

Women living under muslim laws
النساء في ظل قوانين المسلمين
Femmes sous lois musulmanes

Some Thoughts about Bride Price

Paper presented at the International Conference on Bride Price, at Makerere University, Kampala Uganda - 16th – 18th February 2004, by Asma'u Joda (Ms), Programme Coordinator, Africa South of the Sahara, International Coordination Office, International Solidarity Network of Women Living Under Muslim Laws

Introduction of Women Living Under Muslim Laws¹

The Network 'Women Living Under Muslim Laws' was created to break women's isolation and to provide linkages and support to all women whose lives may be affected by Muslim laws. The use of 'Muslim Laws' in our name reflects two equally important issues. First, laws formally considered Muslim vary, sometimes radically, from one cultural context to another.

Second, a plurality of legal codes co-exist in each cultural, social and political context. At the very least, each society has a formal, codified legal system and a parallel system in which customary laws and practices combine. Further sub-divisions can also occur - for example, some countries may have two formal codes, religious and civil. Similarly, customary laws are diverse.

The Network recognises that these parallel systems are of vital importance to women - because the maximum combined impact is felt in family and personal matters. These affect women disproportionately and usually in a manner that undermines their rights and autonomy.

Despite the diversity - within and between social, political, economic and cultural environments - all too often the whole system is presented and internalised as being "Islamic" with many effects on society at large and women in particular.

The Network's name 'Women Living Under Muslim Laws' (WLUML) is an acknowledgement of the complexity and diversity of women's realities in Muslim countries and communities. Our choice of name also recognises that women affected by Muslim laws may not be Muslim, as they may have chosen another marker of political or personal identity.

WLUML therefore extends to:

- women living in countries or states where Islam is the state religion, as well as those from Muslim communities ruled by minority religious laws;
- women in secular states where there is a political presence of Muslims making a demand for religious law;
- women in migrant Muslim communities in Europe, the Americas, and around the world;
- and non-Muslim women who may have Muslim laws applied to them directly or through their children.

¹ www.wluml.org

WLUML was formed in response to situations that required urgent action, during the years 1984-85

These included:

- The case of three feminists in Algeria, arrested, jailed without trial, and kept incommunicado for seven months, for having discussed with other women the project of law known as the "Family Code", which was highly unfavourable to women.
- The case of an Indian Sunni woman who filed a petition in the Supreme Court arguing that the Muslim minority law applied to her in her divorce denied her the rights otherwise guaranteed by the Constitution of India to all citizens, and called for support.
- The case of a woman in Abu Dhabi, charged with adultery and sentenced to be stoned to death after delivering and feeding her child for two months.
- The case of the "Mothers of Algiers" who fought for custody of their children after divorce.

The campaigns that have been launched on these occasions, amongst others, received full support both from women and men within Muslim countries and communities, and from progressive and feminist groups elsewhere.

Taking the opportunity of meeting at the international feminist gathering "Tribunal on Reproductive Rights" held in Amsterdam, Holland, in July 1984, nine women from Muslim countries and communities: Algeria, Morocco, Sudan, Iran, Mauritius, Tanzania, Bangladesh and Pakistan, came together and formed the Action Committee of Women Living Under Muslim Laws, in support of women's struggles in the concerned contexts. This Committee later evolved into the present network.

WLUML's purpose is to facilitate access to information and to each other.

Its existence therefore depends on our links and not on the specific activities undertaken or positions held by any group or individual involved in this process.

WLUML believes that the seeming helplessness of a majority of women in the Muslim world in effectively mobilizing against and overcoming adverse laws and customs stems only in part from being economically and politically less powerful. It also stems from the erroneous belief that the only existence possible for a Muslim woman that allows her to maintain her identity (however that may be defined) is the dominant one delineated for her in her own national context.

In fact, the common presumption both within and outside the Muslim world that there exists one homogenous Muslim world is a fallacy. Interaction between women from different Muslim societies has shown us that while some similarities may stretch across cultures, classes, sects, schools and continents, the diversities are at least equally striking.

The different realities of women living under Muslim laws, range from being strictly closeted, isolated and voiceless within four walls, subjected to public floggings and condemned to death for presumed adultery (which is considered a crime against the state) and forcibly given in marriage as a child, to situations where women have a far greater degree of freedom of movement and interaction, the right to work, to participate in public affairs and also exercise a far greater control over their own lives.

WLUML's objectives are:

- To break isolation and to create and reinforce linkages between women and women's groups within Muslim countries and communities;
- To increase women's knowledge about both their common and diverse situations in various contexts;
- To strengthen their struggles and to create the means to support them internationally from within and outside the Muslim world;

In essence, the purpose of WLUML is to increase the autonomy of women affected by Muslim laws by encouraging them to reflect, analyse and reformulate the identity imposed on them through the application of Muslim laws and by doing so, to assume greater control over their lives.

These objectives are fulfilled through:

- building a network of mutual solidarity and information flow;
- facilitating interaction and contact between women from Muslim countries and communities and between them and progressive and feminist groups at large;
- promoting the exposure of women from one geographical area to another in and outside the Muslim world;
- and by undertaking common projects identified by and executed through network participants.

The network is coordinated by the International Coordination Office, which is in the UK and two Regional Coordination Offices, the Africa Coordination Office, which is “housed” by Baobab for Women’s Human Rights in Lagos, Nigeria and the second at Shirkat Gah Women's Resource Centre, Lahore, Pakistan. Please see the end of this paper for all the contact details.

I will do my best to present this paper with the principle of my organizations at the back of my mind, but take all responsibility for all opinions expressed.

What do we understand by the term Bride Price?

When I hear the term Bride Price, I immediately think of dowry, dower, sadaqi, mahr, bridal wealth etc. Depending on where you come from, your religion, your ideology etc. You can define these terms to mean the same thing or to mean completely different things.

The term *bride price* is defined; in a book recently published by my organization “Knowing Our Rights: Women, family, laws and customs in the Muslim World”² as, *money given by the groom or his family to the bride’s family in exchange for hand in marriage*.

Dowry, is the money and or property that, in some societies, a wife or her family must pay her husband... or ... a husband must pay to his wife’s family when they get married... in some communities, the dowry remains the absolute property of the wife³. While in others it belongs to her family.

Sadaqi, was in pre-Islamic Arabia a gift to the wife at marriage. Used in some communities to mean a gift in addition to mahr; and synonymous with mahr in other communities⁴

² Knowing Our Rights is a handbook produced by Women Living Under Muslims Laws [2003]. Which brings together research carried out as part of the Women and Laws Research Programme, which took place in over a 10-year period in more than 20 countries in Africa, Asia and the Middle East.

³ Women Living Under Muslim Laws (2003), Knowing Our Rights: Women, family, laws and customs in the Muslim World

⁴ ditto

Mahr is the Arabic word for dower. This is goods and/or cash to be given by the groom to the bride as a requisite of a valid Muslim marriage. In some communities it may be given at the time of the marriage ceremony (prompt) while in others promised at a later date or to be paid upon divorce or death of the husband (deferred) or divided into prompt and deferred portions⁵

Marriage in Islam is a contract meant to be between two people i.e. the bride and the groom. Before a marriage takes place in a Muslim community, two representatives one for each of the couple; called a Wali (representative) will sit down and negotiate. In some communities they negotiate for high amounts, as this is the woman's asset and or future bargaining power; as Islam permits divorce; in the event that the woman wants to get a divorce and she needs to tip "justice" in her favour, she might be able to use this "deferred" mahr to gain or accelerate her access to freedom.

The practises of Bride Price, Sadaq, Mahr etc

Without looking at the whole practise and women's reality, I would condemn any form of money or property given to a woman or her family in consideration for her hand in marriage. For me and in simple terms money or very expensive gifts tantamount to selling a woman into slavery and I would condemn it outright, but this might not work for all societies. Thus each community has to look for its strategies to deal with the low status of women. In trying to come up with solutions we need to make sure we do not ignore any salient points, such as a bride's ability or lack of ability to live without the support of her family or of another person's assistance.

The practises of bride price etc, over time must have had its justification, mostly steeped in cultures and tradition and mostly within patriarchal set ups. In most communities, the exchange is "said" to be from the male to the female. But we need to recognize the fact that in others it is women who give the "dowry" while in others there is an exchange between both families. If you come from a community that the male gives the bride price, you assume that, that is why the status of women is low in your community and the community that women give, women will have a superior status, while those that exchange, you would think had equal status. Strangely this is not so. In all the variations given above it is still the woman who is "the wife" i.e. the second person in the arrangement and who has the lower status.

The world has come to accept that a "good woman" will ultimately marry. And so she has been trained and socialized to accept this role. Associated with this role is her biological function of bearing children, so "naturally" she will spend a better part of her life unable to move far from her "home". So society has assigned her, her second natural role as the "homemaker", thus the nurturer etc. She will then naturally be taught how to get pregnant, look after the baby, the children, the husband and the extended family. It is often regarded as a waste of time for her to be trained in any income earning skills, after all she is going to become someone's wife and he will care for her. He will provide all her needs and that of "her children" so what more does she want? Need? For a long time that was how girls were brought up and still are in some societies. Families in wanting their daughters to be happy, thus looked for the best provider(s), man and family to "entrust" their daughter to. They do not see this as a form of selling their "precious daughter" or a means of taking away her right to choose.

There is a fear in some communities that if women are educated and or given skill's they might earn more than their husbands and thus not give him the "respect" that he has a right to, for simply being born a man!

Marriage takes place in every community; that I have heard off. It is a universal practise. The ceremonial aspect differs from one community to the other and people would like to attribute this difference mostly to different religious practises. I would like to see it as diversity in practises, i.e. the proverbial broom but all tied up by the same string. I would like to use examples of marriages to show the differences and the similarities and to underline that the differences come more in the geographical location and class than in

⁵ ditto

religion. I think we can all accept that our communities all believe that a woman's ultimate is to be "married". It does not matter whether we are Muslim, Christian, Hindu or free thinkers. Most of us believe that something must be given in consideration for a marriage to take place and that it is a thing to celebrate, even if it is purely a business deal and or a merger to strengthen the family fortunes, there is still an expectation of "festivity".

In Nigeria, which is a multicultural, multiethnic and multi-religious one. There is an assumption of a white wedding dress and a ring for the Christian wedding, Fatiha (a verse from the Qur'an) and mahr for a Muslim marriage and alcohol and bride price etc for a traditional non-Muslim marriage. But none of these cultures and religions do only the stipulated. The Muslims in the northeast of Nigeria believe that marriage is a social function, which requires a Wali for each of the future couple, witnesses to see that the request by the groom's representative for the hand in marriage was done and that the bride was given and the mahr accepted, but this is not all. The man and or his family are expected to give a dowry, to show they are interested and are making their intention to ask for the hand in marriage of the girl/woman, known, this consists of a trousseau for the bride, a modest suit case of clothes, cosmetics, shoes and bag for her mother and pieces of cloths (6 yards each) for her female relatives. After the marriage rite and when the bride is being taken to her groom's house, she carries along her own dowry for the groom (clothes) and his female relatives and a bed, bundle of cloth (10 yards or more ...) and shoes for his father and "lumba" bridal wealth (which is at least twice the sadaqi/mahr) for her husband. She would also take along "her" kitchen utensils and equipment, her bedroom furniture and if her family can afford it even the family sitting room furniture. In cases where the bride is from a "wealthy and westernised" family, she could be taken to her marital home in a white dress and she would expect her husband to give her both an engagement and a wedding ring. There will be days of celebration etc. The only observable difference in a Christian family of the same class, is the church aspect, instead of the fatiha and in the case of free thinkers, only the religious ceremony would be absent, but a solemn moment will be observed. But none of these weddings would be accepted by the society unless the festivities have happened and the dowries have been exchanged. The simple performance of the religious or civil act (registration) is not considered enough. For actually often Christians would have done "the traditional" marriage and lived together and would save and set a date for the church blessings and signing of the register. For the Muslim the fatiha and mahr and dowry are not considered enough, the celebrations (the parents must let the food and music flow lavishly) and the wife's dowry must exchange hands and be publicly distributed.

Iran is one of those Muslim countries that negotiate for huge mahrs, where most or all of it is deferred, until the husband decides to divorce her, in which case the divorce does not become effective till he pays her the deffered amount or when the husband dies and she has to be given her money before the inheritance is shared out to all his beneficiaries i.e. including her. In Islam there are also several kinds of divorces, the woman can initiate one. In Iran and some other Muslim communities they still insist that a man has to "agree" to the divorce. So although a woman can initiate a divorce, the man has to agree before the divorce is valid. But the possibility exists "... in two situations. First according to article 1130 of the Civil Code, if the wife can prove to the court that the continuation of the marriage would be harmful to her, she can force the husband to divorce her." If he refuses, then the court would try to persuade him and if they fail then "the court will give her a judicial divorce..." However, this "is left to the discretion of the judge, in a patriarchal society and where the religious leaders favour men over women", where men see everything as a challenge to the divine power given to men over women; "it means that women do not often win their cases." Which might then mean that the woman would not be able to move on with her life and the fact that she has sought for this divorce would make life even more unbearable. But if she has had her mahr deferred and especially if it is substantial, she has a "bargaining tool". Since this deferred mahr is supposed "to be paid by the husband before the divorce can be registered. In order to hasten this process, women sometimes give up their mahr, especially if it is a large one..." This then gives it (the divorce) the value of an "agreed divorce (permanent), which is irrevocable."⁶

Another Muslim country that practises a steep mahr, is Saudi Arabia probably because of the country's

⁶ Women Living Under Muslim Laws (1996), Special Dossier: Shifting Boundaries in Marriage and Divorce in Muslim Communities

wealth. The husband is expected to give a huge mahr, which the bride keeps for herself and uses it as she pleases. "Further, the husband is expected to provide not only the mahr but also the entire household and wedding expenses... the wedding cannot take place until the entire household – which includes a completely furnished apartment or villa – is ready for the married couple to live in, and this is the sole responsibility of the groom and his family..."

The payment of bride price is becoming a problem across the world, more and more bride price is being demanded and more and more hardship is being recorded as a result of it. Women are being seen as commodity, to buy and sell. And in some communities the term "selling" is actually used. It is reported that in Senegal, Pakistan, the Gulf countries, young men are no longer able to marry locally, because of the high bride price. What is causing this high bride price? Many reasons are given amongst which is poverty and compensation for bringing up the wife etc. In Pakistan bordering with Afghanistan, young men who cannot afford to pay the high bride price in their community purchase kidnapped Afghani girls. Whereas in some of the Gulf countries where a household must be set up, they also marry outside the country. Government has tried to intervene by offering to pay part of the mahr. In another situation in Nigeria, Zamfara State (first Sharia State in Nigeria), one of the governments first priority; as a Muslim State; was to order unmarried women to do so or be sacked, while offering to assist men; who were willing to marry/save these women from their unmarried state; to pay the dowry.

Bride Price Practise and its Implications on Women's Human Rights

Any form of rigid social practise that demands financial and material exchanges for marriage to be sanctioned, does not think of women's long-term social benefit. These cultural and traditional practises start to affect the life of girls from the day they are born. The girl is valued and treated according to her communities expectations of what she is expected to do, to justify what is done for her. So even if she is not physically treated badly, she is often made aware that she is an expense and or liability i.e. mentally she suffers.

One of the main reason for this conference is to call for the abolition of these preconditions to marriage and even those who are uncomfortable with its total abolition, recognize that something must be done to stop the violence's committed against women attributed to it. There is recognition by the majority of peoples that something must be done.

As mentioned earlier in this paper, there is a diversity of the practise of bride prices, dowers, sadaqs, mahrs etc. I am sure a lot will be mentioned during the conference.

We have heard that in Uganda that many cows i.e. nine in the East and as many as the spear thrower can get in the North (i.e. in the North a spear thrower is taken to the herd of the groom or his family, where he throws his spear and all the cows between him and the spear is taken over by the bride's family) are given in dowry for the hand in marriage of a wife. These cows are either immediately distributed and eaten by the extended family or used to pay the bride price for the brides brothers. In the event of unbearable hardship and domestic violence a woman wanting a divorce, her family is faced with having to refund these cows – this is most often not possible. So she has to remain within an abusive and unbearable situation... often at the risk of death. A man told to stop beating his wife would often reply "I am beating my cows".

I would like to give further examples of the practise of bride price where it exists in Pakistan. Women are owned either by their husband and his family as in the North West Frontier Province (NWFP) or by their own family as in the Baluchistan. In the NWFP if her husband dies, she is inherited by a member of his family, usually his younger brother, who is more likely to be unmarried; maybe even 5 years old; in Dir, if she refuses then the family have a right to sell her off to whom they so please, whereas in Chitral she could be "sold" to someone of her choice. In Balchustan the wife is considered as belonging to her own family and when she is widowed, her own family/ brothers will sell her off. In this case if she has sons' old enough to "buy" her freedom, then she could be saved from the situation "In Quetta area, one Baluch woman's brothers wanted to 're-sell' her, following her husband's death. Her sons, who were aged 17 and 20 years old, paid Rs

40,000 to their mamoo (uncles) to prevent the marriage.”⁷

Other issues that come up are e.g. in areas where dowry is practised in South Asia, women are disinherited under the pretext that expensive dowry has to be provided for them when they are getting married.

In Muslim and other communities that value virginity very highly, abuse such as restricting the free mobility of girls from puberty is practised. In some extreme cases a girl not found to be a virgin on her wedding night could be rejected or half of her mahr must be repaid etc.

Some traditional practise include dowry from the man i.e. in the case of northeast Nigeria as already mentioned above, amongst this dowry is a gift for the father. In a case; a couple had, had three daughters that died at birth and when the woman had the fourth, which was another girl, the husband gave her a hoe to bury the girl whom he was sure was going to die and divorced her. This child did not die and she married another man, who brought up the daughter as his own. She was sent to school, graduated and was ready to get married, upon which her ‘biological father’ suddenly appeared to demand for his right “according” to tradition i.e. his share of the dowry. The young woman refused to recognize his right and so he took his case to court. The biological father failed, but only because the young woman was educated and knowledgeable enough to fight him. Culture can be logical.

There are other human rights abuses that can be linked to bride price and the value placed on women. As mentioned above some societies are obsessed with the issue of virginity and place a very high “premium” on this and no thought is spared in the ambition to achieve this status in a daughter and bride. The discovery of a bride not being a virgin is a disgrace to her family. In the East of Nigeria the wedding night is waited for, with very high anticipation, the nuptial bed is laid out in a beautiful “pure” white bed sheet. The night after the mother waits anxiously (probably after a sleepless night) for a “beautifully” stained bed sheet, if this feat has been achieved then she (the mother) ties it proudly around her and dances all over town. If the girl was proved not to be a virgin, then both mother and daughter might face rejection by even their own family... This does not happen only in the Ibo family. In some countries in South Asia and the Middle East a girl found not to be a virgin risks being killed, for the shame she brought to the “honour” of the family.

In order to guard against this disgrace, many traditional practises are employed. From the fear of being killed in South Asia, the Middle East and Turkey to other forms of “harmful tradition practises” in Africa such as Female Genital Mutilation (FGM) and Child Marriage. I will attempt to discuss Child Marriage and FGM and how it affects the human rights of girls and women.

Child marriage is one of the worst violations of the human rights of the female person. What is child marriage? Child marriage is the marriage of a child. A child is anybody below the age of 18 years. As defined in CEDAW Paragraph 36: “...the minimum age for marriage should be 18 years for both man and woman. When men and women marry, they assume important responsibilities. Consequently, marriage should not be permitted before they have attained full maturity and capacity to act. According to the World Health Organization, when minors, particularly girls, marry and have children, their health can be adversely affected and their education is impeded. As a result, their economic activity is restricted.” This practise is most commonly practised in societies that value virginity and discourage female promiscuity. Although Muslims claim that Islam condones this act, they do not get their support, explicitly from the Qur’an, which is the only divine source in Islam, but refer to the “sunna” (practices of the Prophet during his life). Choosing to accept one story of the marriage of the Prophet to Aisha i.e. at the age of 9 and rejecting the stories of her being either 14 or 18 or in her 20’s... these Muslims also choose to ignore the more authentic and accepted story of his daughter Fatima, being married over the age of 20.

For communities who insist on a “virgin” being the ideal wife, it does seem a reasonable option to marry a child, who is least likely to have had any sexual experience or desire to “experiment”. And since all communities accept that puberty is when the sex hormones begin to act and push one into “evil and uncontrollable” behaviour, why not get them married just in time to stop the possibility or even before to make sure there is no margin for error. So we find girls being betroth at birth and are “visitors” in their

⁷ Shirkat Gah/WLUML – Women & Law Pakistan Country Project (1996), an action manual
Women, Law and Society

father's home till they are old enough to move on; of course the patriarch also decides upon this age. In some cases the girl is sent to live with her in-laws/mother in law and is trained to be a "good" wife. In some cultures in Northern Nigeria it is believed that it is not good for the girl to have three menstruations in her father's house; all in an attempt to control her sexual expression outside marriage. Society inadvertently legalizes "rape" in these communities. If one looked at the laws of these countries it would be seen that even if the age of marriage is not stipulated, that there is an age at which having sex with a minor is considered as statutory rape. In the penal code of Northern Nigeria sex with a girl below the age of 14 years even within marriage is regarded as rape. But who is going to take the case to court? Societies give up their responsibilities and allow their daughters to be raped all in the name of "honour".

Where virginity is important, as mentioned above there is a premium paid. A high bride price is given and if the girl is indeed found to be a virgin, then the mother and daughter get even more gifts. And more celebrations are done. I once witnessed a close friend who was found to be a virgin and her groom gave her a car and her mother was visited and thanked for this "greatest of all gifts to a groom"! A girl found not to be a virgin in my community, would be noticed by the lack of gifts visit to her mother.

In some books of Muslim jurisprudence marriage is defined as "aqdun 'ala farjin" (contract on a vagina). And where the wife was "discovered" not to be a virgin, he has a right to ask for the repayment of the "surplus". And in the Hanbali School of Thought (there are four main schools of thought / jurisprudence in Islam), if the groom "mistakenly" has anal sex with his bride, he would have to pay compensation of the mahr of a virgin, as his punishment for going through the "wrong" way. Jarasimus Mhanna published an edition of writings of the African Muslim poet al-Jahiz (Rasa'il al-Jahiz) and he quoted the second Caliph 'Umar as saying to men: "Marry young virgins: They have perfumed mouths and narrow vaginas...."

The saddest part of child marriage is that it leads to the complete disempowerment of the girl child, which remains with her throughout her life. She is treated like a child/a minor for life. She is passed from one adult to another and is under the shadow of first her father; usually a person so distant and either feared or revered; to a husband who is likely to be much older than her. Even in the case where she escapes marrying a person her father's age, she is likely to marry someone at least 10 years older than herself. As a child she is not likely to be consulted to make decisions, even those that concern her or her children and once she has not learnt to challenge from day one, she is unlikely to be able to gain the confidence to do so later. She is expected to do as she is told and will be severely rebuked for expressing her own opinion.

The child bride also faces the immediate risk of being brutally raped by her groom, who must prove his manhood by drawing blood. "The wedding night is the time when the man experiences and proves his virility and when the girl proves her honesty. As Rachid Boujedra writes of his father's remarriage:

*A fully fledged wedding. The bride was fifteen, my father fifty. A tense wedding. Plenty of blood. The old women were amazed when they washed the sheets, next morning. Tambourines, all night, had drowned the tortures of the flesh torn by the patriarch's monstrous orgasm... The father was ridiculous and tried to show that he was still up to it: the young men of the tribe had to be silenced. Since he had made up his mind to remarry, he had taken to eating honey with a view to regaining the hormonal vigour of his youth."*⁸ Just imagine what the poor bride went through. Sometimes girls are so badly hurt that they might have to be stitched or even haemorrhage badly enough for hospitalisation or worse still bleed to death. If she does escape death, then she is at the immediate risk of pregnancy.

Statistics show that maternal mortality and morbidity rates are highest in teenage mothers. And also damning are the fact that most teenage mothers are married. It is unfortunately pedalled in communities that practise child marriage that it is "promiscuous" girls that die in childbirth and this is a punishment from God. Unfortunately statistics show that this is not true and married teenage mothers die in greater numbers, as

⁸ Abdelwahab Bouhdiba (1975), translated from French by Alan Sheridan and published by Saqi books (1998) , Sexuality in Islam

there are larger numbers of them that face the risk of getting pregnant.

“Girls under 15 years are five times more likely to die in childbirth, while those aged 15 – 19 are twice as likely to die in childbirth as a woman in her twenties. In Nigeria, Cameroon and Ethiopia, maternal mortality amongst women under 16 was found to be six times higher than for those aged 20 – 24 years.”⁹

The story of Zeinab illustrates morbidity of a teenage mother. “Zeinab, now 26, was married at 12 years. As a result of giving birth, her left side is paralysed and her husband subsequently abandoned her...”¹⁰

Other dangers child brides face, especially as a consequence of pregnancy is obstetric fistula i.e. a “damage of her reproductive tract, ruptures in the birth canal – a hole develops between the vagina and the bladder or the rectum or sometimes both. This is caused by obstructed labour, due to an immature birth canal, which weakens after prolonged labour and unavailability or high cost of medical care... fistulas are very devastating... resulting in loss of status, abandonment and life of poverty and misery. The humiliation of living with a constant smell of faeces and or urine leads to social isolation and rejection. Girls who formerly sold food have been known to lose their lively hoods, as their products are considered unclean”¹¹ It is also the child of this child mother that is likely to die and make up the statistics of high infant mortality and could even be thrown out by her husband and rejected by her own family.

In addition to the risk of becoming a teenage bride, the first night as shown above is usually of brutal rape, which leaves the girl bruised and wounded and if her groom is HIV positive, she is likely to become infected on the very first contact, as direct body fluid will not only be ejaculated into her tender organs, but the bruising would allow immediate access of any virus or STD into her blood system. “Married girls have higher levels of sexual activity than their sexually active unmarried peers; they would certainly have less ability to negotiate safe sex and condom use and also have low power to refuse sex from their husbands. Furthermore married girls are under the pressure to become pregnant”¹² as soon as possible, thus a further reason they cannot dare to bring up the subject of condom use.

Poverty has often been cited as one of the reasons for child marriage, the family is looking to get rid of its daughters, so as to save on the extra mouth to feed. And especially if in exchange they will get a lump sum that will tide them for some time. Often (maybe now history) the family of the bride would investigate the family of the proposed groom and will only give their daughter if they feel that she will be well looked after, but in poverty stricken communities and families, this is often dispensed with, especially where there is a promise of substantial bride price. It is ironic that societies that practise child marriage because they have “too many mouths to feed” refuse to consider family planning and monogamy.

In poor communities where the girl has to take a dowry, she is often forced into child labour, either hawking food, becoming a nanny or in areas where factories exist, going to work in appalling conditions. Ironically, this sometimes provides an escape from child marriage, but then she is exploited for her wages and is even more marketable i.e. a higher bride price will be demanded, when the family is ready for her to move on/get married. For, she is taking not only a dowry but also her earning power/income, which will belong to her marital family. She continues to live a life of servitude. In situations, where the husband feels that his wife is not submissive enough or that the society will think he cannot control her because she earns money, he can

⁹ Forum on Marriage and the Rights of Women and Girls in collaboration with the IPPF UK(2003), Early Marriage and Poverty – exploring the links for policy and programme development

¹⁰ ditto

¹¹ ditto

¹² ditto

demand she stops working, just to show that he has the power to do so.

In combination with child marriage sometimes you get FGM. FGM is a traditional practise that exists “in parts of Africa and Southeast Asia”¹³. Again going back to societies that value virginity one tends to find these two practises co-existing. In such societies the trauma of sexual intercourse must be excruciating. A double punishment for a child whose sexual organs are still immature and the scars of FGM, an old wound being reopened. The World Health Organization defines FGM as “*all procedures, which involve partial or total removal of the external genitalia or other injury to the female genital organs whether for cultural or any other non-therapeutic reasons.*”¹⁴ In the case where the girl has had clitoridectomy (type 1) or type 1 + the partial or total removal of the labia minora – also known as the lips of the vagina (type 2) or Types 1 + 2 + the total removal of the external genitalia and stitching/narrowing of the vaginal opening called infibulation / pharaonic type/type 3. Her wedding night is a torture and in the case of type 3, the bride would have to be unstitched to allow for penile penetration or the man will have to force himself into her and overtime maybe they will reach a level when it is no longer torture. Girls asked their feelings of sexual intercourse have admitted that they view it with much anxiety and distress. Girls are known to pretend to have their periods or be sick if it will help them escape the torture of sexual intercourse with their husbands.

An “interpretation and one that has transcended time, culture and civilisation, is that FGM ensures virginity, preserves the chastity of a woman and thus maintains family honour (Assad, 1979). Amongst many groups who practise FGM, preservation of virginity is of paramount importance and determines a woman’s position in society. Within some communities, the value of a prospective bride is based on the size of the infibulated opening – the smaller it is, the more valuable her worth” Thus the higher her bride price.

Conclusion

I would like to conclude by saying that we must understand that bride price is putting material value to a woman i.e. paying money or giving some other value to women. We must see beyond the superficial meanings and difference in all the practises and see the practise of bride price, dowry, sadaq, mahr, bridal wealth etc as all valuing women and making them submissive to their husbands, thus accepting a lower status than that of men. For women to be fully equal to men, we must do away with any practise that supports the continued visualisation of women in the “secondary” position. There must be a total rejection of the use of religion, ethnicity, class and “purity” of a static culture etc that splits women and weakens the struggle for women’s total emancipation.

Practises that continue to undermine women’s total emancipation must be sought out and fought against. Such practises include the religious support of such practises as bride price, child marriage, forced marriage, female genital mutilation, widowhood practises such as the inheritance of widows, women being excluded from inheriting from their parents especially from landed property etc.

The institution of marriage should be that of choice and not of compulsion and women must stop being socialized to believe that it is their salvation. Where even the “kingdom” of God is beyond their reach if they choose not to marry. Women must not be blamed for all ills of the society, and thus always getting the bad deal every time there is a reason to complain. For example when families are suffering from poverty, it is the girl child that is “sold” into marriage, so as to keep the family going and or if a male member of the family wishes to get married, then it is a little girl that is married off, bride price accepted, in order to get the bride price to marry a wife for the brother or even another wife for the father. The continued devaluation of the girl/woman must be stopped.

¹³ Lockhat Haseena (2004), Female genital Mutilation – Treating the Tears

¹⁴ ditto

Action Plan /Strategy

- 1) Understanding the diverse types of practises and looking at the end result of the practises on the lives of women
- 2) Rejecting all practises that cause harm to women in both the short run and the long run
- 3) Accepting the diversity and thus a need for a diversity of actions and strategies
- 4) A need for mass action and global campaign, thus accepting and tolerating the different paces and length of time this struggle will take
- 5) A need for women to see and accept that this practise is not to their advantage in the long run
- 6) A need to listen and work from the grassroots, because it is something that is so entrenched in our systems that we are blind to it and often do not see it as a problem
- 7) A need to stop looking at the “other” culture and “thanking our stars” that our situation is better
- 8) A need to educate, train and make sure women have the skills to become economically independent,
- 9) A need to change the world fixation that “a woman’s ultimate goal in life must be to get married and ‘nest’
- 10) Muslims in particular should understand that marriage is not a divine requirement in Islam, it is only strongly recommended as it was the practise of the Prophet, so long as one is able to be chaste
- 11) There is a very strong need to remove the power of the institution of religion over our personal lives
- 12) It is prudent to recognize that individual religious leaders and traditional leaders are with “us” and they should be encouraged to work with us as they exert a lot of influence, but we should not be fooled that the institution can be changed, after all it is the corner stone of most patriarchal religions and traditions to subjugate women
- 13) Women must be valued for themselves and not for either their looks, their ability to bring money and material to a marriage or to their family, as men are accepted no matter their capability
- 14) Women must be accepted as capable of contributing to the development of their nation and not only as reproductive machines
- 15) Women’s reproductive functions must be seen and valued as contribution to national growth and adequately compensated for this
- 16) Women’s contribution to the country’s population must not be devalued by using this resource as “fodder for war” i.e. our children (sons included) must not be sent to war, to risk their lives, just so that some war monger will get power and test their “toys”
- 17) Women must not have hurdles placed in their paths in order to make them fail
- 18) Women must be encouraged to achieve their full potential and be able to independently chose the kind of life they want to lead
- 19) Women as partners in a relationship must be part of the decision to have children or not, and the number of children, she must not be put in the position that this blocks all her other potentials, his choice must be between the two couples and not an extended family debate
- 20) An accomplished woman must be able to see her own value other than by what a man is able to pay for her hand in marriage
- 21) There must be an effort to re-educate our communities to stop putting a financial value to their daughters i.e. to stop insisting on “something” being given to a woman to legalize a marriage even if it is token, symbolic, a cheap ring etc.

- 22) Women must not be made to feel that they were a burden for their family and thus something must be “given” in appreciation to their “poor parents”
- 23) “Poor parents” must make sure they do not have too many children to increase their poverty, but just enough to satisfy their “parental” desire to have children
- 24) If the couple getting married decide to give each other presents, that should be their own business and not a prerequisite to a marriage
- 25) Couples must be rational about “gifts” and the government and community must not encourage men to demand for these gifts back if the marriage does not go through or if the marriage breaks down
- 26) There is a need to be rational and logical when couples decide on the number of children they want, to reduce poverty the number of children should be limited and then they will not have to marry them off, because they are eating “them” out of pocket and thus poverty will no longer be an excuse for child marriage
- 27) Explaining that if a family does not accept bride price for its daughter, they will not have to look for bride price to give for someone else’s daughter.

References

Knowing Our Rights - Women, family, laws and customs in the Muslim World published by Women Living Under Muslim Laws [2003]

Shifting Boundaries in Marriage and Divorce in Muslim Communities - Special Dossier of the Women and law in the Muslim World Programme published by Women Living Under Muslim Laws [1996]

Women, Law and Society - an action manual published by Shirkat Gah and Women Living Under Muslim Laws – a Women and Law Pakistan Country Project [1996]

Early Marriage and Poverty – Exploring links for policy and programme development a publication by the Forum on Marriage and the Rights of Women and Girls – UK [2003]

Sexuality in Islam by Abdelwahab Bouhdiba [in French – 1975] translated from French by Alan Sheridan and published by Saqi Books London [1998]

Female Genital Mutilation – Treating The Tears by Haseena Lockhat [2004]

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