

Abuse, violence and abandonment in transnational marriages: Issues for policy and practice in the UK¹

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Abandonment of wives in their home countries by their husbands who are UK residents has become a growing phenomenon that practitioners may encounter in their work. When a victim of domestic violence - who is a marriage migrant and often within the probationary period - has been in touch with services in relation to domestic violence she has been experiencing but 'disappears' subsequently, there is a risk that she has been transnationally abandoned. Enquiries may reveal that she has gone back to her home country, with or without her child(ren) and represents a 'red flag' for practitioners.

What is transnational marriage abandonment?

Based on their experiences of supporting transnationally abandoned women, Pragna Patel of Southall Black Sisters³ identifies three forms of abandonment: (a) a woman, migrating after marriage to her husband's country of residence, may be ousted or (less commonly) flee after a period of abuse; (b) a marriage migrant may be deceived into returning to her country of origin for a vacation and abandoned there; (c) a woman may be left with her in-laws in her country after a transnational marriage while her husband goes back with assurances that he will sponsor her visa, but she is eventually ousted from their home or leaves because of domestic violence.

Women in the first category have access to limited support in the UK in the form of housing and welfare benefits under the Domestic Violence Rule (DV Rule) which came into force in 2002 in response to campaigns from women's organisations. These changes made it possible for a woman to apply for Indefinite Leave to Remain (ILR) in the UK *if she could prove that her marriage had broken down because of domestic violence*. However, women with insecure immigration status were prohibited from accessing public funds, which meant that they could not be accommodated in women's refuges. This rule left women destitute while they were

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³ Southall Black Sisters is a UK-based women's organisation which provides services for black and minority ethnic women and campaigns to end violence against women and girls.

expected to apply for ILR. SBS and allied organisations campaigned to change this, resulting in the Destitute Domestic Violence (DDV) Concession of 2010, which gives women limited access to benefits while they apply for ILR.

Though this paper presents findings from a study in India, the work of agencies like SBS and lawyers indicates that this problem is prevalent in other countries including Pakistan and Bangladesh.

Abuse and abandonment in transnational marriages

We present the findings of a study conducted in 2013-2016 with wives who had been abandoned in India. The research explored the nature and patterns of abuse and abandonment in transnational marriages and women's experience of various services. About two-fifths of the women we interviewed had migrated following their marriage while the remaining women stayed in India with their in-laws. For the purpose of this article, we focus on the experiences of women who migrated following marriage, as practitioners in the UK are likely to encounter women facing these abusive circumstances. Twenty-eight of the 57 women interviewed for this research had been married to men resident in the UK, eight of the husbands were from Italy, four each from Australia and USA, with smaller numbers from other countries.

A majority of women reported that they had experienced physical violence perpetrated by their husband, in-laws or both. All the women were subjected to coercive control, isolation and financial abuse. The immigration laws of their country as well as the lack of sources of support for the women were factors which the perpetrators used to increase their control and abuse.

His harassment escalated over the months. Eventually, I told him, "Now our relationship is about to come to an end. You get me a ticket for India and give me back my passport which you have hidden somewhere." At this, he started beating me in the presence of our landlord. I was very frightened. I went to his friend for help but he told me, "You can't go anywhere. You are staying here illegally; they (police) will put you in jail straightaway". I learnt that he had not brought me there as his wife but as a visitor. The time limit for my stay was over, so I was in deep trouble... When he came home, he beat me badly that night. He threatened me, "If I cut you into pieces and bury you, no one will know about it." [...] Over the next few months the beatings continued, even escalated. I knew that I was staying there illegally. So, I didn't know what to do. (Shiva, 29)

A third of the research participants disclosed sexual violence perpetrated by their husband. One woman, who migrated to the UK recalled:

He was out most nights, and I thought, maybe he was with someone else. I refused to have any relations with him, but his parents wanted a grandchild. [...] When my mother-in-law talked to me about it, I told her, "We haven't even spoken to each other properly yet. How can we have any relations?" After that, one night when I came home from work, my mother-in-law gave me food and milk to drink and I fell asleep. I don't know what happened, what was in it, but when I got up in the morning, I found bite marks on my shoulders, breast, neck, thighs and stomach. I had pain all over my body and in my stomach. When I called up my husband, he told me that he had [sexual] relations with me. (Chandni, 35)

Women who were perceived to have lost the 'protection' of their husband because of his disinterest in the relationship were vulnerable to sexual violence by male in-laws - about a quarter of our interviewees disclosed such abuse. A fifth of the research participants had also been coerced into undergoing abortion(s), often associated with the desire to have a male child.

All the women interviewed had sole responsibility for domestic labour in the household, while a minority of women who engaged in paid work experienced appropriation of their wages. A majority of women also suffered abuse and control in the context of micro-management of their domestic labour; and about half of the women were denied food and adequate lodgings, and subjected to degrading treatment.

Soon after I came here, I realised that the marriage was a sham. He stayed away from home for days at a time. When I questioned him, he said, "You are nothing to me. I married you for my parents, your job is to look after them." (Bina, 26)

Ongoing demands for dowry⁴, and escalating violence where such demands could not be met, were significant contexts for abuse for the majority of the women. The inability to meet dowry demands eventually triggered abandonment for many women.

Socio-cultural norms against divorce compelled women to remain in abusive relationships, and insecure immigration status prevented marriage migrants from seeking help. A majority of the women who had migrated following marriage were deceptively taken back to India and abandoned there. A few marriage migrants fled because of the escalating violence, and unaware of the recent provisions such as the DDV Concession, eventually made their way back to their home countries.

He often used to hit me. He would tell me that he had much better girls to choose from. After three years like this, we came to India for a holiday. [...] After two to three days, he left me at my mother's place. He phoned me and said he was returning to the UK that very night and I should come back later. He suggested that I stay on to attend English classes, so I extended my return ticket. It was only later that I realised that he was waiting for my visa to expire. As soon as the deadline passed, he called to say he was divorcing me (Hira, 32).

Following abandonment, ex-parte divorce proceedings were initiated by the husband, in a context where the woman was ignorant of the proceedings or could not represent herself in legal proceedings in another country. Some women did initiate legal action in India against their husbands and in-laws; however most complaints ended in a compromise agreement or were not pursued by the police. Very few women received financial settlement of any kind upon divorce, and none received any maintenance for their children or return of their entire dowry. The consequences of abandonment included severe social stigma, poverty, destitution as well as risk of further abuse from her own family for 'not making the marriage work'. For the men, there seemed no adverse consequences.

I found out later that he has done this to three women. If nothing happens to them, this is what they'll continue doing! They say, "You can't do anything, we

⁴ Dowry is a common practice that involves the giving of gifts (money, goods or property) by a bride's family to the groom and his family before, during or any time after a marriage, and is often considered a women's share of her inheritance in a context where women may have few inheritance rights in practice.

will not go for a settlement.” He would taunt me, “Can you come all the way here (to the UK)? Can you reach me? Show me if you can.” Sometimes I think he was right about that. The law does not work for women like me, nothing can harm these men who are abroad, no one can get to them. (Jatinder, 30)

Transnational abandonment is coercive and controlling behaviour intended to deprive women of their residential, financial and legal rights; hence abandonment in and of itself should be recognised as a form of domestic violence.

Recent developments and ongoing issues for policy and practice

For practitioners, the period when a woman is in the UK and able to seek help represents a crucial window of opportunity for making her aware of the services available and the very real risks of abandonment and of appropriation of her dowry. Any documentary evidence of her dowry might be crucial to any later legal proceedings. However, recovery of women’s dowries remains difficult in England & Wales in the context of the lack of recognition of dowry as a special form of pre-marital asset (Patel et al., 2016). In case of abandonment, returning to the UK before her visa has been revoked often represents her best chance of availing of the DDV Concession. Both the passage of time, and abandonment with her child(ren) – in contrast to abandonment which entails separation from her child(ren) – creates particularly difficult contexts for obtaining justice and security. Where a woman has been separated from her children in the process of abandonment, Article 8 of the Human rights Act 1998 (Right to respect for your family and private life) has previously been invoked to secure her rights (Jahangir et al., 2016). However, this requires access to legal advice and the financial resources to avail it.

Recently, there has been some significant progress in recognising transnational marriage abandonment as a form of domestic abuse through the family justice system’s amendment to Practice Direction 12j, which came into effect on 2 October 2017 (Family Law Week, 2017). This follows collaborative work between Southall Black Sisters, Dawson Cornwall Solicitors and the authors to take forward the recommendations of this research. This Direction sets out what the Family Court should do in any case that involves or where there is risk of domestic violence. The definition of domestic abuse has been extended to incorporate “dowry-related abuse and transnational marriage abandonment;” and “abandonment” is defined as “a practice whereby a husband, in England and Wales, deliberately abandons or “strands” his foreign

national wife abroad, usually without financial resources, in order to prevent her from asserting matrimonial and/or residence rights in England and Wales. It may involve children who are either abandoned with, or separated from, their mother” (Practice Direction 12j, para 3). This change has important implications for abandoned women’s access to Legal Aid. However, further changes are needed to ensure that women’s rights in national and international law are realised.

Conclusion and recommendations

Our research findings suggest that cultural practices like dowry, son preference, and dominant social norms which make for patriarchal control and devaluation of women played an important role in the violence and abandonment. Crucially, the inadequacy of national and transnational legal mechanisms make transnational brides a particularly vulnerable category of women who can be abused and exploited with impunity. It was in this context that some Indian-origin men in the diaspora sought brides in India and treated them as disposable women, whose abuse was of no concern to the state.

There are a number of further changes that will enable victims and survivors to seek justice and deter the perpetrators by holding them to account for their actions.

Recommendations for immigration policy and practice:

- Transnationally abandoned women who once resided in the UK (even briefly) should be entitled to claim under the DV Rule and the DDV Concession.
- Transnationally abandoned women should be issued with temporary visas to avail the DV Rule and initiate or engage in criminal and family or civil court proceedings.
- Victims of domestic violence need full right of appeal under the Immigration Act 2014.
- At the point of their visa application, British embassies abroad should give women a leaflet setting out their rights and entitlements under the UK immigration and family law.

Recommendations relating to divorce and family matters:

- Greater awareness and procedural checks/safeguards are necessary in divorce and family law processes to ensure that transnationally abandoned women have the opportunity to participate in family law proceedings on an equal footing.

- The UK government should consider reciprocal arrangements that allow for the enforcement of legal decisions concerning divorce, support, maintenance, residency and contact with children in contexts of overlapping jurisdictions.
- There is a need for a training programme for the judiciary to understand better the social realities of South Asian women who live abroad for whom divorce carries severe stigma and adverse financial, mental health and welfare consequences.
- There needs to be better judicial understanding of the practice of dowry in divorce, maintenance and other financial settlements so that women are not left destitute and dependent on their own families.

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