

Moira Dustin and [Anne Phillips](#)

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Whose agenda is it?

Abuses of women and abuses of 'culture' in Britain

MOIRA DUSTIN

ANNE PHILLIPS

London School of Economics

ABSTRACT Developments in Britain reflect a shift from a shallow but widely endorsed multiculturalism to a growing preoccupation with abuses of women in minority cultural groups. Four main issues have been debated in the media and become the basis of either public policy or legal judgment: forced marriage, honour killing, female genital cutting, and women's Islamic dress. The treatment of these issues has often been problematic, with discourses over culture tending to misrepresent minority cultural groups as monolithic entities, and initiatives to protect women becoming entangled with anti-immigration agendas. It has therefore proved hard to address abuses of women without simultaneously promoting stereotypes of culture. The most encouraging signs of resolving these tensions appear where there has been a prior history of women's activism, and a greater willingness on the part of government to draw groups into consultation. We argue that this offers a greater prospect of devising effective initiatives that do not set up multiculturalism in opposition to women's rights.

KEYWORDS Britain * culture * FGM * forced marriage *
gender equality * hijab * honour crime * multiculturalism

British discourse on multiculturalism and women's rights has been in many ways emblematic of the concerns underpinning this special issue. Britain is multi-ethnic, though this is more evident in the cities than the rural areas, and in the older industrial parts of England than much of Scotland or Wales. Except for a short period after the Second World War, non-white immigration was not actively promoted. However, more or less grudgingly accepted obligations, first to Commonwealth passport holders, and later to refugees displaced by global conflict, have combined with principles of family reunification to mean that a significant proportion of the population (nearly 8%) is now of non-European origin. Multiculturalism was never adopted as official policy, but in a process described as 'multicultural drift' (Runnymede Trust Commission, 2000: 14), public policies increasingly took account of ethnocultural diversity. Surveys of legal practice reveal a substantial body of legislation and legal precedent accommodating practices associated with minority ethnic, religious, and cultural groups, while interpretations of anti-discrimination law have sometimes allowed members of minorities to depart from what were otherwise universal rules (Poulter, 1986, 1998). Multiculturalism evolved as part of a vague general background to public policy, directly invoked primarily by teachers and social workers, but when thought about, broadly endorsed.

In the 1960s and 70s, multiculturalism was most commonly associated with a celebration of cultural diversity in schools, and not seen as having any particular gender dimension. With hindsight, it clearly did. In 1969, for example, the Court of Appeal overturned a care order on a thirteen-year-old girl living in London with her twenty-six-year-old husband, invoking principles of cultural relativism to describe marriage at thirteen as 'entirely natural' in Nigeria,

where the marriage had been conducted.¹ In a less contentious decision in 1975, widows of ‘potentially polygamous’ marriages were recognised as entitled to a widow’s pension, even though their marriage was invalid under British law.² A significant number of legal judgments have turned on the relevance of and interpretations of Islamic family law, and how far this should be employed to determine the property rights of divorced women where one or other spouse is a foreign national. As Okin (1999), Shachar (2001) and others have stressed, cultures differentiate themselves largely through the ways they regulate personal, sexual, and reproductive life, and much of what we understand by cultural difference relates to the expectations attached to being women and men. Policies of multicultural accommodation are therefore likely to have particular significance for gender roles. Yet up until the late 1990s, public discourse in the UK did not generally link multiculturalism to either gender or women’s rights. In this, it paralleled the academic literature, which was surprisingly unfocused on the gender dimensions of multicultural policy prior to Susan Moller Okin’s interventions.

Over the past ten years, this has radically changed. Multiculturalism is now very much on the defensive, criticised for what is said to be its failure to integrate newcomers and its promotion of ‘parallel lives’. As an important sub-theme in this, it is criticised for what is said to be its complacency as regards the treatment of women. There has been a new concern with the values that supposedly underpin British citizenship, and the government has introduced citizenship classes as a compulsory part of the school curriculum (2002); citizenship ceremonies for new nationals (2004); and a citizenship test (2005) requiring applicants to demonstrate a working knowledge of the English language and life in the UK. The focus on ‘core British values’

(usually indistinguishable from the values of dozens of other countries) parallels moves across the rest of Europe, where Christian Joppke (2004: 249) notes a 'seismic shift' from a language of multiculturalism to one of civic integration. As in other parts of Europe, these core values turn out to include a commitment to gender equality, now represented as in tension with multiculturalism.

The story of this refiguring of public discourse starts in 1997, with the election of a Labour Government (after eighteen years in opposition) and a doubling in the number of women parliamentarians (though still to less than one in five). This last meant significantly more MPs willing to speak out against abuses of women, and a substantial rise in the parliamentary time devoted to matters such as forced marriage and female genital mutilation. There was a noticeable increase over the same period in newspaper coverage of cases of forced marriage and 'honour' killing, and it would be hard to say precisely whose agenda was driving the shifts in public discourse and policy. What we can say is that four issues came to the fore: first, forced marriage, 'honour' crime, and female genital cutting (FGC)³; and later, the permissibility of restrictive forms of Muslim dress, like the jilbab (a full length gown exposing only face, hands and feet) and niqab (a face veil, exposing only the eyes). Each of these raised the question of whether minority women and girls were being particularly exposed to violence or coercion. This is self evidently a concern as regards forced marriage, 'honour' crime, and FGC. The presumption of coercion is much more contentious in the case of women wearing the jilbab or niqab, but here too there was concern that women were being unduly pressured by family or religious leaders to adopt unnecessarily confining styles of dress.

All four issues then helped fuel popular or media representations of minority cultural/religious groups as particularly oppressive to women, and of minority women and girls as particularly in need of protection from their families and communities. They therefore lent themselves to an anti-minority discourse. Yet the first three, at least, also reflected years of campaigning by women active within their minority communities, who had long called for more effective action. There were plenty of people voicing reservations about multiculturalism ten years ago, but the more specific idea that support for multiculturalism might mean a lack of concern for women's rights came mostly from a small number of women's groups, active within minority communities, and addressing issues of violence against children or women. Foremost among these was Southall Black Sisters, established in 1979 to meet the needs of Asian and African-Caribbean women, increasingly active around issues of forced marriage, and developing a critique of multiculturalism as encouraging an informal contract between government and the more conservative leaders of minority communities (Gupta, 2003). Other organisations included FORWARD (Foundation for Women's Health Research and Development, a mainly African women's organisation with a particular focus on FGC), Newham Asian Women's Project, and the Muslim Women's Helpline; these had been providing services to individual women and campaigning on the wider issues for years.

One of our central points, then, is that there was a history of minority women's activism on female genital cutting, forced marriage and 'honour' crime *before* these became prominent in public policy and debate. Women's groups had called for more effective public action, arguing – sometimes with direct reference to the risks of multiculturalism – that violence against minority women was being overlooked or ignored, and taking on, in the process, both

the hostility of more conservative members of minority communities and the indifference of the general public. Activists sometimes complained that the government was failing to act because of an exaggerated respect for cultural difference. In 1998, for example, Hannana Siddiqui of Southall Black Sisters criticised inaction on forced marriage, arguing that the 'failure to act to help Asian women who are kidnapped and taken abroad to be married is basically racist'. 'They are saying "we have to be sensitive and not criticise other cultures" but in doing that they are allowing violations of women's human rights to continue' (*The Independent*, 20 July 1998). Yet when the issues *were* more generally taken up, they threatened to become entangled with anti-immigration or anti-multiculturalism agendas, encouraging representations of minority cultural groups as inherently backward or oppressive, and stereotyping women from these groups as 'victims without agency' (Shachar, 2003: 66).

Inaction could be seen as racist, but then so too could action. Women *were* being abused, but so too were conceptions of 'culture'. In both academic and popular discussions of multiculturalism, there has been a tendency towards what Uma Narayan (2000) describes as cultural essentialism, or Seyla Benhabib (2002: 4) as a 'reductionist sociology of culture': a tendency to represent cultures as more distinct from one another, less marked by internal contestation, and more determining of individual behaviour, than is ever the case. In popular representations, this cultural reification often involves an ordering of so-called 'cultures' along an axis of backward to progressive, with minority or non-European cultures cast in the lesser role. It tends to read the actions and beliefs of people from minority or non-Western cultures simply as expressions of 'their culture', which not only presumes an extraordinary degree of homogeneity within the cultural group, but also denies individual agency.

Something statistically more prevalent in some cultural groups than others then gets misdescribed as a ‘cultural practice’ - as if something like forced marriage (which is more likely, of course, where there has been a tradition of arranged marriage) is a cherished cultural tradition ‘practised’ by all committed members of the group. In this context, it becomes harder to address abuses of women without simultaneously promoting stereotypes of culture. That tension between different agendas is a major theme in our paper

Adding to the complexities in the British case is the way questions of culture have been merged with questions of religion, with complicated and sometimes contradictory results. In addressing forced marriage, FGC, and ‘honour’ crime, women activists and government spokespeople alike were careful to stress that the ‘practice’ in question had no religious legitimisation, and was grounded in culture not religious belief. By implication, officials accepted a long-standing liberal belief that it is not appropriate for governments to intervene in matters of religious conviction, and that a practice required by a religion (like kosher or halal meat) has a privileged claim. The more recent furore about Muslim women wearing the face veil, or Muslim girls wearing the jilbab to school modifies this. Hijab is self-evidently linked to religion,⁴ poses no obvious harm to women, and was not the focus of any prior activist campaign. Yet in the context of an increasingly militant secularism, this too became a focus of attack.

What complicates the picture is that religion continues to be privileged in public discourse, so that even in a period when Islam in particular is regarded with suspicion, the government has demonstrated considerable sympathy on matters of religion. Soon after its election in

1997, the Labour Government ended a *de facto* privileging of Christian and Jewish schools, and approved public funding for a (much smaller) number of Muslim, Sikh, Greek Orthodox and Seventh Day Adventist schools. More recently, it has also extended anti-discrimination legislation to include religion and belief. Northern Ireland has long had legislation against religious discrimination, but there was no parallel law in the rest of the UK, where anti-discrimination laws dealt only with sex, race, and disability. Following European directives, the government corrected this through its *Employment Equality (Religion or Belief) Regulations 2003*. It later passed a fully-fledged *Equality Act 2006*, which extended anti-discrimination protection to the grounds of religion or belief on the one side and sexual orientation on the other (setting the scene for some interesting future legal tussles). It also established the Equality and Human Rights Commission, bringing all the existing bodies dealing with discrimination under one umbrella. After much public debate, the *Racial and Religious Hatred Act 2006* was passed, extending existing prohibitions on incitement to racial hatred to include religious hatred.⁵ Religion continues to play a significant role in discussions of educational provision and funding, with government support for the expansion of faith schools, and scope for religious groups to shape the school curriculum in the newly developed academies. In many ways, then, the privileged position of religion has increased in recent years. Yet this has coincided with a greater willingness (by politicians as well as media) to challenge practices represented as oppressive to women, even when these are authorized by religion as well as by culture.

FORCED MARRIAGE

Government initiatives against forced marriage date from 1999, when the Home Office set up a Working Group on Forced Marriage, partly in response to media coverage of three dramatic cases, and acknowledged the prior activism and experience of minority women's groups by inviting Hannana Siddiqui of Southall Black Sisters to join (for fuller discussion of the forced marriage initiatives, see Phillips and Dustin, 2004; Siddiqui, 2005; Deveaux, 2006). A Community Liaison Unit was subsequently established in the Foreign and Commonwealth Office (FCO), charged with dealing with the so-called 'overseas dimension': the coercion, that is, of people into marriages with unknown or unwanted spouses from overseas. The unrevealing title ('community liaison') reflects what was already considerable sensitivity about the way initiatives against forced marriage might be perceived, and it was not until 2005 that this was relaunched as the Forced Marriage Unit. Official publications were careful to distinguish between arranged and forced marriage, representing the former as an entirely legitimate marriage practice, and the latter as condemned by all major religions; and it is clear that government spokespeople wanted to avoid any suggestion that it was criticising consensual arranged marriage.

In its focus, however, on marriages with overseas partners, the government courted suspicion that its work was designed to reduce citizenship applications from new spouses arriving from overseas. The Unit has provided a vital helpline for young people threatened with an unwanted marriage, with a current case load of 250-300 a year; and in liaison with the British High Commission and police forces in Pakistan, India and, Bangladesh, helps repatriate an annual average of 200 people who had been taken abroad by families for marriage. The Unit has helped find alternative accommodation in women's refuges for those

who cannot return to the family home; and through its guidelines for police officers, social workers, and teachers, helped shift practice from a previous over-reliance on the mediation of family members and community spokesmen towards more unconditional support for the individuals themselves. Yet staff have commented on their frustration in not being able to offer much help to those coerced into marriage with partners in the UK. Though relaunched in 2005 as a joint Home Office and FCO enterprise, the Unit is still physically located in the FCO, not (as might be more plausible) alongside the Home Office's work on domestic violence.

Subsequent policy developments reflect both these problems: the tendency to focus exclusively on overseas marriages, therefore coding the initiatives on forced marriage as initiatives on immigration; and the representation of forced marriage as in a distinct 'cultural' category rather than part of a larger spectrum of familial and domestic violence. On the first point, the government has moved towards a higher minimum age for marriages with overseas partners, refusing entry clearance to overseas spouses until both parties are at least eighteen. The restriction (inspired by the Danish initiative⁶) was first introduced in 2003, and there is currently consultation on whether to raise the age further to 21. The rationale is to protect the most vulnerable from coercion, the not unreasonable presumption being that an eighteen or twenty-one or twenty-four year old is in a better position to resist family pressures than a girl or boy of sixteen. But the effect is a two-tier system. Those marrying in the UK or choosing partners from elsewhere in the EU can get married and live with their partners at sixteen; those seeking a partner from their family's (non-EU) country of origin must wait till they have reached a higher standard of maturity. This differential approach derives what plausibility it

has from the representation of young people from minority cultural groups as unusually subject to cultural/religious coercion. It is hard to avoid the suspicion that this is a cultural stereotype, representing the parents as intrinsically more coercive, and the young people as intrinsically less able than those from majority groups to exercise autonomy or know their own minds (see Phillips, 2007 for a further development of this argument).

On the second point, the government has recently conducted a consultation exercise to decide whether to create a specific criminal offence of forcing someone into marriage.⁷ The 2000 Working Party had rejected this idea, arguing that existing laws against threatening behaviour, assault, kidnap and rape provided a perfectly adequate basis for any prosecutions. Punitive measures may also be unhelpful, because most people do not want to give evidence that would lead to the prosecution of family members. There are also principled reasons for preferring generic over culture-specific legislation. Coercion of women and young people happens in all cultures and communities, and should be illegal for all. Creating a specific offence of forced marriage obscures the similarities with other kinds of domestic violence and coercion in majority or dominant communities, and may encourage the view that forced marriage is a cultural norm within minority communities. In the event, both women's groups and police forces were divided on the usefulness of a new law, and the consultation convinced the government not to introduce it.

More recently, a private members' bill was introduced, with the support of some minority women's NGOs, that employs the civil, not criminal, courts to provide protection. Unusually, the bill won Government approval and was passed in July 2007 as an addition to other

legislation addressing domestic violence. This latest development therefore potentially meets both of the criticisms noted above. It provides recourse for people coerced into marriage with domestic, not just overseas, partners, thereby shifting the focus of official activity away from its problematic association with immigration; and it places forced marriage within the wider context of domestic violence, thereby favouring generic over culture-specific legislation. At the time of writing, the new measures had yet to be implemented.

‘HONOUR’ CRIMES

As regards ‘honour’ crimes, public agencies were again slow to take up the issue; and when they did, there were again concerns about the ways in which the issue was addressed. The term ‘honour’ crime has been widely adopted to describe a range of violent crimes against women said to be rooted in community perceptions of honour. One early British initiative was the *Project on Strategies to Address ‘Crimes of Honour’*, set up in 1999, and jointly co-ordinated by the Centre of Islamic and Middle Eastern Laws (CIMEL) at the School of Oriental and African Studies, University of London, and the International Centre for the Legal Protection of Rights (INTERIGHTS). At a more case-by-case level, community and women’s groups – including Newham Asian Women’s Project, Southall Black Sisters, Kurdish Women Action Against Honour Killings, and Iranian and Kurdish Women’s Rights Project – have been dealing with crimes of ‘honour’ over a number of years. The significant moment for official action came in 2003, when a Metropolitan Police Service (MPS) report on domestic violence identified ‘honour’ crime as an important area for future work, set up a Strategic Homicide Prevention Working Group on Honour Killings, and began to develop its strategy, including training for front-line staff.⁸ The immediate catalyst – and this mirrors the pattern

with forced marriage – was extensive media coverage in 2002 of the murder of sixteen-year-old Heshu Younes, killed by her Turkish father after he learnt of her affair with a Lebanese Christian man.⁹ The media categorisation of this as an ‘honour’ crime helped make this visible as a new area of public policy.

Yet in this field, perhaps more than any other, definitions are highly problematic (Welchman and Hossain, 2005). Use of the term honour can suggest that the crimes *are* in some sense honourable (it is for this reason that we have followed the practice of putting quotation marks around ‘honour’). The implied contrast between crimes of ‘honour’ (associated with the East) and crimes of passion (associated with the West) can also feed an Orientalism that represents minority cultural groups as profoundly different in their values and behaviour from majority cultural groups (Abu-Odeh, 1997). ‘Honour-based’ violence is perceived as distinct in important ways from ‘ordinary’ domestic violence: as more likely, for example, to be condoned by the community of perpetrators and victims or more likely to involve planning and deliberation, to the point of a conspiracy to commit a crime. There is a danger that this differentiation will encourage a false dichotomy between minority and majority communities, with crimes in the former explained by reference to ‘culture’, and those in the latter understood as individual aberration (Volpp, 2000; Phillips, 2003, 2007). In this scenario, it is the perpetrators as much as the victims who are seen as without agency, portrayed, and sometimes portraying themselves, as acting according to the unwritten laws of their culture. In such discourses, culture is credited with a compelling power to direct and drive behaviour – as if it is culture rather than people that kills.

Faced with the abuses of ‘culture’, it is tempting to refuse the categorisation of a discrete body of ‘honour’ killings or ‘honour-based’ crime, and insist on treating these as part of the wider category of domestic violence and violence against women. This would parallel the argument above about the treatment of forced marriage within a broader framework of domestic violence, and is, to some extent, the emerging consensus within minority women’s NGOs, as well as partnership organizations such as the Women’s National Commission and the End Violence Against Women campaign. But it is important not to do this in ways that then blur important differences. As Purna Sen puts it, ‘[t]o posit a specificity that is flawed and that fails to see linkages is problematic; to deny specificity if it exists is also problematic’ (Sen, 2005:50). Where ‘honour-based’ violence *can* be differentiated from the wider category of violence against women, then recognising its specificity may save lives.

This last is very much the strategy of the MPS, which has worked on developing a matrix of risk factors seen as precursors to domestic violence in general, and to ‘honour-based’ violence in particular, and hopes to use these early warning signs to prevent (rather than just punish) the crime. In pursuit of this, detectives started in 2004 to re-examine 109 possible ‘honour-related’ killings – not with a view to re-opening the cases, many of which had already resulted in a conviction, but so as to improve understanding of the phenomenon and help prevent future incidence. One worry about this is that the MPS increasingly operates with a broad brush understanding of ‘honour-based’ crime, described as any crime ‘perceived to have been motivated by dishonour to a family or community, either by the victim or by any other person’.¹⁰ It takes this to include instances of forced marriage and, on occasion, FGM. There is a risk here that ‘honour’ will become the shorthand term for *all* forms of domestic violence

and child abuse within minority ethnic communities, with every incident reported as such in the media, and treated as such by the police – and there is some evidence of this happening, certainly as regards media reports.

But failing to act vigorously on ‘honour-based’ violence is not an option, and recent events suggest that the bigger problem is that not enough is being done. In June 2007, a father and uncle were convicted of the murder of twenty-year old Banaz Mahmood, in a killing that had all the hallmarks of an ‘honour’ crime, where the victim had repeatedly told police that her family were trying to kill her, and yet been disregarded by the officer who interviewed her as manipulative and melodramatic.¹¹ The failure to implement the MPS’s proposed training package for front line staff was held partly responsible for this, as was the fact that police forces outside London have been less active on the issue. It also seems plausible, however, that cultural stereotypes got in the way, so that what should have registered as a life or death case of domestic violence was dismissed as self-dramatisation. A focus on ‘honour’ killing or ‘honour-based’ violence threatens to exaggerate the cultural component in what remains a form of domestic violence; but a failure to train police officers in the specificities of ‘honour’ crime can also leave people exposed to unthinking cultural stereotypes. At the time of writing, an internal police enquiry is underway into the Mahmood case; and the Crown Prosecution Service is piloting training for a team of twenty prosecutors, drawing on the expertise of the Forced Marriage Unit and Southall Black Sisters.¹²

FEMALE GENITAL CUTTING/MUTILATION

Public attention to forced marriage and ‘honour’ crime is very much a matter of the last

decade. By contrast, female genital cutting/ mutilation became a matter of public concern in the early 1980s, when a Malian child died after excision (Dorkenoo and Elworthy, 1994: 142) and there were reports of operations being carried out in private clinics. FORWARD was also instrumental in raising concerns. Yet what eventually became the *Prohibition of Female Circumcision Act 1985* mostly presented an opportunity for politicians to unite in condemning what was represented as an unsavoury imported practice, without committing the government to any significant budgetary costs. This largely symbolic nature of FGM politics has continued through to the more recent *Female Genital Mutilation Act 2003*.

The 1985 Act was based on the kind of double standard that has since dominated the international literature (for example, Gunning, 1992; Chase, 2002). Concerns emerged in the course of debate that the initial wording would criminalise cases where a ‘perfectly healthy’ girl develops an anxiety about the shape or size of her genitalia, and her mental distress is only relieved by surgery, colloquially known as ‘trimming’. It was suggested that 8,000 ‘legitimate’ operations were carried out on women’s genitals each year, including 10 to 20 ‘trimming’ operations. The medical colleges and bodies mobilized to block legislation that would criminalize these procedures, and the government then insisted on an amendment that allowed genital surgery ‘where necessary for physical or mental health’, but precluded account being taken of ‘any belief...that the operation is required as a matter of custom or ritual’. In effect, a girl or woman could have surgery to enable her to conform to majority social norms, but not to conform to those regarded as minority ‘cultural’ norms.

Though this differential treatment was challenged by the Commission for Racial Equality,

feminist groups did not raise it as a major issue. This partly reflects the consensus of the period, for it was mostly from the late 1980s that feminists began to address the cultural arrogance that had seeped through some of the international campaigning against FGM. It is notable, however, that there was also no significant debate on this when new legislation was enacted in 2003. The arrival of refugees from Somalia, Sudan, and other practising countries had combined with continuing pressure from NGOs such as FORWARD to revive interest in the problem in the late 1990s; the catalyst for fresh legislation was the All-Party Parliamentary Group on Population Development and Reproductive Health, which produced a report in 2000. The 2003 Act replaced the term ‘circumcision’ by ‘mutilation’, and made it illegal to take a girl or woman abroad to be excised or infibulated, but otherwise reproduced the earlier language and terms of reference, including the caveat about mental health. Indeed, since the later legislation increases the maximum sentence to 14 years, and creates a new offence of assisting a girl to mutilate her genitalia, it can be said to differentiate still more sharply between ‘cultural’ and ‘cosmetic’ cases. RAINBO, a leading international NGO, recommended the bill be amended to apply to *all* non-consenting minors, whether the reasons for the operation were ‘cosmetic’ or ‘customary’; and not apply to *any* consenting adult, again regardless of whether the reasons were cosmetic or customary. These recommendations were not taken up.

As with the proposed legislation to criminalise forced marriage, it could be said that existing laws provided as much as could be required: there was the 1985 Act; but also others such as the *Children Act 1989*, which gives local authorities the power to intervene to protect a child, including the power to prevent her being taken out of the country. Even supporters of

the legislation acknowledge it is hard to see how the only new clause can be enforced, short of requiring the forcible inspection of any female child returning from a visit to Somalia or the Sudan. It is commonly said that the main purpose is indeed symbolic, sending a clear message to the target communities that the practice is unacceptable. Yet in the absence of well-funded educational work, there is no evidence that the message has got through. Implementation was delayed to allow time to inform the relevant communities; letters of guidance were circulated to police, health professionals and social workers; and some organizations (including the Agency for Culture and Change Management and Black Women's Health and Family Support) were given some funding by the Home Office. Black women's organisations and service-providers say, however, that many members of practicing communities, and indeed midwives, remain unaware that FGM is illegal in the UK, and that girls are still being taken abroad for operations.

That said, the passage of time between the two laws suggests some improvement in the mechanisms whereby grass-roots organizations can influence legislation. The 2003 Act had what was in effect a steering group in the form of the FGM Sub-group of the Violence Against Women Working Group, convened by the Women's National Commission¹³, and including representatives of service-providers, women's groups, national and international NGOs, as well as the Home Office. The Working Group was the most expert and inclusive yet to work on these issues, though once the Bill became law, the Home Office withdrew from participation, and was not replaced by representatives from the most relevant departments for implementation, Health and Education. As with the earlier legislation, it seemed the symbolism was enough, with little subsequent government leadership on the issue.

In the absence of a co-ordinated implementation strategy, NGOs have had to do the best they can on limited resources.¹⁴ The result has been patchy and involves complicated judgments between ‘recognizing the sensitivity and complexity of issues related to FGM, and avoiding becoming judgmental or punitive’ while not becoming ‘paralyzed by being seen as racist or being confused by arguments based on culture, tradition or religion that you do nothing’.¹⁵ No national standards of good practice have been established, raising concerns about sensitivity and confidentiality. In July 2002, for example, the Sheffield Area Child Protection Committee wrote an open letter to all Somali parents warning them to reconsider if they were planning to take their children on holiday to be circumcised.¹⁶ This approach seems likely to provoke resentment and hostility, but in the absence of a more general education and information programme, was felt to be the only way to inform parents that circumcision was illegal. By July 2007, there had still been no prosecutions under the 2003 Act and the Metropolitan Police had taken the remarkable course of offering a maximum £20,000 reward for information leading to a prosecution. Clearly, neither statutory nor voluntary service providers believe that the problem has gone away.

The most striking gap in the initiative has been the failure to identify the scale of the problem. No nation-wide prevalence research was funded until 2006, and a quarter of a century after the issue was raised as a public concern, the only figure available for the UK remains FORWARD’s estimate that 6,500 girls are at risk of FGM every year. This causes particular difficulty in targeting scarce resources. Campaigners and service-providers suggest, for example, that teachers should look out for girls coming back from lengthy holidays and taking a long time going to the toilet, and that midwives should be prepared for pregnant

women asking to be reinfibulated after their child is born. In the absence, however, of data on the prevalence of these two scenarios, it is difficult for NGOs to know whether to target resources on schoolgirls or prioritise adult women. To complicate matters further, the dispersal of asylum-seekers around the country means that practicing communities are now less likely to be clustered in the large urban areas where service-providers are more aware of the issue, and more likely to face incomprehension from teachers or midwives in areas where they are a small minority.

FGM presents particularly acute strategic problems, as a now criminalized practice where the offender is likely to be the parent or relative of the victim and unlikely to perceive him/herself as criminal. The former Director of FORWARD was clear that it must be treated as child abuse: 'FGM is child abuse - no ifs, buts, or maybes'.¹⁷ But treating it as child abuse implies sending offenders to prison and taking children into local authority care; and all involved see this as deeply problematic. The issue is further complicated when it comes to adult women, for while it is easy to support a ban on circumcising a baby or young girl, it is harder to say why an adult woman cannot choose circumcision, or even why an adult woman defibulated before childbirth should not be permitted a reinfibulation after. The ban on adult operations looks a striking inconsistency in a country that has seen an increase in cosmetic surgery, including requests for 'genitoplasty' or labial reductions, with no opposition or debate.

This returns us again to questions of autonomy, and the very different presumptions made about people's capacity for agency and deliberate choice, depending on whether they come

from minority or majority groups. If the issue were simply the harm to women, or the risks of the operation, we might expect legislation to ban more intrusive forms of cosmetic surgery, but permit less intrusive forms of circumcision (for adult women, that is). Yet under current UK law, the key distinction is still whether the surgery is ‘cosmetic’ or ‘cultural’, with no apparent recognition that the demand for the first can also reflect cultural pressures, or that the demand for the second might, in some circumstances, reflect deliberate and reflective choice. The issues here are difficult, and it is not surprising that organisations like FORWARD prefer to focus on FGM as a matter of child abuse. But the more testing issues as regards women’s rights and autonomy are, to that extent, put on hold.

HEADSCARVES

Until recently, there was little public discussion about Muslim headscarves in Britain. Decisions on school dress codes are commonly left to school governing bodies; and the absence of any strong secular discourse regarding the separation of church and state meant there was no direct parallel to the French debates on laïcité. The first significant case involved not headscarves, but the jilbab. In 2004, Shabina Begum took legal action against her school, Denbigh High, on the grounds that it had unlawfully denied her freedom to manifest her religion. The majority of pupils and the headmistress were in fact Muslim, and the governing body had long adopted a uniform permitting girls to wear a skirt, trousers, or shalwar kameez in the school colours. From 1993, it also permitted girls to wear headscarves. The uniform did not, however, extend to the jilbab, and when the girl decided to adopt this, she was told to change back into school uniform or transfer to another school that would permit this form of

dress. In the event, she lost nearly two years' schooling before being accepted at another school.

In the first of three judgments dealing with this, the judge decided there was no case to answer.¹⁸ This was reversed by the Court of Appeal in 2005, mainly on the procedural grounds that the school had not recognized the right to manifest one's religion, and not therefore offered any *justification* for the restriction its uniform policy imposed. Confirming the importance commonly attached to religious belief (but also required to be attached, given the wording of Article 9 of the *European Convention for the Protection of Human Rights*), the judges stressed that sincerely held religious beliefs cannot be dismissed without consideration, even if they represent the views of the small minority of what they described as 'very strict' Muslims. The final judgment from the House of Lords determined that there had been no interference with the claimant's rights to manifest her beliefs (because there was nothing to stop her going to an alternative school); and, in a minority judgment, that there *had* been interference, but that this was objectively justified. The judgment seems to have reflected the care the school had evidently taken in devising its uniform policy, including extensive consultation with pupils, teachers, parents, and local imams, and the reluctance of the court to override the decision of those best informed about local circumstances. So far, at least, it could not be said to signal any particular stance regarding the tension between Islam and gender equality.

A few months later, however, the newspapers were full of the so-called niqab controversy when Foreign Secretary Jack Straw wrote a newspaper article saying he felt uncomfortable

talking to female constituents wearing a full veil and had a policy of asking them to remove it. This sparked much debate, with proponents of religious freedom ranged against others identifying an increasing accommodation of (minority) religious practices as threatening women's rights. In 2006, a teaching assistant who insisted on wearing the niqab when working with male colleagues was suspended from her post in a primary school; interestingly, though an industrial tribunal dismissed her claims of discrimination and harassment on religious grounds, it accepted a claim of victimisation, and the educational authority was ordered to pay a small sum in compensation. It is difficult, at this stage, to predict the likely course of future legal judgments, particularly given what we have noted as the coexistence of a militant secularism with increasing government consultation with religious organizations, and the recognition of religion as an equality 'strand' alongside race, gender, disability, age and sexual orientation. Muslim women's attire is commonly represented as symbolizing oppression, and to that extent is viewed in parallel with issues such as forced marriage or honour crime. Yet it has been hard to represent the individual women who have pursued cases through the tribunals and courts as lacking in agency and, for the moment, there is no groundswell of support for anything approaching a headscarf ban.

CONCLUSION

As compared with an earlier position of laissez-faire tolerance or indifference, when violence against women in minority communities often went unacknowledged, there have been some significant achievements in the last decade. This was substantially due to the ongoing work of minority women's NGOs, but other key factors were the increased number of women MPs, a developing culture of consultation between government departments and NGOs, and the role

of the media in highlighting individual cases, albeit in an often sensational way. The period 1997-2007 witnessed a host of measures aimed at reducing forms of violence specifically affecting minority women. However, new measures were less effective than they might have been, partly because of a focus on punishment and legal remedies rather than support and prevention. The issues discussed in this essay also lend themselves to cultural stereotyping, which can then feed public perceptions of multiculturalism as a mistake. Forced marriage, FGM, and 'honour' killings are still routinely referred to in media reports as 'cultural practices', as if these reflect normal and widely endorsed behaviour in minority communities. This sustains a picture of ethnocultural minorities as peculiarly oppressive to women, requiring rapid assimilation into the more civilised 'British' norms.

So far as the specifics of policy are concerned, we have criticised the sometimes symbolic use of legislation, as sometimes substituting for more costly interventions in the form of either educational initiatives or support work. We have also suggested that the use of culture-specific rather than generic legislation both reflects and contributes to public representations of minority groups as patriarchal, traditional, and backward, and is better avoided. Our more general suggestion relates to the process of policy formation. There has been a modest but still encouraging trend towards consultation and engagement with the voluntary sector, as with the *Forced Marriage (Civil Protection) Bill*, which was introduced as a private members' bill, supported by Southall Black Sisters who contributed to the drafting, redrafted through consultation with relevant organizations and individuals, and finally endorsed by government. Potentially, at least, the greater involvement of women's NGOs in formulating strategies and

initiatives helps secure better ways to tackle abuses of women without inadvertently promoting abuses of 'culture'.

As argued throughout, a preoccupation with abuses of women can feed a more xenophobic agenda, but the preoccupation also reflects urgent need. Women's NGOs were working to identify and address violence against women long before it figured in media representations of minority groups or entered into the policy domain; and treating the concern simply as a covert form of racism does little to assist those still exposed to coercion and violence. The task, in Britain as elsewhere, is to act effectively against abuses of women without encouraging cultural stereotypes. The evidence, so far, is that this balance is best achieved where there is substantial and sustained engagement with those organisations, mostly in the voluntary sector, that can most legitimately claim to represent the experiences of minority women. These will and do differ among themselves, and the policy initiatives any one of them supports will be no more infallible than those supported by mainstream organizations. There is no privileged position that provides infallible results. A variety of perspectives among minority women's NGOs is, however, important in challenging presumptions of cultural homogeneity, and the chances of tackling abuses of women without simultaneously promoting abuses of 'culture' are much improved when there is a wider representation of all relevant groups.

The story from Britain is in many ways typical of the trends identified in this issue, with a retreat from multiculturalism partly fuelled by depictions of patriarchal minority cultures, and government initiatives on gender equality that were perceived in some quarters as covert attacks on immigration. To this extent, multiculturalism was set up in opposition to women's

rights, and people were called upon to choose one side or the other. At its worst, this promoted a complacent view of 'British' values as securely committed to gender equality, and an arrogant perception of minority cultures as riven by patriarchal violence. That worst-case scenario continues to threaten (there are plenty of individuals who voice it). But there are also indications that policy is evolving in more successful ways. It is our view that the more encouraging outcomes owe much to a prior history of minority women's activism on the issues of FGC/M, forced marriage, and honour violence.

When public authorities turned their attention to these, there were already identifiable individuals and organisations with relevant experience and expertise; and where these *were* consulted, more chance of devising effective initiatives. This is only a small window of opportunity, and could well be closed down in the turn towards greater consultation with religious authorities, for women are notoriously under-represented in religious organisations. But it does hold out some hope, at least, that the tension between agendas can be resolved. The fact that women may be more vulnerable to coercion or violence within particular cultural groups does not mean that coercion and violence are 'cultural practices'. Politicians now commonly make the point that culture is no excuse. But culture is also no explanation, at least not if taken in the deterministic sense that represents all men in a particular group as violent, or all women as victims. It has to be possible to address abuses of women without in the process promoting stereotypes of culture. Experience in the UK suggests that is most likely to happen when policies are devised through careful consultation with all relevant groups.

References

Abu-Odeh, L. (1997) 'Comparatively Speaking: The "Honor" of the "East" and the "Passion" of the "West"', *Utah Law Review*, [Volume 1997, No 2](#), pp287-307.

Deleted: Please provide issue number

All-Party Parliamentary Group on Population, Development and Reproductive Health (2000) Female Genital Mutilation Survey Report and Analysis [available at www.appg-popdevrh.org.uk] [Accessed. 17 June 2007](#)

Deleted: add date a

Benhabib, S. (2002) *The Claims of Culture: Equality and Diversity in the Global Era* Princeton: Princeton University Press.

Chase, C. (2002) 'Cultural practice' or 'reconstructive surgery'? US genital cutting, the intersex movement and medical double standards' in S. M. James and C. C. Robertson (eds.) *Genital Cutting and Transnational Sisterhood* [pp126-151](#), Chicago: University of Illinois Press.

Deleted: Add page ranges

Deveaux, M. (2006) 'Personal autonomy and cultural tradition. The arranged marriage debate in Britain', in B. Arneil, M. Deveaux, R. Dhamoon, A. Eisenberg (eds.) *Sexual Justice/Cultural Justice*, [pp139-166](#), New York and London: Routledge.

Deleted: add page ranges

Dorkenoo, E. and Elworthy, S. (1994) 'Female Genital Mutilation' in M Davies (ed.) *Women and Violence: Realities and Responses Worldwide*, [pp137-148](#), London: Zed Books.

Deleted: add page ranges

Dwyer, C. (1999) 'Veiled Meanings; Young British Muslim Women and the Negotiation of Difference' *Gender, Place and Culture* 6 (1): [pp5-26](#).

Deleted: add page ranges

Gupta, R. (ed.) (2003) *From Homebreakers to Jailbreakers: Southall Black Sisters* New York and London: Zed Books.

Gunning, I. (1992) 'Arrogant Perception, World Travelling and Multicultural Feminism: The Case of Female Genital Surgeries' *Columbia Human Rights Law Review*: [Vol 23, No 2](#); 189-248.

Deleted: Add issue number

Hoodfar, H. (2001) 'The Veil in their Minds and on our Heads: Veiling Practices and Muslim Women' in E. Castelli (ed.) *Women, Gender, Religion: A Reader*, [pp420-446](#), New York: Palgrave.

Deleted: Add page ranges

Joppke, C. (2004) 'The Retreat of Multiculturalism in the Liberal State: Theory and Policy' *British Journal of Sociology* 55(2): [pp237-257](#).

Deleted: Add page ranges

Narayan, U. (2000) 'Undoing the "Package Picture" of Cultures', *Signs* 25/4. , [pp1083-1086](#).

Deleted: Add page ranges.

Okin, S. M. (1999) 'Is Multiculturalism Bad for Women?', in J Cohen, M. Howard, M. C. Nussbaum (ed.) *Is Multiculturalism Bad for Women?* , [pp7-26](#), Princeton: Princeton University Press.

Deleted: Add page ranges

Phillips, A (2003) 'When Culture Means Gender: Issues of Cultural Defence in the English Courts' *Modern Law Review* 66(4): [pp510-531](#).

Deleted: Add page ranges.

Phillips, A and M. Dustin (2004) 'UK Initiatives on Forced Marriage: Regulation, Dialogue and Exit' *Political Studies* 52(3): [pp531-551](#).

Deleted: Add page ranges.

Phillips, A. (2007) *Multiculturalism without Culture* Princeton: Princeton University Press.

Poulter, S. (1986) *English Law and Ethnic Minority Customs* London: Butterworth.

Poulter, S. (1998) *Ethnicity, Law and Human Rights: The English Experience* Oxford: Clarendon Press.

Runnymede Trust Commission (2000) *The Future of Multi-Ethnic Britain* London: Profile Books.

Sen, P. (2005) "'Crimes of honour", value and meaning', in L. Welchman and S. Hossain (eds.) *'Honour': Crimes, Paradigms, and Violence Against Women*, [pp42-63](#). London: Zed Books.

Deleted: Add page ranges

Shachar, A. (2001) *Multicultural Jurisdictions: Cultural Differences and Women's Rights* Cambridge: Cambridge University Press.

Shapiro, I. and Kymlicka, W. (eds.) (1997) *Ethnicity and Group Rights: NOMOS XXXIX* New York: New York University Press.

Siddiqui, S. (2005) ‘“There is no ‘honour’ in domestic violence, only shame!” Women’s struggles against “honour” crimes in the UK’ in L. Welchman and S. Hossain (eds.) ‘*Honour*’: *Crimes, Paradigms, and Violence Against Women*, [pp263-281](#), London: Zed Books.

Deleted: Add page ranges

Volpp, L. (2000) ‘Blaming Culture for Bad Behavior’ (2000) *Yale Journal of Law and the Humanities* 12: 89-116.

ANNE PHILLIPS is Professor of Political and Gender Theory in the Government Department and Gender Institute at the London School of Economics. *Address*: Government Department and Gender Institute, London School of Economics, Houghton Street, London.WC2A 2AE. [email: a.phillips@lse.ac.uk].

MOIRA DUSTIN is a Manager and Researcher at the Equality and Diversity Forum. *Address*: Equality and Diversity Forum, 207-221 Pentonville Road, London N1 9UZ. [email: moiradustin@yahoo.co.uk or info@edf.org.uk]

Notes

¹ *Alhaji Mohamed v Knott* [1969] 1 QB 1. Under-age spouses have not qualified for entry clearance since the mid 1980s.

² *Social Security and Family Allowances (Polygamous Marriage) Regulations 1975*, SI 1975/561.

³ It has been argued that ‘cutting’ is a less emotive and more respectful term than ‘mutilation’, and it is our own preferred term. However, ‘mutilation’ is more commonly used in the UK, including in legislation. We slip between the two terms as appropriate.

⁴ Though a copious literature demonstrates wide variations in practice, suggesting that this too has a largely cultural base. Eg Dwyer, 1999; Hoodfar, 2001.

⁵ The Act covers all religious beliefs (including a lack of religious belief). However, while the UK’s ancient common law offence of blasphemy is no longer used, it protects only the Christian faith and there have been frequent proposals for its repeal.

⁶ In 2000, Denmark introduced new regulations, raising the age requirement for family reunification for spouses from 18 to 24. For fuller discussion, see Siim and Skjeie in this issue.

⁷ Available at www.fco.gov.uk.

⁸ Findings from the Multi-agency Domestic Violence Murder Reviews in London, prepared for the ACPO Homicide Working Group by the Racial and Violence Crime Task Force, MPS, 2003.

⁹ *R v Abdulla M Younes*, Central Criminal Court, 27 September 2003. Other cases include that of Anita Gindha, who was found strangled in 2003, and Sahda Bibi who died of stab wounds on her wedding day in 2003.

¹⁰ *Homicide Prevention Unit Factsheet (1) ‘Honour Killings’ and Honour Based Violence: Overview* Metropolitan Police Service, 2005.

¹¹ *The Guardian* 12 June 2007. See also press release by the Iranian and Kurdish Women’s Rights Organisation available at www.ikwro.org.uk.

¹² Karen McVeigh ‘Special units to crack down on honour killing’ *The Guardian*, 16 June, 2007.

¹³ The Women's National Commission is the official, independent, advisory body giving the views of women to the Government

¹⁴ Women and children in areas of London and Sheffield are best-served with specialist NGOs (FORWARD, the Agency for Culture and Change Management and Black Women's Health and Family Support) providing information and support and the possibility of referral to specialist Well Woman Clinics for treatment (reversal or obstetric care).

¹⁵ Adwoa Kwateng-Kluyitse from FORWARD. Her conclusion is that 'to do nothing to protect the child would be racist indeed!' (RCN Study Day for Midwives, Doctors, Nurses, Health Visitors, Social Workers and other professionals, 29 October 2004).

¹⁶ 'It caused a furore. People were so angry and said we were attacking their culture but the feedback was that people were afraid and some families cancelled their trips' (Sarah McCulloch, the Agency for Culture Change and Management, quoted in Alex Sleator, *The Female Genital Mutilation Bill: Bill 21 of 2002-2003*, House of Commons Library 2003).

¹⁷ 'Adwoa Kwateng-Kluyitse, FORWARD, speaking at RCN Study Day for Midwives, Doctors, Nurses, Health Visitors, Social Workers and other professionals, 29 October 2004.

¹⁸ On 1 June, 2004, Judge J Bennet dismissed an application for judicial review of the school's decision [2004] All ER (D) 108 (Jun). In *R (on the application of B) v Governors of Denbigh High School* [2005] 1 FCR 530, the Court of Appeal reversed this judgment. In *R (on the application of Begum) v Head Teacher and Governors of Denbigh High School* [2006] UKHL 15, the House of Lords, restored the first judgment.