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Comparison Between Islam and United Nation Human Right Charter (Universal Declaration of Human Rights Article 16) About Full Age of Marriage, A comparative Study

Asad Mehmood

PhD Research Scholar, Department of Islamic Studies, Riphah International University, Islamabad

Email: asadraja.nk@gmail.com

Dr.Hafiz Waqas Khan

H.O.D Department of Islamic Studies, Riphah International University Islamabad Pakistan

Contact: waqas.khan@riphah.edu.pk

Abstract

KEYWORDS:

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An important reason to choose this topic is that to share Islamic point of view regarding age of marriage as compare to Universal Declaration of Human Rights (UDHR) Article 16 which also discuss about full age of marriage. Both Islam and UN Human right charter give right of marriage to all persons both boy and girl of full age but have difference of opinion in full age of Marriage. In this article we will provide comparison between Islamic Point of view about Full age of Marriage and UN Charted full age of Marriage. Although all Muslim countries signed this Universal Declaration of Human Rights (UDHR) under United Nation platform. Now around fifty-seven countries with 1.8 Billion Muslim Population realized that some of the articles under Universal Declaration of Human Rights (UDHR) is not according to Islam so its need to change. This study will help all Muslim Ummah to realize, rethink and try to change some articles of Universal Declaration of Human Rights (UDHR) especially regarding Marriage (Nikah), age of Marriage and UN Human right department to re-consider this point of full age of marriage according to different religion like Islam.

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Introduction:

Islam and United Nation Human Right Charted (Universal Declaration of Human right (UDHR)) having their own understanding of full age of Marriage which highlighting an interesting and important discussion between Religious and Human Right activist. Islam focus puberty mean if both girl and boy reach on the age of puberty they are allow to do marriage with each other while UDHR settle a minimum age of 18 for both girl and boy to proceed their marriage to avoid forced marriage in different region and culture. Islam mentioned that puberty varies person to person according to their gender, food, environment, family genetic etc while

UDHR mentioned specific age of 18 for both gender to avoid forced marriage which raising high level debate between Religious and Human right regarding full age.

Full Age for Marriage According to Islam:

The age factor for marriage in Islam is very interesting and deep topic because its contain lot of discussion throughout the Muslim world as Islam is a complete conduct of life which guide his follower in all part of life therefore Islam also provide the guideline in this regard as well .Islam provide the solution to his follower or throughout the world with numbering option one ,two three ,four and so on with guideline that first one is better than Second one ,Second one is better than third one but less level from first one ,if you use first option its better than all then come second ,third and fourth etc .Sometime it's not easy for decision maker to provide hard and fast rule that on this age boy or girl is on full age to get married.

according to Islam because cultural variation and globalization play a important role in it as people live in different part of the world have different style of living .The Islam provide the solution of mentioned age case of both boy and girl for marriage through verses of holy Quran ,Part of Hadiths with Tafseer of both Holy Quran verses and Hadiths as well because Quran verse and Hadiths part provide sold reasons and genuine justification for Muslims and provide the guideline for rest of the world. The Muslims scholars also use interpretation of Quran and verses regarding Mental, Physical and psychological point of view the status of both boy and girl for marriage. As Islam is Deen (Religion) of nature which not follow such rules which is against the nature .Same time the Mental, Physical and Psychological health of any boy and girl also depend on the environment which he come from, society where they are living, food they are eating because above mentioned factors are the factors which help the Leader of the society that boys & girls of his society are normally reach on that particular age to become ready for marriage.

As marriage is not only to get married and produce new babies but need to consider healthy generation both in physically and mentally as well because both Physical and Mental health of any baby highlight the status of any generation that what will be the purpose future of this upcoming generation which going to lead by these small babies.

Islam doesn't want to have a generation which may be come through boy mentally mature or girl unmatured or unmatured boy and mature girl both mentally and sexually.

Men and Women are Blessing for each other:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ¹

The translation of above verse of Quran is that “And of His Signs is that He has created mates for you from your own kind that you may find peace in them and He has set between you love and mercy. Surely there are Signs in this for those who reflect”. It Tafseer is like that your women or wives are one of sign of Almighty Allah who create for you man, through these you

got peace from them, Almighty Allah also put love and mercy between you and here these are the signs for those who believe on it.

Further it's also mentioned in above verse of Quran that in general way the main purpose of marriage exist in three main points called Calmness, liking, kindness in marital affairs for whole family. In first purpose Calmness meant that both wife and husband will leave under calmness for both the family and sibling. The second purpose is affection or liking its mean that both Husband and Wife should act under liking and affection to leave peaceful life. The Third and final message of above verse is that both Husband and wife both have strong common feeling and have sympathetic to each other.

Hazrat Ayesha (May Allah Pleased with Her) Marriage:

In Islam there is not hard and fast rule for both Husband and wife it can be vary person to person, women to women which based on different environment of the world, different types of food and also it depends on family.

In this context one Hadith is mentioned below

عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا. أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَزَوَّجَهَا وَهِيَ بِنْتُ سِتِّ سِنِينَ، وَأَدْخَلَتْ عَلَيْهِ وَهِيَ بِنْتُ تِسْعٍ، وَمَكَثَتْ عِنْدَهُ تِسْعًا².

The translation of above Hadith is that “that the Prophet (peace be upon him) married her when she was six years old and he consummated his marriage when she was nine years old, and then she stayed with him for nine years (i.e., till his death)”

Same type of Hadith is mentioned in well know Hadith books like Sunan Abi Daud, Sahih Muslim, Sunnah Ibn-Majah, Sunnah-An-Nisai, Musnad Ahmed, Sunan-Ad-Darimi

Although in current time the marriage of Holy Prophet Hazrat Muhammad (Peace be upon him) with Hazrat Aysha (Allah pleased with her) was the one of the burning topic to discuss because some of history person ,Islamic scholars have the different opinion that actually that age was six or sixteen ,seven or seventeen ,nine or nineteen .But now with passage of time it is confirmed by medical science that it is possible commonly that someone from girl can be able to marriage in age of nine as well which mentioned by one of American researcher Mr.Jeremaih J.Bowden that the base of Hazrat Aysha (Allah pleased with her) was the case of her adulthood for marriage .Secondly the age of Hazrat Aysha (Allah pleased with her) also confirmed with the age of her elder sister which was ten year older than her which is part of Islamic history.

Marriage Life and Modesty:

One of the other Hadiths gives us clear message about marriage life in Islam that

فَقَالَ عَبْدُ اللَّهِ : كُنَّا مَعَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ شَبَابًا لَا نَجِدُ شَيْئًا ، فَقَالَ لَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : يَا مَعْشَرَ الشَّبَابِ ، مَنْ اسْتَطَاعَ الْبَاءَةَ فَلْيَتَزَوَّجْ ، فَإِنَّهُ أَغْضُ لِلْبَصْرِ ، وَأَحْصَنُ لِلْفَرْجِ ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ³

The translation of above Hadith is that “We were with the Prophet (peace be upon him) while we were young and had no wealth. So, Allah's Messenger (peace be upon him) said, “O young people! Whoever among you can marry, should marry, because it helps him lower his gaze and guard his modesty (ie his private parts from committing illegal sexual intercourse etc.), and whoever is not able to marry, he should fast, as fasting diminish his sexual power.”

As mentioned in above Hadith that the marriage concern is not concern about other issue it is concern with your young age or your age of maturity which varies from person to person according to his environment, food and overall living standards etc. In above mentioned Hadiths address to young people or teenager especially to those teenagers who are physically mature and ready for marriage mean have the ability to maintain sexual relation with her wife. First session is about order of Prophet Hazrat Muhammad (Peace be upon him) to young people that they should marry if they mature or can afford marriage should marry because marriage will help them to lower his gaze (lower down their eyes for positive purpose) and protector his shyness regarding their private parts for obligating his banned relation with other girl except her wife .In Second session with some of reason like poverty ,sickness or so many other reason not to afford marriage life should protect his modesty through having fasting regularly because fasting will help him or her to become a positive thinker and actor regarding sexual life .

In other with passage of time as a human being which transfer from childhood to the age of young man or young women, he or she feel change in his or her personality regarding physical change, mental change, educational change, Practical implementation of religious on personalities and social change as well.

In the same way as mentioned in one of the famous sure of Holy Quran Sura Al-Nisa Ayat#06 first part that

Mental Approach & Marriage

وَأَبْتَلُوا الْيَتَامَى حَتَّى إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ⁴

The meaning of above verse of Holy Quran which translated by well know Al-Quran Islamic scholars by Mr. Taqi Usmani that “Test the orphans until they reach the marriageable age. Then, if you perceive in them proper understanding, hand their property over to them,”

As described in above mentioned verse of Holy Quran that the criteria of being mature regarding marriage as well proper understanding of their best of understanding for handling their property related issue which surly come with mental maturity that no can damage their property ,none of them can control them regarding property related issue .In other case they

can handle their property profit and loss as a well-mannered person normally can do which will help him and his family in upcoming days of his life. Here also mentioned a key point that children need to check whether they have good enough understanding its mean that it is differ from person to person according to their mental approach after census in leader of family that this boy or girl are good enough to understand his wealth and health that no one can dough him or her easily to destroy their wealth and health etc because proper understanding not only include wealth responsibility it include overall performance of specific girl or boy . As stated above whenever higher up of family feel that he or she can understand, they are well matured regarding marriage life, best of understanding regarding property safety etc which surly fluctuate from case to case. So surly it is concluded hard and fast rule that a girl or boy become more efficient regarding martial affairs as well proper dealing of their wealth and health issue as well to manage a peaceful happy life

Universal Declaration of Human Rights (UDHR) Article 16

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution⁵.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

UDHR Article 16 Detail According to UN

Article 16:

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Normally most of the articles of UDHR started with words of everyone, All, No one etc, without difference of gender, male or female but article 16 started with “Men and Women” mean that this article is describing a point which related to both gender about marriage right.

Earlier it seems that this article considers to limiting heterosexual marriage but now it considers that this marriage act is for both type of marriage whether a man marry with woman or Man marry with Man or Woman marry with Woman, it seems. In recent time UN Human rights departments urging different states to consider same sex marriage as legal, means that State

need to protect all types of marriages whether it's between, man and woman, Man and Man or between Girl and Girl. After this most of the countries started modification marriage act according to UN standard.

Article 16 is about marriage right of Human being. It is stated that every adult both man or woman have the right to get marriage and start new family if they want. Same manner Man and woman have same right of divorce. One more point is added in this regard that it is duty of state to protect family as well.

In addition, the people who not supporting marriage or marriage life will impact their civilized status in their society so after this, south African court reject the definition of marriage that it is civilized contract between only man and woman, means that this contract may be between same sex as well.

It is mentioned in other report from Pakistan that we human should have a legal forum that have both international and domestic impact.

This article was also the response of Nazi Law which say Inter-Racial marriage is prohibited so this article allows every man and woman of full age to get marriage and complete their family without any limitation of race, Nationality or religion. This article also allows both man and woman equal right before, after even closing of marriage contract.

This article is about the marriage agreement between two personalities which normally mean man and women but now also consider person to person, woman to woman and many other options like transgender girl to transgender boy etc and now it come addition with marriage with himself or herself.

This marriage is between two different person or personalities mean mainly agreement between two people like man and woman and person to person, woman to woman and many other options like transgender girl to transgender boy etc mean these two people look after each other and society will help them to live peaceful and calm life to avoid any conflict.⁶

In second part of the article mentioned that "marriage shall be entered into only with the free and full consent of the intending spouses." Here it includes the word "Full age" of first part of article because free and full consent also depend on full age as well because these aspects are interlinked with each other but unluckily under age marriage is big issue which world is facing, in recent time around one Million girls married under age of eighteen every month.

Related to above discussion one supportive issue is mentioned that "Forced Marriage " ,means that in different part of the world girls married with man with high difference of age with paying bride price as mentioned in description south Sudan where a father of sixteen year old girl put auction ,sixteen year old girl available for marriage using social media plate form of Facebook and get highest price which upraise the other people to put bride on social media for marriage etc, although Facebook face lot of pressure about this auction.

A recent decision from International criminal court against specific army "in the case against Dominic Ongwen of the Lord's Resistance Army) that forced marriage, when part of a

widespread or systematic attack against civilians, may amount to a crime against humanity was, for many, a welcome development in jurisprudence.” So, it’s necessary to achieve acceptable result for human being that injustice or war attack against any poor or developing countries may cause increase crime against humanity.

According to report of 2018 mentioned by committee who protecting woman rights in Kyrgyz Republic that government is failed to implement those laws who protect woman rights regarding marriage to sop force marriage ,sexual violence which damage woman right according to this article that every woman should have her free and full consent to get marriage .This also mentioned in the report that government of Kyrgyz Republic also fail to fulfill basic steps to avoid bridal kidnapping which is their domestic norm “It also found that the Kyrgyz Republic had knowingly failed to take effective measures to address discriminatory stereotypes and norms that legitimize bride kidnapping, as well as to enforce existing laws criminalizing the practice alongside child marriage” means that bride kidnapping is going to be their continuous domestic tradition and government is not in this position to change it forcefully .

One of another topics under article 16 is that having family right mean that having family is the right of every man and woman who got married. Its mean that “right to found a family” reflects the prevailing morality of the time associating families with marriage “mean that after getting married it’s the conscious decision of both man and woman to having family ,further need to add the right to plan and control of birth and reproduction of upcoming child even now add a right” to in-vitro fertilization which mean that test tube baby where man and woman sperm mutually added in laboratory and put in woman ovary to proceed to child birth .

In 2012 Navi Pillay ex UN Human right chief discussed that sexual violence and rejection of contraception are the normal issue which used against woman which damaging women personalities internally and externally badly, Further UN Human right chief focus on that it’s needs to be add in the basic rights of the woman that they must have enough power to protect their bodies and it will be the first step to gain equality between men and women because without providing these basic rights to women UN cannot achiever target to provide equal right to women even in developed countries ,further she explained that even in personal issue such as it’s should be the right of the women when ,how and with whom she want sex, in next step she also mentioned that it should be the right of the women when ,how and with home she select to have family meaning having children’s come under women domain. Only Women have the power to when, how and whom she wants sex relationship and having babies.⁷

In short, it’s the right of every men and women of adult age to have marriage with opposite or equal sex or sex of her or him choice without considering race, any nation, any religion to complete their families with their own willing with complete authority of women to how, when and whom they want sex relation and whom they want to having babies for growing next generation.

In addition, both man and woman have equal right to having before marriage, having marriage and even they have equal right to close this chapter of marriage.

Further both men and women have the same right to choose their life partner with free and full choice, mean that it's right of a man to choose his life partner with his full free choice without any influence of family or domestic norms. In the same way woman have the same right to choose her life partner with full of her choice without considering any influence.

Family is the basic unit of the family to it's the duty of society and state to support family and put effort to take necessary action to protect family and its member.

Marriageable age or Full Age Concept According to United Nation Charted

United Nations documentation shared cleared message about age to consider a boy or girl as child or adult is mentioned firstly in official book of United Nation "The Core International Human Rights Treaties" and second in the official paper which also published by United Nation press release under detail briefing about article 16. Both official document of UN mentioned age of 18 as bench mark which show difference between adult and child.

Different conventions of United Nation describe all points of articles 16 especially about issue of adult age because which is main point of discussion. For the purposes of the present Convention, a child means every human being below the age of eighteen years unless⁸, under the law applicable to the child, majority is attained earlier.

In second part of the article mentioned that "marriage shall be entered into only with the free and full consent of the intending spouses." Here it includes the word "Full age" of first part of article because free and full consent also depend on full age as well because these aspects are interlinked with each other but unluckily under age marriage is big issue which world is facing, in recent time around one Million girls married under age of eighteen every month.

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Conclusion

Full age of Marriage concept is one of the hard topic for discussion between Islam follower and Universal Declaration of Human Right because both parties having their own strong point of view, now it's up to the current and upcoming researcher that how they compare between

Religious and Human Rights perspectives according to different societies and norms. Actually this comparison or difference of opinion is about religious belief, regional values, cultural value and United Nation Human Right Standard. Islamic concept of full age regarding Marriage is based on Puberty considering individual food, genetic, environment, culture etc while UDHR supporting a documented article that a minimum age of marriage is 18 which will help society to avoid forced marriage and promoting marriage with full consent . This conflict or difference of opinion between Islam and UN Human Right department is challenge for both parties to sit together take necessary action to promoting religious and culture standardization while finalizing International human rights roles. One of the solution regarding full age of Marriage is like that both UN Human right department and Islamic leader understand each other on common ground, dialog need to promote to provide respect religious beliefs, cultures, regional value which proceeding International Human Right.

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