

CHILD MARRIAGE AND ISLAM

WOMEN IN ISLAM SERIES VI

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. For a marriage to be considered halal in Islam it must meet the following requirements.

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 1: CONSENT

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.

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

QUR'AN 4:19

REQUIREMENT 2: PHYSICAL & EMOTIONAL 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, & have legal capacity. According to Islamic scholarship, the age of *rushd* is between 18 and 21.

REQUIREMENT 3: FINANCIAL RESPONSIBILITY

“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.

REQUIREMENT 4: MEETHAQAN GALEZAAN

The *meethaqan galezaan* is mentioned 3 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) & the covenant between 2 spouses (4:21). This solemn contract is an important agreement that forms the basis of a marriage.

Based on the Qur'anic definition, we can understand *meethaqan galezaan* to be a serious contract that requires signatories to have the judgement required to understand the contract & its implications, which a child cannot do.

WHAT ABOUT THE AGE OF AISHA (RA)

ACCORDING TO IBN KATHIR

Asma (RA) was born in 595 AD, the first born in her mothers' third marriage and was approximately 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.) & 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.