

## **THE MUSLIM COUNCIL OF BRITAIN (MCB) RESPONSE TO CONSULTATION PAPER “FORCED MARRIAGE – A Wrong not a Right”**

### **INTRODUCTION:**

1. The Muslim Council of Britain (MCB) is an inclusive umbrella body that represents the interests of Muslims in Britain and is pledged to work for the common good of the society as a whole. It was founded in 1997.
2. The MCB is made up of major national, regional and local organisations, specialist institutions and professional bodies. Its affiliates include mosques, educational and charitable bodies, cultural and relief agencies and women and youth groups and associations. At present it has over four hundred affiliates.
3. The MCB welcomes this opportunity to respond to the Home Office consultation document – “Forced Marriage” – Wrong not Right”.
4. The response is based upon wide consultation amongst our affiliates and reflects a strong consensus of views amongst the Muslim community in Britain.

### **BACKGROUND:**

5. In Islam a marriage without the consent of the parties is not a marriage. Amongst Muslims the Nikah is effected quite simply by the two essential elements of offer and acceptance. According to Islamic jurists the declarations, which must be made conceptually at the same meeting are pronounced by the parties themselves, or by an attorney acting on their behalf, or by their guardians, when they lack the capacity to contract themselves in marriage. The first speech from whichever side it comes is the offer, and the second speech constitutes the acceptance.
6. Jurists are unanimous in their view that in Sharia mutual hearing and understanding of the offer and acceptance are essential to establish a marriage contract. The Qur'an clearly instructs us to find our partner. Therefore choice in marriage is a right for Muslims.

7. Under English law also consent of the parties to a marriage is essential and as under Islamic Law, the expression of consent must be witnessed by others.
8. It cannot be denied that there are instances where marriages amongst Muslims living in the United Kingdom have not been based on free and informed consent of the parties. However such instances of what are known as "forced marriages" are not peculiar to or particular to Muslims or any ethnic group.
9. The practice of, "arranged marriages" has sometimes been confused by the media and ill intentioned persons as "forced marriages". An arranged marriage is one where the marriage is facilitated and certainly not forced upon parties.
10. The consultation paper attempts to address the problem of forced marriages in the United Kingdom and as we understand it does not raise any concerns on the practice of arranged marriages followed in some cultures - people involved being non-Muslim as well as Muslim.
11. The Consultation paper accepts that the present laws in the United Kingdom can be used to prosecute those involved in bringing about forced marriage. The paper also states that there is lack of knowledge of these laws.
12. We are pleased to say that the paper gives fairly balanced views of arguments for and against the need to tackle the problem with further legislation.

**SUBSTANTIVE RESPONSE:**

13. MCB is of the firm opinion that, as appears acknowledged in the paper, there are already laws in place to prosecute the perpetrators of this offence. In the circumstances the MCB sees no justification for a new law in this regard.
14. In the view of the MCB the solution to this evil act is to raise awareness in the communities of the existing laws that apply to situations of forced marriages rather than create a new law.
15. A new law on forced marriages will have the real risk of being seen to target ethnic minorities.
16. Any law in this regard which is promoted as a tool to help the victims and deter the offenders is most unlikely to be effective because of the nature of the problem and the cultural as well as

familial sensitivities involved. A coercive tool in a family and cultural setting is rarely, if ever successful.

17. The family bond and loyalty will deter many from using the law. The tool when used will in effect tear the family unit and create division and distress.
18. We endorse and adopt the arguments set out in the Consultation paper against creating any new or specific offence for forced marriages.
19. The MCB believes that the only way to eradicate this criminal cultural practice is through education and empowerment. The change has to be community led and appropriately resourced.
20. The MCB is committed to work on initiatives of raising awareness of the existing laws and in educating our own community on free consent of parties in marriage being fundamental to the relationship under Islam.
21. The MCB is of the view that a "forced marriage" has no religious, moral or legal validity.



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