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3.11.3. Forced and child marriage

COMMON ANALYSIS
Last update: November 2024

The analysis below is based on the following EUAA COI reports: Country Focus 2024, 1.3, 1.4.4; Arab Tribes 2023, 4.2.2. Country Guidance should not be referred to as source of COI.

Despite being criminalised, including in the KRI, the practices of forced marriages of women and girls have continued to occur.

Step 1: Do the reported acts amount to persecution?

Forced marriage to which women and girls in Iraq could be exposed is of such severe nature that it would amount to persecution. Child marriage is considered forced marriage, therefore, persecution. Women have been in practice used as commodities and collateral during the resolution of tribal conflicts, for example through forced marriage. Women who are subjected to *fasliya* (exchange or trading of women as compensation) have no right to divorce and are exposed to abuse and mistreatment. *Nahwa* (a male cousin is entitled to marry his female cousin or decide on whom she can marry) is also practiced. Rates of child marriage have steadily increased over the past 20 years, exacerbating the exposure to sexual and domestic violence. Furthermore, more frequently observed, the phenomenon of unregistered marriages, also called temporary or pleasure marriages, is widely misused for sexual exploitation, prostitution and trafficking.

The severity and/or repetitiveness of other acts that women and girls could be subjected to and whether they occur as an accumulation of various measures, should be considered. Lacking civil status, women in unregistered marriages face severe obstacles in accessing social protection and government services.

Step 2: What is the level of risk of persecution?

The individual assessment of whether there is a reasonable degree of likelihood for a woman or girl to face persecution, in relation to forced or child marriage, should take into account **risk-impacting circumstances**, such as:

- **Age:** Being of ‘marriageable age’ would affect the risk. The law sets the minimum age for marriage at 18, but it also allows a judge to permit girls as young as 15 to marry in certain cases. The minimum age for marriage in the KRI can be lowered to 16 under approval by a legal guardian and authorisation by a judge. According to a 2021 study, 25.5 % of married women in Iraq were married before the age of 18, and 5.2 % before 15.

- **Home area:** In areas where tribal influence is stronger than government institutions, the tribal practice of *fasliya*, continues to exist. The practice of forced marriage decided by tribe, e.g. in the context of *fasliya* and of *nahwa*, remains in force in the southern provinces in particular.

- **Perception of traditional gender roles in the family and tribe:** The risk of forced marriage is dependent on how the (extended) family perceives the traditional gender norms. The tribe’s coercion towards a family can be considerable, and a tribal *sheikh* can coerce the family to have their daughter getting married.

- **Socioeconomic situation of the family:** Poor people are the most likely to marry off their daughters to achieve reconciliation, in case of tribal conflicts. Furthermore, children of women without male support are reported to be particularly prone to different forms of exploitation, including child marriage.

Step 3: Is there a ground for persecution?

Where well-founded fear of persecution is substantiated for a woman or a girl in relation to forced and child marriage, this may be for reasons of membership of a particular social group. This may apply for instance to women or girls who refuse to enter in a marriage as they may be stigmatised by the surrounding society and/or be considered as violating the honour of the family because of their common background which cannot be changed (refusal to marry) and/or a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it (the right to choose whom to marry).

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