



## Written Response to Marriage to Partners from Overseas by The Runnymede Trust, 27 February 2008

CHAIR  
Dr Samir Shah OBE

We welcome the opportunity to respond to the consultation paper relating to marriage to partners from overseas. We are in favour of safeguarding potential victims of forced marriage, but we do have concerns about the effect of the proposed legislation on all marriages to partners from overseas.

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The Runnymede Trust is an independent policy research organisation focusing on equality and justice through the promotion of a successful multi-ethnic society. Our mandate is to promote a society where citizens and communities feel valued, enjoy equal opportunities to develop their talents, lead fulfilling lives and accept a collective responsibility all in the spirit of civic friendship, shared identity and a common sense of belonging. Immigration policy has thus been an area of concern to us, as it directly affects the members of our diverse communities.

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We recognise the importance of safeguarding potential victims of forced marriage; however these proposals would directly affect all marriage to partners from overseas – the vast majority of which are not cases of forced marriage. Currently there is minimal evidence of the scale of forced marriage, which puts into question the suitability and effectiveness of the proposed policies. Furthermore, this consultation only outlines the safeguarding of British nationals, rather than the partners from overseas who already receive limited support during their probationary period of settlement. Instead of providing a thorough and strategic plan of preventing forced marriages, the intent of the consultation paper is reminiscent of the abolished Primary Purpose rule of foreign nationals married to British nationals, in which a couple was required to prove that the partner from overseas' entrance in the UK was not for the primary purpose of British residency.<sup>1</sup>

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After considering the contexts and objectives put forward we feel we are best placed to comment on a limited selection of the questions outlined in the consultation paper.

### **Q2. Should someone intending to sponsor a partner from overseas declare this intention before they leave the UK on the visit/trip?**

No. Requiring a British national to declare the intention of marriage before leaving the UK does not seem reasonable. This requirement does not take into account the different circumstances which people meet and marry.

### **Q3. Should potential sponsors be given more opportunities to have a confidential interview if they request one?**

We question the effectiveness and practicality of a confidentiality statement in safeguarding against forced marriage. If it is indeed a statement given in confidence, then it could not be used

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<sup>1</sup> "This consultation, therefore, centres on those migration routes where to become married or being married is the only basis of entry to the UK" *Marriage to Partners from Overseas: A Consultation Paper*: pg.5



as evidence to prove a forced marriage. Offering the sponsor the option of a confidential interview in which no action could be taken afterwards runs the risk of giving the sponsor a false sense of security and protection. If the confidential interview would be used as a method of research by the Home Office to identify issues and patterns of forced marriage, then the outcomes of the interview should be made clear to the sponsor. If research is the motivation for the confidential interview, then it would seem that the confidential statement may be helpful to victims of forced marriage in the future and not directly helpful for the sponsor at the time of interview.

**Q4. Do you think we should introduce a Code of Practice as outlined in this consultation paper?**

We have reservations on the proposed Code of Practice as outlined in the consultation document. As currently outlined, it would have a disproportionate effect on all marriages with partners from overseas; regardless of whether the marriage was forced or not. Refusing a marriage on the grounds of disparity in age, language, education or time spent in each other's country is discriminatory, and places an unnecessary and additional burden to prove the 'genuineness' or non-forced nature of a marriage. If these factors are already determined to equate to a situation of vulnerability, it would be extremely difficult for a sponsor to then appeal and prove that vulnerability had not played a part in the marriage. The Code of Practice thus appears similar to the discredited Primary Purpose rule.

**Q5. We have suggested some of the factors which might indicate vulnerability to a forced marriage; what additional factors do you think there might be?**

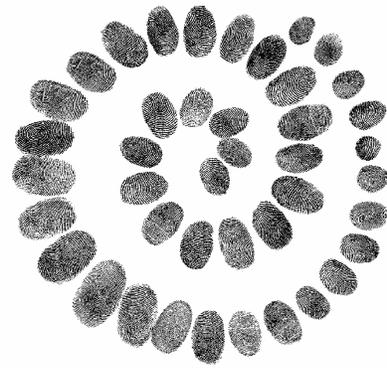
The factors that might indicate vulnerability to a forced marriage as suggested in the consultation paper are not conclusive.

**Q5a. If some of the factors that create vulnerability were present, should there be a power to refuse on these grounds alone, without the sponsor having to prove an evidential statement?**

No. Again, since these factors are not conclusive in determining what is and isn't a forced marriage, they should not be used as grounds alone to refuse a marriage with a partner from overseas. VAC information booklets about living in working in the UK as outlined in the BIA consultation *Pre-Entry English Requirement for Spouses*, should be made available in English and native languages and also include resources for support for the partner from overseas. Likewise, information for the sponsor on access to resources of support should be made available.

**Q6. Do you think that we should do more to bring about revocation of indefinite leave to remain if individuals abuse the marriage route to gain settlement?**

The BIA already has the powers needed to do what it has proposed in this consultation paper through the Immigration and Asylum Act 1999 (the power to remove a person who has obtained leave by deception), under section 76 of the Nationality, Immigration and Asylum Act 2002 (the power to revoke indefinite leave), and under para 312A of HC395, the Immigration Rules (the power to cancel leave at a port of entry).



**Q7. Do you think we should be able to revoke indefinite leave to remain after it has been granted if the sponsoring partner is abandoned?**

No. When indefinite leave has been granted – and that leave has not been obtained through deception or fraud – that decision should be final. If the partner has been abandoned after leave has been granted, then it would be a case of marriage breakdown, which could arise from a variety of reasons. In a study we have conducted on the Thai community, we found British nationals have used the threat of revoking their partner's leave to remain as a method of intimidation to keep reluctant partners in a failing marriage.<sup>2</sup> Therefore this proposal could potentially place the partner from overseas in an increased situation of vulnerability.

**Q10. What provision might be necessary for safeguarding women, in particular, after the entry of a sponsored spouse?**

The Women's Resource Centre cited that women-only spaces have the benefits of creating an environment where women feel comfortable to express themselves and articulate their needs, and foster the feeling of being less constrained or intimidated. Even though women's organisations account for 7% of registered charities, and have cited increased evidence for the necessity of their services, in 2002/03 they only received 1.2% of central government funding.<sup>3</sup> We feel that the continued support and increased funding of women's organisation, especially along with a raised awareness of the existence of women's support organisations and services in BME and migrant communities, is necessary to safeguard potentially vulnerable women.

While we recognise the importance of safeguarding potential victims of forced marriage, we do not feel that the proposals outlined in this consultation are practical or suitable because the measures will in fact affect all marriages to partners from overseas. We encourage the Home Office to continue working in the area of forced marriage with key communities and organisations to identify practical and effective methods of preventing forced marriage, and also providing support of victims of forced marriage. We also encourage an increase to and maintenance of funding to women's organisations that already provide valuable assistance to vulnerable women.

Furthermore, this consultation only outlines the safeguarding of British nationals, rather than the partner from overseas who already receives limited support during their probationary period of settlement. We encourage the Home Office to consider the possibility that partners from overseas may also be vulnerable of abandonment, abuse and coercion by their British or settled person sponsor. Abolishing 'no recourse to public funds' for partners from overseas would ensure that persons who are otherwise vulnerable would be able to access the proper assistance and resources.

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<sup>2</sup> Sims, J. (2008) *Empowering Individuals & Creating Community – Thai Perspectives on Life in Britain*. London: Runnymede Trust; Edwards, D. (2007) 'Terror for Thai Bride' icWales.co.uk Available under: <http://icwales.icnetwork.co.uk/news/south-wales-news/rhondda/2007/10/11/terror-for-thai-bride-91466-19923288>

<sup>3</sup> Women's Resource Centre (2007) *Why Women Only*. London: Women's Resource Centre

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Thank you for considering our response and the concerns and issues we highlight. We look forward to learning the result of the consultation process and the intentions of the Government on safeguarding victims of forced marriage. If you would like to discuss any aspect of this response, please contact: Michelynn Lafèche (Director) or Jessica Mai Sims (Research and Policy Analyst) at the address or telephone number below.

The Runnymede Trust  
27 February 2008