

Case Study A., 22 years old, online counseling in 2016

Preface: The legal situation in Germany

In 2011 Germany issued a law against forced marriage. Ever since forced marriage is considered a criminal offense (§ 237 StGB). A perpetrator who forces a person to marry while using violence or threats can be punished with penalties of up to five years of prison. Likewise a perpetrator can be punished when he tricks his victim to leave Germany or keep the victim from returning to Germany, in order to force her to marry abroad. Papatya calls this phenomenon “abduction” and has a special focus on the issue since 2013. Also the attempt is prosecutable.

Additionally to the penologic changes in 2011 the government also changed a regulation of the foreigners law – the “right to return” (§ 37 IIa AufenthG). Under normal circumstances a foreigner with a residential status in Germany loses his/her right to return to Germany when staying abroad for more than six months. The new paragraph prolongs the deadline for victims of forced marriage up to five or ten years.

In an official governmental statement of March 2016 the government couldn't name one single case in which the right to return was prolonged due to a forced marriage.¹

A's story and background

Mid march 2016 the 22 year old A. approaches our online helpline. For more than one year A. is stuck in Pakistan without papers, where she lives with her grandmother in a big city three hours from Islamabad. In this period she already refused five potential marriage candidates. Now, her family is planning a visit in June 2016 and A. is sure that they will finally force her to marry, unless she manages to escape earlier. A. has the Pakistani nationality and an unlimited residential status in Germany. She moved to Germany in 2006 when she was 12 years old and lived here ever since. From 2006 until 2011 she attended school and finished it with a secondary modern school qualification. After school she started to work in retail and earned enough money to assure a livelihood on her own. End 2014 A. introduced her boyfriend N. to her father as her fiancée.

“In the beginning it was no problem for my father. He told me, you can marry whomever you want, this is your decision. In December 2014 he told us we will go for a vacation to Pakistan (...) as we do it every year. In January 2015 we flew to Pakistan. All documents from the whole family, like passports and tickets were with my father. Shortly before we returned he said: I want to leave you here, so that you can't marry this boy, because you will only marry the one I choose for you. He took everything from me, like my mobile phone and my ID. I couldn't contact anyone.”

After her father and the rest of the family had left, A. gained a little more freedom to move. With financial help from her boyfriend and by tricking her family A. managed to secretly approach the German embassy in Islamabad in May 2015, well aware of the 6-month-period of the German residential law, in which she should return to Germany in order to not lose her residential status. Because she couldn't show any papers she was sent away without result. Against all odds she was able to secretly organize papers like a new ID, etc. and went back to the embassy twice – in October and December 2015. Both times she was rejected and her application was not accepted.

“[At the embassy] I explained my situation. Again and again they asked me to bring new documents, like my Pakistani ID, registration certificate, certificate of my old passport, birth certificate and so on. Until I organized all the documents my settlement permit was no longer valid. And they told me now you are no longer permitted to travel to Germany. Even though I informed the embassy on time.”

Challenges in the support and lessons learned

Support Phase I, March-April 2016: Filing the application at the embassy

After A. contacted us in March we directly approached the embassy in Islamabad. With our help A. could finally access the embassy to file her application. But even from March on A. was sent back twice to organize more documents and it took until end of April until her application was complete.

¹ <http://dipbt.bundestag.de/dip21/btd/18/077/1807749.pdf>, p. 11.

→ **Lessons learned:** The threshold to successfully access institutions like embassies are very high for young abducted women like A. First of all their freedom of movement is most likely quite small. A. was lucky that she had the financial help of her boyfriend and that she could move quite freely outside of her grandmother's home. But even when young women succeed in approaching the embassy they are at a great risk to be sent back without achieving anything. The embassy has no sensitivity to recognize girls in need of help and is not aware of their vulnerable situation. Low threshold support offers like Papatya's counseling center can function as a "door opener". The bureaucracy and the nontransparent procedures are additionally complicating the whole situation - for young women like A. as well as for her helpers.

Support Phase II, May-August 2016: Waiting for a result

According to the embassy A's case should get decided within two weeks. One month later A. had to make additional statements again. The deciding authority (foreigner's registration office) wanted her CV, a work contract, her school qualification certificate as well as statements about the circumstances of her abduction and the forced marriage including name and address of her forced fiancée as well as the wedding date. A. is not yet engaged and there is no fixed marriage date, nevertheless she is in big danger of a forced marriage when her family arrives – a danger the German foreigner's registration office obviously not take as serious. Luckily A's former employer wanted to rehire her and A. managed to hand in all requested papers. Nevertheless and despite many requests from us and key persons from ministries and other authorities the foreigner's registration office isn't deciding her case. In the end of August after A's uncle has arrived and her freedom of movement has therefore drastically shrunk we finally got an unofficial notice from the ministry of social affairs that A's request is going to be rejected because the authorities don't feel that her story is credible.

→ **Lessons learned:** The foreigner's registration office has slow procedures and operates upon its own logic and in a nontransparent way. Even with a strong network of support and good contacts in the administrative bodies the authority and the case workers can hardly be accessed. This is something only a lawyer can do on behalf of the affected person.

In cases of forced marriage and honor related violence time is a precious commodity. The situation of a girl or young women abroad can change from day to day. The authorities do not respond to that in their routines.

Also their legal thinking leaves victims in a no-win situation. A. was not yet forced to marry which was positive for her and her freedom of movement and legal situation in Pakistan. At the same time she got less support of the German authorities and her case was judged as not credible.

Support Phase III, September-November 2016: Legal intervention

After the bad news we started to search a lawyer for A. We also sent statements and a letter of supplication from A. to high ministers in the federal country and informed a parliamentary body that can be approached in cases of miss-usage of laws and legal regulations. While the latter interventions stay unanswered a lawyer takes A's case in mid September and succeeds to get A's file one month later. Until this moment neither A. nor the embassy got an official note that the application was rejected. Nevertheless the file proves that the information was correct and the authority assesses A's case as not credible. In order to write a statement A's lawyer needs additional statements from A. who is desperate. Fortunately her father delayed his arrival to Pakistan and the forced marriage has not happened yet. But A. is frustrated and hopeless and can only communicate with us and the lawyer through her smartphone. With our support she succeeds to answer the lawyer's questions and in the beginning of November the statement of A's lawyer is sent to the foreigner's registration office. Nine days later we finally receive good news that the authority changed its mind. Five days later in mid November A finally gets the visa to return back to Germany.

→ **Lessons learned:** Girls and young women in A's situation are forced to fight hard to return back to Germany. Endless statements have to be written and papers collected. All this has to be done in

secret most likely over a smart phone as the only mean of communication. In this situation the affected young girls and women need a lot of encouragement as well as practical and direct help by the counselor.

Hiring a lawyer is a big chance while at the same time it can create more obstacles and need for support. Most likely A. would not have been able to hire a good lawyer herself. In A's case her boyfriend could pay for the lawyer. Also in understanding what kind of information the lawyer needed from her A. needed us to translate for her into a more comprehensible language.

Issues to promote in the EU

- Girls and young women in A's situation need help and support through specialized Counseling centers which need to be financed. Additionally all European countries need a state-run central support structure for cases of abduction. To ensure a quick handling of cases cooperative structures between different authorities including embassies have to be created. Every authority should have a contact person in charge of such cases.
- Support should not depend on a forced marriage alone. Every girl/young that is held abroad against her will should get the right to return - no matter if a forced marriage has happened, is planned or is not in talk yet need to get support. The right to return in cases of forced marriage (§ 37 IIa AufenthG) has to include cases where the marriage is only planned but hasn't happened yet. Additionally it should be extended to all cases of abduction. Starting point for the legal interpretation has to be the dilemma of the affected young women/ girl and if she was brought or is held abroad involuntarily.
- The threshold of access to consular support should be lowered fe. through emergency numbers, special contact persons at the embassy, pro active help, etc. Embassy staff in countries where forced marriage and abduction happen should get sensitized to be able to recognize cases of honor related violence, forced marriage and abduction.