

Why and when do marriages which can be identified as 'forced' occur? To what extent is legislation designed to classify such practices as a criminal offence likely to resolve the underlying issues?

An anthropologically informed response to the Forced Marriage Consultation document issued by the Home Office in December 2011

Has the target of the proposed legislation been adequately identified?

As anthropologists with long-standing interests in the internal dynamics of South Asian families, as well as in the intensely destructive consequences which occasionally erupt as a result of contradictions within them occasionally getting out of hand, we can only welcome the prospect of the makers of social policy taking a positive interest in developments of this hitherto neglected sphere of social policy. However we have prepared this response as a result of our severe reservations about the quality of the arguments set out in the consultation document, above all because its conceptualisation of the wrongs which it seeks to set aright by legislative means appears to be driven much more by ill-informed moral outrage than on the basis of careful empirical examination of the dynamics of the underlying issues, accompanied by an equally careful contextualised examination of the basis on which the contradictions which brings such matters to a head might best be resolved.

Hence the proposed heavyweight intervention is in our view severely premature. The essence of our argument is that it would be foolish, and indeed reckless, to introduce legislation to criminalise an activity whose parameters cannot at this stage be defined with any clarity, and where the likely consequences of efforts to impose criminal sanctions on well-meaning perpetrators (at least in their own terms) appear to have been entirely overlooked.

An overview of the underlying social, cultural and familial issues

Dilemmas

Just how much of a role should parents play in planning, overseeing and implementing the marriages of their offspring? How much cognizance should young people be expected to pay to their parents' wishes, opinions and priorities when it comes to choosing their conjugal partners? If and when contradictions cannot be amicably resolved by means of informal processes of dispute settlement such as family meetings, how far and in what circumstances should agencies such as Social Services Departments and the Police and the Judiciary to resolve the underlying contradictions? And if and when they decide to do so, just how should they seek to resolve them? How far should they take cognizance of the distinctive cultural premises deployed within the family in question? Or would the interests of the complainant better be served by over-riding such 'traditional' premises in favour of the more 'progressive' premises routinely deployed by members of the indigenous majority?

Given that none of these questions admit easy answers, the root source of these dilemmas is worth articulating right at the outset.

That the problems which arise when a marriage has been arranged and implemented on a disastrously myopic basis (a 'forced marriage' in other words) is self-evidently a legitimate cause for public concern, not least because the protection of its vulnerable citizens from exploitation and physical violence is one of the prime responsibilities of the state and its welfare agencies. However the issue of 'forced marriages' makes itself felt in exceptional circumstances: whilst the 'beneficiary' of the procedure may be well be a stranger, at least as far as the bride is concerned, its perpetrators are none other than her own immediate kinsfolk. In other words no matter what labels we chose to apply to this state of affairs, it is of necessity the product of comprehensive breakdown in interpersonal relationships of mutual trust between close kinsfolk, and which is of such severity that is likely to blow the entire extended family apart in the absence of a suitable process of renegotiation and reconciliation. In such circumstances clumsy interventions can all too easily do more harm than good.

Current remedies

Our experience suggests that a spouse who has found herself (sometimes himself) shoe-horned into a myopically arranged marriage normally has two pressing complaints. Firstly that their civil status has been altered against their will; and secondly that they have been provided with a conjugal partner whose company they detest. But at least in principle those pressed into a corner in this way have a ready exit route. They can immediately lodge an application for a declaration that their marriage was null and void, on the grounds that s/he was subject to duress during the course of its solemnisation. Moreover if the relationship has become violent, the Offences against the Person Act provides plentiful opportunities for the distressed wives to precipitate legal action against unwillingly acquired husbands.

However the proposed criminal legislation, no less than its civil predecessor, is not concerned with providing disillusioned spouses with an enhanced capacity to disentangle herself from, an unwelcome and inappropriate partner; rather it seeks to provide disillusioned brides, and/or those acting on their behalf, with an opportunity to take legal action of the perpetrators of the marriage, typically the bride's parents, and in all probability other members of her extended family. From that perspective the proposed legislation seeks to reinforce the existing civil provisions for the issue of restraining order (which only gives rise to a sanction if the order is breached), by formally identifying Forced Marriage as a criminal offence.

Before proceeding further it is worth noting that there is a sharp distinction between consequences of the issue of a restraint order, by whomsoever the order is sought, and the opening of formal criminal proceedings. Whilst parents can relatively easily respond to the imposition of the former, always provided that they are prepared to abandon the particular arrangement which they had in mind in favour of a spouse which their son or daughter would find more acceptable, and in doing so provide the complainant with a bargaining tool with precisely that end in mind, the implementation of criminal prosecution would by definition have far more serious consequences.

But just what might those consequences be? A careful reading of the consultation questionnaire suggests that Home Office takes the view that one of the most immediate consequence of criminalisation would be to change popular attitudes to Forced Marriages in the communities within which such problems occur, and thus reduce the scale of 'the

problem'. We are exceedingly doubtful as to whether criminalisation will have any such consequence. What we are acutely aware of, however, is that if and when such legislation begins to precipitate active prosecutions, as can only be expected to occur, the consequences are likely to be disastrous. It is easy to see why. Such a prosecution could only be launched *post hoc*, and almost certainly as a result of a marriage solemnised overseas, but organised by UK-based parents - the classic context in which young people are most likely to find themselves thrust into myopically arranged marriages by their parents. But as and when such incidents occur, as we readily acknowledge that they sometimes do, it is most unlikely that the criminal prosecution of their ill-advised parents would bring any kind of relief to unhappy brides as and when they managed to make their way back to the UK. Far from providing a vehicle for the prospect of promoting familial reconciliation, and hence a new *modus vivendi* which would be mutually acceptable on all sides, the initiative would be much more likely to split the family asunder, leaving the unhappy ex-spouse in a vulnerable condition of kinlessness. Given the intense commitment to the maintenance of familial reciprocities in South Asian contexts, all our experience suggests that very few young Asian women would consider such a devastating outcome as being in any way in their best interests, even if they eventually found that they ultimately had no option but to take it up as a last resort.

The significance of the cultural context

Remarkably enough, the consultation paper pays remarkably little attention to the institution of the family, or to the widely varying cultural premises which underpin its construction. With this in mind it is worth noting that kinship, marriage and hence the process of family-construction is a universal human phenomenon, the premises and conventions which give rise to family life are always and everywhere culturally conditioned. Some traditions - of which current Euro-American expectations are a clear example - place a great deal of emphasis on personal autonomy, such that once young people reach the age of majority they are regarded as having a right to organise their personal lives in whatever way they choose, regardless of their parents' priorities. In others - most markedly in South Asian contexts - the family is routinely regarded as an organic whole held together by relationships of mutual reciprocity, such that its members are expected to give the fulfilment of their obligations to other members of the corporate whole priority over their personal interests. Moreover to the extent that these patterns of reciprocity are ultimately grounded in the premises of patrilinearity, marriage entails the transfer of a bride from one corporate whole (her natal family) to that of another (her in-laws).

In this context marriage is never a matter of straightforward personal choice: rather it requires the assent of all members of both families in the transfer, partly because all concerned have to live with the consequences, one of the most significant of which is the establishment of a *rista* (a relationship, or in other words a long-term set or reciprocities) between the two now mutually-connected families. This, then, is the context within which arranged marriages - the norm in South Asian contexts, no less in the UK than in the subcontinent - are routinely brokered.

From this perspective the successful arrangement of such a marriage is a tricky business, if only because so much is stake on all sides. Over and above the immediate issue of the likelihood of the bride being able to establish a positive relationship with her in-laws as well

as her husband, care also has to be taken with respect to the likely impact of the *rasta* on the social standing of the two newly inter-connected families, no less in the long term than the short. In these circumstances if a marriage should break down at an inter-personal level, the fallout can all too easily have disastrous impact on the status of the bride's natal family, let alone that of the bride herself.

Insofar as such a marriage is a significant investment, most particularly from the perspective of the bride's family, no-one involved in arranging a marriage in this context has any interest in the arrangement failing, not least because the long-term grief associated with failure can only be expected to outweigh any perceived short-term benefits. Moreover at least in statistical terms, there is plentiful evidence that South Asian marriages display a substantially level of stability than those contracted in terms of the contemporary cultural premises of the UK's indigenous majority.

Nevertheless marital failure is an uncomfortable reality, regardless of the cultural context within which the relationship has been constructed; and more often than not the consequences for the wife are far more severe than they are for the husband. In South Asian contexts this point holds in spades. Invariably identified as being to blame for the breakdown of the marriage, ex-wives are routinely regarded inherently flawed, and hence as second-hand goods; meanwhile their former husbands are all too often regarded as having a clean bill of health, such that they can pick and choose the second time round. But if that is indeed the case, why would any rational set of parents force their daughters into marriage against their will, especially if the blow-back associated with marital failure is so disastrous?

The underlying logic of badly/myopically arranged marriages

In situations where parents play a key role in selecting potential spouses for their daughters, they take on a considerable burden of responsibility: in the first place they need to make a judgement as to whether the couple would be personally compatible with one another, and just as importantly, where arrangement replaces courtship, parents need to undertake careful homework to ensure that the goods on offer are as fine and upstanding as they are presented as being. Whilst this can be a tricky task in the subcontinent, it is rendered all the more challenging in the diaspora. There are two very obvious reasons for this. One the one hand immigrant parents frequently underestimate just how far the attitudes and assumptions of their offspring have been affected as a result of having grown up in the UK; secondly, and just as importantly, they can all too often take offers of *rasta* at face value, and as a result of failing to do their homework with due diligence, despatch their offspring into marriages which prove to be disastrous.

It is with precisely such considerations in mind that we are of view that 'forced marriage' is in many respects a misnomer. Rather we would argue that the great majority of marriages which attract this label are better understood as marriages which have been exceedingly badly arranged by anxious and myopic parents, rather than as instances of cruel and deliberate enforcement. If, however, we are to properly understand the circumstances in which these egregious outcomes are most likely to occur, we also need to consider the prime source of such myopic behaviour - a fear that their offspring are 'running off the rails'. To understand the roots of such fears, we also need to pay close attention to the issue of just why it is that

South Asian parents display such intense concern with to their offspring's choice of marital partner.

Parental concerns about the offspring 'running off the rails'

As far their families are concerned, virtually all members of the first generation of South Asian settlers take the view that they they will only have fulfilled their parental obligations once they have seen all their offspring settled in marriage, such that they are in the midst of bringing up a new generation of grandchildren. But if they consequently feel that they cannot feel fully relaxed until that condition is achieved, it also follows that they are often full of apprehension until all their offspring, and especially their daughters have been suitably settled - so much so that they frequently become acutely concerned about arranging a suitable *rista* for them as soon as they have passed puberty. The roots of their concern are quite straightforward: from South Asian cultural perspective, a young woman who falls pregnant prior to marriage not only dishonours herself, but also casts a cloud of dishonour over her entire extended family. If anything, such concerns have become yet more acute in the diaspora than in South Asia itself. On the one hand puberty tends to arrive several years earlier than it did in the subcontinent, and on the other they find themselves in the midst of a social order in which pre-marital sexual activity hardly raises an eyebrow. Hence ensuring that their daughters protect themselves from disgrace becomes an even higher priority than it was before.

But how was that to be achieved? The classic way of doing so was to arrange one's daughter's marriage prior to puberty, cementing the relationship in place with a formal ceremony of engagement, which could then be upgraded to a fully-fledged marriage once she was old enough to take up her wifely duties. But although pre-puberty engagement has by now gone out of fashion, no less in the subcontinent than the UK, such the engagement and marriage ceremonies are often combined, and both are typically delayed until the bride has completed her education, the underlying driving force behind early marriage is still firmly in place - especially if there appears to be an imminent prospect of one's offspring, and especially of one's daughters, going 'off the rails'.

With such fears in mind many parents are acutely concerned about the prospect of their daughters removing themselves from immediate parental supervision by going off to University at some distant location, and even if they continue to live at home, of them establishing a surreptitious relationship with a boyfriend whom they might regard as 'unsuitable'. But as ever the basic rule in this context is 'thou shalt not be found out', or failing that, to ensure that one's partner is someone whom one's parents could be persuaded to regard as a suitable partner in an 'arranged marriage'. However it is when neither of those strategies are available, and most especially when the family the family is under stress from other directions that panic stations set in, such that an immediate marriage is arranged regardless of the protests of the young women concerned: a forced marriage, no less. In other words all my experience suggests that marriages of this kind only occur in exceptional circumstances such that the parents of one or other of the spouses feels themselves to be at their wits end.

In sum it follows that whilst myopically (and hence disastrously) arranged marriages in the sense outlined above are not just a product of a specific set of cultural premises with respect to kinship, marriage and family formation, but also of familial processes which have, in these particular instances, *themselves* 'run off the rails', with disastrous consequences for the offspring of deeply concerned, but seriously myopic parents looking for a quick solution to their difficulties. In other words they are in no sense a normative outcome of the underlying cultural premises of the communities to which they belong. Rather all our experience suggests that such outcomes most likely to be precipitated when established processes of dispute settlement have either been over-ridden or got out of hand, such that extreme - and often highly inappropriate - measures are wheeled out in the face of a mistaken perception which that instant marriage to an alternative partner is the only available means of holding impending disaster at bay. Such ill thought out stop-gap measures rarely serve to stop the rot: rather simply store up yet more problems for the future.

Given all this, it is in my view entirely appropriate that the UK authorities should seek to explore the underlying issues in this sphere with some urgency, if only because badly arranged marriages can all too easily become a major source of personal distress. However in the light of these introductory remarks, we trust that it has become abundantly clear that the underlying issues are far from straightforward, and that appropriate remedies are far from easy to identify. What is equally clear is that the issues need to be approached with great caution, if only because they arise in the context of a cultural arena whose underlying premises with respect to kinship, marriage and family construction differ radically from those around which the norms of the indigenous majority are currently constructed. Given all this, all our experiences suggest that in the absence of a significant degree of cultural competence and ethnosensitivity, interventions into South Asian family processes are much more likely reinforce than to remedy disaster, no matter how well-meaning the objectives of ill-informed interveners may have been.

A commentary on the issues as they are set out in the consultation document

The Secretary of State's perspective

Unfortunately the Secretary of State's Foreword to comprehensively overlooks these complex issues. Rather she takes a moralistic stance to support the introduction of 'a hard-edged deterrent' which will serve to 'stamp out this appalling abuse'. Four key points can readily be extracted from the arguments which she sets out to justify her position:

- i. 'Forced marriage' is a limitation on personal liberty of such severity as to be akin slavery.
- ii. No culture should find such practices acceptable.
- iii. It is a form of violent abuse directed at both men and women, which the state has every right to suppress.
- iv. Likewise it has a duty to offer protection to those from in danger of being forced into marriage against their will, and to provide effective support to those victimised in this way.

The argument set out in the body of the document

Whilst the contents of the body of the document is a good deal less tendentious than the Secretary of State's Foreword, it is hardly more successful in clarifying the nature of the context within which, let alone precise reasons why, parents might wish to submit their offspring to a Forced Marriage. Instead it deploys what can better be described as a scatter-approach.

Forced marriage is an appalling and indefensible practice that is recognised in the UK and elsewhere as a form of violence against women and men, domestic abuse, a serious abuse of human rights and, where a minor is involved, child abuse. Article 16 (2) of The Universal Declaration of Human Rights states clearly that 'Marriage shall be entered into only with the free and full consent of the intending spouses.'

A forced marriage is a marriage in which one or both spouses do not (or, in the case of some vulnerable adults, cannot) consent to the marriage but are coerced into it. The coercion can include physical, psychological, financial, sexual and emotional pressure. The types of behaviours engaged in by those forcing someone into a marriage, however, cover a broad spectrum and generally present as a package of behaviour, often over a period of time.

These behaviours range from emotional pressure, exerted by close family members and the extended family, to more extreme cases, which can involve threatening behaviour, abduction, false imprisonment, physical violence, rape and in some cases murder (including so called 'honour' killings), many of which are crimes in their own right. Victims of forced marriage can be both women and men, and may often include children; and the marriages may take place in the UK or overseas.

The families involved may come from a variety of cultural and religious backgrounds. Perpetrators usually comprise one or both parents or wider family members. It is rarely one individual acting alone.

But despite having characterised forced marriage as 'an appalling and indefensible practice', the text promptly goes on to note that

Due to its nature many victims do not realise that they are the victims of a human rights abuse; many will never ask for help or will be prevented by their family (often the perpetrators) from doing so. This makes it difficult to know the full extent of the problem.

In our view this comment should be an immediate cause for alarm. How much sense does it make to introduce legislation to criminalise an activity which is so little understood in which the 'victims' of the activity in question are frequently unaware of their condition of victimisation, so much so that it is difficult to establish the full extent of the problem?

Statistical evidence

To be sure the report does include a limited amount of statistical data, including an observation that the Forced Marriage Unit

provided advice or support in 1618 cases, which rose to 1682 in 2009 and totalled 1735 in 2010. This has reflected the continued efforts of the Unit to raise awareness

among victims and potential victims that forced marriage is unacceptable and help is available

However no systematic analysis has yet been made of the circumstances in which advice and support was sought from the FMU, or how the cases in question were resolved, especially in the light of the fact the FMU dealt with a much wider range of issues than those with which this consultation is concerned. Other than that the only additional statistical data set out in the document is an observation that a total of 339 FMPO order were issued between November 2008 and June 2011, a mean rate of just over 10 such orders per month. However once again no data appears to be available with respect to the precise circumstances in which these were issued, by whom they were instigated - and above all the extent to which the issue of the order served to resolve the underlying problems which caused the order to be taken out in the first place.

Could it be that for want of serious qualitative, and hence ethno-sensitive, investigations into the underlying inter-personal and familial processes which give rise to problems in this area - which we would readily acknowledge are real enough - the Home Office has been reduced to playing a game of blind man's bluff?

Answers to the specific questions which respondents to the consultation have been invited to address

1. Do you believe that the current civil remedies and criminal sanctions are being used as effectively as they could be in tackling forced marriage? If not, what more do you think can be done to prevent forced marriage including ensuring victims are not deterred from reporting?

The first part of the question contains an underlying presumption that forced marriage can be properly tackled through civil and criminal sanctions. In fact there is no empirical evidence to suggest that this is the case; on the contrary there is wealth of socio-legal research on efforts to use state law as an instrument for social reform which points to the opposite conclusion.

The question also raises a further fundamental problem that haunts the government policy on this front: given that the extent of 'forced marriage' is unknown, the breadth of the definition, and the practical impossibility of distinguishing it from arranged marriages (in which parental intervention is the norm), there is no prospect of every being able to construct a measure of whether or not an intervention has been 'effective' in tackling forced marriage.

Tackling forced marriage demands closer interaction with the communities involved.

2. Do you think a criminal offence should be created for the act of forcing someone to marry against their will? If so, how do you think the offence should be defined?

This question has already been answered through three separate research consultations commissioned by the government, each of which showed that the opinion of those working most closely with these cases and in these communities saw that criminalisation would be as expensive as they were needless. Since family members who resort to violence or kidnapping in their efforts to force one of their offspring to marry against their will, Criminal law already provides clear sanctions against such practices.

3. What issues should be considered to ensure that a new offence does not deter people from reporting the crime?

As suggested above, there is a distinct lack of evidence-based research either with respect to the identification of 'the problem', or with respect to the ways in which it might reasonably be expected to be resolved, whether by legal or administrative means.

In terms of the government's objectives, it is by no means clear whether the Secretary of State has punishment primarily in mind, since several of the questions suggest that one of the government's most pressing concerns is to alter public opinion in such a way as to deter parents contemplating forcing their offspring into unwelcome marriages, thereby making it easier for professionals to 'tackle the problem.' However this raises yet another problem - albeit one which is already present in the existing legislation: just what are the circumstances in which it is expected that such a prosecution will be launched? Will it be restricted to situations in which the unhappy spouse makes explicit complaint of having been subjected to Forced Marriage, or will it be open to other professionals - such as social workers, feminist activists and of course the Police to make a unilateral judgement that instigation of such a prosecution is in order, regardless as to whether or not the unhappy spouse has reported her parent's 'criminal' behaviour?

4. Do you think there should be an offence of luring someone abroad; luring someone to this country or indeed within this country; or from one country to another for the specific purpose of forcing them to marry?

The short answer is no. If anything the proposals and the emerging laws relating to forced marriage are immensely confusing and complex. Many people do not understand the technicalities of civil v criminal sanctions and the role of Protection Orders in this context.

It is worth noting that an actual criminal offence of forcing someone to marry was rejected in the early days of the Forced Marriage Unit being established because criminal law already caters well for the actions associated with an attempt at forced marriage. It is more straightforward to treat kidnapping as kidnapping, physical violence as GBH or ABH and so on.

5. How far do you think a person's circumstances and age influence their approach/attitude in seeking protection/justice?

This question can only be meaningfully addressed in the light of an awareness of opportunities for active agency available in the specific cultural context in which the person concerned routinely operates, rather than being restricted to structural issues of age and circumstance. The government's approach to forced marriage is premised on a series of presumptions which it has already set out in numerous policy papers, further reiterated in this consultation paper, which put forward a negative and essentialised view of South Asian cultural practices. In our opinion a much more richly and sympathetically informed understanding of the conceptual cultural context, and above all of the dynamics of kinship and marriage in South Asian-style extended families, is a necessary prerequisite for the meaningful application of social policy in this sphere.

We would also observe that whilst the basic premises around which such families are constructed give rise to substantially more salient gender hierarchies than those currently

articulated by members of the indigenous population, and that they display an equally strong tendency to prioritise the collective interests of the group over that of its individual members, the precise on which these premises are interpreted varies substantially by ethnicity (Punjabi, Mirpuri, Pathan, Sylheti and so forth), by religion and sect, as well as by education and social class. Whilst some families are consequently a great deal more tightly-knit than others, we would also observe that close observation of their internal dynamics readily reveals that in normal circumstances the premise of hierarchy rarely so overwhelming as to entirely obliterate its more junior members' capacity to act as agents on their own account.

In the light of all this a 'forced marriage' as envisaged by the Home Office can more accurately be identified as an example of a situation in which that capacity has for some reason been reduced to something close to zero. However our experience suggests those who find themselves 'grounded' in this way would prefer to find some way of increasing their bargaining power within the extended family, without or without external assistance, as opposed to being 'liberated' from it.

6. This question is grounded in the supposition that members of minority communities can and should look to the social services, the police and the courts as a source of protection and justice.

To the extent that current policies and practices invariably lead to prioritisation of the latter strategy to the virtual exclusion of the former, our observations suggest that as a result of bitter experience, most members of the minority communities have come to the conclusion that social services and the police are much more interested in destroying the integrity of their families, and hence the very foundations of their cultural tradition, rather than seeking to facilitate the resolution of unwelcome contradictions which have exploded within them.

7. Do you think that the creation of a new criminal offence would make the law clearer?

The short answer is no. If anything the proposals and the emerging laws relating to forced marriage are immensely confusing and complex. Many people do not understand the technicalities of civil v criminal sanctions and the role of Protection Orders in this context.

It is worth noting that an actual criminal offence of forcing someone to marry was rejected in the early days of the Forced Marriage Unit being established because criminal law already caters well for the actions associated with an attempt at forced marriage. It is more straightforward to treat kidnapping as kidnapping, physical violence as GBH or ABH and so on.

8. Do you think the creation of a new criminal offence would make it easier for professionals to tackle the problem?

The short answer is yes, at least in the sense that it would provide professionals with a further weapon with which to tackle 'the problem'. But it would also allow modernistically minded crusaders for unlimited personal freedom to view the initiative as the first step towards the elimination of the 'harmful traditional premises' in terms of which most members of Britain's South Asian families continue to organise their domestic affairs.

9. Do you think that criminalising forcing someone to marry would change public opinion towards forced marriage, particularly in those communities most affected?

The question identifies a need to engage public opinion within those communities most affected, and indeed this is of critical importance. However criminalisation is in no sense an appropriate vehicle for so doing, and can often precipitate the inverse of the desired result. What is required is the opening up of dialogue which actively facilitates cross-cultural communication, which can in turn only be achieved on the basis of mutual respect, such that the dialogue is genuinely two-way. Criminalisation does not meet this requirement: rather it demonises alterity, and in doing so conflates outcomes which are unwelcome for all concerned with cultural inferiority.

Conclusion

Given the ill-informed, and hence the scatter-gun character of the arguments presented in the current consultation document, any initiative based on its premises would in our opinion be widely perceived as part of an unilateral effort to undermine the integrity of the new minorities' cultural traditions, in favour of the adoption of individualistically oriented (and hence 'superior') Euro-American premises and practices. Experience suggests programs of social engineering conceived on such a unilateral basis regularly fail.

The marriage lies at the heart of family life, an institution which is as valuable as it is fragile. It follows that the relationships of mutuality and reciprocity which lie at the heart of family life are a public good, and deserve active support from public policy. By the same token when relationships within such arenas become rent with contradictions, it is equally in the public interest to ensure that active steps should be taken to facilitate their equitable resolution, most especially in the case of communities whose members have a long-standing and deeply-rooted commitment to resolving their underlying differences on this basis - as is the case in all the strongly networked communities in which marriages are the normatively presented as 'arranged', and consequently require parental assent.

Hence in our view policy initiatives in this sphere would be much better at directed supporting efforts to resolve intra-familial contradictions on the basis of 'traditional' processes renegotiation, and where appropriate providing the unhappy victims of ill-judged familial initiatives with an enhanced degree of bargaining power, rather than hanging back until no other option remains but a criminal prosecution. Experience shows that such sledgehammer interventions are most unlikely to precipitate any kind of *familial* remedy: instead it is much more likely to smash the remnants of the relationships of mutual reciprocity which once underpinned its collective existence to smithereens, leaving the unfortunate victim in an even more exposed to exploitation than she was in the first place.

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1. Qualifications

1966 B.A. in Social Anthropology, University of Cambridge
 1970 Ph.D. in Sociology, University of Delhi.



2. Membership of Professional Bodies

Fellow of the Royal Anthropological Institute
 Member, Association of Social Anthropologists
 Member, Register of Expert Witnesses

3. Appointments

2002 - Director, Centre for Applied South Asian Studies, University of Manchester
 1989 - 2002 Senior Lecturer in Comparative Religion, University of Manchester
 1975 - 1989 Lecturer in Race Relations, University of Leeds.
 1971 - 1975 Research Associate, SSRC Research Unit on Ethnic Relations, University of Bristol.

4. Fieldwork Experience

India (District Jullundur): 1967-69 (18 months), 1972-73 (6 months), 1981 (6 weeks), 2000 (3 weeks)
 Pakistan (District Mirpur) 1981 (6 weeks), 1984-85 (12 months), 2000 (3 weeks), 2009 (1 week)
 Bangladesh (District Sylhet) 2003 (1 week)
 UK Continuous contact (although of varying intensity) with Punjabi communities throughout the Pennine region during the course of the past 30 years

5. Languages spoken

Punjabi, Urdu

6. Recent consultancies

2003 *The Current Demographic Characteristics of the South Asian Presence in Britain: an analysis of the results of the 2001 Census* Foreign and Commonwealth Office
 2003 *The economic impact of migrant remittances* Department for International Development
 1999 Equal Treatment Advisory Committee, Judicial Studies Board (to contribute to second edition of the JSB's *Equal Treatment Benchbook*).

7. Professional activities

In 2003 I took early retirement from my teaching post in the University of Manchester in order to service an ever-growing number instructions to act as a Consultant Anthropologist. In doing so I have accepted instructions from a variety of central and local government agencies, but the mainstay of my business has turned out to be the preparation of expert reports for use in legal proceedings in which members of Britain's South Asian minorities have found themselves caught up, and in which social, cultural, linguistic, familial and religious issues are in some way at issue. I have now prepared over 500 reports for use in the criminal, civil, immigration, family and administrative courts. Much (although by no means all) of the material in my current academic publications is now drawn from my experience of acting as an expert witness.

8. Selected Relevant Publications

- 2011 "Honour Killing? Or just plain homicide?" in Holden, Livia (ed) *Talking Expert: Patterns of Litigation and Expert Witnessing in South Asian Diasporas* Aldgate
- 2011 "The Re-establishment of Meaning and Purpose: *Madri* and *Padre Muzhub* in the Punjabi Diaspora" in Olwig, Karen (ed) *Mobile Bodies, Mobile Cosmologies: Family, religion, and migration in a global world?* University of Copenhagen Press
- 2009 "The Dynamics of Translocal and Transjurisdictional Networks: A Diasporic Perspective" in *South Asian Diaspora* Vol1, (2) 141 -166
- 2009 "Human Rights in Contexts of Ethnic Plurality: Always a Vehicle for Liberation?*" in Grillo, Ballard, Ferrari, J. Hoekema, and Shah (eds) *Legal Practice and Cultural Diversity* Aldgate 299 - 330.
- 2008 "Minority professionals' experience of marginalisation and exclusion: the rules of ethnic engagement" in Eade, John (ed) *Advancing Multiculturalism, Post 717* Cambridge: The Scholar's Press pp 73 - 96.
- 2008 "Inside and Outside: Contrasting perspectives on the dynamics of kinship and marriage in contemporary South Asian transnational networks" in Grillo, R. (ed) *The Family in Question: Immigrants and Minorities in Multicultural Europe* University of Amsterdam Press p. 37 - 70.
- 2007 "Common Law and Common Sense: Juries, Justice and the Challenge of Ethnic Plurality" in Shah, P. (ed) *Socio-Legal Perspectives on Ethnic Plurality*. Leiden: Martinus Nijhoff. p. 69 - 106.
- 2007 "Living with Difference: a forgotten art in urgent need of revival?" in Hinnells, J.R. (ed) *Religious Reconstruction in the South Asian Diasporas: From one generation to another* London: Palgrave Macmillan p. 265 - 301
- 2006 "Forced Marriage: A Criminal Conspiracy?" in N. Schlenzka (ed) *Female Marriage Migrants: Awareness Raising and Violence Prevention*. Berlin: Edition Parabolis 167-180
- 2006 "Popular Islam in Northern Pakistan and its Reconstruction in Urban Britain" in Hinnells and Malik (eds.) *Sufism in the West* London: Routledge p. 160 - 186.
- 2006 "Ethnic diversity and the delivery of justice: the challenge of plurality" in Shah, Prakash (ed) *Migrations, Diasporas and Legal Systems in Europe* London: Routledge Cavendish p. 29 - 56
- 2005 "Migration, Remittances, Economic Growth and Poverty Reduction: reflections on some South Asian developments" in Siddiqui, Tasneem (ed) *Migration and Development: Pro-poor policy choices* Dhaka: The University Press p. 333 - 358
- 2005 "Coalitions of Reciprocity and the Maintenance of Financial Integrity within Informal Value Transmission Systems: the operational dynamics of contemporary hawala networks" in *Journal of Banking Regulation* Volume 6, 4 pages 319 - 352
- 2003 "The South Asian Presence in Britain and its Transnational Connections" in Singh, H. and Vertovec, S. (eds) *Culture and Economy in the Indian Diaspora*, London: Routledge Pages 197 - 222
- 1999 "Communication" and "Ethnic Minority Families", in *Equal Treatment Benchbook* London, Judicial Studies Board, pp. 87 - 98, and 99 - 115.
- 1996 "The Pakistanis: Stability and Introspection", in Peach, C. (ed.) *The Ethnic Minority Populations of Great Britain: Ethnicity in the 1991 Census*, Vol. 2 London: Central Statistical Office, pp. 121 - 149
- 1994 *Desh Pardesh: The South Asian Presence in Britain*. London: C. Hurst and Co., and Vancouver: University of British Columbia Press, pp. 297.

- 1990 "Migration and Kinship: the differential effect of marriage rules on the process of Punjabi migration to Britain", in Clarke, C. Peach, C. and Vertovek, S. (eds.), *South Asians Overseas: Contexts and Communities*, Cambridge: Cambridge University Press pp. 219 - 249
- 1982 "South Asian Families: Structure and Process", in Rapaport, R. Fogarty, M. and Rapaport, R. (eds), *Families in Britain*, London: Routledge. pp. 179 - 204

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Fauzia Shariff joined the Law department at LSE in 2008 where she is the Joint Director of the BA in Anthropology and Law. Before joining the LSE she was awarded an ESRC Postdoctoral Research Fellowship at the School of Oriental and African Studies (SOAS, London) where she was also visiting lecturer on the LLM program: International Protection of Human Rights. Fauzia studied law at the University Kent (LLB) and SOAS (LLM) and received a scholarship from the ESRC to complete her Phd, on power and law in ethnic tribal society, at the University of Warwick, which she was awarded in 2006. Prior to this she worked as a specialist advisor in the UK government. In 2005-06 she acted as assistant to the Head of Profession for Governance at the *Department for International Development* (DFID) before joining the Social Protection Team as governance advisor. Before starting her Phd she was seconded to the *Foreign and Commonwealth Office* (FCO) from *INTERIGHTS* (International Centre for the Protection of Human Rights) to set up a dedicated forced marriage desk, working with Ministers, foreign governments and NGOs to improve government assistance to British citizens facing forced marriage abroad. Prior to this she worked with a senior lawyer to establish a legal research unit at the *Immigration Appellate Authority*. She has also worked as a research consultant for *Centre on Migration, Policy and Society* (COMPAS, University of Oxford) and local government. She has commissioned and edited a number of government papers and research papers and has delivered papers internationally including giving a Memorial Lecture in 2004 at the *Anthropological Survey of India*, Kolkata.

Research interests

Legal pluralism within the nation state, rights of minorities and importance of power relations in access to justice issues, rights of indigenous and ethnic tribal peoples, governance aspects of development, forced marriage.