

Too much, too young

In the first of a two-part analysis of forced and child marriage in Bangladesh and the UK, Shabina Begum sets out actions being taken, and the obstacles to success, in Bangladesh



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In recent years there has been a focus globally to reduce early and forced marriage. In many countries this problem manifests in different ways and as a result the response to the problem is also varied. In July 2014 the UK government and the United Nations Children’s Emergency Fund (UNICEF) hosted the Girl Summit in London, with a view to build partnerships and galvanise the global movements to end female genital mutilation/cutting (FGM/C) and child early and forced marriage (CEFM). This event was attended by approximately 500 delegates from 50 countries and numerous countries made a pledge to end early and forced marriage in their respective countries. Bangladesh’s Prime Minister, Shiekh Hasina, was among those who pledged and she committed to end early and forced marriage by 2041 in Bangladesh. Bangladesh remains in the top five countries with the highest number of child marriages in the world (reference: International Center for Research on Women), where 66% of girls are married by the time they turn 18, with 32% marrying before the age of 15 (reference: Girls not Brides) (see box on p21 for references).

Notably the risk of early and forced marriage among the British Bangladeshi diaspora also remains a prevalent issue. The table on p19 demonstrates the figures between 2012-14.

The statistics on forced marriage collected by the Forced Marriage Unit (FMU) demonstrate the number of reported forced marriage cases in the UK and involve cases of both children

and adult victims, thus indicating both early and forced marriages. Although the statistics suggest that the cases of early and forced marriages may have decreased in the UK, anecdotal evidence suggests that the prevalence and risk of early and forced marriage continues to exist while the act of reporting such cases has decreased.

This article will set out:

- the position on early and forced marriages in Bangladesh and the UK;
- the way the issue is dealt with in the respective countries;
- the progress each country has made since the Girl Summit; and
- recommendations on what steps should be taken by Bangladesh and the UK to reduce the numbers of early and forced marriages.

Part one will consider Bangladesh, and the concluding part the position in the UK.

Background

In Bangladesh there is no minimum legal age of marriage, however, under the Child Marriage Restraint Act 1929 (CMRA 1929), it is illegal for any female under the age of 18, and for any male under the age of 21, to enter into a marriage.

It should be noted that there are several existing personal laws which are not congruous to this definition:

- the Special Marriage Act 1872 sets the age of a girl for marriage at 14 years;

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- the Muslim Family Laws Ordinance 1961 (while amending the CMRA 1929) sets the age of marriage of a girl at 16 years;
- the Christian Marriage Act 1872 describes a girl as minor below 21 years; and
- the Hindu Marriage Registration Act 2012 is silent about the minimum age of marriage.

The inconsistency in legislation on the age of marriage is one of the reasons why it has been difficult in practical terms to curtail the practice of child marriage in Bangladesh.

There is currently a requirement at the point of registering a marriage for parents to produce a girl’s birth certificate in order to confirm that she is over the age of 18. In many cases parents will purchase a fake birth certificate, which costs approximately 100 taka (88p/\$1), to falsely claim the legal age of marriage. Based on such presented documentation the marriage will be conducted, therefore these rules need to be tightened, to prevent early forced marriages.

Child marriages occur for various reasons. Below are some of the identified common motivations for parents and guardians to marry off the girls:

- financial security;
- to protect girls from sexual harassment;
- to protect family honour;
- dowry (the younger the girl, the less dowry to be paid);
- poverty (girls do not usually have their own earning capacity, therefore it is expensive for parents to financially maintain girls); and
- young children who find themselves ‘in love’ take it upon themselves to create their own fake birth certificates in order to get married.

Child Marriage Restraint Act 1929

Under CMRA 1929 if a girl is subjected to or is at risk of a child

marriage, there is provision to protect the girl by making an application for an injunction to prevent this marriage from taking place.

Section 12(1), CMRA 1929 states:

Notwithstanding anything to the contrary contained in this Act, the court may, if satisfied from information laid before it through a complaint or otherwise

to bring legal action against the following individuals under CMRA 1929 on the following basis:

- if the male is over 21 and he knew that the bride was under the age of 18;
- if the female is over 18 and she knew that the groom was under 21;

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that a child marriage in contravention of this Act has been arranged or is about to be solemnized, [the court can] issue an injunction... prohibiting such marriage.

An injunction can be obtained against the following people:

- a male adult above 21 years of age marrying a child;
- a female adult above 18 years of age marrying a child;
- the qazi/marriage registrar; or
- the parents or guardian of the child.

If, contrary to this legislation, any of the above individuals effect a child marriage, it is possible

- the qazi/marriage registrar, or person who solemnised the marriage, if it can be proved that they had reason to believe that the marriage was a child marriage; and
- the parents or guardian, where they negligently failed to prevent the marriage or promoted it.

The punishment is one month’s imprisonment or a 1,000 taka (£8/\$13) fine, or both. If however any of the specified individuals conduct or undertake a child marriage in breach of an injunction under CMRA 1929, then the term of the prison sentence can be extended to three months. The current sentences clearly do not reflect the severity of the crime and this allows the perpetrators to continue this crime without fear of any real reprisal.

Forced Marriage Unit statistics

Year	Reported cases	Percentage of reported cases involving Bangladesh
2012	1,485	11%
2013	1,302	9.8%
2014	1,267	7.1%

Reference: www.gov.uk/guidance/forced-marriage

Practical gaps

Following the Girl Summit, the Bangladeshi government has taken action in accordance with its pledges (see box below), however due to practical gaps there has not been effective progress. In

- the procedure of complaint to be amended, with the draft stating that the victim and also a third party can now complain directly about the offence of a child marriage: previously only the elected representative

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September 2014 the government approved the final draft of the Child Marriage Restraint Act 2014, which sets out the following proposed legislative amendments:

- for the punishment for effecting a child marriage to be increased to two years’ imprisonment and a 50,000 taka (£444/\$632) fine;

of the local government could bring an action; and

- for the age of marriage to remain at 18, but the legislation to state that a girl can be married at the age of 16 in exceptional circumstances (although the exceptional circumstances are not specified).

The amended legislation has not yet been implemented. However that the proposed draft states that ‘in exceptional circumstances a girl can be married at the age of 16’ has caused much controversy among legal professionals, activists and non-government organisation (NGO) workers in the sector. Activists recommend that the stated age of marriage in the draft Act should remain at 18 with no added caveat. If the age is reduced from 18 this will be detrimental for three main reasons:

- It will contradict existing child-specific legislation, as the Majority Act 1875 (MA 1875) recognises that everyone under 18 is a minor and the Children Act 2013 also states that anyone under the age of 18 is a child.
- Marriage under Mohamedan law is a civil contract. Under the civil law a minor cannot give consent or enter into a contract, but this incapacity is not applicable to marriage etc where personal law prevails, as provided by MA 1875. Therefore this will open up a risk of parents consenting to a child being married at the age of 16. A distinction here needs to be made on the issue of child and forced marriage, as s251(3) of Mohamedan law provides that ‘a marriage of a Mahomedan who is of sound mind and has attained puberty, is void, if it is brought about without his consent’. The explanation provides ‘puberty is presumed, in the absence of evidence, on completion of the age of fifteen years’. Thus, the marriage of any girl or boy below 15 who has reached puberty, or is over 15 and is forced by the parents/guardian to marry (ie without consent), will be void.
- This will defeat the purpose of the millennium development goals and sustainable development goals of Bangladesh, both of which specify female empowerment as a goal. By reducing the age of marriage, young girls will be disempowered, and be placed under far greater pressure to marry. As a consequence their choice to study freely, develop or

The Bangladeshi government’s pledges

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Pledge	Deadline
National plan of action	By the end of 2014
Revision of Child Marriage Restraint Act 1929	By 2015
No marriage taking place involving a child below the age of 15	By 2021
The number of girls getting married between 15 and 18 to be reduced by more than one third	By 2021
End child marriage	By 2041
Enabling the Environment for Child Rights Project under the Ministry of Women and Children Affairs, which has been implementing intervention through the provision of conditional cash transfers and stipends to continue education and to delay child marriage before 18	Ongoing
Establishing a national forum for social norm change involving activities down to the community level	Ongoing
Actively engaging the civil society, media, communities, young people, businesses and other actors in a social responsibility compact	Ongoing

be empowered to make informed decisions will be removed.

Although the proposals made by the Prime Minister demonstrate a willingness to move forward in Bangladesh, one of the key oversights in the suggestions is to review the internal structure within Bangladesh's services. The current social structure does not allow a girl to leave a potential early and/or forced marriage situation, as society still considers the family structure to be of paramount importance compared with the individual. Therefore if a victim was to seek assistance from services such as the police she would be viewed as betraying the family, bringing shame on the family name, and further ostracised by her community.

There are many organisations and charities committed to campaigning for an end to child marriage. The government should consider strengthening the work of these organisations so that potential victims can be better supported. Population Council have a great initiative called the Bangladeshi Association for Life Skills, Income and Knowledge for Adolescents (BALIKA) project (see box below for reference). The aim of the BALIKA project is to prevent child marriage by equipping young girls with life skills, so that they are encouraged to complete their education and also pursue some form of employment. This allows girls to have an independent source of income, and with the resulting reduction in the risk of girls being married at a young age due to economic pressures. This is just one example of an effective project. Other charities such as Bangladesh Legal Aid and Services Trust and BRAC (formerly known as the Bangladesh Rehabilitation Assistance Committee and then as the Bangladesh Rural Advancement Committee) also continue to actively campaign against the issue and it is important to support these organisations (see box below for references).

Child marriage in Sylhet

A closer look at the statistics on child marriage around Bangladesh

indicates how widespread the issue is and which regions in particular are mostly affected by the practice (UNFPA Child Marriage Profiles, 2007):

While child marriage is very common in Bangladesh, prevalence is highest in west Bangladesh, specifically, Khulna Region (75%), Rajshahi Region (73%), and Barisal

to leave Bangladesh. These measures providing a form of refuge and escape for victims may be a factor in helping to reduce the number of forced marriages in the region. The role of the state actors, or in this instance the British High Commission, may also operate as a deterrent for the perpetrators of child marriage as the movement

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Region (72%), followed by Dhaka Region (66%), Chittagong Region (58%), and Sylhet Region (48%). Child marriage prevalence in Bangladesh is much higher than the regional average for South Asia (46%).

Within these statistics, the Sylhet region is unique for two reasons: it records the lowest number of cases and it contains the prevalence of the diaspora community from the UK.

In cases where British Bangladeshis in Bangladesh allege they are being forced into a marriage the British High Commission can assist to repatriate the victim and ensure they return to England. The victim can either stay in a safe house in Dhaka or at times they also make their own arrangements for temporary accommodation until they have

towards the individual begins to become paramount. If a similar method was adopted by other regions then perhaps the number of early and forced marriages could be reduced nationally.

The conclusion to this two-part consideration will examine the UK approach to forced marriage, interactions with the Bangladeshi community both within the UK and in Bangladesh, practical steps being taken to reduce child and forced marriage, and recommendations as to what can be done to further reduce incidences. ■

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Resources

BRAC – www.brac.net

Bangladesh Legal Aid and Services Trust – www.legalease.co.uk/blast

Girls not Brides – www.legalease.co.uk/girls-not-brides

International Center for Research on Women – www.legalease.co.uk/icrw

The Population Council's BALIKA project – www.legalease.co.uk/balika