

Spring 2014

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Recommended Citation

Rehak, Hannah, "Underage Moroccan Girls Married off with Judges' Consent" (2014). *Morocco: Field Studies in Journalism and New Media*. Paper 5.

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10 Years After Progressive Changes to the Family Code, Morocco's rate of Underage Marriages is still on the Rise

By Hannah Rehak

RABAT, Morocco - Salima Dakani has a bruised right hand, two children, and nowhere to sleep tonight. She is only 19, but she bears the weight of a woman who has spent years tortured by a man addicted to drugs and violence, a man chosen for her by parents who believed marriage was the best option for their daughter when a life of poverty without education was the alternative.

After a four-year marriage that left her locked inside for weeks at a time, often beaten and electrocuted until she couldn't move, Salima Dakani has secretly left her home with the hope of finding someone who can help her file for divorce.

Salima is just one of many young girls married under the legal age of consent in Morocco. In 2004, changes to the country's Family Code, the Moudawana, pushed for egalitarian reforms to outdated laws and set the minimum age of marriage at 18 years, but according to Fatima Maghnaoui, President of L'Union de l'Action Feminine (UAF), an organization committed to helping young women find shelter, work, and healthcare in Rabat, the changes still fall short.

"The spirit of the Moudawana is the equal treatment of men and women, but there are parts of the text that contradict that philosophy," she said.

Maghnaoui is referring to Article 20 of the Moudawana that states a girl may be married under the age of 18 with the consent of her legal tutor, often her father, and the authorization of a family affairs judge. Though judges are only supposed to give their authorization as an exception in a "well-substantiated decision," according to a UN shadow report by the Democratic Association of Moroccan Women (ADFM), proposals to marry underage girls are accepted 89% of the time and 12% of marriages in Morocco involve minors.

Maghnaoui, of the UAF, argues that this high authorization rate is in part due to the patriarchal mentality pervasive in Moroccan culture, and around the world.

"It is a sort of authority limited to the judge, who makes his decision on behalf of the young girl. But the reality in Morocco is that most of the judges have a patriarchal mentality; they are macho in general. When a young girl comes in, maybe she's only 14, but she looks heavier, bigger, so the judge gives her his authorization."

Stephanie Bordat, an expert in Moroccan law and co-founder of Mobilizing for Rights Associates (MRA), agrees that Article 20 relies heavily on judges' subjective appraisal.

"The law doesn't give any guidance of what an exceptional reason would be, so there are lots of different reasons why judges are authorizing underage marriages. If she is

pregnant, or if she is dating, or seeing some boy, or having sex with him, they are saving family honor and avoiding scandal. Another reason cited is a solution to poverty. What is the girl's other choice?"

Maghnaoui says she has come across the same trends in her work at UAF.

"It is first a phenomenon of poverty. It is a phenomenon of absence of structure," she said. "So when parents come in they explain they have four children, for example, and they want to get rid of their daughter. They want to get her married, even if she is underage."

And yet, though for some judges poverty is an exceptional reason to authorize an underage marriage, for others it is not.

"I had a private conversation with the judge. He asked regular questions about my age, my health, my family, et cetera, but the marriage registration was turned down and the judge told us to come back the year after," says Selwa Adil, a young woman once engaged to a man 9 years her senior.

Instead of waiting until she came of age, Selwa's family decided to use the reading of the Fatiha, a binding verse in the Koran, in a traditional marriage ceremony unrecognized by the state. Though Adil's marriage was brief, as problems arose and she promptly moved back into her family home just 12 days after the wedding, her experience with a traditional ceremony is not unique. According to Maghnaoui, of the UAF, reading the Fatiha is often the solution for marriages that are unaccepted by family affairs judges.

"When the judge refuses, what does the father do in the majority of cases? He returns to his town and marries his daughter to a man using the Fatiha, because it is a very respected tradition, it is still very respected in rural areas."

That is not to say that experts are convinced underage marriage is only a rural phenomenon in Morocco, and in fact, statistics provided by the Ministry of Justice and Freedoms show that in 2012, 51% of underage marriages took place in urban areas and 48% took place in rural regions. According to both Bordat, the lawyer from MRA, and Maghnaoui, the President of L'Union de l'Action Feminine, underage marriage mostly has to do with a girl's education.

"Imagine a girl who does nothing, who has no professional future, who lives the routine of daily life," Maghnaoui said. "What else can she be? Sometimes it's her who wants to get married, because she doesn't do anything,"

In many ways, this was the case for Ghizlane Asmane. Though she didn't particularly want to get married, it was her idea to quit school at the age of 11, and until her engagement at the age of 16, she says she did nothing but stay in the house and cook. However, once she had moved into her husband's family home, as is typical for underage brides to do, Asmane found she did not have the domestic freedom she'd hoped for.

“I had conflicts with both the groom and his family. With the family it was mostly about the household. I got scolded by my husband’s family for things like cooking and cleaning.”

Such conflicts are not unique to Asmane.

“Generally, because they have no money, they don’t have their own family home or an apartment. So the girl lives with her husband’s family where conflicts arise between her and the other women of the household,” says Maghnaoui.

But not all underage marriages are unhappy and unsuccessful. Rachida Diani is 27 years old and has been married for over 13 years. When she looks back on her marriage she comments on the difficulty of moving into a new home at the age of 14, but focuses mostly on the happiness her three children have brought her. For Diani, getting married was the start to her life. Still, when asked if she has an opinion on the prevalence of underage marriages, she is quick in her response.

“No girl should be allowed to marry before the age of 18,” she said.

What is clear is that women married under the age of 18 have experiences that range from domestic brutality to marital euphoria. Yet, across differences of experience, education, and expertise, most people dealing with underage marriages agree that they need to be eradicated completely. For Bordat, it is simply a human rights issue.

“I think when you are looking at the dangers of underage marriages, you have to look at the totality,” she said. “Underage marriages raise the risk of the underage marriage brides not being able to take advantage of and enjoy a host of their other rights.”

For Maghnaoui, it is a matter of education and raising awareness.

“We’re asking for a respect of the minimum age of 18. The place of young girls is in school and not in a conjugal household. To eradicate poverty, we need to put structures in place: schools and information centers; and we need to integrate women in other ways once they have left school.”

And finally, for the women who have been confronted with family affairs judges, violent husbands, happy children, and the desires of desperate parents, it is most importantly a matter of choice.

“Girls have to decide about their life. A girl doesn't have to marry only because her parents want her to. She has to be over 18, then she can make her personal choice,” said Adil.

Though Morocco’s government echoes many of these concerns, the question remains of how much the Moudawana can actually do to prevent underage marriages given the

cultural validity of the Fatiha and the lack of educational opportunities provided to women.

“Before we speak about the efforts of the Ministry of Justice and Freedoms regarding this kind of marriage, we must say that this phenomenon isn’t linked to the law in particular, it is linked to mentality and prevalent social concepts,” says judge Abdelhadi Elbattahe of the Ministry of Justice and Freedoms.

Elbattahe stresses that the government is working on awareness raising campaigns and setting a minimum age limit for judge authorized marriages. However, some do not think a minimum age is enough.

“To stop underage marriages, the PJD wants the government to propose a minimum age of marriage [that can be judge authorized] at 16 years of age. We are not okay with that,” said Maghnaoui. “We are asking for a revision of Article 20, 21, and Article 16.”

Regardless, while the debate continues, Associations like l’Union de l’Action Feminine, Mobilizing for Rights Associates, and many other women’s advocacy groups are working to provide services for young girls, like Salima Dakani, who lack the power and resources to leave their husbands and homes.

Maghnaoui ultimately hopes to help Dakani file for divorce, yet there are more pressing issues that must first be addressed.

“We are still looking for shelter for Salima.”