

# **Early and Forced Marriages in the Islamic Republic of Iran**

**A Brief Submitted to the Office of the High Commissioner for  
Women's Rights and Gender Section (WRGS)  
For the 26<sup>th</sup> session of the  
Human Rights Council**

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## *Preface*

The following submission, is presented to the Office of the High Commissioner for Human Rights on the occasion of the 26th session of the Human Rights Council, and provides a brief summary of violations of rights of girl children in the Islamic republic of Iran as a result of laws that permit and indeed condone the practice of early marriage in that country.

In this submission, early marriage refers to a marriage that takes place under the age of 18—the upper age limit for protection under the 1989 Convention on the Rights of the Child. The submission uses the term “early marriage” instead of “child marriage” in response to the coordinated efforts of certain states including Iran to narrow down the definition of “child marriage” to include only marriages that involve girl children who have not yet reached the age of menstruation. Justice For Iran considers early marriage to be a form of forced marriage because individuals below the age of 18 are unable to give informed consent. As with all other forms of forced marriage, early marriage involves elements that are akin to a situation of sexual slavery and thereby calls for the kind of interventions that are required to prevent, monitor and prosecute slavery-like practices.

This submission details the reality of early marriage in Iran and reviews a range of laws, policies and practices that contribute to its persistence and prevalence. Although boys are also affected by early marriage, this submission places its focus on girls given that early marriage, as it is currently practiced in Iran, impacts girls in far larger numbers and with more intensity.

The submission is based on “Stolen Lives, Empty Classrooms: An Overview on Girl Marriages in the Islamic republic of Iran” a recent report by Justice for Iran in response to a recent move by the Islamic Republic to legalize marriage between guardians and their adopted orphans.

## *Introduction*

According to the Islamic Republic civil code<sup>1</sup>, the legal age of marriage in Iran is set at 13 for girls and 15 for boys. However, the same Act allows girls below 13 and boys below 15 to be wed but conditioned on the consent of their father and the permission of a court judge. In addition, there are troubling reports that Iranian parliament's legal affairs committee is pushing to lower the legal age of marriage for girls back to 9 years of age.

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<sup>1</sup> Article 1041 of the Civil Code states: “Marriage of girls before the age of 13 and boys before the age of 15 is contingent upon the permission of the guardian and upon the condition of the child’s best interests as determined by a competent court.”

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Official statistics released by the Islamic Republic between 2006 and 2011 involving girls below 10 year of age, 10-14 and 15-19 in a number of provinces in Iran indicates a staggering increase of 6448 marriages for the three above-mentioned age groups. Within the same period, the ratio of marriages involving girls compared to those among adults grew by 45%.<sup>2</sup> Statistics indicate the number of girls under the age of 15 who were registered to marry increased from 33,383 in 2006 to 39,831 in 2011. Comparatively, this indicates a 40% increase in the percentage of girl children below 15 years of age who were forced to marry. Such an increase is even more significant given the fact that the population in the same age range decreased by 394,302. From a different angle, on average, 177 typical primary and secondary girl schools are shut down because their student bodies are forced to marry and perform domestic and sexual duties expected of these children as married women. Statistics released in 2012 indicated that close to 10 million Iranian children over the age of six were illiterate. Furthermore, mortality rate for married girls below the age of 15 is 5 times higher than those over the age of twenty due to childbirth complications. Furthermore, experts warn of a surge in mental illness, suicides, teenage runaways and girls turning to sex work.

According to recent data released by Iran's Association of Children's Rights, 449 girls were married in 2009 before reaching the age of 10 and as many as 716 girls were married under the age of 10 in 2010, a 59% spike in one year. At 1,411 cases, Ardebil, a province in northwest Iran, has the highest rate of marriages for girls below the age of 10; a number 67 times more than the next highest province. The rate of early marriages in Ardebil directly implies that in this particular province, judges routinely allow legal guardians to force their girl children into marriage.

*Is the Islamic Republic implementing its obligations under international human rights conventions and international human rights treaties on child, early and forced marriage at the national level?*

A close look at the Islamic Republic laws on marriage points to a significant discrepancy between its national codes and its international obligations. According to the country's first Supreme Leader, Ayatollah Khomeini, sexual experiences, with the exception of intercourse, are permitted with girls of all ages. He has issued a fatwa (religious edict): "Anyone who has a wife less than nine years of age is not allowed to engage in sexual intercourse, whether she is his permanent or temporary wife. However, other forms of sexual pleasures are permitted, such as touching with lust, hugging, and rubbing penis between the buttocks and thighs; even if she is a nursing baby."<sup>3</sup> Such an approach clearly encourages paedophilia and child abuse as a right of all men, a violation of all of Iran's international commitments.<sup>4</sup>

<sup>2</sup>[http://www.bbc.co.uk/persian/iran/2012/02/120227\\_l21\\_child\\_marriage\\_iran.shtml](http://www.bbc.co.uk/persian/iran/2012/02/120227_l21_child_marriage_iran.shtml)

<sup>3</sup> See Tahrirul-Vasileh, Vol. 2, p. 241, Rouhollah Khomeini.

<sup>4</sup> For further information about the legal status of Supreme Leader fatwa, see: <http://news.bahai.org/story/971>

In addition, three years after the establishment of the Islamic Republic in 1982, the legal age for marriage was lowered from 18 to 9 lunar years for girls and 20 to 15 lunar years for boys. Furthermore, during the process of revision of the Islamic Republic Civil Code, prohibition of marriage for individuals below the legal age was removed in its entirety. Later in 2002, the legal age for marriage in case of girls was raised to 13, while those below this age continued to face the risk of forced marriage at the consent of a legal guardian and approval by a court judge.

The laws of the Islamic Republic do not, therefore, practically set a legal age for marriage and allow children to be legally married at any age despite studies by scientists that point to the harmful results of marriage at such a young age.<sup>5</sup> This contradicts the provisions of Iran's Child Protection Law, which purport to protect "[a]ll individuals below the age of 18 from any "exploitation" leading to "physical, mental or moral damage to the child endangering their physical or mental health".<sup>6</sup>

More recently, in September 2013, based on a recommendation by the Guardian Council, the Iranian Parliament revised and approved Article 27 of the Bill of the Protection of Children and Adolescents with No Guardian or Abusive Guardian and legalized marriage between adoptive parents and their adopted children. Despite the serious objections voiced by the public, Iran's Guardian Council approved Article 27 on 9 October 2013.

The original text of Article 27 read: "Whenever the guardian decides to marry, he must submit the personal information of the intended party to the court. In case of marriage, the [relevant] institution is responsible to report the marriage to the court so to ensure the legal conditions for continuation or termination of shared guardianship are decided upon. Note: Marriage during custody or after between the adoptive parent and adopted child is illegal." However, the revised note to Article 27 now states<sup>7</sup>: "Marriage during the period of custody or thereafter between the adoptive parent and adopted child is illegal unless the court after consulting the [relevant] organization recognizes the marriage as beneficial to the adopted child."

Despite much debate and opposition, Islamic Republic authorities have referred to Sharia law to legitimize relations between males and females in adopted families before and after the age of maturity. Experts believe the passing of this new law may impair social and familial relations in Iran by leading to the normalization of incestuous practices and the promotion of sexual relationships with children (a

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<sup>6</sup> See English translation of the law at: [http://www.law.yale.edu/rcw/rcw/jurisdictions/assc/iranislamicrepof/iran\\_child\\_prot\\_law\\_eng.htm](http://www.law.yale.edu/rcw/rcw/jurisdictions/assc/iranislamicrepof/iran_child_prot_law_eng.htm).

<sup>7</sup> <http://www.shora-gc.ir/Portal/File/ShowFile.aspx?ID=bf0f1f83-377f-4250-a5cd-35c762fc89fa>

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practice conducive to violence against children and tantamount to paedophilia according to international laws). Furthermore, this bill places minors at greater risk of abuse in the name of marriage legitimized by Sharia law.

The Islamic Republic is a signatory to the Convention on the Rights of the Child (CRC), Article 19 of which provides that “States Parties take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse ... or exploitation, including sexual abuse.” The Convention is binding upon Iran pursuant to Article 77 of the Islamic Republic Constitution and Article 9 of its Civil Code and has the full force of law.<sup>8</sup> While Iran has entered a general reservation to exclude provisions or articles that are incompatible with Islamic laws, it cannot rely on it to justify such harmful traditional practices as early marriage as that would be incompatible with the very core object and purpose of the Convention.

The Islamic Republic of Iran is also a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 10 of which explicitly states that “[m]arriage must be entered into with the free consent of the intending spouses.”<sup>9</sup> The same is stated in Article 23 of the International Covenant on Civil and Political Rights.<sup>10</sup> The Islamic Republic of Iran is also a signatory to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, which considers all forms of forced marriage including early marriage as practices similar to slavery prohibited by the Convention. Arguments based on Sharia law and traditions cannot be allowed to negate these provisions and justify the practice of early and forced marriage and its consequent harmful effects upon children which include, but are not limited to, educational deprivation, economic disparity, marital rape, mental and physical abuse and violence.

*Are policies, projects and measures undertaken at national and sub-national levels, including by United Nations agencies, funds and programmed, civil society and other relevant stakeholders to promote the elimination of child, early and forced marriage, specifically including action taken to address the issue in practicing communities, and to address or mitigate its impact, making specific reference to the outcomes of such policies, projects and measures?*

As the aforementioned national codes and laws indicate, the Islamic Republic

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<sup>8</sup> Please see:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/4448a41dab88b4da802569000034deb0?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/4448a41dab88b4da802569000034deb0?Opendocument)

<sup>9</sup> The full text of this document is available online at:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>10</sup> <http://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

authorities are taking no steps to end the practice of early marriage. Furthermore, there are no civil rights or international organizations that highlight this issue. In fact, according to a UNFPA report, Iran is among those Asian countries where Sharia law regarding the age of marriage overrides Iran's commitment to the legal age of 18 as indicated by CRC and ICESR.<sup>11</sup> In addition, in response to efforts by UNICEF Representative to Iran in October 2012, or other efforts by civil society and the human rights community, several Islamic Republic authorities, including judiciary spokesperson Golem Reza Mohsen, or Tehran Province Population Registry Office Director General, Ahmad Gheshmi, have either denied the existence of this practice or justified it in the name of Sharia law. For instance, Majlis Committee for Judicial and Legislative Affairs member Nayereh Akhavan-Bitaraf has stated: "Unfortunately, it is not possible to come up with a solution in this matter, because preventing marriages of children under the age of 10 is against religious law, and a child under 10 might possibly be fully sexually and mentally mature. The issue is like that of the dowry, when there is no way of setting a limit."<sup>12</sup> In addition, when a semi-official News Agency (ILNA) published detailed statistics on the proliferation of marriages involving girls under 9 years of age, an advisor to the Minister of Justice, Pooran Valavioun, dismissed the matter by saying: "Marriage is a personal matter, and the regime does not interfere with it... I have worked at the Judiciary Ministry for 22 years, and I never heard of this data. The source that gave these numbers should be held accountable for them."<sup>13</sup>

*Are surveys, assessments and studies carried out at national and sub-national level on the prevalence of child, early and forced marriage and/or its impact on the human rights of women and girls and other affected groups?*

Our research indicates that the only form of surveys or assessments carried out at the national or sub-national levels are indicators available in statistics released by the Islamic Republic Personal Status Registration Organization and Iran National Statistics Office. These include the number of marriages in various Iranian provinces involving girl children under the age of 10, from the ages of 10 to 14 and 15 to 19.

However, when addressing the issue of early marriage based on these very statistics released by governmental authorities, officials have denied that it even exists, or have tried to ignore it. For example, in July 2012, the director of the Women's and Family Affairs Center in the Office of the Presidency, Maryam Mojtahedzadeh, announced the government intended to draw up a plan titled "Oversight of Child

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<sup>11</sup>

<http://unfpa.org/webdav/site/asiapacific/shared/Publications/2012/Child%20Marriage%20in%20Southern%20Asia.pdf>

<sup>12</sup> Tabnak.ir, January 2, 2013.

<sup>13</sup> [http://www.memri.org/report/en/0/0/0/0/0/0/7147.htm#\\_edn24](http://www.memri.org/report/en/0/0/0/0/0/0/7147.htm#_edn24)

Marriages" but failed to offer further details on this matter and there have been no reports pointing to such an effort since.<sup>14</sup>

*Recommendations on or examples of good practices regarding possible appropriate measures and strategies to prevent and eliminate child, early and forced marriage*

This submission maintains that early marriages affect a growing number of Iranian children. Its hallmark is lack of freedom on the part of marital partners whose consensual agreement to marriage must be reached at 18 years of age, the age of maturity recognized in international laws for both genders. International human rights treaties condemn all forms of forced marriage, particularly those involving persons below the age of 18. While the Islamic Republic of Iran is party to the vast majority of relevant international instruments, some of its national codes and laws legalize forced and early marriages involving children. This has impaired the ability of a large number of children in Iran to enjoy and exercise their economic and social rights, particularly in the area of health and education. Findings by Justice for Iran based on officials' reports by the Islamic Republic indicate that within the period between 2007 and 2011 the number of marriages involving girls below 15 years of age rose from 33,383 to 39,831.

In light of the above facts and findings, Justice for Iran offers the following recommendations:

- The Office of the High Commissioner must encourage the Islamic Republic of Iran:
  - To revise national codes and laws in accordance with its international commitments regarding the age of maturity in order to prohibit marriage of children below the age of 18 under all conditions.
  - To introduce and enforce national codes and laws prohibiting all forms of forced marriage including early marriage and child marriage.
  - To develop and implement effective and comprehensive public education programmes aimed at raising awareness among families and communities about the harmful effects of early and forced marriage on the girl child, including on her physical and mental health.
  - To allow for the UN Special Rapporteur on the situation of human rights in Iran, Dr. Ahmed Shaheed, to visit the country and include the issue of early marriages in his investigation while in Iran.
  - To revise the newly adopted Protection of Children and Adolescents with No Guardian or Abusive Guardian Law in a way that prohibits any marriage with an adopted child.
  - To ensure that judicial authorities hold accountable the judges who are directly responsible for the approval of forced and early marriage

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<sup>14</sup> [http://www.memri.org/report/en/0/0/0/0/0/0/7147.htm#\\_edn24](http://www.memri.org/report/en/0/0/0/0/0/0/7147.htm#_edn24)

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- cases. Other private actors, including both biological and adoptive parents as well as legal guardians must be held accountable as well.
- To provide reparation for victims of early marriages.
  - To provide children/minors who escape from forced and early marriages with safe shelters and literacy and continuing education and capacity building programmes facilitating their healthy return to the society
  - To sign and ratify the Convention on Consent to Marriage, Minimum Age For Marriage and Registration of Marriage and the Convention of Elimination of Discrimination Against Women with no reservations.
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- The Office of the High Commissioner must encourage:
    - United Nations bodies and concerned countries to continue to address the serious violation of children rights in Iran;
    - United Nations agencies such as the UNICEF and UNFPA to hold dialogues with the State of Iran with a view to having the practice of early and forced marriage banned and eliminated in the country;
    - Global South countries and members of the Non-Aligned Movement to call on the Islamic Republic to fully cooperate with United Nations mechanisms and procedures;
    - Members of the United Nations General Assembly to adopt a resolution banning the practice of early and forced marriage.