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**AN EVALUATION UPON SURVEY ON THE  
PRACTICE OF FORCED MARRIAGE: CONFLICT  
CIRCUMSTANCES**

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# An Evaluation upon Survey on the Practice of Forced Marriage: Conflict Circumstances

Raji Kumar S

Research Scholar, Himalayan University, Arunachal Pradesh

**Abstract – Forced marriages are worldwide phenomena and also exist in Pakistani society. It involves the lack of free and full consent of at least one of the parties to a marriage. Mostly, females are victims of forced marriages. It is prevalent in the name of religion in many Muslim countries; however, it is purely a traditional and cultural phenomenon which has nothing to do with religion. Forced marriages are different from arranged marriages in which both parties freely consent to enter into marriage contract and they have no objection on the choice of partner selected by their parents.**

**This paper explores ways of addressing concerns about forced marriage among women who originate from the Indian subcontinent. As first- and second-generation immigrants, these women face the challenge of negotiating tradition, culture, and honor with increased independence, often due to increased educational achievements and economic opportunities.**

**Although the more dramatic cases of forced marriage involve abduction and physical violence, other cases may be subtler. For the purpose of this paper, forced marriage is defined as a union between two individuals, of whom at least one has not provided consent. Such a union lies on a continuum of arranged marriages, defined by degrees of coercion and consent. It may therefore be useful to this practice in the larger context of violence against women in Islamic societies, especially as it relates to crimes of honor.**

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## INTRODUCTION

Forced marriages are part of the larger problem of violence against women. The Working Group is of the opinion that, although men also are affected, forced marriage must be seen primarily as an issue of violence against women. Their consultations show that the percentage of women subjected to forced marriage is higher, and that it is women who most often live in fear and suffer violence as a result of forced marriage. The British Embassy in Islamabad had 180 cases of forced marriage in 2001. 25% concerned boys. The effects are furthermore likely to be greater for girls. The Spec. Rapp supports the view that forced marriage primarily must be seen as an issue of violence against women.

Women are forced into marriage for a number of reasons. Strengthening family links (often combined with pressure from the family or long-standing family commitments), protecting perceived cultural and religious ideals, preventing 'unsuitable' relationships (the girl gets a boyfriend the parents do not condone of) are – in addition to protection of family honour and controlling female behaviour and sexuality – some of the reasons why parents force their children into marriage.

The underlying tension of forced marriage, as well as the wider issues of violence against women, relates to the role of gender power relations in the context of the family and the wider ethnic community. Deeply rooted within the family structure is responsibility for the regulation of sexual behavior in general and control of female sexuality in particular. As a family's honor is tightly interwoven with the marriage and sexual behavior of its daughters, forced marriage appears to be triggered by a woman exercising her own right to choose a spouse, or objecting to one chosen by her family. Although both women and men can be the victims of forced marriage, the honor of a family is tied primarily to the status of the woman, leaving her much more vulnerable to the persuasion and coercion into a union to which she objects. Given this perceived connection, the basic choice facing opponents of forced marriage is either to challenge the centrality of honor within the community, or find ways of disentangling honor from the control of women's sexuality. A more positive view of the latter option is to transform communal understandings of honor to include the personal autonomy of women and their economic and social contributions to the life of the community.

Forced marriage appears to emerge where young women are not successful in carving out such a

compromise, and they refuse to adhere to an arranged marriage by their parents. More than just a feud between parents and a child, a parent may see the young woman's action as a crime against the family's honor. The interviews will address what parents feel is being violated, or taken away from them. What are they trying to retrieve through forced marriage? How do laws of family izzat (honor) and sharam (shame) influence or motivate the forced marriage? How are izzat and haram viewed across generations? How can the concept of honor be transformed?

Forced marriage is specifically recognized as an abuse of human rights in a number of UN treaties and other international instruments. However, different instruments employ different definitions of the term "forced marriage." In his 2006 study on all forms of violence against women, the United Nations Secretary-General Kofi Annan defined forced marriage as one that "lacks the free and valid consent of at least one of the parties." He continues: "In its most extreme form, forced marriage can involve threatening behaviour, abduction, imprisonment, physical violence, rape and, in some cases, murder. There has been little research on this form of violence."

## THE FACTORS LEADS TO FORCED MARRIAGE

The reason for this particularly high incidence of forced marriages in Pakistani communities. Islam, as wither points out, that in Islam, marriage is to be thought of as a civil contract – an agreement between two families, and decidedly not a decision between two individuals.

This makes for a complex array of social, economic and political factors the way in which families interrelated can vary hugely on the basis of status, social class, the terms on which the families are bound, even on the individual personal traits of the families involved in the matter in question. Wither notes that there is in particular a question of the way in which men and women grow up entirely separately, rather than mixing freely as men and women do in most Western societies, excluding certain fundamentalist demographics. A judge in a forced marriage ruling had the following to say on the matter:

Freely mixing with males and then selecting one of them as her future husband...This way of life is neither permitted by any figure or school of thought because it against basic teachings of Islam that people from both sexes should have free access to each other.

We may see from this quotation that the matter of forced marriage is deeply bound with the conventions and traditions of Islam, even if it is not a necessary implication of Islamic thought. The reason is this: if single women and men do not mix in their youth, then it will be very difficult for them to judge who will be their best partner.

This is particularly so if this is against a background of thought according to which entire families will be married, not just the individuals concerned. The families are in the best position, and this leads, understandably perhaps, to the wishes of the children being overridden. Some argues that the concept of Honor plays a significant role in the context to forced marriage. With respect to women, Honor in Islamic communities dictates that their virginity is retained, as well as their general chastity.

## THE FORCED MARRIAGE AND HUMAN RIGHTS

Arguments against forced marriage from the perspective of human rights can be grouped, broadly and crudely, into two categories: a priori, i.e. implied from the principle, and a posteriori, i.e. appealing to the research on forced marriage and the effects it has on the spouses, mostly women. Forced marriage is strongly denounced by international law. Article of the Universal Declaration of Human Rights states "Marriage shall be entered into only with the free and full consent of the intending spouses". The same statement is made in Article of the International Covenant on Civil and Political Rights, Article of the International Covenant on Economic, Social and Cultural Rights, Article of the convention on the elimination of all forms of discrimination against Women as well as others. Forced marriage is in breach of more than the right of freedom - women are denied freedom to choose the partner for themselves and freedom to live as they wish. From this, one could imply other correlated breaches of human rights that have to do with the dynamics of marital life.

Firstly, women are pushed into submission, possibly by recourse to violence, which goes against the body integrity as stated in Article 5 of the declaration.

Secondly, women, especially when they are still children, are denied the right to lead their life as they would wish, i.e. denied the right to education and autonomy protected by Article 26 of the declaration.

Thirdly, the women did not want to marry her husband, so it is fair to predict she would not like to sleep with him either, hence forced marriages often turn into forms of sexual slavery.

Thus, forced marriages are to be read as being in breach with human rights on several different levels. The international law at present works on the basis of a simple principle - culture should not be used as an excuse for practices that are considered damaging to individuals. This working predicament has, of course, been strongly criticised by cultural relativists who suggests that in some cases traditional and economic contexts may legitimise practices so far that it would indeed seem to go against self-identity of people within those contexts to deny them the right to carry those practices. As to religious explanations for forced marriages, there has indeed been a huge debate as to

whether forced marriage is in agreement with religious predicaments and many critics concluded, perhaps too readily, that forced marriage is in fact not consistent with any religion.

According to the Resolution 56/83 passed by the General Assembly in 2001, state is taken to be responsible for "all actions and omissions by the state organs". This puts a strain on the governments to be far more cooperative than it has been required thus far. This means that international organisations may now expect countries to involve more laterally with the problem. However, as already suggested, forced marriage is a crime that takes place in the private sphere and for that reason, the legislation in those countries where jurisprudence is still in its constitution, may find it difficult to address the problem, which has previously been dealt with either within family or within religious community.

### **PREVAILING PRACTICE OF FORCED MARRIAGES**

Forced marriages are prevalent in Pakistani society especially in families that have double nationality and are residing in the West. Muslim immigrant communities in Europe have taken their tradition and cultural practices along with them and continue to practice their own culture. Many daughters, sisters and cousins abroad are murdered in the name of honor.

In 2000, a young woman of Pakistani origin named Shahnaz was electrocuted by her brothers and mother in UK. The family had been living there for last thirty years and still continuing traditional practices. In 2003, Sajida Bibi, a Pakistani woman from Birmingham wanted to marry someone against the wishes of her family. Her young male cousins stabbed her on her wedding day. The justice of the Crown Court in Birmingham sentenced the murderers to life imprisonment. The court further stated that "those who live in our country should learn to respect the law of the land". It is also reported that many Pakistani families bring their daughters back to Pakistan and wed them in Pakistan either for nationality of male family member, or to save the honor of the family. Parents justify such forced marriages saying that if they do not wed girls in early age, they will rebel and get married in the residing country against the wishes of their parents.

Sameem Ali, 13 years old girl, residing in Britain, came to Pakistan along with her family for spending holidays. She was suddenly asked to wear red bride dress and forced to pronounce words after Imam. Her mother told her that she get married with a man twice her age whom she had seen only once at a family get-together in Pakistan. She reported that "her mother told her that if she did not consummate the marriage, she would tie her to the bed, blindfold her and strip

her, and then watch to make sure her daughter had sex with her husband". Further, she added, her husband told her that she was his wife and she had to sleep with him. When she tried to refuse and said that they needed to get to know each other first, he hit her. Such marriages are prevailing day by day in all Muslim families residing in foreign states.

In most forced marriage cases, female keeps silent to save the honor of her family. Very few cases are reported and in most of the reported cases, victim gets threat or physical danger from opposite family. Sadia, a 13 years old girl, was forced by her heroin addicted father and her brother-in-law to get married with an elderly man. She pleaded to High Court for her protection in 2010 and the court issued notice to the police on July 27 for her plea for protection. She was kidnapped by her brother-in-law with two persons from her house and they had fired rifle shots in the air to deter neighbors when she cried out for help. They kidnapped her to keep her away from the High Court and to force her to take back her case. All these practices show that women are suffering not only in rural and tribal areas of Pakistan but also in urban areas. They are forced to get married with stranger person and in some cases with a person who is double their age. Such practices, though contrary to Islamic teachings, are endorsed by cultural and traditional customs. There is a need to amend laws to stop such violations against women.

### **REASONS FOR FORCED MARRIAGE**

Numerous reasons that vary according to the social, cultural, economic, political and legal context explain the existence of planned and potentially forced, marriage. They may be cumulative or they may overlap. The respondents identified a number of reasons that seem to be at the basis of these marriages.

#### **Because marriage is a social act, a family matter -**

Some parents do not ask their children for their opinion when they consider it appropriate for them to get married. This is most often the case when young girls are concerned, but also sometimes with young men, because parents consider marriage a social act that is a matter for the nuclear or extended family and even the community, and they consider it their duty to have their children marry. As far as the parents are concerned, this role is fundamental and failure to perform it would be negligent or even a dereliction of duty on their part.

**To protect young women -** Parents use forced or arranged marriage to "place" their daughters because they are still considered to be subject to parental authority in some families and therefore regarded as minors. Accordingly, parents feel they have to protect them and act in their best interests by having them



married, and preferably at a young age. In doing so they seek to ensure a solid future for their daughters by marrying them to men whom they consider to be best for them as knowledge of the suitor's family or relatives gives them the feeling that their daughter will be protected. In fact, they entrust their daughter to a husband and in-laws whom they trust and with whom they have a ties of honour, which they see as a guarantee of security and proper treatment for the young wife among in-laws who will not treat her as an outsider.

**To save family honour** - Among immigrants, some families from conservative backgrounds follow the arranged marriage and forced marriage model. Fearful of seeing their children wed "strangers", especially members of the majority culture or other minority groups considered to have different cultures or religions, parents pressure their children to marry within the family or community circle to prevent assimilation within the host society. A forced or arranged marriage thus becomes a matter of identity and is a bulwark for these families against assimilation and the loss of identity markers.

**The family is in exile** - Marriage that is endogamous, in religious or cultural terms, is practised by families in exile as an extension of their country of origin. This model is based on the preservation of the bonds within a related group beyond geographic borders. Matrimonial alliances are what keep the dispersed family alive, and endogamous unions are based on networks of ongoing contacts with members who remained in the country of origin or who have settled in other immigrant societies. Transnational contacts are facilitated by modern

means of communication that eliminate distances<sup>2</sup>. Accordingly, arranged or forced marriages are used as a means to have family members or those in a membership group immigrate to Canada through sponsorship by the spouse who is already settled here. This results in transfers of persons from there to here and perpetuates transnational contacts.

**To comply with a religious precept** - Some Muslim families erroneously believe that marrying their children even without their consent is a religious precept. Because of a literal reading and rigid interpretation of the Koran and the Hadith, certain segments of the Muslim population consider arranged and forced marriage a religious duty, thereby betraying the very essence of the message. That belief arises out of their confusion of cultural practices with religious principles.

**To control women's sexuality** - Forced marriage is also a way of controlling women's sexuality. Some parents see forced marriage as a way of protecting their daughters against the risk of romantic relationships, and most importantly against sexual relations outside marriage. Above all, they are seeking to avoid pregnancies considered to be illegitimate that

could result from this type of relationship. As far as many families are concerned, their reputation depends on the proper sexual behaviour of their members, especially the females. The patriarchal standards that are still valued in these families are reproduced in the society in which they settle. One of those standards is the duty to preserve virginity, which arises out of the desire to control women's bodies in order to preserve family honour, and thus patriarchal power. Vigilance on this point of honour is strict and a forced marriage, preferably an early one, is the best defence against any challenge to that honour.

## CONCLUSION

The issue of forced marriage is legally, socially and economically problematic. In the foregoing argument we have seen that its socio-economic backgrounds are complex, and are related to, but not dependent upon, traditions rooted in the Islamic concept of honor and celibacy. Forced marriage is difficult to distinguish from arranged marriage, and the problem of finessing this distinction is largely coextensive with the problems of enforcing laws designed to prevent forced marriage. Internationally, some progress has been made, but there is much to suggest that many difficulties will be faced in the future with regards to the implementation of well-intentioned international policies. A balance must be struck between intervention and the protection of the human rights of the individuals and groups concerned.

A marriage is regarded as forced when the people who bring it about are not concerned about the consent of the individuals involved and put pressure on them in order to achieve their goal. Violence is always present, whether verbal, psychological or physical, and mainly targets young women. Because it is a taboo, this practice is still greatly underestimated if not completely ignored, and victims keep it a secret so as not to bring public disgrace to their families. The secrecy is heightened by the fact that the situation occurs in private.

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