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Forced marriage in Europe

Committee Opinion[1]
Committee on Social Affairs, Health and Sustainable Development
Rapporteur: Ms Carina OHLSSON, Sweden, Socialists, Democrats and Greens Group

A. Conclusions of the committee

1. The Committee on Social Affairs, Health and Sustainable Development welcomes the excellent and timely report prepared by Ms Béatrice Fresko-Rolfo (Monaco, ALDE) for the Committee on Equality and Non-Discrimination.

2. As the Parliamentary Assembly pointed out in its Resolution 1468 (2005), forced marriages and child marriages violate the fundamental rights of each and every victim, and can in no way be justified. Appropriate measures must urgently be taken across Europe as recommended in the draft resolution.

3. The Committee on Social Affairs wishes to propose a few amendments to reinforce the text.

B. Proposed amendments

Amendment A (to the draft resolution)

In paragraph 1, last sentence, replace the words "harmful practices" with the words:

"human rights violations"

Amendment B (to the draft resolution)

At the end of paragraph 3, add the following words:

", as a child cannot be considered to have expressed full, free and informed consent to a marriage."

Amendment C (to the draft resolution)

In paragraph 4, after the words "a series of", insert the following words:

"human rights violations, including violations of children's rights and"

Amendment D (to the draft resolution)

In paragraph 5, second sentence, after the word "The", insert the following words:

"more recent"

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1. Reference to committee: Doc. 14115, Reference 4241 of 14 October 2016. Reporting committee: Committee on Equality and Non-Discrimination. See Doc. 14574. Opinion approved by the committee on 25 June 2018.

Amendment E (to the draft resolution)

After paragraph 7.8., insert the following paragraph:

> *"refrain from recognising forced marriages contracted abroad except where recognition would be in the victims' best interests with regard to the effects of the marriage, particularly for the purpose of securing rights which they could not otherwise claim;"*

Amendment F (to the draft resolution)

In paragraph 10, after the words "and so-called 'honour crimes'", insert the following words:

> *", subject of its Resolution 1681 (2009) and Recommendation 1881 (2009),"*

C. Explanatory memorandum by Ms Carina Ohlsson, rapporteur for opinion

1. First of all, allow me to congratulate Ms Béatrice Fresko-Rolfo on the excellent and timely report she has prepared for the Committee on Equality and Non-Discrimination.

2. The figures are nothing short of shocking: Despite all our efforts, millions of (mostly) underage girls are forcibly married every year.[2] The Council of Europe, including its Parliamentary Assembly, has been at the forefront of fighting this serious human rights violation.[3] And it does bear stressing once again that forced marriage is indeed a human rights violation (*Amendments A and C*), lest it be argued that other rights (such as cultural rights) should take precedence.

3. The elimination of child marriage, the most prevalent form of forced marriage, is one of the United Nations Sustainable Development Goals.[4] This is because a child cannot be considered to have expressed full, free and informed consent to a marriage before that age (*Amendment B*). Unfortunately, in November 2014, the United Nations Committee on the Elimination of Discrimination against Women and the United Nations Committee on the Rights of the Child, in a joint general recommendation/general comment, walked back the recommendation to establish 18 as a minimum age of marriage, to 16 in exceptional circumstances.[5] I am very glad that Ms Fresko-Rolfo did not follow this recommendation, but rather upheld our higher European standards.[6]

4. This is because one must understand that it is very difficult – even for an 18 year-old, much less a 16 or 17 year-old who may still live with his/her parents – to resist the pressure brought to bear on the future spouse(s) by the family environment. As Ms Rosmarie Zapfl-Helbling (Switzerland, EPP) pointed out in her 2005 report on forced marriages and child marriages, referring to arranged marriages: "The family environment may well be so powerful that choice is induced by upbringing or deference to custom. True, the distinction between actual pressure and psychological manipulation may be tenuous. The conceptual niceties hinge on the fact of knowing whether it is possible to speak of free and informed consent, and largely depend on the socio-cultural setting. Only a close, detailed analysis allows a proper grasp of the person's particular situation."[7]

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2. According to "Girls not Brides" (a global partnership of more than 900 civil society organisations committed to ending child marriage), each year, 12 million girls are married before the age of 18. "That is 23 girls every minute. Nearly 1 every 2 seconds." https://www.girlsnotbrides.org/about-child-marriage/ .

3. See, for example, Committee of Ministers Recommendation Rec (2002) 5 on the protection of women against violence, Assembly Resolution 1468 (2005) on forced marriages and child marriages, and the 2011 Istanbul Convention.

4. Goal 5, target 3.

5. "(f) A minimum legal age of marriage for girls and boys is established, with or without parental consent, at 18 years. When exceptions to marriage at an earlier age are allowed in exceptional circumstances, the absolute minimum age is not below 16 years, grounds for obtaining permission are legitimate and strictly defined by law and marriage is permitted only by a court of law upon full, free and informed consent of the child or both children who appear in person before the court;

(g) A legal requirement of marriage registration is established and effective implementation is provided through awareness-raising, education and existence of adequate infrastructure to make registration accessible to all persons within their jurisdiction;"

6. She is not alone: already in 2008, UNICEF published Rangita de Silva-de-Alwis's study on child marriage and the law in its Legislative Reform Initiative paper series, where she argues: "The 'best interests of the child' principle in the CRC provides a basis for evaluating the laws and practices of States with respect to the protection of children. Since empirical evidence reveals that girls who marry early are often exposed to violence, divorce, abandonment, and poverty, and in light of the best interest of the child principle, States must take legal action to abolish child marriages." p. 3, https://www.unicef.org/policyanalysis/files/Child_Marriage_and_the_Law(1).pdf .

7. Assembly Doc. 10590, paragraph 15.

5. Ms Zapfl-Helbling therefore pleaded in favour of having marriage for children below 18 years of age prohibited on principle, since in her eyes there was no valid cause for the legitimation of underage marriage (this position was adopted by the Assembly). Nor should child marriages contracted abroad be recognised. However, Ms Zapfl-Helbling made one exception: a child who is a victim of a child marriage should be accorded all rights which he/she could enjoy as husband or wife and which they could not otherwise claim. This position was also adopted by the Assembly in 2005 – I believe it should be made clear that the Assembly's position thereon has not changed (*Amendment E).*

6. In conclusion, forced marriages (including child marriages) violate the fundamental rights of each and every victim, and can in no way be justified. Appropriate measures must urgently be taken across Europe as recommended in the draft resolution. I would like to ask for your support for this resolution, and for its implementation in each and every one of our member States: Each child bride is one too many.