

RE-EXAMINING THE ROLE OF ISLAM AND SOUTH ASIAN CULTURE IN THE
PUBLIC DISCOURSE OF FORCED MARRIAGE IN THE UK

BY

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ABSTRACT

Sheema Hosain

Re-examining the Role of Islam and South Asian culture in the public discourse of
Forced Marriage in the UK

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In the late 1990's, various British news agencies reported cases of British-born South Asian Muslim women who forced into marriages. In 2000, the UK government produced a study that determined there were 400 British cases of "forced marriages" reported to UK police in a two year period. In response to these findings, the UK government launched an educational prevention campaign, in which they defined forced marriage as "a marriage conducted without the valid consent of both parties". I argue that, while the aim of the UK government's campaign is to promote the right of choice in marriage, they do not critically examine legal, religious, political and economic issues that may limit the ability of some British South Asian Muslim women to exercise that right. This study examines these issues to develop a better understanding of the link between culture, religion and forced marriage in certain British South Asian Muslim families.

RÉSUMÉ

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Études islamiques

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Février 2006

Vers la fin des années 90, des diverses agences de nouvelles britanniques ont averti des cas des femmes musulmanes asiatiques du sud britannique qui ont été forcées dans des mariages. En 2000, le gouvernement britannique a fourni un rapport qui vérifie 400 cas "des mariages obligatoires" rapportés à la police britannique pendant un période de deux ans. En réponse à ces résultats, le gouvernement britannique a lancé une campagne éducative d'empêchement, dans laquelle ils ont défini le mariage obligatoire comme "mariage conduit sans consentement valide des deux parties". Je dispute du fait que, alors que le but de la campagne du gouvernement britannique est de favoriser la droite du choix dans le mariage, ils n'examinent pas les problèmes légales, religieuses, politiques et économiques qui peuvent limiter la capacité de quelques femmes musulmanes asiatiques du sud britanniques d'exercer cela bien. Cette étude examine ces problèmes pour améliorer le lien entre la culture, la religion et le mariage obligatoire dans certaines familles musulmanes asiatiques du sud britanniques.

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INTRODUCTION

Many North American and European governments have instituted laws to protect the right of freedom of choice in marriage.¹ Most North American and European heterosexual citizens are accustomed to exercising this right freely and independently.² Moreover, it is rarely discussed in the media, except when popular television shows and movies reinforce the assumption that marriage is a private matter between two individuals. Yet, the right of choice in marriage has been the subject of discussion at the level of international politics. The political recognition of choice in marriage dates as far back as 1948, when the United Nations recognized choice in marriage as a basic human right in the *Universal Declaration of Human Rights*.³ While recognizing that freedom of choice in marriage is a basic right, it is significant that a right which most North Americans and Europeans generally accept is protected in the *Universal Declaration of Human Rights*.

Protecting the right of choice in marriage for women has been the focus of political discussion at the international level since the 1960's.⁴ The issues of age and

¹ UK Home Office Working Group on Forced Marriage, "A Choice by Right: the report of the working group on forced marriage," UK Home Office, 2000, 7, <http://www.homeoffice.gov.uk/docs/frcdmrgs.pdf> (accessed July 13, 2003); The only issue discussed in Canadian and American law regarding consent in marriage is age and parental permission. If an individual who has not reached the age of majority wants to marry, then they must seek their parents' permission. See, for example, in the United States, Legal Information Institute, "State Marriage Statutes," Cornell University Law School, (date posted unknown), http://www.law.cornell.edu/topics/Table_Marriage.htm (accessed June 1, 2005).

² I will not be discussing the issue of gay marriage, as it is out of the purview of this thesis.

³ United Nations General Assembly, res. 217 A (III), art. 16, "Universal Declaration of Human Rights," United Nations, 1998, <http://www.un.org/Overview/rights.html> (accessed September 20, 2003).

⁴ United Nations General Assembly resolution 1763 A (XVII), "Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962," Women's Watch, (date posted unknown), <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0192/71/PDF/NR019271.pdf?OpenElement> (accessed September 20, 2003); United Nations Division for the Advancement of Women, "Convention on the Elimination of All Forms of Discrimination against Women," Women's Watch, (date posted unknown), <http://www.un.org/womenwatch/daw/cedaw> (accessed September 20, 2003). Although the 1948 UN Universal Declaration of Human Rights included choice in marriage as a basic human right for men and women in Article 16.2, two later UN conventions would go into detail on this issue. In 1962, the UN began

consent in marriage were addressed in their 1962 *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*.⁵ This recognition may have been politically significant, but did not effectively address other contextual factors limiting this right, such as socio-economic conditions and culturally-based beliefs restricting women's personal autonomy in marriage. Since the UN has not provided guidelines to address these factors, individual nations try to address some of the issues related to choice in marriage independently.

The most recent example of a nation in which this has occurred is the United Kingdom. In 2000, there were 400 reported cases of forced marriage in the UK in a two-year period.⁶ the UK officially recognized the problem of what they define as "forced marriage". The UK government defined forced marriage as "a marriage conducted without the valid consent of both parties" usually carried out by parents or other family members.⁷ It differs from the publicly accepted practice of arranged marriage where both spouses mutually consent to their families' choice of an appropriate partner for marriage. The British media and government have further distinguished between arranged marriages and forced marriages by associating the latter with other forms of "honour crimes". According to international organizations such as the UN, "honour crimes" include "killings, assault, unlawful confinement and forced marriage... abuses of the

addressing the issue by adopting two conventions. In 1979, the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also included choice and consent in marriage as a basic human right that member nations must protect. Article 16.1(b) of the Convention states that these nations "shall ensure, on a basis of equality of men and women... the same right freely to choose a spouse and to enter into marriage only with their full and free consent."

⁵ United Nations Division for the Advancement of Women, "Convention on the Elimination of All Forms of Discrimination against Women," Women's Watch, (date posted unknown), <http://www.un.org/womenwatch/daw/cedaw> (accessed September 20, 2003).

⁶ Lucy Ward, "Forced marriages increase in Asian community," *Guardian Unlimited*, November 13, 2002, <http://www.guardian.co.uk/print/0,3858,4545093-103690,00.html> (accessed 21 October 2003).

⁷ UK Home Office, "Choice," 6.

rights to liberty and personal security and the prohibition...or a violation of the right to marry.”⁸

In the late 1990’s, the British media reported numerous cases of honour crimes against young, British-born South Asian Muslim women.⁹ The British South Asian Muslim community was being publicly scrutinized at this time because of problems such as the increase in domestic violence in the South Asian community, increases in suicide rates among young British South Asian women, the rise in gang violence involving young British South Asian men and racial tensions in the South Asian Muslim community leading to race-related riots.¹⁰ The intense media coverage in the UK of these problems in the British South Asian community prompted academic and governmental investigations into the problem of honour crimes, particularly through the main issue of forced marriages.¹¹

These investigations reveal that the main motive for some families to force unwanted marriages on the children is the protection of “family honour”. Many parents and other members of South Asian Muslim families interviewed for government and academic reports indicated that their children, particularly their daughters, endanger their family’s social “honour” in choosing “unsuitable” partners.¹² This endangerment of “family honour” is believed to have negative social repercussions, such as community

⁸ Sanchita Hosali, ed., “Selected International Human Rights Materials Addressing ‘Crimes of Honour,’” CIMEL/INTERIGHTS ‘Honour’ Crimes Project, 2003, http://www.soas.ac.uk/honourcrimes/Mat_IHRM.doc (accessed September 20, 2003).

⁹ The most significant cases which are the case study for this thesis will be presented in Chapter 1.

¹⁰ BBC News – UK, “Further Trouble in Bradford,” *BBC News*, July 10, 2001, <http://news.bbc.co.uk/1/hi/uk/1431284.stm> (accessed 12 Jan 2004). These problems will be examined further in Chapter 1.

¹¹ UK Home Office Working Group on Forced Marriage, “A Choice by Right: the report of the working group on forced marriage,” UK Home Office, 2000, 6, <http://www.homeoffice.gov.uk/docs/frcdmrgs.pdf> (accessed July 13, 2003); Yunus Samad and John Eade, “Community Perceptions of Forced Marriage,” UK Foreign and Commonwealth Office, (date posted unknown), <http://www.fco.gov.uk/Files/kfile/clureport.pdf> (accessed July 14, 2003).

¹² Samad and Eade, “Perceptions”, 121.

rejection and loss of status. In light of this perceived threat, some South Asian Muslim families felt justified in using coercive methods to prevent their children from pursuing these “unsuitable” relationships.

The main consequence of the public investigation into forced marriages in the British South Asian Muslim community is that the issue is defined as a “South Asian crisis”.¹³ The government’s response against forced marriage is influenced by the concern raised by many British South Asian Muslims during their investigations – that some community members felt alienated by the initial public portrayal of forced marriage as a “South Asian crisis”.¹⁴ Thus, the government developed two main initiatives to combat the problem. First, the government adopted a prevention program against crimes associated with forced marriage, such as physical assault and verbal coercion into unwanted marriages. Second, to address their concern about community alienation, they have adopted a “damage control” campaign against the negative stereotyping of the South Asian Muslim community.

As part of their prevention program, the UK Home Office and Foreign and Commonwealth Office (FCO) have sponsored cultural sensitivity training for law enforcement agencies that deal with forced marriage victims and families, as well as networking with international law enforcement officials to help victims escape unwanted marriages and related crimes.¹⁵ Furthermore, they have established a governmental taskforce on forced marriage, the UK Home Office Working Group on Forced Marriage

¹³ Samad and Eade, “Perceptions,” 83, 105. Many South Asian parents agreed with the government and Muslim community leaders and recognized that acceptance of coercive methods to ensure unwanted marriages in the South Asian community is a problem that needs to be overcome. Yet, the point which they differ upon is the degree to which this should occur. This will be discussed further in Chapter 1.

¹⁴ Ibid., 101.

¹⁵ UK Home Office Community and Race Directorate, “Dealing with Cases of Forced Marriage: Guidelines for Police,” UK Home Office, 2005, http://www.homeoffice.gov.uk/docs4/Interactive_forced_marriage.pdf (accessed March 12, 2005).

(“the Working Group”), to coordinate the “damage control” campaign. This campaign consists of an educational program about the causes and effects of forced marriage on victims and their families.¹⁶ It is based on the Working Group’s report on forced marriage entitled *A Choice By Right*.

In consultation with victims of forced marriage, their families, and various Muslim community leaders and social workers, the Working Group’s report provides a comprehensive examination of the adverse psychological and economic effects of forced marriages, such as the lack of available housing for victims, and proposes possible solutions. Yet, the Working Group limits their examination of the culturally and religiously-based causes of forced marriage. Although their report identifies key causes of unwanted marriages, such as control over female sexuality and the prevention of “unsuitable” relationships, the Working Group simply dismisses these causes as “unjustifiable”. They base their dismissal of culturally and religiously-based causes of forced marriage on the claim that “forced marriage is not permitted in any religion or culture.”¹⁷

This claim may be consistent with international political assertions that choice in marriage is a basic human right. Yet, in this thesis, I argue that it is problematic because it does not provide enough insight into the culturally and religiously based causes of forced marriage. The Working Group of the UK government does not engage in a critical analysis of the religious, political and cultural elements of South Asian Islamic marriage

¹⁶ The educational program includes brochures, reports and general information about forced marriage, abduction and other related crimes on both the UK Home Office and Foreign and Commonwealth Office (FCO) websites.

¹⁷ UK Home Office, “Choice”, 6. The Working Group has been very careful not to brand forced marriage as a cultural or religious problem, but rather emphasizes that it is a problem that is based on false perceptions of cultural and religious ideals.

laws, such as the extensive role of guardianship and the socio-economic significance of kinship networks. These elements may have contributed to forced marriages in the past in South Asia, and may still linger in many areas of the sub-continent despite official condemnation.¹⁸ Moreover, because of certain social conditions in the UK, such as discrimination in employment and racist immigration policies, these issues may also arise in the UK.

Yet, these issues are disregarded because of the official condemnation of forced marriage by British Muslim community leaders. The UK government assumes that this condemnation – based on the Qur’ān and Sunnah (Prophetic traditions) – is enough to address the culturally and religiously-based justifications of forced marriage. Yet, if other Islamic legal texts were examined, one finds that “forced marriage” as defined by the UK government was permitted in Islamic law under certain conditions.¹⁹ Although this claim may be controversial, examining this fact is significant in a campaign against forced marriage. In particular, those involved in the campaign against forced marriage can refocus their investigation and understanding the role of religion in this problem. But why was the investigation into the link between Islam and forced marriage limited? Perhaps the British Muslim community leaders, who advised the Working Group, thought that examining the verses of Qur’ān and Sunnah dealing with coercion in marriage were enough to conclude that forced marriage is not allowed in Islam. Limiting the investigation of forced marriage in Islam to these sources may be acceptable in a purely

¹⁸ By stating this, I am not arguing that the government should necessarily be the one conducting this critical analysis. I believe that Muslim community leaders and social workers, as well as academics, could be doing this substantive analysis, and informing the government of their findings. Yet all three of these participants in the public discussion of forced marriage are satisfied with a limited analysis. I will show this is insufficient.

¹⁹ This will be explained further in Chapter 2.

religious context, but it then does not provide enough insight into the main question of the anti-forced marriage campaign: What should be done to change the perception, among some British South Asian Muslim families, that forced marriage is until today culturally and religiously acceptable?

I argue below that the government's dismissal of the culturally and religiously-based justifications of forced marriage is insufficiently complex to mount an effective campaign. Instead of probing these religious and cultural issues, their focus is limited to easing British South Asian Muslim alienation. The Working Group's claim that "all religions and cultures" encourage freedom of choice in marriage seems to solve the problem of isolating British South Asian Muslims. Furthermore, it demonstrates to the public that the beliefs of individuals in these marginalized communities are consistent with those in mainstream British society. The fact that they do not want to get into the complexities of deeply held cultural beliefs like family honour may result from a desire not to promote the idea of "backwardness" of South Asian Muslims in the British public. Yet, I contend that by limiting their investigation, they cannot develop an effective understanding of forced marriage occurring in some British South Asian Muslim families.

How can the participants in the campaign develop meaningful strategies against culturally and religiously-based justifications of forced marriage? I contend that the campaign can only develop meaningful strategies against culturally and religiously-based perceptions of forced marriage by taking into account additional factors. Firstly, there must be an investigation into the development of South Asian Islamic marriage law, especially the development of the guardian's role. Secondly, there must also be an

investigation as to how and why certain beliefs and practices about coercion in marriage are transmitted from family and community members in some British South Asian Muslim communities. Lastly, it is also important to investigate the impact of these beliefs and practices on British South Asian Muslim women.

Since women generally are not encouraged to be major players in the Muslim community leadership in the UK, female victims are significantly marginalized in the public discussion of forced marriage. Furthermore, as UK Islamic legal scholar Lucy Carroll notes, victims are also marginalized from the public discussion of forced marriage because they lack the necessary cultural and religious knowledge necessary to advocate against culturally and religiously based justifications of unwanted marriages and related crimes.²⁰ This discussion on the marginalization of British South Asian Muslim women is not intended to reinforce negative stereotypes of these women as oppressed victims and their families as oppressive and ignorant. By investigating the social structures in certain British South Asian Muslim communities, I will highlight the effect that political and economic factors, such as kinship networks, that may marginalize some British South Asian Muslim women by reinforcing culturally and religiously-based justifications of forced marriage. This is not an investigation to portray British South Asian Muslim women as victims; it is an investigation into the process of marginalization to help understand why it occurs. Without that understanding, the campaign against forced marriage cannot develop effective solutions against this problem.

Furthermore, by showing the factors that lead to the marginalization of some British South Asian Muslim women, I aim to show the cycle of misunderstanding that

²⁰ Lucy Carroll, "Arranged Marriages: Law, Custom and the Muslim Girl in the U.K." in *Women and Sexuality in Muslim Societies*, ed. Pinar Ilkkaracan (Istanbul: Women for Women's Human Rights, 2000), 247.

arises in the current campaign against forced marriage. As long as the investigation into social, political and economic factors contributing to the reinforcement of culturally and religiously-based justifications of forced marriage is limited, the campaign against forced marriage will continue to be subject to conflicting political priorities of governmental and Muslim community leaders. And as long as the campaign against forced marriage is dominated by the political priorities of the UK government and Muslim community leaders, pertinent information that might help to combat practices such as forced marriage are likely to be obscured.

In this thesis, I will investigate the issue of forced marriage in South Asian Islamic law and examine the social, political and economic factors that may contribute to the reinforcement of culturally and religiously-based justifications of forced marriages in some British South Asian Muslim families. In Chapter 1, I will look at the initial public discussion of forced marriage beginning in the late 1990's. The focus of this chapter will be the media and government reports on forced marriage and other issues of domestic violence in the British South Asian Muslim community. Academic analysis of issues such as journalistic bias, Islamophobia and race relations will be used to show how the media and the government developed a limited, and thus problematic, discussion of the role that religion and culture play in forced marriages.

In Chapter 2, I will examine prominent South Asian Islamic historical and legal texts to examine Islamic marriage laws relating to forced marriage, in particular the age of consent for marriage and the guardian's role. Furthermore, I will also investigate specific political and economic factors that affected women's autonomy in relation to marriage in certain South Asian communities from pre-colonial times to the modern,

post-Independence period. These include the role of rural South Asian tribal councils in governing women's choices in marriage and responses to poor socio-economic conditions, such as kinship networks.

Building on my analysis in Chapter 2, Chapter 3 will examine how the social, legal and economic problems identified in Chapter 2 become more complex in the British context. In particular, I will look at factors limiting British South Asian Muslim women's choice in marriage, such as their involvement in transnational kinship networks, and their limited political influence in the Muslim community leadership in the UK. Academic articles on South Asian socio-economic transnational networks and the impact of community expectations on young British South Asian Muslims will be examined to determine the effects of these factors on choice in marriage for Muslim women in the UK. Furthermore, academic articles outlining the structure and priorities of Muslim community organizations, such as the Muslim Council of Britain (MCB), will be considered to show how the concerns of marginalized groups within the larger British Muslim community, such as women and youth, are not treated as high priorities in these organizations. The goal of this thesis is to provide a more contextualized and deeper understanding of how to begin to address the practice of forced marriage and work to combat it. By investigating specific issues using the framework presented above, I intend to include the social, political, cultural and religious factors that have been previously excluded from the public discussion of forced marriage in Britain.

CHAPTER 1: WHY IS FORCED MARRIAGE A PROBLEM? PERCEPTIONS OF THE UK MEDIA AND THE GOVERNMENT

Forced Marriage in the UK – an Overview

A close examination of the initial media reports about forced marriage in Britain in the late 1990's reveal that most of the victims identified were young Muslim women, often teenagers, of South Asian descent¹. These included an array of stories ranging from those about young women who were persecuted by their families for choosing conjugal partners deemed unsuitable to those about others who were tricked into travelling to the Indian sub-continent and coerced into marriages. I will show that the media's portrayal of these stories about forced marriage is significant not because its accounts of particular cases demonstrate negligence or extreme bias, but because the sensational nature of each case reinforced negative stereotypes about South Asian Muslim immigrant families as being necessarily ignorant and oppressive towards women².

In the introduction, I showed that the UK government and Muslim community organizations developed strategies for combating forced marriages and the negative stereotypes about the British South Asian communities. Two government departments

¹ I consulted BBC Online and the *Guardian Unlimited* internet archives of articles and television clips, which began reporting cases in the late 1990's unto the present day. The aim of this research was to survey the non-tabloid and more "sophisticated" mainstream coverage of events which are considered to be indicative of the media portrayal of forced marriage in Britain. With over 1300 local newspapers, as well as several regional and national newspapers, it is impossible to provide a comprehensive survey of the British media in this thesis. For this reason, I have focused on two examples from the British media as support for my argument that even non-tabloid journalists sensationalized the issue of forced marriage. I chose to focus on coverage provided by the BBC because they are the largest news broadcaster in the UK, and I have also chosen to focus on articles from the *Guardian* online because they are the major online news source. For more information on prominent media organizations in the UK, see Michael Bromley, "British media landscape," European Journalism Centre, 2001, <http://www.ejc.nl/jr/emland/uk.html> (accessed February 11, 2004). Thus, when I refer to the term "British media", I am referring to the media coverage of the BBC and *Guardian*. Other media sources were consulted to provide detailed information on earlier cases left out in the BBC's coverage, such as the case of Nasreen Akmal.

² This essay will not evaluate the media's decision to highlight particular stories, nor will it evaluate the media's ability in accurately presenting the facts of each story. I do not intend to evaluate the issue of

have played a major role in the response against forced marriage and the resulting stereotypes about British South Asian Muslims: the UK Home Office and the UK Foreign and Commonwealth Office (FCO). The FCO's major role involves informing potential victims of their options as to how to escape situations of forced marriage from abroad and return to Britain.³ The UK Home Office has taken a particularly significant role in this campaign, including the creation of the Working Group as part of a long-term strategy to combat forced marriage and the negative stereotyping of British South Asian Muslims.

The Working Group consists of members from the UK Parliament, local and national community organizations, and government social services. Its primary achievement was a report on forced marriage entitled *A Choice by Right*⁴, which is available to the public through the UK Home Office website. In this report, the Working Group explains how public agencies have overcome their initial reluctance to intervene in forced marriages because of the perception that it is a "cultural" problem.⁵ The Working Group has also collected and synthesized information from victims of forced marriage, their families, friends, women's groups, human rights organizations, religious and

identifying forced marriage as a "South Asian" problem; I intend to evaluate the response given that this has been identified as a "South Asian" problem.

³ UK Foreign and Commonwealth Office Forced Marriage Unit. "Forced Marriage: Information for Potential Victims and Concerned Members of the Public," UK Foreign and Commonwealth Office, (date posted unknown), <http://www.fco.gov.uk> (accessed May 1, 2005). Since it is difficult for them to intervene in situations that occur outside of the United Kingdom, their strategy is more prevention-oriented. See Introduction for the discussion on the UN and the identification of choice in marriage as a basic human right.

⁴ UK Home Office Working Group on Forced Marriage, "A Choice by Right: the report of the working group on forced marriage," UK Home Office, 2000, <http://www.homeoffice.gov.uk/docs/frcdmrgs.pdf> (accessed July 13, 2003). In 2005, the UK Home Office and Foreign and Commonwealth Office announced the establishment of a joint Forced Marriage Unit that would address issues related to forced marriages of British citizens.

⁵ Ibid., 10.

community organizations, law enforcement agencies, social services and academic researchers.⁶

The report also provides a definition of forced marriage and explains how international organizations have identified it as a human rights offence.⁷ It states that activities related to forced marriage, such as “threatening behavior”, physical and/or sexual assault, kidnapping and murder, are criminal offences. Thus, the government does not have to create an additional offence for forced marriage because acts related to forced marriage are recognized as crimes under British law.⁸ Furthermore, the Working Group delineates the government position on forced marriage and individual rights to choice in marriage, identifies culturally-based factors contributing to the cases of forced marriage such as “family honour” and suggests intervention strategies that are not currently addressed by public law enforcement and social services, such as access to legal services and alternative and safe housing for victims.⁹

While the Working Group’s information-sharing program has provided recommendations to deal with the obvious social welfare problems faced by forced marriage victims, such as accessible housing, they contend that families, and specifically parents, need to resolve the conflict they have with their children regarding the perceptions of “choice” and “force” in marriage. Baroness Uddin and Lord Ahmed, co-Chairs of the Working Group, note that “good parents” know that they should not “restrict choice”.¹⁰ Yet, while the Working Group makes the explicit claim that parents

⁶ Ibid., 28. Although the Working Group does not provide a list of the community organizations they consulted, members of the Working Group include a member of the An-Nisa Society, a Muslim women’s organization and members of the Home Secretary’s Race Relations Forum.

⁷ This is the same definition for forced marriage that is given above. See n. 2 above.

⁸ Ibid., 10.

⁹ Ibid., 14, 21-25

¹⁰ Ibid., 1.

should take the initiative against forced marriage, they implicitly assume that these parents will use the Working Group's definitions about forced marriage and personal choice as guidelines for their actions. By asserting their perceptions of "choice" and "force" in marriage as the necessary framework for meaningful and effective communication to resolve the conflict between parents and children related to forced marriage, the Working Group's educational strategy has thereby limited the role of parents.

These definitions may be necessary because they provide a forum for potential and actual victims to discuss their concerns about forced marriage and provide law enforcement agencies with clear guidelines on how to intervene. Yet, they demonstrate the Working Group's assumption that anything related to forced marriage must be a misunderstanding about "internationally recognized human rights".¹¹ Thus, any cultural and/or religious factor given as a cause for forced marriage, such as family honour, is dismissed as a misunderstanding of cultural beliefs and practices.¹² The Working Group's assumption is clear: no world culture and/or religion's definitions of "choice" and "force" in marriage conflicts with "internationally recognized human rights". Given that the initial presentation of forced marriage as a South Asian Muslim problem exaggerated the connection between culture, religion and forced marriage the Working Group tries to compensate for this overstated link by explaining that choice is a "universal human right".

Yet, is it true that all the world's diverse religions and cultures have definitions of "force" and "choice" in marriage that are consistent with "internationally recognized human rights"? The Working Group supports this claim by consulting with parents,

¹¹ Ibid., 6.

¹² Ibid., 15.

religious and community organizations.¹³ The most prominent Islamic community organization in the UK, the Muslim Council of Britain (MCB), reinforces the Working Group's position by reiterating that forced marriage is not accepted in Islam, and it is not an Islamic issue.¹⁴ Moreover, the MCB has concentrated its efforts on dealing with related issues, such as combating negative perceptions about South Asian Muslim immigration practices.¹⁵ Despite this concern for related issues, the MCB is clearly united with the government in denouncing forced marriage as "un-Islamic".

Another academic study of British South Asian Muslim families reveals different perceptions of "force" and "choice" in Islamic marriages. In the report *Community Perspectives of Forced Marriage*, Yunus Samad and John Eade of the University of Bradford and the University of Surrey Roehampton interviewed South Asian Muslim parents from Bradford and Tower Hamlets, where a significant number of British South Asian Muslims reside. These families provided explicit details regarding their perceptions of "choice" and "coercion" in Islamic marriages, such as the acceptability of emotional "coercion".¹⁶ Their findings are important, because they seem to be consistent

¹³ Ibid., 30.

¹⁴ Muslim Council of Britain, "The Muslim Council of Britain Weekly E-Newsletter: Weekly Updates on Reports, Committees and Events: Issue 22," May 22, 2002, <<http://www.mcb.org.uk>> (accessed July 12, 2003)

¹⁵ BBC News – Politics, "Immigration shake-up unveiled," *BBC News*, February 7, 2002, http://news.bbc.co.uk/1/hi/uk_politics/1805883.stm (accessed October 23, 2003) ; BBC News – Politics, "Blunkett defends marriage comments," *BBC News*, February 8, 2002, http://news.bbc.co.uk/1/hi/uk_politics/1807885.stm (accessed October 23, 2003); BBC News – Politics, "Blunkett 'wrong on arranged marriages,'" *BBC News*, February 8, 2002, <http://news.bbc.co.uk/1/hi/uk/1809791.stm> (accessed October 23, 2003); BBC News – UK, "Forced marriages targeted," *BBC News*, May 14, 2003, <http://news.bbc.co.uk/1/hi/uk/3027297.stm> (accessed October 23, 2003). In 2002, UK Home Secretary David Blunkett introduced new legislation regarding immigration, hoping for a "crackdown" on "bogus marriages" by requiring new immigrants to have a knowledge of English, and be educated in "our laws, our values, our institutions". Muslim community organizations such as the MCB saw these reforms as part of the negative stereotyping of South Asian Muslims. Later changes were made in 2003, where the UK government raised the age of sponsoring a spouse to 18.

¹⁶ Samad and Eade, "Perceptions," 6, 72.

with the beliefs of those parents and family members of forced marriage victims reported in the British media. From this consultation, it is clear that some South Asian Muslim parents do not perceive the connection between “choice”, “coercion”, human rights, religion and culture that the Working Group and Muslim community leaders make.¹⁷ So why do the perceptions of some South Asian Muslim families differ so much from those of the Working Group? Moreover, if there is such a difference in perceptions about forced marriage, why is the government promoting a program that does not deal with this difference?

The implied question here is not “Who is right?”, but “Why is there a difference?” I believe this latter question can only be answered by presenting the assumptions of both sides and then investigate how each side formulates their assumptions about religion, cultural and choice in marriage. In this chapter, I will investigate social and political factors that are likely informing the Working Group’s assumptions, such as racial tension between mainstream British society and South Asian Muslims. In the next chapter, I will investigate factors that are likely informing the assumptions of South Asian families interviewed by Samad and Eade. By investigating the development of these assumptions, I intend to show how a gap in perceptions of forced marriage developed between these two groups and how that gap distracts each group from developing an effective response against forced marriage.

The main point of this analysis is that the Working Group’s assumptions are just as problematic as the South Asian Muslims who believe that certain levels of “emotional coercion” are acceptable. The Working Group’s first assumption is that forced marriages are caused by a misunderstanding of cultural and religious doctrine regarding choice in

¹⁷ I will discuss this in more detail below.

marriage. Their second assumption is that the all world cultures and religions have the same doctrine when it comes to choice in marriage; that both men and women have complete freedom in choosing their spouses. The findings in the Samad and Eade report can be used to support the first assumption that the acceptability of “emotional coercion” is the result of ignorance. Yet, the report can be also be used as evidence to reject the Working Group’s assumption about the relationship between forced marriage, religion and South Asian marriage practices.

If the Working Group’s assumptions are questionable, then it is possible that the Working Group is misinformed about the issue of choice in Islamic marriage. So what informs the Working Group’s assumptions? They claim their views on Islamic marriage come from consultations with Muslim leaders and families. Yet, the key principles for the Working Group’s report and educational program, such as the claim that all world religions and cultures promote choice in marriage, seem to be heavily informed by the UK government’s programs promoting British multiculturalism. One of the key objectives of the UK government’s multiculturalism programs is to combat negative stereotypes about marginalized ethnic groups.¹⁸ Given that many South Asian families had indicated some concern over negative stereotyping in the media portrayal of forced marriage, it is reasonable that some ideas from the government’s multiculturalism programs would be included in the Working Group’s report. Yet, this exchange of ideas is problematic when certain ideas from the multiculturalism programs become the guiding principles for the Working Group’s report because it limits the discussion of

¹⁸ UK Home Office Strength In Diversity Consultations, “Strength in Diversity, Towards Community Cohesion and Race Equality Strategy: A Summary of Responses to the Consultation,” UK Home Office, 2004, http://www.homeoffice.gov.uk/docs4/race_strength_in_diversity.pdf (accessed May 1, 2005).

forced marriage to a framework that is intended to combat issues of racial conflict, not domestic violence.

In this chapter, I will expand upon the argument that I have presented above. First, I will begin by providing a detailed account of the major cases of forced marriage reported by the British media to show how, with the other media reports of violence in the South Asian Muslim community, forced marriage was set up in a framework that reinforced negative stereotypes about British South Asian Muslims. Second, I will compare both the Working Group's report and Samad and Eade's report to illustrate the disparity between the government's perceptions and some South Asian Muslim community perceptions of forced marriage. Finally, I will compare the Working Group's report with other UK Home Office documents dealing with race relations and multiculturalism, to show how much the government's response to forced marriage was influenced by the multiculturalism program. This influence limits the discussion of forced marriage to a superficial recognition of the right of choice in marriage, preventing a critical analysis of the factors that restrict some British South Asian Muslim women's right to choose their spouses.

"South Asian crisis" – negative effects of the UK media's portrayal of forced marriages

The coverage of forced marriage in the media currently vacillates between its identification as a "South Asian" problem or as a problem for all of British society. The initial media coverage on forced marriage explicitly presented it as a "South Asian" problem that required government intervention.¹⁹ In the late 1990s, the media reported

¹⁹ Although there are unofficial accounts of cases occurring in the 1980's, the well-documented cases become public knowledge in the early 1990's through various media accounts. The first major case involving a UK South Asian woman named Nasreen Akmal is discussed below.

several cases involving threats, betrayal, forcible confinement, physical and/or sexual assault, which generated a sympathetic response from the general public, including members of Parliament and law enforcement.²⁰ The media's depiction of forced marriage does not demonstrate any explicit bias. Yet, its constant attention on lurid and violent stories leads to the perception of forced marriage in the UK as a clear problem of immigrant, and in most cases patriarchal, oppression against young South Asian Muslim women.²¹

Using analysis provided by media theorists, particularly Barrie Gunther and David Altheide, I will further demonstrate how even reputable British media organizations such as the BBC and the *Guardian* overlooked the complexity of forced marriage, and presented the British public with a stereotypical picture of the issue. The British media clearly portrays young South Asian Muslim women as helpless victims of sexist and violent immigrant families in need of external parties such as the government or the courts to intervene on their behalf. While media analysis does not provide an exact answer as to why these types of stories were selected as representative of forced marriage,

²⁰ Only five cases will be provided in detailed. While I have surveyed most cases available in the media, I felt these were representative of the stories that lead to a particular perception about the issue of forced marriage. Moreover, these stories also demonstrate the role of external individuals, such as members of Parliament, the UK judicial system and law enforcement, in the development of the public discourse surrounding forced marriages. For information on other victims, see Zafar Abbas and Jamie Wilson, "British woman in forced marriage freed," *Guardian Unlimited*, May 8, 2003, <http://www.guardian.co.uk/print/0,3858,4663567-103595,00.html> (accessed August 15, 2003); BBC News – UK, "Tricked into forced marriage," *BBC News*, November 6, 2001, <http://news.bbc.co.uk/1/hi/england/1640861.stm> (accessed January 19, 2004); BBC News – UK: Scotland, "Forced marriage annulled", *BBC News*, April 23, 2002, <http://news.bbc.co.uk/1/hi/scotland/1946135.stm> (accessed January 19, 2004); BBC News – UK: England, "Forced-marriage campaigner honoured," *BBC News*, December 31, 2002, http://news.bbc.co.uk/2/hi/uk_news/england/2617425.stm (accessed January 17, 2004). Most cases involved parents forcing their daughters into marriages with individuals living in the Indian sub-continent. While public sympathy on this issue has not adequately assessed, the proliferation of stories on this issue indicates extreme public interest.

²¹ In analyzing the media depiction of forced marriage, I do not intend to trivialize the traumatic situations of each individual case. I mean to show here how the media trivializes the issue of forced marriage in its selection of stories and exclusion and inclusion of specific facts about each case.

it does provide the tools to suggest a plausible theory as to why the British media framed forced marriage in this way and the effects of this initial presentation on the particular government and community response.²²

In *Measuring Bias on Television*, Barrie Gunter explains how news in Britain is required to be educational, to “serve the public interest”, to be “objective” and to be based in “fact” rather than “opinion”.²³ Gunter also notes that since the media must report stories of “public interest” and satisfy commercial requirements (e.g. competing against other news networks and other forms of media), newsmakers need to maintain a satisfactory balance between informational and entertaining elements to keep their audiences’ attention.²⁴ While procedures governing how newsmakers maintain the balance between information and entertainment in their coverage are not specified in legislation, there are professional and intuitive criteria that are widespread in the media.²⁵ Gunter explains that these unofficial, yet universally accepted criteria lead to a paradox: although newsmakers try to be competitive, they usually end up presenting the same types of stories, standardizing the public understanding of the issues presented in the

²² David L., Altheide, *Creating Fear: News and the Construction of Crisis* (New York: Aldine de Gruyter, 2002); Barrie Gunter, *Measuring Bias in Television* (Luton: Luton University Press, 1997); While other media theorists were consulted, I will rely on Gunter and Altheide’s analysis to assess these stories because of their particular analysis of the different ways in which bias is created in the media and its negative consequences. Their focus on the methods of creating bias were particularly relevant in explaining the negative effects of the British media’s initial portrayal of forced marriage. For more information on media and public perceptions see Lisa Blackman, *Mass Hysteria: Critical psychology and media studies* (New York: Palgrave, 2001); David Giles, *Media psychology*. (Mahwah, N.J.: Lawrence Erlbaum Associated Publishers, 2003); Jackie Harrison, *Terrestrial TV News in Britain: The culture of production* (Manchester: Manchester University Press, 2000); Gabriel Weimann, *Communicating Unreality: Modern media and the reconstruction of reality* (London: Sage Publications, 2000).

²³ Gunter, *Measuring Bias*, 6-7. The notion that news must be “factual”, “serving public interest” and “objective” is indicated in parliamentary legislation on proper journalism practices (e.g. 1990 Broadcasting Act), these terms are not specifically defined through any laws. He notes that it is mostly professional and intuitive practices that determine what these terms actually mean.

²⁴ Altheide, *Creating Fear*, 44; Gunter, *Measuring Bias*, 46.

²⁵ Gunter, *Measuring Bias*, 45.

news.²⁶ Gunter calls this phenomenon “saturation coverage”, noting that this limits the understanding of events portrayed.²⁷

Media surveys of news stories indicate that many news items involve some kind of conflict, ranging from a description of a conflict to the resolution of one.²⁸ While political issues are frequently highlighted in the media, events that are deemed to have an impact on the daily lives of British citizens are given priority in news coverage.²⁹ In *Creating Fear: News and the Construction of Crisis*, David Altheide argues that the selection of conflict-based stories is based on the fact that they provide the public with “clear, unambiguous facts” to capture the public’s attention.³⁰ Moreover, they continue to capture audience attention and confidence because the formats in which news stories are presented in are “learned”, “taken for granted” and ultimately “expected” by the public.³¹ Altheide argues that in trying to sustain audience attention, the media reduces complex issues into a simple “problem frame” which satisfies the balance of providing the public with information in an entertaining format to further their commercial goals.³²

Altheide’s “problem frame” is a tool to help assess the prominent aspects of the media campaign about forced marriage because it shows how a complex problem is reduced to something so simple that the average person may understand in a limited

²⁶ Ibid., 47-50. In his study, Gunter surveyed journalists and other newsmakers and found that they believed they used a method of selecting and presenting news that gave the public a varied representation of the issues they report. Gunter seems to imply that while journalists do not intend to be biased in their representations of events, the competitive nature of the news marketplace prevents most major newsmakers from providing comprehensive news coverage.

²⁷ Ibid., 47. Gunter notes that many scholars believe that a direct correlation between news coverage and the public’s proper understanding of a particular issue cannot be proven – even public surveys regarding the understanding of particular issues are limited by their scope. In this case, I will show how the limitations of the media’s presentation are reflected in the government response to forced marriage.

²⁸ Ibid., 59-60.

²⁹ Altheide, *Creating Fear*, 41; Gunter, *Measuring Bias*, 45-46. Although Altheide talks about media in the American context, he does note that similar findings exist in the UK.

³⁰ Altheide, *Creating Fear*, 50.

³¹ Ibid., 44.

amount of time. He notes that the first stage of “problem frame” involves the identification of a problem or conflict that affects many citizens.³³ What is significant about this problem or conflict is that there are “clear, unambiguous” key elements that the media present in order to show that they are able to pinpoint the problem, ignoring or trivializing complicated aspects of the issue.³⁴ In identifying the specific aspects of the problem, the media implies that an appropriate agent can resolve the problem or conflict; and that this agent is the government.³⁵ Altheide explains further that the news stories presented in the “problem frame” are associated with a larger problem that society has not fully addressed.³⁶ By applying Altheide’s “problem frame” to the initial news stories on forced marriage in the late 1990’s, I will show how this theoretical framework helps to identify these specific elements in relation to the issue of forced marriage. I will identify the following elements of the forced marriage “problem frame”: South Asian Muslim community violence, parental/family ignorance of women’s rights and domestic violence. Altheide’s tool is useful in demonstrating how the media’s initial depiction of forced marriage led to the limited perception of this issue by the government.

Reported cases of forced marriage in the British media

The first story of forced marriage to garner significant media attention in the UK was the 1992 case of Nasreen Akmal. Akmal’s case was so famous both because of her success in establishing a legal precedent and its negative consequences on her life and that of her children. Akmal, a Glasgow-born South Asian Muslim, was forced into

³² Ibid., 47-49.

³³ Ibid., 49.

³⁴ Ibid., 49.

³⁵ Ibid., 49.

³⁶ Ibid., 51. Altheide provides the example of a child that is abused by foster parents. He explains that this child is seen as “falling through the cracks”; the story is then transformed into a particular case about one

marriage at the age of fourteen to her first cousin in Pakistan³⁷. In 1992, after several years of marriage, Akmal successfully convinced a Scottish court to nullify her forced marriage. Akmal claimed that she endured years of physical abuse by her husband until she was able to return to Scotland and start the annulment process.³⁸

This legal victory came at the expense of Akmal's physical and emotional security, as she describes in an interview with the *Scotsman*: "They [the Muslim community in Glasgow] believe that what I have done is an insult to Islam and that I should burn in hell...I knew I would be ostracized from the community, but I thought...it would calm down. Instead, it is getting worse."³⁹ A description of the abuses she has had to endure since the annulment of her marriage follow: strangers stalking her, breaking into her house, assaulting her, sending bomb threats and threatening her children.⁴⁰ While Akmal's victory in the Scottish court and her courage to describe her story in public are both positive developments in giving the issue of forced marriage necessary public exposure, the coverage of this story also perpetuates negative stereotypes about the South Asian Muslim community in the UK. It clearly identifies Islam and the immigrant Muslim community as oppressive to women who assert themselves against such oppressive behaviour by endorsing violence against them.

In evaluating this story using Altheide's "problem frame", it is clear that the hardships faced by Nasreen Akmal are obscured in the "discourse of blame". The blame

child to the widespread problem of an inefficient child welfare system that is currently in place. The actual problems of the guardians themselves are subsequently dismissed.

³⁷ Humayun Ansari, "Muslims in Britain," Minority Rights Group International, 2002, 15, <http://www.minorityrights.org/admin/Download/pdf/muslimsinbritain.pdf> (accessed July 12, 2003)

³⁸ Centre for the Study of Islam and Christian-Muslim Relations. "Forced Marriages," *British Muslims Monthly Survey*, June 6, 1999, <http://artsweb.bham.ac.uk/bmms/1999/06June99.asp> (accessed March 22, 2004).

³⁹ Ibid., 6.

⁴⁰ Ibid., 6.

does not fall on specific individuals, but on the entire community. What is left out of this story are the questions that cannot be definitely answered: Were these isolated incidents by violent individuals, or if they were more coordinated attacks by Glaswegian Muslims? Were these attacks reflective of the views of the entire Muslim community in Glasgow? If these are the actions of a few Muslims, can the entire community be held responsible? These questions are left unanswered, but since the media has satisfied all the requirements of the standard news story by establishing the “facts” of the case, identifying the “problem” and those responsible for it, their responsibility in “serving the public interest” has been fulfilled. Yet, in doing so, they have set a problematic precedent in covering forced marriage, one in which stereotypes about Islam and Muslims are reinforced and blame is laid not on the offenders themselves, but on the entire community.

The next case to gain public attention was significant less in terms of its link between Islam and forced marriage, and more in reinforcing the concept of the South Asian Muslim parent as an oppressive tyrant. In 1996, Mohammad Sarwar, a British MP, who gained media attention when he assisted two other Glaswegian sisters escape their forced marriages to cousins in Pakistan.⁴¹ Rifat and Nazia Haq, aged 20 and 13 respectively, were “beaten, drugged and married” to their father’s relatives in Pakistan in June 1995.⁴² The case was highly disturbing not simply because Nazia was under the age of 16, which is the legal age limit for entering into marriage by British, Pakistani and Islamic law, and not only because of the incredible abuse she had to endure from her husband while living with him in Pakistan, but also because of the nonchalant and

⁴¹ Guardian Unlimited, “*The case of the reluctant brides*”, January 15, 1999, <http://www.guardian.co.uk/print/0,3858,3808250-103425,00.html> (accessed 20 Jan 2004). Sarwar found out about the girls’ from the journalist who wrote the story (the name of the journalist does not appear in the article).

extremely insulting attitude of her father, Abdul Haq, towards her and the abuse she suffered.⁴³

When asked by a *Guardian* reporter about his daughter, he replied, “You cannot ask me to see my daughter...I married her...to Iqbal; you must ask him to see her. You must ask her husband. She is not mine.”⁴⁴ After finding the sisters and securing their safe return to Glasgow, Sarwar confronted Haq about forcing his daughters into marriage in Pakistan.⁴⁵ While denying the fact that his second daughter was underage, he retorted, “In this country [Pakistan], a father is marrying anytime. I have done it the right way.” Given that Haq overlooks the legal age limit established in Pakistani and Islamic law, his actions can clearly be seen not only as oppressive, but ignorant as well. Haq adds further insult to injury by enlisting the assistance of Sarwar’s chief political rival, Peter Paton, and launching a two million pound defamation suit against Sarwar for “breaking up his family.”⁴⁶ The case against Sarwar was eventually thrown out of court.⁴⁷

Again, the publication of this story was beneficial to these particular victims of forced marriage, as well as other victims of honour crimes, because it promotes public awareness about the injustices suffered by these victims. In this case, it also led to intervention by a government official on behalf of the young women. Yet, analyzing this story through Altheide’s “problem frame”, it is clear that the suffering of these two girls is overshadowed by the proposed “problem” -- namely the oppressive South Asian parent

⁴² Guardian Unlimited, “Brides.” 1.

⁴³ Ibid., 1. I will work under the assumption that the age of majority in Islamic law is 16. This is the case in Hanafi law as I will discuss in more detail in Chapter 2.

⁴⁴ Ibid., 2.

⁴⁵ Ibid., 3.

⁴⁶ Ibid., 5. While the story alludes to the fact that the issue of forced marriage was the pretext for a more heated political feud between Sardar and Paton, their political face-off and its consequences will not be dealt with in the thesis.

⁴⁷ Ibid., 5.

-- who is ignorant of, among other things, marriage laws in his former home country.

When this story is linked to the Akmal case in the “discourse of blame”, the similarity in format is apparent: the issue of forced marriage is part of a greater problem of an ignorant South Asian Muslim community in Britain that sanctions deliberate coercion and/or violence against women.

A possible rebuttal to this would be the fact that the “hero” of this story is in fact a South Asian Muslim as well. Yet, the fact that Sardar is a Muslim and that he may be representative of most Muslims is lost, as there is a greater focus in the story on his political career than anything else. In this case, his rejection of Abdul Haq’s version of Islam does not really seem indicative of different opinions on forced marriage in the South Asian Muslim community; it seems more representative of the government’s view. This article is perhaps the only news story that explicitly alludes to other underlying factors that affect forced marriage cases, which in this case was the conflict between political adversaries. Reports of other cases hint at the possibility of other underlying factors that may affect the public understanding of forced marriage, but do not go into the issues in detail.

Two additional cases in 1999 acted as the catalyst for the British public to demand government intervention to prevent forced marriages. These also reinforce the stereotypes given in the reports of the two previous cases. The specific template – first, of providing a detailed account of the events, followed by specific quotes from one of the key players of the event to reinforce negative stereotypes about British South Asian Muslims – is used in these cases to reinforce the ignorance and violent nature of South Asian Muslim parents. The first 1999 case involved Rukhsana Naz, a 19-year-old married and pregnant

mother of two was strangled to death with plastic flex (plastic wrap) by her 22-year-old brother Shazad at the behest of their mother, Shakeela.⁴⁸ According to the *Guardian* account of the murder, the motive behind this killing was allegedly that of family honour: Rukhsana had dishonored the family by having an affair with a Muslim man married to another woman – her secret boyfriend of seven years – and getting pregnant.⁴⁹

The *Guardian* report notes that four years earlier, Rukhsana Naz had been forced into a marriage with a cousin in Pakistan. She had apparently hoped for a divorce from him since she had only seen him twice since they were married.⁵⁰ In the *Guardian*'s account of the crime, it is explained that Rukhsana's pregnancy had infuriated her mother Shakeela, who forced her daughter into consulting with a doctor about having an abortion.⁵¹ When Rukhsana's doctor informed her that she was too far along to have an abortion, her mother forced her to take the drug paracetamol to induce a miscarriage.⁵² When this failed, her mother and brother plotted her murder.⁵³ In telling police about the incident, Shakeela remarked, "We did not want to kill her... But it was written in her fate."⁵⁴

This story is not only one more example of Altheide's "problem frame", but read with the previous stories, is evidence supporting Gunter's concept of "saturation coverage". The British media has framed this particular story in accord with the established paradigm for the portrayal of forced marriage I explained above. Similar

⁴⁸ Sarah Hall, "Life for 'honour' killing of pregnant teenager by mother and brother," *Guardian Unlimited*, May 26, 1999, <http://www.guardian.co.uk/print/0,3858,3868661-103690,00.html> (accessed January 15, 2004).

⁴⁹ Ibid., 1.

⁵⁰ Ibid., 1.

⁵¹ Ibid., 1.

⁵² Ibid., 1.

⁵³ Ibid., 1.

⁵⁴ Ibid., 1.

elements from the previous stories occur: an oppressive and ignorant family/community member whose only recourse for control over women is through violence. This framework sets up the events of the story to confirm the media's previous ideas about forced marriage -- that the problem of forced marriage was not the crime of a few individuals, but that it was an criminal "epidemic" found primarily in the South Asian Muslim community. Seeing this again through Altheide's "problem frame", the idea that forced marriage involves some kind of ignorance on the part of most South Asians Muslims, and that this ignorance necessarily leads to deliberate violence is reinforced. Since the ignorance of (Islam by) Abdul Haq and ignorance of (the concept of family honor by) Shakeela Naz are the only examples of immigrant South Asian Muslim adults that the general public is exposed to, it would make sense that negative perceptions about South Asian Muslims would be reinforced.

The second 1999 case, involving Jack and Zena Briggs, involved less sensationalized violence than the other accounts in relation to the connection between coercion and South Asian marriages. This case, however, was the final one that eventually drew the government in as the agent that would reconcile this problem.⁵⁵ According to the *Guardian's* report, the Briggs' ordeal began six years earlier, when they informed Zena's parents of their intentions to marry each other.⁵⁶ The report explains how Zena's parents had previously arranged their daughter's marriage to her cousin years ago, soon after she was born.⁵⁷ After running away and marrying against the wishes of

⁵⁵ While the Sarwar case above did involve a government official, it was an isolated case involving a government official. In this case, more government officials get involved and prompted the current governmental response against forced marriage.

⁵⁶ Nicholas Watt, "Terror of couple fleeing arranged marriage," *Guardian Unlimited*, May 27, 1999. <http://www.guardian.co.uk/print/0,3858,3869028-103690,00.html> (accessed September 30, 2003)

⁵⁷ *Ibid.*, 1.

her parents, the Briggs were then subjected to hiding from Zena's parents, who had employed private detectives, "bounty hunters" and killers to murder the couple.⁵⁸ This involved the Briggs having to repeatedly change identities and move to various homes in order to avoid being killed.⁵⁹ The article also explains that the couple had been able to gain the support of a MP, Ann Cryer, who later wrote a report on forced marriage for UN entitled *Crimes of Honour*, and Mike O'Brien, the Race Equality minister for the UK Home Office.⁶⁰ Furthermore, the article also indicated that while Cryer and O'Brien could not charge Zena's family with any criminal offence or table any new legislation to help Jack and Zina Briggs, they did denounce the actions of Zena's family and professed to help the Briggs in any other way possible.

While the treatment of the Briggs' marriage by Zena's parents is regrettable because of the negative consequences for all parties involved, the way in which their story is presented, especially by Cryer, combined with the previous accounts of forced marriage, reinforces negative stereotypes not only of South Asian Muslim families and coercion in marriage, but also South Asians themselves as a group and community. As Cryer notes, "Zena's fate had been sealed virtually from birth when her parents promised her to a first cousin in Pakistan, a young man she despised, regarded as arrogant, with no English, who treated women as beneath contempt."⁶¹ Cryer engenders more sympathy from the British media-examining public by cynically noting that Jack and Zena "had committed the unforgivable crime of falling in love and marrying."⁶² This

⁵⁸ Ibid., 1.

⁵⁹ Ibid., 1.

⁶⁰ Ibid., 1. For more information on the Briggs case, see Ann Cryer, "Crimes of Honour," Committee on Equal Opportunities for Women and Men, Council of Europe, AS/Ega 7, rev 2, 2002, http://www.soas.co.uk/honourcrimes/Mat_COEreport_june02.pdf (accessed July 25, 2003).

⁶¹ Ibid., 1.

⁶² Ibid., 2.

characterization of the Briggs' love story reinforces several negative stereotypes. First, that people of South Asian descent do not recognize marriages that are formed out of love first. Second, that South Asian Muslim men, as opposed to British-born white men, are sexist, ignorant and oppressive. Perhaps Zena Briggs did not mean to generalize that all South Asian Muslim men are "arrogant" or that they treat women as "beneath contempt" when she expressed her feelings about her cousin to Cryer, but the implicit contempt from Cryer's quote reinforced negative perceptions about South Asian Muslim men.

This story, in connection with the other stories presented above, clearly strengthens the perception that marriage for young South Asian Muslim women is understood as necessarily involving some form of deliberate coercion and/or violence. As Altheide and Gunter's frameworks help to show, the "problem" has been clearly identified and its aspects reinforced by inundating the public with the same definition and concept of forced marriage, namely that the ignorance of South Asian Muslims will lead to oppression and violence against women. That these elements are necessarily involved in forced marriage, and in this particular sequence and that these elements are necessarily connected with the South Asian Muslim community in particular may be helpful in understanding how to adequately address the problem of forced marriage.⁶³ Yet, given that the media did not clearly indicate the possibility that these were isolated incidents in the South Asian Muslim community, or that they involved specific members of this community and not the community as a whole, all South Asians were implicitly branded

⁶³ Lucy Ward, "Forced marriages increase in Asian community," *Guardian Unlimited*, November 13, 2002, <http://www.guardian.co.uk/print/0,3858,4545093-103690,00.html> (accessed October 21, 2003). In a two-year period, the UK government dealt with 440 cases, 75 of them involving British citizens being sent abroad and forced into unwanted marriages. The purpose of this section is to show that a necessary association was made between forced marriage and the South Asian Muslim community, especially using statistics and specific cases. I will not critique the media's assessment of forced marriage right now, but

as sexist, oppressive and violent against women. If the stories presented here have adequately demonstrated that Altheide's theory is a useful tool to evaluate the British media's influence on the initial public discussion of forced marriage, then it shows that the media has determined that the three elements they have identified are the only ones that they must evaluate and discuss in developing a solution to the problem of forced marriage. In the next section, I will examine other stories about the British South Asian Muslim community in the UK media to show how the elements they have identified are synonymous with the problem of violence in the British South Asian Muslim community over the last decade. Furthermore, I will also explain how this fits into the context of racial tensions between mainstream British society and marginalized ethnic groups, such as people of Afro-Caribbean or South Asian descent. The aim of linking the problem of forced marriage to these wider issues is to show how the aspect of race significantly dominates the public discussion of forced marriage. I will show how this severely limits the government's investigation of the link between choice in marriage, religion and culture.

Tensions between mainstream British society and marginalized groups - public perspectives and initiatives

During the 1990's, the British media's attention focused not only onto the issue forced marriage, but also reported other accounts of violence and racial conflict involving the South Asian community. Events like the Muslim community's protest against Salman Rushdie's *The Satanic Verses* and the government investigation into "racial justice" in Britain, known as the Runnymede Trust, which first brought about the term "Islamophobia", demonstrated to the public that the South Asian Muslim community was

will show later how this association is problematic in developing a comprehensive domestic violence

not really benign, but their presence resulted in clashes with mainstream British society and other ethnic groups.⁶⁴ British Islamic scholar Philip Lewis notes that in the 1998 Runnymede Trust report, there is evidence to suggest a rise in “territoriality and gang formation” as well as “anti-social conduct, including criminality” among British Muslim youth in places such as Bradford, an area of London where there is a significant South Asian Muslim population.⁶⁵

According to a study conducted by British sociologist Marie Macey, what is significant about the rise in male gang youth violence in the South Asian Muslim community is that it resulted in a rise of domestic violence against young British Muslim women.⁶⁶ She notes that there were three forms of domestic violence that have developed in the South Asian community. The first form involves harassment, verbal and physical abuse by youth gangs. The second form involves members of these gangs sending harassing phone calls to parents of young British Muslim girls, pressuring these parents into forcing their daughters to stay at home. The final form of violence is done by male family members at home against wives and daughters.⁶⁷ While one can criticize Macey’s focus on domestic violence as a strictly “male phenomenon” and not engaging in a more critical examination of the other elements involved in power structures leading to domestic violence, her views are supported by various articles and programs in the

strategy.

⁶⁴ Ansari, “Muslims,” 20.

⁶⁵ Philip Lewis, “Between Lord Ahmed and Ali G: Which future for British Muslims,” Bradford Race Review, (date posted unknown), <http://www.bradford2020.com/pride/docs/section6.doc> (accessed June 16, 2004). The most significant event of South Asian Muslim violence in the British media to date have been the Bradford race riots in 2001 and the links of terrorist activity associated with the London subway system bombings of July 7, 2005. Since the government’s report on forced marriage came out before these riots and was not affected by the negative coverage of these particular events, I will not be discussing them in this thesis.

⁶⁶ Marie Macey, “Class, gender and religious influences on changing patterns of Pakistani Male Muslim Violence in Bradford” *Ethnic and Racial Studies*: 22, no. 5 (1999), 845-866, quoted in Lewis, “Between,” 6.

British media showing the victimization of young British South Asian Muslim women at the hands of their male relatives.⁶⁸ Moreover, the problem with this is that increased level of violence is the isolation that many young British South Asian Muslim women feel, which has resulted in many of these young women running away from home or alternatively, committing suicide.⁶⁹

Despite this focus on the escalating violence in the South Asian Muslim community and its negative effects, the public discussion of racial conflict in marginalized communities also centered on cases where ethnic individuals were victims of racial violence at the hands of white British citizens. In particular, the racially motivated murder of black teenager Stephen Lawrence and the incompetent investigation conducted by the London police lead to a governmental inquiry into the problem of "institutional racism" in the criminal justice system and other governmental institutions and organizations.⁷⁰ Recommendations from the inquiry to improve "institutionalized racism" in the government and other public institutions were then included in an amendment to the *Race Relations Act* in 2000.⁷¹

⁶⁷ Ibid., 6.

⁶⁸ For examples of this, see BBC News – UK: England, "Muslim sought 'honour killing,'" *BBC News*, November 6, 2003, <http://news.bbc.co.uk/1/hi/england/london/3247901.stm> (accessed May 1, 2005); Jason Burke, "Love, honour and obey -- or die," *Guardian Unlimited*, October 8, 2000, <http://observer.guardian.co.uk/international/story/0,379174,00.html> (accessed August 15, 2003). Although a thorough critique of Macey's analysis is relevant to a better understanding of domestic violence in British South Asian communities, I cannot do a comprehensive analysis in this thesis. For a more comprehensive analysis of the power structures involved in domestic violence in the British South Asian communities, see Aisha Gill, "Voicing the Silent Fear: South Asian Women's Experiences of Domestic Violence" in *Howard Journal of Criminal Justice*, Vol. 43, No. 5, 465-483.

⁶⁹ BBC News – Health, "Asian women caught in suicide risk," *BBC News*, October 12, 2000, <http://news.bbc.co.uk/1/hi/health/967153.stm> (accessed May 1, 2005).

⁷⁰ William MacPherson, "The Stephen Lawrence Inquiry," Inquiry Report (The UK Stationary Office, February 24, 1999) <http://www.archive.official-documents.co.uk/document/cm42/4262/4262.htm> (accessed April 27, 2005). Home Office,

⁷¹ UK Parliament, Chapter 34, "Race Relations (Amendment) Act 2000," *UK Home Office*, December 5, 2000, <http://www.opsi.gov.uk/acts/acts2000/20000034.htm> (accessed May 1, 2005).

In addition to legislative changes resulting from the Stephen Lawrence inquiry – also known as the MacPherson inquiry, the UK Home Office began several initiatives to improve race relations in Britain. One of these initiatives was a public consultation to promote racial equality called *Strength in Diversity*.⁷² In the summary of the responses to the consultation, the UK Home Office's Race, Cohesion, Equality and Faith Directorate notes several key responses given to promote racial equality. Although several recommendations are made, three key themes in the responses provide some insight into the particular framework adopted by the government to combat culturally and religiously-based justifications for forced marriage. First, in order to foster social cohesion among different ethnic groups, the government must promote “inclusive notions of citizenship”, which involves, among other things, a “strong culture of rights, responsibilities and equality of treatment to foster inclusive notions of social citizenship”.⁷³ Second, the government must also promote “core values” which are “values pursued, reinforced and shared by promoting and ensuring human rights”.⁷⁴ Finally, public organizations must also “develop robust communication strategies that respond to inflammatory press coverage...exacerbating stereotypes and myths about different communities”.⁷⁵ These sentiments are echoed in the Working Group's report on forced marriage.

Given the racial tension that exists between mainstream British society and marginalized communities, and that the public has been presented with so many images and reports of violence in the South Asian Muslim community, and that community

⁷² UK Home Office, *Strength in Diversity*, 1. Although this initiative began in 2004, I believe it is relevant because it stems from the concerns voiced in the MacPherson inquiry, which preceded the Working Group's report.

⁷³ Ibid., 11.

organizations consulted in race relations initiatives indicate the need to overcome the negative effects of stereotyping ethnic groups, it is easy to see why the government would be so interested in combating the negative stereotypes that were generated in the initial public discussion of forced marriage. What is the effect of making this one of their major objectives in the forced marriage campaign? In the next section, I will evaluate how the Working Group's approach is limited by the reliance on a multicultural approach to address forced marriage and British South Asian Muslim alienation. I believe that the UK government's implicit aim to avoid alienating the British South Asian Muslim community leads to two significant problems.⁷⁶ First, it causes the Working Group to rely too heavily on ideas presented in the UK government's race relations programs. Second, this reliance prevents the Working Group from investigating contentious issues about race and gender, such as family honour, which prevents them from gaining a better understanding of forced marriage. I will elaborate on these problems further in the next section.

Response from the British Government – achievements and oversights

As noted above, the British government's response to forced marriage is likely influenced by broader political issues, such as racial tensions between mainstream British society and the South Asian Muslim community. In order to determine the effects of this

⁷⁴ Ibid, 15. These "core values" or "shared values" are also said to be "maintaining and strengthening democracy, and enabling and facilitating understanding and mutual respect between individuals and communities."

⁷⁵ Ibid, 20.

⁷⁶ There are a number of critiques about multicultural race relations policies and their effects on dealing with gender inequity in Britain's minority communities. See Clare Beckett and Marie Macey, "Race, Gender and Sexuality: the Oppression of Multiculturalism" in *Women's Studies International Forum* 24 (2001), 309-319. In the case of forced marriage, Beckett and Macey note that the British multicultural approach is problematic because "one dimension of an individual's identity (ethnicity) is prioritized over another (gender)." By favouring one dimension over another, they ignore the significance of how race and

influence on the effectiveness of the government's response, I will first demonstrate how the government defined the public discussion of forced marriage by drawing upon the same main elements I have identified in the British media's initial discussion of forced marriage in the 1990's. These elements are parental/family ignorance about women's rights in the British South Asian Muslim community, and acceptability of domestic violence against women. The UK Home Office Working Group on Forced Marriage identified these elements as the key socio-cultural causes of forced marriage.⁷⁷ While the identification of these key causes would seem like the beginning of a discussion of how to overcome them, the government does not extend their discussion of forced marriage any further. Rather, their insular approach is similar to the British media's portrayal of forced marriage. Like the British media, the Working Group claims that forced marriage is a problem of domestic violence against women and that these causes are all subsumed into one all-encompassing cause -- parental/community ignorance about personal rights related to marriage within one's own culture and religion. By focusing its response on this premise, the Working Group proposes a strategy that presumes that once parents' ignorance about personal rights related to marriage is eliminated, then so too will the problem of forced marriage.

The government's strategy may seem logical and straightforward given the initial public discourse in the BBC and *Guardian* about forced marriage. Yet, the British government's campaign would need to address two further challenges emanating from

gender are involved in the marginalization of some British South Asian Muslim women. I will review government documents down below to support Beckett and Macey's claims.

⁷⁷ I will not judge the validity of these key causes here. I am assuming that the government is correct in identifying these particular causes as necessarily leading to forced marriage. Although the British media did sensationalize these key causes of forced marriage, I believe that the causes, once they are isolated from the media reports, can be useful for an effective investigation into unwanted marriages. I do not criticize the identification of these causes. I am criticizing the framework into which these causes are incorporated.

that discourse. First, they would have to determine how to consult with the “identified” offenders, namely South Asian Muslim families, and create a dialogue to alleviate their ignorance about personal rights within marriage. Second, they would also have to determine how to diffuse the hostility resulting from the media’s linking of forced marriage and the South Asian Muslim community while addressing the issue of the supposed ignorance in that community about personal rights within marriage.⁷⁸

To address these concerns, the UK Home Office and Foreign and Commonwealth Office commissioned a series of reports and other documents, two of which I shall explore below in detail and have been previously mentioned above. First, the report written by independent academic researchers Samad and Eade, *Community Perspectives of Forced Marriage*, and second, *A Choice by Right*, written by the Working Group.⁷⁹ By comparing these two reports, I intend to show significant inconsistencies between them. Once these inconsistencies are identified, I will then show why there is an inconsistency by first examining what guiding principles the British government used in their response against forced marriage. Since the issue of British South Asian Muslim alienation was identified as a key political concern in one of these reports, I will examine the effect of this particular factor on the development of the British government’s campaign.

The report submitted by the Working Group identifies two main objectives. The first objective involves the development of a “new public debate on the issue of forced marriage”. The second objective is for victims, parents and the public at large to “develop

⁷⁸ Lucy Ward, “Forced marriages increase in Asian community”, 1. Ward notes that a study conducted by the UK Home Office “found that British Asian communities feared that government moves to clamp down on forced marriages were driven by racism and Islamophobia, with the motive to limit immigration and attack the practice of arranged marriage.”

⁷⁹ UK Home Office, *Choice*, 1; UK Foreign and Commonwealth Office, *Perceptions*, 1.

a shared understanding” of this issue.⁸⁰ As such, the report begins by clearly identifying the audience with which they want to develop this “shared understanding” -- the parents of actual and potential forced marriage victims. As the Chairperson of the Working Group states in the report’s introduction, “For it is the communities, and above all the parents, who now need to take the leading role in eradicating forced marriage and giving all of our children peace of mind.”⁸¹

The report continues by laying out the boundaries of the “debate”, noting that this is a part of a “wider strategy” that addresses domestic violence, particularly against women.⁸² Since one of the Working Group’s main objectives is to achieve a “shared understanding”, they provide information on legal and social issues related to forced marriage. The legal issues discussed in the report include information about British marriage laws and international decrees about choice in marriage as a basic human right. The social issues discussed include culturally based factors that community leaders, victims and their families have identified as causes for forced marriage, emotional and psychological distresses of forced marriage victims and recommendations by law enforcement officials, social workers, etc., on how to improve services for victims and their families.⁸³ Several issues discussed, including the information about British marriage laws and the descriptions of victims’ distress, are significant because they are basic issues that the public should be informed of in relation to forced marriages. Yet, in disseminating this information, the Working Group does not provide any opportunity for

⁸⁰ UK Home Office, *Choice*, 4, 16.

⁸¹ *Ibid.*, 1.

⁸² *Ibid.*, 1. The fact that this issue is classified as a “domestic violence” issue will be examined in the next chapter.

⁸³ *Ibid.*, 21-25.

“dialogue”. The claims about personal choice in marriage and the criticism of the culturally-based causes of forced marriages are fixed and unquestionable.

To illustrate this point, I will examine their claims about choice in marriage and their criticism of the causes of forced marriage. Their position on personal choice within marriage is clear: “it [forced marriage] is a violation of internationally recognized human rights standards.”⁸⁴ The right for a person to “enter freely into marriage” is seen as “central to her life and her dignity and equality as a human being.”⁸⁵ The report states further that, “The freely given consent of both parties is a prerequisite of Christian, Hindu, Muslim and Sikh marriages... religious belief does not justify removing a person’s right to choose.”⁸⁶ Through these statements the Working Group tries to overcome the negative stereotypes that resulted from the British media’s link between forced marriage and the South Asian community.

By presenting the issue of choice in marriage in this way, the Working Group seems to successfully tackle the negative stereotyping of the South Asian community. Their implicit argument is that forced marriage is not a “cultural” problem, but a problem caused by parental/family ignorance of cultural and religiously-based beliefs about personal choice in marriage. Furthermore, they claim that using culturally or religiously based elements, such as family honour, to justify forced marriages is wrong.⁸⁷ Yet, the purpose of the Working Group’s report is not to provide the public with a successful argument. The aim of the Working Group’s report is to create a “shared understanding” through dialogue.

⁸⁴ Ibid., 6.

⁸⁵ Ibid., 6.

⁸⁶ Ibid., 6.

⁸⁷ See n. 73 for explanation on “socio-cultural” causes of forced marriage.

How can a “shared understanding” be achieved when only the Working Group’s opinion that is given precedence? The report’s discussion of culturally and religiously-based causes of forced marriages demonstrates the problem with the Working Group’s arguments. The Working Group’s list of causes include peer group or family pressure, strengthening of family links, protecting perceived cultural and religious ideals, preventing ‘unsuitable’ relationships, family honour, long-standing family commitments, controlling female behaviour and sexuality.⁸⁸ Yet, nowhere in the discussion of these causes is there an examination as to why issues like family honour are regarded as important to some South Asian Muslim parents. Instead, it is only the perceptions of victims and members of women’s groups that are provided in the report. They argue that these culturally and religiously based causes are “a fossilization of cultural values” and “a means of oppressing women”.⁸⁹ While giving victims and women’s groups a voice in the public discussion of forced marriage is extremely important, eliminating parents’ voices does not lead to a “shared understanding”. While this discussion of the causes of forced marriage is conclusive, it is not helpful in determining why parents use these culturally or religiously based ideas as justifications for forcing their children into unwanted marriages.

Given the British media’s portrayal of some South Asian Muslim parents’ perceptions of family honour and Islamic law and the feelings of alienation in the South Asian community as a result of this portrayal, it is not surprising that the Working Group rejects all culturally and religiously based justifications of forced marriage. Yet, by focusing on conclusive claims about forced marriage, the Working Group’s report ends any further need for dialogue between victims of forced marriage and their parents. The

⁸⁸ Ibid., 14.

⁸⁹ Ibid., 14.

dialogue is one-sided. The Working Group's implicit argument is that parents should understand the issue of forced marriage from their children's point of view because it is consistent with the views of community leaders but more importantly, it is consistent with mainstream British society's beliefs about choice in marriage. Furthermore, by focusing on the views of victims and community leaders, the Working Group is able to show that forced marriage is not explicitly a "South Asian" problem, because they are able to demonstrate that many South Asians perceive choice in marriage in a way that is publicly acceptable.

Yet, by discussing the issue of forced marriage in the framework of "rights" and "common values", they are clearly adopting a similar framework proposed by race relations initiatives mentioned above. The comprehensive discussion of choice in marriage as a universally recognized human right is similar to the need for a "culture of rights" mentioned in the *Strength in Diversity* consultations. Furthermore, the recognition of the need for "shared values" is implied in the rejection of culturally and religiously-based justifications of forced marriage as a "fossilization of cultural values", indicating that cultural practices and values about marriage had "moved on", presumably to something that is consistent with British perceptions about marriage.⁹⁰ Finally, the main concern about negative stereotyping is clearly addressed by the Working Group's claims that forced marriage is "not just an 'Asian' issue" and that no world religion allows forced marriage.⁹¹ This influence from the government's race relations initiatives would not be so damaging if they did not limit the investigation into the causes of forced

⁹⁰ UK Home Office, "Choice," 14.

⁹¹ Ibid., 6, 12.

marriage and leave a critical gap between the perceptions of forced marriage in mainstream British society and certain members of the South Asian Muslim community.

My critique of the Working Group's argument is not based on the fact that I think they are wrong. I am criticizing their approach because I believe it is inefficient. If the Working Group says that forced marriage is not allowed in any religion or culture, why should individuals who accept the practice of forced marriage believe this claim? What proof is given? Why should South Asian Muslim parents engage in a dialogue when their perceptions are not even represented? How does a one-sided discussion of forced marriage, however true it may be and however useful it may be in combating negative stereotypes of the South Asian community, provide the public with any more information on how to eliminate forced marriages?

The *Community Perceptions on Forced Marriage* report by Yunus Samad and John Eade comes up with a greater understanding of the causes of forced marriage in relation to common cultural and religious beliefs. Rather than establishing fixed explanations about culturally and religiously based beliefs about choice in marriage, Samad and Eade analyze the understanding of these concepts and causes from the viewpoint of South Asian parents as well, providing insight into issues that require further investigation. In conducting their study of forced marriage in the Pakistani and Bangladeshi communities of Bradford and Tower Hamlets, Samad and Eade provide some significant details about forced marriages that the Working Group report lacks.

In particular, Samad and Eade's investigation provides useful information about the causes of forced marriage and perceptions of "choice" and "coercion".⁹² All of the

⁹² Ward, "Asian community", 1. Ward notes that these communities were chosen because the majority of forced marriage cases were reported to have occurred in these communities.

Pakistani and Bangladeshi families surveyed in the Community Perceptions report believe that “physical force is unacceptable” in relation to Islamic marriage.⁹³ Yet, the report also states “emotional and psychological pressure is not considered to be coercion.”⁹⁴ For example, South Asian Muslim parents surveyed in the report indicated that if they were presented with a scenario in which their child intended to marry a non-Muslim, one of the options they would consider would be “psychological and emotional pressure” in the form of “threatening to disown their children”.⁹⁵ Samad and Eade note how this “combination of pressure and deference to senior relatives [leads] to children being married without their consent.”⁹⁶

Given that many South Asian parents themselves had shown “deference” to the same type of parental/family “pressure” when they were young may explain why they permit the use of emotional coercion. Samad and Eade explain that a number of South Asian parents interviewed “rationalize” to themselves that forced marriage, in some cases, is a “short-term problem that is ironed out over time as the couple comes to terms with the marriage”, implying that choice is something that is developed as opposed to being inherently possessed.⁹⁷ These statements demonstrate that the South Asian families in this sample do not perceive “choice” and “coercion” in the same unambiguous way that the Working Group does. These families do not equate emotional and psychological pressure

⁹³ Samad and Eade, “Perceptions,” 6.

⁹⁴ Ibid., 72.

⁹⁵ Ibid., 71. One parent is quoted as saying, “You know Islamically speaking, if my daughter went out of Islam, you know to get married..I would most...definitely use force... Mainly it would be hard counseling...If you wanna call, to brainwash her mind.”

⁹⁶ Ibid., 58.

⁹⁷ Ibid., 65, 68. The Pakistani and Bangladeshi families surveyed expected that their children would have the same type of “passive acceptance” of marriage that they did. One parent is quoted as follows, “I’m...at the time...when I was arranged marriage, I was a bit upset at first, but then I was okay with it you know. I thought yeah it’s okay, it’s part of our thing, how it happens in our community like this anyway and it’s part of my life to go through, and I just accepted it.”

with suppression of the right to choose, but as an intense form of parental guidance. Moreover, the fact that many South Asian Muslim families see nothing wrong with the idea of “delayed acceptance” of marriages contradicts the Working Group’s unambiguous definition of “choice”. Given that the Working Group did not clarify how religion, culture and “choice” as a personal right in marriage are linked, the statements made above further weaken the Working Group’s argument about these linked issues. Therefore I propose a re-examination of the Working Group’s assertions and a more relevant understanding of “choice” and “coercion” need to be determined by looking at the broader social and political issues that inform some South Asian Muslim parents’ perceptions of choice in Islamic marriages.

Furthermore, Samad and Eade’s analysis of the key causes of forced marriage is significant because it provides relevant explanations as to how these ideas such as “family honour”, controlling “sexuality and independent behaviour” and “unsuitability” of a potential marital partner lead parents to force their children into unwanted marriages.⁹⁸ For example, in the case of issues such as “family honour” and “suitability”, Samad and Eade carefully explain how the social system works in certain South Asian Muslim families to promote these issues. First, they explain how men protect “family honour” in the public sphere, and women protect it in the private sphere.⁹⁹ Second, they indicate that women “protect” their own honour and their family’s honour by avoiding prolonged engagements in the public sphere.¹⁰⁰ Finally, Samad and Eade also point out is that it is not men who maintain this system, but women. Women facilitate the segregation

⁹⁸ Ibid., 56.

⁹⁹ Ibid., 56, 75. “Honour” itself is not defined, but given Samad and Eade’s discussion, it is likely linked to sexual chastity and proper social interaction (e.g. with people within one’s own ethnicity and social class).

¹⁰⁰ Ibid., 75.

of their daughters and grand-daughters from the public sphere by indoctrinating them with the rules of female etiquette.¹⁰¹ Samad and Eade explain that if a woman does not obey the rules of female etiquette and asserts herself in the public sphere, she puts herself at greater risk of corrupting her honour, and thus her family's honour as well.¹⁰²

Most of this information is common knowledge in the South Asian Muslim community, and has been disseminated into mainstream Western societies through media and academic journals on the topic. But Samad and Eade provide another key insight into this issue: the direct link between suitability of marriage partners and cultural homogeneity. They note, "Elders argue that religious and cultural factors should be taken into account...while young people are saying that only religion is important. Marrying outside the ethnic group is acceptable, but marrying outside one's religion is unacceptable."¹⁰³ By undermining patriarchal norms and picking non-South Asians for marriage, some South Asian Muslim parents believe that women do not only put these traditions at risk, but they also harm the ability of the community to retain cultural homogeneity. From this perspective, religion is seen as synonymous with the goal of retaining cultural homogeneity. It seems that young people, especially young Muslim women, believe that freedom from these patriarchal norms lies within religion.¹⁰⁴ This finding is supported by other interviews of young British Muslims. For example, several Muslim women interviewed by the *Guardian* use their knowledge of the Qur'an and Sunnah to argue that choice in marriage is protected by Islam, and that some Muslim

¹⁰¹ Ibid., 75.

¹⁰² Ibid., vii, 43. Samad and Eade also note, "Inter-ethnic and inter-racial marriages are acceptable, in theory, as long as one of the partners goes through religious conversion. Nevertheless, in practice, such alliances are not preferred because of community opprobrium attached to marriages outside the ethnic and religious group."

¹⁰³ Ibid., 77.

parents' concerns for marrying individuals from the same ethnic background is not a prerequisite for Islamic marriages.¹⁰⁵

So why are parents so concerned with cultural homogeneity? Why is it not important to their children? Why do young Muslims believe that religion is able to subvert patriarchal norms? Though these questions are important, they cannot be answered in detailed here. Nonetheless, when one compares these questions with the fixed and unquestionable principles of the Working Group's report, one observes a few significant problems. First, the Working Group lacks an understanding of the complexity involved in assessing the causes of forced marriage. Secondly, they have created a rigid framework based on the very limited information that they have. Because South Asian Muslims were so inextricably linked with violence in the initial public discussion of forced marriage, the Working Group found it necessary to focus their campaign on challenging this link. Is this focus on challenging negative stereotypes a necessary part of the Working Group's campaign?

The government clearly believes that the answer to this last question is yes. Yet, one can see that by challenging negative stereotypes, the Working Group tries to simplify a very complex issue. Their concern for minimizing these stereotypes may seem to be empowering victims of forced marriage by giving them a voice in the public discussion of forced marriage. But if the views of those South Asian Muslim parents, who accept practices such as "emotional coercion", are not given any significance in the Working Group's public discussion on forced marriage, then how can these parents negotiate solutions to stop forced marriages?

¹⁰⁴ Madeleine Bunting, "Can Islam liberate women?" *Guardian Unlimited*, December 8, 2001, <http://www.guardian.co.uk/Archive/Article/0,4273,4314573,00.html> (accessed April 19, 2004).

The Working Group's assumptions and claims about forced marriage are significantly different from those South Asian Muslim parents who they are trying to target in their campaign. I believe the best way to bridge the gap between the perspectives of the Working Group and those of their target audience is to look at the social and political issues that inform both sides. This chapter has provided only one part of the complex social and political issues that inform South Asian Muslim and non-South Asian Muslim perceptions of forced marriage. The next chapter will focus on social and political issues that inform South Asian Muslims in the Indian sub-continent. In particular, there will be an examination of Islamic law, South Asian marriage practices, and socio-economic factors, such as lack of education for rural South Asian Muslim women, that affect their abilities of choice in marriage.

¹⁰⁵ Ibid., 1

CHAPTER 2: SETTING THE RECORD STRAIGHT: DETERMINING THE LINK BETWEEN ISLAM, SOUTH ASIAN CULTURE AND FORCED MARRIAGE

South Asian Islamic marriage law and the issue of consent – an Introduction

As I showed in Chapter 1, prominent British media organizations and the UK Home Office have identified forced marriage as a culturally and religiously based problem. According to their portrayal of forced marriage, this problem is the result of ignorance in some South Asian Muslim families about the right of choice in Islamic marriage. The government's main taskforce on forced marriage, the Working Group, launched an educational strategy to solve conflicts and misunderstandings related to forced marriage, culture and religion, such as the definitions of "choice" and "consent". I explained in Chapter 1 how the Working Group's was careful not to designate a particular ethnic group as the target audience for their educational campaign. They adopted this approach because they wanted to combat negative stereotypes of South Asian Muslims that were presented in the British media.

In Chapter 1, I also presented an overview of the media coverage and government documents to show how the Working Group lacks a comprehensive understanding of the relationship between forced marriage, South Asian Muslim culture and Islam necessary for the type of domestic violence strategy they have proposed to combat forced marriages. In particular, I argued that their claims about forced marriage being unacceptable in any major world religion and culture and their understanding of "universal" human right of choice in marriage is problematic given that South Asian Muslim families surveyed do not fully agree with the Working Group's perceptions of

“choice” and “coercion”.¹ I demonstrated that by limiting the discussion of forced marriage to the particular assumptions about “choice” in marriage as a universal right, and about direct causes leading to forced marriage, such as family honour, the government misrepresents the complex factors leading to forced marriages.

While I have pointed out the errors in the government’s intervention strategy against forced marriages, I do not intend to repudiate the role of culturally and religiously based causes of forced marriage altogether. Yet, it is clear that the Working Group’s primary focus - and I would argue that cultural and religious factors are its only focus – is problematic because the main question still remains: if all cultures and religions abhor forced marriages, like the Working Group says, then why do individuals believe they are upholding their cultural and religious traditions by forcing others into unwanted marriages? The Working Group would argue that this is a false perception of cultural beliefs and practices regarding marriage, but then do not provide any support for this claim.

Culture and religion may play a part in forced marriages, but is it necessarily the role that the Working Group would have the public believe? Given that their framework does not irrefutably demonstrate the “true” relationship between forced marriage, culture and religion, it is necessary to investigate the government’s claims about these three issues. In particular, it is crucial to investigate the government’s understanding of two main cultural and religious factors leading to forced marriage. First, a thorough investigation into the definition of “choice” in Islamic marriages must be conducted. Next, secondary social and political causes of forced marriages must also be investigated, such as restrictions on women’s education and economic mobility and the establishment

¹ Samad and Eade, “Perceptions,” 6, 72.

of economic kinship networks. Although the government is satisfied with their limited investigation of cultural and religious factors, it is probable that an investigation of these secondary factors in a historical context would improve their understanding of the relationship between forced marriage, culture and religion from the perspective of South Asian Muslim families that support certain methods of coercion to promote suitable marriages.

In this first part of this chapter, I will provide a detailed explanation of Islamic legal theory about marriage, specifically relating to the personal rights of the marriage partners and their parents and/or family. In doing so, I intend to demonstrate how the Working Group's definition of "choice" in marriage -- that the right for a person to "enter freely into marriage" is ensured by all world religions and cultures -- does not fully recognize the complexity of personal rights in Islamic marriage law.² I will begin by outlining the definition and position on forced marriage of Sunni Muslims in the Qur'ān and Sunnah (Prophetic traditions).³ In this preliminary discussion, I will examine the primary source of Islamic marriage law in the Indian sub-continent, the *Hedaya*. The main focus of this discussion will be on the Hanafi school of law (*madhhab*)'s position on forced marriage, especially on issues such as "*wali mujbir*" and the rules of "*kafa'a*" (equality) in marriage, to demonstrate that the definition of "choice" in marriage is not as clearly defined as the Working Group suggests.⁴

² UK Home Office, "Choice,"6.

³ Since most of the victims of forced marriage in the U.K. are Sunni Muslim, I will look at Sunni Muslim law in particular.

⁴ There is no English equivalent for *wali mujbir*, but literally it means "guardian who uses force". For the definition of the term, see Abd al-Rahmān al-Jazīrī, *Kitāb al-fiqh ala' al-madhāhib al-arba'ah* (Beirut: Dār Ihyā' al-Turāth al-'Arabī, 1986).

Third, I will examine the secondary causes that influence parents to maintain protective attitudes towards beliefs about family honour and controlling female sexuality. An investigation into these secondary social and political causes demonstrate how factors such as customary law, and political and economic situations of certain South Asian communities involved affect gender relations and perceptions of female sexuality. For this reason, the other part of this chapter will examine the implementation of Muslim marriage law in the South Asian sub-continent regarding choice in marriage, as well as the wider social, political and economic issues that may have impacted gender relations and perceptions of women, such as the impact of British colonialism and the acceptance of legal pluralism in South Asia. Using legal and social commentaries by various South Asian legal scholars, I will investigate the development of Islamic laws and customs practiced in the Indian sub-continent. By investigating the social and political conditions that encourage South Asian families to protect cultural beliefs such as family honour, one can then further investigate how why these beliefs are similarly protected in Britain.

By using this multi-faceted framework, as opposed to the culture and religion-centric framework provided by the government, the perspective of those South Asian Muslim families that accept coercion in Islamic marriage becomes much clearer. The aim in this chapter is to provide a plausible explanation of how religious and/or culturally-based concepts and factors about women, sexuality, gender relations and patriarchal traditions are so heavily influenced by social and political conditions. I argue that it is these social and political conditions that allowed the negative culturally and religiously based causes of forced marriage to solidify. I also contend that certain social conditions in the UK allow these culturally and religiously based justifications of forced marriage to

persist among certain South Asian Muslim families. Once these legal, social and political conditions are presented, it will be clear how different the experiences of marriage in South Asian Muslim families are in contrast to the British government's perspective of marriage and thus, why the current educational strategy cannot relate to those who accept coercion in Islamic marriages.

Forced marriage in Qur'ān, Sunnah and Hanafi law – perceptions of “choice” and “coercion” in Islam

In their definition of forced marriage⁵, the UK government's taskforce on the issue claims that choice in marriage is conducted freely in all religions. Yet, this simple definition of choice in marriage is more complicated in Islam because of the presence of the *wali* or guardian as part of the marriage contract. Although technically the *wali* is simply a legal representative of the bride or minor in signing the Islamic marriage contract, they have a significant influence over the bride's or minor's decision to marry. In this section, I will examine at two aspects of the role of the *wali* which are significant in relation to the issue of choice in marriage using the Qur'ān, Sunnah, and legal texts outlining the laws of the four legal schools of Sunni Islam. First, I will investigate whether or not the *wali* has the ability to coerce his child into marriage. Second, I will investigate whether or not the *wali* is allowed to place limitations on his child's ability to choose their spouses, and if so, I will indicate what those limitations are.

Verses from the Qur'ān and accounts from Sunnah (prophetic traditions), seem to indicate that forced marriage was prohibited during the time of Prophet Muhammad. In the Qur'ān, there is one specific verse that outlaws marriages that were obtained through force. In Surah al-Nisa (surah 4), verse 19 states, “O ye who believe! It is not lawful for

⁵ The term “forced marriage” in the rest of the chapter is again referring to the term as defined by the UK Working Group on Forced Marriage.

you to forcibly inherit the women (of your deceased kinsmen) nor (that) ye should put constraint upon them that ye may take away a part of that which ye have given them [Mahr], unless they be guilty of lewdness.”⁶ A Hadith in the collection of Sahih Bukhari provides Ibn ‘Abbas’ explanation of this verse. According to Ibn ‘Abbas, prior to the revelation of this verse, the family of a deceased man was entitled to “inherit” his wife, and if desired, could marry her without her consent.⁷ This verse was revealed to end that practice. In a related Hadith, a woman by the name of Khansa’ bint Khidam al-Ansariya, went to the Prophet complaining that her father had forcibly married her to a man when she was a “matron”.⁸ Upon hearing this complaint, the Prophet declared her marriage invalid.⁹ Taking this Qur’anic verse and Hadith records into consideration only would give the impression that there was a clear stance against forced marriage in Islam; it was prohibited.

These sources assert that women have a clear and independent say in an Islamic marriage, and that no other person has any influence in establishing a marriage contract between a man and a woman. Yet, the example of forced marriages in the UK show that

⁶ *Meaning of the Glorious Qur’an*. Trans. Muhammad Marmaduke Pickthall. (New York : Muslim World League, 1977), 4:19.

The original text reads:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا وَلَا تَعْضَلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْنَهُنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيَّنَةٍ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيجعل الله فيه خَيْرًا كَثِيرًا

Although there is some scholarly debate about whether or not translations like Pickthall’s are problematic, I will not deal with this issue in the thesis. I have included this verse as evidence that the classical Islamic view of forced marriage is that it is forbidden. I have used Pickthall’s translation because it is the clearest translation condemning the practice of forced marriage.

⁷ Muhammad ibn Ismail al-Bukhari, *Translations of the Meaning of Sahih Bukhari*, Vol. 6. Bk. 60 No. 103, Trans. M. Muhsin Khan (Chicago: Kazi Publications Inc., 1993) It is important to note that there is a debate over the authenticity of certain Hadith, especially those that contradict Qur’anic verses. It is not in the purview of this essay to address this controversy. For the purposes of this essay, I will assume that all Hadith provided by the six canonical Hadith sources are authentic.

⁸ Ibid., Vol 7 Bk. 62 No. 69; Vol. 9 Bk. 85 No. 78

⁹ Ibid., No. 78.

there are various factors that affect the definition of “choice”, “consent” and “coercion” in many Islamic marriages, such as age and gender. In Sunni Islamic marriage law, factors such as sexual status (e.g. virginity or non-virginity) and the role of the *wali* also affect one’s freedom of choice in marriage. If the government’s definition of “choice” in marriage, which assumes complete freedom without any outside coercion, is accepted as the universal definition of this concept, then one should investigate whether Islamic law protects this form of choice. The primary sources of Sunni Islamic law, the Qur’ān and Sunnah, protects choice in marriage. Yet, an investigation into the secondary source of Sunni Islamic law, the jurisprudence developed in the four schools of Sunni Islamic law, show that choice in marriage is restricted under very specific circumstances, to the point where even forced marriage, as defined by the UK government, is allowed.

One of the circumstances in which the four schools of law or *madhāhib* restrict choice in marriage is on the basis of gender, which means that choice in marriage differs for men and women.¹⁰ The four schools of law agree that adult men, in addition to marrying free Muslim women, can contract himself in marriage to *kitabiyya* women (e.g. Jews or Christians) and/or slave women.¹¹ This allowance does not extend to Hindu women, who were not considered *kitabiyya*.¹² In any case, as long as a man has reached

¹⁰ David Pearl and Werner Menski, *Muslim Family Law* (London : Sweet & Maxwell, 1998), 17. In Shi’a marriage law, there are different restrictions placed on men and women. The differences will be discussed when applicable.

¹¹ Pearl and Menski, *Law*, 163-64. The fact that a Muslim man may marry up to four wives will not be addressed in this thesis.

¹² Pearl and Menski, *Law*, 163-64. There is some debate over this issue, as some scholars believe Hindus were considered *ahl-al-kitab*. See *Encyclopedia of Islam*, 7th ed., s.v. “Ahl-al-Kitab”. Yet, Pearl and Menski note that in cases where Muslim men married Hindu women, these should be considered as irregular (*fasid*) marriages.

the accepted legal age of maturity, he is free to marry whom he chooses among these groups of women without legal scrutiny.¹³

The situation is different for a Sunni Muslim woman. In order to have a marriage that is recognized in Islamic law, she can only marry a Muslim man. While the four *madhāhib* agree on this issue, they disagree about the woman's role in the marriage contract. Specifically, they disagree on the role of the *wali* or guardian, who is put in place to act as legal representative of the woman getting married.¹⁴ In the case of a minor or unmarried woman, even if she has reached the age of legal adulthood in Islamic law, the Shafi'i, Hanbali and Maliki schools agree that the *wali* is necessarily required for the validity of the marriage contract.¹⁵ The only exception is the Hanafi school, which allows an adult woman to represent herself in marriage without a *wali* under certain circumstances.¹⁶

Of course, theoretically, it could be assumed that the presence of the *wali* does not mean that the woman loses her ability to provide consent. It is noted in Hadith that the Prophet acknowledged the necessity of obtaining consent to a marriage.¹⁷ Yet, there is also another Hadith that notes that if only the *wali*'s consent is obtained, his consent will

¹³ Al-Jazīrī, *Kitāb*, 35. If a boy is under the legal age of maturity and/or is mentally retarded, then he is required to have a *wali* present when the marriage is contracted. For more on this issue, see the related discussion on the role of the *wali* as the guardian of a marrying woman.

¹⁴ In most cases, the *wali* is either the father or grandfather of the child or woman. If the ward, whether they are either an adult woman or minor child, has no living father or grandfather, guardianship passes onto the next closest male relative. A woman cannot be a *wali* for her child or anyone else. It is not clear whether or not a previously unmarried woman could have acted independently of her *wali* in solemnizing her marriage in pre-colonial times. Hanafi legal scholars allow for women to formalize their marriages independently of a *wali*, but this has been disputed in modern times. For more see n.17.

¹⁵ Al-Jazīrī, *Kitāb*, 29.

¹⁶ Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law: Equal before Allah, Unequal before Man* (The Hague: Kluwer Law International, 2000), 161. The High Court of Pakistan ruled against this law in the case of Saima Waheed, sparking a debate on the ability of courts in Islamic countries to overrule past laws.

¹⁷ Bukhari, *Translations*, Vol 9 Bk. 85 No. 79. "Narrated 'Aisha. I asked the Prophet, "O Allah's Apostle! Should the women be asked for their consent to their marriage?" He said, "Yes." I said, "A virgin, if asked, feels shy and keeps quiet." He said, "Her silence means her consent."

validate a marriage.¹⁸ This distinction between the *wali*'s consent and the woman's consent does not seem to be significant or contradictory. Yet, this distinction between the *wali*'s consent and the woman's consent becomes an issue that is defined in great detail by the four *madhāhib*.

As described in al-Jazīrī's *Kitab al-Fiqh ala al-madhahib al-arbaa*, the *wali* is in most cases the father, or grandfather of the woman.¹⁹ Al- Jazīrī notes that if these two individuals are deceased, then another relative is designated as the woman's guardian, or in the absence of any close male relative, the local ruler or another individual is appointed as *wali*.²⁰ He describes two types of *wilayat*. First, the *wali mujbir* is described as having the right to marry a woman without her consent. Second, the *wali ghayr-al-mujbir* is the guardian who must obtain consent from the woman in order to act on her behalf in marriage.²¹ The *madhāhib* differ on who is a *wali mujbir* and who is a *wali ghayr-al-mujbir*. According to al-Jazīrī, the Shafi'i school contends that only the father, grandfather and master (in the case of slaves) can be a *wali mujbir*.²² The Maliki school only designates the father as a *wali mujbir*.²³ Finally, the Hanafi school, to which the majority of South Asian Muslims adhere to, contends that all *wali* are a *wali mujbir*.²⁴ Al-

¹⁸ Ibid., Vol 7. Bk. 62 No. 70. "...And if somebody says to the guardian of a woman, 'Marry me to so-and-so' and the guardian remained silent or said to him, 'What have you got?' And the other said, 'I have so much and so much (Mahr),' or kept quiet, and then the guardian said, 'I have married her to you,' then the marriage is valid (legal)."

¹⁹ Al-Jazīrī, *Kitāb*, 29. Al- Jazīrī is an Arab legal scholar who compiled a summary of the main points of law, such as marriage, divorce and property inheritance, in the 1800's.

²⁰ Ibid., 29.

²¹ Ibid., 31. The word "*mujbir*" comes from the Arabic root jabara (ج ب ر) which means "to force".

²² Ibid., 31.

²³ Ibid., 31.

²⁴ Ibid., 31.

Jazīrī explains that Hanafis contend that all *wilayat* are not merely representatives of their wards, but that they are the chief decision-makers in the marriage contract.²⁵

According to al-Jazīrī, the role of the *wali mujbir* is dependent on several factors, including age and mental capacity, and for the woman, sexual status (e.g. virginity or non-virginity).²⁶ He explains that under certain conditions, the *wali mujbir* is allowed to marry off a young boy or girl, or mentally retarded man or women and an adult virgin (e.g. a woman who has never married) without their consent or even consulting them.²⁷ This differs from the *wali ghayr-al-mujbir*, who must obtain consent from the party he represents in the marriage regardless of age and sexual status, or else the marriage is considered invalid.²⁸ The conditions that govern the abilities of the *wali mujbir* to marry off their dependent without their consent, al-Jazīrī explains, differ according to the various schools of law.²⁹

For the Hanafis, al-Jazīrī and al-Marghīnānī explain that while the *wali mujbir* can marry off a young, virgin child or a mentally retarded adult woman without consent, they cannot marry off a sane, adult woman without her consent, whether or not she is a

²⁵ Ibid., 31

²⁶ Ibid., 32.

²⁷ Al-Jazīrī, *Kitāb*, 32; Alī ibn Abī Bakr al-Marghīnānī, *The Hedaya or Guide: A commentary on the Mussulman laws* (Lahore : New Book Co., 1957), 36. The Arabic word “*isthithan*” I have translated as “consulting”, but could also be translated as “permission”. Al-Marghīnānī notes that the Shafī’i school of law does not allow for the *wali mujbir* to marry off young children, but this is not explained in al-Jazīrī.

²⁸ Al-Jazīrī, *Kitāb*, 32; al-Marghīnānī, *Hedaya*, 35. Both explain that for a virgin, silence, laughter and even crying (as long as it is not “accompanied with a noise or lamentation”), can be considered as consent for the marriage. For a non-virgin (e.g. a divorcee, a widow or a woman who has been convicted of *zina* and has been punished with the *Hadd* penalty), the *wali* must obtain clear verbal approval. A virgin is an individual who has not had legal or illicit sexual relations; even a woman who has lost the “signs of virginity” (i.e. the hymen) through means other than sexual relations is also considered a virgin. Even a woman who has committed *zina* (unlawful fornication) can be considered a virgin if she is not convicted of *zina*, and as such, is not punished.

²⁹ Al-Jazīrī, *Kitāb*, 32.

virgin.³⁰ The Shafi'i and Maliki schools allow the *wali mujbir* to marry off a virgin adult woman without her consent. Yet, the Maliki school provides a provision that if a *wali mujbir* declares that the woman is "mature", then her clear verbal consent is required.³¹ In the case where the sane, adult woman is married off without her consent, the Maliki and Hanafi schools agree that the adult woman may nullify her marriage contract.³² The important point here is that the Hanafi and Maliki schools provide the specific provision allowing adult women to nullify any marriages to which they do not consent.

This concession for the right to nullify one's marriage is also given to young boys and girls married off by their *wali* under certain circumstances. Al-Jaziri and al-Marghinani explain that in Hanafi law, young women who are married off by their *wilayat* can object to their marriages by exercising their "option of puberty" (*khiyar al-bulugh*). Al-Marghinani notes that in Hanafi law a young boy or girl cannot exercise their

³⁰ Al-Jaziri, *Kitab*, 34; al-Marghinani, *Hedaya*, 34. Al-Marghinani explains that because the woman is *Mukkatiba*, a person subject to the "obligatory observances of the [religious] law (e.g. fasting, prayer)", there is "no person...endowed with any absolute authority of guardianship over her." This argument is also used to note that a woman may marry herself off to someone without her *wali*, but this provision only occurs in Hanafi law. It is important to note that even though Hanafi law allows a woman to independently contract her own marriage, she still must comply with rules of equality (*kafa'a*) otherwise her *wali* could object to the marriage. For a discussion on *kafa'a* see below.

³¹ Al-Jaziri, *Kitab*, 34-35. Furthermore, al-Jaziri explains that the Hanafi school places certain restrictions on the *wali mujbir*. If he is known to be an alcoholic or if he publicly known for his bad decision-making abilities, then he loses his right to be the *wali mujbir*. He provides the example of a *wali mujbir* who marries off his daughter into a bad marriage. Unfortunately, that marriage is considered legal. However, the next daughter he tries to marry can exercise her "option of puberty" (*khiyar al-bulugh*) to annul the marriage upon reaching the age of maturity. It is important to note that this explanation of the *wali mujbir* only appears in al-Jaziri; al-Marghinani does not discuss this point at all.

³² Al-Jaziri, *Kitab*, 35; al-Marghinani, *Hedaya*, 35-37; Pearl and Menski, *Law*, 163. Two points need to be made here. First, it is important to note that the Malikis only allow the adult woman to nullify her marriage, which depends either on her sexual status (i.e. non-virgin) or if she is deemed "mature" by her *wali*; a non-adult woman cannot make the same objections. Second, Pearl notes the debate that exists over the issue of marriages that were contracted without consent of adult women, namely, are they automatically void or does the woman have to go to court to nullify the marriage. Pearl provides the details of a case involving a Muslim woman who was forcibly contracted to a man without her consent; believing her marriage to be automatically void, she proceeded to marry someone else. When the second marriage was contested in court, the court made a judgment in agreement with the woman, thereby noting that her "first" marriage was void, and that her "second" marriage was valid. Yet, al-Marghinani notes, "in dissolving the marriage, decree of the Kaze (Qadi) is a necessary condition in all cases of option exerted after maturity."

“option of puberty” if they were married off by their father or grandfather.³³ Yet, they can object to and nullify a marriage that was contracted by their *wali* who is someone other than their father or grandfather.³⁴ In the latter case, both al-Jazīrī and al-Marghīnānī explain how the young man or woman may object to the marriage at the time of attaining maturity.³⁵ For example, if they are virgins at the time of their marriage, and they remain silent as a result of ignorance about being contracted in marriage, then the “option of puberty” still applies.³⁶ Upon finding out of her marriage, the married adult must provide verbal consent to the marriage, or provide evidence that she is a willing participant in consummating the marriage.³⁷ Until she does so, al-Marghīnānī explains, she does not lose her “option of puberty”, because even her silence at this stage does not represent consent.³⁸

The issue of the *wilayat* or guardianship itself is an issue of contention between the four schools of law, particularly on the issue of whether or not an adult woman even needs a *wali*.³⁹ As al-Marghīnānī and al-Jazīrī contend, the Hanafi school is the only *madhhab* which allows a sane, adult woman, whether she is a virgin or not, to contract

³³ Al-Jazīrī, *Kitāb*, 32; al-Marghīnānī, *Hedayā*, 36-37. The assumption of the father’s “affinity” for his children is noted by al-Marghīnānī as follows. “If the marriage of infants be contracted by the fathers or grandfathers, no option after puberty remains to them; because the determination of parents in this matter cannot be suspected to originate in sinister motives as their affection for their offspring is undoubted.” As long as the *wali mujbir* maintains the two conditions needed to maintain his guardianship over his child (see n.29 above), he has the right to marry off this child without objection.

³⁴ Ibid., 36-37.

³⁵ Al-Jazīrī, *Kitāb*, 45; al-Marghīnānī, *Hedayā*, 36

³⁶ Al-Marghīnānī, *Hedayā*, 37.

³⁷ Ibid., 38.

³⁸ Ibid., 38.

³⁹ Pearl and Menski, *Law*, 144; Shaheen Sardar Ali, *Gender and Human Rights in Islam and International Law* (The Hague: Kluwer Law International, 2002), 161. Both Pearl and Menski, and Sardar Ali, note the case of Saima Waheed, a Pakistani woman who married a man without her father’s permission. When her father took her to court, the judge ruled in favour of the father, contending that a woman cannot marry someone without the presence of her *wali*. This is in sharp distinction with the Hanafi law presented below.

herself in marriage without the presence of her *wali*.⁴⁰ Nonetheless, this provision comes with a significant condition – that the validity of the marriage is dependent upon the *wali*'s consent.⁴¹ In this case, al-Marghīnānī explains, the *wali* can object to the marriage on the grounds of *kafa'a* or equality.⁴²

According to al-Jazīrī, the notion of *kafa'a* or equality between marriage partners plays a prominent role in Hanafi law.⁴³ He explains that the major criteria of *kafa'a* must be met in order to validate the marriage contract, but only in the case where a man has to prove his equality with the woman that he wishes to marry.⁴⁴ It is explained that this provision of equality is put in place to protect the social and religious status of the family of the intended bride. As al-Marghīnānī notes, “the desirable ends of cohabitation cannot be completely enjoyed except by persons who are each other's equals.”⁴⁵ Al-Jazīrī identifies the six conditions of *kafa'a* as follows: heritage/ethnicity/family (*nasab*), adherence to Islam, profession, freedom/slavery, religious piety and wealth.⁴⁶

⁴⁰ Al-Jazīrī, *Kitāb*, 32, 46-49; al-Marghīnānī, *Hedaya*, 34. Al-Marghīnānī states the reasoning for this provision as follows, “in marrying, the woman has performed an act affecting herself only, and to this she is fully competent, as being sane and adult, and capable of distinguishing good from evil, whence it is that she is by law capacitated to act for herself in all matters of property and likewise to choose a husband.” Al-Jazīrī notes that in Hanafi law, every *wali* is *wali mujbir* because *wilayat* or guardianship is limited to young children and mental incompetent individuals. He outlines a debate between the Hanafi and Shafi'i school over the Qur'anic and Sunnah evidence for the *wali*. Essentially, al-Jazīrī contends that the Qur'anic verse supporting the imposition of the *wali* is taken out of context, and is simply reprimanding ex-husbands from preventing their ex-wives from remarrying. However, as seen below, the Hanafis still allow for the *wali* to act as legal representative for the woman in a marriage contract.

⁴¹ Al-Marghīnānī, *Hedaya*, 34.

⁴² Ibid., 34.

⁴³ Al-Jazīrī, *Kitāb*, 53. It is important to note that in other schools, such as the Maliki school, only a few of these conditions count in terms of equality. In the case of the Malikis, only religious piety and lack of

⁴⁴ Al-Jazīrī, *Kitāb*, 53; al-Marghīnānī, *Hedaya*, 39. Al-Jazīrī explains further that if a man marries a woman of lower social and religious status, this is acceptable, but a woman who wishes to marry someone of lower status cannot do so under this provision of *kafa'a*.

⁴⁵ Al-Marghīnānī, *Hedaya*, 40. He further notes, “It is requisite...that the husband be the equal of his wife, but it is not necessary that the wife be the equal of the husband, since men are not degraded by cohabitation with women who are their inferiors...If a woman should match herself to a man who is her inferior, her guardians have a right to separate them, so as to remove the dishonour they might otherwise sustain by it.”

⁴⁶ Al-Jazīrī, *Kitāb*, 53.

As for the six conditions, there are specific guidelines that govern over them. In terms of heritage, both al-Marghīnānī and al-Jazīrī explain that there is one main distinction that need to be taken into consideration in determining equality among marriage partners: distinguishing those who are Arabs and those who are not (*‘ajimi*).⁴⁷ They describe how under this first condition, for example, an Arab woman cannot marry a non-Arab man. In terms of the second condition, al-Jazīrī and al-Marghīnānī explain that the man’s ancestry is examined to see how many generations were adherents of Islam. If the man’s family has fewer Muslim ancestors than the woman, then this condition can serve as grounds for the bride’s *wali* to nullify the marriage.⁴⁸ The conditions of equality regarding profession and wealth are straightforward (i.e. the man’s wealth and profession must be at least equal to or exceed the wealth and profession of the woman’s family), but the final condition of religious piety has some further guidelines.⁴⁹ As al-Jazīrī explains, an impious man cannot marry the daughter of a pious person, unless she is impious also.⁵⁰ He also notes, however, that the marriage between a pious woman and an impious man is valid as long as the woman’s father is also impious.⁵¹

Although these rules of equality are clearly explained in the Islamic legal texts examined, it is not clear exactly how they are applied in practice. Nonetheless, through the factors explained above – the role of the *wali* and the conditions of equality – it is

⁴⁷ Al-Jazīrī, *Kitāb*, 53; al-Marghīnānī, *Hedaya*, 40. They make a further distinction among Arabs: Quraysh and non-Quraysh. According to them, a Quraysh woman cannot marry a non-Quraysh man.

⁴⁸ Al-Jazīrī, *Kitāb*, 53-54; al-Marghīnānī, *Hedaya*, 40.

⁴⁹ Al-Jazīrī, *Kitāb*, 53-54; al-Marghīnānī, *Hedaya*, 40. Al-Jazīrī notes that a poor scientist is considered equivalent to a rich “ignorant” Arab woman, nothing that the “glory of science” is above heritage and religion. This may be al-Jaziri’s personal opinion, as there is no equivalent mention of this in al-Marghīnānī’s *Hedaya*.

⁵⁰ Al-Jazīrī, *Kitāb*, 55; al-Marghīnānī, *Hedaya*, 40. al-Marghīnānī notes that the only demonstrable evidence of piety is not actually “positive”. He explains that one cannot really know if someone is pious, but impious, through “any base or degrading misconduct such as a man exposing himself naked and intoxicated in the public street, and so forth, [and] may have incurred derision and contempt.”

⁵¹ Al-Jazīrī, *Kitāb*, 55.

clear that the issue of “choice” in Islamic marriage is not as clear as the Working Group would have the British public believe. The *wali* is given a great amount of influence over his ward’s ability to provide “consent” in marriage. This prevents the complete autonomy of “choice” in marriage, particularly for women, who are dependent on the *wali* to contract their marriages. Even when allowed to contract their own marriages, women are still subject to some level of permission from their *wali*. This is particularly important when one considers the British government’s original assumption about choice in marriage – that each world religion and culture acknowledges that it is up to the individual alone to choose who they marry and that this choice of a partner cannot be negatively influenced by any other individual. This brief investigation of Islamic marriage laws demonstrates how the role of prominent family members, particularly the *wali* in relation to women, is so influential in the marriage process that their rights are protected in the same way, if not more so, than the rights of the bride and groom in choosing their marriage partners.

Sunni Islamic law, especially Hanafi law, provides a “checks and balances” system, whereby a woman has certain rights in choosing her marriage partner but where a *wali* also has certain privileges in objecting to the marriage. This demonstrates the complexity of answering the question whether or not “Islamic law does not permit forced marriage”. As is demonstrated here, the answer is not simply “yes” or no”. If one uses the parameters designed by the media and the government, who have limited this debate on forced marriage to a “yes, it is allowed in Islam” or “no, it is not allowed in Islam”, it is evident that the complexity illustrated above becomes lost in the rhetoric designed to “combat” the problem of forced marriage.

Through this limited investigation into Sunni Islamic marriage law, I have shown that certain patriarchal structures in Islamic law may contribute to forced marriages. Yet, a direct correlation cannot be made between these laws and the occurrences of forced marriage. Thus, I will now investigate the practical application of the laws to determine if any direct correlation may exist between forced marriage, cultural beliefs and practices and religious law. What is important to note currently is that theoretically, a direct correlation cannot be made between Islamic law and the UK government's claims that Islamic law does not permit forced marriage. As I have shown above, in certain cases, it is indeed permitted.

This investigation demonstrates that the government's understanding of "choice" in Islamic marriages is not entirely consistent with Islamic law. Moreover, it is more consistent with those Muslim families interviewed by Samad and Eade who were not as concerned with religious suitability as with cultural suitability. Using the rules of *kafa'a*, they would be entitled under Islamic law to make effective objections to their daughters' marriages where they married someone who did not meet the requirements of suitability. By choosing a partner within the same socio-economic and cultural group, they would most likely avoid problems with the equality conditions.

While the rules of Islamic law have been clearly indicated in several legal texts, a few of which have been examined in this thesis, are these laws the main reason for the occurrences of forced marriage and other honour crimes in South Asian countries and in the UK? Were these Islamic marriage laws ever enforced in South Asia, and if so, are they in force now? In the next section, I will briefly examine how Islamic marriage laws were applied in the Indian sub-continent and whether or not it is consistent with the

discussion of Islamic laws presented above. Yet, even if there is some consistency between these laws and how they are applied, this may not explain why these laws are in place. Thus, after examining the application of Islamic laws in South Asia, I will examine social and political factors, such as kinship networks and limitations on women's access to education, to show the role that Islamic law may possibly play in the occurrences of forced marriage.

Application of Islamic marriage law in South Asia

The relevant historical period in which to examine the application of Islamic law in South Asia is during the British colonial and post-colonial period. I contend that this is the most relevant period to examine the development of South Asian law because it is at this point where a divergence occurs between official government law and local law begins. In *Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia*, South Asian Islamic scholar Scott Alan Kugle explains that during the colonial period, the British developed a new system of law developed that incorporated aspects of both Islamic law and British common law.⁵²

Kugle notes that in order to legitimize their authority and limit the potential conflicts that would erupt from imposing a new legal system, the British relied on cooperative Muslim jurists (*qazi*), to provide them with a written code of all Islamic law.⁵³ One of the texts provided to the British was al- Marghīnānī's *Hedaya*.⁵⁴ Using these texts, Kugle argues that the British were able to develop the appearance of a legal "system" to legitimize their rule over South Asian Muslims by using these Islamic legal

⁵² Scott Alan Kugle, "Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia," *Modern Asian Studies* 35 (April 2001), 257-258.

⁵³ Ibid., 269.

⁵⁴ Ibid., 272.

texts as primary sources and then developing case law in a similar method as the British common law system.⁵⁵ Kugle refers to the development of this hybrid legal system as “Anglo-Muhammadan” law.⁵⁶

Once this “system” was established, Kugle argues that the British were able to exert their method of interpreting Islamic law in the Indian sub-continent.⁵⁷ Thus, until the time of Indian and Pakistani independence, the Muslims of South Asia were officially governed by this law.⁵⁸ And after Indian and Pakistani independence, Islamic law that governs Muslims both countries developed from this “Anglo-Muhammadan” system.⁵⁹ In terms of marriage laws, the “Anglo-Muhammadan” system formally benefited women. Forced marriages are not permitted by the courts.⁶⁰ Furthermore, in cases of child marriages, women who exercised their “option of puberty” had it recognized by the British courts in South Asia.⁶¹ Thus, the British court system were able to modify the Islamic legal code that they developed their legal system in order to officially give women more rights when it came to choice in marriage. These changes were formalized

⁵⁵ Ibid., 259.

⁵⁶ Ibid., 257-60, 281-83. Kugle’s main argument is not simply that the British developed this hybrid legal system, but also that the British “disguise[d] jurisprudence as ‘a system’ rather than revealing its nature as an interpretative experience...[which] servers to heighten the authority of these exercises of power and... limit the ability to contest them to specialists.”

⁵⁷ Ibid., 281-283. Kugle also explains that the changes implemented by the British not only affected how Islamic law was officially interpreted, but also who was allowed to interpret it. Under the British system, only a *qazi* were allowed to interpret Islamic law. He notes that this effectively eliminated the role, and thus the power, of past interpreters, including village elders and family members. Yet, as historian Dushka Saiyid notes, rural leaders and powerful family members were still able to exert control over the implementation of Islamic family law. This will be discussed in the next section.

⁵⁸ Ibid., 282

⁵⁹ Ibid., 282.

⁶⁰ Pearl and Menski, *Law*, 172.

⁶¹ Sara Hossain and Suzanne Turner, “Abduction for Forced Marriage: Rights and Remedies in Bangladesh and Pakistan.” CIMEL and INTERIGHTS ‘Honour’ Crimes Project, April 2001, 4, <http://www.soas.ac.uk/honourcrimes/FMarticleHossain.pdf> (accessed October 15, 2003).

into legislation, such as the 1929 Child Marriage Restraint Act (CMRA) and the 1939 Dissolution of Muslim Marriages Act (DMMA).⁶²

In Pakistan and Bangladesh, these laws are relied upon to the present day when dealing with cases of forced marriage. One of the civil remedies that stems out of these laws is a jactitation of marriage, which is a declaration by the court that a marriage is void for lack of consent.⁶³ Even if women can overcome these circumstances, they must also be able to prove that the marriage was not consummated, or that the marriage was consummated by force. If unable to do so, then she must acknowledge that the marriage was valid, and then go through the procedures of obtaining a judicial divorce under the DMMA.⁶⁴ Moreover, as lawyers Sara Hossain and Suzanne Turner note, these remedies are usually unavailable to women due to “procedural limitations”, because many Pakistani women have limited economic resources independent of their families and also lack awareness of their rights.⁶⁵ Thus, in doing so, she not only face the stigma of being a divorced woman, but also go against her social and economic security system in order to achieve it.

While the law may be clear on forced marriages, it is not so clear in related cases involving freedom of choice in marriage. Even if a woman does manage to obtain the necessary resources to protect her freedom to marry, the court system may revise Islamic law to deprive her of this right. One such case in which the court system did revise Islamic law involved Saima Waheed, whose father challenged her right under Hanafi law

⁶² Ibid., 4.

⁶³ Ibid., 5.

⁶⁴ Ibid., 5. Traditionally, the man is the only one who is allowed in Islamic law to divorce his spouse, known as *talaq*. Women may initiate divorce through a process known as *khul*. Hossain notes that if the marriage contract includes a provision allowing the woman to initiate a divorce, she may exercise this right. The result of this is known as an “extra-judicial divorce”.

⁶⁵ Ibid., 5.

to enter into a marriage contract without a *wali*. In a controversial ruling, the Pakistani High Court found in favour of Waheed's father and annulled the marriage Saima had contracted on her own behalf.⁶⁶ South Asian feminism and legal scholar Shaheen Sardar Ali explains that contrary to the *Hedaya*, Ihsan-ul-Haq J. ruled that the *wali* is the contracting party in the marriage contract, not the woman and that her consent to the *wali* is the only part she plays in the marriage contract.⁶⁷

This investigation into the development of Islamic-based laws in South Asia shows how officially women are provided with the right of freedom of choice in marriage, but social and economic conditions prevent women from even being aware of this right. In Pakistan, this situation is further complicated by other laws that stigmatize women in relation to their sexual conduct. The main law that affects women is the introduction of the Zina Ordinance of 1979.⁶⁸ One of four ordinances introduced by then president Zia-ul-Haq, who pushed reforms for the "Islamicization" of Pakistan, the Zina Ordinance strictly prohibits any kind of extra-marital sexual relations and allowed for corporeal punishment, such as lashing, for those who break this law.⁶⁹

The Pakistani National Commission on the Status of Women, set up in 1999, evaluated the effects of the four Islamic Ordinances. In their 2003 report, the Commission explained that these laws were being used as tools to oppress women, mainly by punishing rape victims as adulteresses if they were unable to produce four

⁶⁶ Sardar Ali, *Gender*, 161.

⁶⁷ *Ibid.*, 161, n. 125.

⁶⁸ Parliament of Pakistan, ord. no.VII, "The Offence of Zina (Enforcement Of Hudood) Ordinance, 1979," http://www.pakistani.org/pakistan/legislation/zia_po_1979/ord7_1979.html (accessed May 5, 2005). The political reasons for introducing these ordinances will not be examined in this thesis.

⁶⁹ Sarwar, Beena. "Hudood Laws: Extremely Misused," *Peacewomen*, October 2003, 1, <http://www.peacewomen.org/news/Pakistan/October03/misused.html> (accessed April 28, 2005).

witnesses to testify that the victim was raped.⁷⁰ While this may not seem to be relevant to a discussion of forced marriage, other investigations into the effects of the Zina Ordinance have shown how this restriction on sexual impropriety is related to choice in marriage. According to a lawyer at Karachi's city court interviewed for a Pakistani newspaper article, most of the cases brought against women are by ex-husbands or families who are displeased at the woman's choice of a spouse.⁷¹

This investigation shows how Islamic law is used as a tool to formally give women the right of choice in marriage, but in practice women are still subjected to social restrictions because of their dependency on family members and other leaders. This knowledge of the legal system still does not explain why certain South Asian Muslim families restrict their female relatives' choices in marriage. What social conditions promote the restriction of women's right to choice in marriage? In the next section, I will look at the social, political and economic issues, such as kinship networks, that may explain why certain South Asian Muslim families try to restrict their female relatives' choices in marriage.

Political and economic concerns in the Indian sub-continent and its effects on forced marriage

Pakistani Islamic scholar Tahira Khan argues that the analysis of honour crimes in South Asia has focused too much on their cultural and religious aspects and has virtually ignored the economic and "material" conditions in Pakistan that sustain prejudicial

⁷⁰ National Commission on the Status of Women (Pakistan), "National Commission on the Status of Women's Report on Hudood Ordinances," Human Rights Commission of Pakistan, 2004, http://www.hrcp-web.org/NCSW_Report.cfm (accessed April 28, 2005).

⁷¹ Peacewomen, "Hudood," 1.

attitudes towards women and limitations on their sexual behaviour.⁷² She argues that investigations into the economic and “material” conditions of families who commit honour crimes provide more relevant information to develop solutions for this problem.⁷³ I argue that this is the same critique that can be leveled against the UK government’s educational strategy against forced marriage; their focus on cultural and religious causes of forced marriage has over-emphasized their role rather than put them in a broader context of other possible motivations. Moreover, the UK government’s Working Group notes that many young British South Asian Muslims have argued that these causes are a “fossilization” of cultural values.⁷⁴

In the sections above, I aimed to show where these values come from and how they are currently a part of the legal process in Pakistan. By doing so, I aim to emphasize that the Working Group’s critique of these causes is problematic because it does not take into account how these beliefs are incorporated into current legal practices in South Asian countries like Pakistan. While it may have been politically correct to denounce these practices in order to show South Asians in a favourable light, there is still no analysis of how to effectively combat these culturally and religiously based justifications of forced marriage. Like Tahira Khan, I argue that the best way to understand what factors contribute to the occurrence of forced marriage in the British South Asian community, it is necessary to look at the economic and political situation that allowed these beliefs and practices to flourish.

⁷² Khan, Tahira, “Honor Killings: A Definitional and Contextual Overview,” US Consulate General, Turkey, (date posted unknown), 1, <http://usconsulate-istanbul.org.tr/reppub/vawo/tkhan.html> (accessed May 1, 2005).

⁷³ Ibid., 1.

⁷⁴ UK Home Office, “Choice,” 14.

For this reason, I will provide a brief illustration of the economic and political conditions in those areas of South Asia that many of the British South Asian Muslim immigrant families come from. By focusing on particular British South Asian Muslim communities, I do not suggest that being part of these communities is a necessary condition of forced marriage. I do suggest that certain social, political and economic conditions that are prevalent in these communities may explain why certain families from these areas may be inclined to accept culturally and religiously-based justifications of forced marriage. Before narrowing my analysis to the specific areas that affect British South Asian Muslims come from, I will first briefly describe how the political situation in South Asia under the British allowed kinship networks and community leaders to exert so much power over women's social mobility, and thus their rights of choice in marriage. Second, I will provide a brief overview of the cultural practice of cousin marriage that was adopted by South Asian Muslims and its role in limiting women's choice in marriage. Third, I will examine the structure of community councils that govern interpersonal relationships to see how women's choices regarding marriage are controlled.

In *Community Perceptions of Forced Marriage*, Samad and Eade focused their study on the Mirpuri immigrant community in Bradford, UK.⁷⁵ British South Asian studies scholar Roger Ballard notes, about two-thirds of British South Asians come from the region of Punjab, and most of the South Asian Muslims immigrants to Britain come from the Pakistani region of Mirpur.⁷⁶ Again, I do not suggest that being part of the

⁷⁵ Samad and Eade, "Perceptions," 26.

⁷⁶ Roger Ballard, "Migration and kinship: the differential effect of marriage rules on the processes of Punjabi migration to Britain," in *South Asian Overseas*, C. Clarke, C. Peach and S. Vertovek, eds., (Cambridge: Cambridge University Press, 1990), 220. Ballard also notes the complexity of the South Asian community – that they cannot be regarded as homogeneous, and that their coping strategies regarding immigration are just as varied as their diverse regional heritage. I will review Ballard's research on the

Mirpuri community is a necessary element in the occurrences of forced marriages in the UK. Yet, since many of the reported cases come from this particular community, an examination of the social, political and economic conditions of this community in both South Asia and in the UK may provide some insight as to why coercion in marriage may be perceived as acceptable.

Thus, I will examine the factors I mentioned above in this particular region of South Asia in order to see what conditions strengthen the need to limit women's freedom of choice in marriage. I will also investigate the political conditions that encourage this type of limitation on women's rights regarding marriage. I aim to show how Islamic practices, such as women's inheritance rights, were undermined and how they continue to be by certain South Asian Muslim communities and how this affect women's ability to exercise their choice in marriage.

South Asian Muslim historian Dushka Saiyid explains how even though the British had this political and economic power over the Indian sub-continent, they, like their Muslim predecessors such as the Mughals, allowed the native population to maintain their "plural" legal systems, mostly for family law cases.⁷⁷ This "plural" legal system, as described above, meant that Hindus and Muslims were allowed to use their respective religious laws in the British courts. In addition, the British also accepted the authority of local customary legal systems.⁷⁸ Saiyid and Sardar Ali explain that with an array of legal provisions at their disposal, local native authorities in various regions

Mirpuri immigrant community in particular because it provides significant insights into the conditions that reinforce culturally and religiously-based justifications of forced marriage.

⁷⁷ Shahida Lateef, *Muslim women in India : political & private realities, 1890s-1980s* (London: Zed Books, 1990), 14.

⁷⁸ Dushka Saiyid, *Muslim women of the British Punjab: From seclusion to politics* (New York: St. Martin's Press, 1998), 6-7. Saiyid notes how this pluralistic system benefited the British, because it allowed them to interact with an ordered organization, rather than a jumbled mass of individuals who would have been harder to control and organize for economic productivity.

throughout the Indian sub-continent could easily maintain traditional patriarchal norms that prevent women from exercising their rights in such cases as education, inheritance and marriage.⁷⁹

One of these patriarchal practices was the practice of cousin marriages. Islamic legal scholar Daniel Pearl explains how social reform for women during the early period of Islam occurred as a result of political and economic necessity. Women were given inheritance rights in this early period of Islam because Muslim men were dying in wars, and in order to maintain social stability, some kind of compensation was required for women to survive.⁸⁰ Islamic sexual ethics scholar Abdelwahab Bouhdiba explains that once Islamic forces expanded into other territories and established empires, the social reform brought on by female inheritance rights served to destabilize the most stable socio-economic structure.⁸¹ If women were to take their share of the family wealth outside of the family once they married, then that source of wealth was lost to the family. Thus, one theory about cousin marriages is that they provided financial stability for extended families.

The practice of cousin marriages continues today in many regions of South Asia, including the region of Mirpur.⁸² While preserving family wealth is one of the suggested reasons for conducting cousin marriages, other reasons given include ensuring greater family stability, as women will be related to their mothers-in-law, etc.⁸³ Ballard notes how the rejection of cousin proposals, called *rishte*, can lead to major social embarrassment for the families involved, and lead to the perception that one has

⁷⁹ Saiyid, *Punjab*, 18.

⁸⁰ Pearl and Menski, *Law*, 115.

⁸¹ Abdelwahab Bouhdiba, *Sexuality in Islam* (London: Routledge and Kegan Paul, 1985), 112.

⁸² Ballard, "Kinship," 226.

⁸³ *Ibid.*, 227.

repudiated their duties as a sibling.⁸⁴ In particular, the offended party may try to damage the social reputation of the party that rejected their proposal.⁸⁵ When cousin marriages account for almost 50% of the marriages in the Mirpuri community for example, this means that successive generations are more inter-related, creating strong kinship networks. While this in itself does not mean that choice is limited, for many South Asian Muslim men and women freely accept the practice of cousin marriages, this may pose a threat to the right of choice in marriage for those who do not. For those who want to choose a non-relative as a spouse, they may be seen as posing a threat to the kinship structure that has been well-established for generations. Challenging this system may be very difficult, especially for women who are dependent on these kinship ties for their livelihood. Thus, the practice of cousin marriages that is encouraged in certain South Asian Muslim communities may limit the possibility of exercising the right of choice in marriage, as the potential social stigma may be even more detrimental.⁸⁶

This social stigma may prove extremely problematic in poor rural areas of South Asia, where kinship networks are vital to economic stability. Ballard explains how economic conditions in Mirpur have been devastated by war and the disappearance of fertile land due to a failed power and irrigation project has left the local population entirely dependent on extended kinship networks (*biraderi*), including relatives that have gone abroad, to have a secure family income.⁸⁷ Since these kinship networks are so vital to the entire extended family, threats to the integrity and stability of this network are not

⁸⁴ Ibid., 227-228,

⁸⁵ Ibid., 228.

⁸⁶ The importance of maintaining stable kinship networks, especially for some South Asian Muslim immigrant parents, will be discussed in the next chapter.

⁸⁷ Ballard, "Kinship," 230-31. The effects of these kinship networks on those who have immigrated to the UK will be examined in the next chapter.

taken lightly. Women do not contribute financially to this network, but provide the stability of this network by their value as potential spouses to other men who the family can depend on for social and financial support.

Since a woman's contribution to the maintenance of kinship networks is through their marital relations, any improper sexual misconduct is severely reprimanded. This is where the concepts of honour (*izzat*) and property play a significant role. If a man is accused some form of sexual misconduct, then it possible for him to defend himself by paying the offended family a sum of money as penance.⁸⁸ But the woman who is accused of sexual misconduct cannot pay off the offended family, which is usually her own family, for two reasons. First, she has no independent wealth of her own, except her family inheritance, which she cannot use to repay her own family whose honour she has allegedly violated.⁸⁹ Second, because she is considered the "property" of her male kin, such as her father and brothers, any act she commits is seen as a reflection on their collective honour rather than her own honour.⁹⁰

A conspicuous feature in many of these cases is that families will accuse their wives or daughters of sexual misconduct and kill them in the name of honour before any evidence of their sexual impropriety can be brought forward.⁹¹ Khan explains the "ritualized" process of domestic violence against women accused of sexual impropriety. First, a family member, usually her father or husband, publicly accuses a woman of being

⁸⁸ Amnesty International – Pakistan, "Pakistan: Honour Killings of girls and women," Amnesty International, September 1999, 4, <http://web.amnesty.org/library/Index/engASA330181999> (accessed November 15, 2003). This report does not mention any specific cases in Mirpur, but does discuss cases that have occurred in surrounding provinces, such as Sind, Punjab and Northwest Frontier Province. Since there is a correlation between the honour crimes in these areas and the honour crimes in the UK, I have included this report's explanation of what factors influence the occurrence of honour crimes in Pakistan.

⁸⁹ Ibid., 4.

⁹⁰ Ibid., 4.

⁹¹ Ibid., 4.

a *kari* or adulteress/fornicatress by a family member, and then kills the accused *kari*. Khan explains that the process has become reversed in many cases; that women are killed first and then their families accuse them of being *kari*. She notes that 80% of these honour crimes are committed because of “property, class or caste interests,” such as extracting money from rivals or as an alternative to divorce.⁹²

Although it is important to recognize that the concept of family honour cannot be reduced to a simple number of identifiable factors – as there may be other specific social and psychological factors that may affect a particular families’ desire to exact revenge against their wives and daughters – this economic factor may explain the prevalence of reported honour crimes in poor rural areas in South Asia. Once this is considered along with traditional marriage practices such as dowries, bride exchanges and using women as collateral to settle conflicts, one can see that in many cases, the limit to exercise the right of choice in marriage is obscured by the fact that many rural South Asian Muslim women do not have any form of individual rights.⁹³

Moreover, this ritualized form of violence against women also prevents women from having any contact with the opposite sex that is not a family member. Any improper socializing with an unsuitable man is a threat to some South Asian Muslim women’s personal safety, because it is seen as a threat to the integrity to the family’s social and economic stability. Even if a rural Pakistani woman wants to appeal to outside authorities to protect her right to choice in marriage, she must face practical barriers in the legal and political system. She cannot appeal to local authorities who govern over the daily affairs of the village, such as *sardars* (tribal leaders) or *panchayat* (tribal council)

⁹² Khan, “Killings,” 4.

⁹³ Amnesty International, “Honour,” 4-5; Elora Shehabuddin, “Contesting the Illicit: Gender and the Politics of Fatwas in Bangladesh,” in *Signs* 24 (Summer 1999), 1012.

because they are likely to side with her male kin.⁹⁴ Most rural South Asian women also recognize the inefficiency of local police, who do not investigate many cases. Even if they do decide to investigate, it is also rare that they conduct a competent investigation. Hossain notes that many police investigations of forced marriage or related domestic violence may, for example, fail to interview the woman who is or was forced into marriage or may even falsify affidavits that she is not being forced into marriage or involuntarily confined.⁹⁵

An even greater obstacle is that even if she is able to manage getting her case recognized by official authorities, there is no guarantee that the criminal justice system can do anything for her. While forced marriage is officially recognized as a crime, there are other issues related to choice in marriage, such as the right of her guardian, which is given as much weight as her right to freely choose her spouse. All these substantive challenges and obstacles to some South Asian Muslim women's right to choice in marriage demonstrate several key problems with the UK government's perception of culturally and religiously-based justifications of forced marriage. First, these justifications are heavily influenced by economic and political elements such as kinship networks. Second, they are not a "fossilization" of cultural values, but are a reflection of past and present concerns such as economic stability and poverty. Third, these practices are reinforced by local authorities and by the government – mostly by their inaction or incompetent procedures.

These are the elements that need to be taken into consideration in a campaign against forced marriage. Even though issues such as *kari-karo* killings are just as

⁹⁴ Amnesty International, "Honour," 5.

⁹⁵ Hossain, "Forced," 6.

sensational as the cases presented in the British media, they needed to be presented here because they may provide insight into the social context that promotes culturally and religiously-based justifications of forced marriage. For example, the issue of limiting women's interaction with the opposite sex because of the threat – whether real or perceived – to a family's social and economic stability is a much more helpful way to explain why some South Asian Muslim parents vehemently try to protect family honour. Although it does not provide a full explanation of each occurrence of forced marriage or honour crime, it does provide more insight regarding the context in which culturally and religiously-based justifications of these crimes exist. A significant feature of this investigation into the social, political and economic issues related to forced marriage is that it shows how Islamic and other South Asian Muslim beliefs and practices are transformed and reinforced by prevailing social, political and economic conditions. To explain the link between South Asian Islam and forced marriage in this manner shows that there are very specific circumstances that lead to unwanted marriages. Even an overview of some of the circumstances, such as those presented above, shows that domestic violence, including forced marriage, is not a necessary part of all South Asian Muslim life.

The aim of this chapter was to provide a more comprehensive understanding of forced marriage and Islam in order to determine where Islam should fit in the UK government's educational strategy. The findings discussed in this chapter indicate that it is problematic to continue with the culturally and religiously-based focus of the current educational strategy. While cultural biases and misappropriation of religious beliefs and practices do have a role in the educational strategy against forced marriage, it is

important to determine the degree to which it should be used they this strategy. I contend that these beliefs and practices should be seen in the social, political and economic context that sustains them. In this chapter, I focused on social, political and economic issues that involved the particular areas of South Asia from which many British South Asian Muslims immigrate. In the next chapter, I will continue to focus on the issues I identified in this chapter, such as kinship networks, to show how the impact of immigration to Britain and on British South Asian Muslim women's ability to exercise their right of choice in marriage.

CHAPTER 3: PROBLEM SOLVED? EXAMINING ISSUES IN BRITISH SOUTH ASIAN MUSLIM COMMUNITIES AFFECTING FORCED MARRIAGE

Limits on choice in marriage in some British South Asian Muslim families – concerns and realities

As I explained in the introduction to this thesis, the UK Working Group's understanding of forced marriage differs from that of some British South Asian Muslim parents. These parents believe that a certain amount of "emotional coercion" is acceptable in preventing unsuitable marital relationships and ensuring suitable ones.¹ The Working Group argued that no amount of coercion was acceptable.² In the introduction and Chapter 1, I argued that the gap between these two differing perceptions of forced marriage would serve as a problem in creating an effective campaign to prevent some British South Asian families from forcing their children into marriages. To overcome that gap, I argued that it was necessary to examine the issues that informed each group's perceptions of forced marriage.

Thus, in Chapter 1, I examined the social and political issues that informed the Working Group's definition of forced marriage, such as British South Asian Muslim alienation by the media's portrayal of the issue. I also examined the Working Group's rationale for the link between religiously and culturally-based causes of forced marriage. In Chapter 2, I examined the social, political, economic and legal issues, such as the importance of kinship networks, the practice of cousin marriages and the role of the *wali* in Islamic marriage law, which informs some South Asian Muslim families' acceptance of limiting women's choice in marriage. These investigations provide more insight into what informs each group's understanding of choice and coercion in marriage, and

¹ Samad and Eade, "Perceptions," 6, 72.

² UK Home Office, "Choice," 6.

provides some answers as to why a gap exists between these two groups' perceptions of forced marriage.

It is important to identify what factors contribute to this gap, because then one can see what issues victims must negotiate when they are faced with their families seeking to force them into marriage. Yet, there is still one aspect of this investigation that has not been fully uncovered. While I have investigated some legal, political and economic issues related to forced marriage in the South Asian context, I have not yet examined how some of these issues, such as the maintenance of kinship networks, unfold in the British context. In this chapter, I will first examine the effect of kinship networks could effect the perceptions of choice in marriage in some South Asian Muslim families. Secondly, I will also examine how these kinship networks may affect British-born South Asian Muslim children's perceptions of choice. In particular, I will examine why it may be difficult for some of these children to challenge their families' beliefs of the duties and responsibilities associated with choice in marriage, such as picking a spouse on the basis of suitability. I intend to show how it is possible that even if some British South Asian Muslim girls are aware of their individual right of choice in marriage, practical concerns, such as causing shame to their families, may prevent them from seeking outside assistance.

The Working Group's implicit argument is that community leaders must also step up and assist victims and their families in overcoming these culturally-based beliefs.³ Studies and articles on British South Asian Muslims have suggested that many of them are skeptical about relying on Muslim community leadership for assistance with social

³ UK Home Office, "Choice," 16. The report notes that simply by issuing "statements", community and religious organizations have "demonstrated a commitment to tackle this issue," and that there is now "an expectation that commitment will be transformed into practical action."

problems.⁴ Yet, in Chapter 1, I noted that in the case of forced marriage, several Muslim community leaders have spoken out against it, claiming that forced marriage is forbidden in Islam.⁵ Despite these assertions, some British Muslim writers, such as Humera Khan, are not convinced that Muslim community leaders have taken a sincere interest in social issues, and are more concerned with broader political issues such as race relations.⁶ Since there is an obvious gap in perceptions of the role of Muslim community leaders in the campaign against forced marriage, I will examine the factors that may lead to this gap in perceptions in the last part of this chapter. In particular, I will examine their public statements on forced marriage and Islam. I will also examine critiques of the Muslim community leadership to show exactly why some British South Asian Muslims feel they cannot rely on these leaders as a source of assistance in dealing with their families' attitudes towards forced marriage.

By examining these three factors – the development of kinship networks within certain British South Asian Muslim families, the social and psychological stigma associated with challenging and the inefficiency of Muslim community leaders in inspiring trust and confidence in young British South Asian Muslims to assist them in social conflicts such as forced marriage – I intend to show again that understanding the link between forced marriage and South Asian Muslim cultural and religious beliefs about choice in marriage is helpful only to a certain extent. The examination of these particular factors in the British context may help to explain why even educating young

⁴ Samad and Eade, "Perceptions," viii; Anita Bhardwaj, "Growing Up Young, Asian and Female in Britain: A Report on Self-Harm and Suicide," *Feminist Review* 68 (Summer 2001): 52-67.

⁵ Muslim Council of Britain, "Common Good," Vol 1, Issue 2, December 1999, <<http://www.mcb.org.uk/Com.Good-iss.2.pdf>> (12 Feb 2004)

⁶ Humera Khan, "'Unite But Follow Me': The Tragic Comedy of Muslim Representation," *Q-News* (Mar 2004), 24-25.

British South Asian Muslim women about their right to exercise their right of choice in marriage may not be enough. I contend that the UK's public campaign against forced marriage must understand the practical considerations – both within a particular family and within a particular segment of the British South Asian Muslim community – that may prevent some young women from challenging their forced marriages.

Perceptions on the roles and responsibilities in marriage in some British South Asian Muslim families

The investigations in the previous chapters show that both the UK government and the families of victims of forced marriage have different assumptions about what each individual's rights and duties are to their families. The government's perceptions of individual duties to one's family is not clearly outlined, but based upon various comments made in the Working Group's report, it is likely that they would conclude that the only duty a child has to their family is to provide them with respect, love and affection.⁷ The right of choice in marriage is not seen as an infringement on that type of family obligation.

The South Asian Muslim families of forced marriage victims are likely to view the issue of family obligation differently because of the social, political and economic consequences that any "unsuitable" autonomous choice in marriage may lead to. For some South Asian Muslim families, who are reliant on kinship networks for their social and economic survival, the right of choice in marriage is a potential threat to their social and economic security. If this choice is exercised "inappropriately" according to community standards, a certain marriage choice could lead to social stigma, and the damage caused to the family's social network could possibly be detrimental to all parties

⁷ UK Home Office, "Choice," 4.

involved. In this sense, choice in marriage is not seen as something that is possessed by the individual man or woman, but rather collectively by the parents and children together.⁸ This may be because the social benefits of marriage are understood as not only for the spouses involved, but also for their extended families as well.⁹

The investigation into the social and economic benefits of marriage in the South Asian context provided possible explanations for some South Asian Muslim parents' perceptions of choice in marriage. But why do these perceptions persist in the UK? By examining Roger Ballard's research on immigration and employment patterns of some South Asian Muslim immigrants in the UK, I will focus on his explanation of kinship networks to understand why these networks were maintained. I aim to show how some South Asian Muslim families' desire to maintain these kinship networks continue to reinforce social, political and economic norms from the Indian sub-continent, many of which were presented in Chapter 2. I also aim to show why such a reinforcement of kinship networks may help to explain why some British South Asian Muslim families use coercive methods on their daughters – to ensure that their daughters enter what the families deem to be suitable marriages for the continuity of these networks. Furthermore, I aim to show that the approach taken by the Working Group to combat the acceptance of these coercive methods is not likely to work because it does not take into consideration the significance of kinship networks as vital to the social and economic security of many British South Asian Muslim families.

⁸ See n. 65 in Chapter 2.

⁹ As mentioned in Chapter 2, cousin marriages are not only geared to keep wealth within extended families, but also to make sure that family cohesion is maintained. It is a common belief among many South Asian Muslims that daughters-in-law are more likely to be well-received if they are related to the family than if they are strangers.

In particular, the importance of a potential spouse's ethnic and religious background is so vital to the stability of these kinship networks, because someone from another ethnic background cannot serve as a link to the rest of the particular South Asian Muslim community with whom some British South Asian Muslim families may want to preserve a connection. This may explain why in Samad and Eade's report, many of the British South Asian parents interviewed said that a potential spouse's suitability is based on two factors: ethnicity and religion.¹⁰ It makes sense that they value ethnicity and religion if these are the factors that are necessary to maintain their vital social networks. The Working Group either chooses to ignore, or completely disregards, how the relationships established through marriage are important to secure the kinship networks that many British South Asian Muslims depend on for social and economic support. For the Working Group, "suitability" is only a culturally-based concept that is simply dismissed as a misappropriation of culture to limit the right of choice in marriage.¹¹ By isolating "suitability" as a culturally-based concept, they are unable to see the social and economic aspects that reinforce it. And by ignoring the social and economic elements that reinforce these culturally-based beliefs and practices regarding marriage, the Working Group ignores the complexity of factors that contribute to forced marriages in some British South Asian Muslim families.

This is significant because the Working Group notes that many victims of forced marriage are adolescents.¹² While it is understandable that most adolescents would be dependent on their families for social and economic security, studies of young British South Asian adolescents – which include Muslim participants – show that their daily

¹⁰ Samad and Eade, "Perceptions," 43.

¹¹ UK Home Office, "Choice," 14.

¹² Ibid., 25.

behaviour is much more influenced by their families than their mainstream British counterparts.¹³ These studies note that the behaviour of other British adolescents – who are identified as mostly Caucasian – is influenced more by their peers. Moreover, these studies also indicate that while other British adolescents may use opportunities of conflict with their parents to rebel outwardly, such as dating someone that does not meet with their parents' approval, many British South Asian Muslim youth will avoid such outwardly displays of rebellion.¹⁴ In these studies, many of the British South Asian adolescent girls indicated they would avoid conflicts with their families altogether rather than disappoint or anger their families.¹⁵

This fear of conflict with family and community may explain why many British Muslim youth succumb to emotional coercion exerted by their parents. Why is it that some British Muslim adolescent girls submit to forced marriages under the threat, for example, that her father will seek a divorce from her mother if the child does not follow with an unwanted marriage?¹⁶ I believe that the answer may have something to do with the particular way in which kinship relations work in some British South Asian Muslim families. While this may be beneficial in some respects, such as allowing many British South Asian Muslim children to foster close relationships with individuals who share the same cultural and religious beliefs as themselves, it may be difficult to challenge family and community members' perceptions of choice in marriage and suitability of marriage

¹³ Bhardwaj, "Young", 52-53; Monique Hennink, Ian Diamond and Philip Cooper, "Young Asian women and relationships: traditional or transitional," *Ethnic and Racial Studies* 22 (Sep 1999): 867-891.

¹⁴ Bhardwaj, "Young," 56; Hennink, "Relationships," 887-888.

¹⁵ Bhardwaj, "Young," 56; Hennink, "Relationships," 887-888.

¹⁶ UK Home Office, "Choice," 5.

partners if family conflict is seen, by some British South Asian Muslim adolescents, as something to be avoided.¹⁷

Moreover, some South Asian adolescents and young women indicate that they feel so helpless, isolated and afraid in dealing with family conflict, that sometimes they feel they can only resort to self-harm, such as attempting suicide.¹⁸ With the suicide rate in the British South Asian community three times higher than the national average, and the link with suicide rates and domestic abuse, many academic studies have tried to look at the cultural and religious aspects of domestic violence and attitudes towards women in these communities.¹⁹ They have tried to explain the problem of abuse by concentrating solely on issues such as family honour.

Yet, like the UK government's campaign against forced marriage, these studies have not examined the other social and economic factors, such as racial discrimination, in which these cultural and religious aspects of domestic violence develop. Other studies on various British South Asian Muslim communities that have analyzed cultural and religious aspects in the broader context of other social and economic factors, such as immigration and employment, have provided much more insight as to why culturally-based concepts such as family honour are prominent in some communities as opposed to others and why some South Asian Muslim women are afraid to contest issues such as family honour.²⁰

¹⁷ Hennink, "Relationships," 887-888.

¹⁸ Bhardwaj, "Young", 57.

¹⁹ Dinesh Bhugra and Manisha Desai, "Attempted suicide in South Asian women," *Advances in Psychiatric Treatment* 8 (2002): 418-423; Veena Soni-Raleigh, "Suicide patterns and trends in people of Indian subcontinent and Caribbean origin in England and Wales," *Ethnicity and Health* 1 (1996): 55-63

²⁰ Roger Ballard, "The Impact of Kinship on the Economic Dynamics of Transnational Networks," Bradford Race Review, (date posted unknown), <http://www.bradford2020.com/pride/docs/doc3.doc> (accessed April 1, 2005); Alison Shaw, *A Pakistani Community in Britain* (Oxford: Blackwell, 1988), 161-176.

For example, Roger Ballard's analysis of the immigration and employment patterns of Britain's Mirpuri Muslim community shows how immigration patterns, lack of employment opportunities during the 1960's and 1970's and distrust of British society due to repeated discrimination worked with cultural elements, such as the practice of *purdah*, to reinforce kinship networks between British Mirpuri Muslim families.²¹ Other research shows similar patterns of community development in other British Pakistani communities.²² While the issue of kinship networks is significant in the discussion of how families understand choice in marriage, it is not the determinative factor. The maintenance of kinship networks may be a contributing factor to understand significant perceptions of choice in marriage among some British South Asian Muslim families. First, what does choice in marriage have to do with maintaining kinship networks? Second, what is the connection between maintaining kinship networks and preserving family honour? Third, how do kinship networks work with cultural elements such as family honour to reinforce the notion that choice in marriage is a collective right rather than an individual one? Fourth, how do parents and children understand each other's duties and obligations in this framework, as well as their own?

While the first three questions will be discussed below, I will address the last question here. The studies on British South Asian youth mentioned above, indicate that many British South Asian adolescents and young women agree to the degree to which they owe obligations to their families and communities, even when it comes to choice in marriage.²³ Yet, many of them differ with their families and communities when it comes

²¹ Ballard, "Kinship," 220.

²² Shaw, *Community*, 8-28

²³ Bhardwaj, "Young," 56; Hennink, "Relationships," 887-888.

to defining these obligations.²⁴ For example, as mentioned above, in terms of defining what is a suitable marital relationship, many young British South Asian Muslims indicated that religious compatibility is the main factor in a prospective life-partner. What is even more interesting is the fact that many young British Muslims believe that their obligations, and their freedoms, are ensured through Islamic practices.²⁵ They believe that Islam is a tool to maintain a link to their heritage, but also can be used a tool to negotiate what it means to be British in an envisioned multicultural UK society.²⁶

Despite Islamic legal scholar Lucy Carroll's concern that young British Muslims are not well-versed in Islamic law, many young Muslims in the UK believe that among various rights that are guaranteed in Islam is the one of choice in marriage. It is uncertain how some British South Asian Muslim parents feel about their children being drawn to the diversity of Islamically-based beliefs and practices as opposed to their specific ethnic communities' Islamic beliefs and practices. Yet, can some British South Asian Muslim parents accept their children's interpretation of Islamic beliefs about choice in marriage, even when it threatens to jeopardize the stability of their kinship networks?

Given the importance of the kinship networks, it seems unlikely that many British South Asian Muslim parents will be open to changing their beliefs about choice in marriage. It seems that these parents will only begin to change their beliefs when their children do something extreme, such as running away.²⁷ These extreme actions seem to be the only acts that those parents, who were interviewed by Samad and Eade, see as more subversive than choosing unsuitable partners. This proves the Working Group's

²⁴ Bhardwaj, "Young," 56; Hennink, "Relationships," 887-888.

²⁵ Bunting, "Liberate," 1.

²⁶ Ibid., 1.

²⁷ Samad and Eade, "Perceptions," 79.

point that certain religions, cultures and even certain ethnic communities are not oppressive in and of themselves; that there are certain conditions that allow for religion and culture to be used as tools to justify whatever practices certain individuals want to maintain. In this case, parents use culturally and religiously-based justifications to maintain the security of their kinship networks.

If the investigations into the culturally and religiously-based justifications of forced marriage and the Working Group's culturally-based critiques of these justifications show that each group uses Islam as a tool to justify their own beliefs and practices, then it may seem unnecessary to even have a discussion showing that Islam is not oppressive towards women, or that it does not allow freedom of choice in marriage. If the parameters of the discussion of forced marriage and Islam were left with premises like "Islamic law forbids forced marriages", it would be difficult to develop a coherent view of choice in Islamic marriages given that the Working Group's concept of "forced marriage" is allowed in Islam, albeit in very limited circumstances.

Yet, the aim of this thesis is not to determine what a coherent view of choice in marriage is in Islam. The aim of this thesis is to determine how the inclusion of contributing social and economic factors, such as socio-economic conditions in particular British South Asian Muslim communities, allow all those involved in the public discussion of forced marriage to develop a more informed understanding of the link between Islam and forced marriage. The investigations into the social, political, legal and economic factors in Chapters 1 and 2 prove two main points. First, most analysis into culturally and religiously-based concepts, such as family honour, overemphasize the role of culture and religion as reinforcements of these concepts. Secondly, the contexts that

inform each group's understanding of choice in marriage are not only different, but they make it difficult for each group to reconcile their counterpart's view of choice in marriage with their own.

While it is beneficial that these two groups recognize the different contexts that inform each other's views on forced marriage and find a way to reconcile these views, this is not the only goal for an investigation into the broader social, political and economic contexts that inform each group's perceptions of forced marriage. The social, political and economic conditions that were investigated in Chapters 1 and 2 are also important because they provide possible explanations for reluctance, shame or guilt of victims of forced marriage to seek assistance outside of their families or their reluctance to admit they were coerced into marriage.²⁸ This issue of reluctance – whether it be caused by fear, shame or guilt – is an important point that the Working Group does not fully explore in their report.²⁹ By misunderstanding the link between forced marriage, culture and religion, the Working Group seems to “solve” the possible internal conflicts some victims may face in confronting their parents by telling them that they are morally justified in asserting their right to choice in marriage.³⁰

But the testimonials of some young British South Asian Muslim women in the Hennink and Bhardwaj studies indicate that even if they feel their conflicting beliefs are right, they may choose to avoid asserting their beliefs to avoid confrontation with their

²⁸ UK Home Office, “Choice,” 16.

²⁹ Although they identify this problem, they do not explore the matter further. It seems like they feel they have said enough by stating “The Working Group has found that one of the main motivations for parents forcing their children into marriage is the desire to strengthen families and protect their cultures. In fact, the opposite is often the outcome, with families breaking apart and children turning against their cultural background because of their experiences.”

³⁰ UK Home Office, “Choice,” 6.

families.³¹ Some of these women have also revealed that this submission to their families in many cases makes them feel helpless, isolated and see self-harm as their only recourse.³² While it may not necessarily be the Working Group's job to address the specific problem of some victims' reluctance in seeking assistance, or admitting that they were coerced into an unwanted marriage, or feeling overwhelmed by the obstacles put in their way to access outside assistance, I contend that it is something that needs to be addressed by the UK public campaign against forced marriage.

It is not really important what organization or set of organizations takes on the responsibility of combating this specific problem related to forced marriage. It is more important to further examine victims' fears in relation to seeking outside assistance and fears in confronting their families. Thus, in this chapter, I will examine two key points in relation to this problem. First, I will examine what factors may explain why some victims fear, feel guilt or shame for seeking outside assistance for forced marriage or violence associated with forced marriages. In particular, I will examine the testimonials of some young British South Asian Muslim women indicating their desire to avoid conflict with their families and see how this relates back to the perceived duties associated within some South Asian Muslim kinship networks. Second, I will examine other studies that have shown South Asian Muslim women who, in the similar situations, being able to negotiate between traditional culturally and religiously-based concepts, such as *purdah*, and secular concepts. By examining these two types of studies, I intend to focus on the possible tools that could be used by some victims to overcome their fear, guilt or shame in even

³¹ Bhardwaj, "Young," 56; Hennink, "Relationships," 887-888.

³² Bhardwaj, "Young," 57

negotiating between their desire to fulfill their perceived duties to their families and their desire to exert their individual choice.

To show how the investigation in Chapter 2 is linked to this problem that I have now identified, I will discuss the key points in three sections. First, I will provide information on the kinship networks I discussed in Chapter 2. In particular, I will discuss their expansion into trans-national kinship networks and how specific social, political and economic conditions, such as racial discrimination in employment, led particular communities to eventually develop self-contained kinship networks in the UK. Second, I will examine the parallels between the duties required within kinship networks and the responses of young South Asian Muslims' feelings about familial and community duties. By examining these factors, I hope to show another important benefit of a more critical examination of social, political and economic factors previously ignored in the initial public discussion of forced marriage in the UK: that it is not only important to be aware of factors that may motivate victims' parents to approve of coercing their children into forced marriages, but it is also important to know what factors may motivate some victims' reluctance to accept or seek out the type of assistance the Working Group proposes.

Kinship networks in the British South Asian Muslim community – defining marriage and the duties to one's family

Roger Ballard identifies several key features about the continuation of South Asian Muslim kinship networks after immigration to the UK. He explains how many South Asian Muslim immigrants hailing from the Mirpuri district in Kashmir, which is controlled by Pakistan, came to the UK during the post-WWII economic boom to get

low-skilled, industrial jobs that native British citizens did not want.³³ Ballard notes that until the 1970's, these Mirpuri immigrants, who were mostly young to middle-aged men, did not immediately call their families to the UK.³⁴ They would send most of their earnings back to their families in the Indian sub-continent. Moreover, many families expressed concern that bringing their wives and children over to Britain would expose them to the “‘corrupting’ influence of the English.”³⁵

Ballard also notes how many South Asian Muslim immigrants in the post-WWII boom only reunited with their families during periodic visits to the Indian sub-continent.³⁶ He explains that their incomes were enough to pay for trips back to visit their wives and children, as well as save up enough for remittances for their extended family.³⁷ Yet, in the 1970's, when the boom ended and the British economy fell into a recession, many South Asian immigrants were losing their jobs. Ballard explains how many Mirpuri immigrant men, now unable to cure their loneliness by commuting back to Pakistan, sought family reunion as a more viable option.³⁸

The next stage of Mirpuri immigration that Ballard identifies is where many immigrant men would only bring their adolescent sons over to Britain, in the hopes of getting them jobs.³⁹ He also explains how the UK government was in the midst of setting up immigration controls specifically targeted at “adult male ‘primary immigrants’.”⁴⁰ Ballard notes that the immigration strategy centered around getting these immigrant men to bring over their entire families rather than just come by themselves; he also explains

³³ Ballard, “Kinship,” 220.

³⁴ Ibid., 221.

³⁵ Ibid., 232.

³⁶ Ibid., 232.

³⁷ Ibid., 233.

³⁸ Ibid., 231.

³⁹ Ibid., 233.

⁴⁰ Ibid., 232.

how many tried to foil the system by bringing their wives and daughters over, but sending them back after a brief visit to the UK.⁴¹ Nonetheless, many families were reunited by this process during the 1970's and settled down in the UK.

One important point related to kinship networks that Ballard identifies is that many South Asian immigrants aspire to “build on the achievements of their predecessors”.⁴² He explains that through the phenomenon of “chain migration”, many immigrants were able to come to the UK either through marriage or by family reunion. Ballard also explains that even though the first generation may have only gotten low-skill, low-paying jobs, some of their successors were able to come to the UK and become entrepreneurs.⁴³ Finally, he notes that the successive waves of South Asian immigrants that came after were able to benefit from the established group of first-wave immigrants from the same regions. The successive generations of immigrants can now rely on their predecessors for social and economic assistance, usually because these migrants were linked to their predecessors by a series of kinship ties – either by marriage or simply by being a direct relative of their benefactors.⁴⁴

There are several key values sustaining these kinship networks that help understand why the suitability of marriage partners is so important. First, as noted above, each successive generation is felt to have a duty to surpass the previous generation's economic achievements. Second, as Ballard notes, many South Asian Muslim immigrants who come from areas such as Mirpur are more likely to trust their immediate kin more than “outsiders” because of past experiences with non-relatives, such as local landlords,

⁴¹ Ibid., 233.

⁴² Ballard, “Networks,” 2.

⁴³ Ibid., 2.

⁴⁴ Ibid., 3.

who have exploited them. Third, as mentioned above, Ballard notes that many of the South Asian immigrants who rely upon their kinship networks are also suspicious of mainstream British society, who they view as potentially “corruptive” against their way of life.⁴⁵

As Ballard explains, Islam is only used here as a restriction against marital relations that are taboo; otherwise marital relations between non-taboo individuals, such as first cousins, is promoted.⁴⁶ Yet, the elements that sustain the prominence of these kinship networks are not based on only religious or culturally-based ideals; they are likely more strongly based on a cycle of economic dependency on extended family relations, distrust of individuals outside these kinship networks and on the desire to fulfill one’s familial obligations of reciprocity towards less-fortunate kin and the desire to exceed the social and economic status attained by the previous generation.⁴⁷ This distrust of outsiders was not unfounded in the UK context, Ballard notes how many South Asian immigrants were subject to “routine racial discrimination”.⁴⁸ Once the significance of marital relations is understood as vital to the maintenance of stable kinship networks in the UK as well as in South Asia, then it becomes clear that any effective campaign against forced marriage must give young British-born South Asian Muslim women who are part of these kinship networks the tools they need to negotiate their way out of being subjugated to these networks and forced into unwanted marriages.

According to Ballard’s study, the main purpose of kinship networks is not only to maintain stable kinship networks, but to “improve the long-term socio-economic

⁴⁵ See n. 33 above.

⁴⁶ Ballard, “Kinship,” 227.

⁴⁷ Ballard, “Networks,” 3.

⁴⁸ Ballard, “Kinship,” 222.

prospects of oneself and one's family."⁴⁹ In addition to preserving kinship networks through practices such as cousin marriages, Ballard notes that "status competition" motivates some Mirpuri immigrants to improve their family's economic status - to remove any possibility for dependency on members outside the family - but also to make sure that they have improved their social standing within their extended family (known as *biraderi*) and community within both Britain and Pakistan.⁵⁰ It is in this "status competition" that the concept of family honour is reinforced as a valuable commodity in the achievement of improved socio-economic status within one's transnational kinship network.

As previously mentioned, the first Mirpuri immigrants – usually working men - that settled in Britain were mainly concerned with improving the economic status of their families back in Pakistan.⁵¹ Ballard explains that these immigrants tried to perpetuate "the values and expectations of the local social order", while their British-born children did not have any interest in "status-games".⁵² In many cases, Ballard notes that many British-born children are not likely to send remittances back home, and will likely sell off any of their parents' property interests and bring the income back to the UK.⁵³ With the fear of kinship networks not being renewed in the UK, Ballard explains that marriage becomes an important method of perpetuating strong kinship networks because they "ensure the legitimacy of the children of any conjugal relationship" and are a "precursor

⁴⁹ Ballard, "Networks," 5.

⁵⁰ Ibid., 5.

⁵¹ Ibid., 6.

⁵² Ibid., 6.

⁵³ Ibid., 6.

to the establishment of a stable domestic environment within which the children can be socialized into the group's own specific norms and values.”⁵⁴

Although this social dynamic – the inversion of certain South Asian Muslim families into isolated communities – may explain why the Working Group has employed an educational strategy to establish trust with certain ethnic communities that have long been isolated through discriminatory immigration policies and employment practices, it does not seem to be effective in combating specific social issues such as forced marriages. And as long as the Working Group use inefficient methods to address the social structures that may be at work in some South Asian Muslim families, they will not be able to adequately address the problem of culturally and religiously-based justifications of forced marriage. In this section, I used Roger Ballard's research to show how the development of transnational kinship networks may reinforce certain ideals about the role of marriage – and the role of women in marriage – as crucial to social and economic success in certain South Asian Muslim communities.

In the next section, I will briefly examine how kinship relations may work to incite fear, shame or guilt for asserting themselves, and potentially causing conflicts with their families when dealing with issues such as forced marriage. It is important for the campaign against forced marriage to identify some of the reasons why some British South Asian Muslim women are reluctant to cause conflict with their families for two reasons. First, it shows that the stereotypes of “submissive” Muslim women and “oppressive” families are not simply the result of cultural and religious practices, but that they are likely emphasized in specific social and economic circumstances. Second, it shows that the campaign against forced marriage must also critically examine the

⁵⁴ Ibid., 10.

particular social circumstances that some young British South Asian Muslim women must overcome in order to even get or accept outside assistance in cases of forced marriages.

Perceptions of kinship duties and responsibilities – selected interviews with young British South Asian Muslim women

The role of kinship networks in some British South Asian Muslim communities may help to explain why some young British South Asian Muslim women fear raising issues that might cause conflict with their families. As noted above, the experiences of discrimination in employment and immigration policies reinforced distrust of mainstream British society in some British South Asian Muslim families. Studies of certain South Asian families in the UK, such as Roger Ballard's research on kinship networks, explain that in order to cope with discrimination from mainstream British society, some South Asian immigrant families strengthened social and economic links within their ethnic immigrant communities.⁵⁵

Strengthening these inter-ethnic ties did not only benefit some South Asian Muslim immigrants, but seems to have benefited their British-born children as well. As some studies on British-born South Asian Muslim women, many of them find it beneficial to interact and maintain close ties with individuals who are of their same ethnic background, because these peers share the same cultural and religious beliefs that they do.⁵⁶ British sociologists Monique Hennink, Ian Diamond and Philip Cooper note that these ties are strengthened by attending religious classes and other activities that are centered on socializing with other British South Asians.⁵⁷ Some British South Asian

⁵⁵ Ballard, "Kinship," 225.

⁵⁶ Hennink, "Relationships," 873.

⁵⁷ Ibid., 871, 873.

Muslim girls indicate that this type of limit on their social interaction shields them from scorn or discomfort that occurs in their association with non-South Asian girls.⁵⁸

Hennink, Diamond and Cooper quote one Muslim girl as saying that she would only socialize with her family members because “when we go out we wear one kind of clothes and people like sometimes laugh at us and they don’t want to mix with us sometimes.”⁵⁹

Yet, other forms of reinforcement used by some British South Asian Muslim families to limit their daughters’ social interaction with suitable individuals – usually other South Asian girls – beginning at the time the girls reached the age of puberty, seem to be more harmful.⁶⁰ Hennink, Diamond and Cooper note that many young South Asian girls, including Muslim girls, are well aware of the link between the appropriateness of their social behaviour and its impact on their family’s reputation.⁶¹ Many of the South Asian Muslim respondents in their study indicated that they would submit to their family’s wishes to an arranged marriage because they either “did not wish to hurt their parents or disgrace their family honour (*izzat*)”.⁶² One significant observation in the study by Hennink, Diamond and Cooper is that many of the British South Asian Muslim girls object to having a boyfriend and have internalized the notion that “any premarital relationship could jeopardize their marriage prospects and bring shame also on their family.”⁶³ Even if some young British South Asian Muslim women do not actually

⁵⁸ Ibid., 873.

⁵⁹ Ibid., 873.

⁶⁰ Ibid., 874.

⁶¹ Ibid., 877.

⁶² Ibid., 876. Many of the Sikh respondents also indicated that they would submit to their parents’ wishes as well.

⁶³ Ibid., 876. One Muslim girl notes, “If a Muslim girl had a boyfriend...I’d like say that’s like umm disobeying the rule, why did you become a Muslim...’cause Muslim girls are not meant to go out with boys or kiss a boy other than their husband...they’re shaming their family, aren’t they?” Another Muslim girl is quoted as saying, “It is not very good for your future. Don’t get with boys that much, what if your marriage

believe this is true, it may be difficult to challenge this perception of suitable behaviour and family honour if it is being reinforced by many of their peers.

Another study of South Asian women and suicide by British South Asian sociologist Anita Bhardwaj indicated that most of the respondents felt intense emotional pressure to preserving family honour by conforming to “traditional community expectations”, such as staying in problematic marriages to avoid family and community shame.⁶⁴ This pressure made many of the South Asian women in the study feel a lack of control over anything in their lives, except for their own bodies.⁶⁵ Many of the women in this study felt that harming themselves was the only way that they “could effect real changes in their family and personal situations.”⁶⁶ Bhardwaj notes that “the language of despair, defeat and self-annihilation was pervasive” and that the suicidal tendencies of many of the respondents “were manifestations of extremes of self-hate and low self-worth.”⁶⁷ If many South Asian women would choose self-harm over seeking outside help, then another major challenge for the campaign against forced marriage is to understand why these women would choose the former over the latter.

While many of the respondents in Bhardwaj’s study indicated feeling intense emotional pressure from their families to protect their “honour”, they also indicated that they did not feel comfortable seeking outside assistance to help cope with the pressures they faced at home.⁶⁸ Bhardwaj notes that all the participants in her study indicated that the support services put in place to deal with domestic violence and other related issues –

time comes...and you get these sort of words from your future husband, it’s going to be very bad, and you will be sorry for yourself.”

⁶⁴ Bhardwaj, “Young,” 58.

⁶⁵ Ibid., 57.

⁶⁶ Ibid., 57.

⁶⁷ Ibid., 57.

⁶⁸ Ibid., 60.

in particular, those that were not community-based – were “inadequate and often inappropriate” because they did not understand “the complex interactions between culture, gender and self-harm”.⁶⁹ Moreover, this distrust extended to family doctors within the community, because they “are implicitly afforded the power to take whatever actions are deemed necessary to safeguard [traditional] values”.⁷⁰ Some of the women interviewed noted that their doctors were likely to counsel them to “go back to [their] family” or “get married”.⁷¹ The actions of these services providers demonstrate why it would be difficult to get young British South Asian Muslim women to assist with issues such as forced marriage should these women get over the hurdle of having the courage to stand up to their families.

I have relied on these studies not to characterize young British South Asian Muslim women as weak and helpless, but to show the pressures that they may face within their families. Although the establishment of kinship networks and the preference for socializing with South Asians over non-South Asians do not necessarily limit a South Asian Muslim’s right of choice in marriage, they may reinforce certain beliefs about suitability in marital relations which may be difficult to confront if a South Asian Muslim woman chooses to. Furthermore, I also wanted to show that if a South Asian Muslim woman chooses to look to assistance outside her family, there are particular circumstances, such as mistrust for outside assistance based on negative experiences, may discourage some of them from seeking this type of assistance.

These studies show that there is more to the issue of forced marriage and related forms of domestic violence, such as emotional pressure, than just culturally-based beliefs

⁶⁹ Ibid., 60.

⁷⁰ Ibid., 61.

⁷¹ Ibid., 61.

about choice in marriage. While culturally-based beliefs about choice in marriage play an important factor in the public discussion of forced marriage, they can only be challenged if one understands the context in which these beliefs are allowed to be perpetuated. I argue that in order to begin to understand that context, one must examine the underlying social, political and economic factors that form it. So far, I have examined one significant factor, the kinship networks, which may serve to reinforce the culturally-based ideas of family honour and suitability of certain marriage partners. These culturally-based ideas can then be used by some families to justify using physical or emotional coercion to ensure their daughters “choose” suitable spouses.

If some British South Asian Muslim girls do not internalize these beliefs about family honour and the shame they may bring to their families if they do not comply with their family’s expectations of marrying suitable partners, then they must overcome the sense of isolation they may feel if their beliefs conflict with their family’s beliefs. The Working Group tries to overcome the problem of isolation through their educational campaign, but there is a significant problem with their approach. They place a great deal of emphasis on social services and community leadership to provide assistance to young British South Asian Muslims.⁷² While the intervention of women’s groups such as Southall Black Sisters has been positively received by many South Asian women who suffer from domestic abuse, many British South Asian Muslim in various studies and articles have mentioned their distrust of the Muslim community leadership in the UK in dealing with the particular social needs of the broader British Muslim community.⁷³ I will

⁷² UK Home Office, “Choice,” 16.

⁷³ Bhardwaj, “Young,” 64-66; Humera Khan, “Unite,” 25.

examine the conflict between the Working Group's perceptions of community leadership and those of some British South Asian Muslims in the next section.

Perceptions of forced marriage from Muslim community leaders' – a review on their role in the campaign against forced marriage

Several studies and articles on the subject of Muslim community leadership in the UK have noted that young British South Asian Muslims do not trust these leaders, just as Samad and Eade noted in their report.⁷⁴ Some British Muslim commentators, such as Khalida Khan, have noted that Muslim organizations such as the Muslim Council of Britain have been able to engage with the British government in addressing social and political issues affecting the broader community, such as race relations.⁷⁵ Yet, she also notes that they lack the knowledge and the resources needed to deal with problems that affect particular groups of Muslims, such as the problem of forced marriage that seem to affect some young British South Asian Muslim women.⁷⁶ The public statements made by some British Muslim community leaders about forced marriage reflect this problem.

Initially, local Muslim community organizations simply dismissed the problem of forced marriage as not really as widespread in the South Asian Muslim community as was portrayed in the media. Interviews with Muslim community leaders in the late 1990's show them dismissing or downplaying the initial reports of cases of forced marriage as simply an exaggeration of a few isolated cases.⁷⁷ Yet, once more and more cases were being portrayed in the media, "leaders" in the Muslim community were consulted to explain the relationship between forced marriage, Islam and South Asian Muslim

⁷⁴ Samad and Eade, "Perceptions," 26.

⁷⁵ Khalida Khan, "Still Much Ado About Nothing," *Q-News* (Mar 2004): 29-30.

⁷⁶ Ibid., 30.

⁷⁷ Guru Murthy, Geeta. "The Home Office believes there are hundreds of such cases," *BBC News*, August 5, 1999, http://news.bbc.co.uk/1/hi/uk_politics/412331.stm (accessed February 24, 2004; site now discontinued).

culture.⁷⁸ The statements given by these Muslim leaders has either sensationalized the link between forced marriage and the British South Asian Muslim community, or has simply tried to overcome that sensationalism by ignoring the link altogether.

One clear example of this type of inefficient Muslim leadership is Ghayasuddin Siddiqui, leader of the Muslim Parliament. Siddiqui has been quoted extensively by the BBC, making him seem like the foremost authority on forced marriage in the British Muslim community. In explaining forced marriage, he has repeatedly expressed the same view of forced marriage as the government's Working Group. By reiterating the position of the government, he gives the impression that as far as the Muslim community leadership is concerned, they all recognize that forced marriages are "not valid under Islamic law without the consent of both parties."⁷⁹ He has even called upon Muslim leaders to take the issue of forced marriage "more seriously", to the point of organizing religious leaders to join together and discuss the issue.⁸⁰ These types of comments seem helpful in removing the link between forced marriage and Islam. Yet, more statements provided by Dr. Siddiqui may misconstrue the extent to which forced marriage is a problem in the South Asian Muslim community. For example, when asked by a reporter as to why there seemed to be a prevalence of forced marriages in the South Asian Muslim

⁷⁸ While Humera Khan and Khalida Khan critique the political motives of the Muslim leadership and they way they came to power through "self-appointment", they are the only political leaders that the UK government recognizes. The problem with these British Muslims leaders is not only their process of "self-appointment", but that the UK government was previously not interested in dealing with ethnic communities in Britain unless there were leaders with whom they could discuss various social issues. This is beyond the purview of this thesis, but for more on this topic see Steven Vertovec, "Islamophobia and Muslim Recognition in Britain," in *Muslims in the West: From Sojourners to Citizens*, ed. Yvonne Yazbeck Haddad (Oxford: Oxford University Press, 2002).

⁷⁹ BBC News – UK Politics, "Forced marriage clampdown welcomed," *BBC News*, August 5, 1999, http://news.bbc.co.uk/1/hi/uk_politics/412331.stm (accessed March 21, 2004); Centre for the Study of Islam and Christian-Muslim Relations, "Forced Marriages", 5. Most of Dr. Siddiqui's comments are in this vein. In fact, even by associating the crime with forced marriage as aiding and abetting sexual assault could also be considered valid.

⁸⁰ BBC News – UK, "Imams debate Muslim marriages," *BBC News*, February 21, 2004, <http://news.bbc.co.uk/1/hi/uk/3503741.stm>. (accessed April 16, 2004).

community, he replied that “the bulk of our people (i.e. Pakistani and Bangladeshi Muslims) come from villages and carry on village customs...there, of course, it (i.e. “customs” like forced marriage) is very widespread”.⁸¹

In Chapter 1, I used American media analyst David Altheide’s theory of the “problem frame”, from his book *Creating Fear: News and the Construction of Crisis* to analyze statements about forced marriage in the UK media and their potential impact on the viewing public. Using Altheide’s theory to analyze Siddiqui’s statements, it is apparent that these statements bear enough “emotional” or “sensational” rhetoric so as to appeal to audiences. Furthermore, it reinforces the media and the government’s portrayal of forced marriage as the result of ignorant, uneducated immigrant South Asian Muslim families who carry out perverted and old-fashioned customs.⁸² The “problem frame” of forced marriage as necessarily a “South Asian” problem is further exaggerated by the introduction of “rural” ignorance. Again, while these types of comments do not form the greater part of Siddiqui’s public statements, they do support the media and the government’s initial understanding of forced marriage as necessarily associated with South Asian Muslim immigrant ignorance and acquiescence of violence against women. Consequently, it then reinforces the notion that forced marriage is a culturally-based problem, and can only be resolved through culturally-based reform.

The other prominent Muslim community organization in the UK, the Muslim Council of Britain (MCB), seems to overcome the link between forced marriage and Muslims by emphatically declaring forced marriage as “not a Muslim issue”.⁸³ Instead of

⁸¹ Reeta Chakrabarti, “The Arrangement,” *BBC News*, May 26, 1999, <http://news.bbc.co.uk/1/hi/uk/353464.stm>. (accessed September 30, 2003).

⁸² Altheide, *Fear*, 40.

⁸³ Muslim Council of Britain. “*Common Good*,” 5.

working within the structure of the initial public discourse, the Muslim Council of Britain – fully aware of the manner in which the media can compartmentalize an issue – has directly attacked the media’s conclusions about forced marriage. In their report on their meeting with the Home Secretary, they note, “in respect of forced marriage, Islam does not recognize “forced marriages” as marriage and the practice itself affected not just Muslims alone. It concerned many other communities and it was presented and projected as a Muslim-specific problem.”⁸⁴ Furthermore, they note that forced marriage “is a practice which was condemned by the Prophet Muhammad (PBUH) which unfortunately exists today amongst the Asian communities in Britain including some Muslims.”⁸⁵

It is understandable that the MCB would take an approach that is much more protective of Muslims’ beliefs and practices than the media and the government’s Working Group, but their statements do not assist Muslim victims of forced marriage. While their statements reinforce the notion that victims can challenge their parents’ ideology about choice in marriage and Islam, they do nothing to address more practical concerns, such as some young British South Asian Muslim women’s fears of even challenging their parents’ views about marriage. Although their stance is slightly different from Siddiqui’s opinion of forced marriage, the MCB’s assessment of forced marriage is more concerned with displaying positive perceptions of Islam in the British media than really informing the public about the specific role Islam may play in forced marriages with some British South Asian Muslim families.

Both the MCB and Muslim Parliament’s statements about forced marriage are indicative of what British Muslim social service provider Humera Khan notes as

⁸⁴ Muslim Council of Britain. “Weekly Updates,” September 25, 2002 <<http://www.mcb.org.uk>> (accessed February 12, 2004).

⁸⁵ Muslim Council of Britain, “Common Good,” 5

ineffective leadership.⁸⁶ Her criticism of Muslim community leadership is significant because it raises a key issue in relation to forced marriage: the lack of women and young people in decision-making, leadership roles in these organizations.⁸⁷ Moreover, Khan notes how programs set up to help young British Muslims were usually “*dawah*-oriented” and did not “respond to real needs on the ground”.⁸⁸ Since women and young Muslims are “seldom acknowledged, consulted or appreciated” in these large Muslim community organizations, some women have placed their efforts in influencing “Muslim-sensitive social welfare services” at the local level.⁸⁹ Despite the fact that more Muslim women are engaging in public roles, Khan is critical of the British media and mainstream British legal and political organizations, who have not focused on this.⁹⁰ Instead, she notes that these mainstream British groups have only been interested in using Muslim leaders to discuss the problems of racial tension between marginalized groups and mainstream British society.⁹¹

Khan’s critique of the British Muslim leadership is also important because it raises another important issue related to the public discussion of forced marriage: not fully addressing the deeply entrenched problem of “Islamophobia” in Britain.⁹² Although the UK government’s educational campaign against forced marriage is developed to deal with the problem of British South Asian Muslim alienation, it does not fully address the

⁸⁶ Humera Khan, “Unite,” 25; Khalida Khan, “Nothing,” 30. Humera Khan is not the only one to criticize the ineffectiveness of “official” Muslim leaders such as the MCB. Khalida Khan notes how British Muslim leaders are “patriarchal and exclusionary institutions, that are out of touch and unable to cope with the complex communities that we have today.”

⁸⁷ Humera Khan, “Unite,” 25.

⁸⁸ Ibid., 25.

⁸⁹ Ibid., 25.

⁹⁰ Ibid., 25.

⁹¹ Ibid., 25. Khan notes that this has slightly changed since 9/11 and that more British Muslims have been invited to participate in the British media and government to discuss issues that directly affect Muslims in the UK.

⁹² Ibid., 25.

problem of British South Asian Muslim women's alienation from mainstream British society. In this chapter, I have tried to show that the alienation of young British South Asian Muslim women is different from that of British South Asian men, despite the fact that their alienation comes from the same roots, such as discriminatory immigration policies.

This distinction about British South Asian Muslim women's alienation is important in the public discussion of forced marriage, given the information provided in this chapter. The pressures that are placed upon some British South Asian Muslim women to sustain kinship relations, and the fear and reluctance some women may have in challenging their families' beliefs and practices are practical concerns that are not fully addressed in the public discussion of forced marriage. These social factors show that even if some young British South Asian Muslim women are aware of Islamic laws in relation to marriage, there are other practical issues that affect the exercising of their right of choice in marriage.

While some young British South Asian Muslim women are able to challenge traditional ideals about forced marriage, such as the protection of family honour, others may not be. From the discussion above, there could be several reasons for their fear of conflict – either fear of causing shame to their families in their respective communities, or fear of being isolated from their families and communities. Moreover, if they are isolated from mainstream British society – whether it is because of a preference for having close relationships with members of the same ethnic community or because of a reaction to experiences with discrimination – it is possible that some British Muslim women may not view assistance from mainstream British public organizations in a

favorable light or as a viable option. This investigation shows that it is not only important to educate the British public about the link between forced marriage and South Asian Muslim culture, but the other social, political and economic factors that contribute to this link.

CONCLUSION

The UK government recognizes that choice in marriage is a basic human right. Since it is a basic human right, it is also assumed to be an individual right rather than a collective or shared right. Yet, some British South Asian Muslim immigrants do not perceive choice in marriage in the same manner as the UK government. While they acknowledge that choice in marriage is an individual right, some British South Asian Muslim parents believe that there will likely be negative repercussions when individuals exercise that right without taking into consideration family perceptions of suitability of a marriage partner.¹ In other words, these parents believe that the right of choice in marriage is a conditional right – it is exercisable as long as a suitable partner is chosen as a spouse. Otherwise, these parents acknowledge that they may exercise their right of using various forms of coercion to have their children marry suitable spouses. The problem with these “forced marriages” is that the results are causing a great deal of distress in the British South Asian community – many victims of these forced marriages are running away, being forced back to their parents’ birthplaces, or committing suicide.

Many of these cases, mainly involving victims in the British South Asian Muslim community, have been given extensive coverage in the British media. This has alienated some British South Asian Muslims, who have found the British media’s coverage of forced marriage to be inflammatory against the community as a whole. Thus, the UK government’s campaign has had to tackle both the problem of forced marriages and the alienation that resulted from the initial portrayal of forced marriage in the British media. While the UK government’s taskforce against forced marriage has developed a comprehensive program to deal with the problem itself, their educational campaign to

¹ Samad and Eade, “Perceptions,” 72.

prevent forced marriages is much more limited. Although this taskforce, the Working Group on Forced Marriage, has recognized and identified the culturally and religiously-based causes of forced marriages, they have not done any further investigation into these causes to determine what social, political and economic structures could be in place to reinforce those ideological causes. Instead, knowing that these ideological causes are culturally and religiously-based, the Working Group is satisfied by dismissing these causes as a “fossilization of cultural values”.² Moreover, they claim that no religion or culture allows for coercion in marriage.³

The Working Group’s claims differ significantly from the perceptions of some British South Asian Muslim parents mentioned above. The Working Group implies that a proper understanding of the link between forced marriage, culture and religion is necessary to eradicate forced marriages. I contend that it is not as simple as the Working Group would like to believe. As other South Asian feminist scholars such as Tahira Khan have argued, a cultural or religious-centric focus limits an effective response against violence against women, and particularly with coercion in marriage. To support this claim, I argued that it was necessary to determine why there was a gap between the UK government’s perceptions of coercion in marriage as objectionable and those of some British South Asian Muslim parents who found some level of coercion acceptable.

By examining the gap in perceptions of these two groups, I showed that Islam and South Asian culture are employed by each group to fit their respective understanding about choice in marriage. As mentioned above, the Working Group makes several claims about choice and coercion in marriage. First, choice in marriage is a basic human right.

² UK Home Office, “Choice,” 14.

³ Ibid., 6.

Second, no religion or culture allows for coercion in marriage. Finally, any person who claims that coercion in marriage is allowed in their culture or religion is misguided in their belief about their culture or religion. The final two point about choice in marriage seem to be heavily influenced by the UK government's multiculturalism and race relations campaign, which tries to make all ethnic and religious values seem completely coherent with British secular values in an attempt to improve relations with various ethnic communities. Thus, like other UK governmental race relations programs, the campaign against forced marriage implicitly tries to make all South Asian Muslim beliefs about choice in marriage consistent with British secular beliefs about choice in marriage.

Yet, this is very different from the perspective that some British South Asian Muslims families. Some families perceive marriage as a significant part of establishing and maintaining kinship networks which they have come to rely on for social and economic survival in their birthplaces and in the UK. Others may perceive marriage as a fulfillment of their social duties to the individuals in these networks – in particular, their siblings or other close relatives. Thus, even though choice in marriage may be exercised by an individual at the time of marriage, the process of establishing marriage ties in many cases is viewed as a collective agreement. This is consistent with Islamic law, where the *wali* or guardian contracts a marriage on behalf of a woman or a minor child. Usually, this is not a source of conflict, but may become so when the *wali* and bride disagree on the particular spouse.

In these cases, some South Asian Muslim parents, for various reasons, including the fear of social stigma, will try to influence their children using various forms of coercion. While Islamic law does allow for forced marriages to be annulled in certain

circumstances, the current legal systems in South Asian countries such as Pakistan prevent women from getting their cases heard in court. Thus, while coercion in marriage is officially prohibited, many South Asian families feel it is acceptable to coerce their female relatives into unwanted marriages because there is no effective punishment against it. Moreover, they do not see it as inconsistent with Islam or South Asian culture because the legal system perpetuates the idea that choice in marriage can only be formally exercised with the approval of the *wali*.⁴

The strengthening of kinship ties and reliance on families and community members in South Asia may serve to reinforce culturally and religiously-based justifications of forced marriage. As such, this presents a significant challenge to young British-born South Asian Muslim women who choose not to accept yielding their right to choose their spouse to their families. Challenging their families and community's expectations in this way may prove too difficult for some British South Asian Muslim women. Although many of these women acknowledge that assistance from community-based women's organizations has been helpful, they have been more skeptical of the response of Muslim community leaders to forced marriage and domestic violence against British South Asian Muslim women. Critics of British Muslim leaders suggest that their focus on broader political issues is detrimental to specific groups within the wider Muslim community, such as women and youth.

The political issues surrounding the public discussion of forced marriage in the British South Asian Muslim community has obscured this particular problem of violence against women. Each party that has influenced the public discussion – the government, the media and various British South Asian Muslim families consulted in academic studies

⁴ Sardar Ali, *Gender*, 161.

and media reports – has limited the investigation into key issues related to forced marriage in favour of achieving their political goals, such as avoiding British South Asian Muslim alienation from the mainstream British public. Yet, the critical analysis of the key issues missing from this public discussion shows the complex perceptions of choice in marriage among many British South Asian Muslim women and their families. In exploring this complexity, I showed the need for a public discourse of forced marriage that takes into account more than just cultural and religious factors. Through this investigation, culture and religion are accorded their proper role in this discourse – not as tools for competing political agendas, but as part of a framework to achieve the Working Group’s objective to understand and respond to the needs and concerns of victims of forced marriage and their families.

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