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Child Marriage, Family Law, and Religion: An Introduction to the Fall 2015 Issue

By Quentin Wodon

Child marriage, defined as marrying before the age of 18, is a practice that affects mostly girls and often leads to violations of human rights for the girls who have to marry early. UNICEF (2014) estimates that 140 million girls will marry early in the next decade or up to 40,000 per day. Especially when marriage takes place very early (well below the age of 18), it profoundly affects a girl's life through lowering her education and future earnings prospects. It may also lead to health complications, compromised psychological wellbeing, intimate partner violence, and a lack of participation and voice for the girls in their community and society at large.

The issue of child marriage has attracted renewed attention recently. A stronger consensus is emerging to eliminate the practice. For example, in November 2014, the human rights committee of the 193-nation General Assembly adopted by consensus (without needing a vote) a resolution urging all states to take the necessary steps to end child, early, and forced marriage. Such steps include adopting and enforcing laws banning child marriage, but they should also include providing support and incentives to eliminate the practice. A total of 118 countries sponsored the resolution, including some of the countries with the highest incidence of child marriage (such as Mali, Ethiopia, and the Central African Republic). While such resolutions are not legally binding, they help increase pressure on governments to take measures to eliminate the practice. Earlier in 2014 the U.K. government and UNICEF jointly hosted the first Girl Summit to mobilize efforts to end child, early, and forced marriage as well as female genital mutilation. Ending child marriage is also a potential target to be included in the Sustainable Development Goals.

Substantial research has been done over the last decade on the factors that contribute to the practice and its consequences (including most recently Brown 2012; UNFPA 2012; Vogelstein 2013; UNICEF 2014; Klugman et al. 2014; and Wodon 2015). The practice is related to cultural and religious traditions, as well as socio-economic status. Girls in poverty in low income countries are much more likely to have to marry early, but the practice is also more prevalent among some faith traditions than others. The objective of this special issue¹ of *The Review of Faith & International Affairs* is to explore those issues, in the context of the larger issue of family law reform (child marriage legislation is considered part of family law, and in some countries opposition to the elimination of child marriage is part of a broader opposition to family law reforms).

The special issue consists of nine chapters apart from this brief introduction. The first two articles provide context in terms of the extent of child marriage as well as its negative effects on girls, their children, and their communities. The following two articles then explore legal aspects of child marriage in two regions—East Asia and the Pacific, and the Middle East and North Africa (MENA). The next three articles look at the interplay between faith and child marriage and the potential role of faith leaders and faith-based organizations to help eliminate the practice. Finally, the last two articles look at the implications of child marriage for education attainment, and at the question of how child marriage and female genital cutting are considered under Islamic law.

The first article asks the following questions: How extensive is the practice of child marriage today, and how much progress has been achieved in eliminating the practice over time? The practice affects girls much more than boys, so only statistics for girls are presented. The

article suggests that measurement of child marriage should include not only the share of girls who marry early (the incidence of child marriage), but should also take into account how early girls marry. This can be done by using measures such as the “child marriage gap,” which factors in the number of years of early marriage and not simply whether girls marry before the age of 18. Estimates are provided for about 60 countries using comparable Demographic and Health Surveys. South Asia and sub-Saharan Africa have the highest measures of child marriage followed by MENA, Latin America and the Caribbean, East Asia and the Pacific, and finally Europe and Central Asia. Child marriage is decreasing over time, but only fairly slowly. For the set of all low income and middle income countries included in the sample, the incidence of child marriage was reduced by 10.8 percentage points over a 30 year period. Thus, while progress has been made, the gains towards eliminating child marriage have been slow in most of the world’s regions and much remains to be accomplished.

The second article considers the impact of child marriage in five areas: educational attainment, labor force participation, violence, health, and participation in decision making. The literature review provided in the article suggests that child marriage reduces literacy and education attainment for girls, especially at the secondary level, as expected. It may also reduce labor force participation directly (because of a lack of agency for child brides) or indirectly (because of the impact of early marriage on education attainment and on fertility). By curtailing education, increasing fertility, and limiting opportunities for employment, child marriage contributes to poverty. The practice is also associated with a higher risk of intimate partner violence and other forms of violence, which may lead to severe injuries and even death, as well as losses in earnings and out-of-pocket costs for healthcare. Next, child marriage is associated with higher risks of maternal mortality and morbidity, as well as malnutrition and depression. It is also associated with poor sexual and reproductive health outcomes including through sexually transmitted diseases. The practice also has consequences for children in terms of infant mortality, low birth weight, and stunting. Finally, child marriage also leads to losses in empowerment and decision-making as well as participation more generally. The impacts of child marriage in these five areas may have mutually reinforcing effects on the girls marrying early, their children, and their communities.

The third article considers child marriage legislation in East Asia and the Pacific. Several international legal instruments have a bearing for issues related to child marriage. As the authors note, many countries in the region are party to the relevant UN treaties and conventions. The countries have also tried to adapt their national legal systems to enact and enforce internationally recognized provisions. But these attempts are complex given the co-existence within a country of a variety of different legal systems, including customary law, as well as religious, tribal, and patriarchal norms and practices. As a result, in many countries, marriage below the age of 18 is still permitted and common. Only four countries have set the minimum age of marriage at 18 or above with no exceptions. Some 23 countries have set the minimum age for girls at 18 but with exceptions upon parental or court consent. In 10 countries, the minimum age for marriage is lower.

The fourth article discusses the MENA region, where family laws cover what are referred to as personal status issues, such as marriage, divorce, child custody, and inheritance. To different degrees they are influenced by principles and interpretations of *shari’a* law. In 2004 the Government of Morocco adopted a new Family Code, known as the *Moudawanna*, while the Government of Jordan modified its Family Code in 2010. The revised Codes closed a number of gender gaps, especially in Morocco, in family relations. In both cases amendments were based

on provisions and interpretations of *shari'a* law, taken in the context of Islamic principles of tolerance, juridical reasoning, and equality. Among the reforms were steps to equalize marriage and access to divorce for men and women, though gaps remain, particularly in Jordan. Data show mixed results in terms of implementation to date of these reforms. Both countries raised the age of marriage for girls to 18, making it equal with boys, but allow for exceptions. A system of judicial procedures was established to ensure underage marriages are consensual and in the best of interest of minors. However, the absolute number of underage marriages increased in both countries since the legal reforms went into effect, almost all of which involve underage girls as opposed to boys. Judicial checks have failed to reduce numbers, with the vast majority of requests agreed by the courts.

The next three articles focus on the relationship between faith and child marriage, and how faith leaders as well as faith-based organizations (FBOs) could help in eliminating the practice. The fifth article is about the extent to which faith affiliation is associated with child marriage in sub-Saharan Africa. The analysis is first conducted at the regional level using household surveys, and finds some statistically significant differences in the probability of child marriage according to faith affiliation. This does not however mean that there is not substantial heterogeneity within faith affiliations in the influence that faith can have on early marriage. The possibility of such heterogeneity is illustrated with a case study for Burkina Faso where despite recent legislation limiting marriage before the age of 18, the practice remains highly prevalent, especially in rural areas. The article examines how socio-cultural factors and religious beliefs contribute to the persistence of the practice in three different rural communities. The analysis reveals important differences between the three rural communities where the qualitative fieldwork was implemented, suggesting that responses to child marriage must take into account local conditions and perceptions if they are to be successful.

The sixth article focuses on recent initiatives to engage Islamic Opinion Leaders (ISOLs) in interventions to end child marriage. The article explores the application of transformative leadership development models borrowed from health projects engaging ISOLs to the issue of ending child marriage. Two interventions funded by the Ford Foundation and Grand Challenges Canada are evaluated. The interventions aimed to improve the capacity of Muslim scholars in the North of Nigeria to reach out to the *Ummah* and help change knowledge, behavior, and practices related to early marriage. Through a participatory and qualitative evaluation methodology participants in training events were asked to self-report on leadership capacity gained through the training. The evaluation suggests that ISOLs did not gain new knowledge from the interventions and were unwilling to undertake outreach to the *Ummah* on the Islamic position on a recommended age of marriage. To the extent that scholars were prepared to communicate with the *Ummah*, it was generally around secular arguments for avoiding early marriage. These findings suggest that more work is needed to understand how and whether leadership development for ISOLs could be constructed around Islamic arguments and precepts, as opposed to secular arguments about the impact of the practice.

The seventh article touches upon the potential role of FBOs in helping to tackle some of the social determinants of child marriage. This article looks first at some of the root causes underlying child marriage, including socio-cultural norms. The social determinants of child marriage are both a factor in, and a result of, a range of inequities affecting girls. Next, the article examines how and why faith matters, looking specifically at examples of interventions implemented by FBOs that contribute directly or indirectly to the elimination of the practice. A half dozen examples of FBOs dealing with the issues are provided.

The next article is about the relationship between child marriage and educational opportunities for girls. Progress toward gender equality over the past two decades is most evident in education goals, as primary and secondary school enrollment rates are now the same for boys and girls in many countries. Yet gender imbalances persist due to a host of structural, social, and financial barriers that prevent girls' enrollment and school completion. Improving girls' educational outcomes requires more than simply closing the education enrollment gap. It also requires addressing persistent gendered barriers, including child marriage. The article summarizes findings from 27 impact evaluations that suggest strategies to reduce gender disparities in this area. Strategies that combine structural interventions with individual and family level financial incentives show the greatest promise for improving education outcomes and leveling the playing field for girls, including by delaying the age at first marriage.

The last article considers issues related to Islamic law, women's rights, and state law, with a focus on female genital cutting (FGC) and child marriage. Neither FGC nor child marriage are "Islamic" problems. FGC and child marriage are practiced in non-Muslim communities, and both practices predate Islam. In addition, the incidence of both practices is very low in many majority Muslim countries. Yet in some countries arguments inspired by Islamic law have been used to suggest that prohibiting FGC and child marriage could be un-Islamic. In order to discuss such arguments, the article first reviews briefly the main sources of Islamic law or *shari'a*. Next, different interpretations of what Islamic law has to say about FGC as well as child marriage are presented. Finally, a broader discussion of the relationship between Islamic and state law is provided. Overall the aim is to suggest that there actually are resources available within *shari'a* to call for an end to both practices.

To conclude, there is substantial evidence that early marriage has a wide range of negative impacts for girls, their children, and their communities. What can be done to eliminate the practice? In many countries, laws have been adopted to prevent marriage below 18 years of age, but these laws are often not well enforced. The laws are needed, but they are not enough. Interventions to reduce the cost of schooling and improve quality are also needed. Some of those interventions are best implemented by governments, especially to tackle the socio-economic determinants of child marriage. But faith leaders and FBOs also have a role to play. Reframing the transition of girls to marriage requires concerted multi-faceted interventions. This includes a dialogue with religious and community leaders who have a great deal of influence on those issues. Early marriage is deeply rooted in socio-cultural practices and religious beliefs in many communities. Engaging with faith leaders and FBOs to critically examine the causes and consequences of early marriage can help in building support for policies against early marriage.

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