

A FAIRY TALE INTERRUPTED: THE LONG-TERM IMPACTS OF CHILD MARRIAGE IN YEMEN AND THE NECESSARY ADJUSTMENTS TO BOTH LOCAL AND INTERNATIONAL LAWS TO STOP THE PRACTICE AND TO PROTECT VOICELESS CHILD BRIDES

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I. Introduction

“Fairy tales are full of vague dread, a catastrophe that seems to befall only little girls There are frightening male figures –we call them wolves, among other names– and females are helpless before them.”¹

Most people are familiar with the tale of sleeping beauty, who was awoken from the evil curse by a true love’s kiss. Not many, however, know the original story of the slumbering princess who pricked her finger on a spindle. Indeed, in the original tale, written in the seventeenth century, Giambattista Basile tells his readers a tale of a young princess who was raped by a stranger in her sleep and subsequently gave birth to two children while still unconscious. After awakening, the princess realized that she was a mother and a wife-to-be of the man she had never met before and with whom she was destined to spend her “happily ever after.”²

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¹ Susan Brownmiller, *Against Our Will: Men, Women, and Rape*, THE ESSENTIAL FEMINIST READER 311, 313 (Estelle B. Freedman ed., 2007) (emphasis added).

² GIAMBATTISTA BASILE, *Sun, Moon, and Talia*, in STORIES FROM THE PENTAMERONE (E.F. Strange ed., 1911)(1634), available at <http://www.surlalunefairytales.com/pentamerone/29sunmoontalia1911.html> (last visited Mar. 12, 2015).

Contrary to the view of many, Basile's plot is not that far from reality for many girls around the world, particularly those who become victims of child marriage. These girls, frequently under the age of eighteen,³ are stripped of their childhood in a matter of hours and become wives to men they barely know. Brooms and pans substitute their games and toys; and the frightening monster is not the one living under the bed—but the one sleeping in it with them.

By definition, child marriage is a marital union with a child who has not yet reached the age of majority. Ironically, there is no uniform agreement among the nations as to what age constitutes the age of majority. As a result, one-third of the world's girls are married before the age of eighteen and one in nine girls is married before the age of fifteen.⁴ Over the next decade, the estimates show that 142 million girls will be married before their eighteenth birthday.⁵ That is an average of 14.2 million girls each year.⁶

Although there are some developed countries, including the United States, that still practice these types of marriages,⁷ such unions are far more prevalent and customary in developing countries. Over the past few years, Yemen has been at the forefront of the discussions for potential human rights violations when discussed in the context of youth marriage. This custom is largely a product of socio-economic influences, as well as deeply rooted cultural and religious traditions of a male-dominated Yemeni society.

"Three . . . to [five] million Yemeni girls who live mostly in rural areas are often married barely into their teens . . ."⁸ From 2002-

³ Graca Machel and Desmond Tutu, *Child Marriage Robs Girls of Their Opportunities*, THE WASHINGTON POST (Jul. 31, 2012), available at http://www.washingtonpost.com/opinions/child-marriage-robs-girls-of-their-opportunities/2012/07/31/gJQAud7kNX_story.html.

⁴ Int'l Ctr. for Research on Women, *Child Marriage Facts and Figures*, ICRW.ORG, <http://www.icrw.org/child-marriage-facts-and-figures> (last visited Feb. 14, 2015).

⁵ *Id.*

⁶ *Id.*

⁷ See generally Amos N. Guiora, *Protecting the Unprotected: Religious Extremism and Child Endangerment*, 12 J. L. & FAM. STUD. 391, 403 (2010) (discussing impacts of polygamy and child marriage in the Fundamentalist Church of Jesus Christ of Latter-Day Saints community); Catherine Blake, *The Sexual Victimization of Teenage Girls in Utah: Polygamous Marriages Versus Internet Sex Predators*, 7 J. L. & FAM. STUD. 289, 292-93 (2005) (discussing polygamous child marriage in Utah).

⁸ Mira Baz, *Yemen: Where Men Marry Children*, GLOBALPOST.COM (May 30, 2010), <http://www.globalpost.com/dispatch/middle-east/100316/child-brides-yemen>.

2012, twelve percent of Yemeni girls were married by the age of fifteen and thirty-two percent were married by the age of eighteen.⁹

Undoubtedly, the consequences and the devastating impacts of this practice leave an unbearable scar on the lives of these girls. For instance, a nine-year old Yemeni girl, Nujood Ali, who was “sold off” into a marriage to a man three times her age because her parents could not make ends meet, sheds light on the daily sufferings of the present-day child bride.¹⁰ In her book, Nujood, with a riveting passion, describes the struggles and abuses (both sexual and physical) she had to endure from her husband and his family. Helpless—but not hopeless—Nujood decides to take justice into her own hands. She escapes the life she equates to slavery, and goes straight to court to demand a divorce. After a long battle, her wish is granted, marking an important victory in her life, and, hopefully, lives of many other Yemeni girls.

Heartbreakingly, Nujood’s story is more of an exception than a rule in her country. Many other girls face outcomes that are far more tragic, as evidenced by a recently published news story of an eight-year old girl who died from serious internal injuries inflicted during her wedding night with a man who was twenty years older than her.¹¹

Despite public outrage, however, this harmful tradition continues, with practically no effort to stop it. As such, this Article seeks to address the deeply rooted socio-economical, political, and religious factors surrounding child marriage in Yemen. In doing so, the Article draws links between child marriage and the religious influences of the Sharia law. The Article further discusses the recognition, if any at all, of young girls’ rights to sexual and personal autonomy and certain protections that are necessary in the context of human rights as defined by the international human rights law.¹² After evaluating girls’ legal and societal rights, this Article focuses on the

⁹ *At a Glance: Yemen*, UNICEF.ORG, http://www.unicef.org/infobycountry/yemen_statistics.html (last updated Dec. 31, 2013).

¹⁰ See NUJOOD ALI & DELPHINE MINOI, *I AM NUJOOD, AGE 10 AND DIVORCED* (2010).

¹¹ Mohammed Ghobari & Claire Davenport, *Yemen to Punish Those Responsible for Child Bride Death: Aide*, REUTERS (Sep. 13, 2013 8:49 AM), <http://www.reuters.com/article/2013/09/13/us-yemen-childbride-idUSBRE98C0IR20130913>.

¹² See Sarah Y. Lai & Regan E. Ralph, *Female Sexual Autonomy and Human Rights*, 8 HARV. HUM. RTS. J. 201, 201-02 (1995) (discussing the application and recognition of sexual rights as human rights).

long-term consequences of the practice, suggesting ways local and international human rights laws can aid in prevention of the child marriage epidemic.

II. Background

She had taught herself to give men a precise amount of pleasure; never more, never less, only what was necessary. She didn't get angry with anyone, because that would mean having to react, having to do battle with the enemy and then having to face unforeseen consequences, such as vengeance.¹³

A. Once Upon a Time . . . : The History of Marriage in Sharia-Predominant Communities and its Relationship to Child Marriage

Child marriage is a common occurrence in the predominantly Muslim communities of rural Yemen. In order to understand the roots of the practice, it is essential to look to the traditional values behind child marriage and to determine what influences have impacted the culture to allow the continuation of this custom. When looking to social factors reinforcing child marriages, two reasons arise that explain the prevalence of youth marriages. Primarily, such unions exist because they provide both: (1) economic benefits to a bride's struggling family, and (2) a way to control female sexuality.¹⁴

i. Rags to . . . Riches(?): Child Marriages as Means to Obtain Economic Gain and Cheap Labor

As to the first, there is a substantial causal relationship between poverty and child marriage.¹⁵ Oftentimes, poor and famished families view child marriage as a way to pass one of their kids off to

¹³ PAULO COEHLIO, VERONIKA DECIDES TO DIE 44 (2000).

¹⁴ See Jenna Mark, *Married at Eight Years Old: How United States Current Legal Remedies Are Inadequate to Protect the Victims of Child Marriages*, 18 NEW ENG. J. INT'L & COMP. L. 411, 414-15 (2012).

¹⁵ See Laura Davids, Note, *Female Subordination Starts at Home: Consequences of Young Marriage and Proposed Solutions*, 5 REGENT J. INT'L L. 299, 302 (2007) (providing an example of Bangladesh where the "dowry prices double if parents wait until the girl reaches fifteen to marry.").

another family and ease the financial burden of providing for their numerous children.¹⁶ In fact, girls living in poor households are almost twice as likely to marry before eighteen years old than girls from higher income households.¹⁷ Additionally, girls are more susceptible than boys to being married off young because parents believe that boys have better potential to provide for the family in the future.¹⁸ As a result, sons are encouraged to pursue education and develop various skills,¹⁹ while daughters are forced to forgo their education in order to settle into their domestic roles of wives and mothers—ultimately, the only role their society accepts them in.²⁰

A dramatic gap between the values placed on men as opposed to women substantially hinders the advancement and growth of young women across the world.²¹ Daughters are often viewed in purely economic terms, either as financial burdens or assets. There are two traditions—dowry and dower—prevalent in the developing nations, such as Yemen, that further reinforce child marriages.

A dowry tradition requires parents to pay off a future husband. Generally, dowry is much lower if the bride is younger, particularly because she is too young to perform the duties that are expected of her.²² After marriage, the child is expected to labor domestically in her in-law's home. In other words, “the husband's family gains an unpaid slave and a dowry from the child's parents[.]”²³ while a girl's parents eliminate substantial expenses of raising the girl.²⁴ Sadly, most parents justify this occurrence by believing that they are ensuring a safe future and economic stability for their daughters.²⁵

¹⁶ *Id.* at 302-03.

¹⁷ Int'l Ctr. for Research on Women, *supra* note 4.

¹⁸ Davids, *supra* note 15, at 305 (explaining that “[m]ales learn to become providers, and females learn child birthing, domestic duties, and obedience.”). The author further explains that child marriages restrict “a woman's role in society, further strengthening existing gender stereotypes.” *Id.*

¹⁹ *Id.*

²⁰ Jeff Timmerman, *When Her Feet Touch the Ground: Conflict Between the Roma Familistic Custom of Arranged Juvenile Marriage and Enforcement of International Human Rights Treaties*, 13 J. TRANSNAT'L L. & POL'Y 475, 483 (2004).

²¹ *See id.*

²² Davids, *supra* note 15, at 302.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

In other instances, a husband must pay for the bride of his choice, which is known as payment of a dowry or a bride price. By definition, bride price is “the sum of capital or goods or both used to purchase a girl for her labor or fertility.”²⁶ This practice is not any better than payment of the dowry as it has a negative effect on child brides as well. Some parents view their daughters as a profitable asset because of the payment of a bride price by the groom prior to marriage. “Such a custom encourages child marriages because the child’s family could potentially make money on the marriage as well as relieve themselves of supporting the child.”²⁷ The younger the girl, the higher the price a husband is willing to pay for her because youth ensures purity and virginity.²⁸ The concept of a wife’s purity echoes through cultural values placed on women in predominantly Muslim societies and allows men to control female sexuality, thereby creating obedient wives that will comport with all of their wishes.²⁹ In marrying young girls, older men strip away women’s right to personal autonomy and hinder their advancement within the community.³⁰

ii. Fairest [and Purest] of Them All: Child Marriage as a Means to Control Girls’ Sexuality and Autonomy

As mentioned earlier, the notion of chastity and virginity is of utmost importance in Islamic religions. A tribal Yemeni proverb states: “[t]o guarantee a happy marriage, marry a nine-year-old girl.”³¹ An overall notion of family honor plays a large impact because purity of a girl defines her place within the society. “A girl’s virginity reflects the family’s honor; thus, parents quickly arrange marriages not only to ‘protect’ their child from sexual immorality, but also to protect themselves from gossip and slander.”³²

²⁶ Mark, *supra* note 14, at 414-16.

²⁷ Davids, *supra* note 15, at 302.

²⁸ Mark, *supra* note 14, at 415-16.

²⁹ *Id.* at 415.

³⁰ *Id.*

³¹ *See* NUJOOD ALI & DELPHINE MINOUI, I AM NUJOOD, AGE 10 AND DIVORCED 74 (2010).

³² Davids, *supra* note 15, at 304-05. (“If parents wait to marry away their young daughter, gossip about her virginity ensues, usually tainting the family’s chances to receive a suitable mate and a significant bride-price for the child because the child becomes ‘unmarriageable’”).

This notion reverberates heavily throughout the teachings of Sharia or Islamic law, which is the body of religious law in various Muslim countries. In general, law changes in accord with the values of a society and “mirrors” its moral norms.³³ In other words, “law is a rather arbitrary statement evolving and changing at all times, but reflecting the acceptable morality of society as a group.”³⁴ This could not be truer than with the interpretation of the Sharia law by followers who construe the sacred book of Islam, the Qur’an, in accordance with their own values and societal views—which are generally men-driven.³⁵

The Qur’an does not specifically address the appropriate age to marry. To the contrary, one of the wives of Muhammad, the Prophet, was somewhere between the ages of four and nine at the time of marriage.³⁶ Thus, due to the interpretive nature of Islamic religion, some men interpret it as a justification for child marriage. Some scholars have explained the interpretation as follows:

Although Qur'an 4:6 recommends that the desired age at marriage is the age of maturity of mind (rushd), the majority of jurists did not hold such a view. According to Hanafi doctrine, eligibility for marriage comes with the beginning of sexual maturity (bulugh), the minimum ages of which are

³³ J.M. BROWN, F.K. BERRIEN, D.L. RUSSELL, *APPLIED PSYCHOLOGY*, 503 (6th ed. 1966).

³⁴ *Id.*

³⁵ See Major David J. Western, *Islamic "Purse Strings": The Key to the Amelioration of Women's Legal Rights in the Middle East*, 61 A.F. L. REV. 79, 82 (2008) (citing to various excerpts from the Q’uran and explaining that but for male domination and patriarchy, Islam vested women with various rights and elevated them to a pedestal of respect and honor).

[T]he emancipation of women was a project dear to the Prophet's heart. The Quran gave women rights of inheritance and divorce centuries before Western women were accorded such status. Women also held leadership positions within the *ummah* (collective group or nation), and even fought alongside men in battle . . . Early Muslim women did not seem to have experienced Islam as an oppressive religion, though later, as happened in Christianity, men would hijack the faith and bring it into line with the prevailing patriarchy.

Id. (internal citations and quotations omitted).

³⁶ Davids, *supra* note 15, at 303.

nine years for girls and twelve for boys. But the conclusion of a valid marriage contract with a minor (who is sexually immature) or between minors is allowed, even if the child in question is an infant. Such a marriage, however, must not be consummated until the minor is physically able to engage in sexual intercourse. This theoretical framework reflects the social practice of Muslim society during the crystallizing period of Islamic law Once established, these legal norms contributed to the subsequent consolidation and perpetuation of such social practices. Islamic legal doctrine opened the way for marriages which, according to modern Western standards, would be classified as “child marriages.” Such marriages, especially those involving minor girls, were, and partially still are, encouraged by social considerations³⁷

Customarily, men desire “to mold a submissive wife,” while parents seek to “protect” the daughter from ill repute.³⁸ Many think that “[t]he child will likely develop opinions and a sense of identity outside of the home if not married away early, so early marriage makes females passive and subservient.”³⁹ Marrying off girls at young ages ensures that the women go directly from their father’s dominion to their husband’s—without establishing their identity and independence.⁴⁰ Additionally, it is easier for parents to exert control over a younger child and force her into marriage without proper consent.⁴¹ Many adults believe that “the marriage of a young girl prolongs her marital life and increases the number of her potential offspring”⁴² As a result, females remain powerless and dependent on men for generations.

³⁷ Yehiel S. Kaplan, *A Father's Consent to the Marriage of His Minor Daughter: Feminism and Multiculturalism in Jewish Law*, 18 S. CAL. REV. L. & SOC. JUST. 393, 400 (2009) (emphasis omitted).

³⁸ Davids, *supra* note 15, at 304-306.

³⁹ *Id.*

⁴⁰ *Id.* at 304.

⁴¹ Kaplan, *supra* note 37, at 400.

⁴² *Id.*

B. In a Place Far-Far Away: Present-Day Practices and Domestic Laws of Yemen

After evaluating the overarching patterns of child marriage, it is important to note that many Middle Eastern countries have alleviated the issue through proactive approaches to laws and outdated traditions.⁴³ This, however, has not been true for Yemen, which might properly be described as a child marriage capital.⁴⁴ Based on a recent Human Rights Watch field study in which thirty-one girls were interviewed in Yemen's capital—Sanaa—all but one of the girls “were married between the ages of twelve and seventeen, with the majority married before age fifteen.”⁴⁵

As mentioned earlier, this pattern of child abuse is a product of Yemen's well-settled gender roles and traditions. Yemen is located on the Arabian Peninsula and is home to nearly twenty-three million people.⁴⁶ Islam is the primary religion in Yemen.⁴⁷ There are two laws in the country—the codified law and the Sharia or Islamic law.⁴⁸ Unlike many other Middle Eastern countries, Yemen did not codify the Sharia law, which poses several issues of interpretation.⁴⁹ For example, despite previously having a codified minimum age for marriage, Yemen is now one of a few countries that does not have one.⁵⁰

⁴³ See EQUALITY NOW, PROTECTING THE GIRL CHILD: USING THE LAW TO END CHILD, EARLY AND FORCED MARRIAGE AND RELATED HUMAN RIGHTS VIOLATIONS (Jan. 2014), *available at*

http://www.equalitynow.org/sites/default/files/Protecting_the_Girl_Child.pdf.

⁴⁴ See UNICEF, *supra* note 9.

⁴⁵ HUMAN RIGHTS WATCH, “HOW COME YOU ALLOW LITTLE GIRLS TO GET MARRIED?” 16 (Dec. 2011), *available at*

http://www.hrw.org/sites/default/files/reports/yemen1211ForUpload_0.pdf.

⁴⁶ *Yemen*, U.S. DEP'T OF STATE,

<http://www.state.gov/documents/organization/160081.pdf> (last accessed Feb. 7, 2015).

⁴⁷ HUMAN RIGHTS WATCH, *supra* note 45, at 7. Nationals are Sunni Muslims, who primarily reside in southern and central Yemen, but Zaidis (a branch of Shi'a Islam) make up a large minority living predominantly in the north parts of the country.

Nationals are Sunni Muslims, who primarily reside in southern and central Yemen, but Zaidis (a branch of Shi'a Islam) make up a large minority living predominantly in the north parts of the country.

⁴⁸ See *id.* Sharia law is also known as customary law. See EQUALITY NOW, *supra* note 41.

⁴⁹ See HUMAN RIGHTS WATCH, *supra* note 45.

⁵⁰ See *id.* at 2.

In 1994, a recently unified Yemeni government set the minimum age of marriage at fifteen.⁵¹ In 1999, however, the government, using religion as a sword, repealed Article 15 of Yemen's Personal Status Law, which prohibited marriage if parties have not reached the age of fifteen.⁵² As such, it eliminated most of the legal protections available at law for young girls in their fights against forced marriage.⁵³ The only remaining protection offered under Article 15 of the Personal Status Law is the prohibition on sexual intercourse until the girl reaches puberty, "even if she exceeds 15 years of age."⁵⁴ However, this disguised protection has numerous flaws. First, it does not stop girls from suffering from continuous marital rape before their first menstrual cycle.⁵⁵ Secondly, although this law considers physical maturity, it does not account for the mental and emotional health of a girl and her overall readiness to engage in sexual relationships and parenting.⁵⁶

Additional changes to the Personal Status Law took place in 1999.⁵⁷ For example, "[a] provision allowing forcibly married girls to divorce while maintaining their right to maintenance was repealed."⁵⁸ All of these adjustments have only reinforced the tragedy of the youth marriage in Yemen, creating devastating long-term patterns of abuse and discrimination against women.

III. Analysis

A. Sleeping with the Villain: The Impacts of Child Marriage on the Yemeni Girls and Ways to Fight It

After setting forth some of the reasons for the practice, and the particularity of the cultural setting of Yemeni society, it is essential to evaluate the long-term impacts of the practice and the necessity to prevent it altogether. Aside from the continuing marginalized status of all women that come from practicing child marriage, many other long-

⁵¹ *Id.* at 18. "Prior to unification in 1990, North Yemen's Personal Status Law set the minimum age for marriage at 15. In the south, it was 16."

⁵² *Id.* at 2.

⁵³ *Id.* at 17.

⁵⁴ *Id.* at 18.

⁵⁵ See HUMAN RIGHTS WATCH, *supra* note 45, at 18.

⁵⁶ *Id.*

⁵⁷ *Id.* at 18.

⁵⁸ *Id.*

term impacts affect each girl individually, hindering full development and personal growth.⁵⁹ These impacts range from permanent psychological trauma, to severe reproductive complications,⁶⁰ to detrimental physical injuries,⁶¹ and, potentially, death.⁶² According to UNICEF,

Sex within juvenile marriage is not likely consensual[,] that few young married women have access to contraceptives, while more suffer from higher susceptibility to STDs, and that pregnancy related diseases (such as recto-vaginal fistulas or RVF) and deaths are up to 200 percent higher than an older sampling of mothers aged twenty to twenty-four.⁶³

Additionally, “infant mortality rates are higher among younger mothers, while potentially large family sizes also depress local economies.”⁶⁴ In some aspect, it leads to legally permitted form of pedophilia and marital rape that goes unpunished.⁶⁵

⁵⁹ *See id.*

⁶⁰ *Id.* *See also* Berta Esperanza Hernandez-Truyol, *On Disposable People and Human Well-being: Health, Money, and Power*, 13 U.C. DAVIS J. INT'L L. & POL'Y 35, 51-52 (2006).

⁶¹ *Id.* *See* Kaplan, *supra* note 37, at 449 (“Marriage of minor daughters could result in health risks such as undesirable pregnancy and the risk of death of the mother and her fetus.”).

⁶² Lynne Marie Kohm, *Suffer the Little Children: How the United Nations Convention on the Rights of the Child Has Not Supported Children*, 22 N.Y. INT'L L. REV. 57, 72 (2009).

⁶³ Timmerman, *supra* note 20, at 485.

⁶⁴ *Id.*

⁶⁵ Mohamed Y. Mattar, *Trafficking in Persons, Especially Women and Children, in Countries of the Middle East: The Scope of the Problem and the Appropriate Legislative Responses*, 26 FORDHAM INT'L L.J. 721, 732 (2003).

Temporary marriage has been used to disguise prostitution in some countries of the Middle East. Whether the institution of temporary marriage itself constitutes a valid form of marriage under Islamic law has been subject of debate between the Shi'a and the Sunni. While the Sunni only recognize permanent marriage, the Shi'a, in countries like Iran, allow for an alternative form of marriage, which may be limited for a certain period of time. In temporary marriages, the marriage itself may be entered into orally, without witnesses or registration. Moreover, women in temporary marriages have no right to divorce; nor are they

This practice also has a detrimental impact on a women's overall advancement and the educational progress. Only forty-five percent of Yemeni girls attend primary school and fifteen percent of girls attend secondary school.⁶⁶ Undoubtedly, "[l]ack of education translates into the loss of a chance at identity, meaning that girls are left with no qualifications, a hypothesis directly corroborated by a strong link between very poor, women-headed households . . . menial occupations . . . [and] the 'feminization of poverty' and its resulting impact on children."⁶⁷

This lack of education inevitably leads to further gender-based discrimination and inability to progress within the Yemeni society. Moreover, it leads to objectification of women and a notion that women are men's property, without a right to their education, autonomy, and freedom.

B. Dull Sword and a Dusty Armor: International Law and Its Failure to Adequately Protect Children

Currently, several international treaties may help to curb the issue of child marriage. None of the treaties have adequately addressed the issue, however. For instance, "[t]he UN created the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages in 1962 to promote consensual marriage between adults."⁶⁸ This document, however does not prescribe a universal minimum age for marriages. The Convention on the Elimination of All Forms of Discrimination Against Women of 1979 ("CEDAW") also addresses marriage and expressly prohibits child marriage, but, once again, without prescribing the minimum age for brides-to-be.⁶⁹ Some provisions of the Convention on the Right of a Child of 1989 ("CRC") may serve as a shield to young brides, but only

entitled to inheritance. Meanwhile, men may terminate the agreement at any time. It has been argued that temporary marriages make women vulnerable to sexual exploitation and are very often used as a legitimate means to force women into prostitution.

⁶⁶ Adrien K. Wing, *The "Arab Fall": The Future of Women's Rights*, 18 U.C. DAVIS J. INT'L L. & POL'Y 445, 455 (2012).

⁶⁷ Timmerman, *supra* note 20, at 485.

⁶⁸ See Kohm, *supra* note 62, at 73-74.

⁶⁹ *Id.*

implicitly. Although CRC clearly defines a “child” and seeks to protect children from abuses, it does not provide much protection in the context of child marriage. In fact, Article 14.2 of the CRC gives parents wide latitude in their decisions to control their children’s personal choices when they concern social or religious matters.⁷⁰

Other treaties that, in general, protect girls from becoming victims of child marriage include: Universal Declaration of Human Rights (1948)—Article 16; African Charter on the Rights and Welfare of the Children (2000)—Article xxi; and Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (2003)—Article 16 (a), (b) and (d). Particularly, African Charter on the Rights and Welfare of the Children (“The African Charter”) provides an express prohibition of marriage to those who have not reached the age of eighteen. The African Charter is the only treaty that has been actively enforced to protect young brides.⁷¹ Yemen, however, has not signed this treaty, as it is a regional treaty between the African countries, with no international equivalent.⁷²

III. Proposal and Conclusion

A. Lifting the Curse: Ending the Child Marriage Through Amendments to Local and International Laws

Due to the persistence of human rights activists, Yemeni government officials have become involved in some discussions to prevent child marriage within the country.⁷³ However, a thorough re-evaluation of the current domestic laws, as well international laws, must take place. In addition to legal adjustments, several social efforts,

⁷⁰ *Id.* at 74.

⁷¹ *The African Charter on the Rights and Welfare of the Child*, UNICEF.ORG, http://www.unicef.org/esaro/children_youth_5930.html (last visited Feb. 7, 2015). The Charter, which was adopted by the Organization of African Unity (now the African Union) in July 1990, was entered into force in November 1999. It was the first regional treaty to address child rights, and was created partly to complement the CRC, but also because African countries were under-represented in the drafting process of the CRC, and many felt another treaty was needed to address the specific realities of children in Africa.

⁷² *Id.*

⁷³ *Yemen Moves to Criminalize Child Marriage*, YEMEN POST (Jan. 26, 2014), <http://yemenpost.net/Detail123456789.aspx?ID=3&SubID=7532>.

such as educational reform and extensive policing powers will be required.

First, adjustments to local laws must be implemented. Most importantly, a minimum age for marriage must be enforced in Yemen again. Additionally, the Sharia law must be codified to eliminate subjective interpretations. Perhaps, a provision similar to the Western statutory rape laws⁷⁴ may be adopted and extended to any sexual relations with a child below the age of majority, making the conduct illegal and non-consentable. This is a necessary adjustment because under international human rights law, there is no treaty provision or other authoritative guidance that sets forth a minimum age below which sex with minors constitutes statutory rape. Additionally, transparency and recordation of marriage must be implemented to monitor marriage and to allow policing of illegal, forced, or unconsented to unions.

Secondly, in addition to local adjustments, international law should provide better protection to young girls through the existing treaties. CEDAW should explicitly define child marriage and include it as a human rights violation. CRC must expressly prohibit child marriage and set universal minimum age for marital unions to all signatories. In the alternative, a treaty similar to the African Charter must be created that will specifically target and seek to eliminate child marriages all over the world.

Thirdly, Yemen must undergo a social reform to guarantee the prevention of this pattern of abuse against children. For instance, an educational reform must take place and ensure that girls remain in school where they can obtain an education until a certain age—which should be the prior to getting married. This proposal requires both local and international efforts to educate Yemeni citizens about impacts of child marriage.

Finally, to enhance accountability for abuses that target women's sexuality, women's human rights advocates should also bring cases before regional human rights courts, once domestic remedies have been exhausted. This strategy requires providing not only legal assistance to the complainant, but also psychological and moral support since sexual rights often have the effect of shaming, and thereby silencing, its victims.

⁷⁴ A statutory law adopted by the majority of the developed countries, including the United States, making it a crime to engage in sexual relationship with a female under the age of consent (typically, between sixteen and eighteen years old).

B. Happily Ever After: Conclusion

The world of humanity has two wings -- one is women and the other men. Not until both wings are equally developed can the bird fly. Should one wing remain weak, flight is impossible. Not until the world of women becomes equal to the world of men in the acquisition of virtues and perfections, can success and prosperity be attained as they ought to be.

Child marriage is a method of discrimination against women,⁷⁵ which must be prevented through elaborate efforts of both local government and international human rights activists. No child should suffer from the impact forced marriages have on their childhoods and their overall development. Thus, immediate changes and extensive adjustments to local and international laws must be implemented. The Yemeni government must make changes to its existing local laws, which will include a mandatory age to marry being set at least eighteen years old. It will also require the codification of the Sharia law to avoid multiple and subjective interpretations. Additionally, these efforts will also require international attention and necessity to amend the existing international treaties to explicitly address the issue of child marriage.

In addition to legal adjustments, several social efforts, such as educational reform and extensive policing powers will be required as well. By raising awareness and protecting the young girls from the unjustness of their circumstances, the world will provide these girls with the chance of a happier ever-after and will help the overall development of many marginalized women across the world.

⁷⁵ Kaplan, *supra* note 37, at 393.

