

Child marriage in Islam is subject to the condition that it serves a clear and real interest

From my understanding, Islamic Law states that if a girl passes puberty, she is allowed to be married - regardless of whether she is 9, 11, 15 etc Does the law take into consideration her emotional and mental readiness to be married, despite the physical ability to be able to bear children? It disturbs me that young girls who pass puberty are automatically believed to be whole-heartedly ready for marriage and motherhood JUST because she is physically able to do so. Isn't it equally important that she is emotionally and mentality ready for this role?

Also - does Islamic Law also state that if a boy passes puberty (regardless of his age), he is ALSO allowed to be married?.

Praise be to Allaah.

Firstly:

It is permissible for a man to arrange a marriage for his young son even if he has not reached puberty; it is also permissible for him to arrange a marriage for his young daughter even if she had not reached the age of puberty. It was narrated that there was consensus on this point, but that is provided that compatibility is taken into account and that a clear and real interest is served by this marriage.

Ibn 'Abd al-Barr (may Allah have mercy on him) said:

The scholars are unanimously agreed that the father may arrange a marriage for his young daughter without consulting her. The Messenger of Allah (blessings and peace of Allah be upon him) married 'Aa'ishah when she was six years old.

End quote from at-Tamheed, 19/98

Ismaa'eel ibn Ishaq (may Allah have mercy on him) said:

The father may arrange a marriage for a young (daughter) according to the consensus of the Muslims, and that is binding on her.

End quote from at-Tamheed, 19/84

Ibn Shubrumah disagreed with that, as we shall see below.

Secondly:

It is not prescribed to arrange a marriage for a young girl unless there is a clear and real interest to be served by doing so. The same applies to young boys, but the ruling is emphasized more with regard to girls because a boy has the power of divorce (talaq).

An-Nawawi (may Allah have mercy on him) said:

It should be noted that ash-Shaafa'i and his companions said: It is recommended for the father or grandfather not to arrange a marriage for a virgin until she reaches the age of puberty and he seeks her consent, lest she find herself trapped in a marriage that she resents. What they said is not contrary to the hadeeth of 'Aa'ishah, because what they meant is that he should not give her in marriage before puberty if there is no clear and real interest to be served by that for which there is the fear that it will be missed by delaying marriage, such as the story of 'Aa'ishah. In that case (i.e., if there is a clear and real interest to be served) it is recommended not to miss the opportunity to marry that husband, because the father is enjoined to take care of his children's interests, not to neglect them.

End quote from Sharh Muslim, 9/206

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) was of the view that in the case of a girl who has reached the age of nine years it is stipulated that she give consent and he said: This is the view favored by Shaykh al-Islam Ibn Taymiyah, and this is the correct view.

With regard to the girl who is younger than the age of nine years, he favored the view that the father does not have the right to arrange a marriage. He narrated from Ibn Shubrumah (may Allah have mercy on him) that he said: It is not permissible to arrange a marriage for a young girl who has not reached the age of puberty, because if we say that is subject to her consent, her consent does not count (because she is too young to make such decisions), and when she does reach the age of puberty we believe that she should not be forced into a marriage. The Shaykh said: This view is the correct one, that the father should not arrange a marriage for his daughter until she reaches the age of puberty, and when she reaches the age of puberty he should not arrange a marriage unless she gives her consent.

But if we assume that a man regards this suitor as compatible and he is old, and there is the fear that if he passes away and guardianship of the girl passes to her brothers, they may not take the matter of her marriage seriously and they may arrange her marriage according to their whims and desires, not according to what is in her best interests, and he thinks that it is in her best interests to arrange her marriage to someone who is compatible, there is nothing wrong with that, but she will have the choice when she grows up; if she wishes she may say: I do not agree to this and I do not want it.

If the matter is like this, then the safest option is not to arrange her marriage and to entrust her to Allah, may He be glorified and exalted. Perhaps now he thinks that this man is compatible but then the man's situation may change, and perhaps when she reaches the age of marriage Allah will bring her a man who is better than this man, because all things are in the hand of Allah, may He be glorified and exalted.

End quote from ash-Sharh al-Mumti', 12/57-59

The Shaykh also favored the view that marriage should not be arranged for a boy until he reaches the age of puberty.

Ash-Sharh al-Mumti', 12/53

With regard to consummation of the marriage with a minor, it does not become permissible by merely drawing up the marriage contract; rather the husband should not consummate the marriage with her until she is able to have intercourse, which is not necessarily at puberty. This is something that varies from one environment and time to another. With regard to that, sharee'ah pays attention to physical makeup.

Thirdly:□

From the words of the Muslim fuqaha' concerning this issue, it is clear that marriage of minors is based on achieving clear and real interests thereby. If marriage of a young girl will serve some very real interest for her, then her guardian may arrange a marriage for her, but if no real interest will be served for her by that, then he does not have the right to arrange a marriage when she is still a minor, until she can choose for herself and give consent.

That is not a transgression against her rights, as may be said with regard to the trustee's handling of the orphan's wealth; it is permissible for him to buy and sell on his behalf without obtaining his consent, if that serve a clear and real interest and is more beneficial for him and his wealth.

The view concerning young boys is the same as that concerning young girls; it is essential for the guardian to take into consideration what interests may be achieved for the minor thereby.

This is applicable in all cases in which Islam gives permission to conduct affairs on behalf of another and gives guardianship of another. Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

If a person has authority to handle the affairs or wealth of another, either as a guardian or by appointment as a proxy, it is not permissible for him to do whatever he wants; he has to choose that which is in (his ward's) best interests.

End quote from Mukhtasar al-Fataawa al-Masriyyah, 796

Based on that, one should take the appropriate approach to the emotional aspect of this issue, because choosing the right person for the woman in terms of his character and choosing the right time for arranging this marriage is in fact paying attention to the woman's natural and emotional needs and inclinations. Emotion here does not refer to love relationships and infatuations that may occur between young men and women; these relationships and ideas are one thing and the reality of life is something else. How many marriages have started with these relationships but soon failed, and how many marriages have started without prior acquaintance between the spouses but Allah created love, compassion, tranquility and harmony between them, and they continued to live happily together.

And Allah knows best.

Islam Q&A