

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

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About the research

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

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

Research findings

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

The vast majority of forced marriages took place in the context of childhood histories of neglect and abuse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion

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

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

General Recommendations

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

Specific recommendations for the criminal justice agencies

Improving victim-centred criminal justice responses to forced marriage

- Police and legal professionals must gather evidence with the dual aims of both protecting the victim via an FMPO and imposing criminal justice sanctions on the perpetrator(s).
- Criminal justice professionals (CJS) must continue to consider victim preferences, the evidence available, the prospect of conviction and the public interest when deciding whether to prosecute. However, they should also be prepared to respond accordingly, even if the victim preferences change quite late in the process.
- There is a need to monitor reasons on the part of CJS professionals behind decisions not to prosecute so that any differences in attrition rates can be analysed to determine if these rates vary depending on the type of VAWG perpetrated.
- There is a need to rethink the assumption on the part of CJS professionals that 'report to court' is the only indicator of successful policing, as victim protection is a crucial aspect of policing—and from the perspective of victims/survivors, it may often be the key aim of reporting.
- When an FMPO expires, a welfare visit must be conducted by the police to monitor whether the risk has abated, and action must then be taken accordingly.
- Professionals must learn via training to better recognise indirect forms of coercion, such as the coercive power of social norms and spiritual belief systems.
- FMPOs should never be posted or served without active engagement with the person to be protected and without safeguarding measures in place.

Specialised training and support for criminal justice and legal professionals involved

- Increased awareness raising and training should be introduced and should address the dynamics of coercive control and risk factors for lethality in the context of forced marriage and HBV, reporting requirements, and available differentiated supports that are mindful of intersecting cultural norms and values that may impede disclosure and access to support.
- Safeguarding training must be offered on forced marriage risk management, multi-agency protocols, and inter-agency collaboration and collaborative case management.
- Criminal justice professionals must be apprised of the health consequences of forced marriage, female genital mutilation and HBV. This knowledge must be passed on to relevant services and is critical to recognising the impact of trauma when gathering statements.
- The police and Crown Prosecution Service must address the issue of sexual offences being investigated and prosecuted in isolation from other related forced marriage and intersecting family abuse offences, as ignoring or overlooking this issue may prevent successful prosecution of forced marriage and devalue victims' experiences.
- A diverse range of activities and measures, including awareness raising, educational initiatives, support services, training and campaigning, must be integrated as a means of effectively tackling and preventing forced marriage.
- To make victim safety (alongside perpetrator prosecution, where appropriate) the focus of policy and practical measures, significant material resources must be made available to aid victims of forced marriage who either choose to exit abusive family relationships or attempt to resolve their difficulties with their families.

Data and recording

- It is important to improve the data recording flags and structures currently in place, such as recording key information in relation to age, gender and ethnicity. This will allow the police to monitor the different populations that are affected by forced marriage and enable the police to identify underreporting and any changes in reporting trends.

Taking statements

- If victims have never talked about their experiences of coercion and abuse related to forced marriage, it is especially important to allow them to discuss these with a trained professional before they give evidence in court. This makes it even more crucial for the police and related support agencies not to rush the process of taking an initial statement from a victim.
- In the absence of corroborative evidence, it is particularly crucial for victims to have experienced, well-trained professionals taking their first statement.
- When making statements for criminal or civil proceedings, victims must be able to choose their interpreter based on that individual's gender and their competence in the complainant's first language.
- Victims whose first language is not English must be given the chance to review their own initial statements, preferably with a trusted interpreter, at an appropriate time (i.e., when the victim is not in crisis).

Support for vulnerable witnesses

- The needs and experiences of vulnerable witnesses must be taken into account in court processes and decision-making in a way that serves their interests and does not unduly disadvantage them.
- Greater support should be provided to all witnesses to ensure that they understand the kinds of evidence required in court and what sort of information will increase their perceived credibility (e.g., giving prompt reports to the police and identifying the specific dates and times of events).

- Judges must develop a stronger understanding of the range of coercive pressures in a family context that often result in conflicting testimonies and retractions of previous statements.
- To ensure good practice, it is integral for criminal justice professionals to create space to speak with vulnerable victims on their own and to take instructions without other family members being present. Issues of evidence-building and victims' credibility are critical to both the process and outcomes of FMPOs in cases where other forms of intersectional abuse are also present. These kinds of complex cases require greater insight, experience and understanding of the specific issues affecting Black and minoritised victims on the part of all the legal professionals involved.
- Access to justice and equal recognition before the law is essential to preserving and advancing the rights of people with disabilities, and special measures must be taken to support these individuals and enable them to voice their experiences in ways that legal professionals are more likely to view as credible.
- Further training must be offered to judges and legal personnel in the following areas: trauma and disability and their impact on testimonies and witness behaviour; how to dismantle prevalent socio-cultural myths and stereotypes about the role of culture and tradition in specific forms of violence and abuse; and a review of the model of consent versus coercion to explore whether 'affirmative consent' would be a more suitable standard in civil courts given that the burden of proof is lower in these proceedings.
- More work is also needed to support LGBTQI+ victims, who may lose the vital support of their local LGBTQI+ communities if they are forced to relocate and who may also face the additional disadvantage of homophobia, biphobia or transphobia in their new area.
- By adopting an independent, critical perspective that centres Black and racially minoritised survivors' needs, specialist 'by and for' organisations have the potential to establish an intersectional approach to safety that offers genuine empowerment to end all forms of oppression and violence against all survivors. Advocacy by such organisations can provide crucial support for victims/survivors going through court processes.

Witness protection programmes

- If prosecution of forced marriage and HBV is to improve, it is essential that witnesses are better protected. To achieve this, sympathetic witness protection programmes and wider protections and welfare measures for victims and their families must be introduced.

About the authors

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

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