**Submission by Southall Black Sisters to the Office of the United Nations High Commissioner for Human Rights.**

**Progress made by the UK government to end child, early and forced marriage and to support affected girls and women.**

1. Founded in 1979, Southall Black Sisters (SBS) is a leading UK based non-governmental organisation (NGO) for black and minority ethnic (BME) women. The bulk of our advice, advocacy and counselling work is directed at supporting girls and women subject to gender-based violence and related issues such as homelessness, immigration, poverty and mental health. We also campaign and conduct policy, strategic litigation, educational and research work in this field.
2. SBS has worked on forced marriage, incorporating child and early forced marriage (CEFM) for almost 40 years. We support girls and women, typically aged between 14-24, who are at risk of, or who have experienced CEFM. We deal with 536-576 forced marriage cases and enquiries annually; including young British women and girls repatriated to the UK after being taken abroad for the purpose of forced marriage. SBS was an original member of the Home Office Working Group on Forced Marriage (1999); the first government body to investigate the issue in the UK. SBS was centrally involved in the creation of the Forced Marriage (Civil Protection) Act 2007 and the statutory and practice multi-agency forced marriage and honour-based violence (HBV) guidelines that followed. We have also worked with the police and the Crown Prosecution Service (CPS) to develop policies on forced marriage and HBV; and recently ran a successful campaign to force the government to scrap charges for repatriating victims of forced marriage to the UK.[[1]](#footnote-1)
3. Whilst we welcome the introduction of some tangible measures to prevent CEFM; largely driven by pressure from NGOs, we are yet to see anywhere near enough state commitment to ensure that girls and women are protected from this violation of their human rights, particularly following intervention. Progress is also seriously undermined by the government’s implementation of austerity measures; resulting in a lack of access to safe housing, sufficient welfare support and education; and a ‘faith-based’ approach that undermines women’s access to the formal legal system and to justice. Both factors place girls and women at greater risk of harm.
4. **What measures have been taken to implement the recommendations of the last report of the Secretary General on the issue of CEFM?**
5. The last report of the Secretary General (July 2018) outlined a total of 16 recommendations. Given the word count constraints, we highlight one key recommendation here:
* *Recommendation b: ‘Harmonise national legislation in line with international human rights standards on CEFM and amend/remove legal obstacles and loopholes preventing protection...Ensure that [legal] efforts to prohibit child marriage concord with efforts to address the root causes of the practice in communities…particularly affected, including measures to address poverty and the economic incentives to child marriage...’[[2]](#footnote-2)*
1. We have seen some harmonisation of national legislation in the form of forced marriage legislation and statutory guidelines;[[3]](#footnote-3) however the UK’s efforts are undermined by its failure to ensure that the legal and welfare infrastructure exists so that laws and policies are meaningfully implemented. The government has also failed to adopt a minimum age of 18 for marriage – as recommended in 2016 by the United Nations Committee on the Rights of the Child.[[4]](#footnote-4) The Marriage and Civil Partnership (Minimum Age) Bill 2016-2017 to raise the age to 18 successfully passed through the House of Lords, but did not progress to the House of Commons due to lack of time.[[5]](#footnote-5)
The revised statutory guidance on safeguarding children in 2018, *Working Together,* alsodid not include a section on CEFM.[[6]](#footnote-6) And there is still no ratification of the Istanbul Convention.
2. But the main obstacle to eradicate CEFM is the existence of structural factors that fuel CEFM. Rising poverty and recent changes to taxes and public spending risk derailing progress made, as cuts have fallen disproportionately on BME women.[[7]](#footnote-7) In 2015/16, 50% of Bangladeshi, 40% of Black African/Caribbean and 46% of Pakistani households were in poverty, compared to 19% of White British households.[[8]](#footnote-8) Additionally, draconian immigration controls that have cut off legal migration routes into the UK and access to housing and welfare support; and the rise of religious and conservative norms in BME communities, have also created formidable barriers to the detection, protection and prevention of CEFM.
3. **What type of measures are in place to end CEFM, including laws and policies as well as national and subnational action plans and programmes?**
4. In addition to national guidance, there are specific laws and wider Violence Against Women and Girls (VAWG) strategies and action plans, that also refer to forced marriage if not CEFM, in place (see question 3). However, these developments are undermined by the absence of robust accountability and evaluation frameworks - and inconsistent implementation by statutory and voluntary organisations. Significantly, sweeping cuts to specialist BME organisations have also cut off opportunities to strengthen practice and improve institutional knowledge and expertise in the area.
5. Relevant legislative measures include: the Anti-Social Behaviour, Crime and Policing Act 2014, which amended the Forced Marriage (Civil Protection) Act 2007 and created a separate offence of forced marriage, as well as criminalising breaches of Forced Marriage Protection Orders (FMPOs). The Forced Marriage Unit provides advice, support and an outreach programme - as well as part-funding a public helpline. In 2017, lifelong anonymity was introduced for forced marriage victims to encourage disclosures. In November 2018, the government consulted on a forced marriage mandatory reporting duty.[[9]](#footnote-9) And in January 2019, the government scrapped its policy of charging British women and girls for rescue and repatriation back to the UK, following forced marriage or risk of forced marriage abroad.
6. SBS advised against a mandatory reporting duty on forced marriage and against the creation of a new criminal offence of forced marriage (see attached consultation response). Drawing on our extensive casework experience, we anticipated that these would be counter-productive and discourage victims from seeking help. To date, despite the existence of criminal law, there have only been three prosecutions of forced marriage[[10]](#footnote-10) whereas in 2017 for instance, 247 FMPOS were made by the civil courts.[[11]](#footnote-11) Instead, we advocated for: strengthening the civil law and improving access to legal aid, education and welfare benefits, the creation of age-appropriate safe shelters and refuges, improved and consistent implementation of existing law by all the statutory bodies; and the mandatory teaching of relationships and sex education (RSE), with a focus on CEFM, in all schools.
7. An effective response has also been undermined by the uneven implementation of law, policies and guidance across the UK. A 2018 report by Her Majesty’s Inspectorate of Constabulary (HMIC) found that the police have ‘*some way to go before the public can be fully confident that…potential and actual victims [of HBV] are adequately…protected’. Indeed, ‘some are well below the standards we, and the public, expect from a police force’.[[12]](#footnote-12)*
8. **Please provide information on promising practices relating to the development and implementation of holistic, comprehensive and coordinated responses and strategies to prevent and eliminate CEFM.**
9. The government’s VAWG strategy: 2016 to 2020, refreshed in March 2019, outlines its commitments in this area. This represents a promising opportunity to develop holistic and coordinated responses to CEFM. Between January-March 2019, for example, the Home Office delivered training to 1300 frontline professionals on the effectiveness and scope of FMPOs and other orders. However, the key obstacle is not lack of awareness but the enactment of contradictory policies in areas to do with immigration, access to justice, housing and education and the lack of resources within statutory bodies and NGOs; all of which undermine the measures that are taken.
10. For instance, a holistic response to CEFM has been greatly undermined by the government’s prioritisation of immigration enforcement over its obligations to protect vulnerable groups subject to CEFM. The widespread policy of data sharing between the police and other statutory bodies and the immigration authorities, is particularly problematic and is currently subject to legal action by SBS and the civil liberties group -Liberty.[[13]](#footnote-13) SBS is calling for a comprehensive strategy on violence against migrant women specifically, to provide the framework for a holistic and intersectional approach which ensures that all women are properly protected and supported, including those with insecure immigration status and those seeking asylum.
11. The Department for Education (DfE) is introducing compulsory RSE for secondary school pupils from September 2020; which is an essential avenue to provide children with accurate and age appropriate information about practices such as forced marriage and HBV; as well as their rights and pathways to support. This is in danger of being undermined because the government has failed to show leadership and to support schools in the face of an intense backlash from conservative and fundamentalist forces; that are using the concept of ‘parent power’ to restrict the rights of children to education, if it does not align with their strict views on sex, family, gender and sexuality.[[14]](#footnote-14) Mixed messages and reticence from the DfE to publish robust guidance in this area has empowered those who oppose such teaching, including fundamentalist religious groups.[[15]](#footnote-15) Please see the recent judgment *Birmingham CC v Afsar (No 3)* [2019] EWHC 3217 (QB).[[16]](#footnote-16)
12. More broadly, the government’s promotion of faith-based schools and its accommodation of demands made by religious orthodox and fundamentalist groups has facilitated education as a key site of contestation. Educational spaces have become increasingly amenable to influence and control by religious fundamentalists, to the detriment of women and girls’ rights. Please see for example, SBS’ intervention in gender segregation in a co-educational Muslim school (*HM Chief Inspector of Education, Children’s Services and Skills v The Interim Executive Board of Al-Hijrah School [2017] EWCA Civ 1426.)*
13. **What measures are in place to support already married girls and women affected by CEFM, including targeted programmes aiming at addressing their specific needs and promoting gender equality in all aspects of marriage and its dissolution?**
14. Gender equality in the dissolution of marriage is obstructed by discriminatory laws which deny many minority women the opportunity to claim financial remedies after divorce in the family justice system, if they have had a religious marriage but have failed to register their marriage through no fault of their own. SBS has recently intervened in such a case (Akhter v Khan) at the Court of Appeal, in which a Muslim woman who was deceived into only having a religious marriage has asked for a decree of nullity following the breakdown of her marriage. The significance of this is that she can then claim financial remedies to which she would otherwise not be entitled. SBS’ intervention is to ensure that women forced into a religious marriage only are not locked out of the civil justice system in respect of their rights following the dissolution of their marriage. It is a question of justice and human rights.[[17]](#footnote-17) The government has also intervened to support the current narrow interpretation of marriage law. Our concern is that if this appeal brought by the government is upheld, BME women will be compelled to resort to unaccountable and highly discriminatory religious forums for dispute resolutions in family matters, which will mean remaining trapped in marriages; including forced marriages. This will be disastrous for ending CEFM and gender inequality.
15. NGOs and the women’s sector, particularly specialist BME services, are probably best placed to provide long-term, holistic support to girls and women, before during and after marriage to address their specific needs. This includes facilitating access to legal and statutory services, safe accommodation and mental health support. However, this work is hampered by massive public spending cuts in the context of austerity. One such consequence is that there are simply insufficient refuges for BME women, especially young BME women. In London for instance, there is only one refuge which specialises in helping victims of forced marriage. Suitable provision for disabled forced marriage victims is non –existent. On top of this, many specialist BME refuges have closed or face being been swallowed up by generic services which are not equipped to deal with these cases.[[18]](#footnote-18)
16. In addition, women who are repatriated to the UK after forced marriage abroad often face insurmountable challenges when trying to return, re-settle and re-enter education. Until January 2019, the government was charging victims for their own repatriation to the UK – until an investigation by the Times newspaper and SBS.[[19]](#footnote-19)
17. **Please provide information on promising practices concerning measures that promote the meaningful participation of and active consultation with children and adolescents, including already married girls, on all issues affecting them and to raise awareness about their rights?**
18. Ensuring young people have accurate and comprehensive information about abuse, sexual and reproductive health and rights and where to access support, is integral to combatting and preventing CEFM. In 2010, SBS was part of Comic Relief funded pilot project to challenge all forms of gender-based violence, including forced marriage and so called HBV. This led to a close collaboration with teachers and students in a number of local schools, resulting in the production of comprehensive information and training packs aimed at the whole secondary school community. As part of the project, many young BME female students became ambassadors for change and participated in a series of short films to highlight VAWG. The pack, entitled ‘Changing Hearts and Minds’, is a free education resource for teachers across the UK to enable them to address VAWG; and has proved to be an invaluable tool in schools.[[20]](#footnote-20)
19. SBS also runs weekly support groups at our West London centre, which provides a safe space for women to connect with others and share their experiences of VAWG including forced marriage, and to learn about their rights. Creating safe spaces for girls to mentor and support one other was identified as a promising practice by the Secretary-General on the issue of CEFM.[[21]](#footnote-21)These support groups are essential spaces to counteract the risk of their voices being silenced by ‘community, religious and other leaders’ who claim to speak on behalf of women and girls. Nationally however, meaningful participation of survivors is severely hampered by the lack of both specialist BME services and universal services for children and vulnerable adults; the latter driven in part by local authority cuts of almost 70% for early intervention initiatives for families and schools.[[22]](#footnote-22)
20. **What type of measures are taken to empower girls, including by removing barriers to education and promoting equal access to free and quality education and promoting technical and vocational training and skills development for women and girls?**
21. Successive UK governments have failed in particular to remove barriers to education and employment, thus neglecting equality of opportunity for those who have experienced CEFM. The burden to facilitate access to education has fallen on NGOs such as SBS. For example, we provide advice and advocacy to girls and women enable them to access services and opportunities; such as mental health care, higher education (including grants and funds), and childcare. In our experience, there is a severe lack of services, including specific refuges and hostels for 16-18 year olds. We find that placing girls in refuges occupied by mainly older women who do not understand their concerns, can result in them experiencing even more isolation and alienation; accompanied by higher incidences of poor mental health, substance abuse and sexual exploitation. Once girls and women leave refuges, there is great difficulty obtaining supported housing as they are not given priority status by local authorities. Financial and other support necessary to live independently or to access education and vocational skills is also severely lacking.
22. Part of the problem is that children aged 15-16 onwards fall between the child safeguarding framework and the legal protection framework for vulnerable adults. Children’s social care often perceive this age group as ‘almost adults’ and therefore not under their jurisdiction. This results in their neglect and lack of protection and care. In addition, there remains an inconsistent lack of understanding across statutory services about the nature of forced marriage. We often have to advocate on behalf of girls and young women who are pressured to reconcile with their abusive family by social care and the police. This can involve bringing or threatening to bring a legal challenge, but this can be a resource intensive and lengthy process.
23. The opportunity for girls/women to access full-time education is also hindered by the increased conditionality of welfare payments, as they are required to spend increasing amounts of time demonstrating to the Department for Work and Pensions that they are attempting to find work - or must make themselves available for work, irrespective of their age, experiences or their mental health.[[23]](#footnote-23)
24. **What type of measures are taken to promote women’s and girls’ access to health care, social services and childcare opportunities?**
25. Please see the response above in question 6.
26. **What progress has been made in formulating or reviewing policies, programmes or strategies to address discrimination and violence, including domestic violence, which may occur against women and girls subjected to child, early and forced marriage, including with a view of strengthening child protection systems?**
27. The government’s VAWG strategy and action plan (outlined in question 2) includes a review of the handful of CEFM measures that have been taken in respect of outreach work, data collection and FMPOs.
28. In July 2019, the government was poised to introduce a Domestic Abuse Bill, which provided a landmark opportunity to address VAWG. However, it utterly failed to include a proper infrastructure of protection for BME and migrant women, including those subject to forced marriage and the more culturally specific forms of harm. The Bill was suspended by the General Election. Although the new government has committed to bringing the Domestic Abuse Bill back during the course of the current Parliament, we are not confident that it will adequately address the needs of women subject to CEFM. We will therefore continue to push for a comprehensive strategy on violence against migrant women to address this gap.

1. **What measures are taken to hold perpetrators accountable, to ensure access to justice and accountability mechanisms, and to implement violence prevention and response activities, including at school and community level, as well as to provide adequate victim reparation and assistance measures?**
2. Please see our response to question 2 regarding the criminal law and our concern about its effectiveness and implementation. Unfortunately, this is the only substantive measure that has been introduced in recent years. In our view, mainly because it is resource neutral and makes the government appear as if it is doing something about CEFM, when in reality it is not. The measure has not been effective. There have been few prosecutions for reasons outlined above, including survivors’ fears of criminalising their family and the lack of safe alternatives and support to live independently outside of family structures. As it is, SBS struggles on a daily basis to obtain access to high-quality legal aided advice and representation, and to obtain access to refuge accommodation, welfare benefits and education on behalf of survivors of CEFM. Our users rarely have the means to live securely and safely without fear of destitution, isolation and violent repercussions, yet the safety net of the welfare state is largely absent. We reiterate points made in question 6 regarding the need for the government to address the gulf in effective support and protection infrastructure if it is to properly address CEFM. It has also failed to address the specific phenomenon of transnational marriage abandonment, which often intersects with forced marriage. The Home Office has abandoned the sub-group established on this matter, which was intended to develop policies that recognise the overlap between abuse (including CEFM) and immigration law.
3. **What progress is made to improve the collection and use of disaggregated quantitative, qualitative and comparable data on VAWG and harmful practices in order to strengthen measures to prevent and eliminate CEFM?**
4. The government’s VAWG strategy includes measures to develop forced marriage and HBV data collection recorded by police forces, with the National Police Chiefs’ Council. The CPS has also implemented a quarterly and bi-annual data monitoring process for these crimes**.** We do not yet know how effective these measures will be.
5. Whilst we welcome these steps, in our view the data is undermined by a lack of understanding of forced marriage and HBV by the police and statutory services in the first instance.We find that when reports are made to the police, too many cases continue to be marked as ‘domestic’ with ‘No Further Action’ taken. As previously stated, in many cases police and social services perceive BME girls/women as merely displaying rebellious or unruly behaviour. Generally speaking, more accurate recording of all forms of abuse against women is required to provide a better foundation for good practice in this area.

**Southall Black Sisters
18 December 2019**

1. <https://southallblacksisters.org.uk/news/victory-for-forced-marriage-victims-charges-scrapped/> [↑](#footnote-ref-1)
2. <https://undocs.org/A/73/257> [↑](#footnote-ref-2)
3. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/322310/HMG_Statutory_Guidance_publication_180614_Final.pdf> [↑](#footnote-ref-3)
4. <https://www.hrw.org/news/2018/09/06/ending-child-marriage-united-kingdom> [↑](#footnote-ref-4)
5. IKWRO, ‘Safeguard futures ban child marriages’ briefing [↑](#footnote-ref-5)
6. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf> <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf> [↑](#footnote-ref-6)
7. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881&LangID=E> [↑](#footnote-ref-7)
8. <http://wbg.org.uk/wp-content/uploads/2018/08/FINAL-Female-Face-of-Poverty.pdf> [↑](#footnote-ref-8)
9. <https://www.gov.uk/government/consultations/preventing-and-tackling-forced-marriage> [↑](#footnote-ref-9)
10. <https://www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2019.pdf> [↑](#footnote-ref-10)
11. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695363/family-court-stats-oct-dec-2017.pdf> [↑](#footnote-ref-11)
12. <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/the-depths-of-dishonour.pdf> [↑](#footnote-ref-12)
13. <https://southallblacksisters.org.uk/news/police-bid-to-share-crime-victims-data/> [↑](#footnote-ref-13)
14. <https://southallblacksisters.org.uk/news/defence-of-equality-in-birmingham-schools/#1545593866930-92825087-9d3915460930592411553086013718> [↑](#footnote-ref-14)
15. <https://schoolsweek.co.uk/birmingham-headteacher-says-unclear-dfe-guidance-has-caused-lgbt-protests/> [↑](#footnote-ref-15)
16. <https://www.judiciary.uk/wp-content/uploads/2019/11/Birmingham-CC-v-Afsar-No-3-2019-EWHC-3217-QB-Final.pdf> [↑](#footnote-ref-16)
17. <https://southallblacksisters.org.uk/news/dont-lock-women-out-of-justice/> [↑](#footnote-ref-17)
18. <https://www.independent.co.uk/news/uk/home-news/forced-marriage-asian-victims-being-put-at-risk-by-closures-of-services-set-up-to-protect-them-10405731.html> [↑](#footnote-ref-18)
19. <https://southallblacksisters.org.uk/news/victory-for-forced-marriage-victims-charges-scrapped/> [↑](#footnote-ref-19)
20. <https://store.southallblacksisters.org.uk/reports/changing-hearts-and-minds/> [↑](#footnote-ref-20)
21. <https://undocs.org/A/73/257> [↑](#footnote-ref-21)
22. <https://www.childrenssociety.org.uk/news-and-blogs/our-blog/early-intervention-funding-faces-70-cut> [↑](#footnote-ref-22)
23. <https://www.turn2us.org.uk/Benefit-guides/Part-time-students-and-benefits/Can-part-time-students-claim-out-of-work-benefits> [↑](#footnote-ref-23)