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Abstract

In American media, the term "sharia law" is repetitively used as a reason behind practices and actions linked to Islam which would be considered counter to Western morals. The term "sharia" is first clarified as having many definitions, but in legal terms each Islamic nation has their own version of "sharia." Child marriage is one of many topics often blamed on "sharia" and this essay attempts to debunk the Western portrayal of "sharia" by exploring the reality of child marriage in some Islamic nations. The examples depict both situations in which the people, despite the laws, are actively keeping this practice in place and a disconnect between child marriages and a lack of access to education for women. In conclusion, there is a variance between the depiction of "sharia law" in the media and the reality of "sharia" in many Islamic nations.

Keywords

sharia, sharia law, child marriage, early marriage

Disciplines

Anthropology | Family, Life Course, and Society | Islamic Studies | Near and Middle Eastern Studies | Politics and Social Change | Regional Sociology | Social and Cultural Anthropology | Sociology of Religion | Women's Studies

Comments

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The Myth of “Sharia” and Child Marriage

by Megan Luckenbaugh

Since 9/11, the American media has been flooded with the stereotype of Muslims as terrorists, closely followed with the mention of “sharia” (Hoewe et al. 2014, 67). Islam has been presented to the West as a political issue and an inherent threat guided by this unrelenting doctrine called “sharia.” Americans are thus led to believe that “sharia” is a totalitarian force oppressing citizens of Islamic nations and restricting them to live in contrast to the good morals of the West. This essay will attempt to debunk the view of “sharia” portrayed by Western media by delving into one topic that is frequently blamed on this concept, early or child marriage. Despite the frequent blame on “sharia,” there are laws in place in some Muslim nations which attempt to prevent or ban early marriage, yet citizens themselves are continuing the practice on their own. Early marriage is chosen by the people within these societies, and, therefore, we must consider their justifications for following this tradition despite legal prohibitions.

Before discussing the situation of individual nations in relation to early marriage and “sharia,” the definition of child marriage must be fully understood. The 1990 United Nations Convention on the Rights of the Child considers a child to be “every human being below the age of eighteen years” and condemns any marriage before this age (Butt 2015, 162). The United Nations has pressured many nations to raise the legal age of marriage to eighteen, which will be seen later in the essay in nations such as Morocco.

The media in the United States depicts “sharia” as one set of restrictive laws of “the enemy” which guides and forces civilians in the Muslim world to live “backwards” (Hoewe et al. 2014, 67). “Sharia” can be defined in many ways. On the simplest level it is the “ideal path” or way of life that Muslims are meant to follow according to God (Evrard 2014, 177). The more

relatable definition to the Western representation is that “sharia” can also refer to laws which govern many different aspects of the nation (Evrard 2014, 178). It is most important to understand that each Muslim country has its own version of “sharia” which can then be negotiated and changed. The inaccuracy of the media’s depiction is astronomical, as “sharia” cannot be considered a totalitarian set of laws when there is not one set of laws called “sharia.” Since each nation has its own laws, programs, early marriage rates, and cultural issues regarding child marriage, this essay will proceed by examining the various circumstances in nations with different situations in regards to early marriage.

Despite over two decades of large-scale governmental intervention, recent statistics show Bangladesh has the highest prevalence of child marriage in the world (Kamal et al. 2015, 122) with 77 percent of women married before age eighteen (Godha et al. 2013, 554). The law today in Bangladesh clearly states the legal minimum age of marriage is eighteen, yet early marriages are the custom across the nation (Schuler and Rottach 2011, 254). Beginning in the late 1980’s and early 1990’s, the Bangladeshi government implemented various programs to empower women which the developing world believed would diminish the incidence of early marriage. Microcredit programs, which provide small loans with little interest to impoverished people to encourage their ability to be self-employed, spread across the rural regions of the nation during this time period. Access to health care and education were both dramatically improved, and by 2004 female enrollment exceeded male in every grade through secondary education, which led to a drop in total fertility rate. However, the early marriage rate has remained high. Regardless of well-intended laws and programs, there are more complex factors in play in the issue of child marriage.

The people living in Bangladesh are specifically choosing to continue the custom of early marriage, which encompasses many different factors that lead to a family having their daughter marry young. A 2011 study interviewed women who, from the Western perspective, were empowered according to a survey, along with their mothers, mother-in-laws, husbands, and father-in-laws (Schuler and Rottach 2011, 256). The first finding was that all the respondents could easily describe risks of marrying before the age of eighteen and that some mothers admitted regret in marrying their daughters at a young age, showing that these issues have been discussed before and that the families that marry their children young are aware that there are issues with this practice (258). Throughout the study, parents gave many explanations for marrying their children at young ages. Empowered mothers valued education for their daughters, which they had not received, yet felt major concern about exposure to sexual content in mainstream culture that might encourage their children to engage in sexual activity young and, thus, felt it was too dangerous to leave their children unmarried. Several families also indicated the financial hardship that comes with having a daughter and societal obligation to marry their children early (260). In a marriage in Bangladesh, the girl's family is expected to bring a dowry, which can be set by the groom's family; according to the participants, dowries would increase as a girl grew older (260). Even the local elites admitted that keeping a girl unmarried and in school was a luxury that was impossible to afford for poor families. Each of these reasons for marrying daughters early disregard the clear law in Bangladesh, legalizing marriage only after the age of eighteen. Therefore, "sharia" cannot be the reason Bangladeshi families practice child marriage.

While the government of Bangladesh has worked for many years to attempt to raise their age at first marriage, in 2004 Morocco reformed their family code, the Mudawwana, to change the legal age of marriage to eighteen for girls (Evrard 2014, 207). However, there remains an

outlet for families to legally continue child marriage. Parents file a petition for a judge to allow their child to be married before the legal age for special circumstances, with the consent of the child's *wali*, a male guardian who traditionally signs the marriage contract. The judge is not required to meet with the child and, in 2010, it was found that 90% of requests have been granted, meaning child marriage is essentially still allowed (Sabbe et al. 2015, 136). The reform of the Mudawwana shows "sharia" can be changed and is not the cause of the continuation of this practice.

To "explore perceptions of marriage, partner choice, factors leading to forced marriage and child marriage, preventative aspects (obstacles in preventing child and forced marriage) and decision-making power in relationships" (Sabbe et al. 2015, 138), a study was done in Marrakech, Morocco, of women older than eighteen. Though this study focused more on forced rather than child marriages, girls younger than eighteen years old are more likely to be forced into marriage (136). The results of this research found trends which explain participants' views on marriage in Morocco. First, the participants came to a consensus that the current legislation was insufficient on its own or was not enforced properly (141). The women noted the corruption in the legal system that allows for circumvention of the law and gave many suggestions for new laws that would improve the situation, such as banning all people but the couple from the wedding ceremony so there is no persuasion or silencing. Second, participants agreed that non-governmental organizations can be beneficial, but the father's authority should not be threatened: "Strangers should not intervene, so the father still has the freedom of choice" (143). In this way, the women show patriarchy of the family in Morocco and the ways it is respected.

As in Bangladesh, one of the most referenced reasons for forced marriage was financial burden on parents and the need for poor families to marry off their daughters early. In terms of

financial stress, women emphasized the burden female education placed on the family; fathers feel it should be the husband's responsibility since he will benefit (139). The Moroccan women in this study, just as in Bangladesh, reiterated the social anxiety around marrying off daughters and that "fathers are vigilant to respect cultural norms whereby a girl may not exceed a certain age for marriage" (139). Culturally speaking, therefore, it is unacceptable to wait until the official legal age to marry, so families feel they do not have a choice. Another trend in the study was that older women often voiced the importance of girls listening to their fathers' advice and attempting to make forced marriages work. These older women were from all different parts of Morocco, but were illiterate, thus showing a potential for change with female education and a change in generations.

Finally, there was a strong correlation between women being forced to marry a man and their inability to make decisions on their own. This inability was justified by these women in statements such as this: "It is important that he controls you so you become like a machine that he operates as he sees fit. ... I don't have the right to decide [about sexual relations]. He decides everything" (143). The women who were not part of a forced marriage still had a fair amount of restrictions in decision making, showing the dramatic patriarchal control that exists within Moroccan families. This study reveals that, though legally Moroccan law is not strictly enforced, there are many other reasons why the practice of child marriage continues at high rates.

Bangladesh and Morocco both show a similar view of early marriage, with laws enacted to counter this issue without resulting in decreased rates. These both show that "sharia" is not an oppressive set of laws that force girls into marriages at young ages; rather, the citizens within individual societies are upholding these traditions for various reasons. What these cases do not show, however, is a new view of the lives of girls who are married as children.

The situation in Iran completely turns the view of early marriage on its head. The legal age of marriage in Iran is thirteen for girls and fifteen for boys, but the key point this nation illustrates is that “the connection made between education, delay in the age of marriage, and the economic empowerment of women is not straightforward as it may appear and does not necessarily lead to the ideal solution” (Tremayne 2006, 70). While the places which have early marriage practices in Iran have similar cultural contexts, this specific study focuses on Yazd (74). As a town with very high female literacy rates and “one of the highest levels of socioeconomic development in the country,” Yazd has reserved the majority of its traditional and religious aspects (75). The town is surprising also because it is considered the most conservative in Iran, with deep-seated religious and family values and the lowest divorce rates in the nation. It should be noted that this study focused on the most conservative portions of Iranian society. There are much more liberal segments of society, with men and women both having prestigious careers outside of the home.

Three generations of women in Yazd who were married as children were interviewed in this study about their experience in marriage. The first two generations of women agreed that at such a young age they were not coerced or beaten into marrying because they did not consider refusal an option and relayed the horrific shame that would have come had they not married (78). Women from the second generation did mention some persuasion, which the interviewer suggested may be a reflection of their higher education and ability to recognize that they were persuaded. However, one of the women’s testimonies states that she was told by her parents that it was her personal decision to make. For women in solid marriages, education for their daughters was very important, but it was meant to better their chances in marriage (82). Education was shown to be valued by the community and was not considered to be a barrier to

marriage. Some participants discussed societal pressure to keep daughters in school, yet girls would also have difficulty finding a husband if she had passed “desirable childbearing age,” which is societally more important. One woman’s opinion was particularly telling of opinions in this community: “Nowadays there is great pressure on our girls to continue their studies, and even our husbands have to submit to the pressure of letting the girls finish at least the secondary school. But the girls leave school and cannot find jobs, have no skills, have to sit at home, and can't find a husband either. In our community, no man who has a choice will marry an older girl who has passed her 'desirable childbearing' age. So maybe it is better to marry the girls off if they have a good suitor than let them stay at school” (82).

This discussion shows the deeply-ingrained value of secondary education as well as marriage and the contradiction they can sometimes cause. Participants were amused when questioned about the idea of “early marriage” because this concept was foreign to their values and they had never considered any other way. The average age of marriage for the second generation of women was twelve to fourteen, but the average age of marriage seems to be gradually rising (87). Literacy rates are rising, too: “The third generation, some still in their teens, is more literate compared to the first two generations. Several have completed either the first part of the full term at secondary school, while others have left school voluntarily” (79). Tremayne concludes that “a woman can be a highly respected practicing medical doctor, but if she remains unmarried ... her identity will remain uncertain, with people looking at her as an object of pity or wonder” (Tremayne 2006, 82). The norm in this community is to complete secondary education before marriage; however, higher education is much less common (Tremayne 2006, 86). The medical doctors in Yazd, while able to list health risks of early marriage, refused to condemn the practice because of social advantages. Iran is a dramatic shift

from the traditional understanding of child marriage because the social norm is for girls to be educated yet they are married at very young ages. The Western media portrayal of “sharia” and early marriage is baffling in its insistence that “sharia” is a set of laws forcing all Muslim women to marry and preventing them from acquiring education.

This essay is not meant to gloss over the many health and social risks proven to be linked to girls marrying before the age of eighteen: “Girls of age 15-19 years are twice as likely to die of pregnancy-related complications” (Mostafa 2012, 121), and this is one of the primary causes of death for females in that age group worldwide (Sabbe et al. 2015, 137). Studies have also shown associations between risks of sexually transmitted diseases, fetal mortality, psychological disorders, sexual abuse, and cervical cancer (Mostafa 2012, 121), and “younger married women, from 18 to 24 years of age, experience a higher rate of violence than married women between 35 and 39 years (Sabbe et al. 2015, 137). Early marriage can be very dangerous for young girls, and, as stated before in regards to Bangladesh, many mothers are aware of these risks. The purpose of this essay is to show that the issue of early marriage is more complex than health risks and forceful laws; there is a system of factors which lead people to continue this practice despite potential dangers. While the U.N. Convention on the Rights of the Child mentions health risks and feelings of financial stress, the social harm that can come with a woman staying unmarried is ignored (de Silva-de-Alwis 2008, 2). The U.N. does not discuss the social aspects which lead to the continuation of child marriage. For example, the cultural norm in Morocco is to marry before the legal age of eighteen, and it is seen as an obligation, not a choice, to marry young (Sabbe et al. 2015, 139). A girl who is not married by eighteen is viewed as shameful in many of the nations discussed and is often considered to have been wasted by this age. Unfortunately, this is not the primary concern for the U.N. and NGOs while working to end early marriage. If the

cultural entrenchment of this practice is not changed, then even improved education will do little to make a difference. An analysis of education and child marriages in Bangladesh, India, Nepal, and Pakistan shows flaws in the assumption that improving female education will end child marriage. For Bangladeshi and Pakistani girls, primary education was not enough to prevent early marriage and even secondary education was only effective for girls under fifteen (Raj 2014, 3): “Universal high quality secondary education may be gender transformative and is likely necessary to achieve reductions in early marriage among girls in South Asia, but by itself it will not be insufficient to achieve the global goal of elimination of girl child marriage” (8). All of the social factors which lead citizens to keep the practice of child marriage in place must be considered in order to make a true impact on ending child marriage not only in Islamic countries. It can be possible to find valid justifications for this practice whether based on the situation of the parents or the future for the girl, which must all be considered when addressing child marriage.

“Sharia” has been frequently used in the Western media, along with the portrayal of Muslims as terrorists, without providing a full understanding of “sharia.” Everything that the West views as wrong in the Middle East is linked to “sharia,” despite each nation having its own form. Child marriage in Muslim nations is assumed to be the result of force by this oppressive set of laws. However, in Bangladesh and Morocco the national government has spent decades implementing various programs to end the high rates of child marriage by empowering women. The people, rather than the laws, are the ones keeping this tradition in place, and there are explanations for why people continue to practice early marriage. In some nations there are serious financial and social stresses which make breaking this practice extremely difficult for families. Mothers often fear the detrimental risks of letting their daughters wait to marry until

later. These citizens are not being pressured by the law but are making a conscious choice for the protection of their daughters or feel they have no choice because of societal pressure. The case of Iran proves that a community can both value female education and early marriage simultaneously because both of these are the social norm. The justifications for child marriage are important to consider before condemning all societies with any occurrence of this practice. In the United States, people are flooded by the media with stereotypes of what Islam entails and how the laws in Muslim nations are creating horrific lives for Muslims. It is essential for the West to understand that many Muslims are continuing these practices on their own, for a variety of important reasons, and that “sharia” is not forcing them to marry young.

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