Forced Marriage Consultation

Foreign & Commonwealth Office/Home Office/Scottish Executive

Response from: Scottish Refugee Council

2 December 2005
1 Introduction

1.1 The Scottish Executive has linked with the UK government to consult on the issues of forced marriage. There is currently no specific offence to ‘forcing someone to marry’ within the UK, although it is a clear abuse of human rights and a form of domestic violence. The law does provide protection from the crimes that can be committed when forcing someone into marriage. Perpetrators – usually parents or family members – could be prosecuted for offences that can be associated with forcing someone into marriage.

The consultation seeks views on whether a specific criminal offence would help to combat forced marriage. It also seeks views on how any proposed offence might be formulated.

1.2 Scottish Refugee Council welcomes the opportunity to take part in this consultation exercise. While we do not want to respond in full to each question, there a number of issues in the consultation that we believe could affect asylum seekers and refugees in Scotland and we would like to take this opportunity to comment on them.

1.3 As part of our internal consultation process, we discussed these issues with a Somali women’s group in Glasgow. Those discussions have helped to form our response. We also helped to facilitate that group’s own response to this consultation.

1.4 Scottish Refugee Council provides help and advice to those who have fled human rights abuses or other persecution in their homeland and now seek refuge in Scotland. We are a membership organisation that works independently and in partnership with others to provide support to refugees from arrival to settlement and integration into Scottish society. We campaign to ensure that the UK government meets its international, legal and humanitarian obligations and to raise awareness of refugee issues.

2 General responses

2.2 Scottish Refugee Council strongly welcomes the fact that the UK government takes the protection of people suffering human rights abuses through forced marriage seriously and is consulting on legislating against this practice.1

Although the focus of this consultation is on the issue of forced marriage within communities in the UK, we would like to raise the point that forced marriage is often a reason why people, particularly women, flee their country of origin. In describing how prevalent forced marriage is the consultation document states that the Home Office Forced Marriage Unit is aware of cases amongst communities from Sri Lanka, Turkey and

---

1 “The [UK] Government takes forced marriage very seriously. It is a form of domestic violence and an abuse of the human rights. Victims can suffer many forms of physical and emotional damage including being held unlawfully captive, assaulted and repeatedly raped.”, Home Office Communities website: http://communities.homeoffice.gov.uk/raceandfaith/faith/forced-marriages/
Scottish Refugee Council response to
Scottish Executive/Home Office consultation on Forced Marriage

Somalia. Pakistan is cited as the country of origin for the largest number of reported cases of forced marriage. All of these are countries from which refugees flee and seek protection in the UK. However, forced marriage is not directly a criterion of the 1951 UN Convention on Refugees under which persons fleeing abuse can state their claim and be granted refugee status in the UK. As acknowledged in the consultation document, the majority of cases of forced marriage involve female victims. The substantive problems facing asylum-seeking women stem from the failure of decision-makers to incorporate gender-related claims of women, such as forced marriage, into their interpretation of the existing grounds in the 1951 Convention. Decision-makers have largely failed to acknowledge the political, religious or social nature of seemingly “private” acts of harm to women such as forced marriage. Scottish Refugee Council would argue that human rights are universal. The Home Office should not only recognise that human rights abuses due to forced marriage occur in the UK, but that forced marriage is often one or one of many reasons why women flee their country of origin and seek protection in the UK. The UK government’s interpretation of the 1951 Refugee Convention on Refugees should be reconsidered so that the claims of women are not precluded. In addition, the UK government should work at a European level to develop guidelines on gender issues in asylum cases to follow such countries as Canada, the United States and Australia.

2.3 Scottish Refugee Council believes that any legislation surrounding forced marriage, if implemented, should protect (and convict) all people who are resident in the UK including those claiming asylum and not just British citizens or permanent residents as currently proposed. Many of those at risk of forced marriage are asylum seekers. We do not feel protection should be denied, or people should not be convicted because of their immigration status if legislation is implemented. On 1 September 2005 in Scotland, the Scottish Parliament accepted the need to protect non-UK citizens, including asylum seekers and overseas students from being subjected to Female Genital Mutilation (FGM). It is now an offence in Scotland to make arrangements for a non-UK citizen living in Scotland to be subjected to FGM anywhere in the world. This carries a maximum sentence of 14 years in prison. Scottish Refugee Council believes that if forced marriage legislation is to be implemented, this bold and welcome approach taken by the Scottish Parliament to give human rights protection to all should be adopted.

2.4 We welcome the UK government’s commitment to current and future work with communities to tackle issues around forced marriage, whether legislation takes place or not. We would strongly urge that this work is carried out in partnership with refugee community groups to empower them to raise awareness and effect change within their own communities. Asylum seekers and refugees should not be precluded. Promoting such awareness and close partnership working with such communities will assist in the overall integration of refugees into British society.

Contact: Gary Christie
Policy Officer

---

2 “...the Government believe that for any forced marriage offence the basis for any extra-territorial jurisdiction should be that both the perpetrator and the victim are British citizens or permanent residents.”, Section 3.2 Forced Marriage consultation.