



## **Afghanistan – Researched and compiled by the Refugee Documentation Centre of Ireland on 26 April 2011**

### **Do children aged 15/16 years old get married in Afghanistan?**

Research by the Refugee Documentation Centre revealed numerous reports of underage marriage in Afghanistan.

An *IRIN News* report states:

“Nearly 60 percent of marriages in Afghanistan involve girls below the legal age of 16, according to reports from the Ministry of Women's Affairs and NGOs. Some girls are married as young as nine.” (IRIN News (13 July 2005) *Afghanistan: Child marriage still widespread*)

See also *IRIN News* report which states:

“Many girls are married off before the legal age for different reasons; sometimes to end a dispute or to earn money. According to the United Nations Children's Fund (UNICEF), 57 percent of marriages in Afghanistan involve girls below the legal age of 16.” (IRIN News (23 February 2007) *Afghanistan: Child forced marriages still a common tradition*)

An *IRIN News* report, in a paragraph headed “Poverty, illiteracy exacerbate problem”, refers to child marriage in Kandahar Province as follows:

“Research by the Afghanistan Independent Human Rights Commission (AIHRC) shows that over half of marriages in southern Kandahar Province are in essence child marriages. ‘A vast majority of families [in Kandahar] wed their daughters before their legal age [16],’ said Najiba Hashimi, an AIHRC official. Child marriage is prevalent, rights activists say, but the degree to which it is practiced varies from province to province according to different levels of public awareness and local customs.” (IRIN News (16 October 2007) *Afghanistan: Widespread child marriage blamed for domestic violence*)

A report published by *Human Rights Watch*, in a section titled “Child and Forced Marriage”, states:

“Fifty-seven percent of all marriages that take place in Afghanistan are classified as child marriages by UNIFEM (under the legal age of 16)” (Human Rights Watch (3 December 2009) *“We Have the Promises of the World”: Women's Rights in Afghanistan*, p.7)

In a section titled “Forced and Child Marriage” this report states:

“Forced and child marriage in Afghanistan remain widespread and socially accepted. Though the data on prevalence varies, all surveys indicate that well over half of all marriages are forced or involve girls under age 16. Forced marriage includes situations in which women and girls must marry without their consent, face threats or

violence, are kidnapped, or are traded through informal dispute mechanisms, such as to settle a rape case, and when they are 15 or younger.” (ibid, p.49)

This section of the report also states:

“The AIHRC and UNIFEM estimate that 57 percent of girls are married before the legal age of 16. In contrast, the WCLRF survey found that 38 percent reported being married between the age of 11 and 15 years. The reason for the disparity is not clear, though there is a wide margin of error in a society where the recording of births and ages is uncommon.” (ibid, p.50)

In a section titled “Trading a 13-year-old Daughter for a New Wife” the report refers to a specific instance of child marriage as follows:

“Rangina’s mother died when she was 12. In 2003, at the age of 13 she was forcibly married in a badaal (exchange) marriage as her father wanted to acquire a new wife. According to Rangina, the man that she was forced to marry had mental health problems.” (ibid, p.52)

In a section titled “National Law on Child Marriage” this report states:

“Currently child marriage is not a crime in Afghan law, but is prohibited under the Civil Code. Article 70 states that marriage is permissible when a girl is 16 and a boy is 18, while article 71 states that the marriage of a girl under 15 is prohibited. If a girl is between 15 and 16 and she wishes to marry, her father or a court has the right to consent to her marriage. However, there are no punishments stipulated for those who violate these laws, so the law has little or no impact on marriage practices.” (ibid, p.58)

A report published by the *UN Assistance Mission in Afghanistan*, in a section titled “Child marriage (section 3.4), states:

“Underage marriage is common across Afghanistan, in all regions and among all ethnic groups. According to UNIFEM and the Afghan Independent Human Rights Commission, 57 per cent of Afghan marriages are child marriages – where one partner is under the age of 16. In a study of 200 underage girls who had been married, 40 per cent had been married between ages 10 and 13 years, 32.5 per cent at 14, and 27.5 per cent at the age of 15. In spite of widespread child marriage in Afghanistan, UNAMA HR found in all focus group discussions that men and women identified child marriage as one of the most serious harmful traditional practices in the country.” (UN Assistance Mission in Afghanistan (UNAMA) (9 December 2010) *Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan*, pp.18-19)

In a section titled “Community perceptions” this report states:

“In all focus group discussions conducted for this report, Afghan men and women identified child marriage as a harmful traditional practice. In the northern region, they said child marriages were more common in poor rural areas than among wealthier urban families but that early marriages – the marriage of children who have reached puberty (viewed by many Afghans as being the determinant of adulthood under Sharia law and thus the legal age of marriage) but who are still defined as children under Afghan national law, is the accepted norm. A provincial council member in

Samangan province said most families aim to marry their female children by the age of 14.” (ibid, p.21)

The 2011 *US Department of State* country report for Afghanistan, in a section titled “Women”, states:

“According to HRW and UN Women, more than 70 percent of marriages were forced, and despite laws banning the practice, a majority of brides were younger than the legal marriage age of 16 (or 15 with a guardian and a court's approval).” (US Department of State (8 April 2011) *2010 Human Rights Report: Afghanistan*)

See also section of this report titled “Children” which states:

“The legal age for marriage was 16 years old for girls and 18 years old for boys. International and local observers estimated that approximately 60 percent of girls were married younger than the age of 16. Under the ERAW those who arrange forced or underage marriages may be sentenced to imprisonment of not less than two years; but there has been very limited, if any, implementation of this law. The Law on Marriage states that marriage of a minor may be conducted by a guardian. By law the marriage contract requires verification that the bride is 16 years of age; however, less than 10 percent of the population had birth certificates.” (ibid)

The South Asia regional director for UNICEF, Daniel Toole, is quoted in a *Radio Free Europe/Radio Liberty* report which states:

“Other major problems facing children in Afghanistan, particularly girls, said Toole, is underage marriage and sexual abuse. Forty-three percent of girls aged 20-24 were married before they were 18, according to UNICEF figures from 2009. Girls are often married against their will to men more than twice their age and are forced to have sex with their husbands before they reach puberty. Toole described a visit he made to a women's shelter supported by UNICEF in the western city of Herat. The shelter is the only place in the city where girls who have been sexually abused or married at a young age can seek refuge. ‘Two young girls, one who was nine who was married. She didn't even know she was being married until she arrived and was told, “here is your husband”. Another married at 11 against her will,’ said Toole after meeting the girls at the shelter.” (Radio Free Europe/Radio Liberty (18 March 2010) *Afghan Children 'Face World's Worst Conditions'*)

A *New York Times* report on the treatment of two “child brides” states:

“The two Afghan girls had every reason to expect the law would be on their side when a policeman at a checkpoint stopped the bus they were in. Disguised in boys' clothes, the girls, ages 13 and 14, had been fleeing for two days along rutted roads and over mountain passes to escape their illegal, forced marriages to much older men, and now they had made it to relatively liberal Herat Province. Instead, the police officer spotted them as girls, ignored their pleas and promptly sent them back to their remote village in Ghor Province. There they were publicly and viciously flogged for daring to run away from their husbands.” (New York Times (30 May 2010) *Child Brides Escape Marriage, but Not Lashes*)

This report also states:

“The ordeal of Afghanistan's child brides illustrates an uncomfortable truth. What in most countries would be considered a criminal offense is in many parts of

Afghanistan a cultural norm, one which the government has been either unable or unwilling to challenge effectively. According to a Unicef study, from 2000 to 2008, the brides in 43 percent of Afghan marriages were under 18. Although the Afghan Constitution forbids the marriage of girls under the age of 16, tribal customs often condone marriage once puberty is reached, or even earlier." (ibid)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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