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Does the prospect of arranged marriage and abuse warrant asylum in the US?

An immigration judge said no, but an appeals court panel found a valid fear of persecution.

By [Warren Richey](#) | Staff writer of The Christian Science Monitor

WASHINGTON

When Hong Ying Gao arrived in the US from China in 2001, she pleaded with authorities for asylum, expressing fear that if deported, she'd face abuse and even torture.

But what separates Ms. Gao's case from thousands of other asylum seekers is that her fear of abuse is not tied to iron-fisted tactics of the Chinese government. Rather, it stems from anticipated mistreatment at the hands of her future husband.

At age 19, Gao was sold by her mother for the equivalent of \$2,200 to become the wife of a man in her home village who, Gao says, will physically abuse her. Instead of facing that prospect, she fled China.

Is Gao a legitimate refugee deserving US protection? Or should she be returned to China and a future husband who has already paid for her? An immigration judge said that Gao had no claim to asylum in the US. But an appeals court panel reversed that judgment, ruling that the woman had a valid fear of persecution and was entitled to remain in the US.

Now, the Bush administration is asking the US Supreme Court to examine Gao's case. In a brief filed last Friday, US Solicitor General Paul Clement urges the high court to reverse the appeals court decision and send Gao back to China.

Mr. Clement says the decision by the Second US Circuit Court of Appeals in New York threatens to transform American asylum law into a worldwide haven for women trapped in potentially abusive relationships after being sold into forced marriages. Lawyers supporting Gao retort: What's wrong with that?

"We went over to Iraq to try to bring democracy to people, and we can't even offer a woman being sold into slavery asylum?" asks Carole Neville, a New York lawyer preparing Gao's reply brief to the Supreme Court.

Clement says such policy decisions should be made by the executive branch, not unelected members of the judiciary.

"The court of appeals' error is especially significant because it reached out to identify a broad new category of aliens (women in arranged marriages) entitled to seek asylum," Clement writes in his brief. The appeals court decision "has far-reaching ramifications for immigration policy in light of the fact that approximately 60 percent of marriages worldwide are arranged," he says.

In the case at hand, Gao is from a part of China where it is common in arranged marriages for a would-be husband to offer a cash payment to the future bride's family. In exchange, Gao was to become the man's wife after her 21st birthday.

Gao's mother spent the money to pay family bills and debts. Gao has said that at first she had no objection to her future husband. But she later discovered that he had a bad temperament and gambled, and she says he beat her.

When the relationship soured, the potential husband tried to get his money back, but it had already been spent. Gao moved to a different city in China to get away. But the man continued to harass her family. Finally, Gao and her mother decided she should go to the US. They made arrangements with a smuggler and obtained a fake passport.

Under US immigration law, anyone deemed a "refugee" may be granted asylum. To qualify, an individual must show a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

In most cases, the persecution is meted out by a government. But the Second Circuit said in the Gao case that persecution could also stem from a personal relationship in combination with government-enforced customs.

The appeals court said that women who had been sold into marriage and who live in a part of China where forced marriages are considered valid and enforceable could qualify for refugee protection in the US. The appeals court found that, under such circumstances, Gao "might well be persecuted in China – in the form of lifelong, involuntary marriage."

In contrast, the immigration judge viewed the case as a civil dispute between Gao's family, which had taken \$2,200 in exchange for turning their daughter over for marriage, and the would-be husband who paid \$2,200 for a bride. "This is clearly a dispute between two families and does not establish that [Gao] is a refugee," the immigration judge ruled.

Others disagree. "This is not just a civil case to pay this man off," says Stephen Knight, deputy director of the Center for Gender and Refugee Studies at the University of California's Hastings College of the Law in San Francisco. "We see this as a civil rights case of someone who has been sold into marriage."

In China, the crucial component in an arranged marriage is the exchange of money, not the wishes of the prospective bride. A Chinese court would probably order the marriage to go forward over Gao's objections, Mr. Knight says.

"She should have the right to choose her husband," he says. "If she can't because she has been sold to someone who can bring down the power of the Chinese state to enforce the marriage, then she is a refugee."

The Bush administration suggests in its brief that if the Second Circuit decision stands, it might trigger a flood of women from around the globe fleeing unhappy arranged marriages. Knight says he's seen no flood since the appeals court decision was handed down in March 2006.

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*"To injure no man,
but to bless all mankind"*

BOSTON · FRIDAY
MARCH 23, 2007



THE ART OF TV TITLES FIVE WEB PICKS
A COOL JAZZ DUO HOT NEW CDS
PGA TEES UP FOR PLAYOFFS TODAY IN... **weeknd**

ONE DOLLAR

CARE PACKAGES

Americans support the troops with food, soap, DVDs

By TOM A. PETER
CONTRIBUTOR

What do US soldiers need in Iraq? Probably not hand-knitted caps and booties.

"We're running into a lot of knitted items" in care packages, says Marine 1st Lieutenant Barry Edwards, public affairs officer for Regimental Combat Team Six in Fallujah. "Great job on the knitting, but we're starting to break 85 degrees [F] ... and in about another month it's going to be over 100."

Four years into America's war in Iraq, public approval of the effort has fallen sharply, but private support for the troops looks as strong as ever. Since no official statistics exist, the evidence is necessarily anecdotal. Soldiers in war zones receive a steady influx of care packages and letters. Domestically, organizations that offer aid to soldiers and their families have enjoyed consistent support, and some have even grown.

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COURTESY OF 1ST LT. BARRY EDWARDS

SUPPORT: Care packages pile up for 1st Lt. Barry Edwards, an officer in Fallujah.

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IMAGICAL HANSHUANG/REUTERS

IDEAS FOR EUROPE: A banner in Berlin promotes the 27-member European Union, which began with the six-nation European Economic Community 50 years ago this Sunday.

E.U. SEEKS VISION FOR NEXT 50 YEARS

ON UNION'S 50TH ANNIVERSARY, US diplomats say Europe was wrongly ignored after 9/11.

By ROBERT MARGUAND
STAFF WRITER

BERLIN and WASHINGTON - As leaders of the 27 European Union members gather in Berlin this Sunday for the 50th anniversary of the EU, much of the effort behind a highly anticipated "Berlin Declaration" is to make the postwar organization pertinent to ordinary Europeans - a record number of whom are skeptical of the Union, even while enjoying

its benefits.

Five decades ago this Sunday, a new Europe formally emerged with the signing of the Treaties of Rome. It was a brave and visionary effort to transcend national boundaries and illiberal ideologies. With American help, Europe shaped a common market and sphere of values against the backdrop of Soviet communism, two cataclysmic wars, and Auschwitz.

Now, as the EU pauses to consider its foundational ideals, it's striving to make them relevant. Climate change has emerged as a key rallying point. In addition, the US

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British leave, battle erupts over Basra

SHIITES CLASHED Thursday as British exit Iraq's oil-rich south.

By SAM DAGHER
CORRESPONDENT

BAGHDAD - Just two days after British troops pulled out of downtown Basra, Iraq's second-largest city and center of the country's oil-rich south, fighting erupted between rival Shiite groups in street battles Thursday.

An eyewitness reported that masked gunmen swept through the center of the city carrying AK-47s and rocket launchers as members of the Moqtada al Sadr's Mahdi Army and the Fadhila Party, which controls the province, apparently fought over a government building just vacated by British troops.

The turmoil in the capital of the southern province, home to a key port and most of the country's oil wealth, signals the beginning of the kind of battles that could erupt in Iraq as outside forces depart, say analysts. "There will be a power vacuum in Basra," says Martin Navias, an analyst at the Centre for Defence Studies at King's College in London. "As the British begin to extricate themselves from Basra, there will be fighting among these groups."

Fadhila officials said "neighboring" countries, a reference to Iran, were helping Mr. Sadr's forces in Basra. "Iranian influence in southern Iraq is very strong and

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U.S. COURT CASE

Arranged marriage and prospect of abuse: Grounds for asylum?

By WARREN RICHEY
STAFF WRITER

WASHINGTON - When Hong Ying Gao arrived in the US from China in 2001, she pleaded with authorities for asylum, expressing fear that if deported, she'd face abuse and even torture.

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