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HONOUR-BASED ABUSE IN THE COURTS:

SHAPING STRATEGY FOR KEY ISSUES

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THE CHALLENGE

The purpose of the civil and criminal justice system is to ensure that people can obtain the necessary legal remedies and protection they require, and for criminals to be appropriately deterred and punished for their crimes. But, for victims of honour-based abuse (HBA) and forced marriages (FM), this is not always the case. Shortfalls in law, policy and procedure can leave victims feeling isolated, vulnerable, and without obtaining the adequate support they need from state agencies.

Recognising this shortfall, Dr. Idriss together with *The Iranian and Kurdish Women's Rights Organisation* and *The Sky Project*, initiated the 'HBA and the Courts Project'. The project came together because of the low prosecution and conviction rates for HBA and FM and high discontinuance in the criminal courts, and low applications for Forced Marriage Protection Orders (FMPOs) in the civil courts. The purpose of the study was to better understand the current picture of what is and what is not working well, and what can be done to improve outcomes for victims and bring perpetrators to justice in the courts. The project started with four priority areas: the police, the Crown Prosecution Service (CPS), local authorities and the courts (both civil and criminal).

During 2023, data was collected via an online survey with 35 participants who had extensive legal experience of dealing with HBA and FM in the criminal justice system or the civil justice system. This was followed by 13 in-depth interviews with additional participants, which explored personal experiences and perceptions of the legal system and procedures and identified areas for improvement.¹

¹ You can read the detailed qualitative findings in the full research report on the Manchester Metropolitan University website: ?????

WHAT WE DISCOVERED

The majority felt, despite some challenges, that there was sufficient support for victims of HBA and FM. With the development of new legislation, including controlling and coercive behaviour, FM and breaches of FMPOs now constituting criminal offences, they felt the armoury of the police to investigate and prosecute offenders has been widened. Participants identified areas of good practice and where police, often the first point of call for victims, were able to safeguard victims, sometimes without the need for any further action, including criminal prosecution. This was the result of strong engagement with victims and the building of trust and confidence. In some instances, victims had been successfully relocated away from perpetrators and abusive families and rehoused in locations in different parts of the country or in designated safehouses.

These positive narratives demonstrate the close working relationship between the police and CPS and the obvious need to build effective and sustainable relationships to help build important evidence and bring criminal charges against perpetrators.

However, the study revealed that prosecutions are not always pursued, often at the insistence of victims. This is for a variety of reasons, including not wishing to bring further 'dishonour' and shame to the family, victims being unable to leave home because of strong family ties, and the simple desire not to see parents and loved ones prosecuted for criminal offences.

Nevertheless, in those small number of cases brought before the criminal courts, courts were commended by participants for adopting special measures to support vulnerable victims in providing their testimonies, together with the opportunity to bring in expert witnesses to explain the cultural aspects around HBA and FM and to explain the circumstances and motivations behind such criminal offences.

In relation to the civil courts, the family courts were also praised for setting up hearings to consider applications for FMPOs quickly, sometimes on the same day in emergency cases. Applications for granting FMPOs in the family courts were thought to be

easily obtainable, with judges in the family courts being generally described as 'knowledgeable' of the issues.

Low prosecution and conviction rates

Attrition and discontinuance rates are often high in criminal cases because victims do not wish to see perpetrators and loved ones prosecuted. From the interview data, this accounts for the main reason for the low prosecution and convictions rates in the criminal courts, as opposed to any major abstract failure on the part of the police or other state agencies. While there is a drive to prosecute perpetrators, the study shows that victims may feel pressured to retract statements and discontinue proceedings.

It is easy to criticise the police and the CPS for low prosecution and conviction rates, but if victims do not wish to pursue criminal proceedings against family members, this criticism may be unjustified. However, it was recommended by some participants that the CPS should consider victimless and evidence-led prosecutions, should victims withdraw and retract their statements. This may help to send a clear message to perpetrators that they will not escape justice, especially in those cases where family members blackmail victims to withdraw their complaints. Pursuing victimless and evidence-led prosecutions, though admittedly controversial (in that they may be pursued against the victim's wishes), has already been pursued by the CPS in relation to coercive and controlling behaviour and may help to improve prosecution and conviction rates in HBA and FM cases.

"HBA VICTIMS DO NOT WISH FOR THEIR PARENTS TO GO TO COURT. THEY DO NOT WISH FOR THEIR PARENTS TO BE 'STAINED'. THAT IN ITSELF IS A 'DISHONOUR'. IT WILL BE EMBARRASSING. THE WHOLE FAMILY NAME. IF IT'S REPORTED ALL OVER THE NATIONAL OR REGIONAL MEDIA"

The CPS was also criticised for not prosecuting cases in situations where investigating police officers believed that there was ample evidence to secure a conviction. For example, this included cases where there was clear and direct evidence (e.g., through text messages) that a perpetrator had been violating the terms of an FMPO.

Another issue identified was the Home Office Counting Rules and the Principal Crime Look-Up Table, which does not contain 'Forced Marriage' as a separate entry. Some participants further explained that 'criminal attempts' of FM are often recorded as 'non-crimes' by the police and therefore not prosecuted as an offence, because an assault has not been carried out.

Lack of training and awareness

Local authorities and police officers were also criticised for their lack of knowledge and training on HBA, and FM. Local authorities in particular were blamed for not fully understanding the issue of 'honour' and culture, and generally not appreciating family dynamics that can lead family members to be so deceptive in these types of cases. Local authorities may look for signs of child neglect when it concerns minors, but unfortunately this has little bearing on FM. Many minors at risk of HBA and FM may come from 'good' families and backgrounds, where they may appear well-looked after – yet it is the cultural and traditional belief systems that determines whether a minor is at risk of HBA, or FM. Local authorities were recommended to look beyond conventional signs of abuse and appreciate the family dynamics in HBA and FM cases in order to assess risk to vulnerable victims.

"I PERSONALLY THINK THAT ON HONOUR-BASED ABUSE AND FORCED MARRIAGE IS GENERALLY NOT GIVEN THE LEVEL OF SIGNIFICANCE IN MOST ORGANISATIONS THAT IT SHOULD HAVE, BECAUSE IT'S UNDER-REPORTED AND BECAUSE WE DON'T RECOGNISE IT VERY WELL"

"...SOCIAL WORKERS DO NOT UNDERSTAND THE RISKS OR THE THRESHOLDS (WHICH ARE LOW) TO BE ABLE TO GO TO COURT AND AS SUCH HAVE NOT PROGRESSED SECURING OF ORDERS [E.G., FMPOS] IN RELATION TO HBA/FM DUE TO LACK OF KNOWLEDGE"

Front line police officers were criticised for their lack of knowledge on HBA and FM, with police officers criticising the training provided by superiors. It was stated that 30-minute online learning was insufficient to learn about such complex issues as 'honour', culture, religion, HBA and FM. This is especially the case for new recruits, who have no avenue to ask further questions or to seek

further guidance face-to-face with the support of a knowledgeable trainer. This may ultimately impact on an officer's ability to recognise HBA and FM in the first instance at the reporting stage, as well as adopting appropriate measures for intervention and support. It was recommended that induction training should be provided face-to-face by those who have experience of HBA and FM.

"THE BIGGEST THING IS THE LACK OF TRAINING, THE LACK OF TRAINING AND RESOURCES IN, I WOULD SAY, EVERY POLICE FORCE IN THE UNITED KINGDOM AROUND HONOUR-BASED ABUSE AND FORCED MARRIAGE. THERE'S, THERE'S NO BESPOKE TRAINING"

There also remains an underlying issue about knowledge, training and awareness amongst the courts and with judges themselves. Improvement of judicial awareness of HBA and FM in the criminal and civil courts was recommended, as lack of awareness can have an impact on positive outcomes and judicial decisions.

Case Study 1

There were instances in the criminal courts, where the CPS had presented a murder as 'honour'-based, and although the offender was eventually convicted of murder, the judge did not acknowledge it was a so-called 'honour' killing, thereby missing out on an opportunity to send an important public message that there is no 'honour' in such murders.

Case Study 2

In the study, it was revealed that a female had sought a Forced Marriage Protection Order from the family courts for her children (there was evidence her estranged husband wanted to take her young daughters to Pakistan to get married). It was granted, but the female wanted it to be renewed when its expiration was drawing near. The case went before a family judge, who declined to renew the FMPO, despite strong evidence of the risks involved (supported even by police). She then went to court to apply for a new, separate FMPO – it went before the same judge, who declined again. The female now must resort to apply for an FMPO in a different region before a different judge when the children reach teenage years to obtain an FMPO. This raises the issue about judicial awareness and protection of vulnerable people – given that the civil courts work to the balance of probabilities, it is unclear why the family judge in this instance refused the application to impose an FMPO to protect the children concerned.

THE EVIDENCE FOR CHANGE

While the research revealed a broad recognition of the positive work already undertaken to improve responses to HBA and FM, the study highlighted several key areas for improvement.

Recommendations for Police Forces:

- Appropriately resourced and staffed specialist/expert investigation teams should be created to investigate HBA and FM cases 24 hours a day. These could be housed under each police force/region, or a national HBA/FM unit that is able to oversee cases across the country, with the support of local police forces. This may require a recruitment drive to ensure adequate staffing.
- Improved, widespread and continuous bespoke training is needed for all police officers at all levels. Short, online courses are not sufficient to train police officers on complex matters such as HBA and FM.
- As civil preventative measures are often preferred by victims (they do not criminalise family members unless there has been a breach of the order), police forces should be encouraged to apply for FMPOs more, without the fear of being 'culturally insensitive' or being labelled as 'racist'.

Recommendations for the CPS:

- The CPS should consider the viability of pursuing victimless and evidence-led prosecutions in HBA and FM cases.
- The CPS needs to investigate why some prosecutors are declining to proceed with prosecutions, preferring to discontinue cases where there is evidence of the commission of offences.
- The CPS needs to investigate why there are a lack of prosecutions for breaches of FMPOs and other preventative orders when there is evidence of breaches.

Recommendations for Local Authorities:

- Improved, widespread and continuous bespoke training is needed for all local authority employees at all levels. Short, online courses are not sufficient to train local authority employees on complex matters such as HBA and FM.
- As civil preventative measures are often preferred by victims, local authorities should be encouraged to apply for FMPOs more, without the fear of being 'culturally insensitive' or being labelled as 'racist'.

Recommendations for the Courts:

- The existing sentencing guidelines do include HBA and FM. Unfortunately, this is too brief and no further guidance is given on the uniqueness and aggravating features such cases present (including 'family councils' and multiple perpetrators), nor is there any mention of the prohibition of 'honour' being used as cultural mitigation/defence by perpetrators. The Sentencing Council must urgently review this.
- The courts (together with the CPS) are encouraged to apply s.66 of the Sentencing Act 2020 in relation to HBA-related and FM offences, especially in those cases where violence and abuse is carried out based on 'hostility' towards a victim, including racial or religious hostility, disability, sexual orientation and transgender identity.
- At present, FMPOs can only be applied for in the civil (family) courts. FMPOs should be imposed by criminal courts as an additional remedy at the disposal of criminal judges.
- The Judicial College must provide improved, widespread, and continuous bespoke training on HBA and FM for judges across all levels, both civil and criminal.

Recommendations for the Government:

- There is support for the creation of a statutory definition of HBA, which will place a legal duty on statutory organisations to recognise and identify HBA under the law and in the courts.
- A new criminal offence of HBA would make it illegal to commit acts of HBA, recognising the seriousness of such acts and the aggravating features such acts involve. It would also enable proper recording and statistical data collection.
- The way data on HBA and FM offences are collected and recorded is currently inaccurate, including the way in which some police forces rely on and use the Home Office Counting Rules. FM is not included within the 'Principal Crime Look-Up Table' and is sometimes recorded as a non-crime by police. FM (including attempted FM) should be included within the Look-Up Table by the Home Office.
- FMPOs already exist in relation to FM cases, but there is no equivalent in HBA cases not involving FM. As civil and preventative measures are often preferred by victims (as opposed to criminal prosecutions), HBA Protection Orders is one option that could help protect HBA victims and enforce/protect their rights.
- More central funding is needed to support HBA and FM victims, including special designated safehouses. The Ministry of Justice should provide that Legal Aid in these cases should not be means-tested. Victims should not bear the burden to pay for documents held by state agencies (e.g., criminal court judgements of criminal convictions, which may be relevant to family proceedings; or the production of a marriage certificate to verify a (forced) marriage has taken place). Nor should state agencies have to pay for these documents in between themselves (e.g., the police asking a local registry office to confirm whether a marriage has taken place and then being requested to pay for that certificate by the registrar).
- To improve intervention and support for victims, the Home Office needs to create an improved and separate strategy for male victims. There is currently no separate strategy for men and young boys victimised in domestic abuse, and there is limited funding. A separate strategy for men will help to improve awareness and recognition that men too can be victims of HBA and FM and can access state services.

MORE CENTRAL FUNDING IS NEEDED TO SUPPORT HBA AND FM VICTIMS, INCLUDING SPECIAL DESIGNATED SAFEHOUSES. THE MINISTRY OF JUSTICE SHOULD PROVIDE THAT LEGAL AID IN THESE CASES SHOULD NOT BE MEANS-TESTED. VICTIMS SHOULD NOT BEAR THE BURDEN TO PAY FOR DOCUMENTS HELD BY STATE AGENCIES.

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