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Responses to Information Requests

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29 November 2013

DZA104676.FE

Algeria: Forced marriages, including state protection and resources provided to women who try to avoid a marriage imposed on them; amendments made to the Family Code in 2005 (2011-November 2013)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Forced Marriages

According to Voyage.gc.ca, the Government of Canada site that provides information to Canadians travelling or living abroad (Canada 27 June 2013), [translation] "forced marriages have occurred" in Algeria (ibid. 22 Mar. 2013). According to the French daily newspaper *Le Figaro*, the prevalence of forced marriages in countries of the Maghreb is difficult to assess (30 Nov. 2012). BALSAM, the national network of call centres for victims of violence against women in Algeria, which was founded in 2009 and had 15 call centres throughout Algeria as of 2012, states in its fourth report, published in May 2012, that since the network was implemented, of the 828 women who have contacted the call centres, 12 were victims of forced marriage and 18 were victims of attempted forced marriage (BALSAM May 2012, 4, 7, 27). *Réflexion*, a daily newspaper from the Algerian commune of Mostaganem, states that in the rural regions it is common for young girls to be married without their knowledge and against their will (3 Sept. 2012). During a telephone interview with the Research Directorate, a representative of the Tharwa Fatma N'Soumer Association, an organization that promote women's equality in Algeria, stated that although they have [translation] "decreased" in number, forced marriages do occur in Algeria, and are most prevalent in rural regions (28 Nov. 2013). In correspondence sent to the Research Directorate, an associate professor at Al Akhawayn University in Morocco, who specializes in issues relating to the situation of women in North Africa, stated that it is "difficult" to distinguish between forced and arranged marriages because "some women simply accept it as their fate to do as they are told" (15 Nov. 2013). Similarly, the Tharwa Fatma N'Soumer representative stated that women do not dare to oppose a marriage imposed on them because they do not believe there is another option (28 Nov. 2013). During a telephone interview with the Research Directorate, the President of SOS Women in Distress (SOS Femmes en détresse), an Algerian association that advocates for women's rights and provides services to women victims of violence (SOS Femmes en détresse n.d.), stated that a woman [translation] "cannot really refuse" a marriage imposed on her, "because traditions are too important to Algerian families" (ibid. 29 Nov. 2013). The President of SOS Women in Distress explained that, if a woman [translation] "refuses to marry, the family and neighbours, etc., will work together to follow her, confine her and prevent her from leaving" (ibid.).

The Associate Professor explained that forced marriages occur for many reasons: in poor families, so that the girls "can be taken care of by someone else;" to "bring assets into the family;" or even "to settle family disputes" (15 Nov. 2013). According to the *Réflexion* article, women are not the only ones who are victims of forced marriage; men are [translation] "often" forced by their parents to marry a woman on the basis of heritage (3 Sept. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Algerian media sources state that people have committed suicide to evade forced marriages (Algérie-Focus 13 Nov. 2013; *El Watan* 19 May 2012; *Réflexion* 3 Sept. 2012). Algérie-Focus, an online Algerian newspaper whose offices are located in Algiers and in Paris, reports on the case of a young 18-year-old girl from Jijel who took her life for that reason (13 Nov. 2013). The Algerian daily newspaper *El Watan* reports on the case of a woman, approximately 30 years old, who committed suicide, [translation] "since she was forced by her older brother to marry a man whom she did not want" (19 May 2012). *Réflexion* recounts the case of a 22-year-old woman from the city of Mesra who also took her life to avoid suffering the same fate (3 Sept. 2012). The *Réflexion* article also states that in the rural regions of Mostaganem, people [translation] "often" commit suicide to avoid a marriage and that "less than a year ago, the same community was shaken by a similar tragedy" (3 Sept. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.1 Child Marriages

According to a national survey in 2006 conducted by the Ministry of Health, Population and Hospital Reform (ministère de la Santé, de la Population et de la Réforme hospitalière), in cooperation with the Algerian National Office of Statistics (Office national des statistiques), 0.8 percent of women aged 15 to 49 years old were married before the age of 15 and 7.8 percent of women aged 15 to 49 years were married before the age of 18 (Algeria Dec. 2008, 105). According to that survey, child marriage [translation] "seems to affect older generations in particular:" less than 2 percent of women aged 20 to 24 years old were subject to an early marriage, while this number stands at 21.1 percent of women 45 to 49 years old (ibid.). In 2006, the average age at first marriage in Algeria was 33.5 years old in men and 29.8 years old in women (ibid., 104). Further information on the frequency of child marriages could not be found among the sources consulted within the time constraints of this Response.

1.2 Forced Marriage in the LGBT Community

In correspondence sent to the Research Directorate, the Director of Abu Nawas Algérie, an organization that describes itself as [translation] "a group of Algerian militants" for the rights of LGBT persons (Abu Nawas Algérie n.d.), states that [translation] "we often hear of forced marriage in the homosexual community in Algeria," and adds that some homosexual individuals who are not necessarily victims of forced marriage "end up getting married to satisfy their family and entourage" (14 Nov. 2013).

An article from Algérie-Focus on the life of three Algerian lesbians states that [translation] "an increasing number of lesbians get married under the pressure of their parents" and that "since marriage is essential in Algeria, this family pressure is very strong" (Algérie-Focus 28 Aug. 2012). One of the women interviewed stated that [translation] "a good number of families who hear about their daughter's homosexuality will have her married by force, if they do not disown her" (ibid.). According to the Abu Nawas Algérie Director, forced marriages could be preceeded by [translation] "corrective and collective rapes" when parents learn that their daughter is a lesbian (14 Nov. 2013). Corroborating information could not be found among the sources consulted within the time constraints of this Response.

For further information on the treatment of LGBT persons in Algeria, consult Response to Information Request DZA104507.

2. Legislation

The Family Code governs [translation] "all relationships between family members" (Algeria 1984, Art. 1). The Family Code was amended in 2005 (Freedom House 2011; US 11 Mar. 2008, Sect. 5). Articles 4 and 9, which were amended in 2005, state that [translation] "marriage is a legal consensual contract entered into by a man and a woman" and that "the marriage contract is concluded by mutual consent between the two spouses" (Algeria 1984, Art. 4, 9). In addition, the Family Code states that [translation] "consent arises from a request by one of the two parties and the acceptance by the other expressed in a form signifying legal marriage" (ibid., Art. 10).

Article 7 was also amended in 2005 and states that the minimum age of marriage is 19 years for both men and women (ibid., Art. 7). It specifies that a judge may grant [translation] "an exemption with regards to age requirements for reasons such as necessity or when two parties are deemed fit for marriage" (ibid.). A 2008 report by UNICEF states that sometimes, in certain countries like Algeria, the laws enabling the legal age of marriage to be reduced may have "negative" implications; for example, "in the case of rape of a minor, marriage law excuses the perpetrator of the crime from penal prosecution if he is prepared to marry his victim" (UN Jan. 2008, 32). The Associate Professor stated that a judge could force a girl to marry her rapist (15 Nov. 2013).

Articles 11 and 13, which were also amended in 2005, state the following:

[translation]

An adult woman shall conclude her marriage contract in the presence of her "wali," who shall be her father or a close relative or any other person of her choice. Without prejudice to the provisions of Article 7 of this Act, the marriage of a minor is entered into through their "wali," who is the father, and one of the close relatives. The judge will act as guardian of any person without a "wali." (Algeria 1984, Art. 11)

It is forbidden for a "wali," whether it is the father or another person, to force a minor in his custody to marry, and he cannot make the minor enter into marriage without the latter's consent. (ibid., Art. 13)

The practice of proxy marriages, prohibited by the 2005 amendments to the Family Code, facilitated forced marriages that occurred in this way particularly in rural regions (*Le Monde* 16 Dec. 2005; Freedom House 2010, 9). According to *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, published by Freedom House,

[w]omen's rights groups have indicated that the 2005 amendments to the family code have not been properly implemented. For instance, because women tend to be unaware of the new code and judges are often reluctant to implement it, some judges still require that a bride's father act as wali or permit marriages by proxy. (2010, 11-12)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The President of SOS Women in Distress stated that although legislation prohibits forced marriage, there is no mechanism in place to apply that legislation (29 Nov. 2013).

3. Resources and Protection Provided

The Associate Professor stated that, without being able to say for certain, her understanding of forced marriage is such that it is "virtually impossible to refuse a forced marriage as it brings shame to the family and would most likely cause ... a family feud" (Associate Professor 15 Nov. 2013). She pointed out that "running away would be an option but this is rarely successful" (ibid.). She also stated that it is "illegal for a married woman to leave the conjugal home" and "therefore, a person commits a crime if they offer shelter to a woman who has done this" (ibid.). According to the President of SOS Women in Distress, if a woman leaves the conjugal home to escape a forced marriage, her husband may file a complaint against her for abandoning the family, [translation] "which is punishable by law" (29 Nov. 2013).

3.1 State Protection

3.1.1 Police and Judicial System

The Associate Professor stated that "the police will not assist a woman who has run away from home" and they "will take her back to her husband" (15 Nov. 2013). According to the President of SOS Women in Distress, the police generally do not intervene in cases of forced marriage because such marriages are considered to fall within the private sphere (SOS Femmes en détresse 29 Nov. 2012). She explained that, in some cases, police officers could direct a victim towards the public prosecutor, but that they could also respond that such a situation [translation] "is outside of their jurisdiction" and encourage them to "talk with their family" (ibid.). According to the President, the police would only intervene on order by the prosecutor, if there are significant threats (such as death threats or physical threats) and if there is considerable evidence, such as scars or injuries (ibid.).

Similarly, in the 2011 report to the United Nations Human Rights Council, the Special Rapporteur on Violence Against Women states that, according to representatives of Algerian authorities, "the initial role of police and judges in cases of domestic violence is one of mediation and conciliation, unless the violence has resulted in very serious physical injuries" (UN 19 May 2011, 17).

According to the Abu Nawas Algérie Director, a victim of forced marriage who has been subjected to [translation] "corrective" or "collective" rape will not file a complaint, because "the law will not protect them" (14 Nov. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The President of SOS Women in Distress stated that, if the victim is a minor, a member of their family may file a complaint (29 Nov. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.1.2 Support Services Provided by the Government

The Tharwa Fatma N'Soumer representative stated that there are centres run by the government that care for victims of violence by providing, in particular, shelter (Tharwa Fatma N'Soumer 28 Nov. 2013). According to the representative, women may go there at will (ibid.). She added that service quality may depend on [translation] "the organization of the centre;" she also stated that she knew of a centre where the staff had advised women "to return to their violent situation" (ibid.). According to her, there are an insufficient number of centres (ibid.).

3.2 Support Services Provided by NGOs

According to the Associate Professor, assistance to women who are victims of forced marriages comes "mostly from NGOs" (15 Nov. 2013). The Tharwa Fatma N'Soumer representative stated that there are associations in Algeria that offer telephone help lines, such as Wassila Network (Réseau Wassila) and SOS Women in Distress (Tharwa Fatma N'Soumer 28 Nov. 2013). The representative specified that these associations offer psychological support and legal aid, and that some of them also offer accommodations (ibid.). Similarly, the Director of Abu Nawas Algérie stated that female victims of violence are cared for by organizations such as SOS Battered Women (SOS femmes battues) and Wassila Network, which [translation] "accompany them legally" (14 Nov. 2013).

However, the Tharwa Fatma N'Soumer representative added that the number of associations that offer such services is inadequate and that these associations have [translation] "funding problems" because they depend mainly on donations and do not receive financial assistance from the government (ibid.). She stated that the few shelters that exist are located in the cities and that it is difficult for women who come from the rural regions to get there because they must be accompanied (ibid.).

The Director of Abu Nawas Algérie specified that female victims of violence who benefit from these services may have difficulty "integrating into society" afterwards (14 Nov. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The President of SOS Women in Distress stated that in 2013, her organization was able to help two women (who had dual citizenship-Algerian and French) to avoid forced marriages (SOS Femmes en détresse 29 Nov. 2013). She recounted the story of one of these victims, who was in Algeria and who had contacted the police to obtain help (ibid.). The police directed her to SOS Women in Distress, who contacted the French consulate, who in turn provided the victim with a travel document (*laissez-passer*) to return to France (ibid.). The President added that women who do not have dual citizenship have few resources to avoid forced marriage (ibid.).

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 sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: Attempts to contact representatives of the following organizations were unsuccessful: Centre d'études maghrébines en Algérie; Centre d'information et de documentation sur les droits de l'enfant et de la femme; Centre de recherche en anthropologie sociale et culturelle; Comité algérien des droits de l'homme et des peuples; International Human Rights Law Group; Ligue algérienne pour la défense des droits de l'homme. Representatives of the following organizations did not respond to a request for information within the time constraints: Association de solidarité avec les femmes algériennes démocrates; Femmes algériennes revendiquant leurs droits.

Internet sites, including: Algeria – Ministère de la Santé et de la Réforme hospitalière; All Africa; Amnesty International; *L'Authentique*; *Le Chiffre d'Affaire*; *Le Citoyen*; *La Dépêche*; ecoi.net; *L'Expression*; Factiva; Fédération internationale des ligues des droits de l'homme; Femmes sous lois musulmanes; Human Rights Watch; Info Soir; International Crisis Group; *Jeune Afrique*; *Le Jeune Indépendant*; *Liberté*; *Le Maghreb*; Midi Libre; Minority Rights Group International; Queen's University Belfast; *Le Quotidien d'Oran*; *Le Soir d'Algérie*; *Le Temps d'Algérie*; *La Tribune*; United Nations – Office of the United Nations High Commissioner for Refugees, UN Women, United Nations – UN Development Programme, Refworld, Integrated Regional Information Networks, UNICEF; United States – Overseas Security Advisory Council.

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