

Transnational marriage abandonment

Professor Sundari Anitha, University of Sheffield
and
Pragna Patel, Project Resist



University of
Sheffield



Transnational Marriage Abandonment (TMA)

Definition: *“Transnational marriage abandonment is a form of domestic abuse involving controlling and coercive behaviour. It refers to the practice whereby the sponsor’s partner or their family member, abandons or strands the partner abroad, usually without financial resources, and with the aim of preventing them from returning to the UK. It may involve children who are either abandoned with, or separated from, the abandoned partner.”*

TMA: Definition of domestic abuse and coercive control – **Domestic Abuse Act 2021**

Extent of TMA: Unknown

Dynamics of TMA

- TMA It is essentially a gendered phenomenon
- It is often a means by which perpetrators of abuse can circumvent legal protections available to victims of abuse in the UK.
- Creates contexts for further forms of violence and exploitation

TMA recognised in law

- **Family courts - Practice Direction 12J: Child Arrangements and Contact Orders: Domestic Abuse and Harm** which came into force on 2 October 2017

[PRACTICE DIRECTION 12J - CHILD ARRANGEMENTS & CONTACT ORDERS: DOMESTIC ABUSE AND HARM](https://www.justice.gov.uk/practice-directions/12j-child-arrangements-and-contact-orders-domestic-abuse-and-harm)
[justice.gov.uk](https://www.justice.gov.uk)

‘For the avoidance of doubt, it should be noted that “domestic abuse” includes, but is not limited to, forced marriage, honour-based violence, dowry-related abuse and transnational marriage abandonment.’

- **Immigration law - see [AM, R \(On the Application Of\) v Secretary of State for the Home Department \[2022\] EWHC 2591 \(Admin\) \(14 October 2022\)](#)**
- and **VDA guidance**

Three categories of TMA

- **The first category** – spouses who migrate to the UK upon marriage to join their partners in the UK and are then subjected to various forms of abuse, control, neglect and exploitation, following which they are either thrown out of the marital home or compelled to leave the abuse and seek help in the UK or return to their countries of origin.
- **The second category** – spouses who have come to the UK following marriage and are then abused and taken back to their country of origin usually through coercion or deception.
- **The third category** - spouses who go abroad for the purposes of marriage but then fail to sponsor their partners to the UK with the consequence that the foreign spouse never migrates to the UK.

Children: TMA cases can involve children who are separated from the abandoned spouse or abandoned with them.

Key features and patterns of abuse found in TMA cases:

- **Multiple perpetrators - intimate partner or extended family paradigm?**
- **A regime of harassment, humiliation, surveillance, neglect**
- **Imprisonment in the home**
- **Domestic servitude**

Key features and patterns of abuse in TMA cases: Coercive control

Case Examples

- *K, a Pakistani national, came to the UK on a spousal visa following her marriage to a British citizen. Within months of arriving to the UK, K was subjected to a catalogue of abuse and violence by her husband and in-laws who treated her like a domestic slave. She was made to get up at 5 o'clock every morning to do all the household chores for the extended family... Her mother-in-law took control over every aspect of her life... When K became pregnant her mother-in-law tried to force her to have an abortion and when she refused, she was made to accompany her in-laws on a short trip to Pakistan even though she was heavily pregnant. She was abandoned at her in-laws' home in Pakistan where she was kept as a domestic slave. Whilst there, she overheard her in-laws plotting to kill her but she managed to escape.*
- *P, an Afghani national, married a British citizen and travelled to the UK on a spouse visa. Some months later her husband's behaviour changed and he became very controlling. He became very suspicious and distrusting of her. He criticised her for wanting to wear 'Western' clothes and would often check her phone, Facebook account and other messaging applications to monitor her communications.*
- *Whenever the family went out, they unplugged the telephones and locked them or took them away with them. M would also be locked in the house, so that she could not contact anyone for help.*
- *'He said that I was a cleaner and that he could do what he wanted because I had no status in the United Kingdom. He threatened to have me "disappeared" and my body would never be recovered. He said that he could pay "African girls" to do the job'.*

Key features and patterns of abuse found in TMA cases

Financial abuse (including dowry-related abuse)

G was an Indian national who was married to a British national. G's parents gave her substantial gold jewellery, a set of new clothes and expensive gifts for her in-laws. Her in-laws began taunting and abusing her on her wedding night for not bringing enough dowry and threatened her that she would not be sponsored to the UK. Her parents borrowed money to meet her in-laws' demands. G came to the UK to join her husband, but their demands for additional dowry did not cease. When her parents could not afford £20,000 to fund her husband's business venture, the verbal and physical abuse G was subjected to escalated.

Immigration-related abuse

Threats of deportation and of informing the police, taking documents away were common ways in which perpetrators weaponised her insecure immigration status in the UK:

Q's mother-in-law took control over every aspect of her life, constantly complaining about her; and her husband physically beat her, threatening to divorce her and report her to the Home Office to have her deported on the grounds that she was mentally ill and that the marriage was no longer subsisting.

'My husband called me his 'tissue wife'. I think he meant that I was like tissue paper that you can use and throw away.'

The act of abandonment: Coercion and deception

TMA commonly occurred *within the context of ongoing domestic abuse:*

'He often used to hit me. He would tell me that he had much better girls to choose from. After three years like this, we came to India for a holiday. ... After 2-3 days, he left me at my mother's place. We had return tickets [...] but he phoned me and said he was returning to the UK that very night and I should come back later. [...] It was only later that I realised that he was waiting for my visa to expire. As soon as the deadline passed, he called to say he was going to divorce me.' (Hira, 32)

When Q, a Pakistani national, joined her British citizen husband on a spouse visa, she was subjected to abuse from her husband and in-laws. Four years later Q was abandoned in Pakistan with her two-year old daughter, while her three-year old daughter was kept in the UK. Q attempted to contact her husband and his family to return to the UK but they had changed their contact details and her ex-husband wrote to the British High Commission to inform them that the marriage had broken down.

Abandonment carefully strategised by perpetrators to avoid divorce proceedings in the UK;

Women treated as 'disposable' and the abandonment enables the perpetrators to avoid any financial settlement or criminal proceedings.

Cultural impact of abandonment

Cultural impact of TMA stems from strong gender norms across South Asia against divorce and includes stigma, shame and loss of family honour:

R married her British national husband in India and travelled to the UK on a spouse visa and was subjected to extreme controlling and coercive behaviour by her husband. After she gave birth to a son, her husband took them to India on a holiday, but returned to the UK without them. R was from a very conservative and close-knit community in Gujarat, west India, where female divorce is unacceptable and carries severe consequences. Her entire family were shamed and ostracised by their community; her younger sisters were considered 'tainted' and unmarriageable. For this reason, R's family persisted in trying to persuade her husband to change his mind for five long years. It was only then that they tried to seek professional help to enable R and her son to return to the UK, whilst still hoping for a reconciliation.

When W was abandoned by her husband and returned to her parental home in Pakistan, she was thrown out by her parents and her brothers who thought that her failed marriage had brought shame on their family.

It is common for abandoned women to be turned out of the natal home to maintain the family honour and the marriage prospects of the sisters, and to face social ostracism.

Financial impact of abandonment

Abandonment commonly leads to destitution and financial insecurity, in a context where the stigma and gender norms curtail opportunities for employment:

'We had to leave our village because they used to say, this girl has been abandoned. In the village, if you get out and ask for a job, they ask you, are you divorced? I would say no, the case is ongoing. So we moved to the city. Before coming here, we decided that we would not tell anyone. Everyone here thinks that my husband is abroad, working, and I'm living with my parents. If I told them, they would gossip about me.' (Jasminder, 34)

Abandoned women commonly encountered insecurity and a precarious existence within their natal home:

'Things are not easy here – all I can say is that I stay here. But my brother tells me all the time that I should give up my share in my father's property. My father possesses two houses and receives a considerable pension. But my brother says he will look after me and get my daughter married only if I renounce my inheritance. If I give up my right and my relations with my brother and his wife deteriorate, where will I go.' (Jasma, 38).

The loss of dowry (premortem inheritance to the bride) was a key factor in financial insecurity.

Barriers to justice

Legal processes are long drawn, expensive and corruption remains common in South Asia:

'The legal processes are slow, and it is difficult for a woman from a village to travel to a city court - there are frequent adjournments. She can't travel alone, she will be accompanied by a family member and the costs are high. ... If you compare it to the West, it is very different.' Deputy Superintendent of Police, India

'My husband no longer wanted me, my in-laws had turned me out of the house, I had two small children, what was I to do? We filed a case, and that was it. Whoever we went to, took money from us as bribes, they harassed us so much. "This proof doesn't work, that doesn't work, bring documents for this and that." [...] Nothing proceeds smoothly in our system, right? They'd say they were busy, come tomorrow, afterwards. And so it went on for months. His family eventually bribed the police, and nothing came of it. We lost all that money for nothing.' (Jasminder, 34).

'I heard that my husband had come to India for a wedding. I registered an FIR at the police station and he was arrested and his passport was confiscated. But he bribed the police and got his passport back and left the country the very next day.' (Bhavi, 50).

Attempts to return to the UK: Long delays

Women attempted reconciliation before formal action taken to seek and obtain support

P was abandoned in Pakistan with her children five years after her arrival to the UK. Her in-laws took away their passports and her husband then returned to the UK without them. Two and half months later, they were thrown onto the streets by her in-laws who also returned to the UK. P had no choice but to return to her parents but was not welcome there. P then fought a seven-year battle for the right to return to the UK with her children. She eventually obtained a visitor's visa and returned to the UK with her children.

A was abandoned in Afghanistan. She contacted the following organisations: British Embassy in Kabul; the visa centre in Islamabad; the Home Office in the UK; immigration solicitors in the UK; the British Council in the UK; the British Embassy in Pakistan; Her Majesty's Passport Office in Newport and Liverpool; her brother-in-law in the UK to request financial help as well as assistance with her visa application; the British Embassy in New Delhi and then a UK women's charity who put her in touch with a specialist women's rights organisation who referred her to immigration solicitors and supported her to return to the UK. Altogether there were 14 different points of contact over a period of three years.

The cultural impact of abandonment, barriers to justice in South Asian contexts, financial insecurity, lack of support from parents and lack of an immigration route into the UK for transnationally abandoned women can result in long delays between abandonment and application to return.

‘Voluntary’ return? Coercive contexts and constrained decision-making

Women make decisions to return to their countries of origin in the most constraining and difficult circumstances, unaware of their rights in the UK and lacking support from VAWG organisations:

When Indian national wife called the UK police for help after severe domestic abuse, they believed the counter-allegation of assault by the English-speaking in-laws and arrested and kept her in a cell overnight;

C’s husband lived away from home and her in-laws subjected her to domestic servitude and forced labour. When her mother-in-law spiked her drink to enable her husband to rape her as they wanted a grandchild, she fled the country with help from an acquaintance.

Under such circumstance which induce a state of panic and fear for life, where women perceive a lack of any other viable option, their departure cannot be regarded as truly ‘voluntary’.

‘I left the UK in desperation. I didn’t know that I could apply for indefinite leave as a victim of domestic abuse. I also didn’t know the country at all, and I was in complete shock as to what was happening to me. I was petrified about what my husband and his family could do to me. I was mentally upset as to what was happening and was feeling completely at loss and scared.’

Abandonment after the grant of DVILR

Though TMA commonly occurs while the wife is on a spouse visa, with NRPF, other patterns of abandonment can also occur:

B married a British citizen in 2004 and travelled to the UK on a spouse visa in 2005. During her marriage she suffered extensive emotional and verbal abuse, as well as controlling and coercive behaviour from her husband and in-laws. Her son, Z, was born in December 2008. He had significant speech and developmental delay problems and was later diagnosed as autistic. In March 2012, B was granted indefinite leave to remain (ILR) in the UK. In December 2012, B, her husband and son travelled to Afghanistan to visit B's parents and family. B's husband deceived and coerced her into staying in Afghanistan beyond 2 years. She was unaware of the impact of this on her ILR status until it was too late. In November 2015, B's husband abandoned her and Z in Afghanistan and returned to the UK.

Conclusion

TMA is a form of domestic abuse in and of itself as it involves coercive and controlling behaviour to deprive a spouse of the protections available to them through the DDVC and the justice systems in the UK;

But TMA is commonly accompanied by different forms of domestic abuse;

However, these forms of DA may not initially be recognised as 'abuse' by victims because of gender norms and normalisation of particular forms of abuse such as rape within marriage, coercive control and verbal abuse;

Wide-ranging impact of TMA includes social stigma and shame as well as destitution and financial insecurity;

Combined with barriers to justice both locally and through the lack of a route to return, the impact of TMA commonly results in long delays before seeking and finding support to apply to return to the UK;

While coercion and deception is a common feature of TMA, women may depart seemingly 'voluntarily' in the most constrained circumstances where they are unaware of their rights and in fear for their life - and may consider their options fully only after returning to their country and often following rejection by their family.

References

Research report:

Anitha, S., Roy, A. and Yalamarty, H. (2016) Disposable women: abuse, violence and abandonment in transnational marriages: issues for policy and practice in the UK and India. Project Report. British Academy. Available at: <http://eprints.lincoln.ac.uk/20091/>

BBC Victoria Derbyshire programme on youtube: https://www.youtube.com/watch?v=k6OmhfOgj_4

Journal articles:

- Anitha, S., Patel, P., Handa, R. and Jahangir, S. (2016) Emerging issues for international family law Part 1: Transnational marriage abandonment as a form of domestic violence. *Family Law Journal* 46(10): 1247-1252.
- Anitha, S. and Roy, A. and Yalamarty, H. (2018) Gender, migration and exclusionary citizenship regimes: Conceptualising transnational abandonment of wives as a form of violence against women. *Violence Against Women* 24(7):747-774.
- Anitha, S., Yalamarty, H. and Roy, Y. (2018) Changing nature and emerging patterns of domestic violence in global contexts: Dowry abuse and the transnational abandonment of wives in India, *Women's Studies International Forum* 69: 67-75.
- Patel, P., Handa, R., Anitha, S. and Jahangir, S. (2016) Emerging issues for international family law Part 3: Transnational marriage abandonment and the dowry question. *Family Law Journal* 46(12): 1443-1449.
- Jahangir, S., Anitha, S., Patel, P. and Handa, R. (2016) Emerging issues for international family law Part 2: Possibilities and challenges to providing effective legal remedies in cases of transnational marriage abandonment. *Family Law Journal* 46(11): 1352-56.

Best Practice in family law cases of Transnational Marriage Abandonment

Sulema Jahangir

Partner, Dawson Cornwell

8 February 2024

Stranded Spouses and Family Law

- Mr Justice Peter Jackson noted:

“Where one party to a failing marriage has secure immigration status and the other does not, the opportunity arises for the former to exploit the latter's weakness by taking advantage of immigration controls. This case is a bad, but by no means unique, example of what has come to be known as the stranded spouse.”

- Southall Black Sisters have done a publication on transnational abandonment of spouses. The term is abandoned. In India various categories emerge.
- In children law we are concerned with mainly one category – where the mother with/out children is abandoned in her home country.
- Which regions are affected?

Wardship and Inherent Jurisdiction

- S 41 Senior Courts Act 1981 and Sch 1.
- Practice Direction 12 D of the Family Procedure Rules
- The court's wardship jurisdiction is part of and not separate from the court's inherent jurisdiction.
- The distinguishing characteristics of wardship are that the custody of a child who is a ward is vested in the court.
- An application for wardship must be started in the High Court.
- A local authority (with the court's permission) or any person with a genuine interest in or relation to the child may start wardship proceedings.

Re S Guidance given by Mrs Justice Hogg

- Mrs Justice Hogg was keen to ensure that the Article 6 ECHR and Article 8 ECHR rights of the parties and the child are upheld.
- Tipstaff – Passport/Location orders at the first hearing
- Request to the Home Office – EX660
- To determine whether a fact finding hearing should take place considering the gravity of allegations
- Whether a Cafcass Officer should be appointed to represent the children
- The court should make recitals to assist the mother to return to this jurisdiction. She was concerned about the apathy shown by immigration authorities: "I make a further plea to the ministers concerned that there should be some consideration as to what arrangements can be put in place to assist mothers to return to this country where allegations similar to those made in this case and where proceedings are in being and hearings are listed."

Abuse of Immigration Control

- Mothers are routinely denied entry clearance despite recitals from the Court.
- Re S: "To separate a mother and child in this way is emotionally harmful to the child and remains so for so long as the child is deprived of the mother. It is something which is abhorrent and unfeeling towards a child and mother. It is selfish and cruel by those who do it."
- N v A (2012) "I was deeply upset that notwithstanding the mother's applications, two applications, to come to this jurisdiction for this hearing, to be engaged fully in this hearing, those applications were rejected. This is not the first time that this has happened. "
- Akhtar v Ayoub (2013) ""I have very considerable sympathy with the position of the mother, who is now separated from all her children....But I have to say that it seems to me that this wardship has now become futile and, indeed, potentially abusive of the proper boundaries between this court and the Secretary of State in immigration matters."

Abuse of Immigration Control (cont'd)

- ZM v AM (2014); Mr Justice Peter Jackson: “a wholesale breach of their right to respect for their family life under Article 8 of the European Convention on Human Rights....The nature of the child’s condition means that while his mother remains abroad there is no opportunity for any meaningful relationship between them.”
- Samia Bi v Mohammed (2016) Mr Justice Holman distinguished Akthar:
“The situation in the present case is materially different. In the first place, the mother does have a current, extant appeal against the refusal of a visa..... Secondly, the mother in the present case does not rule out seeking that her daughter returns to Pakistan to live with her there, if it remains the position that the Secretary of State refuses to grant the mother any visa to enter the United Kingdom and all avenues of appeal are exhausted.”

Jurisdiction

- It is imperative that in stranded spouse cases, the mother is able to initiate proceedings without a long delay.
- Reality suggests otherwise.
- Question of Habitual Residence where the child is stranded – has the child integrated in the given jurisdiction.
- A (Children) (AP) [2013] UKSC 60 - The Supreme Court unanimously allowed the mother's appeal and held that the court had inherent jurisdiction to make the orders in this case on the basis of fourth child's British nationality.
- Difficulty in obtaining public funding. Case of RA – denied public funding – 3 years.
- Case of NH unreported – 10 years
- AM v ZM – 4 years – split siblings
- NA – AA – 4 years - children stranded along with the mother

Where there is no jurisdiction

- Stranded women with no children.
- Stranded women and children who have never been to England.
- Much more difficult to obtain public funding from abroad in private children cases, divorce and financial remedy proceedings.
- Long-standing stranding for mothers.

Conclusions

- It is fair to say that it is easier for mothers to resume care of their children when the stranding is not long-standing.
- Careful manoeuvring by the court and the expertise of a skilled Cafcass officer
- Discharging the wardship. Under Practice Direction 12D of the Family Procedure Rules the court must consider whether the matter should be transferred to a family court. Rule 2.3 prescribes a list where proceedings may be more suitable to be heard in the High Court unless the nature of the issues of fact or law makes them more suitable for hearing in the family court.

Conclusions

- **Financial Relief**
- Insecure immigration status – lack of funds
- Maintenance – no public funding. In some cases the High Court has exercised its inherent jurisdiction to order maintenance under section 27 of the Matrimonial Causes Act 1973 even where no formal application is made before it. This must be right because it is the duty of the court to be concerned about the welfare of its ward and the court has power to do this under its inherent jurisdiction.
- Financial Relief upon divorce – no public funding unless a finding of DV.

Aisha – Cast Study 1

- **What family law proceedings can Aisha commence?**
- Aisha can commence proceedings to ward Priti under the inherent jurisdiction of the High Court.
- Passport orders should be made after an ex parte hearing.
- EX660 request to the Home Office to ascertain Aisha's immigration status.
- Request from the High Court to the Home Office for M to return
- Fact finding hearing which M must attend.
- F can be compelled to pay for her immigration application.

Zara – Case Study 2

- **Issue of jurisdiction for Zara to commence wardship proceedings**
- Length of time – 2 years
- Parties' intention to move to India
- Have children settled in India?
- Are they enrolled in school?
- Case of SR where 3 years as over-stayers in Saudi Arabia meant children were not settled and retained jurisdiction.

Renata - Case Study 3

- No children so no proceedings can be taken before the High Court
- Difficulty for Renata to obtain public funding as she does not satisfy evidence of domestic abuse.
- Financial remedy proceedings probably only recourse in family proceedings.

TMA in the immigration system

Working our way to *AM v SSHD*

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Protections for victims of domestic abuse

- **Access to benefits (Destitute Domestic Violence Concession)**
- **Indefinite leave to remain (“SET (DV)”), with option for fee waiver**

BUT both limited to applicants in-country, excluding victims of transnational marriage abandonment

Issues with lack of official re-entry route

- **Many victims did not find the support needed to re-enter**
- **Applications outside of the rules – relying on caseworkers' discretion with mixed results**
- **Applications within the rules could mean exclusion from ILR once in the UK**
- **Difficulties with fee waivers**
- **Difficulties with funding and legal aid**

Effectively created conditions of impunity for abusers

AM v SSHD

- **“Textbook” case of transnational marriage abandonment**
- **AM was allowed re-entry but outside of the rules and with no recourse to public funds**
- **Through AM and other case studies, showed issues with lack of official re-entry route**
- **High Court found that failure to make provision for victims of transnational marriage abandonment was unlawfully discriminatory, and a disproportionate interference with their Article 8 rights**

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LAWYERS AGAINST INJUSTICE

New Immigration Rules on Transnational Marriage Abandonment (TMA)

Nicole Masri

Senior Legal Officer, Rights of Women

New Immigration Rules on TMA



- Immigration rules came into force on 31 January 2024
 - Appendix Victim of Domestic Abuse
<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-victim-of-domestic-abuse>
- Victims of domestic abuse abandoned overseas can apply for a visa to re-enter the UK
 - an ‘entry clearance’ route for victims of TMA
 - application is for settlement i.e. indefinite leave
 - cannot apply to DDVC from outside UK

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- Gov.uk applicant facing guidance
<https://www.gov.uk/indefinite-leave-to-remain-domestic-violence-abuse>
 - Gov.uk caseworker guidance
<https://www.gov.uk/government/publications/victims-of-domestic-violence>
 - Standard of proof for applications made from outside the UK on TMA route is lowered to ‘reasonable degree of likelihood’
 - *“Victims abandoned overseas are more likely to be in situations of vulnerability and face additional barriers to applying as compared to those in the UK who may be able to access support services.”*

Core requirement (1): previous visa

- The route is only for victims of domestic abuse who have previously been in the UK with a specific partner visa
- The same criteria applies as for applications made inside the UK for indefinite leave as a victim of domestic abuse
- Must have, or last been granted, permission in the UK as partner of person who is:
 - British, settled, a refugee (partner permission granted under family member or refugee family reunion rules); or
 - An EU citizen with pre-settled status based on their own residence in the UK by 31.12.2020 (partner permission granted under family member rules i.e. Appendix FM); or
 - member of UK armed forces (partner permission granted under Appendix Armed Forces & additional criteria apply).

Core requirement (2): DV relationship breakdown

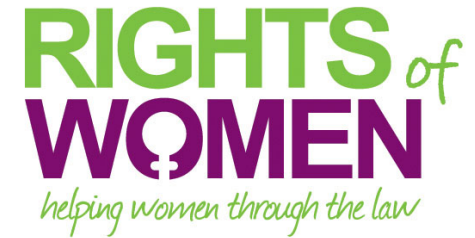


- Again, this same requirement applies as for applications made inside the UK for indefinite leave as a victim of domestic abuse
- The relationship between the applicant and their partner must have broken down permanently because of domestic abuse.
- Caseworker guidance:
 - *“they may not be able to obtain and produce evidence in the same way as in-country applicants.”*
 - *“an applicant does not have to provide medical or independent evidence of domestic abuse if the account of the abuse and the circumstance of the abandonment is reasonably detailed, consistent, and plausible. However, additional evidence of domestic abuse from the below section ‘types of evidence’ may strengthen the overall application of a transnational marriage abandonment applicant where you do not feel the account given is reasonably likely.”*

Core requirement (3): abandonment

- An applicant applying from outside the UK must have been abandoned outside the UK.
- Caseworker guidance:
 - *“As transnational marriage abandonment is a recognised form of domestic abuse then this would be sufficient evidence to meet VDA 4.2. and VDA 4.3.”*

How to apply: application form



- Complete the online application form
 - <https://www.gov.uk/indefinite-leave-to-remain-domestic-violence-abuse/apply-outside-uk>
 - Select 'Return to the UK' option
- Children complete a separate application form

How to apply: fee & fee waiver option



- Application fee for indefinite leave (currently £2885 per person)
- Fee waiver available if destitute
 - provide information and evidence relating to fee waiver with application

How to apply: supporting documents

- Applicants should provide supporting documents to evidence the information provided in the application form including
 - passport / travel document
 - TB test certificate (mandatory for certain countries, if unable to obtain try to rely on waiver power)
 - statement of the domestic abuse and circumstances of the abandonment
 - other evidence of domestic abuse

How to apply: appointment

- After submitting the application online, applicants must make an appointment at a Visa Application Centre to provide their biometric information (fingerprints and photo) and passport
 - If do not have a valid passport and unable to get a new one, consider caseworker guidance on relying on other identity documents and use of discretion.
 - If unable to attend an appointment, consider caseworker guidance on biometric re-use / excuse.

Grounds for refusal

- General suitability grounds for refusal apply
 - Part 9 immigration rules (except para 9.8.4.(a) which means previous overstaying is not automatically grounds for refusal)
 - For example: criminality, sham marriage, deception, previous breach of immigration law, NHS debt, unpaid litigation costs
 - Only issues since last visa was granted are considered
 - Caseworkers must consider impact of domestic abuse when assessing suitability

Dependent children

- Can apply alongside parent (or after them) but will need to complete own separate application form.
- Children can be eligible if:
 - Born in the UK; or
 - Have last been given a visa as dependent child; or
 - Born outside UK after parent's partner visa was granted
- Must be living with parent (unless living away in full time education) and not have partner of their own
- Must be supported and accommodated without using public funds (e.g. welfare benefits, Council housing assistance)
- Maintenance and accommodation
- 18yrs+ dependent children can apply if:
 - Have last been given a visa as dependent child
 - English language requirement applies (limited exemptions)
 - Must pass Like in UK test (limited exemptions)

Legal advice and representation

- Applications inside the UK are automatically in scope of legal aid
- Applications from outside the UK are not automatically in scope of legal aid (yet)
 - we understand the Ministry of Justice plans to change legal aid laws so that these applications are automatically in scope of legal aid
 - until then, it is likely that legal aid would be granted following an application for it (known as ‘exceptional case funding’).
- Consider charities with alternative funding e.g. Law Centres.
- Rights of Women’s advice lines have expertise in TMA:
 - Immigration & asylum advice line (for women and / or professionals)
 - Professionals’ advice line (for professionals only)
 - Opening hours & telephone numbers:
<https://www.rightsofwomen.org.uk/get-advice/immigration-and-asylum-law/>
- Rights of Women’s online network for VAWG / migration professionals <https://www.rightsofwomen.org.uk/for-professionals/networks-and-forums/>

Welfare Benefits & Housing law



- Welfare benefit / housing entitlement immediately on arrival compromised by current regulations
 - e.g. habitual residence test
- Could lead to delays accessing welfare benefits / housing
- We are campaigning for legislative exemptions removing barriers to immediate entitlement on return to UK.

Transnational marriage abandonment: Supporting Survivors

Pragna Patel, Project Resist



Transnational Marriage Abandonment: Supporting Survivors

Out of Country advice and support of abandoned women

- Inform victim of the right to apply to return to UK under the new Victim of Domestic Abuse route and support her in the making of an application to return if eligible. See Return to the UK.”
- Check what documents have been kept or taken from victim
- Take a detailed statement to support the application including:
 - History of immigration to the UK (ascertain previous grant of leave and whether or not it has expired)
 - History of abuse and abandonment (including abuse/threats/intimidation faced in the UK and how the victim came to be abandoned)
 - Current situation - housing and financial (If destitute can apply for a fee waiver. Evidence will help - letter from family/friends/agency providing support. If no evidence available explain why)
 - Details of current circumstances (current risks, cultural, economic and emotional impact including on any children, any health problems.)
 - Reasons for any delays (if any) in seeking help to return to UK
 - Note any proceedings e.g. divorce or children initiated in the UK by the perpetrator or victim
 - Obtain advice and guidance from immigration lawyers (and family law practitioners if children or family proceedings underway) in the UK to ensure all appropriate information obtained
- Inform women of the support available once in the UK

Transnational Marriage Abandonment: Supporting Survivors

Out of Country advice and support of abandoned women

- Assist in gathering corroborating evidence from the UK and abroad (to be submitted with application)

Examples:

- Detailed statements from the survivors themselves. (*Note: this may be the only available evidence*)
 - Details of any reports made to police/social services/other agencies in the UK or abroad
 - Witness statements from family/friends/relatives/others in the UK or abroad
 - Any medical evidence in the UK or abroad
 - Undertake risk assessment
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- Plan ahead and line up access to and liaison with immigration/family/other legal practitioners soon after arrival
 - Assist in planning return to the UK (e.g. make sure she has all relevant documents to travel and on arrival, place to stay and other support. E.g. emergency housing, financial and other measures of support, means of communication, representation etc)

Transnational Marriage Abandonment: Supporting Survivors

In Country advice and support of abandoned women

- Collection at airport (make sure have copy of passport/ID to recognise her)
- Housing options – family/friend/refuge/B&B/other safe accommodation
- Assistance with access to short term and long term financial support. (Note: small grants/financial support available from Women's Aid (flexible fund for survivors of abuse: one-off £500/2500 to secure accommodation and SBS – support for migrant women.)
- Assistance with access to and liaison with the police if criminal proceedings contemplated
- Help with or referral to other appropriate agencies re health/counselling/children/financial advice etc.