

---

**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

---

**STATUS OF MUTA MARRIAGE IN CONTEMPORARY INDIA: AN  
ANALYSIS**- Priyanka Kumari<sup>1</sup>**Abstract**

In this research paper I discussed the main arguments that deal with the issues regarding “status of Muta marriage in contemporary India: an analysis”. Through this marriage I convey the another types of marriage which was practice among Muslim(Shia Muslims) and its relevancy in this contemporary India.

Marriage means union of two soul or we can say in Hindu marriage is considered as sacrament more than a contract but when we talk about the Muslim, marriage is contract which is legally acceptable. But among Muslim (Shia Muslim), there is another kind of marriage is also exist i.e. Muta marriage. Muta marriage is a kind of marriage where time period of marriage is fixed. The term Muta means pleasure. Through this research paper is structured as like firstly discuss the different aspects regarding the Muta marriage, validity of Muta marriage, origin of the Muta marriage, violation of human rights and reason behind its acceptance. Even through empirical research I try to found the existence of Muta marriage in India as well as try to established it acceptance in the Muslim society.

Keyword: sacrament, Muta, Violation, pleasure, marriage

**Introduction**

The term marriage is known as nikah under Muslim law. In the landmark case of *Abdul Khadir v. Shalima and others* justice Mahmood stated that the nature of Muslim marriage is purely a civil contract rather than sacraments. There are some form of marriage recognised under Muslim law i.e. sahih marriage (valid marriage). Batil marriage ( void marriage), fasid

---

<sup>1</sup> Student at Christ Academy Institute of Law

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

marriage (irregular marriage) and Muta marriage. Through this research article I will try to explain the concept of Muta marriage in contemporary India, its existence, legality. Does Muta marriage violate human rights. Though the purpose of Muta marriage is sexual pleasure, does this reason behind the Muta marriage lead to a profession called prostitution. By criminalising the Muta marriage will affect the religious belief of the society.

Firstly we try to know what is Muta marriage. The word "Muta" means "enjoyment" or "pleasure." Man and woman participate into a Muta marriage exclusively for sexual fulfilment. The duration of the marriage is predetermined, making it temporary in nature. A man must give money to the female companion. The Ithna-Anshari school of the Shia religion accepts it as legal under Islamic law or it is accepted by the Twelvers. This kind of union resembles a mutually agreed-upon cohabitation between people who have reached puberty. They shouldn't, however, be in a forbidden level of connection.

As per Duhaime Dictionary, Muta marriage is a temporary marriage for a fixed period of time.<sup>2</sup> It is a private contract that can be verbal or written, in which the declaration of intent to wed is made and the stipulations are accepted in a manner similar to the nikah (Islamic marriage).

The legality of Muta marriage under Muslim law depends upon the follower of the school, i.e. Shia and Sunni school. Shia school is considered as legal or valid form of marriage whereas Sunni does not accept it as form of marriage. The concept of Muta marriage is basically predominant in the region of Iran. If we talk about the existence of Muta marriage in India, then it is rarely found. Even after my survey among the Muslim community of India, I am not able to find out the result about the existence of Muta marriage. But there is some place in India like Hyderabad, Lucknow. This practice prevails till now under Shia sect of Muslim community.

### Statement of the problem

Marriage is considered as a sacrament and contract or we can say that marriage is union of two souls. But the concept of Muta marriage is not like that. Muta marriage is done only for the purpose of sexual pleasure or enjoyment which violates the concept of marriage as well it is

---

<sup>2</sup> Astu Khandelwal and Shaswat Patwa (2018): Muta Marriage; available at :<https://www.ijlmh.com/wp-content/uploads/2019/03/Muta-Marriage.pdf> (visited on 30<sup>th</sup> July 2023)

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

violating human rights in different aspects. Still it is not recognised as illegal or void mode of marriage in some sect of Muslim. Muta marriage may leads to profession called prostitutes.

### Relevance of the study

Muta marriage is one form of marriage in the Muslim. And Muta marriage has lots of myth about it existence in this contemporary world. There are lots of questions about Muta marriage which is unanswerable as like why it is valid marriage, why it is not consider as illegal or why the parties of this marriage is not penalise. Why this kind of marriage is not criminalise in India. Which affecting the humanity and purity of the marriage. Through this research paper I want to explore all this aspect and it is very important aspects about the existence of any cultural and religious beliefs as Muta marriage is a belief among the Muslim as it is related to Prophets as well.

### Literature Review

- A. Konina Mondal: this author article on “concept of marriage among Muslims: a study on Muta marriage” has helped me lots in understanding the concept related to my research paper like origin of Muta marriage and its existence in India.
- B. Charvi Jain: this author article on “Muta Marriage: Concepts and Law” has explain me about the legality of Muta Marriage in India.
- C. Akansha Vishnoi and Twinkle Maheshwari: this authors articles on “acomparative study of Muta Marriage in India and Iran” has explain me about the law prevailing regarding the temporary marriage i.e. Muta marriage in India and Iran.
- D. Astu Khandelwal and Shaswat Patwa: this authors article on “Muta marriage” explain me the origin of Muta marriage, its legitimacy and the pillars of the Muta marriage.

### Objective of the Study

The objective of my study are as follow-

To know about the existence of Muta marriage in contemporary society of India.

1. To analyse the validity of Muta marriage in India through perspective of different form of marriage among Muslims.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

2. To understand the concept related to Muta marriage like child legitimacy and violation of Human rights.
3. To analyse the similarities between prostitution and Muta marriage and its acceptance in society
4. To know the authenticity of existence and its relevancy through their culture.

### Validity of the existence of Muta Marriage

Muta marriage is a kind of marriage where time period is fixed and after completion of that time, marriage get dissolved automatically. Time period is an important aspect for Muta marriage.

Professor Fyzee states that the term “Muta” in Arabic means pleasure or enjoyments. And in the aspect of Shia sect of Muslim, Muta means temporary marriage in which a men pay some amount of money to women for sexual pleasure for a day, a night or according to the agreement done between both male and female. The time period of Mutais considered as one Night stand also.<sup>3</sup>

The time period of Mutamarriage is form in that aspect where there is no chance of increase or decrease of time periods. The date from which Muta marriage come into effect is mention in the kabinnama or contract agreement.<sup>4</sup>

The majority of 'ulama' maintain that if the time term is omitted, the contract is not rendered void; rather, the marriage is made perpetual. These academics contend that a marriage contract can be reached for a short-term union or a long-term union. If a duration is specified, the contract is for Muta; if it is not, the contract is for a lifelong union. The contract will therefore be one of perpetual marriage whenever the Muta contract is declared invalid because the time duration has not yet been specified. They refer to the "correctness" of the contract<sup>17</sup> in this instance. Whether or whether the husband marries before the time limit runs out, the wife receives the entire dowry after the contract is signed. As long as she puts herself at her husband's disposal and doesn't put any barriers in his way of finalising the marriage, the wife is entitled to the dowry. Muta must be a stipulated thing for a stipulated

<sup>3</sup>The concept of Muta marriage: is it a social evil?. Available on: <https://www.readcube.com/articles/10.2139/ssrn.1666848> , ( visited on 30<sup>th</sup> July 2023)

<sup>4</sup> The concept of Muta marriage: is it a social evil?. Available on: <https://www.readcube.com/articles/10.2139/ssrn.1666848> , ( visited on 30<sup>th</sup> July 2023)

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

period,' the Imam al-Rida says. The marriage contract is void if there is no specified time frame. Contrarily, the majority of "ulema" feel that the marriage becomes permanent rather than the contract being nullified as a result of this.

In *Syed Amanullah Hussain and Others Vs. Rajamma and others*<sup>5</sup> Shia man Habibulla married Rajamma in a Muta that lasted until the man's death in 1967; as a result, the wife received his estate.

The brother of Habibulla disputed this, claiming the it was just a Muta marriage.

According to the ruling, although though the term "Muta" was used, it wasn't defined, therefore the marriage was viewed as a permanent union, giving Rajamma the right to inherit her husband's assets.

Additionally, the contract is not nullified if a specific number of sexual acts are included together with the time frame. 'If the purpose of the time period is to include a predetermined number of sexual activities, after that number is reached, the woman is released from all future obligations to the man, and the marriage still ends if the predetermined number of sexual acts is not accomplished before the time period's end.

From the above statement it is clearly stated that time period is an important aspect of Muta marriage. If time period is not prescribed then Muta marriage is converted into permanent marriage.

## Research Question

1. Origin of Muta marriage and its existence in contemporary India?

Under Muslim, marriage is a strong bond exit between husband and wife through a binding contract added to socio-religious based on facet intention of both the parties to live together permanently in order to attain as individually.

Temporary marriage is a special form of marriage which is contracted by the parties for a specified period of time in exchange for a certain amount of money, although the above mentioned purposes, as propounded by the Prophet and in accordance with Qur'anic texts are not realized. While the prophet permitted temporary marriages during journeys and military

---

<sup>5</sup> Syed Amanuallaha Hussain and ors v. Rajammand and ors (1977) 152 AIR

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

campaigns before the Islamic legislative process was complete, he later forbade it and made it forever haram<sup>6</sup>.

The origin of Muta Marriage can be traced back to the war times when the first Islamic jihadis, led by their prophet Mohamed, raided caravans and attacked neighbouring societies for war booties.<sup>7</sup> They asked their prophet for permission to see prostitutes because there weren't any war slaves they could marry. The "perfect man of Allah," Mohamed, forbade them from engaging in such immoral behaviour and ruled that the warriors would have to wed the women they desired. Their genitalia must have a dowry, and as a result, the idea of "Muta" emerged.

In earlier days also when the Arabs had to live away from home from long period of time for war, trade, pilgrimage at that time concept of Muta marriage comes into existence for the purpose of avoiding prostitution and at that time to satisfying sexual pleasure. And children born out of this wedlock is considered as legitimate child.

There is historical example of Muta marriage is described by Ibn Hazar Asqalani (1372-1448) CE (852 AH) in his commentary on the work of Sahih -al-Bhukhari.

Ibn Jurayj, an eminent scholar from among the Tabi' al-Tabi'een, was known to have practiced mut'ah with a large number of women. So the history of Muta marriage started by Prophet to protect the dignity of women or we can say that to protect the dignity of man.

The practice of Muta marriage in India is not very common, but in some place like Lucknow and some other place where women of Shia sect of the better class does not contract for Muta.<sup>8</sup> In India this temporary form of marriage is not recognised as well as not enforceable by the court.

---

<sup>6</sup>The concept of Muta marriage: is it a social evil?. Available <https://www.readcube.com/articles/10.2139/ssrn.1666848>.

<sup>7</sup>Ritojit DasGupta , A Muta Marriage: a brief Insight; available on:<https://img1.wsimg.com/blobby/go/ebd848cd-b7d3-4983-97dd-4f3ff071e103/downloads/Muta%20Marriage-%20A%20brief%20insight.pdf?ver=1609736957481> ( visited on 31<sup>st</sup> July 2023)

<sup>8</sup> Ritojit DasGupta , A Muta Marriage: a brief Insight; available on:<https://img1.wsimg.com/blobby/go/ebd848cd-b7d3-4983-97dd-4f3ff071e103/downloads/Muta%20Marriage-%20A%20brief%20insight.pdf?ver=1609736957481> ( visited on 1<sup>st</sup> August 2023)

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

In Hyderabad, there is a case *Shahzada Qanum v. Fakher Jahan*<sup>9</sup>, court held that there is no difference between for unspecified period and for lifetime. Time span of marriage only formulate this marriage is temporary marriage.

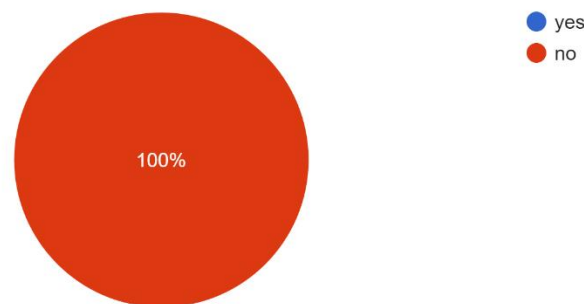
And through my survey which is circulated among the Muslim community. The outcome of the survey is like all the responder of the survey never witness any Muta marriage.

Link

<https://docs.google.com/forms/d/1K8yvRW2VZEIxeapYPYb1v3HUUhXLr463D2byfy9HsF0/edit#responses>

Did you attend any muta marriage?

11 responses



2. Muta marriage is temporary marriage which does not provides any kinds of maintenance. Does it violates rights of women as well as human right?

Under Muslim law also considered as superior than the women and women are considered as dependent on the men in all aspects. Before marriage a women is considered as the liability of father and after marriage husband has to take care of her. So it is liability of the husband to maintain wife after the divorce also.

Regardless of his financial situation, the husband has a duty to provide for his wife in a reasonable manner at all times. Even after the dissolution of the marriage, he still has responsibility to pay maintenance. In all cases, a wife is entitled to maintenance from her

---

<sup>9</sup> *Shahzada Qanum v. Fakher Jahan* (1953) 6 AIR

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

husband, regardless of whether she is Muslim or not, wealthy or impoverished, healthy or unhealthful. The wife has a full right to receive support.

But under Muta marriage women are not entitled to get maintenance even that marriage is not considered void by Muslim. Shia Muslim accept this form of marriage and it is valid marriage. But she can claim maintenance under section 125 of the CrPC.

The concept of Muta marriage arises only for the pleasure. During the War time when man was staying away from home for long period of time . at that time they perform Muta marriage for specified period of time and then that marriage get automatically dissolved after the expiry of that period. Marriage is considered as union of two soul. But here marriage is performed for the sexual pleasure only. this marriage may leads to profession called prostitutes. According to National Library of medicine held that affect the sexual disease in the country where this temporary marriage is considered as legal as like Iran.<sup>10</sup> Approximately 14 percent of girls found HIV/AIDS positive.

Additionally, temporary marriage does not offer women the legal protection against many forms of abuse that most married women want due to its secrecy. This results in lower quality of life for spouses in temporary marriages, including violence, anxiety, a lack of social interaction, less social chances (such as employment and educational opportunities).

As well as under my survey report, responders agree that it is violation of human rights.

Link:

<https://docs.google.com/forms/d/1K8yvRW2VZEIxeapYPYb1v3HUUhxLr463D2byfy9HsF0/edit#responses>

---

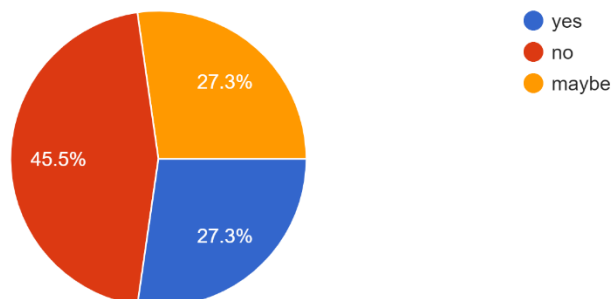
<sup>10</sup>Farzenaneh Valizadeh (18 January 2021): sexual and reproductive health challenge in temporary marriage: A systematic review; available on:<https://www.ncbi.nlm.nih.gov/pmc/art/>( visited on 5<sup>th</sup> August 2023)

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)



Does Muta marriage violates human rights?

11 responses



### 3. Muta marriage is a temporary marriage. Then why society accepted that kind of marriage?

The 'ulama', both Sunni and Shia, agree that Muta was permitted at the beginning of Islam. However, they disagree as to the reasons it was permitted.<sup>11</sup>

#### The view of Shia on Muta marriage

The view of Shia is that during that period when prophet stay in Medina. The men of Medina employed to temporarily 'seek enjoyment' from ladies in exchange for a set amount of money. This verse 21 effectively affirmed the current state of affairs when it was revealed, and it emphasised that men must keep their pledges regarding the agreed-upon amount. The name "Istimta," which is also used in the Qur'anic verse, was used in Medina to refer to this practise, which was seen as a type of temporary marriage there even though the word's literal meaning is "to seek benefit" or "to take enjoyment".

The word 'enjoy' in this verse alludes to the marriage of Muta, i.e., a marriage for a specific dower and a predetermined time period, according to al Tabarsi, the renowned Shia commentator of the Qur'an, who summarises the Shia arguments in Majma' al-bayan. In reality, it is obvious that this is the case since, although having the literal sense of "enjoyment," the words "Istimta" and "Muta," as well as "women," are used in the shari'a to refer to the contract of temporary marriage.

<sup>11</sup> The concept of Muta marriage: is it a social evil?. Available <https://www.readcube.com/articles/10.2139/ssrn.1666848>.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

### The Sunni view

Sunni stated that in beginning Muta marriage is accepted as well as permitted in Muslim law. Sunnis who believe the aforementioned Qur'anic phrase does, in fact, allude to the legality of Muta also hold that the verse was later superseded (naskh) by other Qur'anic verses. Other Qur'anic verses and hadith of the Prophet that were passed down by the Companions are the two justifications they present to support their claim. Every point is countered by the Shias.

So there reason behind the acceptance of the Muta marriage is accepted by there Quran as well as mention in their Hadith which is considered as holy book.

### **Research Methodology**

The research methodology used in this research paper is doctrinal as well as non-doctrinal.

### **Conclusion**

Muta marriage has its own advantages and disadvantages, but it is impossible to ignore the fact that it is a form of Islamic prostitution, and as such, it should be outlawed in order to end gender inequality and advance the equality of women and men—a concept that is hardly ever seen in male-centric, patriarchal Muslim law. Another custom that benefits Muslim men more than women is Muta marriage, which, as was already said, was first instituted to help men. This kind of marriage is raising question over the pirty of marriage. The benefits and downsides of the practise are discussed in detail in the paper, allowing the reader to form his or her own opinion.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>