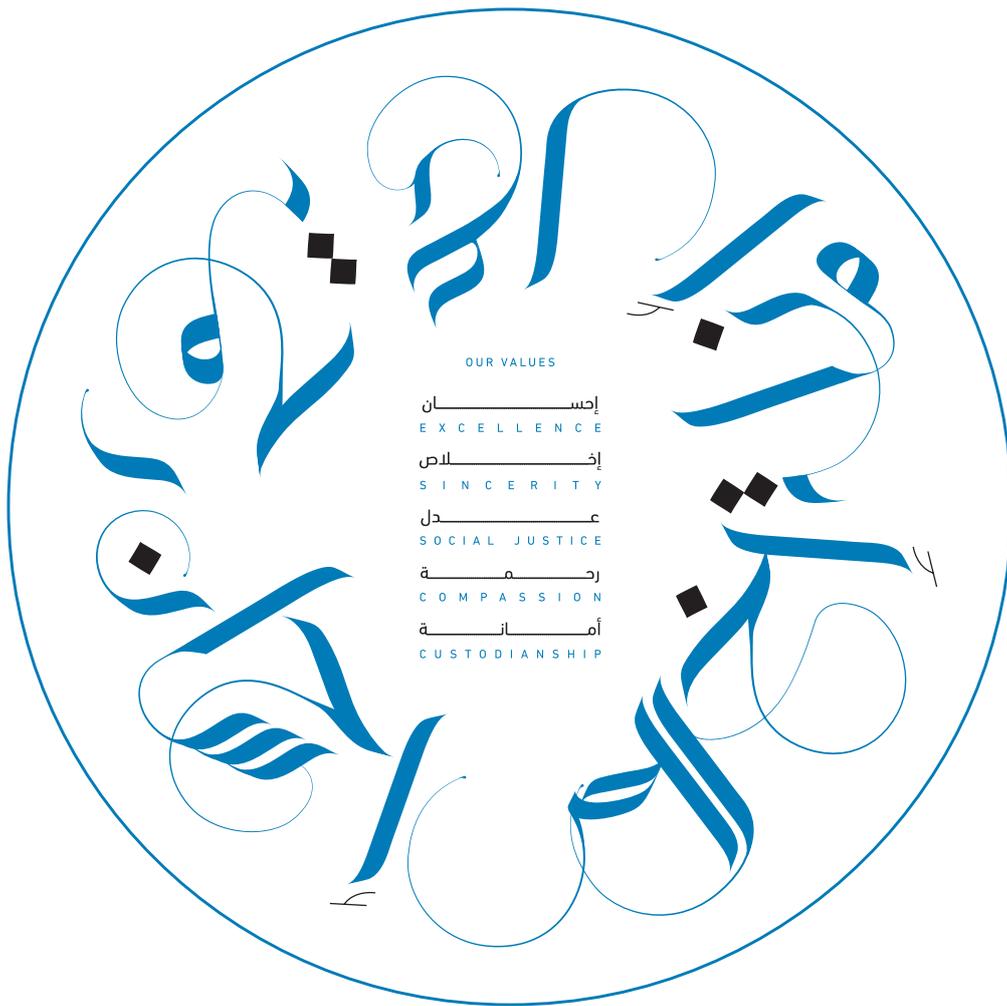




Don't Force Me!

A policy brief on early and forced marriage



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EXECUTIVE SUMMARY

Purpose

Islamic Relief is working in the countries of high and highest Early and Forced Marriage (EFM) prevalence, such as Niger, Bangladesh, Chad, Mali, India, Ethiopia and Malawi. Our teams identified EFM as a serious issue hindering females and communities at large from improving their well-being. We have been addressing this problem through multi-sector and integrated approaches, applying culturally sensitive and sustainable strategies, to help communities achieve most effective development outcomes. A clear organisational policy stance on EFM will further strengthen the effectiveness of our interventions.

“Early marriage has devastating consequences... According to the 2012 Demographic and Health Survey, in Niger 57 % of girls aged 10-14 are not attending school, because it is considered that married girls are expected to stay at home.” Habou Illyassou, Child Welfare Coordinator, IR Niger, Niamey office.

Islamic Relief is calling for an end to EFM as part of its wider strategy to promote universal human rights and in particular, establish gender justice, ensure child protection, promote healthy families and provide appropriate Islamic solutions in Muslim communities. Our work to end EFM will be guided by research into EFM in specific contexts and tailor-made interventions that are effective, culturally-appropriate and sustainable. We will implement direct programmes tackling EFM and include efforts to end EFM as part of our wider emergency and development programmes. We will work closely with partner organisations that have the same goal, advocate for greater inclusive protection for all women and children of all abilities and contribute to the global effort to end EFM.

Persons Affected

Everyone benefiting from Islamic Relief Worldwide Programmes with meaningful participation of all ages and abilities.

Policy

Islamic Relief promotes the age 18 as the minimum age for marriage for both female and male. This is in line with IR Child Protection policy. A minimum age of marriage of 18 will ensure that young spouses have the minimum level of maturity needed before marrying and are able to give their free and full consent to marry.

- We will tailor interventions and combine approaches according to the specific cultures and needs of local communities. We recognise that early and forced marriages can have different drivers and that communities are diverse, their cultural and religious views vary, as do the social factors impacting early and forced marriages.

- Islamic Relief will have an integrated approach to ending early and forced marriages by targeting a number of inter-dependent issues including educational, socio-cultural, economic, religious, legal and health factors. We will also carry out research and assessment prior to intervention to ensure our work is relevant, culturally sensitive, effective and sustainable.

- As part of our commitment to ending poverty and human suffering, we will work to safeguard the rights of all, by raising community awareness about the harms of EFM, importance of education, empowering females, improving the health of communities, supporting parents and guardians to fulfil their responsibilities and ultimately understand and promote the sanctity of marriage.

- Islamic Relief will take a human-rights and community-based approach to ending EFM, and our interventions will be based on the principle of ‘do no harm.’

- Many countries allow different ages, below 18, as the legal minimum age for marriage, with parental consent. Based on a wealth of research and our own experience in poor and marginalised communities, Islamic Relief believes that 18 is a more appropriate age threshold. The fundamental reason for this is to protect the rights of children and young people, including their right to good health, adequate family protection and high-quality education. This is particularly important in the context of poverty, conflict and humanitarian crises, where children are more vulnerable to abuse. Furthermore, by recognising 18 as the ideal minimum age for marriage, we aim to protect the institution of marriage by promoting marital union between responsible young adults whose maturity will better equip them to build a healthy family and fulfil their responsibilities to protect their children's well-being as parents and guardians. We aim to ensure that all children can access opportunities and develop capabilities to come out of the cycle of poverty, which is often perpetuated by early and forced marriages.

Definitions

Early marriage is a marriage in which at least one spouse is below age 18, or lacks comprehensive maturity, encompassing their biological, intellectual, emotional and psychological readiness to enter into a marriage.

Forced marriage is any marriage in which at least one spouse has not given their free consent, either with regards to the timing of the marriage or the choice of partner¹, regardless of age. Forced marriages, for example, can affect girls and women of any age and ability.

Early and forced marriages (EFM) - where "early" and "forced" marriages share some of the same characteristics in terms of causes, consequences and interventions, IR will use the combined term "early and forced marriages" (EFM).

Background and Introduction

Islamic Relief is aware and deeply concerned that children are facing tremendous challenges and giving up their God given right to education and enjoying their childhood to take on the adult responsibilities of marriage. Globally, the rate of early marriage has not slowed significantly since the year 2000, and in some regions it is on track to rise in the coming years. There is no accurate data on forced marriages as they are difficult to monitor and usually go unreported. Whilst they often go hand in hand with early marriages, forced marriages also affect females and males over the age of 18 in many developing communities, as well as amongst diaspora communities. However research done by UNICEF illustrated globally 'more than 700 million women alive today were married before their 18th birthday. More than one in three (about 250 million) entered into union before age 15.'²

A number of issues contribute to the practice of early and/or forced marriages. Poverty is often the underlying cause feeding into additional and related matters such as economic motives, socio-cultural factors, insecurity during emergency situations, religious interpretation and issues related to legal frameworks. How and why these marriages take place also varies considerably in different contexts.

There are many negative consequences of early and/or forced marriage. Often girls and boys who marry early have to stop their education without adequate knowledge and skills they are deprived of inclusive economic growth, social cohesion and the chance to escape poverty. Girls married against their will or under duress are not only denied their childhood but are often cut off from their families and friends leaving them vulnerable and socially isolated. Girls are also faced with various forms of discrimination and violence throughout their lives having a knock-on effect of limiting their opportunities for a brighter and safer future. Those who enter early marriage

are denied the prospect to reach maturity before they make decisions about their future, particularly in developing countries where life choices may already be limited by poverty. As a result, early marriage perpetuates the cycles of poverty worldwide and inhibits development gains. If nothing changes, the 60 million girls already in early and forced marriages will likely continue to be excluded from basic primary and secondary education.³ Among many other consequences, early marriage has numerous risks leading to serious health problems for girls. Studies show that early marriage is directly linked to early pregnancy (especially before the age of 16),⁴ which carry many health risks to a young mother and her child.

Marriage, in the Islamic worldview, is an important part of building healthy and protective relationships, families, and societies. The minimum criteria in Islam for those entering into marriage are 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 of *rushd*, where one is mature enough to manage their own affairs and enter into legal agreements. 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 [. . .]"⁵

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.

Early and forced marriages are not the same as 'arranged marriages' whereby a third party, often family or tribe, facilitate a willing union between two people. Arranged marriages are only problematic if they are also early or forced, i.e. where either spouse is below the legal age of marriage or they do not give their free consent to the marriage.

Islamic Relief also distinguishes between marrying 'young' and marrying 'too young'. Marrying 'young' is an Islamic tradition that we seek to preserve where appropriate: a union of two young people who are fully mature, aware of their rights and obligations in marriage, willingly and happily agreeing to spend their lives together. Marrying 'too young' is an issue of early marriage and is against the teachings of Islam: a union in which one or both spouses is a minor and therefore psychologically, emotionally, intellectually or biologically unready for marriage.

Revisions to Policy

Islamic Relief reserves the right to modify or amend this policy as necessary.

Introduction

What is early and forced marriage?

Early and forced marriage (EFM) adversely affects the lives of millions of people around the world, particularly girls. More than 700 million women alive today were married before the age of 18ⁱ, and over 14 million under-18s are being married each year.ⁱⁱ EFM is marriage without the free will and full consent of both spouses. It is a human rights violation and contravenes several internal and regional agreements. Early marriage can result in serious health complications for girls, particularly during pregnancy and childbirth, which are the leading causes of death among 15 to 19-year-old girls in developing countries. Early and forced marriages take place for a number of reasons, which perpetuate poverty, including barriers to inclusive economic growth, socio-cultural challenges and religious misinterpretation.

This policy brief defines and explores the practices of early and forced marriages, their prevalence around the world, the impact they have on people's lives, why they are practised and why these practices must end. **For Islamic Relief, ending EFM is part of a wider humanitarian commitment to end gender-based violence, child abuse, support good sexual and reproductive health and use our knowledge and expertise to promote Islamic human rights and gender justice in faith communities.** We will detail IR strategy in preventing EFM in our programmes and our advocacy efforts.

The paper focuses on the interplay of economic, social and cultural factors that support or impedes poverty reduction and gender equality. It provides a better understanding of marriage in Islam to make changes happen in regards to preventing EFM in many Muslim Faith Communities.

Defining the terms

Early marriage is a marriage in which at least one spouse is below age 18, or lacks comprehensive maturity, encompassing

their biological, intellectual, emotional and psychological readiness to enter into a marriage. **IR promotes age 18 as the minimum age for marriage for both female and male in line with Child Protection Policy.** In addition, the most widely accepted definition of a child is a person under the age of 18, in line with the Convention of the Rights of the Child. A minimum age of marriage of 18 will ensure that young spouses have the minimum level of maturity needed before marrying and are able to give their free and full consent to marry.

Forced marriage is any marriage in which at least one spouse has not given their free consent, either with regards to the timing of the marriage or the choice of partnerⁱⁱⁱ, regardless of age. Early marriages are not the same as forced marriages. Both have their own unique set of characteristics and therefore need to be addressed differently. Forced marriages, for example, can affect girls and women of any age and ability. However, we recognise that early and forced marriages can also go hand in hand, such as in cases where at least one spouse is too young to give an informed consent. Where "early" and "forced" marriages share some of the same characteristics in terms of causes, consequences and interventions, IR will use the combined term "early and forced marriages" (EFM). In addition, early and forced marriages are not the same as "arranged marriages" where a third party, usually the parents or extended family members, facilitate a union between two people. Arranged marriages are only problematic if they are also early or forced, i.e. where either spouse is below the legal age of marriage or they do not give their free consent to the marriage.

The scope of the problem

Early and forced marriages affect both genders but girls and women are disproportionately affected by these practices. According to UNICEF, girls are five times more likely to be married early than boys.^{iv} More than 700 million women alive today were married before the age of 18,^v and 14 million under-18s are being married each

year.^{vi} In developing countries, around a third of girls are married by the time they reach 18, while 12 per cent are married by the age of 15.^{vii}

Globally, the rate of early marriage has not slowed significantly since the year 2000, and in some regions it is on track to rise in the coming years. According to UNICEF (2014), early marriage is most common in Niger, Bangladesh and Chad - countries where IR has a strong presence. However there has been progress in some regions, such as Middle East and North Africa, where early marriage has gone down from 35 per cent in 1985 to 20 per cent in 2010.^{viii} There are wide disparities within countries where early marriage is practised, such as in India where it affects around 12 per cent of females in some regions and over 60 per cent in others.^{ix}

Girls and women living in rural areas are twice as likely to be married early as those living in urban areas.^x Girls and women who have no education and/or live in poverty are more likely to marry early or by force^{xi} (although this does not mean girls from more affluent families are not at risk of EFM). Incidents of

early marriage also increase during periods of insecurity and conflict as families struggle to survive, and fear the threat of sexual violence against girls and women.^{xii}

There is no accurate data on forced marriages as they are difficult to monitor and usually go unreported. It affects females and males over the age of 18 in many developing communities, as well as amongst diaspora communities in the global north. UK authorities received over 1,300 cases of forced marriage in 2013.^{xiii}

Women and girls with disabilities are pushed into early and forced marriages as well. Women and girls with learning difficulties and intellectual disabilities suffer more than other women and girls with disabilities. They cannot consent to the marriage due to lack of capacity which increases risks of abuse. In forced marriages involving a person with learning disabilities, the spouse without a disability may not know they are marrying a person with a learning disability. Research and evidence tells us that women and girls with learning disabilities are subjected to more abuse and less likely to be protected by safeguarding systems than their peers who do



Why EFM is practised

Economic motives

In the developing world, where the vast majority of early and forced marriages take place, economic factors play a major role in decisions about when and whom to marry. Depending on local customs and personal circumstances, this is manifested in various ways. Early marriage is highly correlated with GDP per capita. The vast majority of countries reporting a 30 per cent or higher rate of marriage for girls under 18 are also in the bottom fifth of GDP per capita.^{xiv} Fifty per cent of girls in the bottom two-fifths of national income levels are married before they reach 18.^{xv} For families living in extreme poverty, an early marriage is a way of finding alternative economic support for their girls because, unlike boys, they are not expected to contribute to the family income and can therefore be seen as a burden. Their role is very much confined to the domestic sphere - doing household chores, caring for children and other family members, fetching water and collecting firewood.

Early marriage is also related to levels of education. **Studies have found that among girls with no formal education, over 60 per cent are married before they reach 18, which is well above average, even for developing countries where the prevalence of early marriage is relatively high.**^{xvi} For those living in poverty, the cost of educating girls can mean they are not sent to school and early marriage is a way of progressing to what is seen as the natural next stage in their lives.^{xvii} Furthermore, in the case of girls' education it is less likely to be considered by parents or community members because of social norms that expect them to marry and focus on housework and child rearing rather than education and careers.

In some cultures where the practice of a bride-price exists (a practice that is akin to sexual slavery and prohibited in Islam),^{xix} there is an added incentive for early marriage as the bride's family can demand a higher payment

if the girl's chastity is more likely due to her young age at marriage.^{xx}

Case Study: A new way forward

Fourteen year old Rehana was almost resigned to the same fate as her two older sisters: early marriage. From a poor rural family in Kurigram, Bangladesh, Rehana had not known anything other than daily struggles for food and survival. Her father, the main breadwinner, worked as a day labourer but he passed away from cancer in 2011. Soon after his death, her mother arranged the marriage of her two older sisters. Although they were still children, she thought at least that way her daughters would at least be fed.

But Rehana did not meet the same fate as her sisters. She has been supported through an Islamic Relief programme that provides orphans and their families with the help they need to start earning a living. Rehana's mother received training and an interest-free loan to help her start a business, and a monthly allowance was put aside to ensure Rehana could go to school.

In a country where two thirds of girls are married before they reach 18, Rehana's mother has no need to think about arranging her daughter's marriage anytime soon. Rehana is gaining an education, has three healthy meals a day and is planning a future as a nurse.

Parents and guardians arrange marriage of girls or boys to alleviate financial hardship and inconvenience for the family. The payment of dowry is one that is practised differently across cultures around the world and can contribute heavily to the selection of a marriage partner. In Yemen, for example, some families try to waive the dowry paid by the groom's family to the bride's by conducting an "exchange marriage", where two families agree that their son and daughter will marry into each other's family, cancelling out each other's dowry.

In Bangladesh, the practice of dowry is reversed and the bride's family is expected to gift money or assets to the groom's family, which leads to financial pressure that impacts decisions about when and to whom daughters are to be married.^{xxi} In other countries, extended families only marry within themselves (e.g. cousins) for a variety of economic and other reasons such as protecting their daughters from unknown in-laws who may mistreat them, and keeping wealth and assets - including land - within the family.

Even among families who are not poor, the financial burden of marriage – from the social expectation of extravagant ceremonies to the demand for large dowries – can lead to decisions that negatively impact people's lives. Some communities have seen a rise in temporary marriages – known as mut'ah – in which people find fulfilment with a short-term partner until they can afford to meet all the social and financial expectations of marriage.^{xxii} This practice often leaves women unprotected as these "marriages" are rarely registered and the husband often bears no responsibility for any children that result from the union.^{xxiii}

Socio-cultural factors

In traditional societies where parents and elders are respected and where girls and women have passive and subordinate roles within family life their ability to challenge or contradict elders or parental authority on their marriage is reduced. Female consent in many of these communities is irrelevant, because it is expected that neither girls nor boys will go against the decision of their parents or elders in the family.

In some faith communities, sex outside of marriage is not permitted for either men or women,^{xxiv} however it often disproportionately affects women because a girl or young woman's sexual chastity is viewed as the core of the family's honour and females are therefore married young to protect against pregnancy outside marriage and ensure their chastity does not come into question. Due to this phenomenon the care of girls and young women is considered a burdensome responsibility for the family who may force or arrange an early marriage in order

to discharge their responsibility and duty as guardian of the girl. In many cases marrying early is a means to strengthening the family and/or community ties.

Girls with intellectual disabilities are forced into marriage to confer "normalisation". In some South Asian communities, marriage helps remove the "stigma" of disability, reflecting a widespread folk belief that intellectual disability can be "cured" or "improved" through marriage, thus allowing a person with learning disability to lead a "normal" life^{xxv}. In such cases, the parents might consider marriage of their children with intellectual disabilities part of their parental responsibility. This attitude is not related to the severity of disability or the socioeconomic status of the parents.

Other harmful practices as contributing factors to EFM - the case of FGM/C

In many communities where FGM/C occurs, it ranges from full infibulation (type 3) to pricking and cutting of the clitoris (type 1) and it is found to be linked to early marriage. Girls who have experienced type 1 are often perceived as being at more risk of premarital sex and are therefore urged to marry young to avoid the temptation of premarital sex, safeguard their virginity and avoid pregnancy.

Islamic Relief's gender study in Dekasuftu, the Somali Region in Ethiopia, found that the mothers of the girls who have not undergone infibulation reported their fears of being considered non-marriageable and stigmatised in their communities and therefore they prefer to have their daughters married young to prove their value and respectability. They also reported the fear that girls may be accused of premarital relationships, hence they encouraged early marriage in their neighbourhoods.

Emergency and displacement situations

In emergency and displacement situations the safety and economic security of families can deteriorate quickly, and where there is armed conflict, there is often a rise in gender-based violence. This includes rape, exploitation, trafficking and domestic violence. Some families, out of fear and desperation, deploy

early or forced marriage to “protect” their girls^{xxvi} and women from the threat of harassment, exploitation, abuse and especially sexual violence. Marriage can also be seen as a way of ensuring a better future for children during periods of instability. The number of registered marriages for adolescent girls in Jordan tripled in 2011 when war broke out in Syria. These marriages were mostly accounted for by Syrian refugee girls marrying older men^{xxvii}. However many more marriages continue to go unregistered,^{xxviii} leaving vulnerable, displaced girls with no security and no legal rights.



Religious causes

Marriage is considered to be the foundation of healthy families and societies by many faiths, and whilst they do not specify a minimum age, most regard having reached puberty, maturity and responsibility as a pre-condition for marriage. Despite this, some religious communities practise early marriage and even conflate the custom with wider religious and cultural beliefs. For some, early marriage is a way of ensuring the chastity of young people. For others it is a way of discharging themselves early of their duty to arrange marriages for their dependants. Among some Muslim faith communities, early marriage is sometimes justified by citing the example of the Prophet Muhammad’s (peace be upon him) marriage to his youngest wife Ayesha bint Abu Bakr. This is despite the fact that her exact age at the time of marriage is unknown,^{xxix} and Islam requires that all males and females reach puberty before they are married.



The norm in these societies is that parents, guardians or family elders arrange marriages they deem to be suitable based on a range of social, economic and other factors. In some Muslim communities, the role of the wali (male guardian) is misunderstood to the extent that only his consent is explicitly sought. This results, sometimes inadvertently, in marriages where one or both parties are not consulted or given a choice. In addition, individuals may not be aware of their right to choose both who and when they marry or may be afraid to assert it.



many international and regional conventions, stipulates directly and indirectly age 18 as a minimum age of marriage. This is in line with the definition of the child in Article 1 of the Convention on the Rights of the Child. In particular, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages and the Convention on the Elimination of Discrimination against Women entail legal instruments that prohibit early and forced marriages.

Many countries have established laws on the minimum legal age for marriage.^{xxx} Nevertheless, communities sometimes consider local customs and social norms over and above legal requirements, which can exert pressure on families to marry their children before reaching comprehensive maturity. A socially accepted age will often be different to the national legal age, which means a marriage may not be thought of as “early” even if it breaks the law.

Around the world, most countries have set 18 as the minimum age for marriage,^{xxxii} but at least 50 countries allow girls below the age of 16 to marry with parental consent.^{xxxiii} Furthermore, in 54 countries girls are permitted to marry up to three years younger than boys.^{xxxiii} Marriages involving girls are also more likely to go unregistered if they are in violation of national laws, causing them to lose their legal rights.

Both early and forced marriage is prohibited under international law,^{xxxiv} but few countries have criminalised forced marriage due to cultural support for the practice, a lack of understanding of the harm it causes and the difficulty in providing proof of non-consent to a degree of legal certainty. The UK has adopted one of the only specific laws criminalising forced marriage,^{xxxv} and laws against forms of forced marriage in Kyrgyzstan, Pakistan, and Afghanistan have been adopted but are not well enforced.^{xxxvi}



The impact of EFM

Health risks of early marriage

Early marriage can be the cause of serious health problems for adolescent girls, especially those who are sexually active or become pregnant before the age of 15. Studies show that early marriage is directly linked to early pregnancy,^{xxxvii} as girls married early rarely have the ability to negotiate contraceptive measures. In fact in some cultures they can be under pressure to prove their fertility as quickly as possible. This leaves girls at an increased risk of sexual infections, particularly those married to older men who have had previous sexual partners. Sexual infections, if left untreated, can cause infertility, pelvic inflammation and cancer. They can also lead to serious complications in pregnancy and childbirth, including lifelong physical and neurological problems for babies born to mothers with sexual infections. Research carried out in Nyanza, Kenya, (where many parents believed early marriage would protect their daughters from infection) found that HIV rates in adolescent married girls were double the national average.^{xxxviii}

Research shows that adolescent girls who fall pregnant within two years of menarche or while their pelvic and birth canal are still developing face increased risk of complications during pregnancy and child birth, such as obstructed labour which can lead to death.^{xxxix}

In some cases professional and timely medical intervention can prevent these serious and potentially fatal risks to mother and baby, but delaying pregnancy – and therefore marriage – is the only way to protect adolescent girls and their children.^{xl} Girls between the ages of 10 and 14 are five to seven times more likely to die in childbirth than women in their 20s, while girls between the ages 15 and 19 are twice as likely.^{xli}

Young expectant mothers are also at greater risk of anaemia and malnutrition, and they are the least likely to receive medical care while pregnant^{xlii}. The health of their babies is also at risk as they are more likely to be born premature or have a low birth weight.^{xliii} The

babies of adolescent girls are 50 per cent more likely to die in their first year of life than those born to mothers in their 20s. Children born to adolescent mothers are also more likely to be disadvantaged throughout their lives, with poor access to education and healthcare that perpetuates the cycle of poverty and exclusion. This also leaves them more vulnerable to mother-to-child transmission of HIV.^{xliv}

Intimate Partner Violence (IPV)

Early marriages usually involve either a young bride and young groom, or a young bride and an older groom. Where the bride is significantly younger than the groom, she is exposed to serious power imbalances and a greater risk of sexual and physical abuse.^{xlv} Girls who marry early are more likely to suffer IPV – physical, sexual, psychological or economic – and they are more likely than females who marry later to believe that a man has the right to beat his wife.^{xlvi} They are also more likely to be isolated and lack the independent resources to speak out against intimate partner violence.^{xlvii}

In some contexts, women and girls who have been raped or sexually assaulted are forced to marry the perpetrator, leaving them trapped in a marriage of long-term abuse where they cannot recover from the crimes committed against them^{xlviii}.

Girls with disabilities are more at risk of IPV. Girls with intellectual disabilities are more vulnerable and may find it more difficult to report depression or abuse. For some, their care needs may make them dependent on their carers, and so, reluctant to speak out about forced marriage or the difficulties encountered once married. Individuals with communication difficulties may have even less opportunity to tell anyone outside the family what is happening to them.^{xlix}

Psychological harm

Both being forced into an unwanted marriage and having sexual relations at a premature age cause psychological harm, even for those above the legal age of consent. Girls who are

married early are at particular risk of isolation and depression as they lose the opportunity to play, study, develop and mature with their peers but are instead thrown into the adult roles of wife and mother. In many traditional societies, a girl is moved from the authority of her father to the authority of her husband or in-laws, perpetuating and reinforcing a cycle of gender inequality, dependence and powerlessness.ⁱ Early marriage is linked to stunted personal development and both forced and early marriages can lead to psychological disorders and severe depression that in some cases leads to self-immolation or suicide.ⁱⁱ

In cases where there are apparent discrepancies between the wishes of the individual with intellectual disability and their family, the welfare of the individual involved is of concern. The stress caused by such marriages on people with intellectual disabilities who feel they have been married against their will, or who are unsure how to function once married, may be profound. They can become confused, frightened and disillusioned.ⁱⁱⁱ

Denial of rights and opportunities

Those who enter early marriage are denied the opportunity to reach maturity before they make decisions about their future, particularly in developing countries where life choices may already be limited by poverty. Often girls and boys who marry early have to stop their education, and without adequate education and skills they are deprived of economic opportunities and the chance to escape poverty. As a result, early marriage perpetuates the cycles of poverty worldwide and inhibits development gains.

In some contexts, particularly where the marriage of minors is illegal, marriages are conducted privately or in an informal or religious ceremony that is not registered and therefore not recognised by the state.^{lii,liiv} This can prevent a young bride from receiving her proper legal status because she is not married in the eyes of the law nor viewed as a responsible adult.^{liv} Meanwhile, her community may treat her as a woman and a wife, her husband may maintain full control over her movements, and her education and career aspirations may have been halted.



Case Study: A story of two brave girls

In Douentza, northern Mali, two girls aged 12 and 14 attended Islamic Relief's awareness-raising sessions on early and forced marriage and the importance of girls' education. After the session they had the courage to go to the police and tell them that their families were pressuring them to leave school and get married.

The police were very cooperative and dealt with the issue by calling the girls' parents, discussing their rights and the consequences of marrying them early. They emphasised that, "if children's rights are violated, this is punishable by law." The police officers convinced the girls' parents not to marry them at a young age and the parents gave a signed commitment to the police authority.

Those who are forced into marriage at any age are denied their fundamental right of choice - the choice of whether to marry or not, of whom to marry, and of when to marry. Being denied a choice in marriage partner is unlikely to lead to a fulfilled marriage or provide the basis for building a secure family life.

The Universal Declaration of Human Rights, Article 16 clearly states that: "Marriage shall be entered into only with the free and full consent of the intended spouses". This should be true for all girls and boys of different ages and abilities.

An Islamic human rights perspective on EFM

Islamic Human Rights

Human rights refers to the concept of human beings as having universal rights, or status, regardless of legal jurisdiction or other localizing factors, such as ethnicity, nationality, and sex. The Universal Declaration of Human Rights (UDHR) came into existence on December 10, 1948. It sets out a list of human rights. It is however, much more than simply a treaty. The Declaration describes how the rights in it are not to be enforced, but rather, represent “a common standard of achievement for all peoples and all nations”. Among these rights include the right to life, the right to not be tortured or enslaved, and to not be unfairly persecuted. The Declaration also grants freedom of thought, expression, and religion. The cultural rights laid out include the right to marriage, education, employment, food, and shelter. It is a non-binding document. In spite of this, since its adoption, it has grown to become a major factor in international law. In fact, many of the rights in the Declaration formed the groundwork for many regional human rights documents, such as the “European Convention of Human Rights,” the “European Social Charter,” the “African Charter of Human and Peoples Rights,” and the “Helsinki Accords”. International Humanitarian Law (IHL) - important for the work of IR - is, apart from the Geneva Conventions, also derived from the UDHR.

‘Human rights’ from an Islamic perspective are rights that are God-given and transmitted via divine revelation. However, the Islamic concept of ‘Ihsan’ has a wide meaning encompassing many aspects of the modern human rights discourse:

- To do right
- To improve
- To be in a desirable condition or in a proper state
- To decorate or embellish
- To treat with kindness

“To be righteous, to fear God and be patient” (Qur’an 12:90)

An environment free from fear, prejudice and favouritism is impossible without Ihsan which serves as the primary means to establish justice and welfare amongst mankind.

Apart from rights there is also strong emphasis given on duties, particularly in view the purpose of life which Allah explains as:

“I have only created Jinn and men, that they may worship me.” (Qur’an 51:56)

The Cairo Declaration of Human Rights in Islam (CDHRI) provides an overview on the Islamic perspective on human rights, and affirms Islamic Shari’ah⁶ as its sole source. CDHRI declares its purpose to be “general guidance for Member States [of the OIC] in the Field of human rights”. This declaration is usually seen as an Islamic counterpart of and a response to the Universal Declaration of Human Rights (UDHR), though arguably it has not had a great effect in instituting a system of rights in Muslim countries.⁷

Islam has formative influence on the role of women and men. Women and girls living in Muslim communities enjoy different degrees of protection and benefits from different rights, a consequence of variation of cultures, political and historical circumstances, social realities and economic conditions. Muslim family law is the main aspect of Sharia that was carried on to modern times in many Muslim majority countries.

The below section derives from IR background paper “An Islamic Human Rights Perspective on Early and Forced Marriages”⁸. Whilst IR recognises diversity of the Islamic thought, we developed the Islamic case against EFM based on the core Islamic faith principles which promote children’s rights and sanctity of marriage. We consulted with several scholars and with the 2016 Al Azhar University and UNICEF Child Protection paper⁹.

Marriage in Islam

The Qur’an frames marriage as a relationship that promotes love and enjoyment of the spouses¹⁰, modesty¹¹ and procreation.¹² The institution of marriage is pleasing to God, and is given the following description in the Qur’an: “*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. [...]*”¹³

The Qur’an sets out some basic conditions for marriage, for example that it should be an agreement between two individuals,¹⁴ who are aware of the roles and responsibilities of spouses to one another.¹⁵ The categorisation of marriage as “*meethaqan ghaleezan*” (the most solemn form of covenant in Islam) means that the free and informed consent of both individuals is required.¹⁶

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

- Determining mutual attraction¹⁷ and compatibility.
- Ascertaining similar beliefs/faith¹⁸.
- Agreement on mahr (dowry) paid by the groom directly to the bride¹⁹ (the wife may not be deprived of it without giving her willing consent)²⁰.
- Agreement on other terms of marriage (details mutually agreed by husband and wife)²¹.
- Capability of a male to provide for the family²² (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)²³.
- A level of maturity (known as *rushd*) required to conduct one’s own affairs²⁴, particularly with regards to financial transactions (such as dowry). 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.²⁵

The responsibility of parents and guardians

Parents and guardians are responsible for the wellbeing of the children placed in their trust and while emphasising the importance of this role, to avoid the abuse of power and control by guardians and parents Prophet Muhammad promoted accountability and mindfulness with the following words: “Every one of you 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.”²⁶ 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, and opportunity²⁷ Parents and guardians have a religious responsibility to ensure these rights are accessible and enjoyed.

A wali is a male relative (usually the father) who is responsible for protecting the interests and rights of the bride. This includes ensuring her free consent is attained, 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 occur. This failure could be a result of ignorance of their obligations in Islamic law. Also, the contextual pressures of poverty, conflict and cultural norms may compel a wali to feel they are acting in the best interest of a girl or young woman.

The importance of consent

A forced marriage may be defined as a marriage without consent and is unacceptable under Islamic law. Women and girls of different ages and abilities are subjected to forced marriages.

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 [...]***”²⁸

During the life of the Prophet Muhammad 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 then gave her a choice between accepting the marriage and invalidating it.²⁹ 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"³⁰ **In a hadith recorded by Abu Huraira and validated by Muslim, the Prophet stated explicitly that a virgin should not be married until her consent is obtained.**³¹

Consent in marriage falls within a wider Islamic framework of the promotion of wellbeing where women and men, girls and boys of all ages and abilities are given the right to choose and speak about matters affecting their lives.

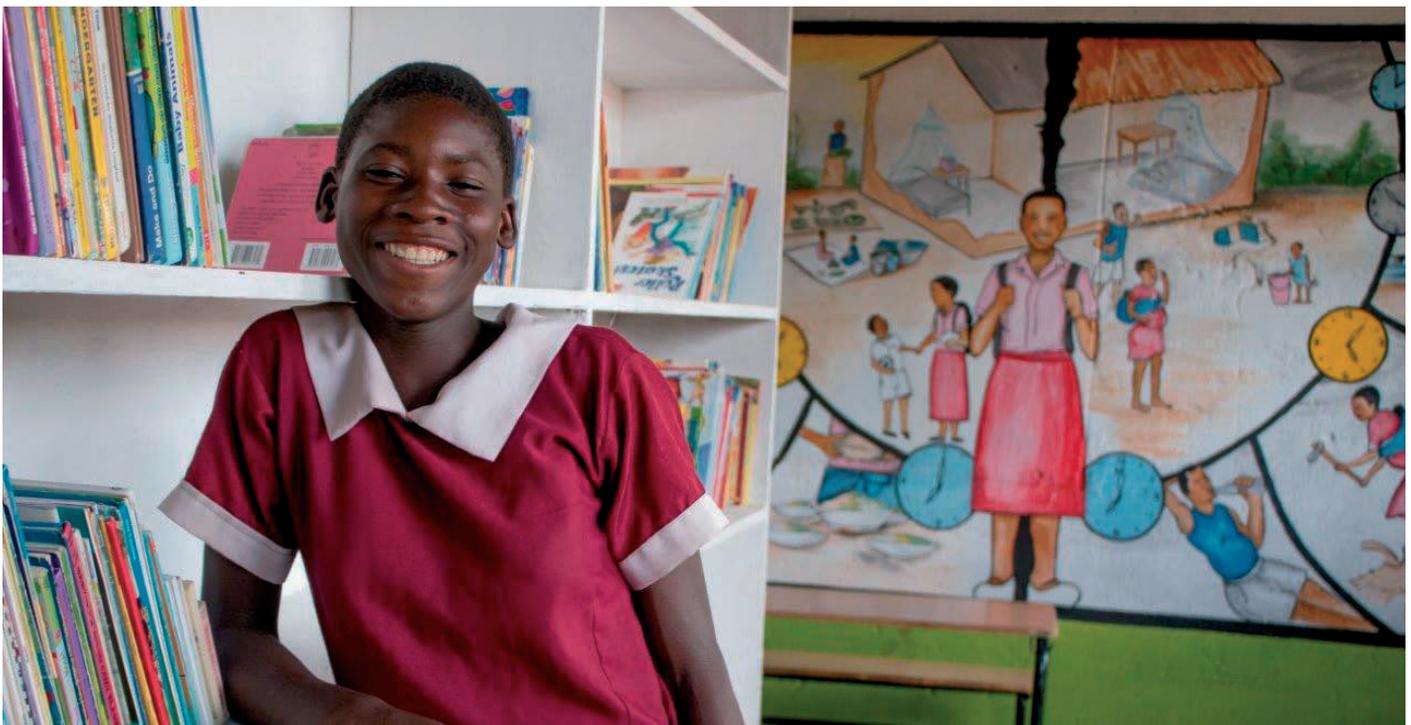
In some Muslim faith communities a female's silence is taken as her consent to marriage. This practice is rooted in a hadith in which the Prophet Muhammad emphasised the need for gaining a female's consent in addition to the consent of her guardian, but in circumstances where the bride is too shy to give her explicit consent, the hadith 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, and a

female's silence can no longer be unequivocally interpreted as her agreement. A verbal "yes" or "no" is now more in keeping with the Shari'ah requirement of clear consent. Faith leaders must be vigilant to ensure this is a clear consent without pressure or force.

Women and girls with learning difficulties and intellectual disabilities suffer more than women and girls with physical disabilities. They cannot consent to the marriage due to lack of capacity which increases the risk of abuse. In forced marriages involving a person with learning disabilities, the spouse without a disability may not know they are marrying a person with a learning disability. Research and evidence from practice tells us that women and girls with learning disabilities are subjected to more abuse and are less likely to be protected by safeguarding systems than their peers who do not have learning disabilities³².

The minimum age for marriage

The minimum criteria in Islam for those entering into marriage are 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 of *rushd*, where one is mature enough to manage their own affairs and enter into legal agreements. In the case of managing the affairs of orphans for example, the Qur'an states: "Test the orphans until they attain puberty; then, if you find in them maturity of intellect, make over to them their property,..."³³

Islamic law 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.³⁴

An Islamic human rights case against EFM

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

1. The protection of life and health should guide every decision. The protection of life is one of the five essential *maqasid* (goals) of the Shari'ah³⁵ which promote the wellbeing of women and girls. In light of the evidence of death and harmful health consequences of early marriage of adolescent girls, it is not permissible.

2. The recognition of age and intellectual maturity. 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 – which is at some point beyond puberty – when entering into any serious contractual agreement. Sound judgement

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

3. 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.³⁶ Given the negative effects early marriage and pregnancy have on adolescent girls, it is clear that *maslahah mursalah* obliges Muslims to protect against this, rather than perpetrate it. Using this principle many Muslim-majority countries, have adopted 18 as the minimum age for marriage.³⁷

4. The recognition and obedience of the rules of the land. The Shari'ah welcomes governments to act for the benefit of the people and constitute laws in areas where there is need i.e. prohibition of harmful practices such as EFM and FGM. 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.

5. 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 right clearly stated in the teaching of Islam. 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 puberty and emotional maturity.

Islamic Relief strategy to prevent EFM

Islamic Relief will have an integrated approach to ending early and forced marriages by targeting a number of inter-dependent issues including educational, socio-cultural, economic, religious, legal and health factors.



We will tailor interventions and combine approaches according to the specific cultures and needs of local communities. Wherever possible, we will seek to understand and address the root causes of EFM in each community, including carrying out research prior to intervention to ensure our work is relevant, effective and sustainable.

Our commitments

Islamic Relief will prevent the harmful practices of early and forced marriage of women, men, girls and boys of all ages and abilities. The strategies we will employ to prevent EFM will be based on the following three approaches:

1. “Do no harm” principle: We will ensure that our interventions do not expose people to any kind of harm, do not undermine the community’s own capacity to tackle EFM and do not put the security of those involved at risk in any way.

2. Community-based approach: We will work closely with local communities in a sensitive, participatory way, understanding their local context, promoting dialogue and working together towards the shared goal of ending the harm and injustice caused by EFM.

3. Human rights-based approach: We will ensure all our efforts to end EFM are aimed at furthering the realisation of human rights, as recognised by international human rights instruments. In doing so we will support duty-bearers to fulfil their obligations and build the capacity of rights-holders to claim their rights. In Muslim communities, we will work to promote the realisation of Islamic human rights for women, children and all members of society.

Inspired by our global strategy, we will be working on the following seven commitments to prevent EFM, focusing on eliminating the root causes of EFM where possible:

1. **Empower girls and young women with information, skills and support networks through education.** Both formal and informal education can be used to build literacy and numeracy skills. In addition, education settings can also develop the skills of girls to communicate and negotiate with others, and know how to stay healthy. Education can provide the space where girls can build their knowledge and life skills, and informal education and girls’ clubs etc. can encourage girls to meet with peers and mentors and alleviate social and economic isolation. Knowledge and life skills enable girls and young women to advocate for themselves, make better decisions and aspire to an alternative to early marriage.

2. **Provide economic support and incentives to girls and their families.** Livelihood and orphan sponsorship programmes can enhance the economic security of poorer households. The provision of loans or microcredits and the opportunity to learn income-generating skills can yield immediate economic relief for struggling families. For girls and young women, income-generating skills not only enable them to earn a living in the future but to be seen as adding value to their family.

3. Raise awareness and mobilise parents and the community. We will educate parents, guardians, elders and community leaders on the positive impact that ending the practise of EFM will have on all concerned. Raising awareness and mobilising communities to action in order to shift attitudes and behaviour is crucial in challenging society's traditional expectations of girls and young women.

4. Enhance girls' access to high quality education. We will encourage the enrolment of girls in education programmes or give support in the provision of uniforms, stationery or scholarships. We will support the creation of safe, inclusive schools that meet the needs of all girls of different abilities. We will also support the improvement of school curricula and teacher skills.

5. Encourage supportive laws and policies. We will continue to advocate and support initiatives by local women's rights groups or the international community. We will advocate for the implementation of laws and policies that protect and promote the rights of girls and raise awareness among policy makers and community leaders to help strengthen and better enforce existing laws around girls and women rights.

6. Create faith literacy and mobilise Muslim faith communities. We will sensitise Muslim faith communities on the rights of girls and young women in Islam in relation to marriage. We will train Muslim faith leaders on the negative effect of EFM, how to effectively prevent EFM and how to support survivors safely and appropriately. We will engage faith leaders on their responsibility and accountability to girls and women, particularly in regards to preventing and mitigating the risk of EFM.

7. 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 only be built only on mutual love, respect,

the understanding of roles and responsibilities and the balancing of power.

The details of our integrated approach to ending EFM are discussed in a separate IR EFM Strategy Paper.



Fourteen year old Rehana was almost resigned to the same fate as her two older sisters: early marriage. From a poor rural family in Kurigram, Bangladesh, Rehana had not known anything other than daily struggles for food and survival. Her father, the main breadwinner, worked as a day labourer but he passed away from cancer in 2011. Soon after his death, her mother arranged the marriage of her two older sisters. Although they were still children, she thought at least that way her daughters would at least be fed.

But Rehana did not meet the same fate as her sisters. She has been supported through an Islamic Relief programme that provides orphans and their families with the help they need to start earning a living. Rehana's mother received training and an interest-free loan to help her start a business, and a monthly allowance was put aside to ensure Rehana could go to school.

In a country where two thirds of girls are married before they reach 18, Rehana's mother has no need to think about arranging her daughter's marriage anytime soon. Rehana is gaining an education, has three healthy meals a day and is planning a future as a nurse. "I wish to become a nurse and serve the people who do not get proper medical care," she said.

Recommendations

Ending EFM will require long-term commitment from all sections of society. No one organisation can transform the social conditions that give rise to EFM and other forms of violence against women and children. Ending EFM will require governments, civil society organisations, local leaders and community members to all work together.

Civil society organisations (CSOs)

1. Community organisations and NGOs to raise awareness of the harms of EFM, prevent their occurrence through pre-emptive and child protection strategies, empower women and children to resist these practices and adequately support those already affected.
2. Recognise the unique causes of early and forced marriages in target communities, design tailored, context-specific and integrated interventions to tackle their root causes, symptoms and negative consequences on girls and women, particularly in poverty and conflict settings.
3. Explore the interdependency of harmful practices and poverty, identify patterns, build up an evidence base and design combined interventions to end them.
4. Lead the way for re-framing the narrative of women's and children's protection, especially in how it relates to sexuality, chastity and marriage.
5. Community and faith leaders to understand the harms of EFM and actively protect their communities from these, and associated, harmful practices.
6. Mobilise local imams and religious leaders to bring religious legitimacy to tackling EFM.
7. Imams in Muslim communities to understand the conditions of marriage in Islam, convey this to their communities and ensure all marriages they conduct are between freely consenting adults who meet the criteria for marriage.
8. Parents and guardians to understand their moral and legal responsibility towards those in their care and support the education and empowerment of girls and women.
9. Sensitise and train local authorities on the harms of EFM and explore ways of reducing these practices locally.
10. Develop integrated, multi-level approaches to ending EFM in order to benefit from the support of religious leaders, including issues of girls' access to education and women's empowerment.
11. Apply behavioural change communication to mobilise communities to reduce tolerance of early marriages and other related harmful traditional practices.
12. In advocacy, use strong evidence about the health risks of early marriage, and in particular the high risks of early pregnancy and childbirth.
13. Advocate for more robust legal framework which will prohibit harmful practices to health and human rights of women and children.
14. Hold states accountable for the implementation of all ratified international conventions which protect women and children.

Public Sector

1. Governments to recognise the link between EFM and poverty, and pursue economic development in regions where EFM is prevalent.

2. Governments to establish and actively enforce laws to protect against EFM, adopting the globally accepted minimum age of 18 for marriage, making forced marriage – and other forms of gender based violence - illegal and ensuring all marriages and births are registered.

3. Governments to prioritise the completion of primary and secondary education for all girls and boys as a major development goal.

4. Improve and enforce existing laws protecting girls from early marriage. This includes laws on mandatory primary school enrolment, prohibition of child labour, criminalisation of child rape and marital rape, as well as marriage registration laws.

5. Adopt, more widely, laws against forced marriage and related practices to protect women above the age of majority (who are not protected by early marriage laws) from unwanted and coercive marriages.

6. Religious organisations to raise awareness amongst their congregations on the religious framework of marriage and protection of women and children, sensitising them on the harms of EFM and malpractices driven by culturally-influenced religious practices.

7. Advocate against forced marriages within the Islamic framework of the family.

8. Sensitise other religious institutions and actors on the severity and importance of ending EFM.

9. Implement measures to increase the educational, social and economic status of girls and women to allow them to develop themselves as well as their economic opportunities and independence.

The international community needs to ensure that ending EFM is a global priority with adequate resources and appropriate strategies in place.

Related Policies

IR's Gender Justice Policy outlines the broad statements that show the organisation's commitment to gender justice in all our humanitarian, development and advocacy work.³⁸ It also articulates IR's commitment to end EFM.

IR's Policy on Reproductive Health defines organisational key stances and commitments to promote good reproductive health.³⁹

IR's Child Protection Policy lays out the framework for child protection and formulates a procedure in case of girl child or boy child abuse.⁴⁰

IR's Child Sponsorship Policy outlines how the sponsorship programme aims to deter parents and guardians from marrying their children too young.



Girls, don't get married early. Parents, don't stop your daughters' education to get them married. Early marriage is an insult to my life. If I'd finished my education, I could have had a job that made me feel respected. Now I'm suffering. I have all sorts of health problems and I can't escape the situation. I hope no-one's life turns out like mine."

Luna from Rangpur, Bangladesh was formerly an Islamic Relief sponsored orphan.

- 1 United Nations Population Fund, 2012, *Marrying Too Young: End Child Marriage*, UNFPA, New York, hereinafter *Marrying Too Young*, 11.
- 2 https://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf
- 3 *Marrying Too Young*, 44.
- 4 Walker, Judith-Ann. "Early marriage in Africa—Trends, harmful effects and interventions." *African journal of reproductive health* 16.2 (2012): 231-240.
- 5 Qur'an 4:19.
- 6 Divine law
- 7 *Exploring Rights & Social Justice: A Discussion Paper*
Mohammed R. Kroessin, Policy & Research Unit, Islamic Relief, October 2006
- 8 Islamic Relief Worldwide, 2015, "An Islamic Human Rights Perspective on Early and Forced Marriages, Protecting the Sanctity of Marriage", background paper.
- 9 *The Islamic Perspective on Protecting Children from Violence and Harmful Practices*, Al Azhar University & UNICEF [[https://www.unicef.org/egypt/eg_Azhar_book_high_res_Eng.\(1\).pdf](https://www.unicef.org/egypt/eg_Azhar_book_high_res_Eng.(1).pdf)]
- 10 Qur'an 30:21.
- 11 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.
- 12 Qur'an 4:1, 25:74.
- 13 Id.
- 14 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. See SHAFQAT, 31.
- 15 These include mutual enjoyment of sexual intercourse, non-desertion, and choice of domicile. See 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.
- 16 See Qur'an 4:21.
- 17 Qur'an 2:221, 2:235, 30:21, 33:52
- 18 Qur'an 2:221, 60:10
- 19 Qur'an 4:4, 4:24
- 20 Qur'an 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."); Qur'an 4:21 (admonishing those who take back what they had given to their spouses as Mahr in the event of dissolution of the marriage); Qur'an 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?"); Qur'an 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.
- 21 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.")
- 22 Qur'an 2:228, 2:233, 4:34, 65:6
- 23 Qur'an 2:241. See also Qur'an 65:7 "Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him"; Qur'an 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. [. . .]").
- 24 Qur'an 4:6
- 25 Some scholarly opinions find that if children/young people cannot enter the financial contracts till they reach the age of sound judgement (rushd), then they do not have a legal ability to give consent in the marriage contract till they reach marriageable age and adults perceive in them sound judgement (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 judgement – a necessary condition for the transaction. Other scholars argue that consent can only be given by a female who has reached puberty.
- 26 Hadith reported by both Bukhari and Muslim.
- 27 *Children in Islam: Their Care, Development and Protection*, UNICEF and Al Azhar University. [http://www.unicef.org/egypt/Egy-homepage-Childreninislamengsum\(1\).pdf](http://www.unicef.org/egypt/Egy-homepage-Childreninislamengsum(1).pdf)
- 28 Qur'an 4:19.
- 29 "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).
- 30 (Ibn Majah).

- 31 “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.
- 32 Sullivan, P. and Knutson, J. (2000) Maltreatment and disabilities: a population-based epidemiological study, *Child Abuse & Neglect*, 24 (10), 1257–73
- 33 Qur’an 4:6
- 34 UNFPA, ‘Marrying Too Young,’ p.12.
- 35 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*.
- 36 See Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (3d edition, 2005), 235.
- 37 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.
- 38 Islamic Relief, 2015, “Gender Justice Policy”, [http://policy.islamic-relief.com/storage/2015/05/IRW_POLICY_GENDER_JUSTICE_WEB.pdf]
- 39 Islamic Relief, 2008, “Reproductive Health Policy” [<http://policy.islamic-relief.com/portfolio/reproductive-healthpolicy/>] (accessed 11 December 2014).
- 40 See the policy on our website: policy.islamic-relief.com
- i Ending Child Marriage: Progress and Prospects, UNICEF, p2 http://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf
- ii Child Marriages: 39,000 Every Day, UNICEF http://www.unicef.org/media/media_68114.html
- iii United Nations Population Fund, 2012, *Marrying Too Young: End Child Marriage*, UNFPA, New York, hereinafter *Marrying Too Young*), 11.
- iv Ending Child Marriage: Progress and Prospects, UNICEF, p2 http://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf
- v Ending Child Marriage: Progress and Prospects, UNICEF, p2 http://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf
- vi Child Marriages: 39,000 Every Day, UNICEF http://www.unicef.org/media/media_68114.html
- vii *Id.* at 22.
- viii United Nations Children’s Fund, 2014, *Ending Child Marriage: Progress and Prospects*, UNICEF, New York
- ix *Marrying Too Young*, p29
- x *Marrying Too Young*
- xi UNFPA database using DHS/MICS from 78 developing countries over the period 2000-2011, cited in XYZ
- xii Care International, *Child marriage in emergencies – The fatal confusion between protecting girls and sexual violence*, p13 http://insights.careinternational.org.uk/media/k2/attachments/CARE_Child-marriage-in-emergencies_2015.pdf
- xiii <https://www.gov.uk/government/news/forced-marriage-now-a-crime>
- xiv See *id.* at 23, and *Country Comparison, GDP per capita, Index Mundi*, <http://www.indexmundi.com/g/r.aspx?t=0&v=67&l=en>, last accessed Jan. 9, 2015.
- xvi *Marrying Too Young*, p35.
- xvii *Marrying Too Young*, p35.
- xviii Although access to education for girls is an important development goal, it is not necessarily a cause of early marriage. A recently concluded study in the Amhara region of Ethiopia showed that lack of parental approval of girls seeking further education was the most common reason for girls dropping out of school, whereas early marriage was only half as prevalent a cause.. E.M. Karei and A. Erulker, *Building Programs to Address Child Marriage: The Berhane Hewan experience in Ethiopia*, Population Council (New York, 2010), 4.
- xix Qur’an 4:19; “I am the opponent of [. . .] a man who sells a free man and consumes his price [. . .],” hadith narrated by Abu Hurairah, in Sunan Ibn Majah, the Chapters on Pawning.
- xx See Tove Stang Dahl, *The Muslim Family* (Oslo, 1997), p66.
- xxi This is opposite to the religious imperative of dowry - a bride should receive it from the groom
- xxii Temporary or mut’ah marriage is an ancient practice considered to be legitimate by a minority of Muslims, mainly from the Shi’a community.
- xxiii Global Child Protection Working Group, HelpAge International, *Mapping of vulnerabilities: unmasking the Syrian Population*, 2014, <http://cpwg.net/wp-content/uploads/sites/2/2014/04/Vulnerabilities-Syria-Crisis-HelpAge-and-CPWG.pdf>
- xxiv Qur’an 23:1-6

- xxv Henricson-Bell O. Forced marriage: Protecting the rights of young people. *British Journal of School Nursing*. 2010; 5(5): 221-4.
- xxvi Global Post, Jordan says no organised crime in Syrian refugee camp, available at [<http://www.globalpost.com/dispatch/news/afp/130813/jordan-says-no-organised-crime-syrian-refugee-camp>], accessed 15 October 2015.
- xxvii UNICEF, 21 January 2014, Presentation - Study on Early Marriage in Jordan, Preliminary Findings, presented at GBV sub-cluster, Child Protection Working Group meeting, slide 7, 8.
- xxviii Some of the reasons for this include the difference in Syrian and Jordanian law, lack of awareness of correct marriage procedures or the hope of return to Syria to register the marriage. See *Ibid*, slide 10.
- xxix Many believe that early marriage in Islam is justified on the basis of a hadith which claims that the Prophet married Ayesha when she was just six and consummated the marriage when she was nine. If we are going into this argument shouldn't we also mention the counter argument which says that she was 18 when she was married?
- xxx Although most countries (158) have set the minimum age for marriage at 18, gaps in the legal framework exist because in some countries the age for marriage with parental consent is lower. See <http://worldpolicyforum.org/global-maps/what-is-the-minimum-age-of-marriage-for-girls-with-parental-consent/>.
- xxxi 158 countries state 18 as the minimum legal age for marriage for women without parental consent. With parental/authority consent 146 countries allow girls younger than 18 to marry and 52 countries allow girls under age 15 to marry. In contrast, 18 is the legal age for marriage without consent among males in 180 countries. With parental/authority consent 105 countries allow boys younger than 18 to marry and 23 countries allow boys under age 15 to marry. See 'Marrying Too Young,' p.12.
- xxxii See What is the minimum age of marriage for girls with parental consent?, <http://worldpolicyforum.org/global-maps/what-is-the-minimum-age-of-marriage-for-girls-with-parental-consent/>.
- xxxiii Jody Heymann and Kristen McNeill, *Changing Children's Chances*, UCLA WORLD POLICY ANALYSIS CENTER (Los Angeles, 2013), 31. 17 of these countries are Muslim-majority countries.
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