



*Journal of Advances and
Scholarly Researches in
Allied Education*

*Vol. XI, Issue No. XXI,
Apr-2016, ISSN 2230-7540*

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RELATED ACT FOR MUSLIM WOMEN UNDER
ISLAMIC LAW**

AN
INTERNATIONALLY
INDEXED PEER
REVIEWED &
REFEREED JOURNAL

A Research on Marriage and Divorce Related Act for Muslim Women under Islamic Law

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Abstract – The issue of imbalance for women is more social than legal. As respects to the law, aside from personal issues, disparities in the arrangements of law are not really found. Personal issues, be that as it may, are controlled by religious laws or traditions. In the legal system however these laws or traditions are joined independently under the head of Personal Law, these are not, in any case, overall got from religious laws or traditions. A few changes through presenting enactments or declaring laws were made in their application. All things considered, these have been lacking to set up balance amongst women and men. This paper demonstrates how Muslim women are being treated as to their Personal Law, specifically Marriage and divorce law. Winning social developments of sexual orientation are as yet a crucial deterrent in understanding the requests of existing law. Keeping in mind the end goal to expel disparities and force justice, especially in marriage-related issues.

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INTRODUCTION

In Islamic Law, marriage is a contract – a social contract – as unmistakable from a business transaction.. It is at times likewise named a 'common contract' between a single man and a single lady of sound personality who have accomplished adolescence. These contracts must be comprehended by the gatherings keeping in mind the end goal to guarantee that the marriage has been performed in the best possible way and the rightful impacts of the marriage are allowed to every one of the taking an interest accomplices. Additionally, it is viewed as best if the contract is executed in talked frame. In any case, because of need or need, it might be done through composing or marking.

In Islam, marriage includes sharing between the two parts of society. Its goals, other than sustaining human life, are passionate prosperity and profound congruity. Its bases are love and leniency. It likewise shows legalization of sexual intercourse, and gives a permit to deliver youngsters. In this way, in Islam additional marital sexual relations are disallowed, not to mention generation. As per Shia law marriage in Islam can be of two sorts: to start with, marriage through a standard contract which is called "perpetual", and second muta marriage – a non-lasting marriage for a settled term.

Muta is recognized from customary, lasting marriage based on its tendency. As it is impermanent it doesn't mirror any extensive results. For instance, Muta marriage does not make common rights of legacy between the man and the lady, yet kids imagined while it exists are true blue and equipped for acquiring from

the two guardians. All that is required for Muta is a legitimate contract with a specify of the predefined period joined by a settled measure of dower. What is additionally vital to note is that for a legitimate Muta two witnesses are required as is likewise required for the lasting marriage.

The legal impacts of marriage rely upon the legitimacy of marriage. For instance, a marriage can be named sahi (full legitimate), fasid (unpredictable) or batil (void). There are no legal results for a batil or void marriage since as per Islamic law, it isn't a marriage by any stretch of the imagination. Constrained legal outcomes are, be that as it may, found in an unpredictable or fasid marriage.

As per winning laws pubescence is resolved based on one's achieving lion's share. In actuality, the term adolescence is not any more significant. What is pertinent for a marriage contract is whether one has crossed the period of minority. Laws with respect to larger part were enacted at various circumstances and because of various circumstances. The idea of minor or tyke has, accordingly, been given fluctuated definitions by various acts and statutes.

Islam permits divorce if conditions warrant or require it, in reality reluctantly neither enjoying nor prescribing it. The blessed Qur'an states, "[a]nd on the off chance that you expect that the two (i.e., a couple) will be unable to keep the points of confinement requested by Allah, there is no fault on both of them on the off chance that she makes up for herself (from the marriage tie) ... " The Prophet of Islam, Mohammad (SAS) stated, among lawful

things, divorce is most hated by Allah. The general ground for divorce in the Qur'an is seen as a sad disappointment of one or the two gatherings to release their marital obligations and to partner with each other in consideration, peace and sympathy. The right to divorce is, be that as it may, presented upon men, not on women. Established Islamic law ponders various types of divorce methodology. This incorporates: divorce through oral proclamation (talaq-I-ahsan, talaq-i-hasan, talaq-ul-bidaat or talaq-I-badai) and divorce in composed frame (which is unavoidable divorce (talaq-I-bain) and produces its results instantly on its execution). Among these strategies, the most well-known method of divorce in Bangladesh is talaq-ul-bidaat or talaqi-badai, which implies three professions in the meantime (e.g., I divorce you thrice or independently, I divorce you, I divorce you, I divorce you or with a single declaration that I divorce you irreversibly). Once such a proclamation is finished, divorce winds up permanent or bain, and is taking effect right now. Remarriage between the gatherings, as indicated by established Islamic law, is completely illegal unless a mediation of another marriage with an outsider is finished up and divorced from that point upon consummation.¹⁶ It is intriguing that such a break marriage is just material if there should arise an occurrence of a lady. A man does not should be hitched with an outsider in the middle of two marriages.

REGISTRATION OF MUSLIM MARRIAGES

In spite of the fact that on a basic level Islamic law does not require a custom solemnization of marriage, among the Muslims of India marriages are constantly solemnized by religious authorities known as the "kazi". The short function performed by the kazi, known as "nikah", starts with formally getting assent of the gatherings – first of the lady and after that of the prepare – and closes with recitation from the Holy Quran took after by supplications. Previously, or promptly after, the service the kazi readies a nikah-nama (marriage endorsement) which gives full points of interest of the gatherings and is marked by them two, and by two witnesses. The kazi verifies the nikahnama by putting his marks and seal on it.

Printed types of standard nikah-nama in Urdu and Hindi are loaded by all kazis who fill in it the points of interest of the marriages they solemnize, issue duplicates to the two gatherings, and dependably safeguard a duplicate in their records.

The Kazis Act 1880 - There is an old focal law called the Kazis Act 1880 engaging State governments to choose kazis to help craving neighborhood Muslims with solemnization of marriages, and so on. The Government in British India had acquired the ability to delegate kazis from the Mughal rulers however had abandoned it in 1864. On the request of Muslim administration drove by the colossal Sir Syed Ahmad Khan, the power was continued by enacting the Kazis Act 1880.

Under this Act kazis might be delegated by a State Government for different zones under its control. A kazi can likewise be evacuated by the designating specialist on the grounds of wrongdoing, long nonattendance, indebtedness or lack of ability. The Act, now in constrain in many States, makes it clear that nearness of a Stateappointed kazi won't be compulsory for any marriage.

Local Muslim Marriage and Divorce Registration Acts - There are Muslim Marriage and Divorce Registration Acts in force in six States providing for voluntary registration of marriages and divorces among the local Muslims. These States are as follows:

- (i) West Bengal
- (ii) Bihar
- (iii) Jharkhand
- (iv) Assam
- (v) Orissa
- (vi) Meghalaya

The parent law among these is the old Bengal Mohammedan Marriage and Divorce Registration Act 1876 which is presently in constrain in the initial three of the above-named States.

The Orissa governing body re-enacted in 1949, with a few changes, the old

Bengal law of 1876 alluded to above. Titled Orissa Mohammedan Marriage and Divorce Registration Act 1949, it reaches out to the entire State.

The Assam governing body had enacted a comparative law in 1935 – the Assam Moslem Marriage and Divorce Registration Act. The recently made State of Meghalaya locally re-enacted this law in 1974 with no substantive change. Every one of these Acts engage the nearby governments to permit appropriate people in different zones approving them to enroll marriages and divorces among the neighborhood Muslims. These people, to be known as "Mohammedan Marriage Registrars", need to act according to the technique set down finally in the Acts. Every one of the Acts likewise endorse different structures for registration of marriages and diverse types of divorce, including talaq (divorce by spouse) and khula (divorce at the example of wife).

The situation of the Mohammedan Marriage Registrars designated under these Acts is much the same as the kazis selected under the focal Kazis Act 1880. Like the last mentioned, all these neighborhood Acts additionally elucidate that the nearness of a State-delegated Mohammedan Marriage Registrar won't be compulsory for any marriage, and furthermore that neither non-registration would influence the legitimacy

of any marriage nor will unimportant registration approve a marriage which is generally invalid under Muslim law. Registration under these Acts is accordingly a simple office given by law.

Under the Rules surrounded under the Bengal law of 1876 a Permanent Committee headed by the Inspector-General of Registrar administers arrangements, suspension and evacuation of Mohammedan Registrars. With the endorsement of the Government the Committee can likewise inspect now and again their insight into Muslim law.

REGISTRATION OF DIVORCES

Divorces Obtained Outside the Court - The Muslim Marriage and Divorce Registration Acts relevant in West Bengal, Bihar, Jharkhand, Orissa, Assam and Meghalaya – alluded to above – accommodate intentional registration of out-of-court divorces with the Mohammedan Marriage Registrars selected under those Acts by the State Governments. The accompanying types of divorce can be so enlisted in every one of the States:

- (i) *talaq* (divorce by the husband),
- (ii) *khula* (divorce at the instance of wife), and
- (iii) *mubara'at* (divorce by mutual consent).

Separate forms are prescribed by these Acts for the registration of each of these categories of divorce.

The Orissa Mohammedan Marriage and Divorce Registration Act 1949 provides also for registration of *talaq-tafwiz* (divorce by wife in terms of a stipulation for this purpose in the marriage contract). It prescribes special forms for the registration of such divorces.

Registration of all divorces under all these laws is to be made on a voluntary basis; and non-registration of any divorce does not vitiate its legal validity.

CONCLUSION

This paper has analyzed established Islamic laws concerning marriage and related issues; Muslim laws; and has endeavored to distinguish the disparities between rights delighted in by men and women. While I focused on the disparity of Muslim women through their very own laws. Since laws change from religion to religion, disparities additionally fluctuate from lady to lady, contingent upon which religion she has a place with. It is to a great degree unwanted for laws with respect to similar issues to be so differentiated. There is popularity for the Uniform Family Code, except for religious fundamentalists, which would bring the decent variety of personal laws under one rubric inside the nation's polite code.

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