immigration control. She argued that while the former have ignored differentiations of gender and class, and have through their very frameworks strengthened patriarchal relations in the South Asian community, the latter have pathologised and devalued South Asian marriage – through virginity tests, through the Primary Purpose Rule, more

[13] Amrit Wilson is a writer and activist, associated with Imkaan and Asian Women Unite!
recently through the Two Year Rule and through policies and procedures which have violated human rights.

She noted that the state has intervened in pragmatic fashion to oppose South Asian patriarchal power in the context of what state agencies have defined as ‘forced marriages’. Her presentation explored these contradictions, and explored how the state continues to manage and control rather than weaken South Asian patriarchal power in the context of the UK.

**Afternoon Workshops and Seminars**

In the afternoon there were workshops and seminars on “Shari‘ah Councils and Resolving Matrimonial disputes: Justice under the ‘shadow’ of law?”, ‘Civil and Criminal Justice protection for women subject to immigration control’; ‘Challenging ourselves in addressing the needs of migrant women’ and ‘Protecting Young and Controlling Immigration: Danish Action Plan on Forced Marriages and its Impacts’.

The afternoon workshops were chaired by Nathalie Schlenzka[14] (Berlin Institute for Comparative Social Research (BIVS)) and Dr Amrit Wilson (Chair of Imkaan).

**Dr Samia Bano[15]: University of Reading, Shari‘ah Councils and Resolving Matrimonial disputes: Justice under the ‘shadow’ of law?**

Dr Bano presented the findings of an in-depth study with 4 ‘Shariah Councils’ that provide advice and assistance in matrimonial disputes to Muslim communities in Britain. Empirical data suggested that such self-governing religious bodies co-exist as unofficial dispute resolution mechanisms in multi-faceted ways alongside state law. One of the key objectives of the presentation was to evaluate the extent to which Shariah Councils facilitate ‘official’ matrimonial disputes in the realm of ‘unofficial’ law and whether this leads to justice under the ‘shadow’ of law for female users of Shariah Councils, Muslim women. The implications of the results of the study were considered in relation to recent discussions on the ‘delegalization’ of family law matters and the role of the family and community in resolving matrimonial disputes. In particular Dr Bano discussed the linkages between proposals envisioned in Part II of the Family Law Act 1996 to introduce non-adversarial procedures in matters of divorce and the role of unofficial mediation and reconciliation practices pursued by Shariah Councils. In doing Dr Bano questions whether Shariah Councils can be recognized as suitable fora to facilitate matrimonial disputes within Muslim communities in Britain. She concluded by saying that Shariah Councils may emanate an emancipatory aura but the consequences for those who use them and for those asked to recognize them are more difficult and contradictory.

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[14] Nathalie Schlenzka is a researcher and project manager at the Berlin Institute for Comparative Social Research (BIVS). She is responsible for the co-ordination of research projects and actively pursues independent research. Ms Schlenzka can draw from a vast experience in the fields of refugee and gender studies and the situation of vulnerable groups in general.

[15] Samia Bano has recently completed her doctorate at the University of Warwick on ‘Muslim Family Law and South Asian Muslim Women in Britain and teaches in the School of Law at Reading University.
**Poonam Joshi: Amnesty International, Civil and Criminal Justice protection for women subject to immigration control**

Poonam Joshi examined the effectiveness of civil and criminal protection for women subject to immigration control in the context of international standards. She critiqued the wider context in relation to how the Government formulates its policy and legislation on violence against women issues, and in particular how this produces a fractured response to the problems faced by women subject to immigration control. Her paper highlighted some of the obstacles to effective civil and criminal protection for women, in particular the difficulties in eligibility and access to legally aided representation and the issue of no recourse to public funds.

**Shaminder Ubhi, Ashiana Project, Challenging ourselves in addressing the needs of migrant women**

Shaminder started her presentation by considering the ‘what is multiculturalism?’, especially in London after the recent bombings of the 7th July 2005. She argued that it is important to consider the constant flux of new immigrants from a variety of countries. Historically this country has been home to immigrants from all corners of the world who out of necessity or of their own choice have immigrated to the UK to work/seek political asylum/reunite with their families/seek refuge from civil or international wars etc. Typically, migration is considered to be a concern of the State and little has been achieved in assessing and managing the social and economic well-being of migrants. Global policy on gender specific issues is marginalized and fails to recognise the particular experiences and needs of migrant women before, during, and after migration. The State has a duty to provide more information on migrants’ rights and the provision of proper protection for migrants, particularly women and vulnerable people. Proper protection can also have a positive impact on migrants’ ability to integrate into the ‘host’ society.

Shaminder introduced the work of her organisation ‘Ashiana’ and outlined the work she and her colleagues do to support women from different cultural backgrounds; from South Asian women who have had a free life in their home country only to be controlled and restricted in this country through marriage, to Iranian or Turkish women who were controlled socially with no rights in their home country and found marriage and moving to UK as the only way of having some freedom/ rights.

Shaminder took the opportunity to state it is essential for organisations like Ashiana to hear the experiences of women without assuming we know what is best for them or even that we understand what they want and what they have been through. Shaminder also said that sometimes it is easier to address the obvious racial tensions between races and lose sight of tensions between new

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16 Poonam Joshi is the gender policy advisor at Amnesty International UK.
17 Shaminder Ubhi has worked in the domestic violence sector for over 10 years; managing and developing domestic violence provision for BME women, developing preventative initiatives with young people, and raising awareness with the community as a whole.
immigrants and second-generation immigrants of the same race and cultural background. Next Shaminder considered the strategies activism groups use working in the specialist BME sector and how to address the abuse that women suffer by men as well as reminding participants that there is also a need to address women to women abuse such as what some new brides experience by their mother in law. Shaminder ended by saying migration can exacerbate negative gender stereotypes and highlights the power imbalances women experience in the home, at work and in society. Women therefore become more vulnerable to gender discrimination, poverty and violence.

Farwha Nielson\textsuperscript{18}, Lokk (Denmark) Protecting Young and Controlling Immigration: Danish Action Plan on Forced Marriages and its Impacts

Farwha presentation provided an insight into the practice of forced and semi-forced marriages among ethnic minorities in Denmark. She discussed the laws and regulations, which she believes were designed to protect the youth against the traditional practice of forced marriages. A number of case studies were shared with participants in the workshop to try to illustrate the impact of these societal interventions on the ethnic minorities by showing the dilemmas that the youth experience.

General Conclusion and Overview of the Day

Dr Aisha Gill thanked all the participants who contributed to an important and timely conference in the UK. Aisha concluded that participants found a number of current problems which affect and constrain the provision of services to female marriage migrants experiencing violence. These difficulties relate both to the levels of understanding of the issue amongst communities and to broader structural issues such as immigration and asylum laws in the UK. Aisha emphasised that there remains, for some organisations and individuals, a taboo relating to violence against women which constrains the ability of individual women to seek help; it affects the responses of those providing services. Inappropriate attitudes to violence against women and common myths and stereotypes persist; these function, for example, to blame victims as well as excuse, trivialise and justify the violence. There were also found to be varying levels of recognition of the different forms of violence against women, with differences in the perceived legitimacy of these issues, and some forms of behaviour were taken less seriously than others. There was also found to be a more limited understanding of some of the less commonly recognised forms of violence. Changes in attitudes were found to have been slow in the UK, and progress has been variable.

Dr. Gill pointed out that countries in Europe have been generally slow to recognise the financial and social costs of gender violence (for example, in

\textsuperscript{18} Farwha Nielson has an MA in International Development Studies - University of Roskilde (Denmark). She has worked as an Integration Consultant and Multicultural Advisor for the past six years.
terms of investigation costs, health, housing and education), with variations in the law and available sanctions. She explained how there is often little recognition of the needs and rights of female marriage migrants experiencing violence, little appropriate support from many organisations and a lack of resources and provision for those specialist groups making a key contribution to relevant service provision. In suggesting ways forward, Aisha proposed to the delegates that appropriate responses to violence against women will need to involve action on a range of levels. Recommendations included sustained action that fundamentally challenges the nature of existing relationships in the public and private sphere; challenging existing customs and traditions; and addressing inequality throughout society. Campaigning work to address the needs of married female migrants must also involve challenging existing approaches within countries to crime, law and justice.

Recommendations from the participants at this conference called for the following:

1. Listen to women from affected communities around policy proposals on forced marriages and recognise the diversity of women’s experiences, rather than reinforcing stereotypes;

2. There is a need to develop gender guidelines across Europe which are closely monitored by an independent body;

3. Rigorous training for all Immigration National Directorate staff on the impact of violence against women particularly for ‘female marriage migrants’;

4. Gender related issues, domestic violence and social discrimination to be considered as a ground for refugee status – as some countries have already adopted it;

5. Immigrant women who experience domestic violence find it almost impossible to get advice and emergency protection. Agencies’ concerns about their immigration status override concerns about their human right to life. Lack of funds for immigrant women fleeing domestic violence means that refuges even turn women and children away or run the risk of paying for their support out of their own limited funds and facing a funding deficit through accumulating rent arrears. Women should be exempt from the ‘no recourse to public funds’ rule, particularly those under the two-year probationary period;

6. Agencies working to reduce all forms of violence against women agree on working to an agreed definition of violence against women, and take their work forward rigorously infused with the framework of rights, principles and obligations, both nationally and internationally. Through greater awareness of human rights and the legal obligations of governments to enforce those rights, communities can begin to hold their governments to account for failure to meet their obligations;
7. There is a need to talk about women’s individual rights, without confusing it with notions of respect for family and the ‘community’;

8. Arrangements should be instituted for monitoring the response, including case-tracking through the system of young women who have experienced forced marriage, as well as more rigorous procedures for perpetrator accountability;

9. Recognition of the NGO sector in terms of resource support – currently there is minimal statutory resourcing of, and investment in the specialist NGO sector. This sector is crucial in implementing activities aimed at eradicating FM. Key women’s groups who have a long history of combating all forms of violence against women have been instrumental in garnering community support for women’s rights. The sector therefore should be permitted to monitor government efforts to eliminate FM as a form of violence against women and to hold the government(s) accountable for failure to fulfil their international obligations. In addition the UK government should make a tangible long-term commitment to financing NGOs engaged in programmes to eliminate FM;

10. Increase awareness in schools and communities of the difference between arranged and forced marriage, through educational and community-led initiatives, as well as making sure the voices of those most affected are part of the knowledge-exchange dialogue;

11. The adoption of a clear overall definition of violence against women, reflecting the range of behaviours involved and including recognition of physical, sexual and psychological violence in a range of settings, by a range of perpetrators, which can underpin the subsequent development of policy and legislation;

12. The development and adoption of clear definitions of individual forms of violence against women, based on existing knowledge in areas such as rape, domestic violence, child sexual abuse, sexual harassment, prostitution, trafficking in women, ‘honour’ crimes and forced marriage;

13. The recognition of all forms of violence against women as a human rights issue and the clear expression of a European commitment to this position;

14. The development of a national body or group of advisors with responsibility for work to combat violence against women, with representation from a range of senior professionals with expertise in this area, to advise on policy and developments;

15. The recognition, in national legislation, of the criminality of violence against women, supported through the strong and consistent enforcement of appropriate sanctions reflecting the severity of the crime. Such sanctions should focus on male perpetrators and not on women experiencing violence and should avoid exemptions and mitigation;
16. The review of the legal framework to ensure that adequate measures are available to women and that they have access to redress and protection, including examination of constraints in access to the law (such as access to Legal Aid and representation, and specific constraints facing women with disabilities, women who speak minority languages, rural women, lesbians, refugee and migrant women), and the removal of current anomalies in legislation or aspects of the law which are not consistent with the focus on violence against women as a crime;

17. The development of an effective court and criminal justice system which is responsive to the needs of female marriage migrants ensuring the protection of these women and children in the legal process and the recognition of their needs through, for example, the development of specialist courts, prosecutors or specific practices such as the use of innovative and anonymous evidence-giving, the avoidance of irrelevant and humiliating questioning, access to same-sex interviewers, access to support from women's groups, increased victim support and advocacy, access to information and support, compensation and clear appeals procedures;

18. The development of widely available and accessible civil measures to cover all women experiencing violence, relating to issues such as protection, safety and housing, thus increasing their ability to leave violent men and promoting women's citizenship.

Dr Aisha Gill

January 2006
### Annex 1: Conference Participants

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