

Exam for JUR1530 and JUR5530 - Refugee and Asylum Law

Spring 2012

Please read the facts and answer the question. Good Luck!

Amina is 18 years old and lives with her parents and siblings in a small village in Morocco. She would often go into the fields to collect oranges from the trees. Sometimes she would see her neighbor, Mustapha (23 years old) also in the fields. They would converse about their families and the activities in the village, but they had to be careful because they were afraid of people gossiping. Neighbors believed that they were sweethearts. One day Mustapha invited her to go behind a shed so that they could escape the curious neighbors. Amina alleges that Mustapha raped her behind the shed. Amina's father contacted Mustapha's family and they decided to go to a judge to ask for authorization of a marriage between the two as a compromise solution to the situation. The families knew that according to Moroccan custom, Amina would never be able to marry another man after having lost her virginity to Mustapha. Amina's father regretted that his daughter should have to marry Mustapha, but noted that it was necessary to restore the family honor and guarantee his daughter some future. The Judge insisted that Amina was to marry Mustapha according to custom. Amina agreed and the prosecutor dropped the rape charge against Mustapha in accordance with Article 475 of the penal code which prevents prosecution in cases in which the accused marries the victim. Mustapha agreed to pay a bride's price of 625 US Dollars to Amina's father, as required in the marriage contract. Amina's father claims that he never received the money. Amina moved in with Mustapha's family and soon began to report that Mustapha beat her regularly. Amina's mother told her to go to the police. Amina stated that she was too afraid that Mustapha would kill her if she went to the police. Amina decided to run away. She found someone who was willing to put her in touch with a smuggling group. Amina managed to be smuggled to Spain where she presented an asylum application. She claims that she is afraid that the Moroccan judiciary will force her to return to her husband and that he will continue to beat her and possibly kill her. "The law and the judge are my oppressors, as are the customs of my village" declared Amina in her interview.

You work as an intern at UNHCR's office in Spain. You have been asked to write a memo addressing whether or not Amina may be considered a refugee according to the 1951 Convention. You have also been asked to refer to both the Convention on the Elimination of Discrimination Against Women and the Declaration on the Elimination of Violence Against Women in your refugee determination analysis. You have been provided with a copy of the US State Department Country Report on Human Rights in Morocco, section on Women. You may assume that Amina is credible.