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Forced marriage of people with learning disabilities: a human rights issue

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[AQ1](#)

ABSTRACT

This paper reports some of the findings of an exploratory study which sought to better understand the demographics of forced marriage of people with learning disabilities and the contexts in which such marriages may occur. It was found that forced marriages of people with and without learning disabilities showed broad similarities in relation to ethnicity, some differences in terms of age and substantial differences in terms of gender. Men and women with learning disabilities are equally likely to be victims of forced marriage. The reasons for people with learning disabilities being forced to marry are most often associated with a desire on the part of families to secure permanent care, but can also be associated with cultural (mis)understandings of the nature of disability. These findings are contextualised by considering the relationship between forced marriage, human rights and learning disability.

ARTICLE HISTORY

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Forced marriage; learning disability; consent; human rights

Points of interest

- Forced marriage of people with learning disabilities is similar to the rest of the population in terms of ethnicity but differs in relation to age and gender.
- Men and women with learning disabilities are equally as likely to be forced to marry, unlike the general population where women are much more likely to become victims.
- The most common reason people with learning disabilities are forced to marry is to obtain a carer for when parents are no longer able to provide the support needed by their son or daughter.
- People with learning disabilities have the right to marry should they wish to do so and have the capacity to consent. They also have the right to be protected from forced marriage.
- Some parents' understandings of both disability and consent may be very different from the understandings of these concepts that professionals commonly share

[AQ2](#)
[AQ3](#)

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Introduction

The right to marry is a universal human right. Article 16 of the UN Declaration on Human Rights 1948 states that: 'Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution' (United Nations 1948)s. The declaration goes on to state that 'marriage shall be entered into only with the free and full consent of the intending spouses' (United Nations 1948) as above. In the UK context, the right to marry is enshrined in national law under the Human Rights Act 1998. Nevertheless, disabled people in the United Kingdom and elsewhere have not always found their right to marry easy to uphold (Groce, London, and Stein 2014; House of Lords/House of Commons, Joint Committee on Human Right 2008). With this in mind, the UN Convention on the Rights of Persons with Disabilities 2006 reiterated the right of people with disabilities to marry, whilst again emphasising the need for marriage to be based on consent; Article 23 of the Convention pronounces that:

States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

- The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized. (United Nations 2006)

However, whilst marriage is recognised nationally and internationally as a human right, it is also increasingly understood that not all marriages are freely entered into by consenting adults. The term 'forced marriage' has been coined to denote marriages where one or both spouses have not consented to the union. Forced marriage is most often considered within the context of debates surrounding violence against women, cultural difference and migration (see, for example, Gill and Mitra-Khan 2010; Phillips and Dustin 2004; Sundari and Gill 2009). However, disability – and in particular learning disability – can also be a significant factor in forced marriages involving UK citizens.

In the context of forced marriage, people with learning disabilities are a minority within a minority. Or, to use more sociological language, forced marriage is an issue where the intersectionality of gender and ethnicity has been highlighted but the dimension of disability has been largely overlooked. Writers focusing their analysis of forced marriage on gender and culture have pointed to the fact that it is frequently located within the context of oppression and violence against women and girls, and is often reported to occur in communities with strong patriarchal traditions (Chantler, Gangoli, and Hester 2009; Phillips and Dustin 2004). However, while the current authors appreciate the important contribution of feminist literature to our understandings of forced marriage, the key focus of this article is disability because relatively little is known about forced marriage of disabled people.

For example, in her review of the UK evidence base on forced marriage, Chantler (2012) highlights three key themes: that many cases of forced marriage are unreported; that professionals lack knowledge about forced marriage and are fearful of being seen as culturally insensitive if they intervene; and that there is a tension between those who regard forced marriage as a cultural practice and those who regard it as a form of gender-based violence. However, whilst emphasising the relevance of professionals' cultural competence for preventing forced marriage, Chantler's review does not consider the interplay between these factors and disability.

It is not only in relation to forced marriage that issues of cultural competence emerge. Recent investigations into child sexual exploitation have demonstrated how both police and social services staff are anxious to avoid being perceived as culturally insensitive or even racist (Jay 2014). Writing about social work responses to child sexual abuse, Gilligan and Akhtar say that 'Many white practitioners certainly seem to see their insufficient understanding of Asian "culture" as a major difficulty in the delivery of effective services to Asian families' (2006, 1362). This cultural relativism can lead to differing thresholds being applied to cases of child abuse within minority ethnic communities and to differing patterns of response (Webb, Maddocks, and Bongilli 2002). However, although there is now increased recognition of the requirement for cultural competence in child protection, and a substantial body of work exists that explores the links between disability and child maltreatment (see, for example, the systematic review meta-analysis by Jones et al. 2012), the links between disability and forced marriage have, until now, remained uncharted.

In drawing attention to the forced marriage of people with learning disabilities it is important to recognise the complexity of the contexts within which such marriages occur. Moreover, a clear distinction needs to be made between forced marriage, which is illegal, and arranged marriage, which is lawful and is a cultural tradition amongst communities in some parts of the world. The cultural tradition of arranged marriage (and, by association, the existence of forced marriage) is sometimes conflated with particular world religions. However, it is important to emphasise that the practice is cultural and not part of the doctrine of any major world religion. [AQ9](#)

In the United Kingdom, forced marriage may be associated with particular religions, but across the world it occurs in all faith groups including Christianity, Judaism, Islam and Hinduism. However, it is vital to recognise that forced marriage is not condoned by any of these religions. Furthermore, in the United Kingdom forced marriage may also sometimes be associated with particular minority ethnic groups, but it is again important not to assume that forced marriage only occurs in specific and readily-identifiable communities. Notably, one of the first reported cases in England of a person with a learning disability being forced to marry was of a white British woman being sold into marriage by her brother (BBC News 2010a). [AQ10](#)

Forced marriage not only represents a gross breach of human rights, but may also involve various acts of harm and abuse. The consequences for victims of speaking out about or trying to escape a forced marriage, or impending forced marriage,

cannot be underestimated in terms of the threat posed to personal well-being and safety. Victims who speak up or take action to avoid forced marriage run the risk of being ostracised by family and community, being physically and emotionally harmed, imprisoned and – in the most extreme cases – killed (HM Government 2014).

This article will report some of the findings from an exploratory study of the forced marriage of people with learning disabilities in the United Kingdom. The article will identify both similarities and differences between the forced marriage of people with learning disabilities and other forced marriages; outline some of the reasons why these forced marriages take place; and consider the role of professionals in identifying and preventing forced marriage of people with learning disabilities.

It is important to note that whilst the United Kingdom has equal marriage laws which enable both opposite-sex and same-sex marriage, this article focuses on forced marriage between opposite sexes only. People identifying as lesbian, gay, bisexual or transgender (LGBT) are known to be at risk of being forced to marry people of the opposite sex (BBC News 2010b; Stonewall n.d.). Some people with learning disabilities identify as LGBT (Abbott 2015; Abbott and Howarth 2005) and therefore LGBT people with learning disabilities may be at risk of being forced into opposite-sex marriages. However, to date, there are no publicly recorded or reported cases of individuals with a learning disability being forced to marry a person of the same sex. Further research is needed to fully explore the very specific issues that identifying as LGBT and having a learning disability might raise in relation to forced marriage.

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Defining forced marriage

For the purposes of this article, the UK government definition of forced marriage will be used:

A forced marriage is a marriage in which one or both spouses do not (or, in the case of some adults with support needs, cannot) consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure. (HM Government 2010, 8)

Central to this understanding of forced marriage is the concept of consent: the giving of consent by both parties is a legal prerequisite for all marriages in the United Kingdom and the definition draws attention to the fact that some people – particularly those with severe or profound learning disabilities, but also those with other substantial cognitive impairments – may be unable to marry because they are unable to give consent. The other signifier of forced marriage within this definition is ‘duress’, and the ways in which an individual may be coerced or otherwise pressured into marriage are set out. It has been suggested that consent and coercion are best understood as two ends of a continuum ‘between which lie degrees of socio-cultural expectation, control, persuasion, pressure, threat and force’ (Sundari and Gill 2009, 165).

In acknowledgement of this continuum, recent government policy documents have, whilst reiterating the original definition, sought not only to further clarify the difference between forced and arranged marriages, but also to re-emphasise the centrality of consent:

5 There is a clear distinction between a forced marriage and an arranged marriage. In arranged marriages, the families of both spouses take a leading role in arranging the marriage, but the choice of whether or not to accept the arrangement still remains with the prospective spouses. However, in forced marriage, one or both spouses do not consent to the marriage but are coerced into it. Duress can include physical, psychological, 10 financial, sexual and emotional pressure. In the cases of some vulnerable adults who lack the capacity to consent, coercion is not required for a marriage to be forced. (HM Government 2014, 1)

The distinction between forced and arranged marriages depends largely on the presence or absence of choice and consent, which may both be contested and 15 highly subjective phenomena. This is one of the many reasons why it is so difficult to ascertain how many forced marriages take place in the United Kingdom.

As recently as 2004 it was said that the lack of reliable data made it impossible to estimate the number of forced marriages which take place in the United Kingdom each year (Phillips and Dustin 2004). Since then, however, the UK government has 20 established the Forced Marriage Unit (FMU), jointly managed by the Home Office and the Foreign and Commonwealth Office. The FMU records all cases of forced marriage of UK citizens which are brought to its attention; this includes forced marriage of children as well as adults and forced marriages which take place overseas as well as within the United Kingdom. Over the past decade, the FMU has seen 25 an increase of over 600% in reporting of forced marriages: up from just over 200 reported cases in 2004 to 1267 reported cases in 2014 (Home Office/Foreign and Commonwealth Office [HO/FCO] 2015). This increase is unlikely to reflect a growing problem, but it is more probably a result of greater awareness and understanding of forced marriage leading to increased reporting by both those at risk of being 30 forced to marry and frontline professionals in education, social care, health and the police. These reported cases undoubtedly do not reflect the true extent of forced marriage and threats of forced marriage in the United Kingdom, which have been estimated to number between 8000 and 10,000 cases per year (Full Fact 2012). FMU data do not claim to be representative of the number of cases of forced marriage 35 in the United Kingdom, nor of the experiences of all victims. However, it is the only national data-set of forced marriage cases and as such is a useful starting point.

There is no such thing as a 'typical' case of forced marriage. Whilst the majority of reported cases involve young women aged 16–25, around a fifth of cases involve men or boys (HO/FCO 2013, 2014, 2015, 2016). The FMU has recorded cases where 40 the victim was as young as two years old and as old as 70 years; forced marriages involving UK citizens have taken place in – and/or involved spouses from – more than 90 different countries (HO/FCO 2016). Pakistan, India, Bangladesh, Turkey, Afghanistan, Somalia and Iraq are the countries most frequently involved in

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reported cases, but instances of forced marriage of UK citizens have been reported involving spouses from such diverse countries as Columbia, Jamaica and the Czech Republic (see Table 1 for details of forced marriages reported to the FMU, by country and gender). Forced marriage, however, is not always linked to transnational marriages: almost a quarter (23%) of forced marriages reported to the FMU in 2014 were described as ‘domestic’ and involved no ‘overseas element’ (HO/FCO 2015), although this figure fell to 14% in 2015 (HO/FCU 2016).

Table 1. FMU data on forced marriage 2012–2015.

	2012	2013	2014	2015
Total number of reported cases	1485	1302	1267	1220
Country (%)				
Pakistan (%)	47	43	39	44
India (%)	11	11	8	6
Bangladesh (%)	8	10	7	7
Afghanistan (%)	2	3	3	2
Somalia (%)	1	2	2	3
Other ^a (%)	31	31	41	38
Age (%)				
Under 16 (%)	13	15	11	14
16–17 (%)	22	25	11	13
18–21 (%)	30	33	17	20
22–25 (%)	19	15	14	15
26–30 (%)	8	7	8	9
Over 30 (%)	8	3	7	8
Age unknown (%)	–	–	32 ^b	21 ^c
Gender ratio (female:male)	82:18	82:18	79:21	80:20
Number (%) involving a person with disabilities	114 (7.7)	97 (7.5)	135 (10.7)	141 (11.6)

Source: HO/FCO (2013, 2014, 2015, 2016).

^aOther includes: United Kingdom, Colombia, Czech Republic, Jamaica, Kenya, Nigeria, The Gambia, Turkey and Uganda.

^bNo further information is given about the ages of these people, although data from the following year suggests that the vast majority are likely to be adults.

^cOf these, 20% involved an adult of unknown age and 1% involved a minor of unknown age.

The FMU first began including disability as a category within its annual statistical update in 2012, following a recommendation from the first author that they should record, where possible, whether victims in reported cases of forced marriage had any disabilities. Since this time, both the number and proportion of cases of forced marriage known to involve a disabled person have increased, rising from 114 out of 1485 reported cases or 7.7% in 2012 (HO/FCO 2013) to 141 out of 1220 reported cases or 11.6% in 2015 (HO/FCO 2016). Of these, it is not known how many cases were of people with a learning disability rather than people with a physical or sensory impairment.

Forced marriage and the law

Children under the age of 16 in the United Kingdom cannot legally consent to marriage and marriages of children that take place abroad are not recognised within UK law. As a result these marriages can, when identified, be easily described as forced under UK law. However, for those aged 16 or over the situation is more complicated.

In England and Wales, the Forced Marriage (Civil Protection) Act 2007 introduced Forced Marriage Protection Orders. These are civil orders which can be obtained by the individual themselves or a relevant third party, including a local authority, in order to prevent someone being taken out of the United Kingdom to be married. However, it was not until the passing of the Anti-Social Behaviour, Crime and Policing Act 2014 that breaching a Forced Marriage Protection Order became a criminal offence in England and Wales. More importantly, under the 2014 Act the act of forcing someone to marry became a criminal offence not only in England and Wales but also in Scotland, punishable by up to seven years in prison. The first conviction under this legislation was achieved in 2015 and was widely reported in the UK media (BBC News 2015; Sky News 2015; The Guardian 2015; The Independent 2015; The Mirror 2015; The Telegraph 2015). As this case highlighted, in addition to the crime of forced marriage itself there may also be a range of other criminal offences associated with forcing someone to marry, including physical assault, sexual assault, kidnap, threats to kill and murder. Whilst this use of the 2014 Act sent out a clear message that forced marriage would not be tolerated, it remains to be seen how people with learning disabilities will be supported to make use of this legislation. It has been noted that, in other contexts, people with learning disabilities often struggle to assert their rights and have limited access to redress through the courts when their rights are breached (Fyson and Cromby 2013; Swift et al. 2013).

Learning disability and marriage

There are around a million people in England who have some degree of learning disability, although only around 20% of this group receive support from specialist learning disability services (Public Health England 2014). The population of people with learning disabilities is diverse and ranges from those with 'borderline' or 'mild' learning disabilities through to people with multiple and complex needs who require 24-hour support. Learning disabilities, particularly mild learning disabilities, are more prevalent amongst families from lower socio-economic groups (Department of Health 2001). Moreover, whilst learning disabilities occur across all ethnic groups, the associations between learning disability and poverty, social disadvantage and lack of adequate healthcare may be some of the reasons why there is an over-representation of learning disabilities amongst some South Asian communities (Emerson et al. 1997; Mir et al. 2001).

It is not known how many people with learning disabilities are married. Historically, people in the United Kingdom who were 'officially' identified as having a learning disability were prevented from marrying by policies which promoted segregation – both segregation from wider society and intra-institutional segregation of the sexes (Ryan with Thomas 1987). Despite this, early research in this field found that people with learning disabilities who avoided being institutionalised could and did have successful and mutually supportive marriages (Craft and Craft

1979). More recently, as social attitudes towards sex and marriage have grown more liberal, both sex and marriage have become more possible for people with learning disabilities (Fyson 2014). However, despite national policy in England which states that 'The right to marry or have a civil partnership is both a civil and a human right; local systems should enable practice that supports the individual's choice with regard to forming and sustaining relationships' (HM Government 2009, 92), it remains the case that people with learning disabilities who wish to marry may have to overcome significant barriers in order to do so (The Guardian 2014).

Promoting an understanding and awareness of forced marriage of people with learning disabilities has sometimes sat uncomfortably alongside promoting the right to marry for those who wish to do so, but the full and effective enactment of human rights requires both issues to be recognised and respected. Free and full consent to marriage is key in both cases: people with learning disabilities must be free to marry if they have the capacity to consent, but where capacity to consent is lacking or consent is not freely given then this is a forced marriage and therefore illegal.

Assessing capacity to consent to marriage is a complex undertaking. Whilst in most circumstances the Mental Capacity Act 2005 allows for a 'best interest' decision to be made on behalf of an individual who is judged to lack the capacity to make a particular decision for themselves, decisions regarding marriage are specifically excluded (Department for Constitutional Affairs 2013). This means that it is not lawfully possible for a parent or guardian (or, indeed, the Court of Protection) to decide on behalf of a person who lacks capacity to consent that it is in their best interest to marry. In order for a marriage to be lawful, both people must have the capacity to consent to marry of their own volition. This means that there may be some people with more severe or profound learning disabilities who are not lawfully able to marry.

Methodology

The findings reported in this article are those of an exploratory study which sought to understand: whether there are demographic differences between forced marriage of people with learning disabilities and of people without learning disabilities; what professionals know and understand about forced marriage of people with learning disabilities; and how professionals responded to cases of forced marriage of people with learning disabilities. The study used a combination of qualitative and quantitative methods; it received ethical approval from the research ethics committee of the School of Sociology & Social Policy, University of Nottingham, UK.

In the first phase of the research an interview topic guide was developed by a small working group of social care professionals, all of whom were experienced in working with people with learning disabilities and either had experience of working to safeguard people with learning disabilities from forced marriage or had experience of working therapeutically with people with learning disabilities

[AQ15](#)

who had been victims of forced marriage. The interview topic guide was designed to elicit information from professionals with direct personal experience of working with cases involving the (alleged) forced marriage of someone with a learning disability. Interviewees were then recruited using purposive sampling from amongst the extensive professional networks of two national charities working in the field of learning disability and abuse – the Ann Craft Trust and the Judith Trust. Using this approach, nine interviewees were recruited: two social workers; a speech and language therapist; a police officer specialising in forced marriage; a non-governmental organisation consultant specialising in working with South Asian communities; two community development workers who supported families of South Asian heritage who had children with disabilities; a family law barrister with expertise in forced marriage; and a clinical psychologist working with people with learning disabilities. Interviewees were from a range of ethnic backgrounds, including White British and British Asian. The eclectic sample reflects the wide range of professionals who may be involved in cases of forced marriage.

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The interviews focused on professionals' experiences of working with people with learning disabilities who had been forced to marry or who had been at risk of being forced to marry. Each interview lasted between 55 and 85 minutes and, with the written consent of participants, was audio-recorded and transcribed in full prior to analysis. The transcripts were subjected to a thematic analysis of content in order to identify common emergent themes from the different respondents. Themes arising from the interview data were both used as findings in their own right and used to inform the second phase of the study.

The second phase of the study involved using the emergent themes from the interview data to inform the creation of an online survey. The purpose of the survey was to better understand the knowledge, experiences and opinions of relevant professionals regarding forced marriage of people with learning disabilities. The survey included opportunities for both tick-box (quantitative) and open-ended (qualitative) responses and was designed to be completed by professionals both with and without direct experience of forced marriage of people with learning disabilities. The survey was not intended to determine the prevalence of forced marriage of people with learning disabilities. Rather, it was designed to obtain information not only on professional perspectives of specific cases of forced marriage but also more generally on professional understandings of the reasons for forced marriage and suggestions for improving policy and practice.

Snowball sampling was used to generate respondents for the survey: starting with interviewees and other professional contacts of the Ann Craft Trust and the Judith Trust. Anyone who completed the survey was asked to forward the survey link to any of their professional contacts for whom it might be relevant. A total of 287 people completed the survey. Of these, 71 respondents provided anonymised details of specific cases of forced marriage of people with learning disability that they had been professionally involved with. Other respondents offered their professional views, based more widely on their experiences of working with children

and adults with learning disabilities, about whether the issue of forced marriage was recognised and understood within the services they worked in. The resultant quantitative data were analysed to provide simple descriptive statistics; qualitative data were subject to thematic analysis of content in the same way as the interview data.

A notable limitation of the present study was that the views of people with learning disabilities were not sought. Very little is known about the lived experiences of people with learning disabilities who are forced to marry, not least because the link between disability and forced marriage is only just beginning to be recognised. Reflecting the parlous state of current knowledge, and the difficulties in identifying and accessing people with learning disabilities who have been victims of forced marriage, the key aim of this study was simply to explore practitioners’ understanding and awareness of forced marriage of people with learning disabilities. However, the authors are currently undertaking further research on this topic which does directly involve people with learning disabilities, both as research participants and as members of the project advisory board.

Whilst the exploratory nature of the study may limit the generalisability of the findings which follow, the study nevertheless provides some valuable new insights into a poorly understood and under-researched area.

Table 2. Professional backgrounds of survey respondents.

Professional background	Number of respondents	Percentage of respondents
Social work	70	24
Police	22	8
Health	45	16
Voluntary sector	19	7
Other	76	26
Did not say	55	19
Total	287	100

Survey respondents were drawn from people with a wide range of professional backgrounds in the statutory and non-statutory sectors, as shown in Table 2. The category of ‘other’ included clinical psychologists, educational psychologists, speech therapists, school teachers, further education lecturers, advocates and others working in youth and adult care services.

Main findings

Whilst not claiming to be definitive, the findings from this study appear to demonstrate both some similarities and some significant differences between the demographics of people with and people without learning disabilities who are forced to marry. Furthermore, the findings also illustrate some of the challenges which professionals face when trying to identify and prevent forced marriage of people with learning disabilities in the United Kingdom.

Demographics of forced marriage of people with learning disabilities in the United Kingdom

The 71 specific cases of forced marriage of people with learning disabilities identified by survey respondents were compared with the broader data on forced marriage collected by the FMU. The demographic data on ethnicity, age and gender suggest a number of ways in which the characteristics of forced marriage of people with learning disabilities may be both similar to and different from forced marriage of non-disabled people. Specifically, whilst the ethnic profile of learning disabled and non-learning disabled people forced to marry appears to be broadly similar, there appear to be significant differences between the two groups in relation to both age and gender.

In terms of ethnicity, of the 71 cases of forced marriage of people with learning disabilities identified by this study, 49 (almost 70%) victims were of 'South Asian: Pakistani, Indian or Bangladeshi' origin; three cases involved people identified as 'White British'; one person (<1%) was identified as 'White (other)'; one as 'Asian'; and one as 'Other Asian or Other Black'. However, cases discussed during interviews also included examples of people with learning disabilities of West African origin.

There are some broad similarities between the findings of this study and the FMU statistics in relation to ethnicity (see Table 1), with a significant majority of cases involving people from Pakistan, India or Bangladesh. However, some caution must be used when interpreting these data because the information collected for this study differed from that collected by the FMU. This study recorded the ethnicity of alleged victims of forced marriage where this was known, whereas the FMU does not record ethnicity per se, but simply records the country where the alleged forced marriage took place or was being planned to take place. Therefore, whilst the FMU data on country provide a useful proxy for ethnicity in many instances, it tells us nothing about the significant proportion of marriages which fall into their 'other' category and include forced marriages where both parties were UK citizens or UK residents.

Notably, of the cases identified in this study, the vast majority of marriage ceremonies took place outside the United Kingdom with 80% taking place in Pakistan, Bangladesh or India. This was a higher proportion of marriages taking place overseas than in the FMU sample and may reflect the fact that cases identified in this study were skewed towards a particular ethnic profile. There may be a number of reasons why the majority of cases of forced marriage of people with learning disabilities were reported by this study as occurring in South Asian communities. This includes the fact that the United Kingdom has a well-established and sizeable South Asian population and that many South Asian communities have a strong cultural tradition of arranged marriage, with both marriage and 'honour' being held in high regard. However, the findings may also reflect reporter bias: namely, professionals think that they 'know where to look' in order to find cases of forced marriage and therefore overlook or fail to spot cases of forced marriage

Table 3. Age in identified cases of forced marriage of people with learning disabilities.

Age	Percentage of cases identified	Comparative average from HO/FCO (2012) (%)	Comparative average from HO/FCO (2013) (%)	Comparative average from HO/FCO (2014) ^a (%)	Comparative average from HO/FCO (2015) (%)
Under 18	11 ^b	35	40	22	27
18–21	23	30	33	17	20
22–25	23	19	15	14	15
Over 25	18	16	10	15	17
Not known	25	–	–	32	21
Total	100	100	100	100	100

^aNote changes to FMU data, which now record separately the proportion of cases where the victims’ age was not known.

^bNone of the cases identified in this research related to any person aged 13 or under.

in other communities or ethnic groups. A study by Refuge (2010) highlighted the experiences of women from the Middle East and North East Africa who are forced to marry and it is likely that this group includes people with learning disabilities.

Table 3 presents the ages (where known) of victims of forced marriage of people with learning disabilities identified in this survey in comparison with ages of victims known to the FMU in 2012, 2013 and 2014. Whilst there are some similarities in the age distribution, there were also some notable differences. Firstly, although almost one-fifth of the cases involved a young person who was still attending school or college, there were no cases identified where a learning disabled victim was aged 13 or younger. This is in contrast to FMU cases which include children as young as two years old (HO/FCO 2013). Secondly, 18–25 appears to be the age range at which people both with and without learning disabilities are most vulnerable to forced marriage. Thirdly, a greater proportion of people with learning disabilities than people without learning disabilities who are forced to marry are aged older than 25.

However, it was in relation to gender of victim that the most significant differences between the information gathered by this survey and the FMU statistics were found. Table 4 demonstrates that of the cases this study identified, 45% of forced marriage victims were female, 38% were male and in 17% of cases the gender was unknown. Discounting the ‘unknown’ category, this gives a female-to-male ratio of 54:46.

Whereas FMU data show a fairly constant overall pattern of around 80% of victims of forced marriage being female, hence a female-to-male ratio of 80:20 or 4:1, the findings from this survey suggest that forced marriage of people with learning disabilities is a more gender-neutral phenomenon, with a female-to-male ratio close to 1:1. The potential reasons for this gender difference are manifold and may include a range of complex cultural factors relating to perspectives on disability and the notion of caregiving. It may also be that most cases (91% of those in this survey) of forced marriage of a person with a learning disability are reported by a third party, whereas many/most cases of forced marriage within the general population are reported by victims; these findings reflect the fact that female victims

Table 4. Gender in identified cases of forced marriage of people with learning disabilities.

Gender	Number of cases	Percentage of cases
Female	32	45
Male	27	38
Not known	12	17
Total	71	100

may be more willing than male victims to self-identify in this way. However, this seems unlikely to account for such a large difference and, taken together with the qualitative evidence, does strongly suggest that vulnerabilities associated with gender are an area of significant difference between forced marriage of people with and without learning disabilities.

Professionals’ experiences with forced marriage of people with learning disabilities

Because this was an exploratory study, which inevitably largely attracted participation from professionals with some degree of awareness or understanding of the issues surrounding forced marriage, it was not possible to draw any conclusions about the overall state of relevant professionals’ knowledge of this topic. However, the interviews and qualitative survey data did identify some important factors which contribute to our understanding of this phenomenon. Three themes emerged particularly strongly from the data: that professionals need to understand why some parents believe marriage to be the best option for their learning disabled son or daughter; that parents and professionals often have very different understandings of both disability and consent; and that sensitive and timely professional interventions can prevent forced marriages from proceeding. Each of these issues will be considered in turn and illustrated with case examples drawn from the qualitative elements of this study.

Understanding who may be forced to marry needs to be considered within the context of why someone may be forced to marry. Motivators for forced marriage in the general population have been identified as including: preserving family honour; respecting promises made during childhood; maintaining cultural tradition; keeping wealth and property within the family; preventing unsuitable relationships; and controlling unwanted behaviour (HM Government 2014). Whilst some of these may also be contributory factors in forced marriage of people with learning disabilities, the current study identified that the main motivation in such cases was wanting to obtain a carer for the person with a learning disability.

Professionals described how families they had worked with saw marriage as the best way of securing their child’s future care needs. A social worker described this situation as being one in which ‘their paramount thought is around long term care of their child’. In this way, forced marriage was linked not only to obtaining physical assistance for ageing parents in caring for their learning disabled child and themselves, but also to providing financial security after the parents retired or died.

A 33 year old woman with a severe learning disability told her social worker she was going with her mother to buy clothes and jewellery and was going to a party where there would be lots of people to play with. She was very excited and looking forward to it and said that, afterwards, someone else would look after her. The social worker was concerned that a marriage was going to take place and that the woman did not have capacity to consent to it, so informed the police. It transpired that her mother was an elderly widow looking for a long term carer for her daughter and there was no conscious intent to her force the daughter into marriage. The mother couldn't grasp that what she was doing was wrong and thought that marriage would encourage her daughter to be more mature. She didn't consider the long term effects or possible consequences including rape and bearing children. Following discussions between the social worker and mother the daughter did not marry and remained at home being supported by professionals. The mother also required support to deal with pressure put on her by extended family at her decision not to allow the marriage to go ahead.

A police officer involved in the case commented that: 'From her point of view this was a perfectly legitimate way of finding care for her daughter and [she] couldn't really understand why the authorities were becoming involved'.

AQ17

As was evident in this case, where the mother believed that marriage would 'encourage her daughter to be more mature', another important motivation for forced marriage of people with learning disabilities which was not apparent in the general literature was its association with (mis)understandings of disability. Other studies have noted that there is 'a belief amongst several ethnic minority cultures that a learning disability can be cured' (Singh and Orimalade 2009, 406) and this (mis)understanding was evident in the present study. Professionals reported that, in some communities, parents saw marriage as a rite of passage that might 'normalise' or even 'cure' their learning disabled son or daughter.

These findings about the motivators in cases of forced marriage of people with learning disabilities may go some way to explaining the demographic differences between people with and without learning disabilities who are forced to marry. If 'care and cure' are the prime motivators behind forced marriage of people with learning disabilities, then it follows both that men and women may be equally likely to be forced to marry and that the risk of forced marriage remains – and in some instances may increase – with age. However, what this also means is that, in many or most cases of forced marriage involving people with learning disabilities, both spouses may be seen as victims. In such cases the non-learning disabled spouse had often agreed to an arranged marriage, but was unaware that their intended marital partner had a learning disability. Interview and survey respondents described examples of both the learning disabled and non-disabled spouse in forced marriages being treated as the family's unpaid servant and having their freedom to go out alone curtailed. Other consequences of these marriages, reported by some professionals, included emotional abuse, abandonment, physical or sexual assault, and continued rape until pregnancy occurred. Such events are clearly a gross breach of human rights.

A young woman was coerced into marrying a man with a learning disability and degenerative illness on the basis that he would not live long and she would then be free. As

the community development worker suggested 'this is a double forced marriage, it's questionable whether anyone is giving their willing consent'.

In another case, a man with severe learning disabilities told his social worker that his mother wanted him to marry a woman from abroad who was coming to visit them. The man was anxious about the responsibilities of marriage, but his social worker did not want to interfere for fear of being culturally insensitive. The marriage went ahead, but the wife – who had not known that her intended spouse had a learning disability – abandoned the marriage after just two weeks. This had a profound impact on the man's self-esteem: he became withdrawn, stopped attending the day centre and his life became limited to the home environment.

[AQ18](#)

Despite the abuses which professionals readily (at least in hindsight) identified as connected to forced marriage, families were reported as typically not viewing the marriage as forced because they had not used either physical force or other overt forms of coercion. Rather, in most cases, the learning disabled family member had simply gone along with the marriage plans and parents had not recognised or understood that their son or daughter lacked the capacity to consent to marriage. As noted in the Introduction, some people with more severe or profound learning disabilities will never have the capacity to give informed consent to marriage. Of the cases of forced marriage identified by survey respondents, only a minority involved people thought to have capacity to consent to marriage: 13% were reported to have the capacity to consent to marriage compared with 39% who did not, with capacity being unclear in the remaining 31% of cases.

The social worker of a South Asian young man in his twenties with complex needs arising from learning and physical disabilities was told by his parents that their son was going on holiday to get married. When the social worker pointed out that he may not have the capacity to consent to marriage the parents replied that in their culture his consent was not required.

[AQ19](#)

Cases such as this show how, for some families, obtaining the consent of the person with a learning disability is not seen as necessary: these parents were acting in good faith and acting in what they perceived to be the best interests of their son. As others have noted:

Forced marriage is a complex, nuanced and difficult problem. It is burdened with perceptions of cultural difference and misunderstandings ...; it is sometimes hard for public officials and concerned friends and family to discern the differences between what is forced and what is arranged. (Wind-Cowie, Cheetham, and Gregory 2012, 21)

In the case of forced marriage involving someone with a learning disability, the exact line between forced and arranged marriages may be even harder to decipher because the issue of consent adds a further degree of opacity. It could be argued that while professionals regard consent as a concept with a specific legal meaning, people in some minority ethnic communities may regard consent to marriage as culture specific. Or, to put it another way, some people's cultural understanding of consent to marriage is at odds with the UK legal framework for consent to marry. How these situations will be viewed within the context of the new legislation surrounding forced marriage is not clear. Parents 'arranging' a marriage will have

committed a criminal act if their child does not have capacity to consent, even if they are acting with the best of intent.

Notwithstanding these cultural and legal minefields, the study did suggest that professionals could play a crucial role in identifying and preventing forced marriage of people with learning disabilities. Of the 71 cases identified by survey respondents, almost four-fifths (78%) of victims were receiving some type of support service – such as day care, health care or direct payments – and only 22% of victims had no contact with learning disability services of any kind prior to the marriage taking place. However, being in receipt of services was only a protective factor in cases where staff had some understanding of the issues and knew what warning signs to look out for.

A 22 year old woman with a moderate learning disability told her day centre worker that she was going on holiday to get married and that her parents had bought her a new dress and jewellery. The worker did not believe that this could be true as they did not believe that people with learning disabilities could have relationships or marry. Moreover, the woman in question did not have a boyfriend and in view of this it seemed even more unlikely that she would get married. The worker assumed she was talking about her sister getting married and so did not report it to anyone. The young woman went on holiday and did not return to the day centre. Staff later found out that she had been taken abroad and married. It transpired that the marriage had been agreed when she was a child.

[AQ20](#)

As noted in the Introduction, previous research has found that professionals sometimes lack knowledge of forced marriage and fear getting things wrong when working with individuals whose culture they little understand (Chantler 2012). This case illustrates how, where staff lack an awareness and understanding of forced marriage, even direct disclosure by the person with a learning disability may not prevent a forced marriage from taking place. In this case, the naïve, incorrect and disablist assumption by the day-centre worker that people with learning disabilities do not or cannot have romantic relationships, coupled with her lack of cultural competence, resulted in a lack of intervention. It later emerged that the worker had feared being perceived as racist or culturally insensitive – the interviewee said they were 'afraid of being accused of being politically incorrect'. By contrast, however, there were also cases where professionals with a clear understanding of the issues were, working cooperatively, able to prevent forced marriages from going ahead:

The father of a young woman with severe learning disabilities visited the GP and said that the family was travelling abroad so that his daughter could get married. Recognising that the daughter lacked capacity to consent, the GP informed the community nurse and social worker. The father also visited the day centre that his daughter attended and asked a member of staff to sign a passport application for his daughter: he said that the family were planning a holiday and the daughter would be staying indefinitely. The day centre manager recognised this as a potential case of forced marriage and alerted the social worker who invoked adult safeguarding procedures. This eventually led to the involvement of the Court of Protection who ruled that the young woman lacked the capacity to consent to marry and made an order banning her from travelling overseas. This prevented the marriage from occurring.

[AQ21](#)

Conclusion

This exploratory study involving a small but diverse range of participants has revealed that forced marriages involving people with learning disabilities display different characteristics, in terms of both victims and motivators, than forced marriage of people without learning disabilities. This in turn means that rather different professional responses may be needed to identify and prevent these cases of forced marriage.

Firstly, practice could be enhanced by a greater awareness amongst relevant professionals that forced marriage may be equally likely to affect men or women with learning disabilities. This study was the first to identify that forced marriage of people with learning disabilities does not follow the same gendered pattern as forced marriage in general, where victims are predominantly female. Earlier this year, the FMU for the first time published a breakdown by gender of cases of forced marriage where one or both spouses were disabled (HO/FCO 2016). The FMU data found that, of the 141 cases that were known to involve a disabled victim, a majority involved a male disabled victim: men accounted for 87 cases, or 62% of all cases involving a disabled person (HO/FCO 2016).

Secondly, it is important that professionals recognise the complex motivators behind and subtle indicators of forced marriage of people with learning disabilities: neither physical force nor overt coercion is necessarily found in these cases; rather, the key concern regards capacity to consent. As noted earlier, however, consent has been shown to be a culturally specific concept and this therefore poses challenges to professionals involved in upholding the civil, legal and human rights of adults with learning disabilities who may be at risk of, or have experienced, forced marriage.

Taken together, what we now know about the contributions of both gender and culture to forced marriage of people with learning disabilities suggests that professionals working in this field need to radically reconsider what they (may think they) know about forced marriage. In the specific context of learning disability, it appears that forced marriage is most often driven by a desire to secure culturally appropriate care and therefore males and females are equally at risk. Data from the FMU showing higher numbers of cases involving men are likely to be a reflection of the fact that more men than women have learning disabilities (Emerson et al. 2012).

These findings call for careful consideration of how current policies are framed and highlight the need for professionals across health, social care, education and police services to be supported to gain a better understanding of how the intersections between disability, gender, ethnicity and culture play out in relation to forced marriage. Since the turn of the century, a rights-based approach to learning disability policy (Department of Health 2001; HM Government 2009) has emphasised the right of people with learning disabilities to have relationships and to marry. However, this championing of human rights has not been matched by efforts to

simultaneously ensure that professionals understand how the (human) right to marry may, for some people with learning disabilities, need to be balanced against the right not to be forced to marry. Evidence from elsewhere suggests that, at present, those working with people with learning disabilities are too often lacking in cultural competence (O'Hara 2003). As a result, too many people with learning disabilities from ethnic minority communities receive poorer services than their counterparts in majority white communities (Mir et al. 2001). This lack of cultural competence, leading to a lack of appropriate service provision, is a key cause of forced marriage of people with learning disabilities.

Human rights are universal, but the enactment of these rights is socially and culturally determined, as is accepted practice in relation to both marriage and learning disability. The particularities of forced marriage with people with learning disabilities in the United Kingdom (and elsewhere) require a response which ensures that rights, including the right to be safeguarded from harm (Clawson 2016), are upheld and adequate services are provided in a culturally sensitive manner. At the same time, however, professionals must seek to avoid cultural relativism. That is to say, professionals must not respond differentially to actual or potential human rights abuses simply because of the victims' ethnic, religious or cultural background or other irrelevant characteristic. It is beholden on professionals that they do not dismiss forced marriage of people with learning disabilities as simply a concern of a minority within a minority. If human rights are to mean anything, they must be made a reality for each and every person.

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