

The Marriage of Minors in Palestine

Iyad Riyahi

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Legal marriage age has been 15 years for both males and females for many years. In the period between 1995-2019, around 200 thousand children have been married in accordance with article (5) of the Personal Status Law of 1976, and over 95% of marriages were of minor girls.

Two years after the adoption of Law by Decree No. (21) of 2019 amending the legislations regulating personal status by raising the legal marriage age to 18 in article (2), over 10 thousand children under the legal marriage age have been married in the period between 2020-2021 in accordance with exceptions allowed by the Law by Decree. The marriage of minors continued in 2021 at an accelerated rate, and the number of cases increased from 5,102 in 2020 to 5,384 in 2021.

The majority of marriages involved minor girls who were married to older males. Shockingly, around 700 girls aged 14 years have been married in the previous two years, and the majority of these cases are in Gaza Strip. It was also noted that the number of 14 year old minor girls who were married in 2020 was 329, which increased to 354 cases in 2021.

The Law by Decree aimed at two main goals; first, responding to the continued demands by Palestinian CSOs, particularly feminist organizations, to increase the legal marriage age to 18 years, and it was highly likely that the government adopted this amendment due to the “State of Palestine’s” commitments in accordance with some international conventions.

Executive Summary

Second: the content of the Law by Decree has also met the wishes of powers that tend to consider 15 years a suitable age for marriage, although there are hundreds of cases that are below 15 years, by providing exceptions that are approved by the judge. Therefore, the marriage of children continued in the Palestinian society.

The research team believes that there are concerns that the number of unregistered marriages at Sharia Courts has increased after the adoption of the law by decree, particularly in the north and south of the West Bank. This results in the loss of girls' rights in particular, and the legality of their social case before Sharia Courts, because should there be a divorce, the girl needs first to prove the existence of a marriage contract. On the other hand, this leads to the increase in the marriage of children and unregistered forced marriage, which leads to inability to identify the actual scope of early marriage in the Palestinian society.

Although overall marriage rates have declined in the West Bank, 881 girls under the legal age of marriage have been married in the West Bank and over 4,000 have been married in Gaza Strip during the COVID-19 pandemic.

The application of the penalties included in the Palestinian Penal Law has become unrealistic in light with the increased marriage of children in what is known as unregistered marriage, thus these penalties are no longer deterring. If we assume that the law will be applied to the above mentioned number of cases, hundreds of people will be arrested including spouses, legal guardians, witnesses to the marriage contract and every marriage registrar involved... etc. however, it would have been possible to take legal procedures against those promoting the marriage of children, but none were taken.

The legislation and accompanying restrictions lack an identification of an age difference between "spouses", whereas someone aged thirty and above could apply for an exception to marry a 15 year old girl because the law does not set age difference as a criteria that prohibits an exception. This condition alone could limit the marriage of children to older men in the future.

On the other hand, divorce cases are increasing in the Palestinian society. The number of divorces in 2021 reached 8,500 cases, meaning that there is one divorce every hour. 22% of marriages in the West Bank and 15.3% of marriages in Gaza Strip end in divorce, which leads to further economic and social exclusion of women and children. That is not to mention the long years of litigation before Sharia Courts on deferred dowry, custody, and alimony that many men do not pay, in addition to the unsuitable alimony to meet the needs of children.

At a time when many international organizations were focused on certain communities, the marriage of children was common in many western countries. For example, in Britain, the marriage of those under the age of 18 was allowed after the consent of parents until 2021, and for many years, Britain has conditioned its funding to developing countries with raising the marriage age in those countries. There are other European countries that still allow the marriage of 16 year old children, such as Ireland and Scotland, and the only restriction is the parents' consent. New legislations in some of these countries allow the marriage of minors in special cases, provided the court's approval is granted and under certain conditions that are necessary for both parties of the marriage. The same applies in the United States, as the marriage of those who are under the age of 18 is still allowed in over 45 US states.