

## **FORCED MARRIAGE (CIVIL PROTECTION) BILL**

### **SUMMARY OF CONSULTATION RESPONSES**

#### **1 INTRODUCTION**

The Forced Marriage (Civil Protection) Bill is a Private Member's Bill introduced by Lord Lester of Herne Hill QC, a Liberal Democrat peer. The Bill had its Second Reading in the House of Lords on 26 January 2007 and will be considered further in Grand Committee in late April 2007.

The Odysseus Trust held a public consultation about various proposals to amend the Bill. The consultation paper was published on 7 February 2007, together with a mock-up version of how the Bill would look if the changes were made. The consultation period ended on 9 March 2007.<sup>1</sup>

The Odysseus Trust received 29 responses to the consultation.<sup>2</sup> We are very grateful to all the respondents for taking the time to comment on the Bill, and look forward to their continuing support as the Bill proceeds through the House of Lords.

This paper summarises the responses received.<sup>3</sup> We are encouraged that the consultation process demonstrated overwhelming support for the Bill. We are also delighted that the Government has indicated its support for the Bill.

This paper is available on the Odysseus Trust website, [www.odysseustrust.org](http://www.odysseustrust.org). If you would like a copy by post, please contact the Odysseus Trust at the address above and we would be happy to send one to you.

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<sup>1</sup> Responses were initially requested by 28 February but the deadline was extended until 9 March.

<sup>2</sup> In addition the Trust received several briefings in support of the Bill for the Second Reading debate, which are listed separately in the List of Respondents. Some organisations which published briefings for the Second Reading debate were not able to respond separately to the consultation.

<sup>3</sup> Not all respondents answered every question in the consultation. This paper aims to give a fair summary of responses received to each question.



## **2 POSSIBLE CHANGES TO THE BILL**

### **2.1 Incorporation within the Family Law Act**

There was a mixed response to the question of whether the Bill should be incorporated into the Family Law Act, or remain a free-standing measure. The responses were split between those who favoured incorporation within the Family Law Act, those who favoured a stand-alone measure, and those who did not indicate a preference (or who indicated that as the Bill would have statutory force in either case, its location was not of crucial importance).

A number of respondents commented that there were advantages and disadvantages of each approach. The responses in favour of a stand-alone measure stressed that it would be easier for victims and professionals to use and understand. The responses in favour of incorporation within the Family Law Act suggested that the problem of forced marriage should be viewed within the wider legal framework around domestic violence. Some respondents expressed concern that a free standing measure would isolate the issue of forced marriage and risk stigmatising certain ethnic minority groups within the wider community and the media.

### **2.2 Nullity petitions**

Many respondents suggested that the time limit for nullity petitions should be extended, but expressed uncertainty as to what the time limit should be. There were suggestions from some respondents that a time limit of 5 or 6 years would be more appropriate than the current limit of 3 years.

A similar number of respondents suggested that the time limit should be abolished altogether, while acknowledging the problems of legal certainty that this would give rise to. Some respondents suggested that grounds for allowing an exception to the time limit should be amended to cover cases of forced marriage, so that the exception is not limited to cases where a “mental disorder” can be shown. There were mixed views about whether a forced marriage should be void or voidable.

### **2.3 Forced marriage guidance**

There was overwhelming support for putting forced marriage guidance on a statutory footing and making guidance available to a wider range of bodies. Many respondents praised the existing guidance published by the Forced Marriage Unit, but expressed concern that many agencies and professionals remain unaware of it.

In addition to the groups listed in the consultation paper, respondents suggested that guidance and training should be made available to housing bodies and agencies, the judiciary and bodies working within the judicial system such as CAFCASS (Children and Family Court Advisory and Support Service), those working within the criminal justice system, law centres and Citizen's Advice Bureaux, children's and women's organisations, employment and benefits agencies, GPs, the voluntary sector and community groups. Some respondents suggested that more information should be made available to victims and potential victims in an accessible form.

There was support for the guidance to cover the matters outlined in the consultation paper. Respondents suggested that the guidance should also cover the legal framework under the Children Act 1989, the inherent jurisdiction of the High Court, the gendered nature of forced marriage, and should emphasise that forced marriage is a breach of internationally accepted human rights standards. It was also suggested that guidance should specify the extent and scope of all legal duties and powers of public bodies which are relevant to forced marriage.

Many respondents were in favour of creating a duty for public authorities to have regard to the guidance, and some suggested that courts should take guidance into account when making decisions in cases involving forced marriage. There was strong support for monitoring of guidance, so that any gaps or problems of implementation would be easily identified. Several respondents suggested that monitoring should be carried out by a central body or committee. Many respondents stressed the importance of publicity and awareness-raising and the provision of resources to facilitate implementation of the guidance.

## **2.4 Threats and benefits to third parties**

Most respondents who addressed this question supported the idea of covering threats and benefits to third parties in the Bill. Some respondents pointed to the role of extended families and family friends in forced marriage cases, and the risk that third parties trying to assist a victim might be harassed or threatened.

## **2.5 Jurisdiction of courts**

Respondents were generally in favour of allowing the Lord Chancellor to make appropriate decisions about the levels of court where action may be taken to obtain an injunction or compensation, if these decisions were taken transparently. A number of respondents stated that remedies should be available in County Courts in addition to the High Court to facilitate access to justice, while the High Court would

be better equipped to deal with complicated cases involving abductions, wardship and other similar issues.

### **3 OTHER QUESTIONS ABOUT THE BILL**

#### **3.1 Role of third parties**

There was strong support for allowing third parties to be able to seek injunctions to protect forced marriage victims. Many respondents praised this as an innovative and vital aspect of the Bill.

Many respondents suggested that the court should have discretion to determine if a third party can take action on behalf of a victim. Some respondents suggested that a list of organisations should be included in the Bill, in addition to allowing judicial discretion.

Many respondents stressed the importance of safeguards to ensure against any potential abuse of the right to bring a third party application. Several respondents pointed to the existing practice of litigation friends and third party applications under the inherent jurisdiction of the High Court.

Some respondents expressed concern that applications must only be brought with the consent of the victim, to avoid the risk of interfering third parties bringing vexatious claims and to ensure that the victim retains control over the proceedings. Other respondents stated that a requirement of consent would undermine the workability of the Bill, as victims would be vulnerable to pressure to withhold or withdraw consent.

Some respondents expressed concern about the risk of undermining confidentiality and felt that support services and organisations might be put in a difficult position when bringing or being asked to bring third party applications. Concerns were also expressed about raising the workload for support agencies without providing adequate additional resources.

#### **3.2 Civil proceedings and compensation**

Most respondents were in favour of providing compensation for victims of forced marriage, including for financial loss. A number of respondents expressed the view that the most important aspect of the Bill was injunctive relief as a preventative measure, while acknowledging that provision for compensation may have a deterrent effect.

Some respondents expressed concern that providing for compensation would be counter-productive, due to the risk of false claims.

There were mixed views about whether the Protection from Harassment Act 1997 provides an adequate remedy for compensation in forced marriage cases. Several respondents indicated that it would be preferable for the same court to be able to deal with damages, in addition to injunctive relief and nullity petitions, rather than requiring a separate action for compensation.

### **3.3 Legal aid**

Many respondents stressed the importance of making legal aid available for proceedings under the Bill. Several respondents suggested that applications under the Bill should be treated in a similar way to other applications relating to domestic violence, and be exempt from fees.

### **3.4 Any other changes**

The consultation asked for suggestions about any other changes to the Bill. Respondents made various suggestions of other issues relevant to forced marriage, including:

- The need for increased resources to tackle the problem of forced marriage, including for community groups and the voluntary sector;
- The need for victims and potential victims to have access to information about their rights and the help available to them;
- The importance of addressing forced marriage through schools and colleges and raising awareness among school children and teachers; the importance of monitoring absences from school; the need to provide educational grants to young people whose education has been disrupted by forced marriage;
- The problems created by the “no recourse to public funds” rule for vulnerable women in cases of forced marriage and other gender-based violence;
- The need for specialist refuge accommodation and other housing provision;
- The need for sensitive publicity and media coverage of the issue of forced marriage;
- The importance of tackling domestic violence, including forced marriage, in a comprehensive, holistic way;
- The need for any definition of forced marriage to reflect adequately the full range of experiences of victims;
- The need to support victims so that injunctions are monitored and enforced effectively;

- The need for greater understanding of the obligations of marriage and the voluntary nature of marriage; and
- The need for more comprehensive research into the problem of forced marriage.

#### **4 WHAT HAPPENS NEXT?**

The Bill will be considered in Grand Committee in the House of Lords in late April 2007, where amendments will be discussed and agreed to if there is consensus.

Further details, including the text of amendments tabled, will be available on the Bill's page on the Parliament website:

[http://www.publications.parliament.uk/pa/pabills/200607/forced\\_marriage\\_civil\\_protection.htm](http://www.publications.parliament.uk/pa/pabills/200607/forced_marriage_civil_protection.htm).

The Odysseus Trust  
April 2007

## LIST OF RESPONDENTS

Ashiana Network  
Asian Family Counselling Service  
Association of Chief Police Officers  
Terry Atkinson  
Philip Bamforth  
Board of Deputies of British Jews  
b:RAP  
British Association of Social Workers  
Commission for Racial Equality  
Equal Opportunities Commission  
Nick Gulliford, Chairman, National Association of Community Family Trusts  
Hounslow Domestic Violence Network  
IKWRO (Iranian and Kurdish Women's Rights Organisation)  
Imkaan  
Claire Khaw  
Law Reform Committee of the General Council of the Bar  
Liberty  
Sarah McCulloch, National Director, Agency for Culture and Change Management  
Dr Perveez Mody  
District Judge Marilyn Mornington  
Reverend Iain Murray  
Muslim Parliament of Great Britain and British Muslims for Secular Democracy  
Newham Asian Women's Project  
Refuge  
Resolution  
Rights of Women  
Henry Setright QC, Anne-Marie Hutchinson OBE and Teertha Gupta  
Southall Black Sisters  
Wearside Women in Need

### **Briefings on the Bill for Second Reading debate**

Children's Rights Alliance for England  
Liberty  
National Society for the Prevention of Cruelty to Children