

**Submission to the OHCHR
For its report on
“Preventing and eliminating child, early and forced marriage, with a particular
focus on challenges, achievements, best practices and implementation gaps”**

- **What is the prevalence of child, early and forced marriage in your country? Are there studies you could submit which document the rate of child, early and forced marriage on national and sub-national levels in your country?**

Child marriages in Malaysia fall into two categories: marriage between an underage girl and an underage boy; and marriage between an underage girl and an older man. Child marriage continues to occur in Malaysia for a variety of reasons:

- Onset of puberty still seen in some communities as a sign of marriageability;
- Marriage seen a way to avoid *maksiat* or sexual immorality (tradition/religious belief);
- Relieve families of financial burden;
- Belief in the myth that marriage provides protection for the child bride;
- There are also reports that underage Rohingya ‘mail-order brides’ are being smuggled into the country from Myanmar to be wed to refugees¹. (Stateless Rohingya have been fleeing ethnic violence in Myanmar to seek refuge in Malaysia. The majority of these refugees have been young men who now are looking for brides from their own communities)².

Frequency and Nature of Child Marriage

Obtaining accurate data on the incidence of child marriage is difficult due to under-reporting, in particular due to unregistered/unofficial customary marriages.

Available data is piecemeal and conflicting. However, the latest statistics indicate that in 2012, 1,165 applications for marriage were made in which one party, usually the bride, was younger than the legal marrying age. Of those cases, the Syariah Courts approved 1,022 of

¹ Rohingya refugees import ‘mail-order’ brides, 17 March 2013, Retrieved from <http://www.aljazeera.com/indepth/features/2013/03/201331291132937760.html>

² Malaysia is not party to the UN Convention on the status of refugees 1951. As such, refugees in Malaysia are not protected by any domestic legislation. As of end March 2013, there are some 102,070 refugees and asylum-seekers registered with UNHCR in Malaysia. Of these, 93,7600 are from Myanmar. (UNHCR)

them. This is an increase from the 2011 record, when some 900 marriages involving at least one Muslim minor were approved. Statistics for 2013 indicate the numbers are on the rise³. According to UNFPA, 1.4% of all married women in Malaysia in 2011 were aged between 15 and 19, which amounts to 82,000 girls⁴.

The Malaysian government maintains its reservation to Article 16 (2) of CEDAW-Convention to Eliminate All Forms of Discrimination Against Women which states: "The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory."

A study into the incidences of child marriages in Malaysia with a focus on their causes and consequences is currently being undertaken by the Women's Development Research Centre (Kanita) of Universiti Sains Malaysia.

- **What has the impact of child, early and forced marriage on the human rights of women and girls and other affected groups in your country been? Are there studies you could submit which have documented these links?**
- **What steps are being taken to address the issue in your country?**
 - o What is the legal minimum age of marriage for men and women in your country? What are the challenges to effective implementation of the law?

Legal Aspects

The legal age of marriage for non-Muslims is 18. Non-Muslim females are permitted to marry between the ages of 16 and 18 with the consent of the Chief Minister.⁵ Under Section 8 of the Islamic Family Law (Federal Territories) Act stated that the minimum legal age for Muslim boys is eighteen, and Muslim girls is sixteen⁶.

Section 375(g) of the Penal Code (Act 574) makes sexual intercourse with a girl with or without her consent when she is less than 16 years of age an offence of statutory rape. Marital rape is not criminalized in Malaysia at present. During the Universal Periodic Review of Malaysia at the UN in October 2013 however, Canada recommended

³ Azizan, Hariati, *Child Marriages on the Rise*. Retrieved from: <http://www.thestar.com.my/News/Nation/2013/10/06/Child-marriages-on-the-rise-1022-applications-approved-in-2012-compared-to-900-in-2011.aspx>

⁴ *Girls, not brides*, The Star, 11 October 2012. Retrieved from: <http://www.sistersinislam.org.my/news.php?item.1115.27>

⁵ Section 10 Law Reform (Marriage and Divorce) Act 1976, which provides that "Any marriage purported to be solemnized in Malaysia shall be void if at the date of the marriage either party is under the age of eighteen years unless, for a female who has completed her sixteenth year, the solemnization of such marriage was authorized by a licence granted by the Chief Minister under subsection 21(2)".

⁶ Azizan, Hariati, *Child Marriages on the Rise*. Retrieved from: <http://www.thestar.com.my/News/Nation/2013/10/06/Child-marriages-on-the-rise-1022-applications-approved-in-2012-compared-to-900-in-2011.aspx>

criminalizing marital rape through reform of Section 375 of the Penal Code and Chile recommended strengthening legal provisions to protect victims of marital rape.

- o **What policies, programmes and measures are being taken at national and sub-national levels to end child, early and forced marriage? What efforts are being taken in communities where child marriage rates are high to mitigate its impact?**

In 2011, the Minister in the Prime Minister's Department stated that the government had no plans to review law allowing for underage marriages because the practice is permitted by Islam.⁷ Calls were made in October 2013 by UN member countries in Geneva during the UPR-Universal Periodic Review of Malaysia's human rights record for the State to consider ending child marriage. On 21 November 2013, Malaysia did not co-sponsor the resolution calling for a panel discussion on child, early and forced marriage and the post-2015 development agenda at the UN General Assembly next year^{8 9}.

- o What have the impact of such policies or projects been?
- o What challenges remain in adopting policies, measures and implementing strategies to address the issue?
- **What is the most effective/ important strategy for overcoming child marriage in your country / region?**

⁷ Nazri Rejects Call to End Child Marriage, Free Malaysia Today, 8 December 2011. Retrieved from <http://archive.freemalaysiatoday.com/fmt-english/news/general/13905-nazri-rejects-call-to-end-child-marriage>

⁸ Third committee approves text on human right to safe drinking water and sanitation, 10 other draft resolutions Retrieved from <http://www.un.org/News/Press/docs//2013/gashc4092.doc.htm>

⁹ United Nations General Assembly adopts resolution on "child, early and forced marriage". Retrieved from http://www.girlsnotbrides.org/united-nations-general-assembly-adopts-resolution-on-child-early-and-forced-marriage/?utm_source=GNB+Members+Newsletter+English&utm_campaign=4b6a56b284-December_ENG_Members12_5_2013&utm_medium=email&utm_term=0_76f9bcc26-4b6a56b284-353055113