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10 August 2006

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Mauritania: Prevalence of forced marriages; legal status; ability of women to refuse a forced marriage; and state protection (July 2006)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Practice

Although the Personal Status Code sets the minimum age for marriage at 18 years and requires a woman's consent to seal any union (see the section "Legal Status"), in fact, the forced marriage of women who have reached the age of majority and of underage girls continues in Mauritania (UN 4 July 2006; SOS Slavery 3 July 2006). Correspondence from a representative of SOS Slavery Mauritania (SOS Esclaves Mauritanie), a Mauritanian anti slavery organization, indicated that this practice is common in the country (3 July 2006). A representative of the United Nations Development Programme (UNDP) stated that forced marriage occurs in rural areas, where the traditional mindset is still very strong (UN 4 July 2006). It is less widespread in urban areas and among educated girls, who refuse to go along with the practice (ibid.).

A representative of SOS Slavery stated that forced marriages [translation] "are arranged according to the need to form matrimonial alliances in order to preserve the interests of the tribe, which can be material (inheritances, for example) or moral (degree of nobility, fear of marriage to a person of lower social status)" (3 July 2006). As an example, [translation] "a woman with high social status should not marry a man with lower social status. However, she could be forced to marry a cousin or a person with equivalent status" (UN 4 July 2006).

A representative of the United Nations Children's Fund (UNICEF) stated that because they are imposed, forced marriages are celebrated in private and are not reported to civil status officials (UN 3 July 2006). The UNICEF representative added that various non-governmental organizations (NGOs) identify this type of marriage as [translation] "a form of sexual exploitation of girls and women" (ibid.).

Legal status

Articles 5, 6, 9 and 26 of Chapter III of Law No. 2001-052 Respecting the Personal Status Code, read as follows:

[Translation]

Article 5 For a marriage to be contracted, the following elements must be present: two spouses, the guardian [weli], the dowry and the consent.

Article 6 Any person of sound mind who is at least 18 years old shall be able to marry. A disabled person may be married by her guardian [weli] if the guardian approves of the marriage.

Article 9 Guardianship [wilaya] is exercised in the interests of the woman. A woman who has

reached the age of majority cannot be married without her consent and the presence of her guardian [well]. Consent can be implied by silence.

Article 26 A marriage is contracted by the consent of the parties, expressed in sacred words or using any expression acceptable by usage. If a person is unable to express himself/herself, valid consent can be expressed either in writing or by any sign expressing willingness in some way. (Mauritania 19 July 2001)

According to the UNICEF representative, the Personal Status Code enables a judge to dissolve a marriage to which a woman did not consent (UN 3 July 2006). However, an SOS Slavery representative stated that this Code does not apply to first marriages (3 July 2006). The weekly magazine *Jeune Afrique* indicated in a 2006 article that women's rights groups were still waiting for the Personal Status Code to come into effect (26 Mar. - 1 Apr. 2006, 79). No further information on the application of the Personal Status Code in cases of forced marriage or on the implementation of the Code could be found among the sources consulted by the Research Directorate.

In correspondence sent to the Research Directorate on 3 July 2006, the UNICEF representative reported that Article 41 of the Code for the Protection of Children and Adolescents reads as follows:

[Translation]

The parents and people with authority over the child who request that the child's marriage be registered and the authorities who proceed with the registration without respecting the legal age for marriage and consent shall be punished by three to six months in prison and fined 100,000 to 200,000 *ouguiyas* [(MRO), approximately 417 CAD to 834 CAD (Bloomberg.com 27 July 2006)]. This sanction is also applicable to any person who physically restrains a child and subjects that child to actions that lead to mutilation or a permanent incapacity in order to bring him or her to consent to the marriage.

No information on the application of the Child Protection Code could be found among the sources consulted by the Research Directorate.

Ability of a woman to refuse a forced marriage and availability of state protection

For a first marriage, the consent of the parents or guardians (*weli*) is sufficient, and women cannot go against their decision (SOS Slavery 3 July 2006; see also US 8 Mar. 2006). Women who refuse to enter into a union imposed on them [translation] "violate the letter of the Sharia (traditional Islamic law)" and will not find anyone to help them (SOS Slavery 3 July 2006). They can, however, refuse any subsequent marriage; in that case, the authorities will be able to help them (*ibid.*). Nevertheless, they will face [translation] "social pressure" and will often have to distance themselves from their family (*ibid.*).

As for an underage girl refusing a forced marriage, the UNDP representative reported that in [translation] "traditional society," these marriages are often entered into without the underage girl's consent, but with the agreement of the family, which pressures the girl and [translation] "imposes" a husband on her, despite the law (UN 4 July 2006). According to the UNICEF representative, young girls submit to this practice because they do not dare to [translation] "report" their parents (*ibid.* 3 July 2006). Women who have reached the age of majority often agree to this type of union because of strong family pressure (UN 4 July 2006).

Given the [translation] "compartmentalized and hierarchical" nature of Mauritanian society, forced marriages are most often refused because of [translation] "traditional status inequalities" (*ibid.*). In such cases, women can ask a judge to dissolve a marriage that has already been contracted or ask local authorities for advice (*ibid.*). However, it is socially preferable to come to an amicable agreement rather than take the case before the courts (*ibid.*).

No information on the protection offered by the government of Mauritania to women who refuse to comply with a forced marriage could be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

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United States (US). 8 March 2006. Department of State. "Mauritania." *Country Reports on Human Rights Practices for 2005*. <<http://www.state.gov/g/drl/rls/hrrpt/2005/61581.htm>> [Accessed 27 June 2006]

Additional Sources Consulted

Oral sources: The Association mauritanienne des droits de l'Homme (AMDH), the Groupement pour la défense des droits des femmes (GDDF) and the Réseau mauritanien pour la promotion des droits de la femme (RMPDF) did not respond within the time constraints for this Response.

Internet sites, including: Amnesty International (AI), Human Rights Watch (HRW), Fédération internationale des ligues des droits de l'Homme (FIDH), International Committee of the Red Cross (ICRC), Organisation internationale de la francophonie (OIF).

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