

Child marriage—where at least one spouse is under the age of 18—is harmful to children’s health, safety, education, employment, and overall well-being. It perpetuates poverty, violence, and discrimination. It impedes economic and social development. States have a duty to protect vulnerable children and our societies from such harm.

Child marriage affects girls and boys from all countries, cultures, and religions. Girls are more likely to marry before age 18 than boys, and they often marry much older men (UNICEF, 2014a).

Many Muslim family laws have minimum ages of marriage below 18—the internationally accepted definition of a “child”—or offer exceptions (parental consent, judicial consent, pregnancy) that allow children to marry below the minimum age. Some have a lower minimum age for girls than boys. In some countries, children can marry at any age with parental consent or based on other exceptions.

Each year, UNICEF estimates that 12 million girls marry before the age of 18, and that 650 million girls and women alive today married before their 18th birthday (UNICEF, 2019). Of the 20 countries with the highest prevalence rates of child marriage, 11 are members of the OIC (Girls Not Brides, n.d.).

‘Preventing child and forced marriage through all possible means’ is one goal in the Organisation of Islamic Cooperation’s (OIC) 2016 Plan of Action for the Advancement of Women (OPAAW). But according to the OIC, from 2008-2014 OIC countries had higher rates of child marriage than global averages or non-OIC developing countries (OIC SESRIC, 2017).

Studies show that in countries where the laws set 18 as the absolute minimum age of marriage, household rates of child marriage and child fertility are lower (Arthur et al., 2018).



Child marriage must be eliminated to halt the devastating effects it has on children and their families and communities. Some governments and religious authorities say their laws cannot be changed for religious reasons. But Islamic teachings support raising the minimum age of marriage to 18 for both boys and girls. In fact, several countries have already reformed their laws by raising the minimum age of marriage and making it equal for boys and girls.

States must act to raise the minimum age of marriage to 18 for girls and boys. It is time to end child marriage in Muslim family laws.

WHY IT MATTERS

Children, especially girls, are impacted by child marriage in multiple ways. These impacts have been extensively documented (see Abbas, 2019; CEDAW and CRC, 2014; Girls Not Brides website; ICRW, 2017; Nour, 2006; Parsons et al., 2017; UN Human Rights Council, 2015; UNICEF, 2019, 2014a, and 2014b).

Harmful effects of child marriage include:

HEALTH

Child brides may suffer physical, mental, and emotional health difficulties because of the strains placed on them before they have fully matured. Such strains include physical labour, trauma from sexual relations and bearing children at a young age, and higher rates of sexually transmitted diseases. Young mothers face higher maternal mortality rates, and infants born to young mothers have a significantly higher chance of dying at an early age.



ABUSE

Children who marry early are more vulnerable to domestic violence, sexual abuse, and marital rape by their spouses or in-laws, and often cannot speak out against this violence.

FERTILITY

High fertility rates and population growth caused by child marriage can strain national resources, including health, welfare, and education systems.

LACK OF POWER

Child brides often may not participate in decision-making, property ownership, and other responsibilities in the home. This is further amplified when young brides are in polygamous relationships.

EDUCATION

Children who marry often do not complete their education and lose the skills, independence, and subsequent benefits an education provides.

EMPLOYMENT

Children who marry are less able to get a paying job or a higher-paying job, perpetuating cycles of poverty.



LOSS OF RIGHTS

Children can lose their status and rights as children, since married persons are considered adults in some countries.



NATIONAL AND GLOBAL ECONOMIC IMPACTS

Child marriage has serious economic impacts on countries and societies. A 2017 International Center for Research on Women study estimated that the global cumulative costs of child marriage will be trillions of dollars between 2014 and 2030.

WHY THE LAWS CAN BE CHANGED

The renowned religious establishment Al-Azhar and UNICEF stated: 'The international consensus that the procedural definition of childhood should apply to humans up to the age of 18 years... is perfectly compatible with what Islam enjoins. Islam has nothing to do with the custom of child marriage; reference to early marriages can be found nowhere in the Qur'an. Instead of an age limit, we find an unchangeable standard, which is the attainment of maturity. The fact remains that where custom encourages early marriage, the practice stems from nothing but the norms of the people. Sharia has nothing to do with it.' (Al-Azhar University and UNICEF, 2005)

Muslim family laws are not divine; they are based on human understandings of the sacred texts and were written and enacted by humans based on these interpretations. Therefore, they can be and have been changed to support the changing needs of time and place.

Islamic teachings support the idea that children should not marry:

1 The Qur'an does not specify an age of marriage, but rather requires a level of maturity and sound judgment to manage one's affairs

In Islamic jurisprudence, *baligh* refers to a person who has reached maturity or puberty. For girls, *bulugh* (puberty) is attained when they begin menstruating or when they reach a certain age (9 to 13 years in different schools of law); for boys, it is when they first have a nocturnal emission (*ihtilam*) or reach 15 lunar years in age. In all traditional schools of law, a girl is considered to reach sexual maturity when she menstruates and therefore can be married. There are two problems with this:

Equating the age of majority with puberty fixes adulthood on children even as young as 9 or 10. But puberty is a process of physical and emotional maturation into adulthood; the onset of puberty is just one step, and does not indicate sufficient maturity for marriage.

In all schools of law, the ability to enter contracts (legal capacity) requires that a person attain both puberty (*bulugh*) and a separate condition called *rushd*, or the intellectual maturity to handle one's own property and affairs. This refers to *Surah an-Nisa' 4:6*, which links the age of marriage for orphans with maturity and sound judgment to manage their own property (El Hajjami, 2013, p. 87). Marriage is a contract that requires maturity to handle one's affairs. In many Muslim countries, the age of *rushd* varies between 18 and 21, and girls and boys are legally treated as minors before that age, without the legal capacity to enter contracts or control their property.

International Human Rights Obligations relating to Child Marriage

All States have a legal obligation under international law to protect children from harmful practices and to protect the best interests of the child—any person under the age of 18. States also have obligations to ensure equal rights for men and women at the time of marriage, during marriage, and at its dissolution. Some examples of these obligations can be found in the following international provisions:

- **Universal Declaration of Human Rights: Articles 16(1) and (2)**
- **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Article 16(1) and (2)**
- **Convention on the Rights of the Child (CRC): Article 1, and CRC General Comment 4, para. 16 (2003)**
- **OIC Plan of Action for the Advancement of Women (OPAAW) (2016): Objective 6 (c)**

2 Consent is considered a core requisite of marriage in Muslim jurisprudence, and requires that both spouses are mature and independent enough to agree to or refuse the marriage

Children cannot give free and full consent because of immaturity and their parents' authority over them.

3 The Prophet Muhammad's (pbuh) practice with regard to his daughter and his other wives are stronger than the example of his marriage to Aisha

The example of the Prophet Muhammad's marriage to Aisha, which is said to have been consummated when Aisha was 9 years old, is commonly used to justify child marriage. However, there are debates about Aisha's age at the time of her marriage, with ages ranging from 9 to 21 (Amin, 2013, p. 426; Ahmad, n.d.).

The decision to make the Prophet's marriage with Aisha an exemplary practice needs to be questioned, as he refused to marry off his daughter Fatima at a young age, rejecting proposals by both Abu Bakr and Umar based on her young age and inability to bear the responsibility of marriage (Amin, 2013, p. 424).

He also had a long, harmonious, loving, and monogamous marriage with Khadija, a widow who was 15 years older than him and whom he considered an equal. When he married other women after her death, most of his wives were mature, experienced women and not young children.

4 The best interests (*maslahah*) of the child and community must be considered to ensure the law reflects the changing realities of time and place and the requirements of justice

Maslahah (lit. benefit or interest) is a concept whereby jurists consider what is best for an individual or community and what protects them from harm. Laws regarding minimum ages of marriage can be changed to protect and serve the interests of girls, boys, their offspring, families, communities, and countries.

Achievement of *maslahah* must be informed by common perspectives on the concepts of adulthood, maturity, spousal roles, and the structure of families. These are dramatically different today than at the time of the Prophet.

According to the *Shafi'i* jurist and theologian Yahya al-Mazini (AH 175-264), the Prophet Muhammad

reportedly said: 'You shall not harm and should not replace any danger with another hazard.' Families must not try to safeguard girls from the harms of poverty or to protect them morally by marrying them off, since child marriage has devastating long-term effects. Various states have enacted economic and social programs to assist families in postponing child marriage.



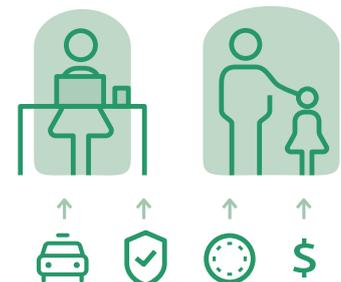
5 The purpose of marriage in the Qur'an, which is about love and kindness, is only possible between partners who have sufficient maturity and mutual trust

SURAH AR-RUM

Surah ar-Rum 30:21 teaches that marriage is a place of peace, love, and mercy for both partners.

SURAH AN-NISA'

Surah an-Nisa' 4:19 directs believing men to not 'treat [women] with harshness ... on the contrary live with them on a footing of kindness and equity.'



WHERE REFORM HAS HAPPENED

Muslim family laws can be reformed to raise the minimum age of marriage to 18 and set the same minimum age for both girls and boys. This has already happened in a number of Organisation of Islamic Cooperation (OIC) countries:

Minimum age for marriage is 18 with no exceptions:	Minimum age for marriage is 18 with judicial exceptions and with an absolute minimum age:
<p>Egypt:</p> <p>The minimum age for marriage is 18 for both females and males. The registration of the marriage of a person below 18 is prohibited.</p> <p>Pakistan (Sindh Province only):</p> <p>The minimum age for marriage is 18 for both females and males. The law criminalises and penalises the following: (i) males over 18 who contract a child marriage; (ii) whoever performs, conducts or directs a child marriage; and (iii) parents or guardians who promote child marriage, permit it to be solemnised or negligently fail to prevent it from being solemnised.</p>	<p>Iraq:</p> <p>The minimum age for marriage is 18 for both females and males. A judge may authorise the marriage of females and males below 18 if convinced that the person is physically capable of being married and the marriage is of urgent necessity. A marriage cannot be authorised for persons below 15.</p> <p>Jordan:</p> <p>The minimum age for marriage is 18 for both females and males. A judge may authorise the marriage of females and males below 18 if it is deemed to be in their interest. A marriage cannot be authorised for persons below 15.</p>

Minimum legal ages of marriage for Muslims (without and with exceptions) in countries with Muslim family laws and/or Shari'ah Courts								
Asia Pacific			Middle East/North Africa			Sub-Saharan Africa		
Country	Min age girl/boy	Min age with exceptions	Country	Min age girl/boy	Min age with exceptions	Country	Min age girl/boy	Min age with exceptions
Afghanistan	16/18	No data available	Algeria	19/19	No absolute minimum	Burkina Faso	17/20	15/18
Bangladesh	18/21	No absolute minimum	Bahrain	16/18	No absolute minimum	Chad	18/18	13/n/a
Brunei	14/14	No data available	Egypt	18/18	18/18	Djibouti	18/18	No absolute minimum
India	18/21	18/21	Iran	13/15	No absolute minimum	Eritrea	18/18	16/18
Indonesia	19/19	No absolute minimum	Iraq + Jordan	18/18	15/15	Gambia + Kenya	18/18	18/18
Malaysia	16/18	No absolute minimum	Kuwait	15/17	Puberty/17	Mali	16/18	15/15
Maldives + Pakistan (Sindh province)	18/18	18/18	Lebanon (Sunni)	17/18	9/12	Mauritania	18/18	18/18
Pakistan (other provinces)	16/18	16/18	Lebanon (Shia)	9/15	Puberty	Niger	15/18	No absolute minimum
Philippines (CMPL)	15/15	Puberty/15	Libya	20/20	No absolute minimum	Nigeria	Differs by state	Differs by state
Singapore	18/18	Puberty/18	Morocco + Oman + Palestine	18/18	No absolute minimum	Senegal	16/18	No absolute minimum
Sri Lanka (MMDA)	No minimum	No absolute minimum	Qatar	16/18	No absolute minimum	Somalia + Uganda	18/18	18/18
			Saudi Arabia	No minimum	No absolute minimum	Sudan	10/10	10/10
			Syria	18/18	15/15			
			Tunisia	18/18	No absolute minimum			
			Turkey	18/18	16/16			
			UAE	18/18	Puberty			
			Yemen	No minimum	No absolute minimum			

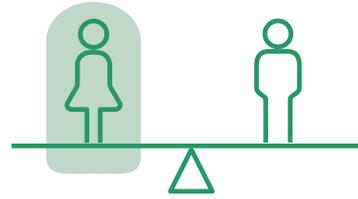
Sources:

Girls Not Brides Atlas, available at: <https://www.girlsnotbrides.org/where-does-it-happen/atlas/#/>; WORLD Policy Analysis Center Data Tables, available at: <https://www.worldpolicycenter.org/data-tables/>; Musawah thematic reports, available at: <https://www.musawah.org/resources/>

HOW TO ENSURE EQUALITY AND JUSTICE

Given the harmful consequences of child marriage, States must take responsibility to protect children and prevent marriages before spouses are physically, mentally, and emotionally ready. Religious leaders, faith-based and community organisations, schools, and parents must work with States to deal effectively with socio-economic and cultural factors that drive child marriage. Allowing children under 18 to marry is not the solution.

Now is the time to end child marriage in Muslim family laws by raising the minimum age of marriage and making it equal for both spouses.



Governments must raise the minimum age of marriage to 18 years of age for both boys and girls, with no exceptions.



PUBLISHED BY MUSAWAH IN 2020



This policy brief is part of a series of briefs on key issues in Muslim family laws. These briefs are available on the Musawah website at: www.musawah.org

For general resources on Muslim family law reform and references to those resources used in this brief, visit the brief's page on the Musawah website.

The publication of this document was funded by the UN Women Regional Program for the Arab States and undertaken within the framework of the 'Men and Women for Gender Equality' programme funded by the Swedish International Development Cooperation Agency (SIDA). The views expressed are those of Musawah and do not necessarily represent the views of any of the funders.

Any part of this publication may be copied, reproduced, adapted, stored in a retrieval system, or transmitted in any form or by any means to meet local needs provided that there is no intention of gaining material profits and that all copies, reproductions, adaptations, and translations acknowledge Musawah as the source. A copy of any reproduction, adaptation, or translation should be sent to Musawah at the address listed on its website.

www.musawah.org | musawah@musawah.org | FB/IG: [musawahmovement](https://www.facebook.com/musawahmovement) | TWITTER: [@musawah](https://twitter.com/musawah)