

Child Marriage

In Kurdistan region - Iraq





Caption; A picture drawn by a young girl during an art session at one of UNFPA supported safe spaces in Kurdistan Region, Iraq

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Delivering a world where every pregnancy is wanted, every childbirth is safe, and every young person's potential is fulfilled.



Child Marriage in Kurdistan Region - Iraq (Overview)



United Nations Population Fund

As a child spouse who experienced pregnancy and delivery at the young age of 16, I still struggle with consequences on my physical and psychological health, and have to live with the traumas for the rest of my life. I cannot comprehend how parents can be so inconsiderate and subject their young children to such a horrible experience at this very early stage of their life.

__Child spouse (25)

Child marriage

Child marriage is a formal or an informal union of two persons at least one of them is under 18 years old¹. Child marriage is also known as forced marriage, since a child usually lacks the maturity and level of information necessary to make an informed choice. Children also often accept to get married under pressure, including threat or actual use of force. Child marriage is a violation of child's basic rights, and abusive by nature. It limits a child's opportunity to enjoy his/her childhood, continue his/her education and limits his/her opportunities in life.

Children face enormous health risks related to early marriage, pregnancy and delivery, both physically and psychologically. Starting these processes early in life also increases their risk of social isolation and exposure to violence. In the Kurdistan region-Iraq, child marriage is a serious and growing issue that needs an uncompromising intervention in the form of preventive legislations and protective measures. In parallel, sustained efforts to raise public awareness and continuous advocacy against child marriage remain a must for changing social practices and adopting new behaviour. Without changing social practices, child marriage is bound to stay within a society even with the adoption of laws that prevent it.

Child marriage is a global issue that negatively affects the rights of adolescent boys and girls, with a particular disadvantage for girls: many more girls than boys are married young. Over 700 million women alive today were married

Child marriage has disastrous and life threatening effects on the health, protection, economic, social and psychological development and wellbeing of young girls. It limits girl children access to education, sexual and reproductive health care and increases their isolation.

__ Mr. Ramanathan
Balakrishnan, UNFPA
Representative in Iraq

¹ "Child marriage". UNICEF. 22 October 2014. Retrieved: http://www.unicef.org/protection/57929_58008.html

before their 18th birthday and more than one in three (about 250 million) entered into a union before the age 15². Child spouses are generally more vulnerable to gender based violence, domestic violence and sexual abuse within the framework of marriage. Their early pregnancies often leave them longstanding adverse consequences on their physical and mental health. Nevertheless, child marriage almost equally affects the prospects for boys and girls in terms of opportunities in the future.

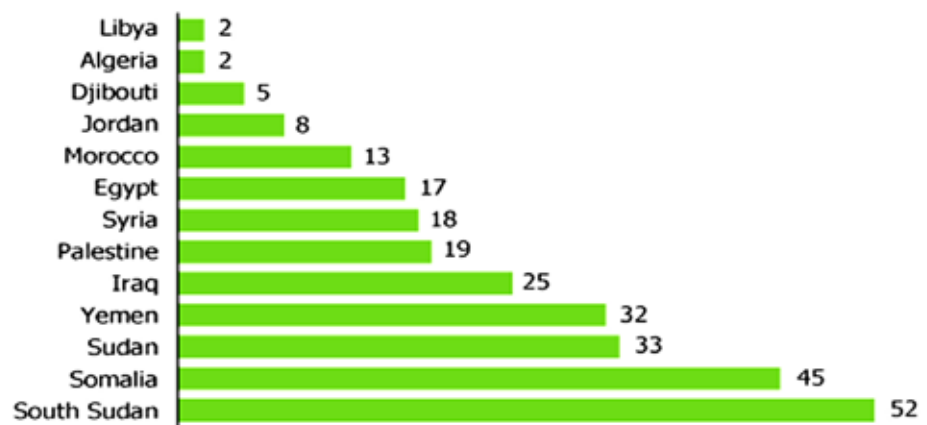
A number of international legal instruments address the issue of child marriage, such as prohibiting child marriage, including the standardization of marriage consent, setting a legal age of marriage, and marriage registration. These instruments include the 1962 Convention on Consent to Marriage, Minimum Age of Marriage, and Registration of Marriage; the Convention on the Elimination of All Forms of Discrimination against Women (1979); the Convention on the Rights of Child (1989); and the 1995 Beijing Platform for Action.

This fact sheet provides information about the problem of child marriage in the Kurdistan region-Iraq from the legal and societal perspectives and identifies a number of steps necessary for the elimination of child marriage in Kurdistan region of Iraq. Therefore, it includes an overview of the problem context in Kurdistan region-Iraq; the causes of the problem and its consequences on child spouses; analysis of the legal context pertaining to child marriage in Kurdistan region-Iraq; and finally recommendations and suggested policies to address the problem.

The applicable methodology for producing this fact sheet includes desk study of the existing legal frameworks and literature related to child marriage in the Kurdistan region-Iraq, in addition to interviews with child spouses, legal experts, state officials, and advocates of children and women's rights.

Child marriage in the Kurdistan Region- Iraq

The issue of child marriage in the Kurdistan region- Iraq is yet to be adequately researched and documented in order to be effectively addressed through advocacy and policy recommendations. In 2011, data from Iraq's Central Bureau of Statistics showed that 5% of Iraqi girls were married before the age of 15 years while about 22% of Iraqi girls married before they turned 18³. In July 2013, Iraq's Minister of Planning and Development Cooperation, Ali Al-Shokri, announced that Iraq is among countries



Percentage of women aged 20 to 24, who married before their 18th birthday; Iraq is among the high rated child marriage Arab countries, Source: - El-Kak, Dr. Faisal (2014), *Document Advocating Against Teenage Marriage*, Beirut, Lebanon.

		Kurdistan Region	%	South/Centre Iraq	%	Total	%
Age	15-19	2755	20.53	9618	23.02	12394	22.41

Percentage of Child Marriage in KRI and the rest of Iraq, Source: *Ibid*

² Ending child marriage: Progress and prospects, UNICEF 2014, p.5.

³ El-Kak, Dr. Faisal (2014), *Document Advocating Against Teenage Marriage*, Beirut, Lebanon, p.8

with the highest rates of underage marriage in the world reaching 11%⁴. However, researches show that the prevalence of child marriage in Iraq generally is estimated to range between 16.7% and 19% under 18 years⁵. Child marriage contracts in the Kurdistan region and in Iraq generally are often concluded informally outside the court and without formal registration, thus allowing for inaccurate statistics, and underreporting on the actual rates of child marriage.

The phenomenon of child marriage in the Kurdistan region is the result of a number of interrelated religious, social and economic factors. The arrival of nearly 245,000 refugees from Syria and over one million displaced persons from other parts of Iraq has exacerbated the problem⁶. The particularly precarious conditions of the refugees and the displaced, including their limited access to basic health services, education and employment often influence families into believing that it is safer for their young girls to get married. Such a conviction is partly the result of the fears by families that their girls may face sexual abuse and that their marriage may help diminish the economic obligations within the family.

“Cases of child marriage are common among the displaced and refugees in the Kurdistan region and so many times these types of marriages are known only when they lead to domestic violence and/or divorce and then government intervention is required.”

— A government official from Directorate of Combating Violence against Women

Causes of child marriage in the Kurdistan region- Iraq

While poverty and economic vulnerability are primary reasons for a family’s decision to marry off a child, this practice is in fact enshrined in traditional social and cultural standards in some communities.

Some families are convinced that girls ‘need to be taken care of’, which translates into pushing them to get married as soon as possible as a way to preserve the honour of the family. Imams (Muslim religious leaders) often conclude child marriage contracts without any form of formal registration, thus further complicating the legal aspect of the marriage and leaving the child spouses without any legally recognized status and rights.

“We have a very miserable life here, it is safer to give my child away and get her married, even if she is 12 years old than keeping her with us and risk having her stain our honour.”

—A refugee mother

- **Poverty:**
Parents see girls as a kind of economic burden that marriage can alleviate, and the girls themselves may be lured into believing that getting married is a way out of poverty and into financial independence.
- **Protecting family honour:**
Fear of seeing their young daughters engaged in love relations or premarital sex pushes many families to decide that marriage is the best form of protecting their honour from potential damage. “To keep a girl unmarried is to keep a barrel of gunpowder at home” say the elderly, thus implying that early marriage is a way to prevent illicit sexual relations and preserving a family’s honour and reputation.

4 Ibid, p. 10

5 Remarks by UNFPA Representative at Child marriage Stakeholder Meeting, 7th December 2015, Erbil- KRI

6 Iraq: UNHCR IDP Operational Update, 1-29 February 2016, P. 2.

- Limited alternatives:

In a conservative community, schools provide the only possible social outlet for young girls, and their only excuse for not being married yet. If a girl is not in school, then her only claim to social freedom is through marriage and a husband. In the Kurdistan region-Iraq, people say “Education or marriage” as the only available choices for a young girl.

- Peer pressure:

Peer pressure and the perceived attractiveness of a friend’s newly acquired married status may push some girls into deciding that they too wish to get married. They might find the marriage at this age the reasonable and fashionable thing to do.

- Religious factor:

Different religious interpretations and teachings, particularly as reflected in the Iraqi permanent constitution (2005)/article 41, in which every sect and religious community is allowed to follow its religious teachings and laws with regards to marital and personal status affairs dangerously affect attempts to standardize the legal age of marriage by a national legislation in line with international standards.

“In our school, there are certain cases where girls who just turned 15 have got married, most of them dropping out of school especially when they are pregnant and are shy to show it to other young girl at school.”

— A female teacher in a high school for girls in the suburbs of Erbil city.

The consequences of child marriage

Various pieces of research have proven that child marriage has direct negative consequences on the physical, psychological, emotional and social

wellbeing of children, their families and their communities at large. Moreover, child marriage prevents individuals from realizing their full potential within their society, thus negatively affecting that society.

“I have seen cases of child brides referred to our committee who were so traumatized by the domestic violence they survived that they could not utter a word about what they had gone through”

— A government official from Directorate of Combating Violence against Women, Erbil.

- General and reproductive health

Children are generally not physically, mentally and emotionally ready for healthy sexual relations, and child marriage directly affects the natural sequences of physical, emotional and mental growth of a child, often leaving the child with long-lasting physical, psychological and social complications.

Child marriage usually comes with unhealthy and ill-informed sexual relations that may include unwanted and forced sex, domestic rape, vulnerability to domestic violence and gender-based violence and adultery, which ultimately affect the physical and mental well-being of child spouses.

Married children are usually not aware of the risks of early pregnancy, or of available contraceptive methods and of ways to protect themselves from sexually transmitted infections. Child spouses are therefore more likely to face life threatening risks during pregnancy and delivery, and carry enduring health complications out of their marriages. Research shows a girl under 15 years of age is five times more likely to die in childbirth than a grown woman⁷.

⁷ Inter-Agency Guidance Note: *Prevention of and Response to Child Marriage*, Erbil, 2015, p. 5.

- Economic and social development :

Delaying marriage generally allows more advanced education for boys and girls, and healthier social integration with peers, while child spouses generally suffer from peer and social isolation, especially during pregnancy, which in turn reinforces the tendency to leave school. Abandoning school negatively impacts most of a child's future, including access to certain competencies and employment opportunities, and is a stumbling block to productivity and the development in a society.

The legal context on child marriage in the Kurdistan Region-Iraq

Iraqi legislations on child marriage are currently below the country's obligations under international standards. Article 41 from Iraqi Permanent Constitution (2005) stipulates that "Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs or choices, and this shall be regulated by law." This article provides room for specific legislations by sect or by religious group in the Iraqi Council of Representatives. The draft Ja'afari Personal Status Law suggested to the Iraqi parliament in 2014 for instance allows for the marriage of child girls as young as 9 years of age.

The currently applicable law, the Personal Status Law in Iraq No. 188 from 1959, is a relatively progressive law in terms of compliance with the international standards on determining and limiting the legal age of marriage, which is 18 (article 7). However, the law in article (8) allows for an exception to this general provision and stipulates that "the judge can authorize the marriage of a 15-year old person if the judge determines the marriage is an urgent necessity. Giving such authorization is also conditional upon the attainment of legal puberty and physical ability which is left at the discretion of the judge and testimony of parents."

In the Kurdistan region-Iraq (KRI) though, and in lieu of article (8) of this law, the provisions of article (5) of the amended Personal Status Law in KRI no. 15 of 2008 are applicable.. Article (5) in the KRI law stipulates that "if a 16-year old person asks to be married, the judge can authorize the marriage if the eligibility and physical ability of the person in question was established and approval received from the guardian. If the guardian abstains from responding, the judge calls upon them to state their agreement during a determined period. If the guardian does not object or if s/he submits an objection that is unworthy of consideration, the judge shall allow the marriage."

Despite the fact that the legal age of marriage as set in this article is still below the internationally recognized 18 years , the amendment comes with two progressive changes in favour of child spouses: first, it reiterates the need for the informed consent of the child in the conclusion of the marriage by saying "if a 16-year old person asks to be married"; and second, it raises the conditional legal age of marriage from 15 years (as it is the case in the old law still applicable in the rest of Iraq) to 16 years.

"The jurisdiction of marital status courts in Iraq is not limited to seeing only cases from the administrative geographic areas they are located in; instead, their jurisdictions are nationwide and can decide on all cases brought to them from wherever locations they would be. This means that children of 15 years of age from Erbil, Sulaymaniyah and Dahuk can get married in Kirkuk, Makhmur/ Ninewa and Shekhan/Ninewa where the amended KRI personal status law is not applicable to their hometowns."

— A Judicial investigator and legal expert.

Moreover, article 2 of the law on Domestic Violence number 8 (2011) in the KRI defines child marriage as an act of domestic violence. Article 7 of the same law, imposes imprisonment from 6 months to 3 years with a fine of 1 to 5 million Iraqi dinars on any person credibly believed to have committed an act of domestic violence, including child marriage.

Furthermore, KRI's act no. 15 (2008) which seeks to amend the amended the Iraqi Personal Status Law no. 188 (1959) stipulates that “any man who concludes a marriage contract outside the court is punishable with a fine varying between 1 to 3 million Iraqi dinars. If he concludes another marriage outside the court when he is already married, the imprisonment penalty shall range between a minimum of three years and a maximum of five years.”

Key interventions by government institutions & other actors

- Kurdistan Regional Government

In Kurdistan region and according to article 3 of the Law on Domestic Violence, the Ministry of Labour and Social Affairs is mandated to provide shelter and the Ministry of Health is mandated to provide healthcare and rehabilitations to all survivors of domestic violence (including survivors of child marriage). Moreover, article 3 of the same law mandates the Directorates of Combating Violence against Women to provide trained investigators, social workers and a special investigative court to pursue cases of domestic violence (including issues related to child marriage). The abovementioned directorates are linked to the High Council of Women Affairs under the Ministerial Council in KRI.

- UNFPA support to the Kurdistan Regional Government- Iraq

An inter-ministerial committee adopted a plan by the High Council of Women Affairs that

will help change societal attitude and behaviour towards child marriage in the Kurdistan region. The plan, supported by UNFPA includes running a public campaign on “ensuring my future”, which highlights the direct relation between empowering young boys and girls and reducing the rates of child marriage, thus challenging the misconception that child marriage “secures the girl future”.

The campaign is designed to address young girls, adolescent girls and parents by showing success stories of women in different professional fields to encourage the young girls to pursue their education, careers, civic engagement and general growth. Religious and health arguments will both form the basis of addressing families of young girls in an attempt to move them away from the prevailing social practice of marrying their daughters young.

- International/Local NGOs and CSOs

In the Kurdistan region-Iraq, the various entities working on child protection and gender-based violence (GBV), including the concerned UN agencies, international and local NGOs and government counterparts all recognize the need to prevent and respond to child marriage. Together, they have established a Child Marriage Task Force that produced a guidance note on addressing child marriage cases in Kurdistan region- Iraq⁸.

Key Recommendations

Recommendations include ensuring the legal and legislative prevention of child marriage, the enforcement and implementation of the child law enforcement and responses and practical measures for the treatment and care for child marriage survivors.

- Setting the minimum legal age of marriage to 18

The first step in the efforts against child marriage

⁸ Inter-Agency Guidance Note: *Prevention of and Response to Child Marriage*, Erbil, 2015.

is the enhancement of legal provisions. The current laws allow for exceptions to the applicability of the standard legal marriage age of 18, which can compromise the internationally recognized rights of children. Therefore, the applicable laws should be unequivocal about the minimum legal age for marriage, and not allow any exception to the children's enjoyment of their full rights and childhood, in line with international standards of child rights, including matters related to child marriage.

- **Eliminating legislative discrepancies**

The marital status courts, unlike criminal courts, are not bound to administrative and geographical jurisdictions. They are considered competent to view the subject matters presented to them regardless of the geographical affiliation of the concerned individuals. An example on these discrepancies is that people from the three governorates of the Kurdistan region (Erbil, Sulaymaniyah and Dahuk) resort to personal status courts in the disputed areas of Kirkuk, Khanaqin, Makhmour and Shekhan to avoid the provisions of the KRI amendment of Iraqi Personal Status Law, which therefore enable them to conclude a marriage contract for a 15 year old child. Discrepancies between regional and national laws and with different thematic laws related to marital status should be reconciled and standardized in compliance with the international standards of child rights.

- **Regulating outside court marriage**

Generally, where marriage contracts are concluded outside the court, the law has identified penalty, according to article 7 in the KRI Amendment Act no. 15 from 2008 to the Iraqi Personal Status Law No. (188) from the 1959. Additionally, Article 41 of Iraqi Personal Status Law no. (188) from 1959 stipulates that "Both spouses have the right to ask for separation for any of the following reasons:.... 3) If the contract of marriage was concluded before one of the two spouses has completed 18 years of age, without the consent of the judge, 4) If the marriage was concluded outside the court by coercion, and marriage was consummated."

Nevertheless, marriage contracts implicating

children and conducted outside the court can easily get formalized after the payment of the relatively light fine that is stipulated in the Personal Status Law, and in the presence of witnesses as per the Iraqi Civil Evidence Law no. 107 of 1979. There is therefore an urgent need for stricter regulations on marriages concluded outside the court marriages, such as restricting the conclusion of these marriages to designated Imams (Muslim religious leaders), who use official stamps and templates to conclude a marriage contract before reporting it to the competent authorities.

- **Promoting moderate religious teachings consistent with children's rights**

Some clerics consider and recommend child marriage as religiously acceptable conduct in accordance with the religious schools they adhere to. As a response, the Ministry of Endowment and Religious Affairs in KRI should regulate and limit such teachings and preaching among all religions in Kurdistan region through devised ministerial legal instruments and regulations. In a parallel effort, the ministry should also support and promote more moderate religious teachings and preaching which are consistent with children's rights, including the right of not being forced into a child marriage.

- **Segregated data collection**

The data collection on the phenomenon of child marriage is insufficient. As a legal expert from the Directorate of Combating Violence against Women stated, "The data about marriages and divorces is announced every six months by the High Judiciary Council; however, such data is not segregated by age of the spouses." In order to tackle the issue of child marriage effectively, the government should develop a system to collect segregated data based on age, and not rely solely on official registrations at courts but also on alternative ways of researching and data collection. The role of Imams in child marriages and marriage contracts in general should be regulated by the government, including their legal obligation to report on marriage contracts that they conclude to the competent authorities. Knowing the data and

figures about child marriage is instrumental in assessing the progress that the government is making towards the elimination of child marriage.

- Adapting national plan on Child Marriage response and awareness

The local, regional and national government should adapt a robust national plan on child marriage, reaching out to all stakeholders within the different communities in the country. Moreover, the Ministries of Health, Education, Religious Affairs, Interior, Judiciary and I/NGOs should jointly devise a strategy to raise public awareness on the serious negative

consequences of child marriage on the children, their families and society.

Educational institutions such as schools have a major role to play in raising awareness; teachers, school directors, religious leaders and professionals in the fields of healthcare, justice, law enforcement and civil society organizations should all contribute, after adequate training, to spreading the concepts of gender equality, women's rights as human rights, and girls' right to education. Gender equality, family planning, and reproductive health issues should also be included in any school curriculum.

References:

- A Study on Early Marriage in Jordan, UNICEF 2014.
- *El-Kak, Dr. Faisal (2014), Document Advocating Against Teenage Marriage, Beirut, Lebanon. Ending child marriage: Progress and prospects, UNICEF 2014.*
- *ESCWA and UNFPA, Child Marriage in Humanitarian Settings in the Arab Region: Dynamics, Challenges and Policy Options, New York, 2015.*
- *Inter-Agency Child Protection Assessment Erbil, Sulaymaniyah and Duhok Governorates Kurdistan Region of Iraq, July & August 2014.*
- *Inter-Agency Guidance Note: Prevention of and Response to Child Marriage, Erbil, 2015.*
- *Iraq: UNHCR IDP Operational Update, 1-29 February 2016.*
- *Iraqi Permanent Constitution, 2005.*
- *Iraqi Personal Status Law no. No. 188 from 1959.*
- *Iraqi Ja'afari Personal Status Draft Legislation in the Iraqi Council of Representatives, 2014.*
- *KRI Law on Combating Domestic Violence no. 8 of 2011*
- *KRI Personal Status law no. 15 of 2008.*
- *Taha Hussen Wali, et al (2015), Causes and Outcomes of Early Marriages: An Assessment in Three Governorates in Kurdistan Region-Iraq, KRI High Council for Women Affairs, Erbil*
- *Too Young to Wed, The growing problem of child marriage among Syrian girls in Jordan, Save the Children, 2014.*

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