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Nigeria: Prevalence of forced marriage, particularly in Muslim and Yoruba communities; information on legislation, including state protection; ability of women to refuse a forced marriage

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Prevalence of Forced Marriage

In correspondence with the Research Directorate, Uju Peace Okeke, a lawyer and sexual-and-reproductive-rights activist, indicated that there is a "high" incidence of forced marriage in Nigeria (Okeke 26 Oct. 2012). Sources indicate that the prevalence of forced marriage is dependent on a number of different factors (ibid.; Women's Rights Watch Nigeria 18 Oct. 2012; WPD 15 Oct. 2012). Okeke says it depends on culture (26 Oct. 2012). In correspondence with the Research Directorate, a project coordinator at Women's Rights Watch Nigeria, a Nigerian women's rights advocacy organization (Global Fund for Women n.d.), notes, in addition to culture, the factors of religion, location, socio-economic status, and ethnic group (18 Oct. 2012). Similarly, the Director of Widows for Peace through Democracy (WPD), a UK-based advocacy organization for widows in developing countries (12 Oct. 2012), says that factors include tribe and sub-clan, location, education, and income (15 Oct. 2012).

The Women's Rights Watch Nigeria project coordinator indicated that forced marriage is "very prevalent" in the north of Nigeria, where the population is largely Muslim, and that it is "not common" in the south and among Yoruba communities (18 Oct. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Women's Rights Watch Nigeria project coordinator stated that, in the north, forced marriage is part of the culture and religion (18 Oct. 2012). Okeke attributes the higher prevalence of forced marriage in the north to the cultural and religious practice of polygamy (26 Oct. 2012). According to the Women's Rights Watch Nigeria project coordinator, in the north, forced marriage is "very prevalent" among the urban and rural poor, but "not very common" among educated populations (18 Oct. 2012).

Okeke stated that "Nigerians are very religious" and superstitious, and that "there are news reports of people who were trapped into marriages by Juju/African magic" (6 Nov. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Legislation

According to Women in Law and Development in Africa (WiLDAF), a pan-African women's rights network (n.d.a), the legal age of marriage as stated in the 1956 *Marriage Act of Eastern Nigeria* is 16 (n.d.b). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In Part 3 of Nigeria's *Child's Rights Act* of 2003, entitled "Protection of the Rights of a Child," articles 21 to 23 state the following:

21. Prohibition of child marriage

No person under the age of 18 years is capable of contracting a valid marriage, and accordingly a marriage so contracted is null and void and of no effect whatsoever.

22. Prohibition of child betrothal

1. No parent, guardian or any other person shall betroth a child to any person.
2. A betrothal in contravention of subsection (1) of this section is null and void.

23. Punishment for child marriage and betrothal

A person

- a. who marries a child; or
- b. to whom a child is betrothed; or
- c. who promotes the marriage of a child; or
- d. who betroths a child,

commits an offence and is liable on conviction to a fine of N500,000 [C\$3,159 (XE 23 Oct. 2012)]; or imprisonment for a term of five years or to both such fine and imprisonment. (Nigeria 2003)

The Nigeria CEDAW NGO Coalition, formed in May 1998 as a national network of more than fifty registered Nigerian NGOs working on women's human rights and the 16 articles of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (18 July 2008, ix), in 2008, listed 16 states as having adopted the *Child's Rights Act*: Abia, Anambra, Bayelsa, Ebonyi, Edo, Ekiti, Imo, Jigawa, Kwara, Lagos, Nasarawa, Ogun, Ondo, Oyo, Plateau, and Taraba (18 July 2008, 11). The Coalition added that the state "legislatives" of Osun and Rivers states had passed the law but were awaiting governors' assent (Nigeria CEDAW NGO Coalition 18 July 2008, 11). Nigeria's Federal Ministry of Justice indicated in 2011 that 22 states had adopted the *Child's Rights Act* (Nigeria Aug. 2011, 30), and Okeke, in 26 October 2012 correspondence with the Research Directorate, said that 26 states had adopted the law.

Sources indicate that most northern states in Nigeria have not adopted the *Child's Rights Act* (Nigeria CEDAW NGO Coalition 18 July 2008; Women's Rights Watch Nigeria 18 Oct. 2012; US 24 May 2012, 45), and the US State Department *Country Reports on Human Rights Practices for 2011* indicates that the legal age of marriage was not upheld in these states (ibid.). The *Times*, a London-based newspaper, states that one of Nigeria's 12 Muslim states adopted the *Child's Rights Act*, but only after amending the legal age of marriage from 18 to the age of "puberty" (28 Nov. 2008). Information on the state mentioned could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. WiLDAF states that the age of puberty is interpreted as the age when a woman starts menstruating (n.d.b). The *Times* also states that, among others, village heads and elders in Nigeria have also resisted the *Child's Rights Act* (28 Nov. 2008).

Okeke said that many states have adopted the *Child's Rights Act* with a "reservation on age of marriage ... thereby stripping the law of the ability to prevent early/forced marriage" (10 Apr. 2010). She also noted that the *Child's Rights Act* has not yet been used in court, and therefore the effectiveness of the Act has not been tested (Okeke 26 Oct. 2012). The Nigerian Federal Ministry of Justice indicates that enforcement of statutory laws is "negligible" and explains that, although the *Child's Rights Act* "outlaws the arbitrary fixing of age of marriage under customary and traditional practices," "Nigeria still has many customary laws that provide institutional

support for practices such as early marriage ..." (Nigeria Aug. 2011, 31). According to the Nigeria CEDAW NGO Coalition, in the states that have passed the *Child's Rights Act* into law, "implementation and enforcement of the law remains a challenge" (18 July 2008). According to the Women's Rights Watch Nigeria project coordinator, the *Child's Rights Act* is not being implemented and is not effective because, while the law makes provision for the establishment of family courts, the only state to establish a family court has been Lagos (18 Oct. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to Okeke, while there is no legislation in place to protect adults from forced marriage, in some states, such as Kano, Niger, Gombe, Bauchi and Borno, there are laws against withdrawing young girls from school in order to marry, and Cross River State has a law against early marriage (26 Oct. 2012). Okeke added that "there are a few laws which can be creatively employed to protect victims but many people will not go to courts" because forced marriage is considered to be cultural, and "people are reluctant to question customs" (26 Oct. 2012).

3. Age of Marriage

Daily Trust, an Abuja-based newspaper, reports that "thousands" of young women in Nigeria are forced to marry every year and that this practice is increasing (12 Oct. 2012).

According to the *Nigeria Demographic and Health Survey 2008* statistics, out of 6,493 respondents, 12.4 percent of women aged 15 to 19 in Nigeria had been married by the age of 15 (Nigeria Nov. 2009, 94). Among women aged 20 to 24 in 2008, out of 6133 respondents, 16.4 percent had been married by the age of 15, and 39.4 percent were married by the age of 18 (ibid.). Among women aged 20 to 49, 46 percent had been married before the age of 18 (ibid.). The 2008 survey statistics also show that women aged 25-49 who reside in urban areas got married approximately four years later than women in their age group in rural areas, with women who reside in urban areas marrying at a median age of 21.1 years compared to 16.9 years in rural areas (ibid., 95). By region, among women aged 25-49, the median age of marriage ranges from 15.2 years in the northwest to 22.8 years in southeast (ibid.).

The British Council in Nigeria's *Gender in Nigeria Report 2012* states that several factors determine the age of marriage in Nigeria, including ethnicity, religion, region, urban or rural habitation, and economic status (UK 2012, 2). According to the *Nigeria Demographic and Health Survey 2008* statistics, a high proportion of women who get married at a young age are not educated (Nigeria Nov. 2009, 95). The survey statistics show that the median age of marriage also increases with education and wealth (ibid.). According to *Country Reports 2011*, some poor families have sold their daughters into marriage for money (US 24 May 2012, 45-46). *Country Reports 2011* also states that sometimes young girls, regardless of age, have been forced to marry when they reach puberty to "prevent 'indecency' associated with premarital sex or for other cultural and religious reasons" (ibid., 46). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Women's Rights Watch Nigeria project coordinator stated that the men that women are forced to marry are "usually old" (18 Oct. 2012). Media sources also report on older men marrying young girls (*Daily Champion* 2 July 2010; *The Times* 28 Nov. 2008). For example, *The Times* reports on the marriage of an 84-year-old man to a 14-year-old girl in northern Nigeria (ibid.). According to *Country Reports 2011*, although the legal age of consensual sex is 18, there is no statutory rape law in Nigeria (US 24 May 2012, 46).

3.1 Age of Marriage in the North

According to *The Times*, northern Nigeria has one of the highest rates of child marriage in the world (28 Nov. 2008). According to the British Council in Nigeria, more

than half of Nigerian women in the north are married by the age of 16 and are expected to give birth to a child during the first year of marriage (UK 2012, 2). The *Nigeria Demographic and Health Survey 2008* reported the median age of marriage for 15 to 19 year olds in the northeast to be 15.9 and in the northwest to be 15.7 (Nigeria Nov. 2009, 94). The *Times* reports that some girls in northern Nigeria are married by the age of 12 (28 Nov. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. Refusing a Forced Marriage

According to the Director of WPD, the ability of women to refuse a forced marriage in Nigeria "depends on the tribe, the sub-clan, the location, the degree of education, [and] ... income levels" (15 Oct. 2012). In correspondence with the Research Directorate, an assistant professor of Anthropology at the University of Kansas indicated that the consequences of refusing a forced marriage are "contingent upon the family" (18 Oct. 2012). According to Okeke, it is easier for a woman in the south to escape a forced marriage because women in the south "are more educated" (26 Oct. 2012).

Okeke indicated that consequences for refusing a forced marriage could include "total neglect" and "ostracism" (26 Oct. 2012). The Women's Rights Watch Nigeria project coordinator stated that refusing a forced marriage "could be dangerous for the victim" (18 Oct. 2012). The project coordinator provided the example of the death of a woman in a forced marriage whose legs were "chopped off" by her husband to stop her from constantly trying to leave him (Women's Rights Watch Nigeria 18 Oct. 2012). Okeke said that a girl's hand was cut off for escaping a forced marriage (26 Oct. 2012). Media sources report on girls attempting to escape forced marriages and returning to their families, who then force the girls to return to their husbands (*Daily Champion* 2 July 2010; *The Times* 28 Nov. 2008). Media sources also report that the husbands of girls attempting to escape forced marriages have beaten them (*Daily Champion* 2 July 2010) and raped them (*The Times* 28 Nov. 2008).

According to the Women's Rights Watch Nigeria project coordinator, "a lot" of girls who are forced to marry are suicidal (18 Oct. 2012). Information corroborating the rate of suicides among girls who are forced to marry could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. State Protection

The Assistant Professor of Anthropology is not aware of any programs that provide protection for women who refuse forced marriages, or any legislation that supports women's marital decisions (18 Oct. 2012). According to *Country Reports 2011*, the Nigerian "government did not take significant steps to stop ... sales of young girls into marriage" (US 24 May 2012, 45).

The BBC reports on a 26-year-old woman from Sokoto who was forcibly married to a Nigerian senator (22 Oct. 2010). After taking her case to the Nigerian high court, the judge said that the case was under the jurisdiction of the Islamic court, and that, based on the constitution, the federal court could not intervene in matters before the Islamic court (BBC 22 Oct. 2010). The judge also indicated that the forced marriage was not a violation of the woman's human rights, and dismissed the case (ibid.).

Country Reports 2011 reports that, in March 2010, a senator in Zamfara married a 14-year-old Egyptian girl and stated that he was not subject to civil laws, but rather only Sharia law (US 24 May 2012, 46). According to *Country Reports 2011*, the senator was not prosecuted (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 at the following organizations were unsuccessful within the time constraints of this Response: BAOBAB for Women's Human Rights; Centre for Elimination of Violence Against Women; Centre for Women's Research and Development; Civil Resource Development and Documentation Centre; Federation of Muslim Women's Associations in Nigeria; Gender Training and Development Network; Girls Power Initiative; Human Rights and Justice Group International (Nigeria); International Federation of Women Lawyers (Nigeria); Mom's Club of Onitsha Nigeria; Muslim Sisters Organization of Nigeria; Nigeria — Federal Ministry of Women's Affairs, Federal Radio Corporation, National Commission for Women, National Council of Women's Societies Nigeria, National Human Rights Commission; Project Alert on Violence Against Women; WomenAid Collective; Women Living Under Muslim Laws (Nigeria); Women's Rights Advancement and Protection Alternative; University of Ibadan's Centre for Women's Research; Voice of Widows, Divorcees and Orphans Association of Nigeria. Attempts to contact the following were unsuccessful within the time constraints of this Response: associate professor and Chair, Anthropology Department, Brown University; professor, Department of Sociology, University of Port Harcourt; professor of Sociology and African Development, University of Nigeria.

Internet sites, including: All Africa; Amnesty International; BAOBAB for Women's Human Rights; Ecoi.net; Factiva; Human Rights Watch; Ireland Refugee Documentation Centre; Minority Rights Group International; Newser; Norwegian Country of Origin Information Centre (Landinfo); Ovcsupport.net; Plan International; Social Institutions and Gender Index; Stop Honour Killings; *This Day*; United Kingdom — Border Agency; United Nations — Committee on the Elimination of Discrimination Against Women, Integrated Regional Information Networks, Population Fund, Refworld; Women's UN Report Network; *Vanguard*; Violence is Not Our Culture; Voice of Widows, Divorcees, and Orphans Association of Nigeria; Widows' Rights International; WomenAid Collective; Women Living Under Muslim Laws; Women's Housing Plan Initiative; Women's Rights Advancement and Protection Alternative.