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**CHILD MARRIAGE IN PAKISTAN: A CRITICAL ANALYSIS IN
THE LIGHT OF SOCIO-LEGAL AND RELIGIOUS CONTEXT**

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ABSTRACT

The UN has declared the decade 2020-2030 a target to eliminate child marriage. In Pakistan, the practice of child marriage is very common and is considered as a socio-religious recommended practice and many children particularly, girls got married before 18 years of their ages. In this context, this research, aims to analyze the issue its cultural, legal and religious context. By exploring the issue in the light of the provisions of the Qur'an and the Sunnah (PBUH), this article concludes that the practice of child marriage is against the fundamental rights of the children and harmful in many aspects. Further, this practice is not a recommended practice in Islam. Hence, awareness should be widespread among the people.

Key Words: Child Marriage, Global issue, Pakistan, Culture, Religion, Problems, and Solutions

INTRODUCTION:

The debate regarding fundamental human rights and their access to every human being has provided an opportunity for discussion and dialogue regarding the status of centuries old cultural practices which seem contradictory to the basic human rights.

This phenomenon has divided the human right activists and psychologists into two major groups as Universalists and Relativists (Field, 2003). The Universalists consider fundamental human rights as immutable, and in case of conflict between cultural practices and human rights, the rights will prevail while Relativists are in favor of the respect of cultural practices, even if they cause harm to some people (Donnelly, 2003).

To balance this extreme situation, there is a need for a purposeful and practical approach which may protect the people against detrimental outdated customs and which may assist the oppressed segment of the society in accessing basic human rights.

Study Problem

This article intends to investigate the issue of child marriage in the light of sociocultural and religious context of Pakistani society, keeping in view that the 'the UNO' has declared the practice of child marriage as a violation of the rights of the child and a threat to their personal development.

Hypothesis of the Research

- a. In Pakistan, the practice of child marriage is backed by culture, hence, not harmful
- b. Child marriage is recommended by religion and cannot be condemned
- c. Child marriage is against the fundamental rights of children and must be condemned
- d. Islam has granted vast jurisdiction to the state to define a specific age of maturity in the light of change sociocultural context

Objectives of Research

The primary object of this paper is to analyze the issue of early age, marriage as a violation of fundamental rights of children as pronounced by UNO. It also aims to discuss the issue in the light of cultural and religious background of Pakistani society.

Finally, the article explains lack of scientific understanding of the relevant provisions of the Qur'an and Sunnah (PBUH) as structural barriers in the way of child development.

Research Methodology

This research aims to apply academic and empirical methods of research rather some combination thereof by utilizing experimental reasoning based on naturally occurring data, history, modern development, surveys and reports. To explore the issue in the light of religious context the relevant verses of the Qur'an and *Tafasir* al-Qur'an and relevant *ahadith* would be taken into consideration.

Literature Review

To have a thorough study of fundamental human rights and the issue of child marriage, the author has gone through many books and articles such as

Belden Fields, in his book "Rethinking Human Rights for the New Millennium", Urbana: University of Illinois, 2003, discussed human rights in the new paradigm and changed the context. David Hume, wrote "A Treaties of Human Nature", published in London, J.M. Dent & Sons Ltd., 1987 and discussed human rights with reference to natural freedom and equality among all. Mashood A. Baderin, EDT., "Islam and Human Rights" discussed fundamental human rights as recognized by Islam. Adamantia Pollis & Peter Schwab wrote "Human Rights: New Perspectives, New realities" published in UK: Lynne Rienner, 2007 and discussed the development of human rights and children's rights in detail. Annabel Erulkar, in her article "Adolescence Lost: The Realities of Child Marriage" *Journal of Adolescent Health* 52 (2013) 513e514 highlighted the consequences of child marriage that early age marriage is not against the fundamental right of childhood but also resulted in some serious and threatening issues like unplanned increased fertility and population growth which are destructive for the development of any society.

Mengjia Liang, Sandile Simelane, & others discussed the issue in their article "The State of Adolescent Sexual and Reproductive Health", *Journal of Adolescent Health* 65 (2019) S3eS15 (Published by Elsevier Inc. on behalf of Society for Adolescent Health and Medicine, 2019), with reference to the health issue of victim of early age marriage. This paper pointed out that 'during last 25 years, ovarian and breast cancer issues have been increasing alarmingly among adolescent girls along with other associated issues such as overweight or obesity which has long-term health implications'.

Helen A Weiss, Rashida A Ferrand wrote in her article "Improving adolescent health: an evidence-based call to action", ([http://dx.doi.org/10.1016/S0140-6736\(18\)32996-9](http://dx.doi.org/10.1016/S0140-6736(18)32996-9)), about the 'highest occurrences of anemia and the lowest level of secondary education completion among the children of early age marriages'.

Thea Brown and Dr Renata Alexander have discussed the issue of child abuse in "Child abuse and family law: understanding the issues facing

human service and legal professionals” (Thea Brown and Renata Alexander 2007) by criticizing the family law system, child protection and traditional family law jurisdiction. The authors in their writing considered the practice of child marriage as a form of child sexual abuse.

Tahera Ahmed opined in her article “Child Marriage: A Discussion Paper”, *Bangladesh Journal of Bioethics* 2015; 6(2):8-14, that young girls who marry before the age of 18 have a greater risk of becoming victims of violence. This is especially true when the age gap between the child bride and spouse is large”.

Zulfiqar Kunbhar in his article “Child brides and grooms in Sindh”, published on line (dailytimes.com.pk, September 2018) highlighted that the issue is connected with tradition, culture, and customary practices’. Qamar Naseem in his article published in *The Express Tribune, January 2nd, 2013* explored the facts that ‘more than 60 million girls around the world got married under the age of 18 in 2012 out of which 24% were from rural areas of Pakistan while 18% were from urban areas’.

Assad Ali Lund, in his article “Penetrating culture of child marriage in Pakistan”, published online (nation.com.pk, January, 2020) wrote about child marriage in Pakistan and mentioned that ‘the high ratio of maternal and infant mortality in Pakistan have close links with early marriages. Child marriage is one of the leading causes of death among girls aged between 15 to 19 during pregnancy and childbirth’.

All the above mentioned academic writings have discussed the issue of early age, marriage from sociocultural context of each society yet the author could not find any academic writing that evaluated the practice of child marriage from religious context.

For this purpose, the author has gone through primary and secondary sources of Islamic law, Qur’anic *tafasir*, relevant ahadith, writings on maqasid al-Shari’ah and juristic opinions etc.

It is a widespread belief among the Muslims in Pakistan that early age, marriage is recommended by Islam and therefore, do not consider child marriage as a violation of fundamental rights of children. Thus, to fill up this gap, and to investigate the issue in the light of relevant verses of the Qur’an and Sunnah, and to remove the confusion regarding status of child marriage in Islam, the author has written this paper.

Scheme of Study

This article is divided into three sections: Section first throws light on the concept and development of the practice of child marriage as a global

issue. Second Section investigates the issue from the sociocultural perspective of Pakistani society. It also highlights the causes of early age, marriage and the problems of victims of early age marriage. And section three explores the issue of early age, marriage from a religious perspective. It points out that unscientific understanding of the Qur'an and Sunnah (PBUH) and issuance of out of context *fatawas* have made the people confused about the status of early age marriage in Islam (Razi, 2014). All this has pushed the author to explore the issue in the light of objectives of Islamic Legal System (maqasid al-Shari'ah) and public interest (*maslahah mursalah*) (United Nations Children's Fund Report, 2011). In the end some conclusions and recommendations are drawn to eradicate the practice of child marriage.

Section One

CHILD RIGHTS AND PRACTICE OF CHILD MARRIAGE: A GLOBAL INSIGHT

Child marriage is defined as a marriage held between immature persons, male or female in which children less than eighteen years of age live with a partner being married (UNCF, 2011).

The history of the practice of child marriage can be traced in the customary practices of the ancient society (Thomas, 1999). Like slavery and polygamy, child marriage also got recognition among all the regions of the world (Weiss, and Ferrand, 2019).

However, with the development of human life and society, the debate over fundamental rights got recognition among the philosophers and social activists which led the modern world to take certain steps to protect the basic rights of human beings (Erulkar, 2013).

The social activists raised their voice to protect the rights of women and children as both were the most vulnerable segments of the society (Thomas, 2000). The movement for the protection of the basic rights of children was started by the women social activists in the late 18th century as "the Child Savor's Movement" (Platt, 1979). A report indicated that in 1848 almost 30,000 naked and homeless children were found in and around London. Likewise, in 1922, at least 7 million homeless children were found in Russia after World War I and the Russian Civil War (Ball, 1954).

All that led the modern world to realize that the future development of the world was dependent upon its youth and if this segment of the society could not be given proper attention and care, it would have long lasting destructive impact on the future growth of each society (Kay, 2005).

For the protection of the rights of children, the concept of “Child abuse” was developed to identify abusive behavior towards children (Kempe, 1978).

In 1924, the League of Nations adopted the ‘Geneva Declaration of the Rights of the Child’ and since then, the international community is showing its great concern towards the issues of the children and has passed certain declarations to ensure health, education, and survival of children. In 1959, the ‘UN Declaration on the Rights of the Child’ declared necessary to enable each child to get develop physically, mentally, morally, and socially in healthy and positive manners.

In 1979, ‘The Convention on the Elimination of Discrimination against Women’ was held and Article 16 of the Convention has declared child marriage prohibited by stating: “The betrothal and the marriage of a child shall have no legal effect”.

Later on, in 1989, ‘the Convention on the Rights of the Child’ was adopted by the UN General Assembly. The preamble of the Convention states that ‘by reason of physical and mental immaturity, a child needs special safeguards and care, including appropriate legal protection, before as well as after birth’. The ‘Optional Protocols’ of the Convention declares that each state is responsible to take necessary action whether by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies in the best interests of the child’. Article 1 of the Convention defines a child as ‘every human being below the age of eighteen years’. The Convention also binds the state parties not to allow or to give validity of marriage between the persons who have not attained their maturity.

Since then, the issue of early age marriage has been considered as against the fundamental rights of the children and a curse against their physical and mental growth. Due to complicated and harmful results of child marriage, the contemporary world has taken the issue of child marriage as a serious threat to the fundamental rights of the children (Erulkar, 2013).

It has been declared by the human rights activists that the rights to marry and found a family are the rights of adults and not children and adolescents.(UNICEF, 2020). Article 16 of the ‘Universal Declaration of Human Rights 1948’ states: “that Men and women of full age...have the right to marry and found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution”.

Although with the help of UNICEF and UNDP Funds and the state legislation, the issue of early age, marriage got noticed by the people and

the ratio of early age marriage is being reduced yet very slowly. A comparative analysis between 1985-2010 reveals that in South Asia, the practice of child marriage has been declining from 63% in 1985 to 45% in 2010, yet still South Asia has the highest rate in the world (UNICEF, 2018).

UNICEF Report (2018) estimated that every day 1/9 girls get married before 15 years of age. It also cautioned that each year 15 million girls are married before 18 years of age and if it is not stopped, then it will reach up to 1.2 billion by 2050. The situation is more critical in developing countries where 1/3 of the girls got married before 18 years of age. (UNICEF, 2020) A study shows that 45% of the women (aged 20-24) got married before 18 years of their age while 17% became married before the age of 15 years (Leigh, 2020)

The UNICEF Report (2020) has declared the whole decade 2020-2030, a decade of action to culminate the practice of child marriage. And with respect to South Asia, UNICEF aims to deter five hundred thousand early age marriages by 2021.

However, it is important to note that the UNICEF (2020) pointed out that to end the practice of early age, marriage by 2030, progress must be seventeen times quicker than the progress of the past years.

Section Two

CHILD MARRIAGE IN PAKISTAN: SOCIO-LEGAL CONTEXT

Pakistan is the 6th most populous country of the world with 220,892,340 people and 2.83% of the total population of the world. About 39% of the total population is under 18 years while minors are 22% with a number 80.4 million (World Bank, 2020). Like other South Asian countries, child marriage is a widespread phenomenon in the country and every year a large number of children get married at an early age. It is reported that in Pakistan, 21% children got married before 18 years of their age (Human Rights Watch, 2020). The UNICEF Report (2020) reveals that around 3% girls get married under 15 years of age. The following table shows a comparative analysis of the practice of child marriage among different Provinces of Pakistan

Percentage of Child Marriage	Punjab %	Sind %	Baluchistan %	KP %
	66% girls 22% boys	72 % girls 25% boys	66 % girls 22% boys	99% girls

This comparative analysis reveals that this ratio is very high in the rural areas of the province Sind where 72 % of the girls and 25% of the boys are a victim of early age marriage while in Punjab and Baluchistan this

ratio is 66% and 22% respectively. The most critical situation is in the tribal areas where almost 99% girls got married under 18 years of age (World Health Organization, 2019).

To overcome the issue, some legislation has been made in the light of the pioneer Act “The Child Marriage Restraint Act 1929” promulgated by the British government during the colonial period and remained applicable in Pakistan until 2013. However, after 18th Constitutional Amendment, 2010, Punjab and Sind provincial governments enacted “The Child Marriage Restraint Amendment Act, 2013. Section 2 of the Acts defines a child “a person who is under 18 years of age” in accordance with the definition of a child under the ‘United Nations Convention on the Rights of the Child’.

Section 3 of the Acts prescribe a punishment for those who solemnize child marriage with rigorous imprisonment of two years or one hundred thousand rupees or with both. It further states that if one whole year passed after the consummation of child marriage, then no case can be filed (Child Marriage Restraint Amendment Bill, 2013).

In 2016, the Amendments Bill 2016 (of the Child Marriage Restraint Act 1929), was passed by the assembly which extended the scope of the punishment for solemnizing child marriage from one month to three years.

Pakistan Bureau of Statistics Report (2019) estimated that about 98% male and 95% female got married until they turn the age of 30.

A Study (Nations, 14 February 2019), showed that more than 140 million underage girls got married during 2011--- 2020 in Pakistan.

2.1 Causes of the Child Marriage in Pakistan

There are many socioeconomic and cultural causes due to which the issue of early age, marriage could not be resolved like the rapid growth of the population, poverty, illiteracy, feudalism, unawareness, misunderstanding of the religious norms and lack of implementation of concern laws, etc.

i. Poverty

The economy of Pakistan is considered as developing where more than 24.3% of the population are living below the poverty line i.e., with or less than 1.25 US\$ per day while about 40% of the population belongs to lower middle class (Economic Survey of Pakistan, 2019). In this way, more than 60% of the population is suffering from the issue of acute poverty. This poverty urges the parents to get their children marry, particularly, daughters to reduce their burden of maintenance. And it is against the spirit of the Qur’anic revelation regarding marital and family

life. Surah Baqarah V. 233 states: “And father is responsible to maintain the family.”

ii. Illiteracy

In Pakistan majority of the parents is illiterate and has no awareness about the spirit and objectives of the marriage in Islam. Parents are unable to understand the psychological and physical phases of the human development and failed to play constructive role in the training and character building of their children (Razi, 2015). Education in Pakistan, however, is taken by the government as least important. It is reported that the education ratio in 2014-15 has decreased by 2% and is 58% that was 60% last year (Daily Dunya, News, 6 September, 2019). The Human Development Index (2019) shows the Pakistan as the lowest in the South Asia with 0.550 score. All this is against the true spirit of family life and human development in Islam (Al-Ghazali, 1985; Al-Sarakhsi, 1988; Abu Zahra, 1985; Zaida, 2000; Jansen, 1989).

iii. Cultural Rigidity and Gender Discrimination

Pakistan is a land of rigid and static culture (Betoncourt, and Lopez, 1998). Cultural rigidity leads the parents to marry their children at an early age. It is customary practice that children specifically, girls should get married at an early age and if a girl crosses 16 years of her age, the relatives and the neighbors start to inquire about her marriage. This attitude of the people also makes the parents worry about the marriage of their daughters and they try to marry them even during their studies without considering their desires and by ignoring the fact that children must be given a chance to express their feelings, needs and wishes (Morgan, and Zedner, (1998).

Widespread gender discrimination is also a severe cause behind early age marriage. In most of the cases, child marriage occurs only because of the father's desire while mothers do not agree yet they have no authority. Fathers consider their daughters the economic burden which they try to shift to others by way of marriage.

iv. Misunderstanding of Islamic provisions regarding marriage

The most critical issue is misunderstanding of religious norms and child marriage is considered a religiously recommended practice. This understanding is itself against the clear provisions of the Qur'an and the Sunnah (PBUH) that emphasize on the maturity and consent of man and woman regarding their marriage. This misunderstanding has made the issue vulnerable and the people show less concern regarding reporting the cases of the child marriage. For instance, during 2012, only 75 cases of the child marriage were reported and of these 43% children were between 11-13 years of age while 32% belonged to 6-10 years of age. (Institute for Social Justice, 2018). Pakistan Labour Force Survey (2019)

reveals that about in 2014, 94% of the population between 20-49 years of age is married that is an increase up to 37% if compared with the last year 2013. Another study pointed out that during the first half of 2018, only 53 cases of child marriage were reported (Kunbhar ,2018). Pakistan Demographic and Household Survey (PDHS 2017-18), found 8 % of the women pregnant of 15-19 age.

v. Negligence of the Government

The other critical reason behind the practice of child marriage is that the government has failed to establish a strong system of education, employment and awareness to ensure the rights of the children in the society. Further, law enforcing agencies do not ensure the implementation of the laws enacted to restraint child marriage. Rather, most of them have poor knowledge about the objectives of Shari'ah regarding marriage and leave the issue at the discretion of the parents. The system of registration of birth is very poor rather in many areas does not exist. Children from rural areas remain unregistered and in this way, their actual age cannot be determined. Absence of registration encourages the parents and *nikah* registrar to solemnize child marriage by writing overage in the *Nike name* as they know the loopholes of laws.

2.2. Effects of Child Marriage upon Individuals and Society

The early age, marriage has made the lives of many children vulnerable, difficult, and impoverished. The victims of early age marriage suffer many physical and psychological problems such as:

i. Ignorant of the demands of marriage

The first and primary problem for the children of early age, marriage is that they do not have awareness regarding the demands of the marriage physically and psychologically. They have immature feelings and are unable to understand the requirements of this bond. The girls get pregnant before they are emotionally or physically mature. All this makes the couple confused regarding their spiritual and psychological demands like love, confidence and cooperation. And it is against the spirit of marriage in Islam. The Qur'an declares this relationship a source of peace and love. It is stated in Sura Room V. 21: "Among His (God's) signs is this, that He created for you mates from among yourselves that you may dwell in tranquility with them and He has put love and mercy between you. Verily in that are signs for those who ponder". Once the Prophet said: O! People do *Nikah* if you have the capability to do because it is a source to secure the eyes and chaste (Zaydan, 2000; Ghazali, 1989). In case of early age, marriage, the development and growth of the child's personality stopped as they constantly suffer mental, emotional, and physical changes before reaching adulthood.

ii. Denial of the fundamental right of childhood

Child marriage is also a denial of the fundamental right of the children to enjoy their childhood. The age of playing and enjoying is spent in household work, labor and duties imposed by parents. It is also a violation of human rights provided by Islam, Constitution of Pakistan and UNO Charter.

iii. Unable to resist against maltreatment

In case of child marriage, most of the males have no job or work and remain dependent on their fathers for his family's livelihood. Pakistan Bureau of Statics, Report (2018) reported that during 2013-14 the unemployed people increased from 3.10 million to 3.73 million. Until the 2017, the average unemployment rate was 5.5%. In this way, unemployment, poverty and family conflicts make the newly married couple ignorant of each other. In Pakistan, maintenance of the wife is considered least concerned issue which creates many problems for the couple and leads to family conflicts and separation.(Zayda, 2000; Razi, 2015) Despite the clear instruction from the Prophet (PBUH) who warned the husbands to be careful regarding the rights of their wives by saying: "To be afraid of Allah regarding your wives. For them you are like trustees. You hold them as a trust (*amanah*) of Allah Almighty and you made them permissible for you in the name of Allah. It is your right upon them not to trample down your bed for those whom you dislike. It is your responsibility to arrange for their maintenance and clothing according to the customary laws" (Imam Bukhari, 1990).

iv. Remain Illiterate and Unskilled

The most critical problem of the child marriage is depriving them of education and skill. The children cannot get the education and remained illiterate and unskilled which put them into severe poverty as in 2017 labor force reached up to 54% (Pakistan Bureau of Statistics, Report 2020).

v. Forced Child Labor

Most of the male children who got married are forced by their parents to do labor to earn and to fulfill the needs of their family. Despite many laws which deal with the issues of the child labor and prohibit child labor are numerous like "The Factories Act, 1934, The Factories Punjab Amendment Act, 1940, Employment of Children Act, 1991, and Employment of Children Rules 1995, the ratio of child labor is increasing every year. The International Labour Organization (2019), has reported that out of 40 million children, about 19 million children are engaged in labor.

vi. Explosive growth of population

Due to early age marriages, the population growth rate has become relatively high and a couple produces many children within a short period of married life. As 37 % of the girls get married before reaching 18 years of age, so the tendency of pregnancy is very high and most of the girls get pregnant during first two years of their marriage (The Institute for Social Justice 2018). Pakistan Economic Survey, Report (2019), revealed the average growth rate from 1998 to 2017 remained 2.4% which is very high. Poverty, illiteracy and lack of scientific understanding and misinterpretation of the *ahadith* regarding unlimited number of children has made the issue of birth control as one of the most critical issues of Pakistani society (Razi, 2013).

vii. Health Issues

Early age, marriage, maltreatment, psychological and physical weaknesses result in sickness of the couple. It is reported that among the child mothers, almost 70,000 girls between 15-19 years of age die each year during pregnancy and childbirth. UNICEF Report (2016) showed that in most of the cases the child brides experience dangerous complications in pregnancy and childbirth even get infected with HIV/AIDS.

viii. Increase in poverty

The early age, marriage causes an increase in population, unemployment and deficit in human resource development which ultimately results in increase poverty. Asian Development Bank (2019) reports 24.3% population lives below the poverty line with 2.3% purchasing capacity in a day. Moreover, victim of the early age, marriage remain unaware of their role as good parents. Illiteracy, forced labor, and poor economic conditions do not let them be good parents.

Section Three

ANALYSIS OF THE CHILD MARRIAGE IN THE LIGHT OF QUR'AN AND SUNNAH (PBUH)

Allah Almighty has created the human being as the best creature in this universe rather created this universe to serve him. To preserve the dignity of humankind, Allah almighty has bestowed him with the sense of self-respect and ego (Sura, Bani Isra'il V. 70). The advance study of human behavior, explores that the concept of self is starting to be created in the child in the first two or three months of his age. Gradually, a child starts to feel the difference between the self and everything else.(Thomas, 2011).

To make the human being, a perfect and proactive being, Allah Almighty prescribed different stages of growth for his mental and physical

development. These stages are divided into different types like infancy, childhood, puberty and maturity.(Zahra, 1989; Zaydan, 2000).

Childhood is the most important phase during which a child needs special care and attention of his parents, relatives and society. This is the phase in which he/she experiences many mental, physical changes and reacts accordingly. Further, attitude and practices of parents, teachers and society have great effects over his personality (Hartup, 2002).

The most significant attribute of the mankind is wisdom and capability to judge between right and wrong. It is this reason that Allah Almighty made human being as His vicegerent. It is stated in the Qur'anin Sura Baqarah V.30: "And (remember) when your Lord said to the Engels: "Verily I am going to place a vicegerent on the earth". Further, Allah Almighty Himself expressed the logic behind this decision in Surah al-Baqarah by declaring the humankind a species of knowledge and one who utilize his wisdom.(Sura Baqarah, Verses, 31-32). The human being has assigned a task to explore the secrets of this universe and to develop it by utilizing his wisdom by way of education and research.(Surah Aal-e-Imran Verse 23).

To make the life colorful and enjoyable Allah almighty divided the human beings into different sexes by making them male, female and eunuch. Allah Almighty not only declared women equal to men, but rejected all prevailing corrupt social practices against the women (Razi, 2013). The importance of women can be judged by the fact that the issue of "fundamental right of life" has discussed with reference to a girl. The Qur'an states in Surah Takwir, verses 8 and 9: "And when the girl-child buried alive is questioned. For what sin was she killed".

Moreover, to protect the sociocultural fabric of the society, Almighty Allah adopted the policy of recognition or rejection regarding customary practices of the Arab society (Razi, 2015). The prevailing customary laws which were beneficial for the people were recognized such as mode of *nikah*, manners of divorce, ethics of business, while those which were harmful for the people were declared prohibited like lending the wife, female infanticide, wine, and *riba* etc.

Other customary practices like slavery, polygamy, and child marriage were recognized just to provide ease to people as they were common among the people. However, Almighty Allah revealed certain legal rules which led the above mentioned practices as discouraged by Islam. For instance, in case of polygamy, the Qur'an says that it is impossible for a man to deal justly with co-wives (Razi, 2015). In the same manners, the Qur'anic revelation motivated the believers to set free the slaves by way

of ransom or compensation to lessen the trend of slavery (Surah Baqarah, V. 177; Surah Nisa'', V. 92; Surah Maidah, V. 89).

Likewise, the practice of child marriage was recognized yet discouraged by imposing certain conditions regarding the validity of child marriage. For instance, Allah Almighty revealed the verse: "And keep watch on orphans until they reach the age of *nikah* and when you experienced their (children) discretion and maturity, hand over to them their properties"(Surah Nisa'', V. 33). In this verse, Allah Almighty declared that age of *nikah* would come after getting puberty and discretion. (Zayda, 2000). It is a well-recognized dogma among all social scientists that a child becomes a perfect being after getting puberty, wisdom and discretion and is characterized as a mature person (Michael, 1990). It is not out of mention here that the traditional Muslim jurists have explored 'the issue of defining the age of maturity' in details. Imam Abu Hanifah recommended 'eighteen years of age for a boy' as 'age of maturity' while 'seventeen years for a girl' as her age of maturity while majority of traditional Muslim jurists prescribed 15 years of age as the age of maturity for both boys and girls (¹- Al-Sarakhsi, 1989). However, the issue of defining the 'age of maturity' has been left at the discretion of the state to decide in the light of the customary context of each period. (Ibn Qayyam, 1995).

Thus, Islam has made the practice of child marriage conditional and both parties' boy and girl have for granted right of 'option regarding continuation or breach of marriage' after getting maturity/18 years of their ages (Sarakhsi, 1979; Ibn Qadamah, 1989; zaydan, 2000; Zahra, 1989).

Moreover, the Qur'an states in Surah Nisa V. 3: "Marry women of your choice. . .". In this verse, the word "*al-nisa*'/women" leads a mature female not a minor. To ensure maturity and consent of parties concerned, the process of marriage or *nikah* has been defined as a contract between two individuals where male and female mutually agreed to get marry and to confine towards each other to live with love and cooperation (Sarakhsi, et al, 1979; Ibn Qadamah, et al, 1989; Zaydan, et al, 2000; Zahra, et al, 1989).

For a valid marriage, consent of both parties is a well-recognized principle of Islam (Sarakhsi, et al, 1979; Ibn Qadamah, et al, 1989; Zaydan, et al, 2000; Zahra, et al, 1989). It is also necessary that both parties should be mature physically and mentally (Shawkani, 1988). It is also a condition for valid marriage that husband should be able to maintain his wife (Sarakhsi, et al, 1979; Ibn Qadamah, et al, 1989; Zaydan, et al, 2000; Zahra, et al, 1989). It is stated in the Qur'an: "And

let those who find not the financial means for marriage keep themselves chaste, until Allah enriches them of His bounty” (Surah Noor, V.33).

Likewise, the Holy Prophet (PBUH) advised the Muslims: “O young people if you have the capacity to maintain then marry as it leads to the chastity but if anyone of you does not have the capacity to maintain then he should keep fasting as it will strengthen his spiritual capacity and keep him away from evil”(Bukhari, 1990; Muslim, 2000). These provisions lead that if a Muslim cannot maintain his wife, marriage is not permissible for him even if it is his first marriage (Sarakhsi, et al, 1979; Ibn Qadamah, et al, 1989; Zaydan, et al, 2000; Zahra, et al, 1989).

The relations between husband and wife has characterized by the Qur’an as reciprocal towards the rights and duties which means that both have equal status and are identical regarding their social status, desires and demands, and are equally responsible to keep the marriage bond tied and to train their children. This relationship has declared sacred, a part of religious duties and a source to create love and affection between them, to exhaust their sexual desires and to contribute in the increase of mankind (Sarakhsi, et al, 1979; Ibn Qadamah, et al, 1989; Zaydan, et al, 2000; Zahra, et al, 1989).

There is also a *hadith* which leads that for lovers, the best thing is *nikah*.(Ghazali,1999). So far as concerned the issue of Hadrat Ayesha (R.A), that she got married at early age, it should be taken as an exceptional case as Allah Almighty ordered the Prophet (PBUH) for this marriage by way of revelation and there was no intention of the Prophet (PBUH) behind this marriage. Except her all other wives of the Prophet (PBUH) were mature rather widows. Likewise, the daughters of the Prophet (PBUH) did not get married during their childhood(Ibn Hashsham, 1998).

Further, the behavior and attitude of the Prophet (PBUH) towards his wives, was perfect and ideal that could not be met by anyone (Rida, 1990). This discussion thus, leads that Islam does not encourage child marriage rather restrict it by imposing certain conditions for its validity.

Islam, in fact, considers fundamental rights as foregranted rights of humanity including men, women and children and prohibits all types of exploitation of these rights while early age marriage is a way to the exploitation of the fundamental right of childhood of the children (Razi, 2015).

It is this reason that the ‘Organization of Islamic Cooperation (OIC)’ adopted Khartoom and Cairo declarations (1990) in 2007 and in 2009

respectively, according to which all member states are bound to declare 18 years as the age of marriage and to prohibit early age marriage.

CONCLUSIONS AND RECOMMENDATIONS

This paper thus, concludes that the practice of child marriage is causing many socioeconomic problems for the country such as illiteracy, explosive growth of population, poverty, unemployment, child labor, psychological issues, family conflicts, chronic diseases, drug addiction and crimes etc.

It is also concluded that Islam has granted an immense jurisdiction to an Islamic state to legislate and to resolve the contemporary issues in the light of the changed sociolegal context. So, understanding the changed context and adoption of a flexible approach is the only way to resolve the issue. Thus, the current defined 'age of maturity as eighteen years for both boys' and girls' by UNO and by the state of Pakistan is not against Shari'ah and its objectives.

It is also concluded that the government, law enforcing agencies and society have failed to overcome the issue or to create awareness reading dangers of the early age, marriage. Most of the awareness programs, conferences and workshops are held at clubs and universities where poor and illiterate people have no access.

Therefore, there is a need for a purposeful and practical approach which may protect the children against detrimental outdated customs and which may assist the oppressed segment of the society in access to basic human rights.

This article thus, suggests taking the issue seriously, by all the segments of the society. For the government, it is necessary to ensure implementation of the laws which prohibit child marriage. It is also necessary to provide all the children free education till graduation. The GOs and NGOs should modify their policies of awareness programs and such programs should be arranged at each village and union council and should be discussed with the concerned people who experience the problems of the early age marriages.

For the department of education, it is necessary to make such type of social issues as the part of scheme of studies at secondary and higher secondary levels of education. It is incumbent upon the clerics to have scientific and contextual understanding of the provisions of the Qur'an and Sunnah (PBUH). Getting religious knowledge by limited studies or learning the Qur'an by way of literal interpretation is itself against the objectives of Shari'ah.

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