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Nigeria: Forced marriage among the Yoruba, Igbo, and Hausa-Fulani; prevalence, consequences for a woman or minor who refuses to participate in the marriage; availability of state protection (February 2006)

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Background

Marriage in Nigeria takes place under three legal systems (Center for Reproductive Rights 2003, 83): Islamic (*Maliki* school of law), civil (statutory law), and customary (tribal/traditional law) (ibid.; Danish Immigration Service Jan. 2005, 68). In general, marriages in the north of the country are under Islamic law, while those in the south are under statutory law (ibid.). However, even when couples marry under statutory law, customary laws generally prevail in personal matters (Danish Immigration Service Jan. 2005, 68).

A 2003 Women's Advocates Research and Documentation Centre (WARDC) Women's Aid Collective (WACOL) publication noted that customary law has "encouraged" cultural attitudes towards child, or forced, marriages in Nigeria (2003, 69). Reasons given to support this cultural practice include the "reduction of promiscuity, societal integration and well being, and religious blessing" (Bamgbose July 2002, 4). In most customary law systems in Nigeria, there is no minimum age for marriage (WARDC and WACOL 2003, 69.). In Nigeria, it is estimated that approximately 37 per cent of girls aged 15 to 19 years old are forced into marriage (BBC 7 Sept. 2002).

Prospective husbands are selected based on social, religious and monetary factors, while age is not considered a factor (Bamgbose July 2002, 4). As a result, the husband is often older than the bride (ibid.). Research conducted by the Population Council found that, in Nigeria, husbands of "child-brides" were, on average, 12 years older than their wives, and 18 years older in cases of polygynous marriage (Population Council 21 Dec. 2005).

Child, or forced marriage, still occurs in rural communities of Nigeria, especially in the country's northern states (Bamgbose July 2002, 4). According to *The State of the World's Children 2006*, a United Nations Children's Fund (UNICEF) publication, nearly twice as many women living in rural areas were married before the age of 18, compared with those living in urban areas (UN 2006, 130). In the northwest and northeast of the country, on average, women are married by the age of 15 (Nigeria Apr. 2004, 87).

Negative effects of early marriage on girls include early widowhood, the spread of HIV/AIDS, prostitution, family problems, medical problems, and suicide (Bamgbose July 2002, 4-5). One specific health problem associated with early/forced marriage that is "particularly prevalent" in northern Nigeria, is vesico vaginal fistulae (VVF),

(HBF 11 Dec. 2005; FORWARD n.d.). VVF, which involves the "breakdown of tissue in the vaginal wall communicating into the bladder ... or rectum," often leads to urinary and/or fecal incontinence and, in some instances, can also result in the paralysis of the lower half of the body (FORWARD n.d.).

Forced Marriage Among the Hausa-Fulani

The Hausa and Fulani ethnic groups are predominantly Muslim (*Encyclopédie de l'Agora* n.d). Located in the north (ibid.; *Encyclopedia of the Third World* 1992, 1435; *Country Reports 2004* 28 Feb. 2005, Sec. 2.c) and parts of the Middle Belt of Nigeria (ibid.), the Hausa and Fulani represent between 40 and 45 per cent of the country's total population (*Encyclopédie de l'Agora* n.d.).

According to BAOBAB for Women's Human Rights, cited by the Danish Immigration Service, there have been reports of young women escaping forced marriages in both the northern and southern parts of Nigeria (Jan. 2005, 27). Forced marriages, however, are most common in the predominantly Muslim states in the north (ibid., 27; WACOL 13 Dec. 2005; HBF 11 Dec. 2005), including Adamawa, Bauchi, Borno, Gombe, Jigawa, Kano, Katsina, Kebi, Nasarawa, Niger, Sokoto, Yobe, and Zamfara (CSIS Mar. 2002), particularly among the Hausa ethnic group (WACOL 13 Dec. 2005; Bamgbose July 2002, 4). In 13 December 2005 correspondence, the Executive Director of the Women's Aid Collective (WACOL) also stated that forced or arranged marriage was "common among the Muslim (Hausa ethnic group) in Northern Nigeria and ... is still prevalent in that part of the country" (13 Dec. 2005).

Under Shari'a law, a woman cannot be given away in marriage without her consent, except in the case of a minor (WACOL 2003, 251). However, under the *Maliki* school of law, practiced in Northern Nigeria (Danish Immigration Service Jan. 2005, 68), the choice of husband by a Muslim woman is subject to the *ijbar*, or over-ruling power, of her father or guardian (Doi n.d.). *Ijbar* allows a father or guardian to select a husband for his daughter based on her "wider interests" (ibid.). One source, however, noted "it is not unusual to find forced marriage ... made out of monetary or other consideration in contemporary Hausa society" (WARDC and WACOL 2003, 69).

A prevalent marriage practice in northern Nigeria is that of *daurin aure*, where a girl continues to go to school for several years before the marriage is consummated (ibid., 69). However, forced marriage among the Hausa is generally limited to girls who have not been to school or who have not yet reached puberty (ibid., 70).

Forced Marriage Among the Igbo

The Igbo, also referred to as "Ibo" (*Encyclopedia of the Third World* 1992, 1435; *Encyclopédie de l'Agora* n.d.), are located in Nigeria's southeast (ibid.; *Country Reports 2004* 28 Feb. 2005, Sec. 5) and make up between 10 and 15 per cent of the country's total population (*Encyclopédie de l'Agora* n.d.). The Igbo population is predominantly Christian (*Encyclopedia of the Third World* 1992, 1436).

According to the Executive Director of WACOL, although there are still reports of early marriage in certain Igbo communities, the practice of forced marriage among the Igbo has "died down" (ibid. 13 Dec. 2005). However, the Executive Director also stated that

teen pregnancy is frowned upon and teen mothers are in most cases forcefully married off by their families to avoid the shame of having a child out of wedlock (ibid.).

In December 2005 correspondence, the Director of the Heinrich Böll Foundation Nigeria Office stated that

[a]s everywhere in Nigeria, families in Igbo society do play an important role in the selection (or, at least, approval) of marriage partners. The spectrum of influence and pressure is very wide, and I do not doubt that there are cases that amount to "forced marriages" (depends on how one defines it). In general, I should think that it is rare today in Igbo society that a girl is "promised" for marriage to an elder man and actually forced to marry him when having reached puberty. On the other hand, such a thing may still happen ... [However] forced marriages are widely believed ... to constitute a problem especially in (Muslim) Northern Nigeria, and not so much in the Christian Igbo-speaking South-East" (HBF 11 Dec. 2005).

Forced Marriage Among the Yoruba

The Yoruba are located in the southwest of Nigeria (*Country Reports 2004* 28 Feb. 2005, Sec. 5; *Encyclopédie de l'Agora* n.d) and represent between 20 and 25 per cent of the country's population (ibid.). The Yoruba population is part Muslim and part Christian (*Encyclopedia of the Third World* 1992, 1436).

According to one source, the "vast majority of Yorubas no longer practice arranged marriages ... [and] most marriages are based on the choice of the individuals involved" (ASI Aug. 1999). No further specific information on forced marriage among the Yoruba could be found among the sources consulted by the Research Directorate.

Consequences for a Woman or Minor Who Refuses to Participate

According to a 2005 Amnesty International (AI) report, in Nigeria, a girl who attempts to run away from her husband or his family risks "harsh punishment" (AI 31 May 2005, 5). One form of punishment involves an "acid bath," whereby the former partner or a relative throws acid at the woman with the intention of mutilating or killing her (ibid.). The AI report further states that girls who run away from their husbands are often unable to seek protection from their own family who arranged the marriage (ibid.).

A 2002 report on women's human rights in Nigeria indicated that young girls forced into marriage is "one of the causes ... of prostitution in Northern Nigeria as the young girls flee their marital homes and take refuge in brothels (*gidan karuwai*) in urban centres" (WARDC and WACOL 2003, 70).

Under customary law, a bride price, or dowry, is paid to the bride's family by the groom (Bamgbose July 2002, 5; Asylum Aid May 2003, 20). In order for a woman to leave the marriage and "regain her freedom," repayment of the bride price is required (Bamgbose July 2002, 5). If the bride price is not repaid, the marriage is considered to still be valid, and any child to whom the woman gives birth is considered the child of her estranged husband (ibid.).

No further information on the consequences for a woman or minor who refuses to participate in a forced marriage could be found among the sources consulted by the Research Directorate.

Protection for Victims of Forced Marriage

Nigeria is party to several international treaties that protect the rights of women and minors, including the United Nations (UN) Convention on the Rights of the Child, the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International

Convention on the Elimination of All Forms of Racial Discrimination, and the African Charter on Human and Peoples' Rights (Center for Reproductive Rights 2003, 78; OMCT and CLEEN June 2004, 4).

According to correspondence received from the Executive Director of WACOL,

[v]ictims are protected if under 18 years by the Child Rights Act 2003 particularly in states that have passed the law [including] ... Ebonyi, Anambra and Imo states ... (13 Dec. 2005).

In 2005, 20 states were in the process of ratifying the UN Child Rights Act (UN 13 Apr. 2005); however, as of 7 February 2006, only eight of Nigeria's thirty-six states had ratified the Act (*Vanguard* 7 Feb. 2006). No information on which states have ratified the Act, aside from Ebonyi, Anambra and Imo (WACOL 13 Dec. 2005), could be found among the sources consulted by the Research Directorate.

The Executive Director of WACOL indicated in December 2005 correspondence that the rights of women in Nigeria are also protected under the country's constitution, stating,

the 1999 constitution contains [a] bill of rights that protects [the] right to freedom of association, privacy and religion among others, including freedom from discrimination based on sex (13 Dec. 2005).

Under Nigerian civil law, forced marriage is illegal, and can carry a jail term of seven years (Nigeria 1990a). In addition, Nigeria's Marriage Act requires the parent's, or guardian's, consent if "either party to an intended marriage" is under the age of 21 (Nigeria 1990b). The country's National Policy on Population also discourages parents from arranging marriages for girls under 18 years of age (Nigeria 1988 "National Policy on Population for Development, Unity, Progress and Self-Reliance 1" in Center for Reproductive Rights 2003, 85). According to *Country Reports 2004*, however, the Nigerian government "did not undertake any significant measures to stop customary practices harmful to children, such as the sale of young girls into marriage" (28 Feb. 2005, Sec. 5).

Referring to the Igbo, in particular, correspondence from the Director of the Heinrich Böll Foundation Nigeria's Office indicated that there is little direct state interference in matters of marriage, as marriage falls under customary law (11 Dec. 2005). The Director further stated that help or recourse for women in arranged or forced marriages may be more easily obtained through women's rights non-governmental organizations (NGOs) or legal help institutions which are "quite strong in the Igbo-speaking Southeast" (HBF 11 Dec. 2005.).

According to BAOBAB for Women's Human Rights, cited by the Danish Immigration Service, there were between 10 to 15 NGOs operating in Nigeria in 2005 that provided support to women (Jan. 2005, 37). The source also indicated that there was no government system in Nigeria to support women (BAOBAB in Danish Immigration Service Jan. 2005, 37).

Internal Flight Alternative

Research conducted by the 2004 Joint British-Danish Fact-Finding Mission to Abuja and Lagos, Nigeria, suggested that it was possible for victims of forced marriage to relocate within Nigeria (Danish Immigration Service Jan. 2005, 37-38). As forced marriage is a practice that is more prevalent in the north of Nigeria, it is thought to be possible to escape such arrangements by relocating to the southern part of the country (*ibid.*, 38). Corroborating information regarding internal flight alternatives could not 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.

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Additional Sources Consulted

Oral sources: None of the following sources provided information within the time constraints of this Response: BAOBAB Women's Human Rights, Women's Aid Collective (WACOL), Women's Centre for Peace and Development, Women Foundation Nigeria and a professor of sociology at the University of Lagos.

Internet sites, including: AllAfrica, BAOBAB for Women's Human Rights, European Country of Origin Information (ECOI) Network, Freedom House, Human Rights Watch (HRW), Integrated Regional Information Network (IRIN), United Nations High Commissioner for Refugees (UNHCR), United Nations WomenWatch, United States Committee for Refugees and Immigrants (USCRI), Women in Law and Development in Africa (WiLDAF).

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