

Introduction

8. Since the early 1990s international migration has begun, for the first time since the 17th century, to make a sustained addition to our population.
9. Given that England is now a close second to Holland as the most crowded country in Europe and since virtually all immigrants settle in England, the time has come to review each component of this flow.
10. An important element is the flow of immigrants from South Asia. When primary immigration from the New Commonwealth came to an end in the early 1970s, it was assumed that secondary immigration would tail off as the Asian communities integrated. This has not happened.
11. In the 1970s the average number of New Commonwealth acceptances for settlement was 72,000 a year. In the 1980s and early 1990s this fell to some 54,000 a year. In 2002, the figure was 53,485¹.
12. A significant factor in this continuous flow has been the number of arranged marriages with those from the Indian sub-continent. These now exceed 20,000 a year.
13. It is time that this question was looked at again. The loose administration of the Immigration Rules (see paras 24-25 below) means that families in Britain come under pressure to arrange marriages with branches of their family still in the sub-continent - often in the town or village from which they emigrated. Worse, young Asians in Britain can come under severe pressure to acquiesce in an arranged marriage. The wide cultural gap can lead to marital difficulty and, not infrequently, to divorce. At present, those who divorce can bring over a further partner or partners.
14. The Muslim Women's Help Line stated in its 2002 Annual Report that around 60% of the calls it received concerned marital problems; "which can be characterised as clients expressing concerns around one or more of the following sub-divisions:

¹ This figure is compiled on the basis of the Home Office document *Control of Immigration: Statistics United Kingdom 2002*, Cm 6053. It includes all Commonwealth countries as in 2002 for which statistics were given, with the exceptions of Canada, Australia and New Zealand.

- (a) Marriage i.e. disputes on choices in marriage with parents, forced marriage, civil vs religious ceremony etc.
- (b) Marriage quality affected by abuse by husband (emotional or physical), in-law problems, family problems and or domestic violence
- (c) Divorce i.e. rights in divorce, initiating divorce, clarifying civil/religious divorce interface, the process of divorce, challenging unfair divorce executed by husbands without wife's involvement due to lack of due process by a shari'ah body etc."

15. The Labour MP for Keighley, Ann Cryer, is a longstanding campaigner against the element of compulsion in arranged marriages and the misery it causes:

"I first raised the question of forced marriages in the House of Commons in February 1999. Nearly five years later, despite the recommendations of the Working Group and the increased awareness of the existence and incidence of forced marriages, they continue unabated. Indeed, the number of cases that are referred to my office seem to be ever increasing. The stories are always the same and are always horrific. Young girls and women who are being forced, by their families, to marry against their will usually beyond our shores. If women refuse, they are - at best - ostracised by their families and - at worst - threatened with violence. The mental and physical abuse, perversely justified by the families in the name of "honour", is overwhelming. Some women, in the face of this, simply acquiesce and resign themselves frequently to a life of domestic slavery and abuse. Some, sadly, taking or attempting to take their own lives. Others, brave and sufficiently strong to sustain the onslaught, may have to pay the price of having to flee their homes, family and friends."²

16. There is also a significant impact on the local community. As late as 2001, it was estimated that 60% of Pakistani and Bangladeshi marriages in Bradford were with a spouse from the country of origin. This has a major impact on population growth, as explained in the following extract from an Annex to Lord Ouseley's report³:

"It has a major impact on population growth. About 1,000 Bradfordian Muslims marry each year. If most of those marriages were internal to this country, it would lead to 500 new households which would be likely to average 4 children per household. (This is based on experience from other immigrant groups where family size usually halves that of the first generation by the second generation.) With 60% of marriages involving a spouse from overseas, the number of households goes up to 800 and, with many of the spouses being first generation, family size is likely to be significantly larger. So whereas 500 internal marriages might be expected to produce 2,000 offspring, the 800 marriages are likely to

² Article *Domestic Violence: the new Bill and Forced Marriage*, 22 December 2003

³ Extract from Appendix 7 to Lord Ouseley's report on the disturbances in Bradford, "Race Relations in Bradford" by GV Mahony (The Council's Principal Race Relations Officer 1984 – 90).

produce 4,000 offspring. This leads to very rapid population growth. In the eighties the Council estimated that the Muslim population would reach 130,000 by 2030 and then level. Now the projection is for 130,000 by 2020 and rising. The number of separate households is predicted to rise from 16,000 now to 40,000 in 2020. This rate of growth concentrated in particular areas puts severe demands on the public services. It has other ramifications. Many of the children arrive at school with little or no English. Many of those who come from overseas have little education and do not possess skills which are transferable to a Western economy. The high family size means overcrowding will be a persistent problem.”

17. The same point was reinforced by the government’s Community Cohesion Panel which reported in July 2004:

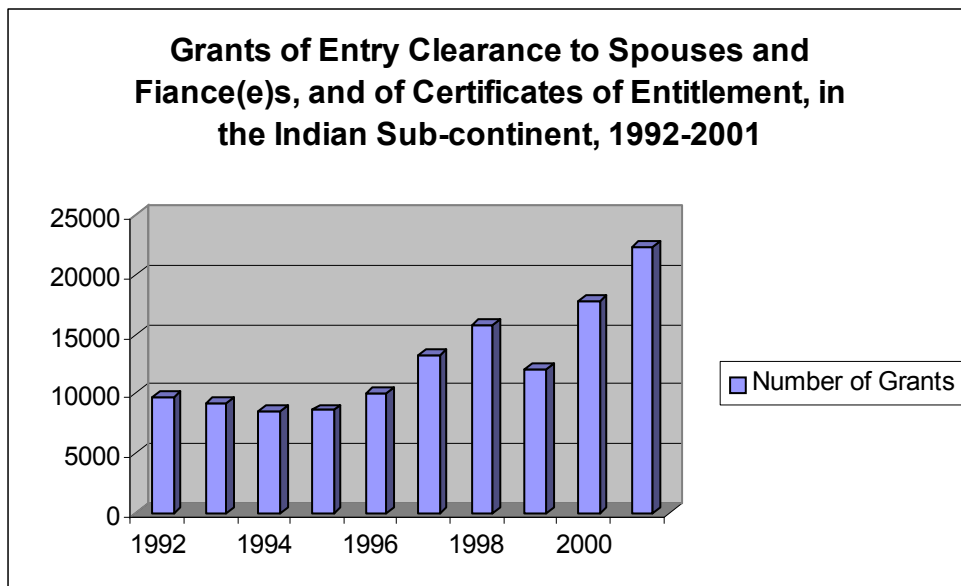
“Further, there are other concerns about the speed at which newcomers can be accommodated. Housing, education, health and other services all take time to expand. But people also take time to adjust. The identity of the host community will be challenged and they need sufficient time to come to terms with and accommodate incoming groups, regardless of their ethnic origin. *The ‘pace of change’ (for a variety of reasons) is simply too great in some areas at present.*⁴”

The panel pointed out that Leicester’s Black and Minority Ethnic (BME) population increased between 1991 and 2001 by around 37%, while in Newham it increased by about 70%.

18. One major reason for the speed of change is the unprecedented scale of current immigration. This is exacerbated in certain localities by trans-national arranged marriages.

19. The numbers involved are also significant for the UK as a whole. The bar chart below shows number of grants of entry clearance to spouses and finance(e)s, and of Certificates of Entitlement, made in the Indian Sub-continent from 1992 – 2001. Over this period, the total number of grants was 127,215. The annual figure has risen in every year since 1996, with the exception of 1999.

⁴ Emphasis added.



Source: Home Office *Control of Immigration: Statistics United Kingdom 2002*

20. Unless there is significant cultural change among British communities of South Asian origin, leading to greatly increased integration, arranged marriages will continue to sustain the high birth rate in these communities, which in turn will give rise to increased numbers of arranged marriages in the next generation, in an escalator effect.
21. The prevalence of arranged marriage however itself contributes towards preventing integration since every child-bearing spouse brought over from the Subcontinent becomes a foreign-born parent to a child or children born into a South Asian ethnic community in the UK. The process has become cyclical, and self-reinforcing.
22. For example, we estimate that the population of Bangladeshi women aged 20-29 at the time of the 2001 census was, as a result of migration since 1991, nearly two-thirds higher than it would otherwise have been⁵. Coupled with the high birth rate of first generation migrants from the Indian Sub-continent this results in a very rapid population increase. For example, the ethnic Bangladeshi population of England has increased by nearly three-quarters between 1991 and 2001.
23. The censuses of 1991 and 2001 also show that there are larger cohorts of ethnic Bangladeshis, Pakistanis and Indians due to attain the age of 20 (taken to be marriageable age) in the 10 years from 2001 than in the 10 years from 1991. The table below shows the numbers of Bangladeshis, Pakistanis and Indians respectively aged 10-19 in the 1991 Census, and in the 2001 Census:

⁵ Estimate obtained by taking the ethnic Bangladeshi population aged 10-19 in 1991, actuarially 'ageing' it by 10 years to get a projected population aged 20-29 in 2001 and comparing this with the actual population from the 2001 census.

	Bangladeshis	Pakistanis	Indians
10-19 in 1991	41,816	106,057	144,925
10-19 in 2001	62,155	147,208	167,495

THE PRESENT RULES ON MARRIAGE

24. The basic rules on immigration and marriage are set out at Annex A. To see the specific requirements and guidance to Entry Clearance Officers, follow the link at Annex A.
25. The first requirement is that there should be an intention that the parties to the marriage should live together permanently as man and wife. This is, of course, a difficult matter to judge but the guidance to the Entry Clearance Officers seems to be slanted in favour of the applicant.
26. There is also a requirement for adequate maintenance and accommodation without recourse to public funds until the date of the marriage. This requirement is a great deal weaker for the UK than, for example, Denmark and Norway. In Denmark, a lease of at least three years on a property is the minimum requirement. In Norway the applicant must live in accommodation which satisfies the Health Authorities' requirements and the contractual elements of the accommodation must be under the supervision of the police. In the UK, the applicant must simply have made arrangements to become an exclusive owner/occupier of a property "for the foreseeable future". In practice, this is often met by a Statutory Declaration by a solicitor. Although an inspection of the property is necessary to determine the amount of accommodation, the solicitor has to take on trust the representations made by the sponsor's family as to the number of occupants. This leaves the system wide open to abuse.
27. The maintenance requirement is also much weaker in the UK than in Denmark and Norway. In Denmark, the party living in Denmark must be able to prove that he or she has an income of at least £1,500 a month in addition to which a social security deposit of around £4,500 must be paid. In Norway, the supporting party must have £13,000 per year disposable income for each year for which the permit is to be granted (until 3 years have passed). In the UK, if the applicant and/or sponsor has skills or qualifications *which offer a reasonable chance of obtaining employment* or already has employment arranged, that will usually be sufficient to meet the maintenance requirement without the Entry Clearance Officer having to make further enquiries. In practice, applicants' spouses can easily take up employment at the time of their applications and leave shortly afterwards; only a very small sample of wage slips is required.

28. It will be clear from the above that UK marriage regulations are loosely drawn and very loosely applied, at least as compared to countries such as Norway and Denmark – countries with a very liberal reputation.

THE PRIMARY PURPOSE RULE

29. The Primary Purpose Rule (PPR) used to be regarded as a means of preventing the use of marriage to facilitate immigration. It was introduced in 1980 and abolished in 1997 shortly after the election of the present government. The rule stated that entry clearance to the UK for a fiancé(e) or spouse would be refused unless the Entry Clearance Officer was satisfied; “that it is not the Primary Purpose of the intended marriage to obtain admission to the UK”. From 1983, the burden of proof lay on the applicant, who had to show that the marriage did not have as its primary motive the wish to live in the UK.

30. Since the abolition of the rule, the number of fiancé(e)s and spouses admitted to the UK has increased significantly. The number of admissions of wives, husbands and fiancé(e)s from all countries overseas rose by around 30% in 1997, from 21,000 in 1996. The figure for 2003 was 31,365. Clearly, there are a number of different factors involved, but the sharp jump and anecdotal evidence point to the likelihood that the abolition of the PPR was a significant factor.

31. The leaders of the ethnic minority communities in the UK are strongly opposed to the re-imposition of the Primary Purpose Rule on the grounds that it obliges applicants to prove a negative.

THE EXPERIENCE OF DENMARK

32. There has been very little research into the impact of arranged marriages in the UK. In Denmark, however, there has been research, public debate and legislation in recent years.

33. One study in particular was crucial in the Danish debate; that of the cultural sociologist Eyvind Vesselbo. Vesselbo’s study focussed on 145 Turkish men who came to Denmark as guest workers in 1969/70 and the families they founded, which by the year 2000 came to number 2,813. Among the study’s other findings were that almost everyone in the group married a spouse brought over from Turkey and that this tendency was stronger among the third generation than the second. Furthermore, marriages ending in divorce were often followed by a fresh spouse being brought over from Turkey.

34. In 2001, the Danish Government introduced a legislative programme designed to reduce the number of people immigrating to Denmark. The Government also committed more resources to integrating existing immigrants. One aspect of the programme was a narrowing of the conditions for family reunification, i.e. bringing a fiancé(e)/spouse (or registered (same sex) partner/cohabitant) into the country from abroad.

35. The new Danish legislation provides that;

- it must be clear the union is not forced
- both parties must have reached the age of 24
- the aggregate connection of both parties to Denmark must be greater than their aggregate connection to another country; there is no connection requirement in cases involving people who have lived legally and uninterruptedly in Denmark for 28 years or have been Danish citizens for the same period (the length of this period was set high to protect young members of ethnic minority communities from forced marriage)
- a couple claiming a permanent relationship must prove that they have shared a home for at least 18 months
- there are housing and maintenance requirements as described above
- the first residence permit is valid only for one year. This may be extended annually. Permanent residence is only granted when the couple have lived in Denmark for more than 7 years.

36. The Danish Minister for Integration has had positive feedback from young immigrant women about the minimum age requirement. A fuller account of the Danish legislation is at Annex B.

37. There was a 27% overall drop in the number of applications for family reunification in Denmark in the six months from the legislative programme's coming into effect in July 2002. Preliminary figures from the Danish Ministry of Integration suggest a far more dramatic fall in the number of applications granted.

CONCLUSIONS AND RECOMMENDATIONS

38. It is time for a fundamental review of the Immigration Rules on marriage and fiancé(e)s. The manner of their administration renders young Asians vulnerable to pressure to acquiesce in arranged marriages. This is very unhelpful to efforts to integrate communities. It also leads to rapid increases in ethnic minority communities, which place severe pressure on certain inner city areas. And it contributes to a continuing increase in the population of England as a result of immigration.
39. Re-instatement of the Primary Purpose Rule is not the only, and probably not the best, way to address the problem. Experience in Denmark has shown that tighter regulation of marriages is welcomed by young members of the ethnic communities and can improve both the prospects for integration and community relations generally.
40. Accordingly, we recommend that:
- a) In order to qualify, both parties must have reached the age of 24;
 - b) It must be clear that the marriage is not forced;
 - c) The marriage contract should explicitly permit divorce at the wife's instigation;
 - d) The residence and support requirements should be substantially tightened and properly enforced;
 - e) Residence should be granted initially for a maximum of 2 years. Permanent residence should not be granted until the couple have lived together in the country for at least 7 years;
 - f) Those whose arranged marriages end in divorce should not be permitted to sponsor the immigration of further marriage partners.

22nd September 2004

ANNEX A

A person holding an entry clearance as a fiancé(e) will initially be admitted to the United Kingdom for 6 months, with a prohibition on employment until after marriage. Once the marriage has taken place and after satisfactory completion of a probationary period (normally 24 months) set by the Home Office, indefinite leave to remain may be granted.

A person holding an entry clearance as a spouse will normally be admitted to the United Kingdom for an initial period of 24 months. After satisfactory completion of this period, indefinite leave to remain may be granted. However, where an applicant has been married to a UK citizen and both have been living abroad for more than 4 years, Indefinite Leave to Enter may be granted.

<http://www.ukvisas.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1035796295766#point%20four>

ANNEX B

- a) In 2001, the new Danish government put into effect an immigration policy programme called “Growth, welfare – renewal”. The theory behind the programme was that a decline in the number of new residents from abroad would make it possible to commit more resources to integrating immigrants already in Denmark.
- b) One aspect of the programme was a narrowing of the conditions for “family reunification”.
- c) A foreigner can apply for family reunification with a husband/wife, a cohabitant or a registered (same-sex) partner.
- d) Demands are made of both parties in the relationship and of the relationship itself.
- e) The person who lives in Denmark is required to explain the reason for his/her residency in Denmark and to demonstrate his/her ability to support the couple.
- f) The marriage/registered partnership/cohabitant relationship must be recognised under Danish law and there must be no doubt that both parties have given their free consent.
- g) In evaluating whether a marriage is “forced”, the authorities may place emphasis on: the circumstances surrounding the wedding and the spouses’ prior personal contact; their age; their contact with each other’s families prior to the wedding; their financial and employment status; and details of any contact either may have had with any crisis/help centres.
- h) If the Danish authorities have the impression that a marriage may be forced, the applicant for family reunification will be interviewed about the circumstances of the marriage, while the spouse living in Denmark will be asked to reply in writing to several questions on the same topic and may then also be called for interview.
- i) It must be clear that the marriage/cohabitant relationship/partnership is not pro forma. Factors taken into account in evaluating will include: whether the parties have lived together in a shared home; whether they share a common language; whether there is a great age difference between them; how well they knew each other prior to the marriage; and whether there have been any earlier marriages, cohabitations or partnerships.
- j) In order to qualify for family reunification, both parties must have reached the age of 24 (“the minimum age requirement”).
- k) In order to qualify for family reunification, the total connection of both parties to Denmark must be greater than their total connection to another country (“the connection requirement”). The following factors are taken into account: how long the parties have lived in Denmark; whether one or both parties have connections to others in Denmark; whether one or both parties have parental authority over minors in Denmark; whether one or both parties has been educated in Denmark or has a firm connection to the Danish labour market; how fluent they are in Danish; how substantial their connection is to another

country – especially whether they have been on long-term visits; and whether the applicant has children or other family in another country.

- l) The party who lives in Denmark must be able to document that he/she has control over a home of reasonable size (“the home requirement”). In the case of rented homes, the rental period must extend at least 3 years beyond the date of the application. Sublets are insufficient. “Reasonable size” means that, following the reunification sought, there must be no more than 2 persons per habitable room, or the home’s total area must be at least 20 square metres per person.
- m) The party living in Denmark must also be able to document that he/she earns enough to care for the applicant (“the support requirement”). This figure is deemed to be twice the “start-up help” the couple would be entitled to receive in social security payments (so around £1,500 per month). The party in Denmark must also pay a security deposit of 50,000 kroner (around £4,500) to cover any future government support payments to the other party and must not be receiving any state assistance under the Integration Law or the Law on Active Social Policy during the year before the application was submitted and the period prior to any granting of permission.
- n) Cohabitants must show that the relationship is permanent – normally it must be documented that the couple have shared a home for at least 18 months.
- o) When reunification is granted, the first residency permit will last for a maximum of one year. Permission may then be granted for an extension of another year. Permanent residency can normally be given when the couple has lived in the country for more than 7 years, and provided the applicant has completed an introductory programme and passed a test in Danish, has not received a custodial sentence for any crime and does not owe money to the state.
- p) In September 2003, the Danish government introduced a new set of initiatives, with cross-party support.
- q) The connection requirement has now been rescinded for cases involving people who have lived legally and uninterruptedly in Denmark for 28 years or who have been Danish citizens for 28 years. The age limit has been set high to protect young immigrants from forced marriage and long-term residency in their parents’ homelands during their childhood/youth.
- r) Any closely related couple (e.g. cousins) must now prove that their marriage does not involve elements of force – the burden of proof has thus been reversed.
- s) A 10-year quarantine has been introduced for bringing a new spouse to Denmark if the party in Denmark has been convicted of using violence against a former spouse or cohabitant.
- t) The age limit for family reunification has been lowered from 18 to 15, to make it more difficult to send children out of the country to be “re-educated”.
- u) Foreign religious leaders must now speak Danish in order to have the right to perform weddings in Denmark.