



MARRIAGE TO PARTNERS FROM OVERSEAS CONSULTATION

ISSUE 1:

Young people may be pressurised into sponsoring a partner from overseas.

Q1. Do you think we should increase the minimum age at which someone could sponsor or be sponsored as a spouse, from 18 to 21?

This would allow the young people involved to have completed their education as well as allowing them to have gained in maturity and possess adequate life skills. Although there would be a small delay in the age at which young people could sponsor a partner from overseas, we think that this is not unreasonable.

No

Comment

Engender holds that forced marriage is an abuse of women's human rights and that pressurising someone to marry against their will is a criminal offence. However, we do not support the use of the already flawed immigration system as a way of addressing this problem. The proposal has more to do with the control of immigration from certain countries than with addressing and preventing forced marriage. We oppose the proposal for the following reasons:

1. We believe that the proposal is unjust and discriminatory and will have a disproportionate impact on black and minority communities.
2. There is no cogent evidence to show that raising the age from 18 to 21 will reduce the numbers of forced marriage, as research from other countries in northern and western Europe shows. Research from Scandinavian countries, where the age at which a spouse can marry a person from overseas has been increased, shows that it has not led to any significant reduction in forced marriages. What does work is the provision of sufficient resources to enable persons to seek support not only in relation to forced marriage but other related issues such as abuse and violence, education and homelessness.
3. The UK government has already raised the age at which a person can marry an overseas partner from 16 to 18. Presumably this has not worked.
4. There is the real potential for the proposal to drive the problem underground. Those who are determined to force their children into a marriage will do so anyway. These parents are also least likely to send their children to further or higher education so the chances of gaining

social skills and maturity to say 'no' to a forced marriage are very limited. There is evidence to show that young people are simply taken abroad, married off and left there until they reach the relevant age. Others still are forced to marry in the UK and the proposal will not help the majority of forced marriage cases which take place in the UK.

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

This would also involve providing details of the person to be sponsored before leaving the UK. In this way the sponsoring partner will be protected from having coercive pressure applied whilst they are overseas and help to prevent forced marriages before they happen. Such an arrangement would mean that a young person would know in advance that a marriage will take place overseas and who their prospective partner will be. Many spouses currently only discover these facts overseas when their wedding is imminent and when they are in a vulnerable position in a foreign country away from their support network and the authorities. Finding out that they will be a bride or groom before travel gives them more options to seek help prior to the actual marriage.

No

Comment

Engender is concerned that the BIA will not be able to ensure that the 40,000 or so applications for settlement in this country on the basis of marriage or relationship will be progressed fairly. The immigration system already operates in a manner that is discriminatory and harsh. Declarations of intention on paper will clearly be open to abuse and the notion that each and every applicant will be interviewed is probably unworkable.

It is likely that the administration will find ways of only carrying out in-depth interviews of those applicants from communities where it is assumed that the practice of forced marriages takes place. This would be discriminatory and there is also concern that the administrative discretion that will exist will result in unfair and unjust decisions being made which will escape proper judicial scrutiny.

We are also concerned that the social and economic cost of scrutinising all marriages which have overseas dimensions far outweighs the potential for preventing forced marriages. We view it as much more important to put resources into providing proper support (specialist advice organisations, effective education policies etc.) for all victims and potential victims of forced marriage. There is considerable evidence to show that this is the only measure that actually works.

ISSUE 2:

Many sponsors would like to be able to give a confidential statement

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

The confidential interview might not lead to refusal of a visa application. The aim would not be to assess the genuineness of the marriage, but whether sufficient scope had been given to protect the potentially vulnerable party. On its own, though, a confidential statement that could not be produced as evidence may not lead to a visa application being turned down. We are also considering introducing a Code of Practice, which would say how an application for a marriage visa should progress if one of the parties is identified as vulnerable. This would build on work carried out by Entry Clearance Officers in relation to in depth interviews with couples.

Yes

Comment

Engender supports this proposal although we understand that provisions are already in place for a potential or actual victim of forced marriage to have a separate interview. We are interested to know how this proposal will improve the situation that already exists.

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

Yes

Comment

We support this proposal in theory although we have some concerns as to whether a Code of Practice will provide sufficient protection from abuse by Entry Clearance Officers (ECOs). Greater administrative discretion could lead to widespread discrimination and denial of fundamental rights to private and family life. This criticism lay at the heart of the operation of the 'primary purpose rule' which was eventually abolished. ECOs already have considerable powers to interview couples. Settlement procedures on the basis of marriage are already extremely tough.

Q5. We have suggested some of the factors that might indicate vulnerability to a forced marriage (for example, discrepancies in age, main language spoken etc); what additional factors do you think there might be?

Comment

The factors which are suggested to indicate 'vulnerability' are in fact the same factors that are present in many marriages in western 'advanced' countries. Any attempt to isolate factors from their context will potentially lead to discriminatory practices against black and minority communities.

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

No

Comment

This is a worrying proposal since it attempts to increase the administrative powers of immigration officers and has the potential to undermine the right to a fair hearing and due process.

ISSUE 3:

Spouses who are abandoned by a person they have sponsored have entitlements too, including knowing that their sponsorship is not being abused for further advantages.

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?

No

Comment

We are concerned about this proposal since it will undoubtedly impact on the many genuine marriages that take place but which later break down for reasons such as violence and abuse. There is overwhelming evidence to show that those who leave violent and abusive marriages are harassed and abused by partners even after they leave. Many abusive partners continue their campaign of harassment by writing to the Home Office to make false allegations about their spouses. The aim is to ensure that the sponsored

spouse is deported back to their country of origin. It is part of the abuse that is perpetrated – a way of ensuring that absolute control is maintained over the vulnerable overseas spouse.

There are at least 600-1000 domestic violence cases involving overseas spouses per year. The majority involve female overseas spouses and the impact that this proposal will have on the majority of these cases far exceeds any stated benefits in preventing forced marriage.

The proposal has considerable civil liberties and human rights implications including the right to certainty in proceedings. A woman who has faced violence and abuse and who is highly vulnerable will be compelled to live a life of insecurity and harassment even though she may be granted settlement in the UK on genuine grounds.

Q6a. If you answered yes to question 6, what proof do you think might be necessary to do this?

Comment

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?

We would have to agree a time period within which we could revoke indefinite leave to remain.

No

Comment

As per the above response, the proposal will be open to abuse by violent and abusive partners. Furthermore, if implemented it would have the effect of forcing an overseas spouse to remain in a forced marriage. Those British nationals who have been forced into a marriage with someone from overseas would hope for their spouse to abandon them and thus the proposal would have the opposite effect, it will make the potential abandoning spouse stay in a forced marriage for fear of deportation.

Q8. Do you think we should do more to investigate allegations of abuse of marriage for immigration advantage after entry?

No

Comment

For the reasons noted above in response to question 6. The current immigration system gives ample scope for perpetrators of abuse to make allegations about fraudulent entry to the UK.

Q8a. If you answered yes to question 8, how might these be investigated?

Comment

Q9. What sanctions could we use if individuals abuse the marriage route to gain settlement?

Examples could include revocation of indefinite leave to remain, revocation of spouse visa prior to grant of indefinite leave to remain, and refusal of any further leave to remain.

Comment

There are already adequate sanctions for those who gain entry to the UK fraudulently. Their leave can be revoked.

Q10 What provisions might be necessary for safeguarding women, in particular, after the entry of a sponsored spouse? (For instance; a helpline, access to immigration advice, and support in making statements).

At the moment spouses who act as sponsors and are abandoned have their role as sponsor ended on the basis of someone else's decision. One view is that the person who originally provided the sponsorship is entitled to an assurance that their sponsorship in bringing someone to the UK has not been abused in any way. This might mean that a subsequent application from the person sponsored is treated as a change of original purpose, rather than circumstances, and that we should endeavour to take into account any views that the original sponsor might wish to provide. We are interested in views on whether this is a good way of providing such an assurance.

Comment

There would be the real potential for this to increase the power of the original sponsor and to increase the scope for abuse. As stated in our response to Q6 this will have a high adverse impact on overseas spouses who are the victims of domestic violence.

Q11. What is wrong with the current system in relation to abandoned spouses that could be improved?

Comment

The current system gives the abandoned spouses, many of whom perpetrate abuse and violence, an extra tool of control – to use the immigration system to harass and intimidate further. Support in the form of specialist shelters and organisations should be made available to those who are compelled to abandon a marriage for reasons of violence and abuse.

An effective punitive system is already in place for those who abuse the immigration system.

Q11a. What changes could be made to improve communications with abandoned spouses? E.g. provide further information to them about further applications or applications for indefinite leave to remain by the person they sponsored, and even seek their views, so that their role as a sponsor is not ended by their being abandoned.

Comment

We are unclear what purpose this proposal would serve. Our concern is that there is a discriminatory undercurrent to the proposal and despite perhaps being seen to be applied uniformly, in practice it will target only those from certain communities. More importantly, it will impact greatly on the many spouses who leave a marriage for genuine reasons such as violence and abuse.

For statistical purposes, please indicate in which region of the UK you or the organisation you represent is based.

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