

Muta Marriage in Islam: Understanding the Practice, Controversies, and Significance

Niranjan Ojha, Ph.D.*

SHIKSHYA SANDESH

A Peer-Reviewed Multidisciplinary Journal, Indexed in NepJOL
ISSN: 2645-8721 (Print)
Year 13, Vol. 6, December 2023,
pp. 77-82

Published by

Tribuvan University
Prithvi Narayan Campus
Faculty of Education
Pokhara, Nepal
E: shikshyasandesh@pncampus.edu.np
URL.: www.pncampus.edu.np

*Associate Professor, Central
Department of History, Tribhuvan
University

Corresponding email:

ojhaniranjan@gmail.com

Article History:

Submitted: 05 April 2023
Reviewed: 09 September 2023
Accepted: 19 October 2023

DOI:

Copyright information: Copyright
2023 Author/s and faculty of
Education, Prithvi Narayan Campus
Pokhara, Nepal



This work is licensed under a
Creative Commons Attribution-
Non-Commercial 4.0 International
License.

Abstract

Marriage is a social contract between husband and wife for their future life with responsibilities, right and duties. Islam does not rule out the dissolution of marriage as a last resort for estranged couples. A Muta marriage only lasts for a specified period of time. This article examines the legitimacy of Muta marriage, a popular practice among Shia Muslims, practice, controversies and significance. It discusses the legality of children, inheritance, and divorce, as well as the link between prostitution and Muta marriage. Muta marriage is practiced to avoid persecution and find pleasure, particularly for males, while making women's lives miserable and shameful. The research is based on a qualitative study, focusing on the general situation of Muta marriage, with in-depth interviews and library research method. The study focuses on the historical analysis of the Muta marriage system, with anonymous respondents referred to as Res.1 through Res.3. on the demand of respondents. Other aspects of the subject topic are not addressed in the research. This article aims to shed light on Muta marriage by exploring its historical context, purpose, controversies, and its place in modern Muslim societies.

Keywords : Shia muslim; muslim women; contract; temporary marriage; islamic law

Introduction

Within the diverse landscape of Islamic practices, Muta marriage stands as an intriguing but often controversial concept. Also known as temporary marriage or pleasure marriage (Mulla,1995), Muta is a practice that has sparked debates and discussions within the Muslim community and beyond. The concept of Muta was introduced by Prophet Mohammad during the pre-Islamic era (Bastile,2017). When the earliest Islamic jihadis invaded caravans and assaulted neighboring cultures in search of war booty that is when Muta Marriage first emerged. They requested permission from their prophet to visit prostitutes because there were no available battle slaves with whom they could be married. Prophet Mohamed forbade them from engaging in such immoral behavior and ruled that the warriors would have to wed the women they desired (Mandal,2015). There must have a dowry, and as a result, the idea of Muta was evolved. Shiites disapprove of the rule of Umar, the second caliph, who outlawed temporary unions since they consider Ali to be Muhammad's legitimate heir. Iran's Pahlavi dictatorship attempted to outlaw the practice of temporary marriage, but they were thwarted by the threat of religious reprisals. Later, the state successfully passed the family changes via the legislature, giving the public the impression that short-

term unions are no longer permitted. However, the procedure was kept a secret (Mulla,2015).

Apart from the works of Shanker Thapa, Abdul Salam Khan, Niranjana Ojha, Saumya Parmarthi, Manu Gupta, Quraisha Banu, and Charles Taylor, no thorough study on Muslims, including marriage and divorce, has been published. All of the papers that are currently accessible are published research studies. I evaluate each of these sources prior to starting the investigation. The issue of the practice of Muta marriage in Muslim society has not received priority attention from academics or other scholars. These are general studies that skip over the debates surrounding the practice of Muta and its importance in Muslim culture. Before beginning any investigation, the following literatures are all assessed.

The background information regarding Nepali Muslims is given by Khan (2071 B.S.) in his work "Nepal Ra Nepali Musalman." The primary focus of his study is the socioeconomic situation of Nepali Muslims in Kapilbastu. The Muslim marriage system is not discussed in his book. In "Our Nation and its Women," Saumya Parmarthi and Manu Gupta (2014) talk about the issues facing Indian women, especially those who are members of the Muslim minority. It also addresses societal inequalities such as gender, domestic abuse of Muslim women carried out under false pretenses of personal law, and the legal liberation of women, although it skips over the Muta system. Shanker Thapa's research paper "Marriage in the Muslim society: A case study of Birgunj-based Muslims" (1985) included a noteworthy study on marriage and divorce. This research was made based on a microanalysis of Muslim settlements in Birganj. The research topic that was brought up is not addressed; instead, it focuses on the history of Muslims in Nepal, the customs of Talaq and Nikah, and the division of Muslims into castes. A comprehensive and educational overview of Nepali Muslims is provided by Quraisha Banu (1980) in her master's thesis, Introduction to Muslims in Nepal. This study's historical examination covers a variety of subjects, including the family life, religion, social structure, and standing of women among Muslims in Kathmandu. Additionally, it ignores the raised research questions.

These literary works are helpful for generating concepts and identifying issues with research. It assists in evaluating the current level of the field's comprehension of Muslim behavior and makes recommendations for more research. The implementation of the Muslim marriage system and its general characteristics are not explored, although this is helpful in developing research instruments for further studies. Although the aforementioned books, articles, and national and international research attempted to explore many facets of Muslim society, they were not able to present a comprehensive image. Although these texts do not support the research objective of the study, they do shed some light on possible. The purpose of this study is to highlight some of Muta's previously overlooked flaws.

Many studies have been conducted by the numerous scholars whose names appear in the literature study. This research focuses on a new area that were not included in previous studies. This article aims to shed light on Muta marriage by exploring its historical context, purpose, controversies, and its place in modern Muslim societies.

To present the study, two main objectives were selected:

1. To comprehend the idea behind the Muta marriage in Islam.
2. To investigate the reasons for Muta's criticism.

Method and Procedures

The foundation of this paper is qualitative research approach. Explanatory, descriptive and analytical methodologies were all used in this investigation. The stakeholders were interviewed in-depth both formally and informally. While appropriate historical references are cited, the majority of the data used in this research gathered from the current environment. The primary source of information used in this study is primary data. To validate and cross examine the primary data library research have been made. All of the data for this study were sorted, coded, examined with thematic analysis procedure. This study is limited to a historical analysis of Muta marriage among the Shia Muslims. This article does not address the social, political, legal or other aspects of the Muta and other Muslim marriage system.

Result and Discussion

Historical Context and Purpose

Muta marriage traces its origins back to the early days of Islam. It finds its basis in Islamic jurisprudence, particularly within the Shia branch of Islam, where it's considered permissible. The practice allows a man and a woman to enter into a marriage contract for a specified duration, with agreed-upon terms and conditions. The primary intention behind Muta marriage was to address the needs of travelers and soldiers who required companionship during their journeys or times of separation (Mulla,1955).

Concept

According to the Holy Qur'an, married women are off limits to you, except what is in your right hand. All other women besides these are also authorized to you, according to what Allah has written for you, so that you might use your riches to look for them while pursuing chastity rather than immorality. Give them their words once you have entered into a temporary marriage with them (Res.1). Whatever you decide to do after this, it is not a sin on you. Indeed, The incidents from Shia Muslim, the second-most reliable Sunni Hadith book, that show the performance of temporary marriage (Muta) (Res.2).

According to Islamic law, marriage is a contract, and for a contract to be legally binding there must be a declaration and an acceptance (Res.3). The Malikis believe that a woman who says, "I give myself to you" or "I have espoused you," is valid if the amount of dower to be paid to her has been stipulated. The male responds to the woman's announcement by accepting it and expressing delight with the statement (Res.1). Furthermore, the marriage might be consummated by the man and woman, their fathers, or their representatives (wakil). Therefore, "I give my daughter in Muta" is what the father may say. (Mulla,1995). Only a male can enter into a Muta marriage with a Muslim or one of the Kitabi. It is forbidden to be married to someone who is an atheist (Res.3).

The people who are getting married are also subject to some situational restrictions. For example, he is not permitted to marry her without her approval

or the consent of the slave's owner if the woman is already married, the slave belongs to someone else, or she is his sister-in-law's or brother-in-law's daughter. In this case, the agreement is null and invalid or suspended pending approval. (Res.1). The time period must be specified in a way that precludes any room for expansion or contraction. Muta must be a specified item for a certain time. The marriage contract is void if a time limit was not specified (Res.2). Another need for Muta marriage is the existence of a dower of known property, whether in kind or money, whose value is unaffected by changes in the market. It is necessary that the two parties have agreed on the items that may lawfully be traded (Res.3). If the woman requests the whole amount of the dower at the start of the marriage, the man is not permitted to retain any of the dowers, unless the contract has been inherently void from the start (Res.2).

In some cases, after a contract is signed, the man may decide not to marry the woman before the time period is over. In these cases, the woman is still entitled to half of the dower which is equivalent to divorcing before a long-term union is consummated (Res. 2). The woman is entitled to the whole dower if the marriage has been consummated and the husband returns part or all of the remaining time. This is because dower is unquestionably required as soon as consummation has place. Consequently, it's critical to take into account whether or not the marriage has been consummated. (Res.1). If a woman refuses to provide the man conjugal rights due to a justification recognized by sharia, such as menstruation or "fear of an oppressor," the dower cannot be decreased. The woman's dower is unaffected if she passes away during the Muta (Res.1).

Additionally, in the instances listed below, if the whole dower payment has been given, the wife is required to refund some or all of it as soon as the invalidity is discovered:

1. The woman is prohibited from dating the guy due to a familial relationship, she already has a spouse, or she should be keeping a waiting period as a result of a prior marriage.
2. The woman shall get the "normal dower" if the marriage has already been consummated

and she was unaware that the contract was void at the moment of sexual contact.

3. Since she is a fornicates and there is no dower for fornication, the woman cannot have a claim to a dower if the marriage has already been consummated and she was aware of the contract's illegality (Res.1)

Contract clause conditions

1. A specific period for husband and wife encounters, such as the day or the night.
2. A upon for a set time period, such as one day or the duration of the marriage.
3. The failure to consummate the marriage is acceptable because it does not violate the terms of the contract (Res.1).

Key Features

1. **Temporary Nature:** Unlike traditional Islamic marriages, Muta marriages have a predefined duration. The contract can last for hours, days, months, or even years, as agreed upon by the parties involved (Mulla,1995).
2. **Consent and Conditions:** Just like permanent marriages in Islam, Muta marriages require the mutual consent of both parties. The terms of the marriage, including the duration, dowry, and other obligations, are negotiated and agreed upon beforehand (Salam,2020).
3. **No Inheritance Rights:** Offspring from Muta marriages are not recognized as legitimate heirs under Islamic inheritance laws. This has often been cited as a significant difference between Muta and permanent marriages (Res.1).

Comparison between Muta and other marriage

A temporary and specific marriage contract with a set period is known as a "muta marriage," also known as a "temporary marriage" in Shia Islam. Although Sunni Islam does not accept it, Shia Islam is more frequently linked with it. The length, which might be anything from a few hours and several years, is decided upon by the pair. The marriage is regarded as invalid after the contract has run its course without the necessity for a divorce. Muta marriage is exclusive to some schools of Islam and is not accepted in mainstream

Sunni Islam or in other contexts of culture and religion. In contrast to other marriage systems that seek for long-term commitments, it is a practical or temporary arrangement. Depending on local laws and cultural standards, these marriage arrangements may or may not be accepted or considered legitimate (Res.1).

Controversies and Debates

The practice of Mut'a marriage has sparked considerable controversy within and outside the Muslim community.

1. **Moral and Ethical Concerns:** Critics argue that the temporary nature of Muta marriages challenges the sanctity of traditional marital relationships and family structures. It is seen by some as promoting promiscuity or facilitating a form of legalized prostitution (Salam,2020).
2. **Historical Interpretation:** While Muta marriage has its basis in early Islamic jurisprudence, many Sunni scholars reject its legitimacy, claiming that the practice was eventually abrogated by stricter regulations. This disagreement in interpretation has fueled debates across Islamic traditions (Mulla,1995).
3. **Social Implications:** The practice can be seen as perpetuating gender inequality, as men often hold more control and power within temporary marriages. This raises concerns about the well-being and rights of women involved in such arrangements (Res.2).

Modern Perspectives and Practices

In the contemporary Muslim world, attitudes towards Muta marriage vary widely.

1. **Shia Islam:** Muta marriage is considered valid and practiced among Shia Muslims, particularly in regions like Iran and certain communities in Iraq and Lebanon. In these contexts, it is subject to certain legal and social regulations (Mulla,1995).
2. **Sunni Islam:** Sunni scholars overwhelmingly reject Muta marriage, viewing it as incompatible with Islamic principles and legal frameworks. It is prohibited in most Sunni-majority countries (Res.3).

3. **Cultural Factors:** In some cases, cultural norms and practices influence whether Muta marriages are accepted or practiced within certain Muslim communities (Res.2).

Conclusion

Muta marriage remains a topic of fascination, disagreement, and discussion within the Islamic world. While historically rooted, its practice has faced significant scrutiny due to its temporary nature and implications for Islamic ethics and morality. The debates around Muta marriage reflect the diversity of interpretations within Islam, demonstrating how religious principles can be understood and applied in various ways. As the global Muslim community continues to evolve, the place of Muta marriage within Islamic societies will likely continue to be a subject of contemplation and debate. Some feminists argue Muta is a kind of prostitution which should be revised for the sake of Muslim women. In this very 21st century, especially the Muslim reformers should think broadly on such practices. The Muslim scholars should find a new way on such controversial and unfaithful practice without forcing the women into any unfortunate marriage or sexual relationship.

References:

- Ahmad, A. (2017) The women who sleep with a stranger to save their marriage, "BBC News". Retrieved on 2017-04-05.
- Ali, S.A. (1981) *Family Life in Islam*, Hakim Abdul Hameed (ed.), Delhi: Common wealth Publishers.
- Ansari, G. (1960) *Muslim Caste in Uttarpradesh: A Study of Culture Contact*, Lucknow: Ethnographic and folk Culture Society.
- Banu, Q. (1980) *Introduction to Muslim in Nepal*, Kathmandu: (Un-published M.A. Thesis, Department of History, T.U.).
- Brijbhushan, J. (1980) *Muslim Women*, New Delhi: Vikas Publisher.
- Hamidullah, M. (1969) *Introduction to Islam*, Paris: Centre Cultural Islamique.
- Hassan, M. (1975) *Some Aspects of the Problems of Muslim Social Reform* (in Zafar Imam (ed.) Muslim in India), New Delhi: Orient Longman.
- John, B. (2017). <http://www.danielpipes.org/comments/2674>, Retrieved on August 2023.
- Khan, A.S. (2011) *Nepal Ra Nepali Musalman*, Kapilbastu : Abdul Salam Khan.
- Khan, S.Y. "Divorced from Reality – Amending the Triple Talaq law," *Time of India*, Delhi: October 5, 2000,
- Mahajan, A. & Dhiraj, N. P. (1978) *Muhammadan Law*, Allahabad: Mac Millan.
- Mandal, K. (2016) "Concept of marriage among Muslims : A study of MUTA marriage," *International Journal of law & legal jurisprudence studies*, Vol.3, issue 1, pp. 295, 2016.
- Mulla, D.F.(1955) *Principals of Muhammadan Law*, Calcutta: Musa Muhammad Yusuf.
- Ojha N. (2018) *Rites and Rituals of Nepali Muslims*, Kathmandu: Oxford Store.
- Salam, Z. (2020) *Nikah Halala: Sleeping with a Stranger*, India: Bloomsbury.
- Srinivas, C.(2015) "Status Of Women Empowerment In India: Problems And Concerns". *Human Rights International Research Journal*: Volume 3 Issue 2. 2015.
- Surah Al-Baqarah, "Surah Al-Baqarah" [2:229], [2:230]. Retrieved on 2020-04-05.
- Thapa, S. (1997) "Nikah The Muslim Marriage," *Voice Of History*, Kathmandu: T.U., 1997.
- Thapa, S. (2013) *Marriage among the Muslims : A Case study of Birjung Based Muslims*, Kathmandu: (Unpublished Research Report submitted to the Dean's Office IOHS/TU).
- "The Holy Quran", Madina: The Presidency of Islamic Researches, N/D.
- Vangalaravinder, G.Shailaja(2015) " Women Literacy In India After Independence: A Study On Debatable Affinities And Divergences;" *Human Rights International Research Journal* Volume 3 Issue 2 ,2015.

<https://saudiwoman.me/2008/08/28/what-does-being-wahabi-mean/> retrieved 2020 March.

<https://islamqa.info/en/150265> retrieved 2020 March

<http://www.islamawareness.net>. retrieved 2020 January.

<http://www.bbc.co.uk/news/uk-39480846> retrieved 2020 January

<http://indiatoday.intoday.in/story/halala-triple-talaq-muslim-women-sleep-with-strangers-save-marriage/1/921183.html> retrieved 2020 October

<http://Islamicbulletin.org/newsletter/issue24/beliefs.aspx> retrieved on 2020 January.

<http://islamhelpline.net/node/1354> retrieved on 2020 January.

www.dawn.com retrieved on 2019 December.

<http://www.legalserviceindia.com/article/1418muslimmarriage.html> retrieved on 2019 December.

www.scroll.in retrieved on Jan 2020.