



## **The Role of Islam in Childhood Marriage Case Study: Nigeria**

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### **Abstract**

Childhood marriage is serious global issue. It has negative implications for young girls and women that include lack of access to education, freedom of will, and the vulnerability to health problems, such as infant and maternal mortality and sexually transmitted diseases. In Nigeria, the incidence is highest in the northern region, where the practice of Islam is also most prevalent. The purpose of the paper is to discuss the role of Islam in the country of Nigeria and to understand how childhood marriages occur today despite its negative implications.

Childhood marriage is a complicated issue that affects the human rights of women across the globe. This issue is considered a violation on a major scale by activists today because of its harmful implications (Forward, 2008). A childhood marriage is defined as a union where one or both partners are 18 years of age or younger. This usually happens through arrangement or parental consent (Population Council, 2004). In most cases, it is the female who is underage and married off to a much older male. This creates many problems that affect the rights of women globally. When married off at such a young age many girls experience lower access to education, healthcare, and general freedom of will (Population Council, 2004). They are more prone to diseases such as HIV/AIDS, as well as maternal and infant mortality. Because of the recognized dangers and implications, with the help of international conventions the marriage age has been established at 18 (Population Council, 2004; International Women's Health Coalition, 2005). The issue, however, is still a major problem as there are other circumstances surrounding the issue.



In Nigeria, the incidence of child marriages has heavy implications that affect the healthcare and treatment of women in the country. The incidence is much higher in the northern region of Nigeria where prenatal care and free will for young married women are lower than in other regions of the country (Bello and Erulkar, 2007). Coincidentally, the Northern region constitutes a majority of the Muslim population. With 53 million Muslims in the country, Nigeria has the second largest population of Muslims on the continent (Aymer, 1996).

The significant presence of Islam in the law and way of life in Nigeria beckons the question: what is the nature of the involvement of Islam childhood marriages in the country? This notion brings up several other questions for discussion. What is the reality of this issue? What is the nature of its implications? How can the negative implications of this practice be separated from religious tradition in order to bring a necessary change to such a societal issue? What are the prospects for stability and change?

Islam is a monotheistic religion derived in the 7<sup>th</sup> century A.D. by the faith and messages of the Prophet Muhammad (PBUH). Islam is Arabic for surrender or submission for Muslims are to submit to the will of God (Esposito, 2005:12). The Prophet Muhammad's (PBUH) purpose was to bring forth the word of God, which exists through his recitations. These recitations were learned and memorized and became a form of holy law for the Muslim community. It was called the Qu'ran, an Arabic word for recitations. As the holy book of the Islamic religion, the Qu'ran serves as the primary source of Islamic Law (Esposito, 2005:17).

The status of women is has been implicitly stated in Islamic Law through the Qu'ran. Though the prophet Muhammad (PBUH) provided a reformation of the position of women in society through the Qu'ran, verses such as these that condone polygyny and show humiliation at the birth of a female generate problems of discrimination (Esposito, 2005: 15)<sup>i</sup>. Since Pre- Islamic times, the rights of women have been drastically improved. Practices such as marriage, divorce, and property rights have been enhanced; however, women still face the challenge of unequal status (Esposito, 2005).

The actions of the prophet Muhammad (PBUH) were taken into account to create Islamic law. His example is followed within Islamic law as practices such as polygyny



and child marriage are instituted officially into law (Esposito, 2002). Muhammad <sup>(PBUH)</sup> had nine wives, many of which he married for protection as they were widowed from friends of his (Esposito, 2002:14). The Qu'ran allows Muslims up to four wives provided they can care for them equally. Although due to reinterpretation of the Qu'ran, most Muslims in the world today practice monogamy (Esposito, 2002: 102- 103).

Of Muhammad's nine wives the one he loved the most was Aisha (Esposito, 2005). Aisha was nine years old when she was married and Muhammad <sup>(PBUH)</sup> treated her as his child. Childhood marriages at that time were not uncommon (Esposito, 2005). But in Islamic law, the fact that Muhammad practiced this only reasserts that childhood marriage was accepted by Allah.

The concept of marriage was a traditional act that was important for the progress of both the individual and society as childbirth and family were central to the purpose of life (Esposito, 2001). One of the requirements of marriage according to Islamic law is that the woman be of sound mind and a consenting adult. However, an adult woman is considered one who has attained puberty and by the standards of pre- Islamic law, this is at the age of nine. This age was appropriate for the agrarian society that Arabia found itself as. This age also meant that she had many more years of child bearing ahead of her, and therefore was a positive notion for the community concerned with family (Esposito, 2001:15).

The Maliki School of jurisprudence has a lot to do with why notions of Pre-Islamic time are abided by in a modern society. Of the four major schools of hadith, the Maliki School or *madhhab* is practiced in Nigeria. The Maliki *madhhab* shares similarities with African cultural tradition such as ties of kinship which were rules within the law. The *madhhab* favored the less commercial or cosmopolitan society as well. The Maliki *madhhab* was also chosen as method of jurisprudence in Nigeria because of its use in countries on the *hijra* path to Mecca. Despite conflict, this madhhab came to dominate the Nigerian region (Christelow, 2000).

The Maliki Madhhab was founded by Malik Bin Anas. It is a contemporary school of thought derived from his many years of study in Islamic jurisprudence (Madkur). He was taught by Rabi't al- Ra'i, founder of the Ra'i school of opinion and



became a prominent jurist and teacher in Medina (Madkur). Malik created a book on Islamic jurisprudence called the *Al- Muwatta*. It was one of the first books on Islamic law and included the *Sunnah*, the *ijma*, legal arguments justified by the Qu’ran and tradition, along with his own opinion on sacred text (Madkur, 1965:54; Esposito, 2005:77).

Primary concepts in the Maliki School are as follows: the Qu’ran is the first source checked for jurisprudence; if the Qu’ran is not helpful, the *Sunnah* is then checked for jurisprudence; followed by the *ijma* or consensus of the Companions and Successors; the practice of the Medinians is also accepted for the creation of Islamic law (Madkur, 1965:54; Esposito, 2005: 82). If these concepts are not helpful, then his own opinion and that of other prominent jurists or Ra’i is accepted as law. In the same manner, a method called *istislah* is checked for Islamic law. This concept of *istislah* institutes the consideration of community interest, which led to the refinement of Islamic legal tradition (Christelow, 2000). This is an important aspect of *madhhab* that can help in the issue of child marriages.

Islam has become a religion in households across the globe. Presently, it is the second largest religion in the world spanning the continents of Asia, Europe, North America, and Africa (Esposito, 2005:1). On the African continent, the religion is everywhere as well. In Nigeria alone, 50% of the population is Muslim (CIA, 2008). This is because of the strong history that Islam has in this region.

### **Islam in Nigeria**

Nigeria is located on the south western Coast of Africa. It is surrounded by Benin on the west, Niger to the north, Chad and Cameroon to its east, and the Atlantic Ocean to its south. It is 923, 768 square kilometers around with a population of about 138, 283, 240 (CIA, 2008)<sup>1</sup>. Today, the historical map of Nigeria is drastically different from when the area was first encountered with the Islamic religion<sup>2</sup>. Islam first appeared in Sub-Saharan Africa in the fifteenth century. Nigeria, at that time was identified as only part of the larger area known as *Western Sudan* (Shillington, 2005). It was there that Islam was adopted through the trans-Saharan trade as gold, spices, and leather were traded for

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<sup>1</sup> See Figure 1

<sup>2</sup> See Figure 2



weapons and other materials foreign to the sub-Saharan region (Shillington, 2005; Tuareg, 2004).

Islam first arrived on the African continent in the tenth century A.D. As Arabs began to migrate out of Arabia their religion traveled with them, thus beginning the *Arabization* or *Islamization* of Africa<sup>ii</sup>. Though scholars feel differently about the two concepts of conquest, it is certain that the religion of Islam took hold first, with exchange of language and culture second. Religion after all was the primary focus of the conquest (Robinson, 2004: 27). Muslims first occupied Egypt, slowly moving toward the west. By the twelfth century they had conquered all of North Africa (Shillington, 2005).

Muslim merchants penetrated into African society in small communities. At the outset, they integrated into these societies without greatly affecting the dynamics of the societies (Shillington, 2005). They remained in small quarters and interacted mainly for the purposes of trade. Inter-marriaging began to occur. And as the indigenous populations began to see value in their presence, the adoption of the Islamic religion began to occur on a larger scale (Christelow, 2000). This religious transferal was first seen in the royal courts. From there Islam reached the larger population (Robinson, 2004; Shillington, 2005)

In Nigeria in particular, Fulbe pastoralists accepted the religion of Islam first. Muslims traders from Northern Africa and Tuareg pastoralists from the Sahel transferred their beliefs through the trans-Saharan trade (Shillington, 2005, Tuareg, 2004). Those who traded with them adopted Islam as it appealed to their status as inferior to their more dominant neighbors. Where they were forced to pay taxes and in many cases enslaved, in a sense, the religion was adopted as an alternative to the practices of their more dominant neighbors. By the 18<sup>th</sup> century, Fulbe scholars were regarded as esteemed even as those Arab scholars of the Middle East. The Fulbe, who are known by their Hausa name, Fulani, spread Islam by converting their neighbors. It came to dominate the area now known as Nigeria (Shillington, 2005).

With the adoption of Islam in Africa, legal practices of the religion took hold. However, Islam on the African continent was not complete in its original form. What took place was a merging of culture<sup>iii</sup> and religion in the *Africanization*<sup>iii</sup> of Islam.



Though many of the fundamental principles remained, such as the five pillars and the commemorative hijra, the laws of both the African and Islamic societies survived (Robinson, 2004).

Today, northern Nigeria is dominated by Muslims who constitute an even half of Nigeria's population (Aymer, 1996, CIA, 2008). Christians constitute an overwhelming 40% of the population while those practicing traditional belief constitute 10% (CIA, 2008). The incidence of childhood marriage is much greater in the northern region of Nigeria, where the practice of the Islamic religion is more dominant (Bello and Erulkar, 2007).

The most recent debate about Islamic law is of its practice within the country. Since 2000, many Northern Nigerian states have employed the practice of Shariah law. In all, 12 of the 36 states of Nigeria practice *Shariah* (Timberg, 2005). These are the states that have dominant Muslim populations. The point of interest about the practice of *Shariah* in Nigeria is that it does not affect child marriage legally. The only aspects of Islamic law that are practiced in Nigeria are criminal law (U.S. Department of State, 2007).

### **Child Marriages in Nigeria**

It would be unfair to discuss the historical aspects of child marriages through religion without discussing the complete implications. There are negative aspects to this practice in modern society. Children who marry young have a decrease in human and women's rights including education and free will. Negative effects of childhood marriage also include a decreased access to healthcare and an increase in vulnerability to health problems, and a general lack of free will (International Women's Health Coalition, 2005; Population Council, 2004).

In Nigeria, young girls find themselves married off to men who are as much as 12 years older than them (Population Council, 2004). The younger the child, the larger the age difference tends to be (Bello and Erulkar, 2007). In many cases, girls are as young as nine placing great risks and implications on their life and health (Forward, 2008). The harmful effects of the childhood marriage derive precisely from this gap in age. A



difference in age usually means a difference in education, and what is most harmful, sexual experience (International Women's Health Coalition, 2005).

The lack of education is a major consequence of girls who marry young (Population Council, 2004). Many times the incidence of poverty forces the parents to take the child out of school to marry her off in order to get money from the lebola (Forward, 2008). In Nigeria, about 73% of young married girls receive no formal schooling at all, compared with 8% of young girls who are unmarried. Research also shows that only 2% of young married girls between the ages of 15 and 19 are currently in school. This is compared to 69% of their unmarried counterparts. Literacy rate among these young girls is low as well (Bello and Erulkar, 2007).

Free will is a basic human right that young married girls in many cases do not experience (International Women's Health Coalition, 2005). Because of their age, they are treated as insubordinate marriage partners. Meaning, their purpose is primarily to do the will of their husbands. This affects their ability to make decisions and their freedom of will is voided (Bello and Erulkar, 2007). The implications of free will are also related to health consequences (International Women's Health Coalition, 2005).

Young girls who have no free will can not encourage their partners to wear condoms; neither can they regulate his sexual actions outside of the home. So, that when they are made to have sexual intercourse they are exposed to the health risks such as HIV/ AIDS (International Women's Health Coalition, 2005; Population Council, 2004). In addition to the risk of exposure to HIV/AIDS other problems include a lack of education or awareness of the reality of the disease. For instance girls may be unaware of modes of infection, prevention, care and even treatment (Bello and Erulkar, 2007).

This does not overlook the fact that young girls come into the relationship with minimal, if any, sexual experience, where their husbands who are at least 12 years their senior may have other wives, more sexual experiences, or even already the pre-exposure to diseases (Bello and Erulkar, 2007; Forward, 2008; International Women's Health Coalition, 2005; Population Council, 2004). Girls are usually pressured to bear children as soon as they are married, further increasing their risk and exposure to health problems related to early child birth (International Women's Health Coalition, 2005). One in four



married girls in Nigeria has their first birth before the age of 15. This is a dangerous reality which heightens the incidence of infant mortality as well as maternal mortality. Birth defects as well as complications such as an obstetric fistula are also a part of the health risks (Population Council, 2004; Bello and Erulkar, 2007).

In 2004, the United Nations Population Council led a study with the Adolescent Health and Information Project of Kano, Nigeria, a northern province. The study researched the problem of Childhood marriages in Nigeria and included feasible solutions. Recommendations included awareness of the issue as a problem, programs and incentives that offer support for both young girls and their parents in areas like education and healthcare services. The initiative is a great one and is a needed force in the country. But these and initiatives like it will not be wholly successful unless the problems surrounding the problem is worked (Population Council, 2004).

To fully comprehend the practice of childhood marriage particularly in Nigeria, it is pertinent to understand Islamic religious tradition and its significance in the country. So, where many are instituting sessions and granting funds for sexual education, the task would be to get at the heart of the tradition in order to change the situation. This means simultaneously working for reform of traditions in order to keep children safe. It is a hard job to do, but it is most certainly being done.

The idea of child marriage can be reformed through religion. In Egypt, child marriages saw heavy reform in the 1920's through Islamic law. The Child Marriage Restraint Act of 1929 prohibited the underage marriages (Esposito, 2001: 75). Currently, there are virtually no reported cases of the incidence in the country (Forward, 2008). Egypt at the time, however, was taking on its own period of reform with the Ottoman Empire. Through the transformation of the focus of the Hanafi madhhab they were able to raise the marriage age to 16 for girls and 18 for boys. The ruling also included a penalty for any male over the age of 21 or parent arranging a marriage outside of this regulation. This occurred as other entities of societies saw reform as well during the 19<sup>th</sup> and 20<sup>th</sup> century (Esposito, 1999: 646; Esposito, 2001: 74- 75). A focus on a different *madhhab* may explain why Nigeria and other countries have not already taken on this type of reform (Christelow, 2000).



Nigeria has, however, acknowledged the issue of discrimination of women and girls through their membership with the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, the fight for child marriages continues (Convention on the Elimination of All Forms of Discrimination Against Women, 2008). Perhaps through religious reform of the issue, the incidence of childhood marriage can come to a decline. If not, of the 100 million girls that may be affected in the next ten years, a great percentage will live in Nigeria (Population Council, 2004). Serious efforts already in place are not to be overlooked. Agencies in Nigeria have taken the lead in educating the population about the fact that there is a need for reform (Bello and Erulkar, 2007). But research needs to be done on how this reform can take place within the Muslim community of Nigeria and other countries that face this problem.

### **Conclusion**

It is not an easy task to separate social norms from its implications. The first step to tackling problems such as this is to understand them. We must understand childhood marriage within the context of the Islamic religion in Nigeria. The proposal of religious reform to get at the heart of childhood marriages, but even still conflict arises when there are tensions involving the practices of Islamic law. These tensions develop when politics favor both stability and change (Coulson, 1969). With the practice of childhood marriages in Nigeria the most important thing to do is identify these ideas of stability and change of these practices. From there, active approaches can be taken into account and solutions can be employed to both combat the issue and create an avenue for the betterment of all people.



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<sup>i</sup> See Qu'ran 16:58- 59; Haleem, MAS Abdul (2004). Qu'ran Translation.