

THE MINIMUM AGE FOR A MARRIAGE ENTRY VISA

The allegation

The home secretary withheld publication of research that failed to support her proposed policy of denying entry to spouses where one of the couple was under 21. The history emerged in the judgment of the Supreme Court in *R (Quila) v Secretary of State for the Home Department*.⁴⁰

Timeline

- 2006 The home secretary commissioned Professor Marianne Hester of the University of Bristol to report on the desirability of raising the minimum age for a marriage visa from 18 to 21 in order to deter forced marriages.
- Feb 2007 The Bristol report suggested that any such change would be unjustifiably detrimental to voluntary marriages and discriminatory on racial and ethnic grounds in relation to arranged marriages. The report was not published by the Home Office. The home secretary later explained non-publication on the ground that she and two external peer-reviewers, while uncritical of the methodology, were dissatisfied with the use of unsubstantiated statements, unclear terminology and sampling bias in the first draft of the report. The researchers revised the report in response to the comments from peer reviewers.
- Aug 2007 The Bristol report was published independently.⁴¹
- Dec 2007 The home secretary issued a consultation paper asking whether raising the marriage visa age to 21 will help to reduce forced marriages.
- 13th Jun 2008 The House of Commons home affairs select committee found insufficient evidence that it would do so. In view of the risks, it urged further research and asked for conclusive evidence that changes would not inadvertently discriminate.⁴²
- Jul 2008 The home secretary asserted that the conclusive evidence sought by the select committee now existed in the form of figures showing that forced marriages peak between ages 18 and 21. The Supreme Court later pointed out that the evidence the select committee asked for was not the typical age of victims of forced marriage but whether raising the visa age would deter the practice.
- 27th Nov 2008 The home secretary amended the immigration rules to raise the age for a marriage visa from 18 to 21.⁴³
- 12th Oct 2011 The Supreme Court held that in amending the rules without “robust evidence of any substantial deterrent effect ... upon *forced* marriages”, the home secretary had failed to establish a proportionate response to a pressing social need, thereby invalidating her rule change.

How were government policy and public debate affected?

By going ahead with a rule change that had a serious impact on the human rights of young people, and doing so without an adequate evidence base, government contravened the law and was obliged to retreat. Publication of the Bristol report in 2007 by the Home Office, together with its own critique, would have been an open and productive way of developing policy.

⁴⁰ [2011] UKSC 45

⁴¹ Hester, M et al (2007)

⁴² House of Commons home affairs select committee (2008)

⁴³ UK Border Agency (2008)