
CONCEPT OF MARRIAGE UNDER MOHAMMEDAN LAW: QUR'ANIC FOUNDATIONS AND LEGAL PRINCIPLES

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ABSTRACT

Marriage (Nikah) is one of the most significant institutions under Mohammedan Law, serving as the foundation of family life and social organization within the Islamic legal system. It is recognized as a lawful union between a man and a woman, established to promote companionship, mutual respect, emotional support, and the continuation of human society through procreation. Unlike a purely sacramental relationship, Nikah possesses a contractual character while simultaneously carrying profound moral, social, and religious significance. The Holy Qur'an and Islamic jurisprudence emphasize marriage as a means of fostering affection, tranquility, and stability among individuals and communities.

This study examines the concept, meaning, nature, and essential requirements of marriage under Mohammedan Law. It explores the legal foundations of Nikah, including proposal and acceptance, competency of parties, free consent, witnesses, and dower (Mahr). The paper further analyzes the objectives and importance of marriage in Islam, highlighting its role in safeguarding individual rights, maintaining social order, and strengthening family relationships. Through an examination of Qur'anic principles, Hadith, and classical juristic interpretations, the study provides a comprehensive understanding of the institution of marriage and its continuing relevance in contemporary Muslim personal law.

Keywords: Mohammedan Law, Nikah, Marriage, Muslim Personal Law, Islamic Jurisprudence, Mahr, Family Institution, Contractual Nature of Marriage, Muslim Family Law, Islamic Marriage.

INTRODUCTION

Marriage (Nikah) is a natural institution established by Allah for human beings and is regarded as a Sunnatullah a divine practice that exists among living creatures, especially among humans who are created in pairs.¹ The Holy Qur'an presents marriage not merely as a social arrangement but as a sacred bond intended to provide emotional, spiritual, and social stability. In Surah Ar-Rum (30:21), the Qur'an explains that Allah created spouses for one another so that they may find Sakinah (tranquility), Mawaddah (love), and Rahmah (mercy). These three values form the foundation of an ideal marital relationship and contribute to the well-being of individuals, families, and society.²

From an Islamic perspective, marriage is both an act of worship and a legal relationship that carries mutual rights and responsibilities. It serves various purposes, including companionship, protection of moral values, procreation, and the development of a stable family structure. The concept of Nikah in Islam emphasizes mutual respect, cooperation, and the fulfillment of obligations between spouses.³

Under Mohammedan Law, marriage is generally defined as a civil contract. Unlike a sacrament, Nikah is a legal agreement entered into by a man and a woman with their free consent. This contract creates lawful rights and duties between the parties and legitimizes family relations and offspring. Essential elements such as offer (Ijab), acceptance (Qubul), competency of parties, and consideration in the form of Mahr (dower) are necessary for a valid marriage.⁴

Thus, while the Qur'an views marriage as a means of attaining spiritual and emotional fulfillment through Sakinah, Mawaddah, and Rahmah, Mohammedan Law recognizes it as a legally enforceable contract that regulates the rights and obligations of spouses. Together, these perspectives demonstrate the comprehensive nature of marriage in Islam as both a sacred institution and a legal relationship.⁵

¹ Andi Fadhil Andi Aderus, *The Concept Of Marriage In The Qur'an*, 2. Multidisciplinary Indonesian Center J.1075,1076-77(2025).

² Ibid.

³ M.S. RAMRAO, *Mohammedan Law* 8 (2018).

⁴ Ibid.

⁵ Andi Fadhil Andi Aderus, *The Concept Of Marriage In The Qur'an*, 2. Multidisciplinary Indonesian Center J.1075,1076-77(2025).

BACKGROUND OF MARRIAGE (NIKAH) IN THE QUR'AN

The Qur'an uses two important terms for marriage:

(1) **Al-Zawaj (الزواج)** – denotes pairing, union, and companionship between two individuals.⁶

(2) **Al-Nikah (النكاح)** – refers to the legal and lawful contract that permits a marital relationship between a man and a woman.⁷

Marriage (Nikah) is one of the most significant social and religious institutions in Islam. The Qur'an refers to marriage through the terms al-zawaj (الزواج) and al-nikah (النكاح). Linguistically, al-zawaj signifies pairing, union, and companionship, while al-nikah denotes a lawful contract that establishes a legitimate relationship between a man and a woman. In Islamic jurisprudence, marriage is not merely a social arrangement but a sacred contract that legalizes intimacy, safeguards morality, preserves lineage, and establishes the foundation of family life. Through marriage, individuals fulfill their natural desires in a lawful manner and contribute to the stability of society.⁸

The Qur'an presents marriage as a divine institution rooted in human nature and the plan of Allah for the continuation of mankind. Allah states:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً

"O mankind! Fear your Lord, who created you from a single soul and created from it its mate, and from them spread many men and women." (Qur'an 4:1)⁹

This verse demonstrates that marriage is part of Allah's design for human existence. The creation of spouses from a single origin emphasizes the unity, equality, and mutual dependence of men and women in human society.¹⁰

The Qur'an further encourages marriage by removing financial fears associated with it. Allah

⁶ Fadhil Andi Aderus, *The Concept Of Marriage In The Qur'an*, 2. Multidisciplinary Indonesian Center J.1075,1076-77(2025).

⁷ Ibid.

⁸ Ibid.

⁹ 2 shaikh safiur-rahman al-mubarakpuri, *tafsir ibn kathir* 368 (2d ed. 2003).

¹⁰ Ibid.

says:

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ ۚ إِن يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ ۗ وَاللَّهُ وَاسِعٌ عَلِيمٌ

"Marry those among you who are single and the righteous among your male and female servants. If they are poor, Allah will enrich them from His bounty. And Allah is All-Encompassing and All-Knowing." (Qur'an 24:32)¹¹

This verse reflects the Islamic principle that marriage should not be delayed due to poverty or financial concerns. Rather, faith, moral character, and readiness for marital responsibilities should be the primary considerations.

THE MARRIAGE BOND IN THE QUR'AN

The Qur'an describes marriage as a profound and enduring bond that extends beyond a legal contract. It is a relationship founded upon mutual support, emotional security, and spiritual companionship. The essence of this bond is beautifully expressed in Surah Ar-Rum.¹²

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

"And among His signs is that He created for you spouses from among yourselves so that you may find tranquility in them; and He placed between you affection and mercy. Indeed, in that are signs for people who reflect." (Qur'an 30:21)¹³

This verse identifies three fundamental pillars of the marital bond: **Sakinah (tranquility)**, **Mawaddah (affectionate love)**, and **Rahmah (mercy and compassion)**. Together, these elements form the foundation of a successful and harmonious marriage.¹⁴

➤ **Sakinah: The Bond of Tranquility**

The first objective of marriage mentioned in the Qur'an is *sakinah*. The Arabic expression ¹⁵لِتَسْكُنُوا إِلَيْهَا means "so that you may find tranquility in them." *Sakinah* signifies inner peace, emotional stability, comfort, and psychological security. Through marriage, spouses become a

¹¹ 7 shaikh safiur-rahman al-mubarakpuri, tafsir ibn kathir 74-75 (2d ed. 2003).

¹² 7shaikh safiur-rahman al-mubarakpuri, tafsir ibn kathir 533-35 (2d ed. 2003).

¹³ Ibid.

¹⁴ Ibid.

¹⁵ 7shaikh safiur-rahman al-mubarakpuri, tafsir ibn kathir 533 (2d ed. 2003).

source of support and reassurance for one another. Islamic scholars explain that this tranquility encompasses both emotional and physical dimensions of human life.¹⁶ A lawful marital relationship enables spouses to satisfy their natural needs while experiencing peace and contentment. Therefore, *sakinah* represents the state of harmony that emerges when husband and wife live together with mutual understanding, trust, and respect.¹⁷

➤ **Mawaddah: The Bond of Love and Affection**

The second pillar of the marital bond is *mawaddah*.¹⁸ The term is derived from the Arabic root *wadda*, meaning deep love, affection, and sincere attachment. *Mawaddah* refers to the positive feelings that arise when spouses appreciate and value one another's qualities. It includes admiration, emotional intimacy, friendship, and mutual respect. Unlike temporary attraction, *mawaddah* creates a lasting connection that motivates spouses to care for and support each other. The Qur'an places *mawaddah* at the center of marital life because a healthy marriage cannot flourish without genuine love and emotional commitment.¹⁹

➤ **Rahmah: The Bond of Mercy and Compassion**

The third foundation of marriage is *rahmah*,²⁰ which means mercy, compassion, kindness, and forgiveness. *Rahmah* becomes particularly important when spouses encounter difficulties, weaknesses, or imperfections in one another. Human beings are not perfect, and over time every marriage faces challenges. The presence of *rahmah* enables spouses to overlook faults, forgive mistakes, and continue supporting one another despite hardships. This compassionate dimension of marriage reflects one of Allah's own attributes as *Ar-Rahman* and *Ar-Rahim*. Through *rahmah*, marriage evolves from a relationship based merely on attraction into a lifelong partnership characterized by sacrifice, patience, and unconditional care.²¹

CONCEPT OF MARRIAGE UNDER MOHAMMEDAN LAW

Definition of Marriage under Mohammedan Law

Marriage (*Nikah*) under Mohammedan Law is defined as a contract having for its primary

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ 7shaikh safiur-rahman al-mubarakpuri, *tafsir ibn kathir* 533-34 (2d ed. 2003).

¹⁹ Ibid.

²⁰ 7shaikh safiur-rahman al-mubarakpuri, *tafsir ibn kathir* 533-34 (2d ed. 2003).

²¹ Ibid.

objectives the procreation of children and the legalization of offspring. Marriage is a legal union between a man and a woman that establishes lawful relations between them and creates mutual rights and obligations. The institution of marriage is regarded as the foundation of family life and social organization in Islam.²²

Unlike certain other religious traditions that treat marriage as a sacrament, Mohammedan Law considers marriage primarily as a civil contract.²³ It is constituted through a valid offer (Ijab) and acceptance (Qubul) between the parties, made in the presence of competent witnesses. The rights and obligations arising from marriage take effect immediately upon the conclusion of the contract and are not dependent upon the prior payment of dower (Mahr). Nevertheless, marriage in Islam possesses not only a contractual character but also moral, social, and religious significance, as it promotes companionship, mutual support, and the preservation of society.²⁴

Nature and Objects of Marriage

Marriage (Nikah) under Mohammedan Law is a lawful union between a man and a woman that establishes mutual rights and obligations. Although it is primarily regarded as a civil contract, it also possesses social, moral, and religious significance. Unlike a mere commercial agreement, marriage is intended to create a stable family structure based on companionship, affection, and mutual respect. Islamic law recognizes marriage as a natural and desirable institution that regulates relations between the spouses and contributes to the welfare of society.²⁵

The primary objects of marriage are the establishment of a family, the procreation and upbringing of children, and the promotion of social order. Marriage provides a lawful framework for the fulfillment of emotional and physical needs while ensuring the legitimacy of offspring and the continuity of society. It also imposes reciprocal rights and duties upon the husband and wife, fostering cooperation, support, and harmony within the family. Thus, marriage in Islam serves not only individual interests but also broader social and moral

²² M. hidayatulla, mulla principle of mahomedan law 282 (16th ed. 1960).

²³ Ibid.

²⁴ M. hidayatulla, mulla principle of mahomedan law 282-83 (16th ed. 1960).

²⁵ Ibid.

objectives.²⁶

ESSENTIALS OF A VALID MARRIAGE (NIKAH)

Proposal and Acceptance (Ijab & Qubul): A valid Muslim marriage requires a clear proposal (Ijab) by one party and an acceptance (Qubul) by the other. Both must be made at the same meeting and indicate the intention of the parties to enter into a marital relationship.²⁷

Capacity of the Parties: The parties must be competent to marry. They should be of sound mind and have attained puberty. In the case of minors, a lawful guardian (Wali) may contract the marriage on their behalf.²⁸

Free Consent : The consent of the parties is an essential requirement of a valid marriage. The marriage must be entered into voluntarily and without coercion, fraud, or undue influence.²⁹

Presence of Witnesses : Under Sunni law, the presence of two adult Muslim male witnesses, or one male and two female witnesses, is necessary for the validity of marriage. Under Shia law, witnesses are not essential.³⁰

Dower (Mahr): Dower (Mahr) is a mandatory consideration in a Muslim marriage. It is a sum of money or property that the husband undertakes to give to the wife in recognition of the marriage. Although the non-payment of dower does not invalidate the marriage, the wife's right to receive it is legally enforceable.³¹

POSITION UNDER DIFFERENT SCHOOLS OF MUSLIM LAW

- **Hanafi School:** An adult woman may contract her own marriage without the consent of a Wali. Witnesses are required, and the marriage is valid upon offer and acceptance.³²
- **Shafi School:** The consent and participation of a Wali are essential for a valid marriage.

²⁶ 7 shaikh safiur-rahman al-mubarakpuri, tafsir ibn kathir 533-35 (2d ed. 2003).

²⁷ M.S. RAMRAO, Mohammedan Law 8-9 (2018).

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² M. hidayatulla, mulla principle of mahomedan law 284 (16th ed. 1960).

An adult woman cannot independently contract a marriage.³³

- **Maliki School:** The presence of a Wali is necessary, and the guardian plays an important role in the formation of the marriage contract.³⁴
- **Shia School:** The presence of witnesses is not mandatory. A valid marriage is constituted through offer and acceptance, and an adult woman may personally consent to the marriage.³⁵

FORMS OF MARRIAGE UNDER MOHAMMEDAN LAW

Sahih (Valid) Marriage: A Sahih or valid marriage is one in which all the essential requirements of Mohammedan Law are fulfilled. Such a marriage creates a lawful marital relationship between the husband and wife and is fully recognized by law.³⁶

Legal Effects of Sahih Marriage: A valid marriage gives rise to mutual rights and obligations between the spouses. The wife becomes entitled to dower (Mahr) and maintenance, while both spouses acquire mutual rights of inheritance. Children born from the marriage are legitimate and enjoy full legal rights. The marriage also establishes lawful cohabitation and creates a recognized family relationship.³⁷

Batil (Void) Marriage: A Batil or void marriage is one that is prohibited absolutely by law and is void from the beginning. Examples include marriages within prohibited degrees of relationship by blood, affinity, or fosterage.³⁸

Legal Effects of Batil Marriage: A void marriage creates no legal marital status between the parties. No mutual rights or obligations arise, and the spouses cannot inherit from one another. The marriage is considered non-existent in the eyes of the law and cannot be validated by any subsequent act.³⁹

Fasid (Irregular) Marriage: A Fasid or irregular marriage is one in which a temporary

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ M.S. RAMRAO, Mohammedan Law 10-11 (2018).

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

prohibition has been violated. The defect does not render the marriage absolutely void and may be removed, thereby converting the marriage into a valid one.⁴⁰

Legal Effects of Fasid Marriage: An irregular marriage does not enjoy all the legal consequences of a valid marriage. However, after consummation, certain rights may arise, and children born from such a marriage are regarded as legitimate. Once the irregularity is removed, the marriage becomes fully valid.⁴¹

Muta Marriage: Muta marriage is a temporary marriage recognized under the Ithna Ashari Shia School. It is contracted for a fixed period and for a specified dower.⁴²

Essentials of Muta Marriage

- Fixed period of marriage
- Specified dower (Mahr)
- Competent parties
- Valid offer and acceptance

Legal Effects

- Marriage ends automatically on expiry of the fixed term
- Wife is entitled to the agreed dower
- Children are legitimate
- Limited inheritance rights between spouses

NUMBER OF WIVES

Under Mohammedan Law, a Muslim man may have up to four wives simultaneously, provided he treats them with fairness and equality. A marriage contracted with a fifth wife while four

⁴⁰ M.S. RAMRAO, Mohammedan Law 10-11 (2018).

⁴¹ Ibid.

⁴² M. hidayatulla, mulla principle of mahomedan law 293(16th ed. 1960).

wives are already living is not void (Batil), but merely irregular (Fasid). The irregularity can be removed if one of the existing marriages is dissolved, allowing the fifth marriage to become valid.⁴³

PROHIBITIONS TO MARRIAGE UNDER MOHAMMEDAN LAW

Prohibition on the Ground of Consanguinity (Blood Relationship):

A Muslim man is prohibited from marrying certain close blood relatives. These include his mother and grandmother, daughter and granddaughter, sister, niece, and aunt, whether paternal or maternal. Such relationships are prohibited because of their close familial connection. A marriage contracted in violation of this prohibition is void (Batil) from the beginning.⁴⁴

Prohibition on the Ground of Affinity (Relationship by Marriage):

Affinity arises through marriage. A man is prohibited from marrying his wife's mother or grandmother, his wife's daughter or granddaughter (where the marriage with the wife has been consummated), the wife of his father or grandfather, and the wife of his son or grandson. These marriages are also void (Batil) because the law treats these relationships as permanently prohibited.⁴⁵

Prohibition on the Ground of Fosterage (Riza):

Under Muslim law, foster relationships created through breastfeeding are treated similarly to blood relationships. Therefore, persons who are prohibited from marrying by reason of consanguinity or affinity are generally also prohibited from marrying by reason of fosterage. A marriage contracted in violation of this rule is void (Batil).⁴⁶

Prohibition on the Ground of Unlawful Conjunction:

A Muslim man cannot have two wives simultaneously if they are related to each other in such a way that they could not lawfully marry one another had one of them been a male. Examples include marrying two sisters at the same time or marrying an aunt and her niece simultaneously.

⁴³ M. hidayatulla, mulla principle of mahomedan law 285 (16th ed. 1960).

⁴⁴ M. hidayatulla, mulla principle of mahomedan law 288-89 (16th ed. 1960).

⁴⁵ Ibid.

⁴⁶ Ibid.

Such a marriage is not void but irregular (Fasid), and the irregularity can be removed by ending one of the marriages.⁴⁷

JUDICIAL INTERPRETATION OF MARRIAGE UNDER MOHAMMEDAN LAW

Abdul Kadir v. Salima (1886)

In this landmark case, the Allahabad High Court held that Muslim marriage (Nikah) is essentially a civil contract and not a sacrament. The Court observed that the rights and obligations arising out of marriage are governed by the principles of contract, thereby distinguishing Muslim marriage from purely religious unions.⁴⁸

CONCLUSION

Marriage (Nikah) under Mohammedan Law is a fundamental institution that occupies a central position in Islamic jurisprudence. It is not merely a legal contract but a relationship founded upon mutual rights, responsibilities, affection, and social harmony. The institution of marriage seeks to preserve human dignity, regulate family life, and ensure the moral and social well-being of individuals and society. While possessing contractual elements, Nikah is also regarded as a sacred commitment encouraged by Islam for the establishment of a stable and righteous family structure.

The Holy Qur'an presents marriage as a sign of Allah's wisdom and mercy. In Surah Ar-Rum (30:21), Allah states that spouses are created for one another so that they may find tranquility, love, and mercy in their relationship. The interpretation of this verse in Tafsir Ibn Kathir emphasizes that the marital bond is intended to foster emotional peace, companionship, and mutual support. According to Ibn Kathir, the affection (mawaddah) and mercy (rahmah) placed between spouses constitute the foundation of a successful and enduring marriage.

From the perspective of Islamic jurisprudence, marriage serves several important objectives, including the preservation of lineage, protection of morality, fulfillment of natural human needs, and maintenance of social order. Classical jurists have consistently regarded Nikah as a lawful and commendable institution that promotes the welfare of individuals and society. The

⁴⁷ Ibid.

⁴⁸ Abdul Kadir v Salima, (1886) 8 I.L.R. 149 (India).

principles developed through the Qur'an, Hadith, and juristic interpretations continue to guide the application of Muslim personal law in contemporary times.

Therefore, the concept of marriage under Mohammedan Law reflects a balanced integration of legal obligations, ethical values, and religious teachings. It remains a vital institution that strengthens family relationships, safeguards social stability, and upholds the objectives of Islamic law in both personal and communal life.