Family Migration Policies in the United Kingdom: Actors, Practices and Concerns

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About the project

Family related migration has been the dominant legal mode of entry in Europe for the past decades, but has become increasingly contested in recent years. Granting migrants the right to family union traditionally has been considered as promoting the integration of migrants into receiving societies, however, in current debates over ethnic closure of migrant communities and over the alleged “failure” of integration, the “migrant family” is increasingly seen as an obstacle to integration - as a site characterised by patriarchal relationships and illiberal practices and traditions such as arranged and forced marriages. As a result, family related modes of entry have been increasingly subject to restrictions, while the existing conditionality has been tightened up.

The research project analysed family migration policies in nine European countries from two angles. First, the project analysed policies and policy-making in regard to family related migration in a “top-down” perspective through the analysis of legislation, public debates, as well as through expert interviews. Secondly, the project analyses family migration policies from a “bottom-up” perspective, by investigating the impact of conditions and restrictions on migrants and their families and the responses and strategies migrants adopt to cope with these and to organise their family lives.

This project was financed under the programme New Orientations for Democracy in Europe (NODE, www.node-research.at) which is committed to exploring the future democratic development of Europe and its effects on citizens as well as politics. Within the perspective of the NODE-Research, the project on Civic Stratification, Gender and Family Migration Policy in Europe aimed at:

- Providing an empirically grounded analysis and evaluation of family migration policies in a broad range of immigration countries in Europe, including Eastern Europe;
- Investigating how family migration policies create civic stratification;
- providing empirical evidence for the consequences of stratified rights for migrants immigrating for family related reasons;
- analysing how migrants challenge and cope with the constraints imposed by family migration policies;
- analysing the relationship between “civic integration” and social and political integration, and conversely, relationship between civic stratification and social and political exclusion;
- applying a gender based analysis both to the analysis of family migration policies and the impact of these policies on migrants; and
- developing basic principles that might help governments to design and implement fairer immigration legislation.
# Table of Contents

1 Introduction ................................................................................................................... 4
2 Significance and Shaping of Family Migration Policies ........................................ 4
   2.1 Who does the government listen to? ................................................................. 5
   2.2 Influence and Impact on Immigration Policies ................................................. 6
   2.3 Impact of Social Factors on Policy ...................................................................... 8
       a) Nationality ..................................................................................................................... 8
       b) Gender ........................................................................................................................... 8
       c) Age ................................................................................................................................. 8
       d) Skills ............................................................................................................................... 9
3 Processes of Immigration ........................................................................................... 9
4 Access to Resources and Services ......................................................................... 9
5 Forced Marriage ........................................................................................................ 10
6 Desired Changes to Policies and Processes ........................................................ 11
7 Observations .............................................................................................................. 11
8 Organisations ............................................................................................................ 12
   8.1 Government Departments ................................................................................... 12
   8.2 Independent Public Bodies .................................................................................. 14
   8.3 Migrant Rights Groups ........................................................................................ 15
   8.4 Legal Groups and Advice Services .................................................................... 17
   8.5 Community and Minority Organisations ........................................................ 19
   8.6 Organisations Specialising In Women’s Issues .............................................. 20
   8.7 Campaigning Group ............................................................................................. 21
   8.8 Expert ...................................................................................................................... 21
9 Appendix: Key informant Interviews ................................................................... 22
1 Introduction

From the mid 1960s until 1997 immigration policy was largely concerned with curbing non-white immigration, and especially restricting marriage migration and other family members from the Indian subcontinent. Much political and administrative effort was devoted to this end. Campaigning groups formed around these issues. There were also many legal challenges to the rules regulating the entry of family members. However with the abolition of the primary purpose rule in 1997 and the shift towards an interest in increasing labour migration within an overall managed migration policy and controlling the numbers of asylum seekers, family migration ceased to be a major preoccupation. This was demonstrated by the lack of attention paid to family migration in the Home Office and the difficulty of following through how decisions were made about the EU family reunification directive. Amongst academics too family migration has been under-researched.

This situation has begun to change as marriage in particular has once again come to be the focus of legislative activity and drawn the attention of academic research. Ethnic minority organisations, especially women’s groups, have also taken up a number of issues, such as the probationary period after marriage migration, no recourse to public funds for women with insecure immigration status, inability to access child tax credits, divided families and forced marriage. The paper examines the relevant activities and views of government authorities, independent public bodies, NGOs, community organisations and experts in relation to family-related migration and associated issues. The first section deals with the perceived significance of family migration policies, how and by whom they have been shaped, and especially the extent to which legal, advice and community organisations have played a role in changing and challenging them. The second section lists some of the key organisations involved and interested in family migration issues.

2 Significance and Shaping of Family Migration Policies

Family migration has until recently neither been seen as a mode of migration with very specific issues nor part of managed migration. It has thus not received much attention, whether from the Home Office, academics or from NGOs and community organisations. Few have looked at the relationship between family and other forms of migration. As a migrant association commented:

“I don’t think that anyone has ever looked at it like that. People have looked at migration in general and family migration tends to be part of it. I don’t think policy makers have ever sat down and thought hard about it happening, at least in the EU after all as it is supposed to be a family?”

According to those with a longer view of immigration policies (such as a legal expert), family policies were not seen as a government priority compared with the previous period when the primary purpose rule applied. For one organisation, it was the last in the queue because the government had no interest in supporting families or keeping them together. Others, however, saw it as a current priority in the government’s attempt to curtail numbers. Some believed it was unimportant in government thinking compared to employment migration (Amnesty).

The Home Office saw labour and family migration as linked, especially for the skilled who have the possibility of settling and therefore bringing in family members. At the same time it is also seen as a source of large numbers gaining settlement and an area where abuse of the system occurs.

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1 Katharine Charsley (Oxford University) organised a workshop on Marriage Migration on 16 September 2008 and has now started a discussion group on this topic
A number of key migration issues, such as the probationary period for spouses, forced marriages, divided families, and the social rights of family members do fall under the umbrella of family migration but have usually been treated separately. Often they are considered to be women’s issues, even though a substantial number of family migrants are, in fact, men (see UK country report).

The current emphasis on integration, cohesion and citizenship linked to the conditions of entry of migrants has partly contributed to the increasing profile of family migration. So for example, the paper Path to Citizenship (Border and Immigration Agency 2008) has, for the first time, clearly identified the fact that family migrants follow a separate route to settlement from those who enter for employment\(^2\). The new Points Based system for the latter does not include family migration (see UK country report for details of scheme). The drive to limit non-economic migration through tighter regulations on marriage migration has also raised the significance of family migration in the media and politically. This is in line with developments in many other European countries which the UK Border Agency refers to as models and precedents for its proposals (for example: raising the age of marriage and the imposition of pre-entry language tests for spouses).

With some exceptions, the most active organisations concerned about family migration have emerged from work with and campaigning for South Asian women. One of the major reasons behind the creation of the Joint Council For the Welfare of Immigrants was in relation to the family reunion of Asian migrants, although the organisation no longer has such the same focus on family migration. However other organisations active in migrant advocacy, such as the Migrant Resource Centre, are concerned with a broad range of family-related issues and groups. Few men appear to use these organisations for family related issues. In many instances it is not that it does not affect men, but that they cope with it in different ways and have different possibilities. On forced marriage, for example, studies undertaken by Geetanjali Gagnoli from Bristol University, suggest that men often went along with forced marriage but, because of their social prestige and status, they could go out with other women. They might even do so while being violent to their (forced) wife.

The attempt to curtail the level of family migration and marriage of those with an insecure immigration status has led to the creation of new organisations such as Brides Without Borders. Asylum too raises issues of family separation. Asylum Aid is engaged with issues of dispersal and concerned with its effect on family life, especially for children who may be uprooted from schools with each move, and with divided families. Deportation rules have become stricter for people over 65 years and there is no bar to removing children unless they have been in the UK for 7 years.

2.1 Who does the government listen to?

Many organisations thought that the government listened in particular to the popular press and its negative images of abuse of the system. In the words of the Home Office (now UK Border Agency): “Policy is often developed to deal with abuse”. One interviewee noted that policy in this area is concerned more with abuse than with the process of family reunion. For the Home Office the negative effects of family migration policies are that the public can view the system as too lenient.

“We can see the down side if you like. There is a lot of reaction to public outcry and we hear anecdotally that person who lives 3 doors away came over as an asylum seeker and now they have brought their wife and she has brought her sister…”

Policy making in the field of immigration tends to be reactive rather than informed by research findings and is often formulated in reaction to headlines in the popular press.

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\(^2\) The Borders, Immigration and Citizenship Bill, which incorporates some of the proposals in the Path to Citizenship, was published on 15 January 2009. Section 2 discusses the qualifying periods for citizenship of different categories (employment, relatives and refugees). Significant changes consist of
Immigration policies are constantly buffeted by populist and media pressures and immigration control. Popular press such as the Daily Mail and the Sun are thought to have a great deal of influence in shaping restrictive policies. The policy process of “triangulation” mitigates against a longer term and view, responding constantly as it does to competing pressures, and also downgrades the value given to solid information and evidence as the basis for policy-making. That said, family migration is an area, as noted above, where there are considerable gaps in the information available.

“The way public opinion is manipulated in the UK, all immigration policies are done as a consequence of what the press insinuates, most policies have restricted members of the family but in the last few years, really tough.. It is really extraordinary, they spend more money on creating controls than saving” (Migrants Resource Centre).

The Polish Federation also gave the example of the Worker Registration Scheme (WRS: see country report for details) where it felt the government had to show it was in control but that in reality the figures were not accurate because the self-employed do not have to register and many simply did not register. Family members are not included in the WRS, and workers generally do not bring families with them at the beginning but would bring them later once they decide to stay for a longer period. It was felt that the government had not thought about the implications of family settlement and that any policy ‘has developed in a piecemeal basis as things have gone on’. Yet is it estimated that about 20% of Poles are staying permanently (Polish Federation).

2.2 Influence and Impact on Immigration Policies

Some NGOs, such as Southall Black Sisters, have had an impact on government policy through many years of pressure and campaigning. One of the major successes of campaigning was the abolition of the Primary Purpose Rule in 1997 which at the time mainly affected those from the Indian sub-continent. However a Eurocentric conception of the family remains and in some cases it has become more severe such as with the need to show sole parental responsibility even for those under 12 years old (JCWI).

Others commented that they may make minor concessions to NGOS but little that is substantial.

“On ad hoc issues they might listen to NGOs, but they will respond as far as they need to go. They might make a few minor concessions just to make the problem go away rather than fundamentally addressing the issue. The whole system is inherently discriminatory and it isn’t NGO pressure that makes them change their position in terms of any broad or structural review of these policies” …. “. You need the right wing press to be on board and you don’t get that with immigration, migration and asylum issues” (Amnesty)

For example, demands have been made to lift the restriction on no recourse to public funds for those experiencing domestic violence during the probationary period after marriage (who can apply for settled status, but this takes several months), but so far the government response in practice has been simply to offer minimal funding to provide bed spaces in some refuges (£40,000, to which a housing trust added £40,000 in the first year). Subsequently, the minister responsible for provision for victims of domestic violence has promised to find ways of backdating funding for accommodation and support for those who make successful applications to stay, but no further news has emerged several months after the statement was made. Thus the perceived need to maintain the “integrity” of immigration and welfare benefits systems and bars on recourse to public funds are prioritised over the undeniable difficulties faced by migrant women in abusive and violent relationships. It is an issue that Amnesty felt was also not capturing media attention unlike women trapped in brothels which is seen as a “sexy” issue.

Thus although pressure groups may succeed in modifying some policies, “there are some policies that they are not going to change because of prejudice”. However, some legal advice organisations believe they have had some impact on the drafting of bills.
Some migrant organisations commented that:

“I don’t think there is any serious research done by the Home Office on impact or cost effectiveness. On asylum, most policies are challenged by Immigration Law Practitioners Association and the responses are so ridiculous and stupid they never really answer the challenges” (MRC).

Indeed the Home Office admits that its evidence for the effects of family policies is anecdotal. They do not have data on the number of forced marriages and do not know which marriages are forced, though they think the numbers are not huge. Their data bases are not interlinked so they cannot follow what is happening to an individual.

Family policy is also affected by the move to the PBS which has a requirement for a certain standard of English knowledge for all work related applications, although the PBS does not include families. The Home Office, however, quotes approvingly views that the English test should also apply for those wishing to settle and be part of the community

“I know if I was going to live somewhere else then I know I wouldn’t expect to live in the way I do here”. When in Rome do as the Romans do ………. (Home Office official)

Consultation takes places with other government departments but the legal expert felt this was often disjointed. For example, in relation to domestic violence, one department was concerned with stamping out child poverty, another privileging immigration control and much less heedful of migrant children falling into the poverty trap because there is no access to public funds. Even within the HO, different departments (for example those dealing with domestic violence and those with immigration) do not know what others are doing. There are monitors for different areas, which JCWI considered was a way of finding out if policy worked but they were not sure how much this was taken into account in actually changing or making policies Knowledge of what is going on more broadly is partial. The Senior Policy Advisor for marriage and settlement in the Home Office did not know of the European Migration Network’s project on family reunification.

Human Rights and international conventions were considered very important in policy making although some (Amnesty) felt it was of little use in drafting legislation as with anti-terrorist legislation. The Human Rights Act’s usefulness lies in being able to challenge legislation through the domestic courts instead of the European Court. However, JCWI thought that the “HR Act has narrowed down/tightened some of the human rights that may have been incorporated prior to the HR Act… Since the HR Act has come in relation to Article 3 (rights against inhuman or degrading treatment), the threshold has become higher in terms of provision of support for vulnerable people”. Support here means not mainstream benefits but social service, asylum support etc. There is a distinction between popular perception of human rights and legal human rights.

Amnesty also outlined the difficulties when appealing under Article 8 of ECHR (the right to a family and private life). Since the case of Huang (2005) EWCA Civ 105 [2005] EWCA Civ 105), cases which did not succeed under the immigration rules had to be exceptional in order to succeed under article 8.

“The threshold for compassionate circumstances for a family who don’t quite qualify under immigration rules because the kids are too old or whatever, the threshold keeps going up and up.”

However, after this interview, the House of Lords handed down a joint opinion in the case of Huang and Kashmiri which means appellants no longer need to meet the exceptional test. Yet, with regards to a right to family life, the European Convention on Human Right does not give migrants the right to choose where they want their family life to be. Hence, if it is possible for the family to live together in their country of origin, it won’t be engaged.

The HO stated too that the ECHR was a huge part of the work they do and especially whether what they do is compliant with articles 8 and 12 and the right to form a family. The optional CEDAW protocol was signed three years ago by the UK which means that
individuals can put in applications to CEDAW directly without having to wait for the regular four year monitoring. The UK appeared before the CEDAW Committee in June 2008 to defend its record on discrimination. Amnesty identified cases around the issue of no recourse to public funds for migrant women and considers this is the kind of application to be taken to CEDAW. It was felt, however, that gender was insufficiently taken into consideration, for example in asylum policy.

2.3 Impact of Social Factors on Policy

a) Nationality

Whilst the HO did not think nationality was important because immigration rules are not nationality specific, many interviewees felt otherwise. The Home Office agree that policy is often developed reactively (to “deal with abuse”) and this inevitably means that it is more likely to affect some communities than others.

It is clear that some practices are treated as if they applied to certain groups alone e.g. forced marriages and South Asians. Yet immigration legislation itself which primarily negatively affects those from developing countries is exempt from key aspects of the Race Relations duty (Amnesty). However, the marriage certificate of approval exempting the Church of England impacts more on certain nationalities than others (see UK Country Report section) although this has now been deemed discriminatory by the courts.

The disparity in family rights between EU nationals and third country migrants was noted by several interviewees.

“It is a two tier immigration system that we have where Europeans get very generous rights and non Europeans are treated in terms of family reunion very badly” (legal expert)

b) Gender

Several examples of the gendered impact of migration policies were given. The sole responsibility rule had a negative impact on women from the Caribbean in the 70s and 80s and then the Philippines in the 90s. Women left their children with their mothers and then ran into difficulties when they attempted to bring them over as the HO would then say they do not have sole responsibility as they are being looked after by their grandmother. Another example is the no recourse to public funds condition which covers a range of benefits including the tax credits that are used to fund childcare. This means that third country nationals cannot access these benefits until settled (unless refugees etc):

“I would think that childcare is really expensive and that the dice are pretty loaded against women as heads of household in that situation”.

c) Age

The differentiation in terms of rights of entry for family members was raised by a number of interviewees, especially the differences between EU and non-EU migrants. Age difference between spouses could make the HO suspicious about marriages and lead them to check more carefully to see if marriage is genuine.

Older people wishing to join family have to show they are entirely dependent on their children.

With elderly dependents they are equally restricted, no compassion, not even in granting tourist visas which is amazing me recently, the number of refusals for elderly parents, encouraging people to appeal because otherwise they get lost in the system.

Anyone with claims to benefits are closely monitored so that elderly person is threatened with removal and they claim back benefit (MRC).
**d) Skills**

For non-EU migrants, skill levels influence whether one can bring in family members. Under the old system, unskilled migrants had no right to bring family members, and under the new PBS (with no current tier in operation for unskilled workers) tier 5 for temporary workers includes restrictions for some categories where the worker is not allowed to have dependants.

### 3 Processes of Immigration

A number of interviewees pointed out how protracted decisions could be and how individuals could be left in limbo for many years. Once the decision has been made, individuals might have moved into a different stage of their life, for example, no longer being a child, independent and no longer in need of protection by their parents or of the British state, and hence able to be sent back to their country of origin.

A case was cited in relation to adoption both of the length of time as well as the inconsistency and irrationality of regulations applicable to different countries:

> A colleague of mine who is working with a couple who decided to adopt the youngest child of the mother's sister because the couple couldn’t have kids. It was like an intra-family adoption in the Indian subcontinent. When the child was 2 months old the HO refused the child entry clearance to come in. The parents spent 8 years struggling to get this child here. They had to make enormous sacrifices for each of them to spend as much time as they possibly could with the child and they took the case to the European Court of Human Rights who held that it was admissible in 2002 and the Court of Appeal ruled in their favour and they were able to bring the child into the country. But that child had missed and had a fragmented first 8 years of his life because of that uncertainty. They were refused on the basis that adoptions in India were not recognized in the UK. There is a list of countries where adoption is legally recognized by the UK and there doesn’t seem to be any logic to them. If you are adopted in St Kitts you are recognized, but if you are adopted in Nevis, you are not. It showed up the unfairness of HO rules in relation to adoption and those rules still apply (legal expert).

Decision making is also highly variable which may become more pronounced with the increasing exporting of borders, where more decisions are being made by Entry Clearance Officers (ECO):

> People did not know [talking about in the case of Colombians] they had a right to appeal, manipulated by ECOs and believed they could do nothing, ECOs don’t tell them that they have a right to make further submissions. We have written letters complaining to the foreign office, but in general it is difficult to change attitudes, not ECOs, although some are nasty, it is the training (MRC).

### 4 Access to Resources and Services

Diverse aspects were raised such as access and availability of ESOL, participation and barriers to entry to the labour market and no recourse to public funds which severely curtails access to resources such as child care and to refuges for those experiencing domestic abuse.

The Refugee Women’s Association was concerned about ESOL provision which it was proposed should be cut back (see UK country report) but which now has made dependent women with children a priority group.

> ESOL classes; there is a big campaign going on at the moment. It depends of what group you are for example, people who are working migrants or working, then they have to pay but not people who are on income support. But then again they are trying to take it away from asylum seekers. A lot of campaigning is going on with trade unions who are
working very closely with NGOs. People are told that if you are claiming social security and you don’t speak English then it will be withdrawn. So your income support will be withdrawn. So one hand, there is the suggestion that you should learn the language, and on the other hand there is this restriction in terms of who can and who can’t. There is a contradiction.

More recently it is to do with asylum seekers’ rights and entitlements, training and so on and the withdrawal of funding for them which leads to a situation where if you are not allowed to work and you don’t get anything for living, then you end up working in the black market and increases the problem with illegal working...

She also pointed out the difficulties individuals had accessing the labour market, even once they received refugee status.

“Someone who has been a doctor back home cannot, immediately, depends where they come from though. They can’t access immediately employment in their own field because they have to re-qualify, they have to pass an English language test, that sometimes in not free, so people have to save money for it.

But access is not quick for quite a number of professions. It is to do with restrictions in terms of qualifications or not having qualifications from this country. Also because of various prejudices in society and people not knowing about immigration laws and if they employ refugees and if they are breaking the law or not. And also generally asylum seekers and refugees lack of knowledge of opportunities available to them. There are other barriers that they face, for example, childcare is a major issue.

The issue of no recourse to public funds has particular implications for women who experience domestic abuse. Around 30% of Ashiana’s service users have insecure immigration status yet because they cannot claim any benefits, refuges must fund these spaces entirely from their own resources. However Ashiana only has the resources to fund one refuge space for such cases.

“There are so few refuge spaces for these women. The vast majority do fall through the net. It is a very stark choice...stay in their abusive relationships...or go back home to their country of origin”

There has been progress regarding domestic abuse concessions for victims of domestic violence. Initially, the Home Office would not accept evidence from support agencies however this has now changed and organisations such as Ashiana are able to offer evidence.

5 Forced Marriage

Forced marriage was raised by a number of respondents. The main NGOs working in the field of forced marriage represent diverse views on issues such as criminalization. Organisations such as Karma Nirvana were pro criminalisation believing it was necessary to send out a strong message that forced marriage is unacceptable. They have been much quoted by government. Other organisations such as Southall Black Sisters were against criminalization and have also been very effective as a lobbying group.

The study undertaken by Bristol and Manchester Universities (2008) shows that this is a complex issue where the distinction between forced and arranged marriages may be difficult to maintain

‘The real problem is that people don’t necessarily understand...while the government makes a distinction between forced and arranged marriage they don’t look at the ways the slippage between forced and arranged marriages.

It is easy to recognise if you have been forced and you have been locked in a room or raped. It is more difficult if it is because you have to keep your parents happy or it will shame the family...for a lot of people, they don’t actually realise that it is forced marriage unless it is retrospective.’
There also appears to be no link between forced marriage and migration:

‘I haven’t come across any evidence to support that. I think a lot of the cases that come to the notice of the authorities are immigration cases and the reason for that is because that is how the discourse around forced marriage has been created and also because the Forced Marriage Unit is in the Foreign and Commonwealth Office. It happens to people within the EU where it doesn’t include immigration policies at all (Gangoli).

Above all it was felt that immigration laws should not be used to resolve issues of forced marriage. In some cases intentions may be good but the impact has been problematic for women (Amnesty):

“That is the problem when politicians like Ann Cryer whose heart is in the right place but her brain is not … The probationary period was extended to two years to combat forced marriages but it only entraps women even more. The extension was also designed to show that the Government was not being lenient when it agreed the domestic violence concession.”

6 Desired Changes to Policies and Processes

Advocacy organisations have proposed:

- Abolition of probationary period and the removal of restriction applicable within the probationary period in relation to domestic violence.
- Extension of domestic violence concession to all categories of women.
- Removal of the discrimination between EU and non-EU family reunion conditions.
- Access to social assistance and especially child tax credits to ease child poverty which discriminates against single parents
- Greater coordination between government departments to help people settle more quickly

7 Observations

- While gender and race/nationality are not overtly considered in policymaking they are clearly a factor, especially when one considers the acknowledged importance of the media in creating triangulated policy decisions.
- There is remarkably little hard information available on which to make evidence-based policy
- Family migration reflects the general dilemmas of managed migration
- Many organisations involved in this area fulfil multiple roles: representing communities, advocating, providing evidence, casework
- Community organisations usually present as having a representative brief, but find themselves in possession of a rich source of evidence about the effects and needs of policymaking, which is little explored: they “know” about policies but do not necessarily tell
- Community organisations, however, do have policy solutions, but do not have the time and expertise to promote them, especially in a hostile climate where their essential support work is constantly threatened
- Independent public bodies and others providing expert advice report that they are frequently ignored on the issues of family migration
• Some campaigning organisations that focus on family issues may have a short shelf life

• Much of the vital information on family migration is “buried” in casework records, especially in the absence of effective government record-keeping or statistics

• Few organisations on the frontline have good links with those providing advocacy (except SBS which does both very effectively)

• Those advocating or campaigning sometimes confront the dilemma of whether they are doing so about family or about women, and the forced marriage debates reflect this

• Legal action has been one of the more effective motors of change in this area, but that runs the risk of squeezing out those who are on the front line but have no links to legal experts

• The pragmatic and reactive nature of policymaking tends to lead to further discrimination: the raising of the marriage age for marriage migrants as a response to forced marriage is an example of this. It is not evidence based and will lead to overt discrimination against migrants

• Responding to domestic violence against women migrants is another example: the current system leaves women at risk of their lives because the immigration provision takes no account of the need to tie in welfare provision and is thus made ineffective in many cases.

8 Organisations

The information on the key organisations concerned with immigration has been drawn from websites, published information and interviews conducted (see appendix).

8.1 Government Departments

UK Border Agency\(^3\) - The government department responsible for immigration had undergone extensive restructuring in recent years. In 2006, following a series of public failings, Home Secretary John Reid declared the Home Office “not fit for purpose” and divided the Home Office into the Ministry of Justice and the Border and Immigration Agency, which operates as an agency with its own director. In April 2008 the UK Border Agency was formed, combining the work carried out by the Border and Immigration Agency, Her Majesty’s Revenue and Customs and the UK Visa Services from the Foreign and Commonwealth Office. The UK Border Agency deals with

• Visiting the UK
• Working in the UK
• UK Residence
• British Citizenship
• Asylum

The government often uses consultations as a tool to engage with key stakeholders. Recent consultations in the field of immigration include:

\(^3\) http://www.bia.homeoffice.gov.uk/
• Consultation on the Independent Police Complaints Commission (IPCC) oversight of Border and Immigration Agency incidents and complaints (date closed, 17 October 2007). These sought views on the proposed content of regulation with will empower the IPCC to investigate serious complaints arising in England and Wales relating to the use of police-like powers by immigration officers and officials of the Secretary of State.

• Marriage visas: pre-entry English requirement for spouses and Marriage to partners from overseas (date closed, 27, February 2008) sought views on a number of proposals changing the arrangements governing marriage visas and settlement following a marriage visa. Proposals included: to introduce pre-entry language requirements for those applying for a spouse visa and a proposal to increase the minimum age of sponsorship from 18 to 21.

The current family migration issues on the Home Office agenda were identified as; raising the marriage age and integration through the Knowledge of Life and English tests.

“What can you tell me about the role nationality plays in the considerations and decisions of family migration”?

“No because immigration rules are not nationality specific, but as a caseworker you become aware of which country is the majority of cases come from...If you were concerned that the marriage was not genuine it would be one of the things that you would put on your mental checklist if you like”

**Government Equalities Office**

- The Government Equalities Office, established in 2007, has taken responsibility for the overall strategy on equality issues, assuming the remit of gender (including the work of the Women and Equalities Unit), sexual orientation, race and religion into their overall framework. The Equalities office aims to address policy issues across the entire equalities agenda. This includes encouraging ethnic minority women to participate in the labour market, education and public life. The Cabinet Minister for Women announced ministerial priorities of:

  • Supporting families, particularly as they bring up children and care for older and disabled relatives
  • Tackling violence against women and improving the way we deal with women who commit crimes
  • Empowering black and minority ethnic women to build cohesion within their communities and as a bridge between communities.

**Forced Marriage Unit**

- The Home Office and the Foreign and Commonwealth Office launched a joint Forced Marriage Unit in January 2005, providing a single point of confidential advice and assistance for those at risk of being forced into marriage. The unit deals with around 250 cases each year and is based in the FCO. Following the consultation ‘A Wrong Not a Right’, the unit decided not to create specific legislation related to forced marriage, instead pursuing the following central recommendations:

  • Preventing forced marriages taking place by helping more people to understand what forced marriage is, the damage it causes, and the help available to victims from the Forced Marriage Unit.

• Ensuring that statutory agencies and other professionals know how to help victims of forced marriage, and that the Forced Marriage Unit works in partnership with them.

• Making existing legislation an effective resource for victims of forced marriage, and ensuring that victims can access the protection and justice they need within the UK legal system.

The unit plans to take forward these recommendations by undertaking policy and awareness raising projects through public speaking, outreach work and by producing specific guidance for relevant professionals.⁶

### 8.2 Independent Public Bodies

These are new bodies where issues around family migration and integration may be addressed. The predecessors to the ECHR were primarily concerned with established minority ethnic groups rather than migration although the CRE did begin to challenge some of the racist aspects of the proposed managed migration scheme. The EOC too undertook a considerable amount of research on minority ethnic women, particularly Afro-Caribbean and South Asian, in the years running up to its dissolution. The ECHR has commissioned a number of studies, one of which The Equality Implications of Being a Migrant in Britain (Kofman, Lukes, D’Angelo and Montagna) was undertaken by the authors of this study. However its emphasis is on economic rather than family migration, although it includes much material relevant to family migration and equalities.

**The Equality and Human Rights Commission**⁷ - it opened on the 1st October 2007, combining the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission under one agency. Additional responsibilities within its remit include age, sexual orientation, religion or belief and human rights. The aims of the independent commission are to reduce inequality and discrimination and protect human rights by influencing policy and through campaign work. These aims are furthered through three areas of its work:

• Advocacy – ECHR has a directorate of lawyers who are specialists in equalities issues. The commission can take legal action on behalf of individuals on equalities issues and human rights cases with an equality dimension.

• Policy - The commission also works with the government to influence the development of single equalities legislation and ensure that equalities and human rights issues are considered throughout all areas of policy.

• Campaigns – The commission also has the task of increasing public knowledge and understanding of equality and human rights through campaign events and communications.

**The Women’s National Commission**⁸ - it is an independent advisory body, originally established by Harold Wilson in 1969 to advise government on the views of women in the UK. It is fully funded by the government but as an independent body, it is free to comment on government policy. It currently represents over 400 women’s organisations throughout

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⁶ For more information, visit: [Forced Marriage Unit](http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1094234857863)


England, Northern Ireland, Scotland and Wales. In 2005 the WNC organised a roundtable on migration and asylum issues. Key experts representing NGOs, academics and Government were invited to discuss salient issues affecting women migrants and asylum seekers. The group were asked to identify gaps in government policies and to offer practical recommendations. Two key outcome of the roundtable were:

- The creation of the WNC’s Migration and Asylum Group in order to take forward the specific issues indentified through the roundtable. The group’s work programme has prioritised issues relating to Citizenship and Integration, the Asylum and Nationality Act and the point-bases system for managed migration.

- The WNC Migration and Asylum E-Network was set up to circulate information such as: events and seminars, government and NGO initiatives and consultations relating migration and asylum from a gender perspective. The Network is open to WNC partners and organisations and individuals with an interest in the field. Its priorities are currently gender and the asylum determination system; the points based system and general issues concerning immigration. It has responded to the various recent consultations around family issues such as marriage visas, pre-entry English tests, family sponsorship and visas.

The Office of the Immigration Services Commissioner (OISC) - OISC is an independent public body established under the Immigration and Asylum Act 1999 to ensure that all immigration advisors fulfil the requirements of good practice. Included within OISC’s remit:

- regulating immigration advisors in accordance with the Commissioner’s code of standards and rules
- maintaining and publishing the register of advisors
- promoting good practice by immigration advisors
- receiving and handling complaints about immigration advisors.

Is in an offence to offer immigration advice without being regulated by OISC; the latest figures reveal that 1,661 organisations and 3,915 individuals are regulated under the scheme. The commission received 497 complaints about immigration advisors in 2006/07.

8.3 Migrant Rights Groups

Amnesty International - one of world’s largest international voluntary organisations dealing with human rights with over 1.8 million supporters in more than 150 countries. Amnesty’s purpose is to protect individuals and promote human rights through high profile campaigns, events and publications.

Amnesty UK’s General Policy Advisor was interviewed as part of this research project to highlight their concerns regarding family migration polices. The policy advisor pointed to a

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9 http://www.thewnc.org.uk/
10 http://www.oisc.gov.uk/
11 The only exceptions to this are those who are regulated by a DPB, such as the Law Society of England and Wales, or those who have been exempted by way of Ministerial Order
12 OISC Annual Report 2006/07
13 OISC Annual Report 2006/07
14 http://www.amnesty.org/
shift in government priorities away from family migration towards employment migration and work shortages. The difficulties NGOs face when trying to influence policy priorities in the area of immigration was noted.

Gender based violence has been a large part of the policy advisor’s work, with particular interest in women who are subject to immigration control, domestic workers and trafficked women. The specific issues which emerged from the interview as a concern for Amnesty were:

- Restrictions on public funds
- The domestic violence concession must be applied for within the probationary period.

Asylum Aid\(^\text{(15)}\) - provides legal representation to asylum seekers. It is also an active campaigner, responding to difficulties asylum seekers’ experience during the asylum process. In 2000 the organisation established the Refugee Women’s Resource Project in recognition of the particular problems facing women who have fled their country of origin. While their focus mainly relates to women’s experience of the asylum process, recent campaigns have raised awareness about violence against women and children.

Joint Council for the Welfare of Immigrants (JCWI)\(^\text{(16)}\) - operates as an independent national voluntary organisation which campaigns and provides advice in immigration and asylum law and policy. It was established to assist families coming to the UK in the Commonwealth immigration of the 1960’s. JCWI is a leading authority in the field and provides a range of services and materials.

- JCWI offers free legal advice on immigration, nationality and asylum matters to immigration law professionals and private individuals.
- Campaigning is central to their policy work. By producing a variety of immigration briefings relating to UK policy, EU policy, UK Law and Rules and Statistics they seek to influence the immigration agenda.
- JCWI produces other written materials for legal practitioners, students and advisors such as The Immigration, Nationality and Refugee Law Handbook – an indispensible resource for actors in the field.
- A wide selection of training courses are provided by JCWI’s specialist legal team including OISC levels of Competence.

JCWI has a long tradition of involvement on the subject of marriage migration, in particular with the South Asian Community. A report published in 2004, Marriage Migration in the United Kingdom Country Study\(^\text{(17)}\) stated that while refugee issues dominated the agenda during the 1990s JCWI is returning its focus towards family reunification. Their recent publication Gender and the new points-based system for labour migration in the UK highlights that those who secure work permits will have no right to family settlement or reunion, and will be treated as temporary for the purposes of both work and settlement. This in turn may impact on their ability to access equal rights and opportunities at work and rights to certain services such as health.

\(^{15}\) http://www.asylumaid.org.uk/
\(^{16}\) http://www.jcwi.org.uk
\(^{17}\) na Skalbergs and Maria Gulicova – Grethe, July
Bail for Immigration Detainees (BID)\textsuperscript{18} - it is an independent charity that challenges immigration detention for asylum seekers and migrants in the UK. The organisation makes free applications for release from detention and carries out research and policy work to aid its campaign to end arbitrary immigration detention. In particular, the detention of families and minors\textsuperscript{19} has been a prominent feature of its campaign work.

Migrants Rights Network\textsuperscript{20} - MRN was set up in 2007 and encourages closer collaboration between different groups working in the field of migration. It also aims to establish a network to improve information sharing and increase their capacity to influence national policy. MRN provide policy analysis to allow migrant groups to make more informed decision as part of the network.

8.4 Legal Groups and Advice Services

Immigration Law Practitioners Association (ILPA) – it was established in 1984 by a group of leading UK immigration practitioners. ILPA has around 1000 members comprises of lawyers, academics, advice workers and law students. ILPA aims to promote and improve the advising and representation of immigrants and to provide information to its members on domestic and European immigration, refugee and nationality law. ILPA is regularly consulted by the Government on these issues. An extensive collection of written materials can be accessed via their website including:

- ILPA briefing papers offering detailed accounts of relevant government legislation through the stages of parliament.
- ILPA consultation responses and submissions on UK and EU immigration policy.
- Policy briefings and information sheets

Law Centre Federation\textsuperscript{21} - it represents the network of community based Law Centres who provide free legal advice to disadvantaged members of society across the UK. There are about 65 Law Centres in England and Wales and 8 in Scotland.

The Refugee Legal Centre\textsuperscript{22} - it is an independent organisation offering legal advice for asylum seekers and refugees. RLC has a central office in London and 10 regional offices across England. The organisation have recently established an Immigration Legal Centre, set up as a private limited company offering interpreting and translation services to public sector agencies.

Immigration Advisory Service\textsuperscript{23} - it is the UK’s largest charity providing representation and advice in immigration and asylum law.

- IAS has offices throughout the UK and in Bangladesh and Pakistan offering free advice for those eligible and a non-profit fee paying service for people who are not.

\textsuperscript{18} http://www.biduk.org
\textsuperscript{19} 540 children detained in 2005, 465 of whom were asylum-seeking children.
\textsuperscript{20} http://www.migrantsrights.org.uk/
\textsuperscript{21} http://www.lawcentres.org.uk/
\textsuperscript{22} http://www.refugee-legal-centre.org.uk/
\textsuperscript{23} http://www.iasuk.org/
• The IAS website offers comprehensive advice on family migration issues, broken down into specific immigration categories of: Spouses, Partners, Getting Married in the UK, Children and Other Relatives. Clients are advised to contact their local IAS office for specific advice relating to their case.

• The organisation also supports a prestigious research centre however their work concentrates on country information and asylum appeals rather than issues relating to family migration.

• Professional training in immigration and asylum law is also available.

Citizens Advice\(^{24}\) - it is a national charity which provides free advice and is engaged in influencing social policy across a range of issues.

  - Advice services - Citizens Advice provides face to face advice in over 3,300 locations across England, Scotland, Wales and Northern Ireland. Telephone advice is also available. They can help people resolve problems with housing, legal, benefits and employment and immigration. Their trained advisors assist 5.7 million people every year.

  - Website – The charity maintains an advice website which contains some information on immigration problems including: Help with immigration problems in other languages, Immigration control, problems which may need immigration or nationality advice, finding a solicitor and registration of immigration advisors.

  - Policy – Citizens advice also publish briefings, consultation responses, evidence report and parliamentary briefings on a range of issues including immigration policy.

AIRE Centre – Advice on Individual rights in Europe\(^{25}\) - The Centre’s advice, information and representation service covers all aspects of the rights of individuals in Europe under international law. AIRE Centre’s Family Law database can be accessed via their website. This offers up to date information and litigation in family law and the European Convention on Human Rights.

Community Legal Advice\(^{26}\) - provides a free advice service, financed by legal aid through the Legal Services Commission. Help with legal problems is offered through a variety of methods such as:

  • Telephone helpline
  • Website
  • Digital TV service
  • Centres and networks
  • Call back service

The website also has a searchable database to help find immigration advisors in your local area.

Advicenow\(^{27}\) - a not-for-profit website, run by the Advice Services Alliance providing information on rights and legal issues. The website gathers high quality information from

\(^{24}\) http://www.citizensadvice.org.uk/
\(^{25}\) http://www.airecentre.org/about_us.html
\(^{26}\) http://www.clsdirect.org.uk/
\(^{27}\) http://www.advicenow.org.uk/
over 200 UK websites, chosen by experienced advisors. Under the heading of Immigration Nationality, information is available on a range of subtopics including:

- Asylum
- Citizenship and Nationality
- Detention
- Immigration controls
- Settlement and Integration

YourRights\(^{28}\) - it is a website established by the charity Liberty to provide advice to individuals and organisations regarding the Human rights Act 1998. The website contains briefing notes, written by legal experts but in straight forward language. Immigration relating briefing notes are available for topics such as: Persons subject to Immigration Control, The Framework of Immigration Control, The Rights of Immigrants: The European Convention on Human Rights Your rights also offers a legal advice service, enquiries can be submitted electronically however they can only provide advice on queries relating to human rights.

8.5 Community and Minority Organisations

There are a very large number of organisations representing migrant and refugee communities. The following are only a selection of groups we have dealt with or have interviewed.

**Chinese Information and Advice Centre**\(^{29}\) - it was established in 1982 and offers free legal advice to disadvantaged Chinese people living in the UK. Immigration queries account for 72% of their legal casework with further leave to remain as a spouse and permanent settlement as a spouse of a UK citizen among the most frequent cases handled by CIAC. The centre also provides information on family law and divorce and offers advice and support to women who are the victims of domestic abuse.

**Migrant Resource Centre**\(^{30}\) - promotes social justice and inclusion through innovative projects which empower migrants and refugees to fully participate in society. MRC’s also endeavours to improve the image and perception of migrants and refugees in the UK. The centre provides specialist immigration services and appeal representation as well as more general advice relating to discrimination faced by migrants, refugees and asylum seekers\(^{31}\). The legal advice team dealt with over 4000 inquiries last year.

In 2005 the centre received 3 years funding from the Big Lottery Community Fund for a series of initiatives intended to further inclusion and representation of migrant and refugees in Britain. The main projects include: Refugee Media Action Group, Getting your Say Course, Anti-Poverty group and the Migrant and Refugee Integration Project.

\(^{28}\) [http://www.yourrights.org.uk/index.html](http://www.yourrights.org.uk/index.html)

\(^{29}\) [http://www.ciac.co.uk/](http://www.ciac.co.uk/)

\(^{30}\) [http://www.migrantsresourcecentre.org.uk/](http://www.migrantsresourcecentre.org.uk/)

UK Lesbian and Gay Immigration Group\(^{32}\) - Formerly the Stonewall Immigration Group, the charity provides information and advice on immigration rights for same sex couples and support for lesbian and gay asylum seekers. The group’s primary aim was to campaign for immigration rights for same sex couples, this was achieved in December 2005 by the Unmarried Partners Rule. Since then its attention has shifted towards gay and lesbian asylum support. However, the Stonewall Immigration Group annual report 2006 noted that the organisation still receive a high number of calls from same sex couples requiring immigration advice, highlighting the need for continuing support in this area.

Federation of Poles in Great Britain\(^{33}\) - Originally, the organisation was formed to filter information between the Polish community in the UK and the British government in 1946 when the British government withdrew its recognition of the Polish government in exile.

### 8.6 Organisations Specialising In Women’s Issues

Newham Asian Women’s Project (NAWP)\(^{34}\) – it was set up in 1987 to provide advice and support for Asian women and children experiencing domestic violence. NAWP also assists women who seek information on immigration issues and women requiring advice or assistance regarding forced marriage. Its services include legal advice, training, mental health support and counselling. NAWP’s service statistics reveal that 422 women accessed their advice services last year, of which 15% sought information relating to immigration or poverty issues. NAWP carried out research on self-harm and suicide among young Asian women Growing Up Young, Asian and Female in Britain: A report on self-harm and suicide (1998). The report raised awareness among policy makers and resulted in funding for a Development Officer\(^{35}\) to enhance support services for young Asian women.

Southall Black Sisters\(^{36}\) - a not-for-profit organisation, it was established in 1979 to meet the needs of Asian and African-Caribbean women. It challenges violence against women and seeks to empower women to take control of their lives and assert their human rights. Southall Black Sisters have also campaigned to highlight the plight of women subject to restrictive immigration rules, especially the no recourse to public funds regulation, and domestic violence. The organisation runs a resource centre offering information, casework, advocacy and counselling and self help in several different languages. Specialist advice is available to professionals (e.g. advice agencies, public sector or police) whose client’s problems relate to forced marriage, honour killing and immigration and asylum.

Ashiana Project\(^{37}\) - provides temporary housing for South Asian, Turkish and Iranian young women who are experiencing domestic abuse. In addition it offers a range of advice and counselling services which are sensitive to specific cultural needs. The Ashiana projects also engages with young people from all ethnic backgrounds, raising awareness of domestic abuse and children’s rights through projects in schools across East London.

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\(^{32}\) [http://www.uklgig.org.uk/](http://www.uklgig.org.uk/)


\(^{34}\) [http://www.nawp.org/](http://www.nawp.org/)

\(^{35}\) Development Officer works in the areas of Newham, Hackney and Tower Hamlets

\(^{36}\) [http://www.southallblacksisters.org.uk](http://www.southallblacksisters.org.uk)

\(^{37}\) [http://www.ashiana.org.uk](http://www.ashiana.org.uk)
Refugee Women’s Association\(^{38}\) - provide education, training, employment advice, vocational training and ESOL classes to refugee.

8.7 Campaigning Group

Brides Without Borders: Keep Couples Together\(^{39}\) - is a non-profit campaign group for couples who are facing separation or have been denied the right to marry as a result of government immigration policies. It campaigns to promote the ‘right to family life’ and the ‘right to marry and found a family’ (Articles 8 and 12 of the European Convention of Human Rights) and to offer support to couples facing separation.

8.8 Expert

Francis Webber a well known barrister with over 20 years experience specializing in immigration, asylum race relations and human rights. She campaigns against the excesses of the immigration system in forums such as the Institute of Race Relations, Statewatch and CARF.

Geetanjali Gangli, Lecturer, University of Bristol, School for Policy studies

Her areas of expertise include forced marriage, domestic violence and South Asian women. In 2006 she was commissioned by the Home Office to research whether increasing the age of immigration from 18 to 21 or 24 would reduce the numbers of forced marriages. This is the only available research on this issue (see country report) but the Home Office has refused to publish it on grounds of problems with the methodology, but most likely because the findings did not corroborate a link between forced marriage and migration. The Unit has subsequently published the research itself.

The fieldwork encompassed three case study areas; London, Birmingham and Manchester. The legislative proposals raising the marriage age are rooted in forced marriage. The logic claims that the older you are, the more likely you will be to resist forced marriage. However, the study for the home office found little support for upping the age.

While forced marriage is often perceived as a problem affecting the South Asian community, the research found that it can be a problem affecting several other communities such as the Chinese, North African and Middle Eastern. In some North African communities ‘Bride Price’ could equally be a form of forced marriage yet it is not articulated as a forced marriage problem. This emphasises how nationality impacts upon the immigration and forced marriage debate. Forced marriage can affect both men and women however the Home Office study found that it has gendered consequences. Women have fewer rights than men and further difficulties arise from women leaving their parental home to live in their in-laws house. The connection between domestic violence and forced marriage was also raised during the interview. Forced marriage is a form of domestic violence so a direct link is apparent. Police policy assumes there is an automatic link between forced marriage and most marriage domestic violence but this is an area for further research.

\(^{38}\) [http://www.refugeewomen.org.uk/](http://www.refugeewomen.org.uk/)- website under construction

\(^{39}\) [www.brideswithoutborders.org.uk](http://www.brideswithoutborders.org.uk)
## Appendix: Key informant Interviews

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<thead>
<tr>
<th>Organisation</th>
<th>Description</th>
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<tbody>
<tr>
<td>Brides Without Borders</td>
<td>Campaigning on behalf of UK and settled women with partners from abroad</td>
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<tr>
<td>Polish Federation</td>
<td>Representing Polish migrants in UK</td>
</tr>
<tr>
<td>Refugee Women’s Association</td>
<td>Offers training, advice and other services to refugee women in UK. Refugee run.</td>
</tr>
<tr>
<td>Francis Webber</td>
<td>Well known barrister expert in immigration and race relations</td>
</tr>
<tr>
<td>JCWI</td>
<td>National voluntary sector agency offering advice and advocacy on immigration</td>
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<tr>
<td>Asylum Aid/ Refugee women’s project</td>
<td>National voluntary sector agency offering advice and advocacy on asylum, with specialist women’s project</td>
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<tr>
<td>Gender Policy Advisor</td>
<td>International NGO campaigning on human rights</td>
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<td>Amnesty</td>
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<tr>
<td>Ashiana Project</td>
<td>Offers refugee accommodation to Asian women fleeing domestic violence</td>
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<tr>
<td>Managed Migration Strategy Unit/Forced Marriage Unit</td>
<td>Home Office department</td>
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<tr>
<td>Migrant Resource Centre</td>
<td>London-wide NGO offering advice, advocacy, community development and training to migrant communities, migrant run</td>
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<tr>
<td>Home Office</td>
<td>UK Contact point for European Migration Network (EMN) beginning a project on family reunification</td>
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<tr>
<td>Geetanjali Gangli</td>
<td>Academic working on forced marriage at Bristol University</td>
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<tr>
<td>Barbara Roche</td>
<td>Former Minister for Immigration</td>
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