Child Marriage in Saudi Arabia

In February 2010, a 12 year old girl in Saudi Arabia attempted to divorce her 80 year old husband. The case garnered extensive media coverage, and journalists claimed that this could become a test case for ending child marriage in the kingdom. Activists cited the marriage itself as an illustration of the patriarchal nature of the kingdom, drawing attention from religious and government officials of Saudi Arabia. A lawyer from the government-established Human Rights Commission even took up her case. While she was not able to divorce her husband, her situation brought the world’s eyes to the issue of child marriage. Perceived as being sanctioned by the Prophet, child marriage has existed in the religious Kingdom of Saudi Arabia for decades. Over the last century, child marriage in Saudi Arabia has evolved due to international and internal pressures, yet still persists because of its entrenchment in Saudi culture.

In order to understand how child marriage works in the larger system of Saudi government, it is important to examine the governance system itself. The government applies a form of Sharia law derived from the Hanbali school, which is one of the more traditionist Sunni schools of Sharia. Additionally, there is no secular family law; all family law is based on religious edicts known as fatwas. The sources of these rulings are “the Holy Qur'an and the Sunna (Traditions) of God's Messenger”\(^1\). Laws are not codified, meaning that laws are not expressly organized in a systematic, accessible manner, which makes examining family law incredibly difficult. Furthermore, the Saudi Arabian government applies the conservative Wahhabi sect of Sunni Islam. Coming from the Hanbali school itself, Wahhabi Islam advocates

\(^1\) Royal Embassy of Saudi Arabia, Laws: Basic Law of Governance, 1992
for a return to an early version of Islam and “represents adherence to the letter of the Qur’an and the Hadith.” The governance system is one entirely based on religion.

The marriage system in Saudi Arabia is one heavily dominated by the males of both families. In such a patriarchal society, marriage is considered a contract between the groom and the male marriage guardian of the intended bride, not between the groom and the bride herself. While the bride must agree to the marriage, there is frequently strong pressure from her family to marry the man of the guardian’s choosing. Thus, while the bride legally has the option to decline proposed marriages, such instances rarely occur and the bride will almost always accept the marriage. Additionally, the younger a girl is, the more easily pressured she can be to accept a marriage. Thus, the requirement of a girl’s consent to a marriage does not deter child marriage. The notion of self-arrangement of marriages is virtually non-existent; the guardian, who is usually the father, and potential groom make the marriage contract.

The marriage contract is lengthy yet completely binding to both parties. Any breach of contract can invalidate it. This contract includes “mahr,” which are money and gifts given to a bride from her husband, requires the bride to specify whether she is a virgin, widow, or divorcée, and allows for stipulations. The first inclusion in the contract, mahr, allows for the bride to have her own small amount of money that the husband cannot legally take away from her, except in rare cases of khul, where the wife buys her way out of the marriage by forgoing “all her maintenance rights and mahr.” In regards to the second specification in the contract, the common assumption (and sometimes, misconception) of many in Saudi Arabia is that if a girl or woman is not a widow or divorcée, she must be a virgin. Premarital sex is severely condemned.

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Finally, the third inclusion in the contract is the allowance of stipulations, an aspect of traditional Hanbali law that can be used in a progressive nature. Essentially, the allowance of stipulations means that the marriage guardian can choose to include specifications that ensure the bride’s well-being and the groom’s faithfulness. For example, the marriage guardian can stipulate that the woman has the “right to dissolve the marriage, or that neither party may leave the town in which they have agreed to settle and make their home, or that the husband may not take another wife”\(^5\). If the husband violates stipulations, the woman is automatically divorced from him. Thus, a marriage guardian can choose to include provisions in the marriage contract that act in the child’s benefit.

Marriage decisions involve several considerations such as fertility and monetary circumstances. One consideration in making the marriage decision is fertility of the bride. Saudi Arabian families are traditionally large, and women are meant to bear many children. In fact, Sharia law “charges the man with earning a living to provide for himself and his wife as compensation for the women’s role as conceiver”\(^6\). Thus, the women’s primary role in the marriage is to have children. Additionally, the Quran states that “(Allah) created for you mates from among yourselves that you might find solace in them”\(^7\), essentially claiming that women were created for men. The emphasis on the woman’s role as child-bearer perpetuates child marriage in Saudi Arabia, a country where such marriage is legal and there is no minimum age for marriage. If married before reaching puberty or shortly after, the chances of having a large family grows tremendously, since the wife becomes sexually active during the very beginning of her child-bearing years. A study conducted at King Saud University in Saudi Arabia found that

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the total fertility rate was 8.4, and that early marriage resulted in higher parity (number of times a female has given birth)\(^8\). This means that the average woman will have between 8 and 9 children in her lifetime, illustrating the societal desire for large families that perpetuates child marriage.

Monetary circumstances are also a consideration while making the marriage decision. The marriage guardian can choose to postpone a marriage for economic value, since he is entitled to any funds a woman or girl might earn from working\(^9\). Known as adhl, this purposeful delaying of marriage is technically a violation of Islamic law, yet many continue to practice it. Thus, there are significant incentives to wait until a child grows older to marry her off, although such incentives bring up other women’s rights issues. There are monetary incentives to marry the child off early as well. A family could decide to marry off a girl at a young age if the bride price, the monetary gifts from the groom to the bride’s family, is high enough. In some cases, the bride price may be more than wages a girl might earn, which encourages the family to wed her and forego any future money she might have made through work. For example, a 12 year old girl’s marriage to an 80 year old man resulted in the bride’s father receiving $22,665 from the groom\(^10\).

The consideration of monetary circumstances provides separate reasons to delay or hurry marriages.

Child marriage itself persists in many Islamic countries primarily because of the story of Prophet Muhammad and his young bride, Aisha. Hadith reports, which are essentially supplements to the Quran, state that Muhammad married Aisha when she was 6 and

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consummated the marriage when she was 9. Muhammad is revered by Muslims. As the founder of Islam itself, Muslims follow his teachings and believe that any action he takes is in turn an action that any Muslim can take as well. Thus, the marriage of Muhammad to young Aisha is perceived as sanctioning child marriage. Child marriage itself is also seen as a way to safeguard against illicit relationships. Although not a primary reason, some fathers want to ensure that their daughters are virgins when they become married, and child marriage is a way to do so. Marrying the daughter while young means that the daughter will not engage in illicit relationships and lose her virginity before marriage, thus safeguarding the family against a wayward daughter.

In Saudi Arabia, child marriage is relatively more prevalent than in many other Muslim countries. There is no law against child marriage in the country. The male marriage guardians have the legal right to marry off their female charges to whom they wish and when they wish and the male marriage guardian of the groom can also marry him off if the groom is young. In fact, Sheikh Saleh al-Fawzan issued a fatwa stating that fathers may arrange marriages for their daughters even if they are in the cradle; the only condition is that the married couple cannot consummate the marriage until she has reached puberty. Since fatwas are the law of the land, this edict means that child marriage is officially sanctioned by the government. Furthermore, the Grand Mufti issued a fatwa that approved marriages for girls aged ten and above. This fatwa did not set a minimum age of marriage. It sanctioned marriage at age ten, but did not disallow earlier marriage. Such fatwas allow the practice of child marriage to continue and thousands of Saudi Arabian girls are married off at a young age. In 2012 alone, there have been 5,622

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marriages so far where the bride is under 14. While international focus is on marriage of female children, it is also important to note that males can also be married off at a young age. Some young boys have guardians as well that make marriage decisions for them. Many of these children seek to do their family’s bidding and do not completely understand what entering into a marriage at a young age entails. Child marriage, both for girls and boys, is undoubtedly a significant issue in Saudi Arabia that has garnered tremendous international attention.

One recent trend in the marriage system is a slowly rising age of marriage. Due to international and internal pressures, the age of marriage has risen in the past two decades. Consequently, rates of child marriage have decreased. In 1987, 16.1% of girls aged 15-19 had ever been married. In 1996, 7% of Saudi Arabian girls aged 15-19 were married. By 2007, 4% of girls aged 15-19 were married, divorced, or widowed. While these statistics demonstrate a reduction in child marriages, they imply that a portion of that 4% were married before the age of 15 and were widowed or divorced while aged 15-19. Additionally, these statistics only cover four years of age, and thus, do not include marriages of children under the age of 15. The available evidence suggests that the rate of child marriages is slowly decreasing, although the subject sample must be taken into account.

Another trend in child marriage is the tendency of rural, poor families to marry off daughters earlier than urban families. In 1991, the mean age of first marriage was 17 for urban females, but 16 for rural females, and the percentage of women married by age 15 in urban areas

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are significantly lower than those in rural areas\textsuperscript{19}. Thus, rural areas are more prone to practice child marriage. One reason for this difference is economic. Many rural families may decide to marry off their daughters in return for a large monetary gift from the groom\textsuperscript{20}. The economic incentives for early marriage are significant and perpetuate child marriage in rural areas.

A final trend in the marriage system is the increased emphasis on education. Interestingly, the Saudi Arabian government has made education reform a top priority and is moving toward instituting universal primary education\textsuperscript{21}. While access to education was previously restricted to only boys, it has opened up to girls as well. In fact, a majority of girls now receive at least a primary education. The gross enrollment ratio for girls in primary education increased from 67\% in 1991 to 92\% in 2006\textsuperscript{22}. However, public education is strictly sex-segregated. In public and private elementary schools, the teachings emphasize skills as a housewife and mother for the girls. Subsequently, the increased access to education has delayed marriage but places pressure on girls to get married and have children early on in their life. A significant percentage of girls tend to drop out of school after elementary education in order to get married, and even more drop out during and after high school. At the secondary level, the gross enrollment ratio for girls increased from 39 percent in 1991 to 65 percent in 2006\textsuperscript{23}. These statistics mean that approximately 27\% of girls who enrolled in elementary school drop out before high school. The older (and closer to the end of her marriageable age) a girl becomes, the more likely it is for her to drop out of school and get married.

\textsuperscript{22} Mona Al-Munajjed, Booz and Company Report, page 7
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Several cases of child marriage have been covered by international media sources, although some tend to approach it in a highly Westernized manner. In one case, the mother of a 12 year old girl that was married to an 80 year old man asked the courts to annul the marriage on grounds of rape. However, the girl dropped the case, stating that she agreed to the marriage in “filial respect to her father and obedience to his wish.” This real-life story illustrates the patriarchal nature of marriage in Saudi Arabia and the expected deference of girls to their fathers’ wishes. In another case, a court in Uniaza upheld the marriage of an 8 year old girl to a 60 year old man on the condition that the marriage is not consummated until she reaches puberty. This case highlights the government’s sanctioning of child marriage with the qualification that the consummation does not occur until puberty. In yet another case that represents a blend of both the former instances is that of an 8 year old girl who was married to a 47 year old man. Her mother petitioned the court to annul the marriage because it had been “arranged by the father to settle a debt,” but the judge rejected the petition. Not only does this case demonstrate a possible economic incentive to child marriage (settling a debt) but the authority of the male guardian over not only his daughter, but his wife as well. While the mother might be against a marriage, the father has the power to make the marriage decisions. He might take the mother’s wishes into account, but it is his decision to make (and the girl’s to accept).

Child marriage has several adverse effects on employment, economic status, and health. The first two effects are closely linked. First, girls who are married off at a young age rarely enter the workforce. Once married, her responsibility, according to Sharia law, is to have

children. The husband is the breadwinner that enters the workforce to provide for the family. The lack of employment on the wife’s side leads to a notable lack of personal wealth or income. This means that the wife, if left on her own, only has the mahr that her husband gave her as part of the marriage contract to survive on. It also ties the wife to the husband and makes it difficult to leave a bad marriage. In regards to health, early marriage increases the risk of complications or even dying from causes related to pregnancy and childbirth. Their bodies are not fully developed, and that can causes girls aged 14 and younger to “run a very high risk of complications in pregnancy and childbirth compared with older adolescents”\textsuperscript{28}. Additionally, young pregnant girls are more likely to endure prolonged or obstructed labor, which “can lead to hemorrhage, severe infection, and maternal death”\textsuperscript{29}. The negative effects of child marriage on the wife are extremely significant.

These and other adverse effects of child marriage have brought about an international women’s rights movement toward eliminating child marriage and setting a minimum age of marriage. This movement consists of not only women against child marriage, but many men and government officials as well. Sheikh Muhammad Al-Nujaimi, a religious leader in Saudi Arabia, is strongly opposed to child marriages, and many of his colleagues have “urged the government to pass legislation setting the minimum age for marriage and to resolve differences among the Kingdom’s religious authorities over the issue”\textsuperscript{30}. Multiple Saudi men have joined organizations such as UNICEF and the Saudi Human Rights Commission to advocate for eliminating child marriage. In fact, the president of the Human Rights Commission is a Saudi man, Turki al-


\textsuperscript{29}International Women’s Health Coalition, “Child Marriage”.

Sudairy, and the UNICEF representative in the Gulf region is a Saudi doctor, Dr. Ayman Abu Laban. Turki claimed that “child marriages should be considered to be the same as forced marriages since valid consent has not been obtained from the bride who is also under aged” and Abu Laban stressed that child marriages “inflict serious psychological and physical risks on young girls”\(^\text{31}\). The incorporation of men into the movement gives the movement significantly more sway in Saudi Arabia, a patriarchal society. Pressure from Saudi men as well as women to eliminate child marriage could prove to be highly persuasive for the Saudi government.

Internal activists tend to approach the matter in an effective, highly stylized manner. They understand the motivations behind child marriage and attempt to attack the issue at its roots, mainly, the economic incentive. Interestingly, Saudi activists bring up how child marriage rates in the Kingdom are not extremely high, especially when compared to African nations like Kenya or Nairobi, where child marriage rates are around 50\%\(^\text{32}\). There are several groups within Saudi Arabia itself that are dedicated to setting a minimum age of marriage and eliminating child marriage. The National Society for Human Rights, which receives limited funding from the Saudi government, has a panel specifically meant to monitor women’s rights, which includes girls as well. Suhaila Hammad, a representative of NSHR appealed to Saudi citizens and the government by bringing up how child brides “will be deprived of education and the opportunity to enjoy their childhood….their bodies won’t be able to tolerate pregnancy and deliver children”\(^\text{33}\). In this simple statement, Hammad has brought up two key aspects of Saudi society: education and family. The government, as discussed before, has made education reform a top priority, and by arguing that girls who are married off at an early age will not get an education,

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Hammad provides a persuasive reason the Saudi government should restrict child marriage. It will further their goal of increased education for girls. Hammad also brought up the family, and how young girls might not be able to deliver children. As previously mentioned, Saudi society values large families, and would not want to jeopardize the chances of having such a family. By stating that child marriage threatens the possibility of a large family, Hammad provides yet another persuasive reason for the Saudi government to restrict child marriage. Internal activists have an extremely clear view of how best to address the issue of child marriage in terms the Saudi government will understand, making them highly effective.

Not only has an internal women’s rights movement sprung up, but an international one as well. The United Nations has put tremendous pressure on Saudi Arabia to eliminate child marriage through multiple conventions and groups. For example, the UN Convention on the Rights of a Child, Convention on the Elimination of Discrimination against Women, and the Population Fund are all groups or treaties that the Saudi Arabian government has signed onto that address the issue of child marriage. In fact, the UN Population Fund, or UNFPA, published an 80 page document exclusively concerned with child marriage and highlights how signatories to covenants discouraging child marriage still allow the practice of it. The document also addresses 5 methods to combat the issue: “empower girls by building their skills and enhancing their social assets…improve girls’ access to quality formal education…mobilize communities to transform detrimental social norms…enhance the economic situation of girls and their families…and generate an enabling legal and policy environment”\textsuperscript{34}. Another group that has pressured Saudi Arabia to eliminate or restrict child marriage is Amnesty International. This organization attempts to bring to light cases of perceived human rights restrictions that the public

might not ordinarily encounter. One issue with these international organizations, however, is that they have a host of problems to deal with around the world. They are committed to eliminating child marriage, but not just in Saudi Arabia. Many African nations have higher rates of child marriage that will be approached first. Furthermore, there are other perceived human rights abuses in Saudi Arabia itself that these organizations wish to combat, such as tracking of women and the ban on women for driving. While the proposed initiatives must be tailored to Saudi society in order to impact child marriage in the country, it provides an interesting look into how the international women’s rights movement approaches this controversial issue.

Child marriage is a highly controversial topic among Saudi women themselves. There are numerous Saudi women who are in favor of letting child marriage stay, if the guardian desires so. Some Saudi women have spoken in favor of letting the guardian decide when a girl should be married, explaining that the guardian will make the best decision. In response to a liberal Saudi activists’ campaign to eliminate the guardian system, a group of conservative Saudi women, led by Princess Jawaher bint Jalawi, launched a counter-campaign called “My Guardian Knows What’s Best for Me”\textsuperscript{35}. This campaign emphasized exactly that; that the guardian knows what is best for his charges and should be able to make marriage decisions for her. Their campaign embroiled activists in a tremendous internal conflict drawing the attention of several journalists around the world and within Saudi Arabia itself. Liberal activists claim that this campaign draws attention away from the real issue and that the creators are simply their guardians’ puppets, while conservative women claim that such a campaign brings to light a necessity to value traditional beliefs. Regardless of which side is correct, the fact remains that the campaign has caused

activists to become mired in internal strife and detracts from the internal movement to end the system of child marriage.

Partly as a result of the women’s rights movement, noteworthy progressive changes have been made to child marriage. One such change is the Grand Mufti’s fatwa stating that forced marriage is against Islamic law. Although forced marriage is common in practice, a religious ruling invalidating it is significant nonetheless. Yet another progressive change is that the government has started issuing new marriage contracts that require the age of the bride to be given. While this may not deter child marriage in and of itself, it does draw the attention of Saudi Arabians to the issue. Perhaps the most significant change is the establishment of a government-run Human Rights Commission to look into a reduction in child marriage. The Human Rights Commission receives government funding and is a strong supporter of ending child marriage completely. In fact, HRC officials have advocated for setting a minimum age of marriage at 18 for girls, and have even successfully stopped one child marriage from occurring. The fact that the government runs it is surprising, but demonstrates a progressive change that might just lead to restrictions on child marriage. Additionally, Justice Minister Muhammad Issa stated that the government must put an end to the arbitrary way in which guardians can marry off underage girls. However, the Minister’s comment is not advocating for eliminating child marriage. It is simply saying that guardians must not marry off girls in an arbitrary manner. His comment does represent a progressive step, however, since it demonstrates a governmental shift toward reforming child marriage. Furthermore, the Ministry of Justice is not as powerful as the religious officials. While Saudi justice ministries may attempt to protect children, “it is still the

37 “New Marriage Contracts to Ask the Bride’s Age,” BBC, 2010.
religious establishment that holds sway in the courts”\textsuperscript{40}. Thus, the Minister’s belief that arbitrariness in marriage must end will not convince the government to act unless multiple religious officials echo that sentiment. One religious official has expressed a similar belief. Sheikh Abdullah al-Manie stated that the Prophet Muhammad’s marriage to Aisha cannot be used as justification for child marriage\textsuperscript{41}. While his statement does not advocate for an end to child marriage, it does eliminate a major reason that Saudi guardians use to sanction child marriage. The multiple progressive changes thus far suggest that Saudi Arabia might be moving toward liberalizing views of child marriage.

While significant progress has been made in regards to reducing child marriage, the issue still persists for several different reasons. Three key factors that cause child marriage to continue are the religious officials’ dominance over secular figures, distrust of Western ideals, and ideological beliefs. First, the dominance of religious officials over more secular figures is a large reason that child marriage is still practiced. The majority of religious officials do not feel that child marriage should be eliminated or that a minimum age of marriage should be established. Since Saudi Arabia’s family law is almost entirely dependent on fatwas of religious officials, early marriage will not be abolished unless those religious officials condemn it. Instead, multiple religious officials have expressed support of child marriage, such as the Grand Mufti’s approval of a 10 year old girl’s marriage as previously noted. Yet another reason child marriage continues is a distrust of Western ideals. Many Saudi women perceive such ideals as ones that will destroy traditional Islamic virtues and corrupt them. One conservative woman stated that Saudi Arabia is the closest to a pure Islamic nation, and claimed that she does not “want imported Western

\textsuperscript{41} “Saudi Girl, 12, Drops Plan to Divorce 80-Year-Old Cousin,” \textit{Huffington Post}, 2010.
values to destroy that.” Another factor that causes child marriage to persist is the deep-seated ideological belief in a traditional, patriarchal Saudi family. The concept of marriage guardians and male guardians in general for woman has existed for centuries; in fact, it is explicitly discussed in the Quran itself. Conservative Saudi women tend to view male guardianship as positive, a system based on love that allows a woman to have a protector. Religious dominance, distrust of Western ideals, and ideological beliefs are all reasons that child marriage continues to persist.

Child marriage in Saudi Arabia has persisted for decades. Caused by a variety of social and economic factors, early marriage can have adverse mental, physical, and economic effects. Girls who are married off at a young age are at increased risk of complications during pregnancy and rarely enter the work force. Their educations are cut short, with many girls dropping out of school (either after elementary or high school education) in order to get married. Internal and international women’s rights movements have pressured the Saudi government to take action by either setting a legal minimum age of marriage or eliminating it all together. However, multiple factors such as religious dominance, distrust of Western ideals, and ideological beliefs have allowed child marriage to persist. All signs point to the possibility of progressive changes in Saudi Arabia’s system of family law. However, the likelihood of a complete elimination of an issue that seems to be sanctioned by the Prophet himself is slim.

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