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*Child Marriage in Bangladesh: A Harmful Traditional Practice*

Acknowledgements:

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1 Memorandum discusses the context, causes, consequences, and legal framework of child marriage in Bangladesh

2 Memorandum discusses the impact of personal laws on the treatment of child marriage within Bangladesh

3 Child Marriage in Bangladesh: Birth and Marriage Registration

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Child Marriage in Bangladesh: Occurrence and links to sexual harassment

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“Mother of the Believers”- Child Marriage in Bangladesh

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If all these people helped me do the research and write up papers, then what did I do?

Well, it was my idea! And I have read what they wrote! It is my hobbyhorse and I get quite passionate about it.

Marriage, if one is religious, is fulfilment of God's will to keep the genes being passed from generation to generation... the aim is procreation. It is a social norm that creates a lawful bond with a view to enjoyment of a happy life, having children and sharing happiness and sorrows.

*As children we played doctors and nurses.... mummy and daddy....husband and wife*

*Kids same size role-play as mum & dad... hey it was only a game. It was fun : In real life marriage is serious business*

## **WHAT IS CHILD MARRIAGE?**

### Definition

The internationally accepted definition of a child is anyone below the age of 18 years. Hence any marriage where one of the parties is below the age of 18 years is considered a child marriage, although the laws of individual countries allow marriage to take place at different ages, some even below that age. For example, Maldives allows marriage of boys and girls aged 15 years, whereas in Bangladesh the minimum age is 21 years for boys and 18 years for girls. In most countries of Europe, girls are allowed to marry at the age of 16 years with parental consent. In the USA the legal age for marriage is generally 18 years, but most states allow girls to marry

variously at 15, 16 or 17 with parental or court consent. In case of “special cause” New Hampshire allows boys aged 14 and girls aged 13 to marry with parental consent and court permission.

*We can imagine what that ‘special cause’ might be. So, all Eighth and Ninth graders will now create a ‘special cause’ and in about nine months rush to New Hampshire and get married.*

### **Need for consent**

Marriage is a union between two persons or a legal bond or a civil contract to live together in holy matrimony, ‘till death do us part’, and requires consent of both the parties. Is a child able to legally/validly consent to a life-long contract at such a young age? In countries where arranged marriages are the norm, more often than not the child partner is not even asked, or if s/he is asked, the ‘consent’ is given for ulterior considerations such as the family’s desire [to keep mom and dad happy] for financial benefit or to appease a long standing dispute between two families or clans. So, the benefit is to everyone else other than the bride.

*51 million girls aged 15-18 are still joined within a union they did not choose to forge, according to a study by the International Center for Research on Women (ICRW).*

The Universal Declaration of Human Rights (UDHR) clearly states that "marriage shall be entered into only with the free and full consent of the intending parties", however, in the case of early marriage, the child bride cannot give "free and full consent" to the marriage because the bride is either too young to be aware of what is happening or her opinion is ignored by those who have arranged the marriage. Not only does this practice violate an individual's rights, it snatches away the beauty of being a child and replaces it with the endless helplessness, psychological and

emotional torment, sexual and physical abuse as well as social and economic conflicts that a forced, early marriage brings.

### **Reasons for early marriage**

- a. Poverty is by far the most obvious and prevalent reason for early marriage, particularly for girls. It is both a cause and effect of child marriage. Poverty creates a vicious cycle which self-propagates.
  - i. In underdeveloped countries in particular, poor parents cannot afford to educate their children resulting in illiteracy and ignorance, which stokes and continues the momentum of the poverty cycle.
  - ii. Some parents feel that the feeding and upkeep of a girl is economically not fruitful as she is not likely to bring any income to the household. The size of families often leads to a shortage of food and the girls are first to be jettisoned. Any money spent towards education is be for the son(s).
  - iii. Girls growing up become targets for Romeos and hoodlums and it becomes risky for parents to protect them, especially when both parents work and the house is not secure. Many families believe that their daughter would be better off being married as her future is secured and the responsibility to care of her would be her husband's job.

However, with girls being so young when married off, a husband, who is generally older, may become dominating causing his young bride to be submissive and powerless.

- b. Ignorance of the dangers and harms brought on by child marriage, and lack of education, which is the driving force behind that ignorance, is possibly the second most important factor causing the propagation of the practice.
- c. Adherence to misconceived notions of religion and discriminatory traditional and customary practices is another reason for child marriage.
- d. Sexual harassment is a phenomenon newly recognised as being the cause behind early marriage of girls. This particular reason cuts across social boundaries, inasmuch as the girls in the middle and higher echelons of social and economic strata may also find themselves as targets of sexual harassment while in public places, for example on the way to and from school or work etc.
- e. The fear of premarital sex and bearing children outside the marriage and the associated family honour often lead the family decision makers to take the decision for early marriage.

### **Deprivation of constitutional and legal rights**

Young girls are subjects/objects of their parents' or guardians' whims and wishes and are powerless, especially due to their vulnerability as they are entirely dependent on them. They are not regarded as the holders of rights.

Girls have no say: tender age/immaturity, physical size, vulnerable position within the family, lack of education and no job prospect add up to no bargaining power.

After marriage a child's vulnerability does not change since a young bride struggles to be the ideal daughter-in-law and wife, or as I see it, the ideal slave.

*Value of virginity and the cost of loss of the treasure.* Parents in Niger see early marriage as a way of keeping daughters' virginity until marriage. Girls regard it as giving them social status, which will ultimately improve their economic status. Mothers regard early marriage as a means to ensure their daughters are socially accepted. "Ijjat (modesty = virginity) is the most precious thing for a girl.. losing it implies losing everything a girl has in her life" -- a thought which every person in the cultures that practice child marriage believe.

### **Does religion ordain early marriage?**

I am not aware of any of the Holy Books of any religion directing that girls or boys should be married at an early age. Traditions have developed due to socio-economic conditions prevailing in the country or region.

In UK, USA and other European countries child marriage once took place upon consideration of property ownership and other financial reasons. Historical data show marriage at ages as low as 2-3 years. For example, in 1564, a 3-year-old named John was married to a 2-year-old named Jane in the bishop's court of Chester, England. The 17th-century lawyer, Henry Swinburne, wrote that "those who are under seven who had said their vows had to ratify it afterwards by giving kisses and embraces, by lying together, by exchanging gifts or tokens, or by calling each other husband and wife. A contemporary, Phillip Stubbes, wrote that in 16-century, East Anglia infants still in swaddling clothes were married". (Article entitled "age of consent")

The marriage between the Prophet Mohammed (SA) and Aisha (RA) is seen to establish a precedent for child marriage that remains in practice in many states that observe Islamic Shari'a law, including the South Asian state of Bangladesh. Rashall Khan (see above) questions whether

Aisha's legacy really permits child marriage and whether it, in fact, proves that Allah and his prophet Muhammad (SA) would endorse child marriage as it exists in the twenty-first century. She argues that it does not and that the Bangladeshi legal system tolerates child marriage based on socio-economic motivations that are

(1) conveniently legitimated by a longstanding misinterpretation of the Prophet's marriage to Aisha bint Abu Bakr and

(2) exacerbated by the inadequacy of effective documentation systems, not only for marriages, but also for births and ages.

### **Tradition/custom**

Traditions and customs develop from socio-economic necessity. There are known instances of parents selling their children because they cannot afford to feed them. Generally people in Asia, particularly India pray for male children and there is female foeticide there. Scans to determine gender of unborn children are available in Bangladesh, but here religion plays a part in preventing destruction of life. It is a common belief that each child is born with his/her own '*kismet*' (rations). However, in one region of India parents wish for daughters because they can be sold into prostitution and the proceeds used to build the parents' house. In due course the girl will come back and will be married off.

In Pakistan, there is a tradition of arranging marriages of very closely related children, normally first-cousins, even at the time of their birth. Although no marriage takes place at that time, there is a promise of marriage which, by and large, is fulfilled when the children grow up. The parties to the marriage do not have a say in the arrangement and normally, they do not question it either since the tradition is so ingrained.

## **Japanese not marrying till mid-forties!**

In every country of Asia, both men and women are marrying later than they did in the past.

Where records are available, as in India and Japan, a consistent trend can be traced back nearly 100 years. Between 1975 and 1995, the average age at first marriage in Japan increased from 24 to 28 years for women and from 28 to 31 years for men, making Japan one of the latest-marrying populations in the world. The average age at first marriage is higher for men in South Korea than in the United States (at 30 compared with 28 years) and the same for women (at 26 years in both countries).

In some countries women who have tasted the value of education and realised the benefits in terms of financial independence, choose to advance their careers in preference to early marriage.

Some years ago, programs in Singapore reflect a concern that men and women in Asia may increasingly choose not to marry at all. In Japan, for example, it was possible to say that in 2010 at least 10 per cent of women and about 20 per cent of men aged 50 would not marry.

The Japanese and Singaporeans are seriously worried about the drop in birth rates, which has repercussion for an aging population and is a burden on pension payments paid for by a dwindling young workforce.

Women who are educated, who own land, or who participate in paid work outside the family tend to have more authority within the home, but community and national level differences—reflecting traditional attitudes and expectations—are also extremely important.

**Why is it bad?**

## **CHILD MARRIAGE IS INJURIOUS TO HEALTH**

The families of child brides are not only unaware that partaking in the harmful tradition will lead to poverty, but they are also in the dark about the potential harm to a child bride's health (or they simply choose to ignore the potential risks). Mothers know the risks well, but accept it as part of their life's lot. The tradition has become so ingrained that it has become the norm. The girls that are coerced and forced into early marriage are sometimes as young as four years old or have not gone through puberty and are almost always not physically, sexually or mentally prepared for the responsibilities a marriage brings. A newlywed bride is pressurized to have sex and bear children immediately after the wedding ceremony regardless of how physically immature she is.

According to the International Women's Health Coalition (IWHC), girls younger than the age of 15 are at a much higher risk of experiencing complications during sexual intercourse, pregnancy and childbirth due to their underdeveloped bone structure, pelvis and reproductive organs. The IWHC also reports that younger pregnant adolescents almost always go through prolonged and obstructed labour that usually leads to haemorrhage, severe infection and maternal death and those who survive such complications are at a high risk of developing an obstetric fistula. The numbers of obstetric fistulas are rising by 75,000 new cases annually; and almost all of the girls are abandoned by their husbands. They are also socially isolated due to the stench caused by incontinence.

The only reality these girls know is what their mother told them, i.e. the norm is to marry girls off young to fulfil a burdensome duty, to alleviate household expenses and to secure a happy life for them as soon as an opportunity arises. However, this misconception leads to a never ending poverty cycle. Unless the child brides are given education, poverty will continue to be a leading effect of the practice.

Child marriage results in a life of sexual and economic servitude for the girl. She has no idea that her immature physical development at the time of marriage will result in stunted growth due to strenuous work at early age; early pregnancy; child/mother mortality at childbirth; and malnourished children. Lack of education leads to a lack of appreciation of the benefits of education and creates education-less children. The economics of education to poor parents is least important when they live from hand to mouth and only worry about the next meal and investing in girls is a waste when they will be leaving the family after marriage.

The older a man is, the more sexually experienced he is either from paying for sex or previous marriages and therefore, there is a higher possibility of him having HIV/AIDS or other sexually transmitted infections (STIs). Many men in developing countries believe that having sexual intercourse with a “fresh girl” would cure their sexually transmitted disease. Therefore, they resort to marrying a young girl, unaware that they would only pass on the disease to the bride as well as their offspring.

Along with health risks and a continuation of a vicious cycle of poverty, child marriage sometimes leads child brides to contemplate and commit suicide due to the sexual, physical and emotional abuse they face in their marital home.

### **Commitment in early marriage**

Marriage is supposed to be a lifelong commitment that two people enter into. For a marriage to work, there must be stability which comes from social and emotional maturity. However, in early marriages, young brides are far too young to have any type of maturity to participate in the family's financial or other affairs. With an immature wife, a marriage cannot be a success. It could so frustrate a much older husband that he may well resort to abusing his wife.

In the cases where a young bride develops an obstetric fistula through childbirth or rough sexual intercourse, a husband will most likely abandon his wife due to the side effects including incontinence. Some brides have to deal with a different problem; their husbands having numerous affairs with different women outside the marriage which also heightens the risk of contracting HIV/AIDS. When a mother of 3 at age 18, Patricia, confided to her mother that her husband had other women in his life, her mother blatantly replied “all men are like that” as if it was permitted. It seems that the marriage in these countries is more about child-bearing and household work than the couple themselves.

### **Specific reasons for child marriage in Bangladesh:**

According to a 2012 United Nations Population Fund (UNFPA) report:

1. Bangladesh has one of the highest child marriage rates in the world, ranking fourth in the league table. About 66% girls will be married before their 18th birthday and in the western part of the country the figure may be as high as 74%.

These figures are “much higher than the regional average for South Asia (46%).

2. Child marriage is associated with girls “who are the least educated, poorest and living in rural areas. The report goes on to say, “girls from the poorest 20% of the households were almost twice as likely to be married/in union before age 18 than girls from the richest 20% of the households.”

In Bangladesh, which has patriarchal social mores, some of the most prominent reasons for early marriage are poverty, superstition, and lack of awareness about laws. I believe the lack of education is the root of the reasons stated above and acts as a catalyst in the continuance of the practice.

### **Tradition/religion as a factor in early marriage**

The religions practised by the citizens of Bangladesh do not advocate early marriage for boys or girls. However, a practice has developed to marry off girls as early as possible due, as has already been mentioned, to:

- socio-economic reasons, including poverty, linked with the perception of girls as an economic burden,
- parental desire to safeguard girls against premarital sex and out-of-wedlock pregnancies (and the associated social stigma associated with these), and
- the menace of stalking and sexual harassment.

### **Sexual harassment and early marriage**

In addition to the more widely known causes of early marriage, the widespread prevalence of pervasive, public sexual harassment in Bangladesh is gaining attention as an important, albeit lesser-studied cause of child marriage. It is a significant cause of child marriage and a grave problem. The phenomenon has become endemic and, although the attacks are rampant against the poorer and more vulnerable girls, it is not limited to the economically disadvantaged. It exists throughout the country in both urban as well as rural areas. The extent of the severity varies from stalking to physical violence, including rape and permanent scarring by throwing acid. In many instances girls are driven to commit suicide.

**Romeos roam the streets looking for beauties but the girl gets the worst deal being accused of flaunting herself in public and thereby attracting bad boys.**

As has been said, this trend cuts across economic and social strata. Many middle class families will compel their girls to stay at home after the primary grades in school, i.e. up to age 10-12 years, in order to keep them out of sight of the preying onlookers. ***Loss of family name and honour is worse than illiteracy in such societies.***

According to the Bangladesh National Women Lawyers' Association, almost 90 per cent of girls aged 10-18 years have experienced what is known locally as "Eve-teasing", where boys intercept girls on the street, and shout obscenities, laugh at them or grab their clothes."

Another study found a more modest (yet still extremely high) rate of 43% of adolescent unmarried girls who had experienced some form of sexual harassment.

Odhikar, an NGO, provides some illustrative numbers on the prevalence of sexual harassment:

***During the month of January 2011, a reported total of 672 girls and women were victims of sexual harassment. Among the 672 females, 29 committed suicide, 06 were killed, 59 were injured, 91 were assaulted, 12 were abducted, 15 were victims of attempt to rape, 460 were stalked due to their protest against the sexual harassment...***

In a 2010 report, Bangladesh Rural Advancement Committee (BRAC), notes that because of the prevalence of sexual harassment, "the general consensus is that public spaces in Bangladesh are considered unsafe for women."

### **Sexual harassment on the way to and from school or the workplace**

This problem is still extremely underreported due to the stigma attached to being the recipient of sexual harassment. For example, one female teacher, who had accused a superior of sexual harassment, described her reluctance to come forward about the harassment, saying, "If I reveal

my identity, people will see me on television, newspapers will print my photo. I will be treated very badly, isn't that right?"

The stigma associated with sexual harassment is so great that victims may face additional negative consequences if they complain about the harassment they have suffered. All the girls of the entire family of the girl victim become undesirable as a match for boys of good families. The girls are branded as being promiscuous and hence not suitable to be the wife of a 'good boy' of a good family. Therefore, girls are discouraged from speaking out, fearing that they will have to face negative recriminations, including social alienation and acid attacks.

The worst scenario is that this menace of 'teasing' is almost socially acceptable. The attitude of elders that 'boys will be boys' and 'girls should not be seen outside', also contributes to the lack of reporting of incidences of such harassment.

According to a male university student, "a girl should cover herself properly, if she doesn't, then a man will not be able to control himself from doing bad things; a man cannot control his sexual desire. It is our right!" Now, how is it that they (the boys) have the "right" to do things that they also consider bad but girls aren't given the least bit of freedom of movement? Once a girl reaches puberty, she usually faces a form of restriction related to movement outside the home. But why is it that when boys start to experience sexual desire, they are not locked up in their home so that they do not encroach upon the right of girls to move freely to and from school or to and from work?

The judiciary has recognized the seriousness of the problem of sexual harassment and the lack of legislation on this matter and has taken steps to proactively address this issue: ***Bangladesh National Women Lawyers Association (BNWLA) -VERSUS- Govt. of Bangladesh, 29 BLD***

415 –is a case relating to sexual harassment at the workplace; and *Bangladesh National Women Lawyers Association (BNWLA) -VERSUS- Govt. of Bangladesh, 31 BLD 324-* relates to ‘Eve-teasing’, i.e. sexual harassment and recommended legislation to prevent such activity. In both cases the High Court Division recommended enactment of new laws.

*Sadly, there is still no law specifically dealing with sexual harassment.*

Sexual harassment causes non-attendance in school, inability to move freely to and from work and restricts normal movement outside the homestead. This is clearly an infringement of the right of girls as provided by the Constitution and international instruments.

Parents see marriage as a safety mechanism to protect girls from sexual harassment and the associated stigma and negative social and physical consequences. Even if they do not marry a girl off in her childhood, they prevent her from going to school. As a direct result of the lack of education she will attract only an uneducated husband, which again leads the girl into a life of domestic work and virtual servitude.

UNFPA stated, “Child marriage is often seen as a safeguard against premarital sex, and the duty to protect the girl from sexual harassment and violence is transferred from father to husband.”

A report by the International Center for Research on Women and Plan International notes, “The safety and security of young girls worries parents[,] and they feel that an unmarried girl is vulnerable to sexual exploitation and abuse. Marriage is seen as a preventative measure to protect young girls from potential danger.” .... parents may “push underage daughters into early marriages to help escape the aggravations caused by sexual harassment” and “may believe that if their daughter has a husband, they will be saved from such dangers.” However, they are unaware that the dangers of sexual harassment do not end with marriage; that the husband himself would

most likely sexually abuse the young bride and more likely than not she will be the target of domestic violence.

Bangladesh has a predominantly Muslim population, but does not have a system of Shari'a law or Shari'a courts. However, principles of Mohammedan law apply as the personal law in case of Muslims when dealing with matters such as marriage, divorce, inheritance etc. In spite of that, there have been incidences of localised so-called 'fatwa' (religious edicts) issued by Imams or local elders punishing the girls for what are considered to be unacceptable behaviour. There have been cases in which young girls who have been raped are punished, apparently under Qur'anic laws for not guarding her "ijjat" (modesty) properly while the rapist, who has defiled her, gets acquitted. In the U.S., it is said that the victim is never at fault and that the rapist is fully to blame. However, in the East, every time there is a rape, it is the girl who "IS asking for it". In most cases, girls who are raped are flogged about 100 times, more or less. For fear that this situation might occur with their own daughter, the parents believe a girl should be married off young. However, they fail to realize that adolescent married girls usually face a different form of suffering within marriage that is as severe as conviction under Islamic law. There are different ways to protect a girl from rape when going to and back from school, but no ways to help her once she is given away to her husband.

### **Early marriage among slum dwellers**

Slums are easy targets for all forms of sexual harassment as the security there is minimal (which again relates to poverty-stricken areas). People living in urban slums are essentially displaced persons who migrate to the towns from the rural areas in order to eke out a living. When both

parents go out to work, the young girl becomes an easy target for sexual advances. The shanty hut/plastic tent does not provide any safety or security for her.

Refusals of marriage proposals and other sexual advances from sexual harassers have even culminated in grave physical attacks upon the victim, including through the use of acid, where the perpetrator throws acid upon the face or body of the victim with the intent of scarring and disfiguring her for life.

One news report noted that a Dhaka-based NGO, Steps Towards Development, has stated that, “in a country where more than 64 per cent of girls marry before they are 18, some parents have pushed Eve-teasing victims into early marriage to “protect” their honour and safety.”

There have been examples of girls who have committed suicide due to stalking and sexual harassment.

A poor family may have limited means to achieve redress, and “given the importance of chastity, early marriage is seen as a solution.” Families have been known to leave their home and move to distant parts to escape from harassers.

The international NGO Plan International, names sexual harassment as one of the two root causes (along with the prospect of reduced dowry payments for a younger bride) of early marriage in Bangladesh.

A recent Baseline Report on Sexual and Reproductive Health and Rights and Violence Against Women and Girls in Dhaka Slums (published by ICDDR,B-2012) found that inherent insecurity and extreme poverty in a slum increases the vulnerability of the young girls to sexual abuse and violence; they are not safe in the streets or in the homes as parents and elders in the family are at

work each day. The report goes on to say that social insecurity, combined with cultural pressure for protecting virginity and chastity of an unmarried girl and upholding family honour result in restricting the girls' mobility, which creates immense pressure on the girls for marriage. One private tutor who was interviewed commented as follows:

“Girls are not safe in this area. There are so many *mastaan* (gangsters), *bokhate* (spoiled/derailed) boys out there. They harass the girls. Sometimes girls cannot go to school because of such harassment. Parents therefore want to get their daughters married off before anything bad happens to them.”

### **Effect of poverty on child marriage**

Poverty has a negative impact on a child's educational opportunities, health and hygiene, sanitation, and access to food, leaving children vulnerable to exploitation and disrupting family stability, which can lead to abuse.

Early marriage of a girl is a cause of many other disadvantages, including the fact that there tends to be a large age disparity between her and her husband which leads her to be under her husband's subjugation. Being educationally barren and physically weaker, she feels inferior and accepts her lot, including physical and mental torture. She has neither the physical nor intellectual power to override or even participate in her husband's decision-making. Because of her lack of education it is unlikely that she would have any marriage proposals from any educated or well-to-do person. As a result she is likely to get an uneducated husband doing only menial jobs and having difficulty in making ends meet. The offspring of such a couple are likely to face the same hazards of poverty and in all probability will themselves end up with no education. Thus we have a situation of poverty creating more poverty (the vicious poverty cycle).

However, there still remain a huge number of girls working in the domestic sector and in the urban slums and rural areas who are deprived of education. They are being subjected to early marriage resulting in teenage pregnancies, which in turn result in malnutrition of the children or even death of the mother/child. Of course, there is every likelihood of fistulas and the attending miseries, as discussed above. The lack of education of the mother makes her vulnerable to her husband's whims thus depriving her of any possibility of contributing to the family income. Thus, instead of empowerment, the situation arises where the lack of education of the girls stokes the cycle of poverty. The 'Millennium Development Goal' (MDG) of empowering women and girls is doomed to a great extent.

### **Demand of dowry for girls cause of early marriage**

It is a common phenomenon in India and Bangladesh that when a girl is married her parents have to pay dowry to the husband. In Bangladesh such payment, though made illegal by the Dowry Prohibition Act 1980, is still prevalent in varying degrees in most parts of the country. The statute is gender neutral, but the demand for the dowry is generally from the groom's side. This is particularly so among the Hindus and the poorer communities among the Muslims. The tendency is that the older the girl gets, the higher the monetary figure demanded by the groom or his parents. Hence, it makes sense for the poor father of a girl to marry her off at an early age in order to avoid paying a huge dowry amount.

### **Child domestic workers and early marriage**

Poverty compels parents to send girls to work in the houses of others, generally in urban areas, far away from home. The psychological trauma of the girl, aged 6-10 years suddenly wrenched away from the ones she loves to the unknown, unfamiliar and unfriendly surroundings of an

employer is poorly documented. There are innumerable incidences of horrendous abuse, torture, rape and deaths. If the girls are lucky enough to be returned to their parents on reaching puberty or soon thereafter, they become a heavier burden on the parents. Having lost their chance for education, they are worse off than those few who receive primary education. If the girls had stayed at home to study then they would be less likely to get married off early. The girls who are deprived of education become targets of early marriage, and as illiterate mothers, beget illiterate children which again stokes the poverty cycle.

### **Lack of implementation of law and universal birth registration causing early marriage**

The provisions of the UDHR are equally applicable in Bangladesh as in any other country. Thus boys and girls may not be compelled to enter into marriage. Marriage in Mohammedan law is a civil contract. Hence, there must be consent of both parties. In the case of child marriage, there cannot be a valid consent by the child under the existing law of the land. Any consent given by a parent or guardian on behalf of the child can be repudiated by the girl within one year of attaining majority. The findings of the study conducted by BITA clearly show that 65% of the participants are married off without their consent. Only 28% of respondents were married off with consent.

**[it is supposed to be a civil contract! How can there be a contract without consent?]**

The Child Marriage Restraint Act 1929 prohibits marriage of a girl below the age of 18 years and a man below the age of 21 years. Anyone who performs, conducts or directs a child marriage is liable to be punished under this law, including the parents of the child. In order to avoid the sanctions under this law, parents resort to falsified birth dates for the child. The Birth and Death Registration Act 2004 makes it mandatory to register births and deaths, but it is not widely

followed. Lack of universal birth registration hampers detection/prevention of child marriage. Unscrupulous Nikah (marriage) registrars do not properly scrutinise the evidence of birth produced by the parents. Sadly implementation of the law is largely lacking.

### **Broken families or orphan children and early marriage**

Inability to provide food and shelter and instability in the home leads to parents forcing girls into early marriage, particularly where the girl is compelled to live with a step-parent or is dependent on the mercy of others as an orphan child. Studies show that a female orphan is most likely to face higher dowry demands.

The young girl forced into early marriage suffers from lack of education and faces the burden of bringing up a family for which she is ill-equipped physically and mentally. This often leads to break-up of the marriage and consequent destitution of another family with children growing up in abject squalor.

### **Effect of discrimination on child marriage**

Pervasive gender discrimination in Bangladesh's society contributes to the low social and economic status of women and girls. Hence girls are most often deprived of education where boys are given preference in the belief that boys will look after their parents and girls will get married and go away.

Girls are frequently considered financial burdens on their family, and their mobility is often restricted at puberty, further diminishing their livelihood, learning, and social opportunities.

According to UNICEF and BBS, Multiple Indicator Cluster Survey (MICS) 2006, Bangladesh 2007, 75 per cent of women aged 20-49 were married before age 18, one of the highest rates in

the world. According to UNICEF, over one-third of Bangladeshi girls are married before the age of 15, and two thirds are married before the age of 18. This is so despite laws that prohibit the marriage of girls under 18 or of boys under 21.

### **Education and early marriage**

Survey results from South Asia show women's education is the only factor consistently associated with an increase in the age of marriage and childbearing. Although the effects of primary education are small, early marriage and childbearing drop steeply among women with junior high or higher education. Clearly, providing all women with education at this level is a long-term goal for most South Asian governments, but one benefit of such a strategy would be to reduce the number of women marrying and giving birth while still in their teens. Girls that receive an education are likely to break the link to poverty by becoming independent enough to earn money and support themselves as well as others, whereas, girls who are married off young must be dependent on their husbands. Poverty would cease to exist in the family of educated women as they would realize the benefits of education which would ultimately allow them both to have more independence and to get their children educated.

### **Natural disasters and internal displacement and early marriage**

Internal displacement due to natural calamities is also a significant cause for early marriage and ties in with child marriage due to poverty and lack of security. The girl child becomes a burden on the family and is best disposed of by marrying her off.

### **Impulsive adolescent behaviour and early marriage**

Love affairs among adolescents and peer group attitudes and pressures often lead to early marriage. But such instances are not so prevalent.

### **Action to counter the harmful practice**

Community-level programs might usefully target the parents, husbands, and parents-in-law of such young women as well as the women themselves.

There is need for raising awareness within society of the numerous ill effects upon the girls of being married off in their childhood. It is equally important to highlight the benefits of education which would be otherwise denied to the girls if they are married off in their childhood.

The children who are most vulnerable are those in the age group 10-18 years. In fact the decision to stop girls from attending school is often taken towards the end of primary school. At this juncture the girls must be told of the benefits of education and empowerment of women for the betterment of society and the economic progress of each family. Making school children aware of the dangers of early marriage and benefits of higher education will certainly result in decrease in child marriage.

The menace of stalking and sexual harassment can only be eradicated by positive and forceful action by the State. As suggested by the High Court Division, there is need for specific laws to deal with this scourge. For the emancipation of any society or community education is a must. If the menace of sexual harassment is allowed to prevent girls from attending school in safety and security then emancipation and empowerment of women will remain a dream and the MDG aspirations will be doomed to failure.

The attitude of elders (parents/guardians) in respect of early marriage has become ingrained over hundreds of years due to socio-economic conditions and the traditions that have evolved as a result of such adverse conditions. These can only be changed by reassurance of better conditions and more beneficial outcomes.

Every parent wants the best for their offspring.

The difficulty of changing the mind-set of the older generation may be left to the children themselves, to convince their parents about the benefits of education and harmful results of child marriage. If the reasons leading them to consider early marriage, such as sexual harassment and the negative attitude towards educating girls, are eliminated then there would be change of heart. The children can change their parents' attitudes.

The State must take action to address and eradicate the root causes of child marriage. There is need for elimination of dowry; stalking and sexual harassment. The State can further assist by institutionalising education, making it compulsory to at least secondary level and encouraging further education by providing financial incentives.

There is a dire need to improve the law and order situation so as to provide safe surroundings for girls' movement to and from school/college and to work places.

*(Before killing herself, Afroza Begum, a victim of severe sexual harassment via Eve-teasing, wrote a note stating "I have no weapon to stop them". Her helplessness could have been avoided if she knew about actions that could have been taken against those who misbehaved with her; courage could have been her weapon, if only she knew there was a way to it.*

However, there is some good news. Girls, even in the rural areas, are using modern technology to assist in preventing child marriage. There have been a number of instances reported where a school-going girl was due to be married off when she used the mobile phone to call her class friends who then informed the local administration. In this way many a wedding has been stopped even after the arrival of the bridal party.

## **Conclusion**

There can be no doubt that the practice of child marriage is harmful in many ways. However, the deep-rooted traditions and customs compel specially the poor families in the urban and rural areas of Bangladesh to continue the practice of early marriage. The reason for early marriage is more social and economic than legal. To the poor and vulnerable section of the citizenry early marriage makes sense because it reduces the burden that poverty brings upon them and relieves the parents/guardians of the worries and agonies they face due to the insecurity and exposure to attacks upon their daughters.

*Those engulfed in cultures that practice child marriage are ignorant of the detrimental effects of the practice; they are frightened by their vulnerability; knowledge alone would help lessen the practice of child marriage. The State has a duty to impart such knowledge and give assurance about the safety and security of all citizens in every walk of life; only then the State can prosper.*

**Things have changed in the West. East can follow.**

Reference:

**Tradition and Change in Marriage and Family Life:**

[www.eastwestcenter.org/fileadmin/stored/misc/FuturePop04Marriage.pdf](http://www.eastwestcenter.org/fileadmin/stored/misc/FuturePop04Marriage.pdf)

**Age of Consent:** <http://www.faqs.org/childhood/A-Ar/Age-of-Consent.html>

October 2007 to December 2007, Bangladesh Institute of Theatre Association (BITA) conducted this study

<http://www.faqs.org/childhood/A-Ar/Age-of-Consent.html>

Baseline Report on Sexual and Reproductive Health and Rights and Violence Against Women and Girls in Dhaka Slums (published by ICDDR,B-2012) <http://www.faqs.org/childhood/A-Ar/Age-of-Consent.html>