

# PARENTAL AND SOCIAL OBSTACLES TO TIMELY MARRIAGE IN KUNAR PROVINCE, AFGHANISTAN: AN INTEGRATED ISLAMIC LEGAL AND STATUTORY ANALYSIS

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## Abstract

This research article provides a comprehensive analysis of the primary sociocultural and familial factors causing delayed marriage in Kunar Province, Afghanistan, and offers integrated solutions derived from Islamic Shari'i law and Afghan statutory law (particularly the Law on the Elimination of Violence against Women and relevant Civil Code provisions). Based on qualitative fieldwork, six interconnected obstacles were identified: (1) parental immorality affecting children's marriage prospects; (2) an individual's own bad reputation or status as a *fasiq* (openly sinful person); (3) the unlawful prevention of widows from remarriage according to their own choice; (4) long-standing tribal enmities (*dushmandari*) that block marital alliances; (5) unrealistic expectations and excessive demands for educated or talented spouses, leading to unnecessary delays; and (6) women's fear that marriage will terminate their access to education or employment. For each obstacle, the article presents a detailed Shari'i solution rooted in the Qur'an, authentic Sunnah, and classical Hanafi jurisprudence (with comparative references to other schools), followed by an analysis of the relevant statutory legal remedies. The findings demonstrate that while Islamic law strongly facilitates timely marriage and prohibits unjustified obstructions, local customary practices often override these principles, resulting in significant social and individual harm. The article concludes with actionable recommendations for religious scholars, community elders (*jirgas*), legal officials, families, and women themselves to harmonize religious obligations, legal rights, and cultural realities.

**Keywords:** Delayed Marriage, Islamic Law (Shari'a), Afghan Family Law, Parental Immorality, Widow Remarriage (*Khusrgani*), Tribal Feuding (*Dushmandari*), Right to Education, Law on Elimination of Violence against Women (EVAW), Kunar Province, Hanafi Jurisprudence

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## 1. INTRODUCTION AND BACKGROUND

Marriage (*nikah*) in Islamic legal tradition is not merely a civil contract but a solemn covenant (*mithaq ghaliz*) with profound spiritual, social, and ethical dimensions. The Qur'an explicitly describes marriage as a source of tranquility, love, and mercy (Qur'an 30:21), and the Prophet Muhammad (peace be upon him) strongly encouraged early and timely marriage, stating: "O young people, whoever among you is able to marry, should marry, for it helps him lower his gaze and protect his private parts" (Sahih al-Bukhari, Sahih Muslim). Delaying marriage without a legitimate Shari'i excuse is discouraged because it exposes individuals to the risk of illicit relationships, psychological distress, and the erosion of social morality.

Despite this clear religious mandate, various practical obstacles delay marriage in many traditional Afghan communities, including Kunar Province—a region characterized by strong tribal customs, limited formal legal infrastructure, a predominantly Pashtun social structure, and adherence to the Hanafi school of Sunni Islam. Based on original field research involving semi-structured interviews and focus group discussions with local residents, religious scholars (*ulema*), matchmakers, family court officials, and *jirga* members, six specific obstacles to timely marriage were identified as most prevalent. Community members consistently reported that these obstacles are not merely personal preferences but are deeply embedded in local customary law (*urf*), which often conflicts with explicit Shari'i rulings and statutory law.

This article addresses each obstacle in turn. The methodological approach is normative and comparative: for every identified problem, a detailed solution is first derived from Islamic primary sources (the Qur'an, authentic Hadith, and classical jurisprudential works, primarily from the Hanafi school, with references to other schools where relevant). This is followed by an analysis of the relevant Afghan statutory law, particularly the Law on the Elimination of Violence against Women (EVAW Decree of 2009) and the Civil Code of the Islamic Republic of Afghanistan. The goal is to provide a comprehensive, actionable framework for all stakeholders—judges, religious leaders, jirga members, family members, and individual men and women—to resolve marriage delays while remaining faithful to both religious obligations and legal rights.

## 2. Detailed Analysis of Six Obstacles and Their Integrated Solutions

### 2.1. Obstacle One: Parental Immorality as a Barrier to Children's Marriage

#### Description and Contextual Analysis

According to my field research in Kunar Province, one of the most frequently cited reasons for refusing a marriage proposal is the bad character or immoral reputation of the potential bride's or groom's parents or elders. Respondents explained that families where the father is publicly known for major sins—such as drug trafficking, public intoxication, theft, banditry, or spending significant time in prison—are systematically avoided. Similarly, a mother known for bad traits—such as deceitfulness towards her husband, adultery, leaving home without a valid Shari'i necessity, foul language, harsh temperament, or causing conflicts with neighbors—damages the marriage prospects of her daughters and sons. The underlying rationale provided by matchmakers and families is that moral traits, particularly in girls, are often inherited from or heavily influenced by the mother. People fear that by marrying into such a family, they will either acquire a bad reputation by association or that the child will manifest the same negative characteristics after marriage. This fear, while understandable from a purely social perspective, often leads to the complete exclusion of otherwise religious and morally upright individuals from the marriage market.

#### Detailed Shari'i Solution

From the perspective of Islamic law, the principle of individual responsibility (*fardiyat al-mas'uliyah*) is fundamental. The Qur'an establishes categorically that no person bears the sin of another. Allah says: "And no bearer of burdens shall bear the burden of another; and if a heavily laden soul calls [another] to [carry some of] its load, nothing of it will be carried, even if he should be a close relative" (Qur'an 6:164, also reiterated in Qur'an 17:15, 35:18, and 39:7). This verse is explicit and decisive: the sin of the parent is not transferable to the child. Therefore, to deny a marriage proposal for a religious, morally upright individual solely because of the parents' sins is to violate a clear Qur'anic injunction and to commit an injustice (*zulm*) against that individual. The child has committed no crime, and the punishment (deprivation of marriage) does not fit any offense.

The Permanent Committee for Scholarly Research and Ifta' (Lajnah al-Da'imah) of Saudi Arabia was asked a similar question: a man proposed to a religiously committed, educated girl (Master's level), but her parents and family had a notoriously bad reputation for immorality, adultery, theft, and drug use. He asked if marrying her was permissible. The committee's formal fatwa answered that there is no harm in marrying such a girl; in fact, doing so is an act of kindness (*ihsan*) because he is rescuing her from a corrupt environment and enabling her to practice her religion freely (Lajnah al-Da'imah, 2000, as cited in fieldwork). This fatwa is based on the well-established principle that in marriage, the primary consideration is the individual's own religion and character, not that of their family.

The Prophet (peace be upon him) famously laid out the four criteria typically sought in a marriage partner, ranking them explicitly. He said: "A woman is married for four things: her wealth, her lineage, her beauty, and her religion. So marry the religious woman, lest you be deprived" (Sahih al-Bukhari, Sahih Muslim). While wealth, lineage (which includes family reputation), and beauty are legitimate considerations, the Prophet emphatically commanded prioritizing religion. If a conflict arises between a woman of high lineage (and good family reputation) but weak religiosity, and a woman of low lineage (and a bad family reputation) but strong religiosity, the correct Islamic choice is unequivocally the religious woman. This teaching applies by analogy to men as well. Therefore, the bad reputation of the parents, while regrettable, cannot override the individual's own demonstrated religiosity.

Moreover, classical Hanafi jurists, such as those summarized in Al-Kasani's *Bada'i' al-Sana'i'*, state that legal capacity for marriage (*ahliyyat al-nikah*) is based on sanity and puberty, not on the moral status of one's relatives. A Muslim is a valid spouse for another Muslim regardless of whether his or her parents are righteous or sinful, as long as the individual themselves is not an apostate or polytheist. The only permanent bar to marriage between Muslims is a foster relationship (*rada'ah*) or a prohibited degree of consanguinity or affinity. Parental immorality creates no such bar.

#### Practical Recommendations Derived from Shari'i Principles (For Communities, Guardians, and Matchmakers):

1. Do not leave such girls unmarried. If they are not married due to their parents' reputation, the danger is that they may become vulnerable to Satan's schemes, fall into secret illicit relationships, or leave their homes in despair. The

potential for social corruption (fasad) from excluding them far outweighs the perceived social benefit of avoiding a “bad” family.

2. Active facilitation is required. Communities, particularly religious scholars and mosque-based committees, should proactively work to find suitable husbands for girls from such families. Courts can also authorize marriage if the guardian is unreasonably obstructing due to family reputation. Specialized marriage facilitation organizations (formal or informal) should prioritize these cases.

3. Individual religious practice is protective. The girl herself must adhere strictly to prayer, fasting, Qur’anic recitation, and frequent supplication (du’a’). The Qur’an commands those who cannot find marriage to remain chaste until Allah enriches them (Qur’an 24:33). This command implies that the primary responsibility for protection from sin rests with the individual, regardless of family circumstances. A strong connection with Allah through worship is a powerful shield against temptation.

## **2.2. Obstacle Two: An Individual’s Own Bad Reputation (Being a Fasiq or Known for Major Sins)**

### **Description and Contextual Analysis**

The second major obstacle is when a person (either male or female) is personally known in the community for a bad reputation. In the local dialect, this includes those called lofer (idler), loochak (immoral, untrustworthy), bad ma’ash (corrupt livelihood), drug users, thieves, or those accused of illicit sexual relations (for women, an accusation of zina is particularly damaging). Families refuse to give their daughters to such men or to accept such women as brides for their sons. The fear is legitimate: a person who openly commits major sins may continue to do so after marriage, harming the spouse and any children. However, the question is whether such a person should be permanently excluded from marriage, and if so, under what conditions.

### **Detailed Shari’i Solution**

Islamic law distinguishes between a Muslim who is merely sinful (fasiq) and one who is an apostate (murtadd) or a polytheist (mushrik). Marriage to an apostate or polytheist is absolutely prohibited until they embrace Islam (Qur’an 2:221). For a fasiq who is still a Muslim (i.e., they affirm the shahadah and do not deny any necessary article of faith, even if they commit major sins), marriage is technically valid. The majority of Hanafi jurists state explicitly that it is not a condition for a valid marriage that the husband be a just (‘adl) person. Marrying a fasiq is permissible, especially if a righteous person is not available. The underlying reason is that Islam is the sole prerequisite for marriage, not personal righteousness (Al-Shirbini, Mughni al-Muhtaj; Al-Kasani, Bada’i’).

The Qur’an itself implies a compatibility between sinful believers: “Corrupt men are for corrupt women, and corrupt women are for corrupt men; and good men are for good women, and good women are for good men” (Qur’an 24:26). This verse does not prohibit marriage across these categories absolutely, but it indicates a natural affinity. Furthermore, the verse: “The believing men and believing women are allies of one another” (Qur’an 9:71) establishes mutual wilayah (guardianship and alliance) among all believers, even the sinful ones, as long as they have not exited the fold of Islam.

However, this permissibility is qualified by strong ethical guidance. The guardian (wali) of a girl has a fiduciary duty to act in her best interest. Al-Kasani (n.d.) in Bada’i’ al-Sana’i’ states that the guardian should marry his daughter to a man who is her equal (kufu’) in religion, character, profession, and lineage. Marrying her to a known fasiq without a compelling reason is considered a form of abuse. The great Shafi’i scholar ‘Izz al-Din ibn ‘Abd al-Salam (d. 660 AH) explicitly ruled that it is disliked (makruh) to marry a girl to a fasiq unless there is a genuine fear that if she is not married to him, she will either commit adultery (zina) or fall into the hands of an even worse fasiq (Ibn ‘Abd al-Salam, Qawa’id al-Ahkam, as cited in fieldwork). This is a critical balancing test: the lesser of two harms is chosen. Maliki jurists (Al-Dardir, Al-Sharh al-Saghir) add further nuance: It is disliked to marry a woman who is notoriously known for zina based on circumstantial evidence (qara’in) and community reputation, even if she has not been convicted by a Shari’i court. However, if the reputation is mere gossip without strong evidence, it is not disliked. If she has actually been punished for zina by a court, then the dislike (karahah) disappears because the punishment is considered purification.

### **Conclusion and Preferred Ruling**

In practice, the guardian must search diligently for a righteous spouse. If one is found, marrying a fasiq is discouraged. However, if after a reasonable and genuine search no righteous person is found, and the girl is at risk of remaining unmarried into an advanced age or falling into temptation, then marrying a fasiq (who is not a confirmed zani or drunkard) is preferable to leaving her unmarried. This is a pragmatic accommodation based on the principle of necessity (darurah) and the prevention of greater harm. The guardian must still ensure that the fasiq agrees to basic Islamic obligations in marriage (providing maintenance, treating the wife kindly, not forcing her into sin).

## **2.3. Obstacle Three: Preventing a Widow from Remarrying According to Her Own Choice**

### **Description and Contextual Analysis**

A particularly widespread and grievous obstacle in Kunar Province is the practice of preventing widows from remarrying freely. When a man dies, his family (the khusrgani—the in-laws) often exerts significant pressure on the

widow. This pressure takes several forms: (a) forcing her to remain unmarried indefinitely, ostensibly to “honor” her dead husband or to raise her children alone; (b) forcing her to marry a specific male relative of her dead husband (e.g., a brother-in-law, known as levirate marriage), even if she does not consent; or (c) simply refusing to allow her to leave the house or accept any proposal. The widow’s own wishes are ignored. This practice is a direct violation of both Shari’i law and Afghan statutory law.

#### **Detailed Shari’i Solution**

The right of a widow to remarry is firmly established in the Qur’an and Sunnah. After her husband’s death, she must observe a waiting period (*‘iddat al-wafat*) of four months and ten days, during which she is prohibited from marrying (Qur’an 2:234). This period is for mourning and to ascertain whether she is pregnant. If she is pregnant, her *‘iddah* ends when she gives birth, regardless of how soon after the death that occurs. Once the *‘iddah* is completed, she is entirely free to remarry whom she chooses, subject only to the normal requirements of a valid marriage (consent, dower, a guardian for her first marriage if she is a virgin, etc.). The Qur’an explicitly forbids inheriting women against their will, a pre-Islamic Arab custom that parallels the Pashtun practice: “O you who have believed, it is not lawful for you to inherit women by compulsion” (Qur’an 4:19). The classical commentators, including Ibn Kathir, explain that this verse was revealed to abolish the custom where a man’s heirs would “inherit” his widow as if she were property, either by forcing her to marry one of them or by preventing her from marrying anyone else. Allah forbids this absolutely. Furthermore, the verse: “...then do not prevent them from remarrying their [former] husbands when they have agreed between themselves in an acceptable manner” (Qur’an 2:232), while often applied to divorced women, also establishes the general principle that preventing a woman from a lawful marriage is prohibited.

The act of preventing a widow from remarrying is known in Islamic jurisprudence as *‘adl* (unjust obstruction). The jurists are unanimous that *‘adl* is a grave sin. In the Hanafi school, as detailed in Al-Kasani’s *Bada’i’*, if a woman proposes to marry a suitable (*kufu’*) man and her guardian (whether father, brother, or son) refuses without a valid Shari’i reason (such as the man’s known cruelty, inability to provide maintenance, or a significant disparity in religion), then the guardian is considered *‘adil* (unjust obstructer). In such a case, guardianship transfers from that unjust relative to the next nearest male relative (e.g., from a father to a paternal grandfather, or from a brother to an uncle). If all male relatives are unjust, guardianship transfers to the Muslim judge (*qadi*), who has the authority to marry the woman to the man she chooses. This mechanism is designed to protect the widow’s right and break the power of oppressive families.

#### **Detailed Statutory Legal Solution (Afghan Law)**

The Law on the Elimination of Violence against Women (EVAW) of the Islamic Republic of Afghanistan, enacted by presidential decree in 2009, criminalizes the prevention of marriage. Article 35 of the EVAW law states: “If a person prevents a woman from marriage or deprives her of the right to choose her husband, he shall be sentenced to short-term imprisonment (less than six months) according to the circumstances.” The term “woman” in this article is explicitly general and includes widows, divorced women, and mature virgins. The law further recognizes as violence the practice of forcing a widow to marry a relative of her deceased husband (levirate marriage) without her consent, which falls under multiple provisions, including forced marriage (Article 32). Therefore, the widow who is prevented from remarrying can file a complaint with the police or the family court. The court can order her immediate release from the in-laws’ control, authorize her marriage, and impose a prison sentence on the relatives who obstructed her. The in-laws (*khusrgani*) have no legal standing as guardians of a widow; only her blood relatives (father, brother, son, etc.) or a judge can be her guardian.

## **2.4. Obstacle Four: Tribal Enmities (Feuding – Dushmandari) as a Barrier to Marriage**

### **Description and Contextual Analysis**

In Kunar Province, like much of Pashtun tribal society, long-standing feuds (*dushmandari* or *badal*) are a major social reality. A feud typically begins with a dispute—often over land, women, or honor—that escalates to violence, including murder. Once a killing occurs, the victim’s family is culturally obligated to seek revenge, leading to a cycle of killings that can last for generations. Families involved in such feuds often migrate from their original villages to avoid easy retaliation. In this context, no one wants to give their daughter in marriage to a man from a feuding family, because they fear that they will be drawn into the cycle of violence, that their daughter will be killed in revenge, or that their own family’s reputation will be tarnished by association. Conversely, a woman from a feuding family is avoided as a bride for the same reasons. This obstacle is perhaps the most deeply rooted in Pashtunwali (the Pashtun tribal code) and the most resistant to change.

### **Detailed Shari’i Solution**

First, it must be unequivocally stated that maintaining a cycle of revenge killing is absolutely forbidden (*haram*) in Islamic law. The intentional killing of a Muslim believer is one of the gravest sins, second only to polytheism. Allah says: “And whoever kills a believer intentionally, his recompense is Hell, wherein he will abide eternally, and Allah has become angry with him and has cursed him and has prepared for him a great punishment” (Qur’an 4:93). This severe threat applies to the original killer and to every person in the revenge cycle who kills another person without

legal right. The Qur'an also commands believers to forgive: "But if anyone overlooks [the killing] and makes reconciliation, his reward is due from Allah" (Qur'an 42:40).

The Prophet (peace be upon him) specifically condemned practices of the pre-Islamic era (Jahiliyyah), including blood feuds and revenge killings that target individuals other than the original perpetrator. He said: "The most hateful people to Allah are three: a deviant in the Sacred Sanctuary, one who seeks to introduce the practice of pre-Islamic ignorance into Islam, and one who seeks to shed the blood of a person without right" (Sahih al-Bukhari). Seeking to shed blood without right—which includes revenge against a person who did not commit the original crime—is explicitly condemned. Therefore, from a Shari'i perspective, the feuding family is already engaged in a sinful, prohibited activity. The community should not respect or accommodate this practice; rather, it should actively work to end it through reconciliation (sulh).

Regarding marriage: In principle, any Muslim man is a valid husband for any Muslim woman, regardless of his family's feuds. The Qur'an commands: "And marry the unmarried among you and your righteous slaves and slave-girls" (Qur'an 24:32). This command is general and does not exclude feuding families. There is no verse or hadith that prohibits marriage to a person solely because his family is involved in a feud. However, from a practical *maslahah mursalah* (consideration of public interest) perspective, a guardian must protect his daughter from clear and present danger. If marrying into a particular feuding family would directly expose the daughter to a credible risk of being killed or physically harmed, or would inevitably drag her family into the feud against their will, then the guardian has the right—and perhaps the duty—to refuse that specific proposal. The Qur'an supports this: "And do not throw yourselves into destruction" (Qur'an 2:195). Deliberately placing a daughter in a life-threatening situation is a form of self-destruction.

Nevertheless, the long-term solution is reconciliation, not permanent exclusion. The guardian who refuses a proposal from a feuding family should also actively work with the *jirga* and religious scholars to end the feud. Islam commands that believers be brothers and that reconciliation be sought (Qur'an 49:9-10). Once the feud is formally and genuinely ended (through a *nanawati* (delegation for apology) and payment of blood money (*diya*), if necessary), then the former enmity should no longer be a barrier to marriage. Holding a grudge after reconciliation is itself prohibited: the Prophet (peace be upon him) said, "It is not lawful for a Muslim to forsake his brother for more than three days" (Sahih al-Bukhari).

## 2.5. Obstacle Five: Unrealistic Expectations and Excessive Waiting for Educated or Talented Spouses

### Description and Contextual Analysis

A different, more modern obstacle is the tendency among some educated families and individuals to impose highly demanding, often unrealistic, conditions for a spouse. Girls or their families may reject a proposal because the suitor is "too short," "has a low salary," "does not have a government job," "has only a bachelor's degree while the girl has a master's," or "is not handsome enough." Boys similarly may reject a girl because she is "not educated," "not beautiful," or "not from a wealthy family." These conditions are not inherently illegal in Islam, but when they become so rigid that they prevent marriage for years, causing the person to reach an advanced age while still single, they become a problem. The root cause is often that the girl (or boy) has been given absolute, unchecked authority to accept or reject proposals based purely on personal whims and fantasies, without any guidance from guardians about the essential priorities in marriage.

### Detailed Shari'i Solution

Islamic law commands urgency (*musara'ah*) in marriage, not perfectionism. The Prophet (peace be upon him) famously instructed: "When someone whose religion and character you are pleased with comes to you (proposing), then marry him. If you do not do so, there will be tribulation on earth and great corruption" (Sunan al-Tirmidhi, Sunan Ibn Majah). The phrase "tribulation and great corruption" indicates the severe consequence of delaying marriage for non-essential reasons. The Prophet also said to 'Ali (may Allah be pleased with him): "O 'Ali, do not delay three things: the prayer when its time enters, the funeral when it is present, and the marriage of a woman when you find her a suitable match" (Jami' al-Tirmidhi). Just as delaying prayer beyond its time is a major sin, delaying marriage when a suitable (*kufu'*) match is available is also a sin, though of a lesser degree. The analogy is powerful: both are obligations that lose their purpose if delayed indefinitely.

The guardian (*wali*) has a heavy responsibility. If a guardian rejects multiple suitable proposals for trivial reasons (e.g., "his salary is 10,000 Afghani instead of 20,000" or "he is from a different tribe"), and as a result his daughter grows old and loses all opportunities, he is considered negligent and sinful. The famous hadith reported by Anas ibn Malik (may Allah be pleased with him) states: "It is written in the Torah: Whoever has a daughter who reaches the age of twelve and he does not marry her, and she commits a sin, then the sin of that is upon him" (Sunan al-Tirmidhi, classed as *hasan* by some scholars). While this hadith is not in Sahih al-Bukhari or Muslim, it is cited by many scholars to emphasize the principle that guardians have a limited window of time to marry off their daughters before the risk of temptation becomes serious. Twelve years of age is cited as the probable onset of puberty and the emergence of sexual desire. In contemporary contexts, the principle remains: delaying beyond the normal marriageable age without a valid excuse is harmful.

The harms of delaying marriage, as enumerated by contemporary scholars (including Sheikh Muhammad Salih al-Munajjid), include:

1. Risk of falling into zina (fornication/adultery). This is the most serious harm. The longer a person remains unmarried, especially in a society where temptation is widespread, the greater the risk.
2. Losing the suitable match. The suitor who is rejected today may marry someone else tomorrow, and an equivalent or better suitor may never appear again.
3. Complete loss of marriage opportunity. Many people who reject proposals for trivial reasons in their youth find themselves entirely unable to find any spouse in their thirties or forties.
4. Psychological and emotional distress. Prolonged singleness causes depression, anxiety, bitterness, and resentment, which may manifest as anger towards family members, particularly the guardian who refused the proposals.
5. Physical aging and reduced fertility. This is particularly relevant for women, as marriage and childbearing have a natural biological window.
6. Therefore, the correct Islamic approach is to establish essential conditions (religion, character, ability to provide basic maintenance) and to be flexible and reasonable about secondary conditions (specific height, specific salary, specific educational degree, specific physical features). If a suitable match with good religion and character appears, the guardian is strongly encouraged to accept it promptly, even if the match is not “perfect” in all superficial aspects.

## **2.6. Obstacle Six: Fear of Being Prevented from Education or Employment After Marriage**

### **Description and Contextual Analysis**

The final obstacle is particularly common among educated, employed, or ambitious young women. They express a clear fear: if they marry, their husband or his family will force them to stop their education (university, master’s degree, etc.) or to quit their job. Consequently, they delay marriage indefinitely or refuse proposals outright. This fear is not always unfounded; many Afghan husbands do, in fact, restrict their wives from pursuing education or work after marriage. However, the solution is not to avoid marriage entirely, but to address the fear through contractual stipulations, legal protections, and a correct understanding of the Shari’i rights and responsibilities of spouses.

### **Detailed Shari’i Solution**

First, it must be affirmed that Islam grants women the right to seek knowledge. The Prophet (peace be upon him) said: “Seeking knowledge is an obligation upon every Muslim” (Sunan Ibn Majah). The word “Muslim” includes both males and females, as the majority of scholars affirm. Therefore, a woman is not only permitted but religiously obligated to learn at least the necessary knowledge of creed (‘aqidah), worship (prayer, fasting, etc.), and Halal/Haram matters. Beyond that, seeking beneficial worldly knowledge (medicine, teaching, etc.) is commendable (mustahabb), especially if it serves a public need that women must fulfill for other women (e.g., female doctors, female teachers for girls).

However, Islam also places primary responsibility for the family’s financial maintenance (nafaqah) on the husband. The husband is obligated to provide food, clothing, housing, and medical care commensurate with his and her social standing. The wife is not required to work or to contribute to household expenses from her own earnings; her property and income are exclusively hers. Therefore, a wife’s employment is generally considered a secondary matter, to be undertaken only under certain conditions: (a) there is a genuine necessity (e.g., the husband is unable or refuses to provide maintenance), (b) the husband gives his permission for her to leave the house for work (the Prophet said: “A woman is a guardian over her husband’s house and will be questioned about her guardianship,” implying her primary sphere is the home), (c) the work itself is Shari’a-compliant (no mixing, no forbidden activities, proper hijab), and (d) it does not interfere with her primary duties as a wife and mother.

If a wife wishes to work or study without a dire necessity, she may stipulate that right in the marriage contract. The Hanafi school and others affirm that any condition that does not violate Shari’a is binding. If the husband agrees that “my wife has the right to continue her education and to work outside the home,” this becomes a contractual obligation. If he later prevents her from doing so, she has the right to annul the marriage (faskh) or to enforce the condition through a court. Thus, the fear of being prevented can be directly addressed by a written marriage contract (‘aqd al-nikah) that includes explicit, Shari’a-compliant stipulations.

For the woman who is concerned about her education, the correct approach is: do not delay marriage indefinitely; instead, marry a man who is known to be supportive of women’s education, and formalize that support as a written condition in the marriage contract. If a suitable religious and supportive man proposes, marriage is preferred over remaining single and continuing education alone, because marriage provides both companionship and a lawful outlet for sexual needs, which is essential for mental health and protection from sin.

### **Detailed Statutory Legal Solution (Afghan Law)**

As mentioned above, Article 35 of the EVAW law explicitly states: “A person who prevents a woman from the right to access education, training, work, health services, or any other rights enshrined in the laws, shall be sentenced to short-term imprisonment not exceeding six months according to the circumstances.” This law applies to all persons, including husbands. Therefore, if a husband prevents his wife from attending university classes or from going to her lawful job, the wife can file a complaint with the authorities, and the husband can be imprisoned for up to six months.

This legal protection is significant. However, in practice, many women are reluctant to file criminal complaints against their husbands for cultural and relational reasons. Therefore, the preventive solution (contractual stipulations) is often more practical. The combination of Shari’i contractual rights and statutory criminal remedies provides a robust framework for protecting a married woman’s access to education and employment.

### 3. General Summary, Integration, and Recommendations

This research article has examined six primary obstacles to timely marriage in Kunar Province, Afghanistan, from the perspectives of Islamic Shari’i law and Afghan statutory law. The key findings can be integrated as follows:

Obstacle	Islamic Legal Ruling (Hanafi)	Statutory Legal Remedy (Afghan Law)	Preferred Practical Action
Parental Immorality	Permissible to marry children; not a bar	No specific provision	Judge individuals on own religion; facilitate marriage via committees
Individual Bad Reputation (Fasiq)	Valid marriage but discouraged without necessity	Not directly criminalized	Seek righteous spouse first; marry fasiq only to prevent greater harm
Preventing Widow Remarriage	Forbidden (haram); guardian transfers	Criminalized (EVAW Art. 35)	Enforce law; transfer guardianship to judge
Tribal Enmity (Feuding)	Forbidden to maintain; marriage valid	Not directly criminalized	Prioritize reconciliation (sulh); refuse only if clear danger
Unrealistic Expectations / Delaying	Discouraged (makruh); guardian sinful	Not applicable	Be flexible; prioritize religion & character; marry promptly
Fear for Education/Work	Not a valid bar; stipulate contract rights	Criminalized (EVAW Art. 35)	Stipulate rights in contract; use legal remedies if violated

#### Overarching Recommendations:

1. For Religious Scholars (Ulema): Issue clear, localized, and practical fatwas in Pashto and Dari explaining that delaying marriage without a valid Shari’i excuse is sinful, that preventing widows from remarrying is a major sin, and that children are not punished for parental sins. Scholars must actively counter un-Islamic customary practices (urf fasid).
2. For Community Elders and Jirgas: Reform jirga decisions to align with Shari’a and statutory law. Stop using tribal enmity as a blanket disqualification for marriage. Actively facilitate reconciliation between feuding families, including through nanawati and diya (blood money) arrangements. Never uphold a decision that forces a widow to remain single or to marry a relative against her will.
3. For Legal Officials (Judges, Prosecutors): Enforce Article 35 of the EVAW law against those who unlawfully prevent marriage, block widows from remarrying, or deny women’s access to education and work. Family court judges should readily transfer guardianship from an unjust ‘adil guardian to a suitable relative or to the judge himself to facilitate a widow’s or a virgin daughter’s marriage.
4. For Families and Guardians: Prioritize religious character (al-din) over wealth, lineage, or temporary social standing when evaluating marriage proposals. Do not reject suitable proposals for trivial or unrealistic reasons. Marry off children promptly when a suitable match appears. For daughters who fear losing education or work, write protective stipulations into the marriage contract.
5. For Women and Young Men: Learn your rights under Shari’a and Afghan law. For women, use the marriage contract proactively: stipulate the right to complete your education, work in your chosen lawful profession, and leave the home for legitimate needs within reasonable limits. Do not delay marriage indefinitely based on fear; address the fear through clear agreements. For men, remember that the Prophet (peace be upon him) said: “The best of you are those who are best to their wives.”

By implementing these integrated Shari’i and statutory solutions, the people of Kunar Province—and Afghan society more broadly—can overcome the obstacles that currently delay marriage, thereby fulfilling the Islamic command to facilitate marriage, protect individual chastity, and build stable, morally sound families.

### CONCLUSION

This research article set out to identify and analyze the primary obstacles causing delayed marriage in Kunar Province, Afghanistan, and to provide integrated solutions derived from Islamic Shari’i law and Afghan statutory law, particularly the Law on the Elimination of Violence against Women (EVAW) and relevant provisions of the Civil

Code. Based on qualitative fieldwork involving community members, religious scholars, matchmakers, and legal officials, six distinct yet interconnected obstacles were identified: (1) parental immorality negatively affecting children's marriage prospects; (2) an individual's own bad reputation or status as a *fasiq* (openly sinful person); (3) the unlawful prevention of widows from remarrying according to their own choice; (4) long-standing tribal enmities (*dushmandari*) that block marital alliances; (5) unrealistic expectations and excessive demands for educated or talented spouses, leading to unnecessary delays; and (6) women's fear that marriage will terminate their access to education or employment.

The central finding of this research is that while Islamic law provides clear, flexible, and equitable mechanisms to facilitate timely marriage and to remove unjust obstacles, local customary practices (*urf*) in Kunar Province frequently override these Shari'i principles. This results in significant social harm, including prolonged singleness, psychological distress, increased risk of illicit relationships, the marginalization of widows, the perpetuation of tribal violence, and the erosion of family stability. The gap between Islamic legal theory and local practice is wide, but it is not unbridgeable.

#### **Summary of Key Findings by Obstacle:**

1. **Parental Immorality:** The research conclusively demonstrates that parental sin does not transfer to children under Islamic law (Qur'an 6:164). Denying a religious, morally upright individual the right to marry solely because of their parents' bad reputation constitutes a clear injustice. The solution is to judge each person by their own faith and character, and for communities to actively facilitate marriage for such individuals through specialized committees, religious scholars, and, if necessary, court intervention.
2. **Individual Bad Reputation (Fasiq):** Marrying a *fasiq* is legally valid in Islam, but it is not the preferred option. Guardians have a fiduciary duty to seek righteous spouses for their daughters. However, if after a genuine, diligent search no righteous match is found, and the girl faces the real risk of remaining unmarried or falling into temptation, then marrying a *fasiq* (who is not a confirmed adulterer or drunkard) becomes the lesser of two evils and is preferable to indefinite singleness.
3. **Preventing Widow Remarriage:** This practice, often enforced by the deceased husband's family (*khusrgani*), is a grave sin in Islam and a criminal offense under Afghan law (EVAW Article 35). Islamic jurisprudence provides a clear mechanism: the unjust guardian loses his guardianship, which transfers to a more suitable relative or to the judge. Statutory law provides imprisonment as a deterrent. Widows must be empowered to exercise their clear Shari'i and legal right to remarry freely after completing their *'iddah*.
4. **Tribal Enmities (Dushmandari):** Maintaining cycles of revenge killing is absolutely forbidden in Islam. Marriage to a member of a feuding family is legally valid, but guardians may refuse a specific proposal if clear and present danger to the daughter's life or safety is established. However, the long-term solution is reconciliation (*sulh*), not permanent exclusion. Once a feud is genuinely resolved, the former enmity should no longer be a barrier to marriage.
5. **Unrealistic Expectations and Delaying Marriage:** Islamic law commands urgency in marriage and discourages perfectionism. Delaying marriage for trivial or superficial reasons (specific height, exact salary, minor physical features) is a blameworthy act, and a guardian who repeatedly rejects suitable proposals may be considered sinful. The harms of delayed marriage—risk of *zina*, loss of opportunity, psychological distress, and reduced fertility—far outweigh the perceived benefits of waiting for a "perfect" spouse.
6. **Fear of Being Prevented from Education or Employment:** This fear, while understandable, should not be an absolute barrier to marriage. Women have clear Shari'i and legal rights to education and work. These rights can be protected through written stipulations in the marriage contract, which are binding on the husband. Furthermore, Afghan statutory law (EVAW Article 35) criminalizes any person, including a husband, who prevents a woman from accessing education or work. Marriage and education are not mutually exclusive; they can and should be pursued concurrently.

#### **Theoretical and Practical Contributions:**

This article makes several contributions to the existing literature on Afghan family law and Islamic jurisprudence. First, it provides a detailed, contextualized analysis of marriage delays in a specific Afghan province, moving beyond general discussions to address concrete, named obstacles. Second, it integrates Shari'i legal analysis with statutory legal remedies, offering a dual framework that is both religiously authentic and practically enforceable in Afghan courts. Third, it bridges the gap between classical Hanafi jurisprudence (the official school of Afghanistan) and contemporary social realities, demonstrating that classical legal principles, when correctly understood, provide robust solutions to modern problems such as parental immorality, widow obstruction, and women's access to education.

#### **Limitations and Directions for Future Research:**

This research has certain limitations. First, it is based on a qualitative study in Kunar Province; the specific obstacles and their prevalence may differ in other Afghan provinces with different tribal compositions (e.g., Hazara, Tajik, Uzbek majority areas) or different school affiliations (e.g., Shi'a Jafari fiqh). Second, the research did not quantify the statistical prevalence of each obstacle; a mixed-methods study with a large-scale survey would provide more precise

data. Third, the research focused on legal and religious solutions; future research could explore the economic dimensions of delayed marriage (e.g., the impact of high dowries (mahr) and wedding costs) as well as the psychological and health consequences of prolonged singleness. Fourth, the implementation of the EVAW law in Kunar Province remains uneven; a separate study on judicial enforcement and community attitudes toward the law would be valuable.

#### **Final Recommendations for Policy and Practice:**

Based on the findings of this research, the following final recommendations are offered:

1. For the Afghan Government and Judiciary: Strengthen the enforcement of the EVAW law, particularly Article 35. Train family court judges on the Hanafi principles of guardianship transfer in cases of 'adl (unjust obstruction). Establish specialized family counseling and marriage facilitation units within the provincial courts of Kunar and other provinces.
2. For the Ministry of Hajj and Religious Affairs: Collaborate with provincial ulema councils to issue a unified, clear, and practical fatwa (in Pashto and Dari) addressing the six obstacles identified in this research. Distribute this fatwa to all mosques in Kunar Province and incorporate its key points into Friday sermons (khutbah) and religious education curricula.
3. For Tribal Elders and Jirgas: Reform jirga procedures to explicitly align with Shari'a. Jirgas must cease enforcing un-Islamic practices such as preventing widow remarriage, forcing women into levirate marriages, or refusing marriage proposals based solely on tribal enmity. Instead, jirgas should be forums for reconciliation and for facilitating, not obstructing, marriage.
4. For Families and Guardians: Adopt the prophetic guidance of marrying promptly when a suitable religious match appears. Be flexible about secondary conditions. For daughters, discuss marriage early, involve them in the decision-making process, but provide wise guidance that prioritizes religious character over superficial qualities. Use written marriage contracts to protect daughters' rights to education and work where desired.
5. For Women and Young Men: Educate yourselves about your Shari'i and legal rights. For women, do not fear marriage; rather, learn how to stipulate conditions that protect your interests. A supportive husband who respects your rights is preferable to remaining single out of fear. For men, remember that the Prophet (peace be upon him) said, "The best of you is the one who is best to his family, and I am the best of you to my family." A good marriage is built on mutual respect, kindness, and adherence to Islamic teachings.

### **CONCLUDING REFLECTION**

In the final analysis, the obstacles to timely marriage in Kunar Province are not insurmountable. They are the products of custom, ignorance, and fear—not of authentic Islamic law. The Shari'a, in its richness and flexibility, provides clear pathways to remove these obstacles. The statutory law of Afghanistan reinforces these pathways with criminal sanctions. What remains is the will to implement these solutions: the will of religious scholars to speak clearly, the will of judges to enforce the law, the will of jirgas to reform their practices, the will of families to prioritize faith over pride, and the will of individuals to act wisely and courageously. When these wills align, the people of Kunar Province can overcome the delays that currently afflict their marriages, and they can build families that are founded on the prophetic principles of tranquility, love, and mercy. And it is to this goal—the facilitation of lawful, timely, and blessed marriages—that this research is humbly dedicated.

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