



# AN ISLAMIC HUMAN RIGHTS PERSPECTIVE ON EARLY AND FORCED MARRIAGES

Protecting the Sanctity of Marriage

# OUR VISION

Inspired by the Islamic faith and guided by our values, we envisage a world where communities are empowered, social obligations are fulfilled and people respond as one to the suffering of others.

# OUR VALUES

إِحْسَان  
E X C E L L E N C E

إِخْلَاص  
S I N C E R I T Y

عَدْل  
S O C I A L J U S T I C E

رَحْمَةٌ  
C O M P A S S I O N

أَمَانَةٌ  
C U S T O D I A N S H I P

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# INTRODUCTION

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Marriage, in the Islamic worldview, is an important part of building healthy and protective relationships, families, and societies. In order for an Islamic marriage to be valid, it has to meet certain criteria, which ensures the health, security and wellbeing of the couple, their families and their communities. In Muslim communities around the world, marriage takes on many local customs and cultural forms. Islam allows this cultural diversity as long as the practices do not cause harm – specifically, as long as they do not contradict the principles of Islamic law that seek to protect human beings.

Islamic Relief is an independent aid agency that is guided by Islamic humanitarian principles and seeks to end poverty and suffering around the world, especially among vulnerable groups. As part of our commitment to ending suffering, we seek to protect children and establish gender justice by ending gender-based violence. Early and forced marriage (EFM) often take place in communities where there is a wider social context that denies women's and children's rights, and where EFM persists alongside other harmful practices such as female genital mutilation/cutting (FGM/C), gender-based violence and child abuse. We are committed to seeing an end to these harmful practices that are prevalent in many Muslim communities and often wrongly associated with Islamic teaching.

Early and forced marriages (EFM) are practices that violate the God-given human rights of all, particularly women and children, as well as the sanctity of marriage in Islam.

This guide presents an Islamic human rights perspective on EFM for those seeking to understand the issues and working to end the practices in Muslim communities. Islamic Relief believes that changing perceptions in order to end harmful practices in Muslim communities is best done through better understanding and raising awareness of human rights as enshrined in Islamic law. We call upon parents and guardians, imams and community leaders, teachers and health workers, governments and NGOs to work together to understand why EFM is practiced in Muslim communities, raise awareness about the harm it causes, tackle the complex issues that lead to its prevalence and seek to change perceptions and behaviour by promoting a better understanding of human rights enshrined in Islamic teaching.

# Marriage in Islam

## The purpose of marriage

The Qur'an frames marriage as a relationship that promotes modesty,<sup>1</sup> procreation<sup>2</sup> and the love and enjoyment of the spouses.<sup>3</sup> The marriage of a man and a woman is pleasing to God, and is described in the Qur'an as: "And among His signs is this, that He created for you mates from among yourselves, that you may dwell in tranquillity with them, and He has put love and mercy between your hearts. [...]"<sup>4</sup>

In Islam, marriage is a solemn covenant (meethaqan ghaleezan), one of the most significant forms of agreement in Islam,<sup>5</sup> and its purpose is to establish a successful relationship for achieving positive outcomes for all the family. Marriage has several functions that help build a healthy society as ordained by God, including:

- The preservation of mankind
- Creating tranquillity and harmony
- Providing physical and emotional fulfilment
- Promoting mutual love and respect
- Enabling assistance, sharing and caring
- Protecting rights and promoting benefits of marriage

The purpose of marriage is to create a successful union that promotes love, tranquillity and mercy between husband and wife, and contributes to a healthy society. An unwanted marriage is unlikely to fulfil this purpose.

## The conditions of marriage

The Qur'an sets out some basic conditions for marriage, for example that it should be an agreement concluded by two legally capable parties (whether the spouses themselves or their guardians),<sup>6</sup> and that it serves as the basis for certain rights and duties between the spouses.<sup>7</sup> The categorisation of marriage as meethaqan ghaleezan, the most solemn form of covenant in Islam, means that the free and considered consent of both potential spouses is required.<sup>8</sup>

In addition to the requirement of mutual consent, the Qur'an mentions other conditions for a successful marriage in Islam:

- Determining mutual attraction<sup>9</sup> and compatibility
- Ascertaining similar beliefs/faith<sup>10</sup>
- Agreement on mahr (dower) paid by the groom directly to the bride<sup>11</sup> (the wife may not be deprived of it without giving her willing consent)<sup>12</sup>
- Agreement on other terms of marriage (details mutually agreed by husband and wife)<sup>13</sup>
- Understanding the marriage contract, including the responsibilities and rights of spouses, with a solemn and a mutual acceptance of the contract<sup>14</sup>
- Capability of a male to provide for the family<sup>15</sup> (while the wife is not prohibited from working or being the breadwinner, the husband has the primary obligation to financially support his wife and children, known as nafaqah)<sup>16</sup>
- Physical maturity, post-puberty<sup>17</sup> and sound judgment (known as rushd, particularly with regards to financial transactions (such as dowry) or the level of maturity required to conduct one's own affairs.<sup>18</sup> The Qur'an does not define the age at which rushd is attained as it varies for each individual but both males and females need to reach it before they marry.<sup>19</sup>

# The importance of consent

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Marriage in Islam is a consensual arrangement, requiring both parties to have the freedom and capacity to consent.

Marriage as defined by Islam is always consensual; the prohibition of forced marriage and promotion of a healthy consensual relationship is confirmed throughout the Qur'an and other Islamic texts. The Qur'an states: "It is not lawful for you to inherit women by force. Nor may you treat them harshly so that you can make off with part of what you have given them, unless they commit an act of flagrant indecency. Live together with them correctly and courteously [ . . . ]"<sup>20</sup>

Forced marriage has no legal validity in Islam. No-one can be forced into marriage against their will, and there is no basis in the Shari'ah for this practice.

During the life of the Prophet Muhammad (peace be upon him) one of his companions, Ibn Abbas, spoke to him about a female who reported that her father had forced her to marry without her consent. The Prophet (peace be upon him) then gave her a choice between accepting the marriage and invalidating it.<sup>21</sup> In another narration of this hadith (saying of the Prophet) it states that she responded, 'Actually, I accept this marriage, but I wanted to let women know that parents have no right to force a husband on them.'<sup>22</sup>

Consent in marriage falls within a wider Islamic framework of protection for women that gives them the right to exercise choice in matters affecting their life. In a hadith recorded by Abu Huraira and validated by Muslim, the Prophet (peace be upon him) stated explicitly that a virgin should not be married until her consent is obtained.<sup>23</sup>

However, while the consent of females is accepted as a requirement of marriage in Islam – and few would challenge the Shari'ah position on this – in some communities the issue is confounded with local interpretations

of how consent should be given, and who can give consent on behalf of the female. Muslim communities around the world differ in their perception of what constitutes 'appropriate' behaviour on the part of the bride, in light of their different social norms.

The Prophet Muhammad (peace be upon him) said to avoid what is doubtful. As consent is necessary for a valid marriage in Islam, every effort should be made to ensure that both the bride and groom consent willingly and explicitly, rather than through silence.

## Dispelling myths: The issue of silence as consent

The general rule of consent is that one expresses it through word of mouth, in writing or with a sign (such as a nod) that is understood as agreement in the given context. However, some Muslim communities still take a female's silence as her consent to marriage.

This tradition makes reference to a hadith in which the Prophet Muhammad (peace be upon him) emphasised the need for gaining a female's consent in addition to the consent of her guardian, but when told that the bride is too shy to give her explicit consent, said that 'silence implies her consent.' While this hadith is authentic, it is specific to a context in which, in the past, silence was a form of agreement in some cultures. Silent consent is no longer a social norm in most cultures, and therefore a female's silence can no longer be unequivocally interpreted as her agreement.

Rather the present social norm of an explicit, verbal 'yes' or 'no' is now more in keeping with the Shari'ah requirement of clear consent in most cultures. Even in more traditional communities, where silent consent is still the norm, it cannot be taken as consent in the absence of other corroborative evidence that the bride has consented to the marriage – certainly any behaviour or action indicating her unhappiness cannot be ignored.

# The responsibility of parents and guardians

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Parents and guardians are responsible for the wellbeing of the children placed in their trust and in emphasising the importance of this role, are warned that they will be accountable to God on the day of judgement. The Prophet Muhammad (peace be upon him) said:

“Every one of you (people) is a shepherd. And every one is responsible for whatever falls under his responsibility. A man is like a shepherd of his own family, and he is responsible for them.”<sup>24</sup>

The rights of the child in Islam include the right to health and nutrition, emotional and psychological wellbeing, a dignified and secure life, education and life skills, gender equity and protection from violation, among many more.<sup>25</sup> Parents and guardians have a religious responsibility to ensure these rights are not violated in any way, including when it comes to marriage.

In Islamic law, the permissibility of marriage is based on males and females reaching maturity and the wali (guardian) giving their consent. A wali is a relative (usually the father) with the responsibility of protecting the interests and rights of the bride, including ensuring her free consent and in some cases, negotiating the conditions of marriage on her behalf. When the wali fails in these duties, injustices such as early and forced marriages can occur. This failure could be a result of ignorance of their obligations in Islamic law and the contextual pressures of poverty and culture. Poverty is in some ways the most problematic because it may make the wali feel that they are genuinely acting in the child or female's best interests.

It is worth noting that there is a difference of opinion among the four schools of Islamic jurisprudence on when - in exceptional circumstances - the consent of the guardian can be dispensed with. There is also a minority

opinion among some later scholars from the Maliki school of thought who argue that the wali's consent is the only consent required. Their understanding is based on the literal translation of one hadith narrated by Abu Dawood, whilst the majority of scholars held a different view because they compared this hadith with other Prophetic teachings that state the necessity of the consent of the female and that the wali cannot override it. Nevertheless, some Muslims follow this minority position and believe they are justified in the wali giving consent to marriage on behalf of their female relative.

## Dispelling myths: The issue of early betrothal

In some communities it is normal for parents, particularly fathers, to betroth or marry their children while they are still minors, on the understanding that the marriage will be consummated at a later date. This practice occurs in different societies for various social and tribal reasons and is by no means an inherently 'Islamic' practice.

However, Islam does not forbid this practice in principle but allows it on the condition that the marriage can be rejected or upheld by the male or female upon reaching puberty. This is because, as in any other marriage, until they reach comprehensive maturity they have no legal capacity to give their consent.

It is unanimous in all four schools of thought that the male and female have a right to exercise their choice, 'khiyaar al-buloogh,' upon attaining majority or reaching puberty.

The Qur'an also specifically mentions that orphan girls have as much right to choose their marriage partner as other girls, given that they are more likely to be vulnerable to exploitation.

# The minimum age for marriage

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Islamic texts do not specify a minimum legal age for marriage but state that both males and females should have reached comprehensive maturity, among other conditions. Individuals reach maturity at different ages and this is partly contingent upon their culture, environment, social expectations, socialisation processes and other contextual factors.

The minimum criteria in Islam for those entering into marriage is that they should not only have reached puberty but have the comprehensive maturity to understand their rights and responsibilities in marriage, and be able to fulfil them.

The Qur'an draws a distinction between reaching puberty and reaching an age, beyond puberty, where one is mature enough to manage their affairs and enter into legal agreements. In the case of managing the affairs of orphans for example, the Qur'an states: "Test orphans until they reach marriageable age; then, if you find they have sound judgment, hand over their property to them.."

Islam also requires Muslims to obey the laws of the land in which they live, and most countries – including Muslim countries - state 18 as the minimum legal age for marriage, with some allowing marriage before this with parental consent.

Islamic Relief considers 18 to be the minimum age at which young people today

have the sufficient maturity to carry marital responsibilities, build healthy families and protect against the harm caused by early marriage.

Marriage earlier than the age of 18 can be the cause of serious health problems for girls, especially those who become pregnant and have children early. It can also have a detrimental effect on their emotional and psychological wellbeing, as well as the health of their children. Islam requires that Muslims protect themselves, and those in their care, against any practices which result in harm.

Early marriage is also the reason many girls drop out of school and remain illiterate, exacerbating the cycles of poverty in the developing world. Islam places great emphasis on education as a right, with parents and guardians given the specific instruction to ensure their children are educated. Early marriage may have historically been the norm in civilisations where girls were not expected to study, work outside of the home, seek personal fulfilment or make any contribution to wider society beyond raising a family. However, this is no longer the case for many women around the world who play a number of roles in adulthood and are socially expected to develop themselves and be well equipped for adult life before they marry.

In calling for an end to EFM, Islamic Relief is not calling for marriages to be delayed where both



male and female have reached comprehensive maturity, understand their rights and responsibilities and give their free and willing consent to the union. Marriage is an important sunnah (tradition) of the Prophet Muhammad (peace be upon him), who said, "Whoever is able to marry should marry, for that will help him to lower his gaze and guard his modesty." Our concern is the harm and violation of rights posed by unwanted marriages. We recognise that a voluntary marriage of young, comprehensively mature individuals can protect against religious violations and harm, particularly where non-marital relationships lead to abortions of minors and put the lives of teenage girls at risk.

### **Dispelling myths: The issue of Ayesha's age at marriage**

The age of Ayesha at the time of her marriage to the Prophet Muhammad (peace be upon him), has recently become the subject of debate on whether Islam allows early marriage. Historical accounts of Ayesha's age at marriage vary but the marriage was not considered beyond the social norms of 7th century Arabia where early betrothal and marriage/consummation after puberty was common practice. In fact, their marriage was known to be one of exemplary love, equality and respect; Ayesha was an assertive, intelligent woman who went

on to become a great scholar of Islam with an authoritative role in public life – and the Prophet (peace be upon him) loved her dearly. Debating Ayesha's exact age at marriage does not discharge Muslims of their obligation to adhere to the principles of Islamic law and the teachings of the Prophet Muhammad, which prohibit harmful practices and state that physical and intellectual maturity is a precondition of marriage.

[The Prophet's life is an example of how to live in accordance with the teachings of the Qur'an, which state that one must reach physical and intellectual maturity before marriage. The Prophet's life and teachings affirm this principle and it is a condition of any valid Islamic marriage.](#)

Moreover, in following the example of the Prophet (peace be upon him) Muslim men would do well to consider his first marriage to Khadija, a successful businesswoman who was 15 years his senior, and to whom he was happily married until her death, 25 years later. Khadija was twice widowed before her marriage to the Prophet (peace be upon him) and is also known to have turned numerous marriage proposals before she met the Prophet (peace be upon him) and proposed to him.



# An Islamic human rights case against EFM

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The following principles in Islamic law make a clear case against early marriage:

**1. The protection of life and health should guide every decision.** The protection of life is one of the five essential maqasid, or goals, of the Shari'ah. Islamic texts set very strong standards of protection of women and girls, and the evidence of the harm caused by early marriage contravenes the Islamic obligation to protect human life and health.

**2. The principle of 'no harm' in Shari'ah.** The Prophet (peace be upon him) said: "There shall be no harm and no reciprocating harm. Whoever harms, Allah Will Harm him, and whoever makes things difficult [for others], Allah Will Make things difficult for him."

**3. The recognition of age and intellectual maturity relevant to context.** There is no minimum age for marriage specified in the Qur'an or hadith but there are references that call for an individual to reach the age of psychological maturity and responsibility – which is at some point beyond puberty – when entering into any serious contractual agreement. Sound judgment is also necessary

to enter into a marriage contract fully aware of what it entails and fully able to manage one's life affairs as well as fulfil responsibilities towards one's spouse.

**4. The Qur'anic standards for child development and protection.** In Islam, the rights of the child have to be considered even before birth and with the choice of marriage partner. In addition to their basic right to be fed and clothed, children should be protected from physical violence and harm, have equal treatment regardless of gender, be protected from child labour, and their parents must provide for their security, including financial security. Muslims are also obliged to pursue knowledge and education seen as an essential right of the child. Parents must support their children, both boys and girls, in pursuing their education. In addition, Islam requires parents to shepherd their children's moral and religious development (tarbiyyah) from a young age, rather than resort to extreme measures – such as EFM – to prevent sexual transgression.

**5. The special protection of girls until attaining maturity.** The Prophet (peace be upon him) said that "Whosoever supports two daughters



until they mature, he and I will be on the day of judgment as this (and he pointed with his two fingers held together).”

The medical evidence of harmful effects and health risks of early marriage - particularly associated with premature sexual relationships, pregnancy and child birth by young mothers - makes it clear that EFM is against the Maqasid al-Shari’ah and the preservation of life. Islamic sources are replete with evidence against doing anything that causes harm either to oneself or to others, and also confirm the obligation of parents to protect their children from all harm.

**6. The God-given right to flourish.** Early marriages violate the inalienable human right to seek personal development and to fulfil their potential. It often cuts short both women’s and girls’ rights to social, educational, and economic opportunities.

**7. The consideration of public interest.** In situations that are not directly addressed in the Qur’an, such as a specific minimum age for marriage, the principle of *maslahah mursalah*, or ‘unrestricted public interest’ must apply. Given all the physical, emotional and intellectual harms proven to afflict women married early, it is clear that *maslahah mursalah* obliges Muslims to protect women and children from this harmful practice, rather

than perpetrate it against them.

Many Muslim-majority countries, including those with religious governments, have adopted 18 as the minimum age for marriage. This precedent for raising and standardising the minimum age for marriage can be used as evidence of ‘*maslahah*’ in this context, requiring the delaying of marriage of young girls.

**8. The recognition of man-made laws and obeying the rules of the land.** The Shari’ah welcomes governments to act for the benefit of the people and constitute man-made laws in areas where there is need. The Shari’ah also requires Muslim communities to obey the rules of the land as long as they do not contravene religious law, so in many countries Muslims are required, by Shari’ah, to wait until they reach 18 before they marry.

Muslims are entrusted to follow the rules of the land, whether they live in Muslim or non-Muslim countries, and this includes adhering to the minimum legal age for marriage.

The following principles in Islamic law make a clear case against forced marriage:

**1. There is no valid marriage without the consent of both the bride and groom.** The decision of when to enter into a marriage, and



with whom, is a God-given right. If the marriage is contracted by the wali (guardian) without the consultation of both the male and the female, they have the right to void the marriage upon the attainment of the age of majority or puberty.

**2. The role of the wali is to protect the interests of the bride.** Hence the decision of whom and when a female marries should not go against her will.

**3. The preservation of the family - its roles and rights.** In Islam the family is the cornerstone and foundation of society and marriage requires both parties to fully understand and agree on their responsibilities towards building stable families and healthy societies. Strong families can be built only on mutual consent, the understanding of rights and responsibilities in the family and balanced power relationships.

**4. The importance of avoiding doubt.** Where there is any doubt on legal matters in Islam, Muslims are instructed to apply the teachings of the Qur'an and the Prophet Muhammad (peace be upon him) and to avoid doubtful matters. On the issue of a wali consenting to marriage on behalf of his daughter, for example, most scholars and madhahib agree – in keeping with Qur'anic and prophetic teaching - that the consent of the daughter is also required.

## Early marriage has no place in Islam because:

- × Marriage before the age of puberty is unacceptable and violates the Shari'ah.
- × Marriage after puberty requires comprehensive maturity and sound, adult judgement – given that it is a legal contract.
- × Islam forbids doing anything that causes harm either to oneself or to others, and Islamic sources confirm the obligation of parents to protect their children from all harm.
- × The wellbeing of females and males is protected by the Shari'ah and Muslims have an obligation to protect human life and health.
- × Early marriage violates girl's rights, including education, economic opportunities, physical and mental well-being.

## Forced marriage has no place in Islam because:

- × A forced marriage is not acceptable or valid, according to the Qur'an.
- × The Prophet (peace be upon him) said that the consent of a bride is a prerequisite to the validity of the marital contract.
- × The Qur'an sets standards for marriage, including compatibility and attraction to a potential marriage partner.
- × Forced marriage denies females and males the right to exercise choice in life decisions and life partner.
- × A marriage of mutual consent and understanding is the foundation of a healthy family and society – forced marriage therefore undermines the broader health of society.

Early and forced marriages are cultural, not religious, practices and Islam only allows for social customs if they do not violate human rights, as enshrined in Islamic law.



# Summary

Marriage in Islam is a sacred union before God that, among other purposes, should help protect the five objectives of Islamic law (Maqasid al-Shari'ah): faith, life, intellect, progeny and wealth. This means all human beings should have the opportunity to develop their physical, mental, spiritual, intellectual and other human capacities, and be protected from all forms of physical, economic, psychological and sexual violence. Evidence shows that EFM increases the risk of violence and poses serious risks to the health and wellbeing of girls and women, which directly violates their human rights in Islam. It often also inhibits opportunities – including educational and economic development – perpetuating the cycle of poverty in poor communities.

Islamic law fundamentally opposes EFM as a marriage without consent, or a marriage of minors, having no legal validity because it does not meet the Islamic criteria of marriage. Islam gives every female the right to choose her marriage partner – and to annul any betrothal agreed on her behalf – upon reaching puberty and attaining comprehensive maturity. While no minimum age for marriage is stipulated in Islam, attaining puberty, having sound judgment and comprehensive maturity before entering into a marital contract – as well as having the capacity to understand and fulfil the rights and responsibilities of a spouse after marriage – are clear preconditions in Islam. Islam also requires its followers to adhere to the law of the land, many of which specify the minimum age for marriage as 18.

Early and forced marriages are a serious threat to the purpose of marriage and the objectives of Islamic law, which include protection from harm and preserving life and health.

Islamic Relief considers 18 to be the minimum age at which young people have the sufficient maturity to carry marital responsibilities, build healthy families and protect against the harms caused by early marriage.



# Working together to protect the sanctity of marriage in Islam

Islamic Relief is committed to ending human suffering and challenging negative practices that are harmful to individuals, families and wider society. We call upon all parents, guardians, religious leaders and influential community members to preserve the sanctity of marriage in Islam by supporting unions based on the principles of the Shari'ah and ending practices that violate people's God-given rights.

Anyone who conducts an Islamic marriage has the responsibility of ensuring that both the bride and groom give their free consent and that they meet all the conditions of marriage, including comprehensive maturity.

Islamic Relief also calls for an end to all associated practices that go against the ethos of an Islamic marriage, including

acceptance of a bride-price or dowry by the family of the bride, demand for excessive mahr (gift to the bride) and expectation of extravagant ceremonies that cause financial hardship, prevent or delay the union of two consenting adults.

Islamic Relief calls upon all parents, guardians and imams of Muslim communities to adhere to the laws of the land on the minimum legal age for marriage as well as respect the conditions of a valid marriage within Islam. In regions where marriage under the age of 18 is legal, this means delaying marriage until both male and female have the comprehensive maturity to fulfil the rights and responsibilities of marriage. We also call upon all marriages and births to be registered to ensure that the God-given rights of women and children are protected.



- 1 The Prophet is reported to have said, "Whoever is able to marry should marry, for that will help him to lower his gaze and guard his modesty." Recorded by Al-Bukhari.
- 2 Quran 4:1, 25:74.
- 3 Quran 30:21.
- 4 Id.
- 5 Quran 4:21 ("And how could you take it while we have taken from you a solemn covenant?"). Meethaqan ghaleezan is the form of solemn agreement between God and his prophets. Quran 2:38 ("And after we took the covenant from the children of Israel, do not worship except Allah"), Quran 33:7 ("And mention O Mohammad when we took from you and from Noah and Abraham and Moses and Jesus the son of Mary and we took from them a solemn covenant.").
- 6 Both spouses must have capacity to marry – which is attainment of puberty and comprehensive maturity (including sound judgment). They must also be capable of consenting. If they are too young to have legal capacity, the consent of the guardian must be obtained. See SHAFQAT, 31.
- 7 These include mutual enjoyment of sexual intercourse, duties of obedience, non-desertion, and choice of domicile. See, e.g., DAWOUD S. EL ALAMI, THE MARRIAGE CONTRACT IN ISLAMIC LAW IN THE SHARI'AH AND PERSONAL STATUS LAWS OF EGYPT AND MOROCCO (London, 1992), 93-107.
- 8 See Quran 4:21.
- 9 Qur'an 2:221, 2:235, 30:21, 33:52
- 10 Qur'an 2:221, 60:10
- 11 Qur'an 4:4, 4:24
- 12 Quran 4:4 ("And give the women [upon marriage] their [bridal] gifts graciously. But if they give up willingly to you anything of it, then take it in satisfaction and ease."); Quran 4:21 (admonishing those who take back what they had given to their spouses as Mahr in the event of dissolution of the marriage); Quran 4:20 ("But if you want to replace one wife with another and you have given one of them a great amount [in gifts], do not take [back] from it anything. Would you take it in injustice and manifest sin?"); Quran 2:229. See also story of the wife of Thabit bin Qays. Sahih Al-Bukhari 5273, Book 68, Hadith 22; MUNIZA RAFIQ KHAN, SOCIO-LEGAL STATUS OF MUSLIM WOMEN (New York 1993), 31.
- 13 The Hanbali school tended in favour of creating some of these additional terms in the marriage contract. Kecia Ali, Marriage and Slavery in Early Islam, (Cambridge, 2010) (hereinafter "Ali, 2010"), 66; see also id. at 72 ("Malik, Abu Hanifa, and Shafi'i concurred that spouses were not permitted to alter core marital rights through stipulations (shurut, singular shart). They uniformly rejected the most common stipulations—those preventing the husband from marrying additional wives, taking concubines, or moving his wife away from her town or domicile.")
- 14 Qur'an 4:21, 2:232, 2:237, 24:33
- 15 Qur'an 2:228, 2:233, 4:34, 65:6
- 16 Quran 2:241. See also Quran 65:7 "Let a man of wealth spends from his wealth and he whose provision is restricted let him spend from what Allah has given him"; Quran 2:233 ("[. . .] Upon the father is the mothers' provision and their clothing according to what is acceptable. No person is charged with more than his capacity. No mother should be harmed through her child, and no father through his child. [ . . .]").
- 17 Qur'an 4:6, 24:31, 24:58-59
- 18 Qur'an 4:6
- 19 Some scholarly opinions say that if children/young people cannot enter the financial contracts till they reach the age of sound judgment (rushd), then they do not have a legal personality and ability to give consent in the marriage contract till they reach marriageable age and adults perceive in them sound judgment (Qur'an 4:6). Also, for example, the arrangement of mahr (dowry) to a bride is legal only if both she and a groom are in the age of sound judgment – a necessary condition for the transaction. Other opinions argue that the consent can be given by a female who reaches puberty only.
- 20 Quran 4:19.
- 21 "That a virgin came to the Prophet (peace be upon him) and mentioned that her father gave her in marriage forcibly, so the Prophet (peace be upon him) gave her choice [to keep marriage or to invalidate it]." (Ahmad, Hadith no. 2469).
- 22 (Ibn Majah).
- 23 "The widow and the divorced woman shall not be married until the order is obtained, and the virgin shall not be married until her consent is obtained". Reported by Abu Huraira (from a translation of Sahih Muslim, The Book of Marriage (Kitab Al-Nikah), Book 008, Number 3303), Huraira, Book 008, Number 3303.
- 24 Hadith reported by both Bukhari and Muslim.
- 25 'Children in Islam: Their Care, Development and Protection,' Unicef and Al Azhar University. [http://www.unicef.org/egypt/Egy-homepage-Childrenislamengsum\(1\).pdf](http://www.unicef.org/egypt/Egy-homepage-Childrenislamengsum(1).pdf)
- 26 In countries where there is a minimum age for marriage, Islam also requires Muslims to obey the law of the land.
- 27 Abu Dawood 2058, Tirmidhi 1101; Narrated Abdullah ibn Abbas: "A virgin came to the Prophet and mentioned that her father had married her against her will, so the Prophet allowed her to exercise her choice." (Translation of Sunan Abu-Dawud, Marriage (Kitab Al-Nikah), Book 11, Number 2091).
- 28 There are four schools of Islamic jurisprudence in Sunni Islam – Maliki, Shafi'i, Hanafi and Hanbali. The vast majority of Muslims around the world follow one of these four schools, which vary on issues of jurisprudence but not on the fundamental tenets of the faith or the principles of Shari'ah.

29 In general agreement the wali's consent can be dispensed if the father of a bride is non-Muslim, if a father tries to marry her against her will or when the wali is absent, then the judge or the imam will represent the interest of the girl.

30 "The marriage of a woman who marries without the consent of her guardian is void." justified in the wali giving consent to marriage on behalf of their female relative.

31 See discussion in Ali, 2010, 33-34 ("Malik and Shafi'i affirm the father's right to compel [. . . the marriage of not previously married virgins]"; "Though several authorities 'Abd al-Razzaq cites allowed the marriage of minors without consent, only two suggested that compulsion of baluugh virgins was permitted. Dozens [of scholars] took the view that a baluugh female, whether virgin or non-virgin, could not be married against her wishes."); Javaid Rehman, Religion, human rights law and the rights of the child: complexities in applying the Sharia in modern state practices, 62 N. IR. LEGAL Q. 153, 161 (2011) (confirming the wali's role in choosing a spouse for a young child, but allowing the child to void his choice upon reaching puberty). See also "An orphan virgin girl should be consulted about herself; if she says nothing that indicates her permission, but if she refuses, the authority of the guardian cannot be exercised against her will." Hadith narrated Abu Hurairah, translation of Sunan Abu-Dawud, Marriage (Kitab Al-Nikah), Book 11, Number 2088.

32 Qur'an 4:6

33 UNFPA, 'Marrying Too Young,' p.12.

34 WHO Adolescent Pregnancy Factsheet, September 2014, [www.who.int/mediacentre/factsheets/fs364/en/](http://www.who.int/mediacentre/factsheets/fs364/en/)

35 Sunan Ibn Majah, Qadeemi ("Marriage is my sunnah. Whoever keeps away from it is not from me [. . .]").

36 Recorded by Al-Bukhari.

37 It is estimated that every year, 3 million girls aged 15 to 19 undergo unsafe abortions (WHO, 2014), available at <http://www.who.int/mediacentre/factsheets/fs364/en/>, last accessed 15 May 2015.

38 The marriage was never raised as an issue even by the enemies of the Prophet (peace be upon him) who at the time were actively making every effort to undermine his character and mission.

39 See Abu Muhammad al-Ghazali, al-Mustasfa min 'Ilm al-Usul (Cairo: al-Maktabah al-Tijariyyah, 1356/1937), I: 287, cited by Mohammad Hashim Kamali, Maqasid al-Shariah Made Simple, Occasional Papers Series 13, International Institute of Islamic Thought, (London, 2008), 11. The purpose of the sharia is the realization of benefits for the human being and the protection of him from harm. Mohammad abu Zuhrah, Usul Al-Fiqh.

40 Reported by Ibn Majah in his collection of Sunan; Kitab Al-Ahkam (Book of Legal Judgments); Chapter "The judgment regarding he who builds for himself while harming his neighbor." 2/748, hadith no. 2340, cited by Children in Islam: Their Care, Development and Protection, UNICEF (New York, 2005), available at [http://www.unicef.org/egypt/Egy-homepage-Childreninislamengsum\(1\).pdf](http://www.unicef.org/egypt/Egy-homepage-Childreninislamengsum(1).pdf).

41 International Islamic Committee for Women and Child, The Islamic Charter on Family

42 Quran 2:233.

43 "The whole of the Muslim is forbidden to another Muslim; his blood, his property and his honour." Reported by Al-Imam Muslim in his Sahih; Kitab Al-Birr (The Book of Righteousness); Chapter: "Sanctifying the Muslim and forbidding letting him down, degrading him or the violation of his blood, honour or property;" 4/1986; hadith no. 2564.

44 See Quran 16:58-59 (stating that having a female child is "good news" in reference to pre-Islamic practice of discriminating against girl-children).

45 Quran 2:286 ("Allah tasks not a soul beyond its scope").

46 "Allah will (on the Day of Reckoning) question each person in a position of responsibility about what he (she) were responsible for (in this life)." Reported by Abu Dawud in his Sunan; Kitab Al-Imarah (Book of Leadership); Chapter "What the leader is obliged to observe of the rights of the people." 3/130; hadith no. 2928.

47 "A father gives his child nothing better than a good education." Recorded by Tirmidhi and Al-Bayhaqi.

48 Quran 48:29.

49 Ahmad

50 Quran 2:195 ("and make not your own hands contribute to your destruction"); "No harm should be afflicted to oneself or to others." Reported by Ubadah ibn As-Samit, recorded in Sunan ibn Majah 2340.

51 See Mohammad Hashim Kamali, Principles of Islamic Jurisprudence (3d edition, 2005), 235.

52 Many States with legal systems based heavily on Islamic Shari'ah have in fact set the minimum age for marriage for both genders at 18, including the United Arab Emirates, Oman, and Mauritania. See World Policy Analysis Center, How long are girls protected from marriage compared to boys?, <http://worldpolicyforum.tumblr.com/post/64216271871/how-long-are-girls-protected-from-marriage-compared-to-b>, last accessed Jan. 10, 2015.

53 See more: Aminu-Kano, M., 2014, "Human Development in Islam", IRW Working Paper, Islamic Relief Worldwide, Birmingham, UK.



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