

The Adverse Effects of Early Marriage on the Health of Young Girls

by Ruth Yudkin and Lesley Roberts

Les auteures comparent quelques conventions internationales sur la protection des droits humains des jeunes filles

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concernant le mariage. En résumant les multiples raisons qui font que ces traités ne sont jamais mis en pratique, les auteures expliquent comment la santé des jeunes filles est menacée.

The Convention on the Rights of the Child (United Nations 1989) makes no specific mention of marriage. However several articles should be taken into consideration when looking at the practice of child marriages, including the guiding principle of the best interests of the child. Particularly relevant articles are Article 12 (the right of children to have their views taken into account in matters that concern them), Article 24 (the abolition of traditional practices prejudicial to the health of children), Article 28 (the right to education), and Article 34 (on sexual exploitation). Of special concern is the fact that in many countries the child attains the age of majority upon marriage. In countries where early marriage is common or even the norm, this could have the effect of reducing the application of the Convention.

Child marriage

The adverse effect of early marriage on children is an issue which

should be addressed when considering the application of the Convention on the Rights of the Child, especially with respect to girls. In societies where women have low status, girls who marry young are particularly vulnerable to abuse.

It is in recognition of this vulnerability that early marriage is referred to explicitly in the 1956 UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. This Convention concentrates on the sale of women into marriage and the inheritance of widows; but it goes on to stipulate in Article 2:

States Parties undertake to prescribe, where appropriate, suitable minimum ages of marriage, to encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority, and to encourage the registration of marriages.

But despite the ratification of this Convention by 114 states (by June 1995) and the widely ratified Convention on the Elimination of Discrimination Against Women (CEDAW), both early marriage and the "servile marriage" that can result are all too common. A survey conducted by Anti-Slavery International of academic literature, and of research undertaken by development and human rights organizations, reveals not only that servile marriage practices are still prevalent, but that in some countries the situation may be getting worse. The reports by States Parties to CEDAW indicate that there are

still considerable problems concerning early marriage and women's rights within marriage; and it must also be remembered that the crucial Article 16 of that Convention, concerning women's rights within marriage, prompted a large number of reservations. Article 16 reads:

... States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations... The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Thus, many of the international standards relating to marriage are violated: minimum age requirements are flouted, and the need for the consent of both spouses is ignored. Particularly important are the implications in terms of the health of the children concerned. The Inter-African Committee has, in fact, called early marriage a "traditional practice detrimental to the health of the girl child" (World Health Organization).

The Vienna Declaration and Program of Action, adopted by the 1993 World Conference on Human Rights, includes a call for all international conventions to be ratified by the year 2000. In fact, this was the first conference at which women's rights were distinguished separately from human right. Among its objectives, the Declaration states that the UN and all its members should be

working towards ... the elimination of violence against women in public and private life ... and the eradication of any conflicts which may arise between the

rights of women and the harmful effects of certain traditional or customary practices....

The final declaration mandated full and equal participation of women in political, economic, social, and cultural life. It called for an end to all forms of violence against women, including sexual slavery, and forced pregnancy. This recognition by the

Argentina, Colombia, Cuba, Equatorial Guinea, Mexico, Nicaragua, Peru, and Turkey, they can marry at 14. In a few countries, there is no minimum age of marriage where there is parental consent (UN 1992).

It might be assumed that parents necessarily make wise and considered choices for their children, but this is not necessarily the case. Poverty, ambition, and avarice can often affect

the choice (especially when there is a transfer of resources), and the phrase "with parental permission" often implies "regardless of the couple's wishes." It is therefore of little use for the legal minimum to ap-

ply only to couples marrying without parental consent: many of the most extreme cases will fall outside the boundaries of the law.

Moreover, several countries have made reservations to Article 16 of CEDAW, often referring to the provisions of Personal or Customary Law as justification. Personal Law is the law by which a person is governed not by virtue of living in a particular country, but by virtue of belonging to a particular religion, caste, sect, or tribe. The laws in these countries have the same legal force in court as the national written legislation, and frequently conflict with it. So, for example, India's reservation to Article 16 (1) declares that "it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any Community without its initiative and consent."

Similarly, the Islamic Shariat in Egypt and Iraq, the Sharia Hanafi in Bangladesh, and the Shaffii School in Malaysia, allow girls to marry as soon as puberty is attained. In the absence of contrary evidence, the age of puberty is considered to be 15; but again, a younger child can be given in marriage by a guardian. In Sharia Hanafi Law, a girl given in marriage

below the age of puberty can repudiate the marriage on reaching 18 but only if the marriage has not been consummated.

In most countries, the average age of marriage is gradually increasing, and the trend shows every sign of continuing. However, there are still a great many girls who enter marriage before they have reached maturity. In India, the average age of marriage is 14.3 years; and in Democratic Yemen, the majority of girls marry between the ages of 12 and 15, despite the 1978 Family Law which allows for a one- to three-year sentence for those involved in the marriage of girls under the age of 16. On average, almost 50 per cent of African girls are married by the time they are 18 (Organization of Africa Unity/ UNICEF).

In some regions, girls are married off before even reaching their teens. In northern Ethiopia, for example, early marriages are the norm. Girls as young as seven are married to teenage boys and they grow up together. Child marriage is also reported among communities living along the Juba and Shebella rivers in Somalia, although the practice is declining (World Health Organization). In parts of Nepal, child marriages are common. One study comparing five ethnic groups discovered that 23 per cent of Maithili girls under the age of ten, and 15 per cent of such girls from Parabatiya, were married (UNICEF *The Situation of Women and Children in Nepal*). In the Nizwa area of Oman, 27 per cent of girls are married before the age of eleven. In Iran, the 1976 Civil Code, which had increased the minimum age from 13 to 18, was recently annulled; and even this lower minimum of 13 is often flouted (Touba). If the father decides to abide by Islamic Law, the age can be lowered to nine. It should also be noted that, in many countries, the minimum age for children marrying with parental permission is lower for girls than for boys. The discrepancy is often justified by reference to the earlier onset of puberty in girls but it also clearly reflects the cultural ex-

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international community of the rights of women in the private sphere is an important step forward in the struggle to guarantee the application of those international norms that aim to protect girls from early marriage, and prevent servitude within marriage.

The legal quagmire

Marrying a young bride can be an effective way of ensuring control over her productive and reproductive labour. She is seen as more valuable and her virginity is more readily guaranteed. She can also begin child-bearing early, which is seen as an advantage in societies where large families are esteemed.

All the countries that have ratified CEDAW, and that have set a legal minimum age for marriage, have specified a minimum age above fifteen. What is not widely appreciated is that this legal minimum applies only to couples marrying *without their parents' permission*. If the parents' permission has been given (or indeed the permission of the court or of legal representatives), the age at which marriage can take place is usually lower. So in Ecuador, Sri Lanka, Uruguay, and Venezuela, girls can marry with parental consent when they are 12; in

pectation that a wife be subject to her husband, and the desire to avoid illegitimate pregnancy.

The gradual increase in the age of marriage has been adversely affected by two other factors. Fear of AIDS has meant that girls often marry when they are younger. They are considered less likely to be infected, and are therefore more in demand. Likewise, the age of marriage tends to be pushed down in areas where the incidence of dowry is increasing. Dowry payments are often less for younger brides, and the incentive to marry daughters early is therefore high.

Consent

Though the international conventions requiring "free and full consent" of both spouses to marriage have been ratified by a large number of countries, forced marriage and the marriage of those too young to give their legal consent are the norm in many of them (United Nations 1956; United Nations 1962; United Nations 1965; United Nations 1966a; United Nations 1966b). The issue of consent is a complex one, and is fraught with both practical and psychological difficulties.

In the first place, there are countries where the legal issue of the girl's consent never arises because she is a minor at the time of marriage. The law in these countries enables parents to give their consent on behalf of their daughters, and the requirement for "the free and full consent of the intending spouses" is thereby circumvented. Secondly, if consent is to be officially assessed, the marriage has to be registered—which is rarely the case. In a traditional Gambian marriage, for instance, the bride is not even present at the ceremony. One survey of 470 Gambian wives discovered that 36 per cent had not been asked for their consent, and did not even know that their marriage had taken place until after the wedding (UNICEF *The Situation of Women and Children in Gambia*). In any case, marriages undertaken according to customary

or traditional laws frequently do not require the consent of the intending spouses. More tricky still is the psychological element of consent. From a very young age, girls are trained to be submissive, and, whatever their own attitude towards marriage, they are not in a position to question their parents' authority.

The issue of forced marriage is not unique to developing countries. Some Asian and African communities in Europe go to extreme lengths to ensure that their daughters are married according to their parents' wishes, and there have been several cases of British girls being taken to visit families in Yemen, Pakistan, and Bangladesh on holiday and then being forcibly married. A legal precedent of asylum was made in France in 1987, when an Algerian girl resisted her family's attempts to marry her against her will; after being kidnapped and taken to Algeria, she managed to escape back to France (Anti-Slavery International).

Health issues

The dangers of genital mutilation—which form part of a girl's preparation for marriage have been widely recognized and documented (Dorkenoo and Elworthy; UNICEF *The Situation of Women and Children in*

involved are very young indeed: in Africa, for example, where three out of four teenagers are mothers, 40 per cent of teenage births are by women aged 17 or under (Gossa).

The teenage mother is particularly prone to anemia, and her body will not yet be fully developed. Typically, she will have four per cent of her height to gain, and, most importantly, her pelvis will be only 82–88 per cent of its fully-grown width. It is therefore unsurprising that the incidence of maternal death during childbirth—usually due to obstructed labour—is particularly high for this age group. Studies have shown that 15- to 19-year-old mothers are twice as likely to die in childbirth as mothers aged between 20 and 24 (Gossa); and that girls under 15 have a five- to seven-times greater chance of dying during pregnancy and childbirth than those in their early twenties (Organization of Africa Unity/UNICEF). The cumulative effects of repeated childbirth begun too early may also result in premature death.

Death is not the only danger that she faces. Obstetric fistula, or false passage, is also prevalent, with the typical fistula patient being a very young, first-time mother. By far the most common cause of obstetric fistula is obstructed labour, again due to a contracted pelvis.

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Sudan and The Situation of Women and Children in Gambia) Early marriage itself however, poses significant health risks for the girl involved. A girl must submit to sex with a man who may be much older than herself, and, from an early age, must endure the dangers of repeated pregnancies and childbirth. Many of the girls in-

Having been virtually eliminated in most other parts of the world, obstetric fistula is still common in sub-Saharan Africa and parts of the Indian subcontinent. A realistic estimate of the incidence of obstetric fistula in Ethiopia is about 80 per 100,000 live births (Harrison); while a study carried out in Uganda found

that out of 132 cases of vesico-vaginal fistulas, false passage between the bladder and the vagina, 94.6 per cent were girls aged between 14 and 19 (Kouyate). In both these reports, early marriage is acknowledged as being a very important cause.

Recommendations and implications

1. There is an urgent need to review the laws which govern these practices. In many countries the legal aspect is a quagmire of secular, religious, and customary law, with scant respect for international standards.

2. There is a need for specialized agencies to collect information on current practices in a more comprehensive and cohesive way. Quite apart from the problems raised in this article, there are important implications of these practices for women's reproductive and economic rights, as well as for their opportunities for education, training, and employment.

3. Some governments recognize that there are problems and are trying to address the issue. It is recommended that such initiatives be documented in the hope that the information can be used more widely.

4. It is recommended that more resources be directed to those organizations and groups who are attempting to work on this issue, which is extremely sensitive in most countries. At the moment, very few are linking their work in a regional or international context.

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