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CHILD MARRIAGE IN PAKISTAN- AN ISSUE OR A MISCONCEPTION: AN ANALYTICAL STUDY IN THE LIGHT OF SCIENCE, PSYCHOLOGY AND RELIGION

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Abstract

The issue of child marriage has been taken up as a serious issue not only in Pakistan but also in the world. It is creating negative impact affecting the young girl in manifold such as in social and physiological development, particularly in girls who are not prepared to get married at a young age. In South Asia, child marriage is not a new phenomenon and is affecting millions of girls every year. It has been a socially established practice carried on from generations after generations both in India and Pakistan.In Pakistan, as in other countries of South-Asia, child marriage is practiced more in rural areas as a mean to establish strong relations between families, to settle disputes between aristocratic and royal families and to make deals over land and property. Despite the establishment of international bodies and government laws, government in Pakistan is unable to enforce existing law to remove discrepancy between national law, customary law and religious law. Child marriage is considered a personal matter governed by culture and religion. Pakistan faces a serious problem of childhood marriage in its social system. The most significant cause is a combination of established traditional values, weakness in implementation of state law and social system.This research intends to takes up issue of childhood and marriage in Pakistan, in the light of science, psychology, Islamic law and different religions in order to understand event of marriage and prescribed age limits. Only then we will be able to differentiate child marriage, youth marriage, and early marriage in Pakistan and direct our efforts in right direction for girls who get married forcibly.

Keywords: *Child Marriage, Rural Areas, Aristocratic and Royal Families, Culture, Science, Psychology & Religion.*

Introduction

Child marriage has been a continuously debatable issue in the worldand the cases of child marriage has been happing in most parts of South Asia, South-East Asia, West Asia, Africa, Latin America and Oceania. According to UNICEF, Africa has the highest rate of child marriage as70% marrying under the age of 18 and even in developed countries like USA; more than 25 US states have not mentioned the minimum marriage age. In South Asia child marriage is not a new phenomenon and is affecting millions of girls every year. In South Asia, it has been a socially established practice carried on from generations after generations both in India and Pakistan.A thousand years interaction between the Hindu and Muslim societies in the sub-continent during the Muslims rule and British colonialism established a strong sense of assimilation of two cultures.Consequently, the Muslim society sought some significant transformation of Hindu culture values into Muslim society which included concept of childhood marriage.Historically, child marriage had remained into the gross root of Indo-Pakistani culture andwith the inception of Pakistan many traditional and cultural values were automatically transformed from Indian society into the new state of Pakistan.

In Pakistan, as in other countries of South Asia, child marriage is practiced more in rural areas as a mean to establish strong relations between families, to settle disputes between aristocratic and royal families and to make deals over land and property. Despite the establishment of international bodies and government laws, Government in Pakistan is unable to enforce existing law, to remove discrepancy between national law, customary law and religious law. Child marriage is considered a personal matter governed by culture and religion. Pakistan faces a serious problem of childhood marriage in its social system. The most significant cause is a combination of established traditional values, weakness in implementation of law and social system. Although the country's law consider the age of marriage as 18 for the boy and 16 for the girl, the undetermined date of birth doesn't allow finding out the exact age of the children. On top of it, amazingly there is no institution in the country which could look into the violation of the' Child Marriage Restraint Act 1929'.The tradition of child marriage have itself a deep cause in typical conservative society. Girls have been taken up as most sensitive and a prestigious value for a family whether rich or poor, literate or illiterate, right from her birth and wish for her marriage as the earliest responsibility.

Problem of Statement

The issue of child marriage has been taken up as a serious issue not only in Pakistan but also in the world. It is creating negative impact affecting the young

girl in manifold such as in social and physiological development, particularly in girls who are not prepared to get married at a young age. In the phenomenon of child marriage, problem seems to be linked with the understanding of concept of childhood and act of marriage in the society, among people and researchers. The research aims at to look into the phenomenon of child marriage, early marriage, forcibly marriage deeply and try to answer the question why child marriage is practiced in Pakistan and also in developed countries alike in spite of efforts to prohibit it at globally. The understanding of concept of child marriage and forcibly marriage is necessary before doing any effort to prohibit it globally. This research intends to takes up issue of childhood and marriage in Pakistan, in the light of science, psychology, Islamic law and different religions in order to understand event of marriage and prescribed age limits. Only then we will be able to differentiate child marriage, youth marriage, and early marriage in Pakistan and direct our efforts in right direction for girls who get married forcibly.

Objective

- To understand the concept of childhood and marriage
- To study marriage in the light of Science, Psychology and Religion
- To remove misconception of child marriage, youth marriage and forcibly marriage in Pakistani society

Significance

- It is a demanding study which needs to be elaborated for the purpose of well- being of Pakistani society.
- The study is important from different dimensions such as historical, cultural, and social value-system in this age of globalization.
- It has a particular value with reference to analyzing issue composing the Islamic principle and Child marriage
- It is significant with reference to Pakistan's obligations towards diverse internalization of human rights.

Literature Review

Nick Noriai (2001) has described marriage in Islam is a contract which has bases of "offer" and "acceptation" between not only one female and one male but the two persons. It implies that marriage is an event of beginning two families together through their children a boy and a girl to live in as part of family members in life to come. The Prophet (SAW) indicated clearly that marriage must take place between couples of the man has enough to carry out the responsibility of his wife. In Islam marriage is not a sacrament rather it is binding of two

individuals together in one soul and one body. However, marriage in Islam is a contract which is acceptable to both parties. Noriai elaborates this with support of documentation with minimum age of marriage in Islam with reference to Pakistan. He says that Islam has given a clear view on this question which has been adopted in Pakistan constitution of 1973. He also supports the Islamic view presenting - from Imam Abu Hanifa and gives example from different countries where the Muslims live in majority. He argues that child marriage was not introduced by Islam. Child marriage practice began basically from non-Muslims civilization and with the passage of time was adopted by the Muslim culture due to socio-political and cultural interactions.

Hanie Sinclair (2013) has developed a comprehensive study on child marriage in South Asia through international dimension. In Pakistan it was taken up as a pressurize challenge. According to Sinclair, 30% of girls in Pakistan became the victim of child marriage. A majority of the cases are from the rural areas. However, giving examples of Sindh she claims that a large number of ratio belongs to urban areas as well. To her, the major cause of child marriage in Pakistan is poverty kept under system of cultural traditions. She gives a negative picture of child marriage resulting into sexual abuse, use of dowry system, increasing rate of illiteracy among the girls, and also for economic benefit as earning hand. From medical point of view, it increases pregnancy complications and rise in infant death. Sinclair debates the process of legislation and its implications in country being weak and ineffective. The situation is more damaging where the young girls are given to older man in marriage.

Stephein H. Umetoto (2001) presents in his study a comprehensive analysis on early marriage. He believes that the most significant aspect of early marriage has been neglecting the human rights and therefore, should not be acceptable. He says that almost all over the developing world early marriage is very common. In case of Asia, though he does not include Pakistan in the top of the list, he still finds that 37 % of marriages in Pakistan are cases of child marriage. Like other authors he also beliefs that the prime cause of early marriage is poverty, particularly in the Middle East and South Asian societies. The major issue particularly relates to socio cultural taboo. Therefore what needs is to being socio- cultural development with particular reference to ruler society of developing nations. In short, early marriage leads to lack of enjoyment and having freedom of life because it kills the opportunity for the development of personality of an individual which includes health, education and future well-being.

Tonja Khabir (2008) deals with a comprehensive study of role of Islam in childhood marriage. His analysis is based on Nigeria as a case-study. He believes that child marriage is an international question because it directly relates to human

rights effecting particularly the girls physic, freedom, education, health and also sexuality which may lead to disease. Therefore, child marriage becomes a complicated problem and hence involves the human rights. Globally the acceptable marriage age has been taken up as 18 years for both male and female. However, legally developing nations generally mention 18 for boys and 16 for girls. His study is based upon strongly documented arrangements on the issue of principles of Islam and child hood marriage. Referring the case of Nigeria, he finds that early marriage is directly affecting the free will of the women in manifolds. He also finds that in most of the cases young girls are given too much older man in marriages which again is a question of human rights. Damaging or snatching the free will by early marriage is a serious threat to development of human mind, particularly a female. He believes that the challenges to child marriage can only be brought to a stable reform through religion trait in Islam. Although the child marriage restraint Act 1929 has established prohibition in this respect, the Act could hardly be practiced in almost all developing nations; early marriage is a common practice. He believes that it is hard to wipe out social values so easily but it is not difficult to take up the first step particularly, in a country which is under the different cultural values or banner of Islam.

Methodology

The study will be taken up with the help of qualitative research method. The qualitative method covers the documented books, articles and library help. It is a descriptive study where exploratory and explanatorily methods will be used for finding the factors effecting childhood marriage. Moreover, the study will be made through historical perspective for exploring the historical factors which has affected the social cultural values of Pakistani society in this regard. Correlation aspect of research method will also be used for analyzing the study relating the existing social norms and the Islamic principle based on Sharia along with other religions to understand the subject.

Discussion

History of Child Marriage

Child marriage is a global issue irrespective of East or West. It has remained common throughout human history and even in contemporary society. History provides many examples of child marriage such as in1552,John Somerford at the age of three years and Jane Somerford Brereton at the age of two years were married (Heinrich Ploss & Bartels, 1935, p. 129). More than half of the States of the United States have not mentioned the minimum age of marriage and several has stated it as 14 years (Law, 2017). International human rights organizations have condemned it(Hoffman, 2013). In some cases marriage is decided at the

birth of girl. Feminist activists in late 1800s raised their voices for age of consent law in England and United States which was implemented in1920 and age was raised to 16-18 (Bullough, 2008). The term Child Marriage is perceived for both, boy and girl, but the effected majority is that of girls(UNICEF, 2012). In majority cases, one partner, usually female, is child to place importance upon female virginity. Even today, child marriage cannot be eradicated or diminished or controlled in many parts of the world. South Asia and sub-Saharan Africa are on top of the list where more than half of the girls are married before 18 in these regions(WHO, 2013). Though in developed states, child marriage is illegal or controlled, it is in practice in many countries.

It is difficult to trace out the history of young age marriage with reference to its origin. However, in the context of Indo-Pakistan history the concept of child marriage has been found throughout the ages and before Islam in Arabia, such practice was in use as a common tradition of society. Therefore, it would not be exaggerating that child marriage has remained a part of tradition which continued from ancient to medieval to modern and up to the contemporary period of time. With the creation of Adam and Eve, marriage became a traditional act to enlarge family by producing children which implies that the marriage is a phenomenon between man and woman to make and enlarge family member and it requires a certain age of both genders. Moreover, Islam claims that for marriage the women must be of sound mind to accept the husband (Quran, 4:6). Further Islam also defines the concept of adult women which according to that is attaining the age of puberty.

A wide range of history shows that the Arabian world as well as in Indian civilization early marriage was common social act. Although with the arrival of Islam, a strict law was framed about the right of women's consent as necessary about marriage, post Islamic society continued such old social practice ignoring the *Sharia*. The well-established ancient Indian social system traditional values continued in Hindu culture and tradition of young children marriage, before puberty, became a common act maintained by *Panchyat System* in Indian villages and was never taken up as threat to human right. Rather it was accepted as fulfillment of the responsibility of parents and family to perform their duties by marrying the child as the earliest possibility. Therefore, marriage before puberty became a strong hold of socio cultural taboo of Hindu culture

The historical factor of child marriage shows a serious impact of socio cultural values continuing from the ancient period of Indian society. We also noticed that the impact of Hindu cultural system was inherited into the Indian Muslim culture in the sub-continent effecting child marriage social act. Moreover, the presence of caste-system and tribalism under the influence of agrarian, *Jagirdaari* and

Zamindaari Nizam further strengthened the practice of child marriage in Pakistan. Many factors such as social and religious pressures, poverty, dowry, laws allowing -child marriage, bride price, regional and cultural customs, perceiving women unable to work for money, vicious of fears like to remain unmarried, involvement in illicit relationship, to choose partner, are involved in making early marriage or adolescence marriage. On the other hand, there are several social weakness and traditions which are still practiced in Pakistan with reference to child marriages to let it continued. The first one is called *Swara* or *Vani*. It is in practice in many rural areas of Pakistan where young girls are married to resolve the dispute of unpaid debt or family dispute by elders. The average age is from 5 to 9 years. This tradition is practiced through *Jirga* or *Panjat* which is consisted of elders from the locality. Second is called *WattaSatta* which is an exchange of marriage. In traditional custom of tribal areas, child girls are given in marriage in exchange between two parties. Third is known as *PaitLikkhi*, a tribal or regional ruler area tradition in which two families agree to marry their children. The marriage takes place at an early age of the woman who hardly reaches the age of 13 at the time of marriage. Such social norms are examples of acts going against the international commitment of human rights. In Pakistan, in 50% of all marriages girls age is less than 18 years according to two 2013 reports(Tribunes, 31 August 2013.). UNICEF also reports that 70% of girls get married before age 16 in Pakistan(Thestar, 2013.). Andrew Bushell reports marriage of 8-13 years old girls in Northwest areas of Pakistan is more than 50% (Bushell, 11 March,2002).

The Perception of Child Marriage

Marriage is a social, religious and legal contract between a man and woman to enter into interpersonal relations (usually sexual relation) and acceptance of it is to be emotional partner of each other for the rest of life. Marriage is recognition of certain rights and obligations by two persons entering into wedlock. In the eastern countries culture, marriage is compulsory before pursuing or adopting a sexual activity whereas in the west culture, marriage is not considered compulsory for interpersonal relationship. Marriage may be an arranged marriage (parental choice), individual likening (personal choice), forced marriage (without consent) and child marriage.

Generally speaking, a marriage is called a child marriage when one or both spouses are under age 18. It is related to child betrothal and teenage pregnancy (UNICEF C. M.-H., 2011). The term child marriage connotes different meaning. In common language or discourse or in common people understanding, child marriage means to enter into marriage contract by an individual before reaching a certain age and specified by many states and global organizations as

18 years ("Child Marriage"., 2017). The age prescribed by modern state system is 18 years while on the other hand, marriage age mentioned by religion (Jews, Christianity, Islam) is the age of ”Puberty”. Religion is not silent about question ‘when to marry an individual’ and provides guideline about it. In Christianity, ecclesiastical law allows marriage of a girl at the age of puberty(Burn & Tyrwhitt, 2012, p. 54). Hindu religious book *Vedas* mention the age of girls to be adulthood defined as three years after the onset of puberty("Vedic index of names and subjects"). Jewish scholars also forbid marriage before puberty (M.A, 1980). In Islam, the marriage age is described as on reaching age of puberty. Thus puberty is a physical indication about an individual on reaching sexual maturity and be able to enter into physical relationship with opposite gender.

Question arises here whether a child marriage after puberty should be considered a marriage of a child or not? To answer this question, first we have to determine up to what age an individual remains a child and when an individual leaves its childhood stage. Science and biology confirm that after puberty an individual is no more defined a child because a human body has developed and becomes capable of reproduction. This stage is called Adolescence. Sigmund Freud, an Austrian Psychoanalyst, has described psychosexual stages of personality development as Oral Stage, Anal Stage, Phallic Stage, Latency Period and Genital stage (Kring & Johnson, 2010, p. 19).According to him, genital stage is the final stage when an individual develops a strong sexual interest in people outside the family. This stage begins after 12 years of age as soon as the puberty hits. Biologically puberty in girls begins between 10 to 14 years of age and in boys puberty begins later than girls, between 12 to 16 years of age. Erik Erikson, a German Psychologist and Psychoanalyst, has also mentioned different stages of personality development in humans and identifies that Adolescence age starts from 12 years up to 19 years (Santrock, 1997, p. 34). According to WHO, the adolescence period is followed by onset of puberty during which a young person develops from a child into an adult (Adolescent-health). It is a transitional stage in which a person is neither a child nor an adult in the view of society, as the person has reached the physical maturity yet has to achieve the mental maturity (Santrock, pp. 387-89). In adolescence, after puberty, sexual urges arrives and an individual learns to control and direct these urges during this period. Science has described puberty as a stage when child’s body develops into a mature body capable of reproduction through achievement of fertility and sexual maturation (Biology-Puberty). In the onset of early or delayed maturation, some factors like environmental and nutritional are also involved. Islamic definition of puberty is in accordance with the scientific explanation of puberty. Reaching puberty means that the sexual organs of two opposite genders have developed and are mature for physical interactions. Since Islam and other religions prohibit illegal physical

interaction, it encourages youth to get married to have lawful relations and satisfy their physical desires appropriately after puberty.

All the religions including Islam, have provided criteria for an individual to marry. If both genders follow religious values, importance should be given to financial status of male spouse. According to Islamic teachings, the boy has been asked to remain unmarried and continue fasting until he becomes financially stable and is able to fulfill his financial responsibility of marriage (Quran,65:6). He should also focus on mental maturation. The purpose of fasting is to train individual male to control his desire till marriage (Nor, 2017, pp. 300-301). About marriageable age of partners, Islam teaches that partners should be of sound age and having sound judgment which means he person has developed mentally, psychologically, and physically. Islam clearly indicates: ”And test the orphans [in your charge] until they reach a marriage-able age; then, if you find them to be mature of mind/sound in judgment, hand over to them their possessions…” (Quran, 4:6). Moreover, a girl has the right to nullify her marriage arranged by her parents (Nori, 2017, pp. 322-323). Islam also prohibits forced marriages as mentioned in the Holy Quran. It reads: “O You who has chosen to be graced with belief! It is not lawful for you to force women into marrying or holding on to them in marriage against their will” (Quran, 4:19). If girl is not young enough, her father can make her *Nikah* (Marriage Contract) as being *Wali* (Guardian) but she cannot be forced into physical interaction with her husband until she reaches age of puberty.

Conclusion

The perception of child marriage is misinterpreted by the society. The marriage of a child after puberty would not be called child marriage. After puberty a boy or girl is no more considered a child as he or she entered adolescence period leaving behind childhood. Marriage of a boy or girl after puberty is not a child marriage. Marriage after puberty itself is an indication that a person has reached fertility and is capable of reproduction to maintain sexual relations which is one of the objects of marriage to enlarge family. All religions provide a clear guidance for marriage after puberty starts. Science supports religious guidance by confirming that there are natural urges for opposite gender after puberty defined as adolescence period. In the developed countries, sex education has been started at the primary school level when an individual is in its childhood, before puberty period starts. Giving sex education is giving awareness to them. But this awareness before time may add to their curiosity of increasing their desire to indulge into sexual relation. After getting sex information at an early stage, a boy or a girl psychologically does not remain a child though he or she is biologically a child and still unable for fertility and reproduction. Under such condition early childhood sex education

may be harmful and is therefore, generally avoided or prohibited traditionally in developing societies.

Problem arises when a girl is made to marry and entered into physical interaction with her husband if she is married before reaching age of puberty. Such marriage is called Child Marriage. All research works done by NGOs on child marriage in Pakistan show that the marriages have been performed before age of puberty the girl is handed over to her husband after puberty as Nazia case of 2013 in Khyber Pakhtunkha which was reported by Adraina Carranca. Such cases would not be scientifically and religiously defined as Child Marriage. Rather it will be called Adolescence Marriage, or Early Marriage or Youth Marriage as marriage contract is performed after puberty that is in adolescence period when the girl (wife) is biologically and psychological ready to enter into physical interaction with opposite gender (husband).During the adolescence period they are not child anymore as they have reached physical maturity. It is a transitional stage from childhood into adulthood. Hence marriage at this stage is not a child marriage because the child (girl) has reached a physical maturity. At this stage the child is neither a child (as physical maturity has been achieved) nor an adult because mental maturity is yet to be achieved that is why adolescence period is referred to as transitional period. Therefore, main issue in Pakistan is not the child marriage. The real issues enforced marriages in which girls' consent is not involved and girls are either victimized on the basis of traditions like *Swara* or sold to older men under the name of marriages. Social issue is that of age difference between girl and groom. Girls become victim of domestic violence and this ratio is increasing when she gets married to a much older man while she s not even 18 years old. Such marriage may be considered as a forced marriage because girl is not adult enough to have a sound mind for giving consent to accept marriage.

The traditional concept of early marriage or adolescence marriage is prevailing in history from ancient times in the world society and existing till date. Child Marriage implies that a girl is married before she reaches age of puberty. Getting married during the age of adolescence is acceptable both by science and by religion. Even NGOs in Pakistanhave concluded this in their findings that thoughthe girls got married before puberty they were sent to their husbands after they reached their ages of puberty. However, the critical issue remains in question that is about getting a child girl married without her consent which Islam also does not allow.

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