

## **Forced Marriage: A Wrong Not a Right**

### **Response of the Scottish Council of Jewish Communities**

The Scottish Council of Jewish Communities agrees with the statements that '*forced marriage is an abuse of internationally agreed human rights*' and that '*every major world religion condemns it*'. We welcome the acknowledgment that arranged marriage is different from forced marriage, and would urge that a clear distinction should be drawn in any new legislation. Arranged marriage, in which the parties concerned are free to reject any proposed spouse, are traditional in many religions and cultures, including some traditions within Judaism, and we would deplore any negative consequences that might arise as a result of legislation prohibiting forced marriage.

#### **Object of legislation**

We agree that there would be inherent difficulties in enforcing a specific criminal offence of forced marriage. The degree of sensitivity required when dealing with personal and family situations may mean that it is not always possible to distinguish force from strong persuasion, and the difficulties involved in proving 'intent' may make it difficult to bring successful prosecutions. We do not, however, believe that this should prevent legislation from being enacted.

Legislation is not merely about criminalising particular activities; it is also a means by which a society indicates its standards and ideals, and signposts its aspirations; and we therefore believe that there is a strong case for legislation relating to forced marriage. Both the UK and Scottish Parliaments have a duty to provide leadership to create a society in which individuals and communities feel safe to live their daily lives. On this basis alone we would support legislation against forced marriage, though we believe that there are also other strong arguments in favour of such a move.

#### **Q3. What are the advantages of creating a specific offence of forcing someone to marry?**

We think it unlikely that the introduction of a specific offence of forcing someone to marry would result in a large number of prosecutions, and it would not therefore be a drain on the public purse. In our view, the mere presence on the statute book of such a law would raise the profile of forced marriage, bringing it into the public domain, and making it less likely that hidden pressure could be applied in order to bring about a marriage against the wishes of either or both of the participants.

We do not support the view expressed in the consultation paper that one argument against the introduction of a specific offence is that it 'would disproportionately impact on Black and Minority Ethnic communities'. Legislation would, quite rightly, disproportionately impact on those people who are involved in bringing about a forced marriage. Legislation against rape is not discounted on the grounds that it disproportionately impacts on men, and it is offensive to the members of ethnic minority communities to imply that they generally or collectively support forced marriage.

**Q5. Which of the proposed options would be most effective and appropriate?**

As indicated in the consultation paper, option A, the grouping and renaming of existing crimes, would not add to existing legislation, and we do not believe it would be of particular benefit in preventing forced marriage.

We would support legislation comprising options B, C, and D combined; the creation of a new offence of threats to commit a crime, of a broader offence of 'unacceptable pressure', and of knowingly facilitating or witnessing a marriage contracted without the consent of the parties to that marriage. This 'package' would, in our view, be both appropriate and effective. We support the view that 'unacceptable pressure' (or, given that it already has a legal meaning, 'unreasonable pressure') should be decided by the courts on a case-by-case basis rather than being defined in legislation.

**Q6. Should an offence of forced marriage apply when the offence takes place overseas?**

Whilst recognising the difficulties in collecting robust evidence from overseas, we take the view that the proposed legislation should have extra-territorial effect in order to prevent a situation in which the problem is simply moved elsewhere rather than dealt with effectively. To complement this (and in line with recent legislation on female genital mutilation) we recommend that it should also be an offence to take someone abroad for the purpose of forced marriage.

**Q8. If a specific offence was created what should the penalties be?**

We do not have a view as to the appropriate penalties, but emphasise that they should be sufficiently strong to provide an effective deterrent.

**Q9. How successful has the Government been in communicating the unacceptability of forced marriage, particularly that force can include emotional as well as physical force?**

We are unaware of any publicity campaign in Scotland about forced marriage, and do not believe that the general public is aware of this consultation or of the proposals to legislate against forced marriage. We do not, therefore, believe that the Government has been effective in communicating the unacceptability of forced marriage.

We do agree with the view that force can include emotional as well as physical force, and urge that legislation should be framed so as to take this into account.

**Q10. In what other non-legislative ways could the Government communicate this message?**

The Government and the Scottish Executive have conducted a number of high-profile campaigns that have been successful in raising public awareness on issues

such as domestic abuse and AIDS, and the lessons learned in these should be applied to the issue of forced marriage **in addition to** legislation.

**Q.11 What more needs to be done to empower people to withstand pressure?**

Legislation on its own will not provide a complete solution to the problem of forced marriage, and we urge that the Government and Scottish Executive should support initiatives in the community to raise awareness and to tackle this abuse. Adequate funding is vital to enable this to be done effectively and to provide support for victims of forced marriage, and we emphasise the necessity of Government money being made available for this.

**Summary**

The Scottish Council of Jewish Communities agrees with Charles Clarke that forced marriage *'is an abuse of a person's human rights and a form of domestic violence'* and believes that legislation could play a significant role in preventing this abuse from taking place.

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Note: The Scottish Council of Jewish Communities is the representative body of all the Jewish communities in Scotland comprising Glasgow, Edinburgh, Aberdeen and Dundee as well as the more loosely linked groups of the Jewish Network of Argyll and the Highlands, and of students studying in Scottish Universities and Colleges.

In preparing this response we have consulted widely among members of the Scottish Jewish community.