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CHILD MARRIAGE AND ISLAM

WOMEN IN ISLAM SERIES



MUSLIMS FOR
PROGRESSIVE VALUES



WHAT IS MARRIAGE IN ISLAM?

a legal contract between two parties who have consented to marry the other of their own free will, without force or compulsion from family members, witnesses, or community members.



Islamic Requirements for Marriage

The ability to
give informed
consent

Physical (post
pubescent) and
emotional
maturity

Ability to
properly manage
their own
finances

Ability to enter
into a *meethaqan
galezaan* (solemn
covenant)



REQUIREMENT I - CONSENT

Consent

the giving of permission for an action or event to occur that is free of compulsion, force, or threats.

“O you who have believed, it is not lawful for you to inherit *women* by compulsion.”

Qur'an 4:19

According to Abu Dawud

"Once a virgin girl came to the Prophet and said that her father had married her to a man against her wishes. The Prophet gave her the right to repudiate the marriage."

From both the teachings of the Qur'an and examples from the life of Prophet Muhammad (PBUH) we understand that Islam does not condone forced marriage. Additionally, the notion that a child could marry is dismissed in the use of the word *nisa*, or women, in verse 4:19, asserting that only an adult female can marry.



REQUIREMENT II – MATURITY

BALIGH

a person who has reached puberty or physical maturity, which according to Islamic jurisprudence, is attained when menstruation starts or when the person reaches a certain age (depending on the school of thought between 9 - 13 for girls).

RUSHD

the intellectual maturity that an individual requires to handle their own property and affairs, enter into legal contracts, and have legal capacity. According to Islamic scholarship, the age of *rushd* is between 18 and 21.

Baligh and *rushd* are the two types of maturity that are required to be attained prior to being considered ready to participate in the legal and economic aspect of marriage and engage in the sexual acts associated with marriage. Without *rushd and baligh*, the marriage is considered illegitimate.



REQUIREMENT III: FINANCIAL RESPONSIBILITY

As mentioned previously, *rushd*, or the intellectual maturity associated with one's ability to enter into legal agreements and manage their affairs, is required for one to be considered mature enough for marriage. The ability to properly manage one's finances is also a requirement for marriage, and one that, based on a Quranic verse, children are not capable of.

"Test orphans until they reach marriageable age; then, if you find they have sound judgment, hand over their property to them."

In this verse, Surah an-Nisa 4:6, guardians of orphans are instructed to hold onto the inheritance of the orphans based on the premise that individuals of such a young age are not able to practice the sound judgement required to manage assets and property and therefore are not fit to marry.



What is the 4th requirement
meethaqan galezaan, or solemn
contract?

The *meethaqan galezaan* is mentioned three times in the Qur'an - in reference to God's covenant with the children of Israel (4:154), God's covenant with the Prophets (33:07), and the covenant between two spouses (4:21). This solemn contract is therefore a very important agreement that forms the basis of the institution of marriage. Drawing from the Qur'anic definition of the phrase, we can understand *meethaqan galezaan* to be a serious contract that requires the signatories to have the judgement required to understand the contract and its implications, which a child certainly cannot do.

WHAT ABOUT THE AGE OF AISHAH (R.A.)

ACCORDING TO IBN KATHIR

Asma (RA) was 10 years older than her younger sister Aisha (RA).

ACCORDING TO IBN HAJR AL-ASQALANI

Asma (RA) lived until she was 100 years old and she died in 73 AH, which means she fled for Medina when she was around 27 or 28 years old. Referring back to the previous hadith, which asserts that Asma was 10 years older than Aisha, we can assume that Aisha was 17 or 18 years old when she migrated to Medina.

ACCORDING TO AL-NAWAWI

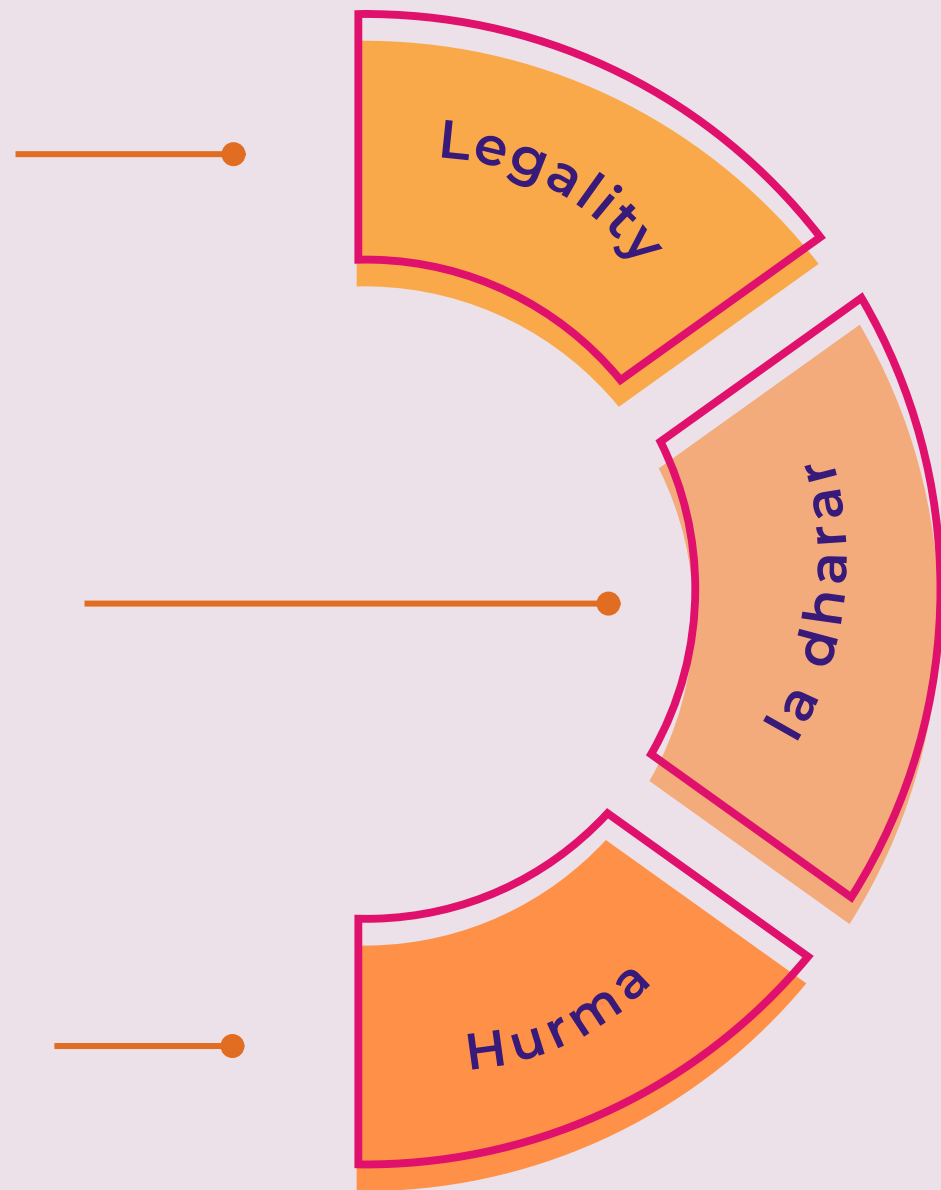
Aishah (R.A.) and the Prophet (PBUH) were married in Mecca but didn't consummate their marriage until after the Hijrah. Al-Nawawi places the consummation of the marriage in the second year of Hijrah after the Battle of Badr. If Aisha was 17 or 18 when she migrated to Medina, this would put her at 19 or 20 when her marriage to the Prophet (PBUH) was consummated.

OTHER CONSIDERATIONS

Shari'ah requires Muslims to follow the laws of the land they live in, so in countries where the minimum age is 18, Muslims must follow that law.

The Islamic principle of "do no harm", which calls on Muslims to avoid perpetuating harm as a result of their actions.

The sacred inviolability of the human body, which extends to physical, social, and emotional safety. Forcing a child to marry constitutes a grave violation of their *hurma*.





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