BLOGS

Marriage under Muslim Law

Indrasish Majumder · 08 Apr 2023

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Nature of Muslim Marriage

Muslim marriage, also known as Nikah, is a sacred and legal contract between a man and a woman that is recognised by Islamic law. Nikah is a religious and social institution that aims to create a bond between two individuals that is based on mutual respect, love, and understanding. In Islam, the main goal of marriage is to have children (procreate) and give them a place to grow up where they can feel safe and cared for. People also believe that marriage can bring spiritual satisfaction and make a person closer to God.

Scope of Muslim Marriage

In terms of scope, Nikah is a comprehensive agreement that covers the rights and obligations of both partners. It has rules about paying dowry, what the husband and wife are responsible for, and how to get a divorce. In the Nikah contract, Islamic law stresses how important it is that both parties agree and are free to do what they want. Because of this, both parties must agree voluntarily to the terms and conditions of the contract for it to be legal.

The nature of Muslim marriage is one of mutual responsibility, respect, and cooperation between partners. Both parties have rights and responsibilities in the marriage contract. Men are expected to provide financial support to their wives and children, while women are responsible for the care and upbringing of their children and the maintenance of the household. In addition, both partners are expected to treat each other with kindness, compassion, and love.

Classification of Muslim Marriage

Muslim marriages can be classified into different types based on the customs and traditions of a specific region or culture. Here are some common types of Muslim marriages:

1. Nikah: This is the most common type of Muslim marriage, where the bride and groom or their representatives sign a marriage contract in the presence of two witnesses. The mahr is also agreed upon at this time.
2. Mut'ah: This is a temporary marriage that is allowed in Shia Islam for a specific period of time, usually a few months. It is typically used by people who are travelling or who are unable to enter into a permanent marriage for some reason.
3. Misyar: This is a type of marriage that is practised in some Sunni Muslim countries, where the husband and wife agree to live separately but still have a legitimate sexual relationship.
4. Nikah Muta: This is a temporary marriage that is allowed in some Sunni Muslim communities. It is similar to Mut'ah in Shia Islam, but with some differences in the way it is practised.
5. Polygamy: This is a type of marriage where a man can have up to four wives at the same time, provided he can treat all of them equally and fairly.
6. Interfaith marriage: This is a marriage between a Muslim and a non-Muslim. In Islam, a Muslim man can marry a woman from one of the Abrahamic faiths (Judaism or Christianity), but a Muslim woman cannot marry a non-Muslim man.

Difference between Hindu and Muslim Marriage

Hindu and Muslim marriages differ in their rituals, customs, and legal requirements. Here are some of the key differences between the two:

1. Marriage Ceremony: The Hindu marriage ceremony takes a long time and includes many rituals and traditions, such as Kanyadaan, Saat Phere, and Sindoor. In contrast, the Muslim marriage ceremony is fairly simple and straightforward, consisting of prayers and an exchange of vows.
2. Legal requirements: Hindu marriages do not have to be registered with the government, but Muslim marriages must be registered with the government in order to be valid. Muslim marriage is in the form of an agreement
3. Polygamy: Muslim men are allowed to have up to four wives at a time, whereas Hindu marriages are monogamous, with one man and one woman being united in matrimony.

4. Divorce: Both Hindu and Muslim marriages allow for divorce, but the steps and requirements are different.In Hindu marriages, divorce is granted through court proceedings, while in Muslim marriages, a man can divorce his wife by saying “Talaq” three times.
5. Dowry: Dowry, the payment of a sum of money or other assets from the bride’s family to the groom’s family, is not practised in Muslim marriages. But it is a common practise in Hindu marriages, even though it is against the law in India.
6. In Islam, marriage is seen as a legal contract between two people who agree to it. It spells out each person’s rights and responsibilities towards the other. This contract is called a “nikah” and is typically overseen by an Islamic religious authority or a civil judge, depending on the country and culture. The concept of marriage as a contract in Islam is based on the idea that marriage is a serious and binding commitment that should be entered into with full understanding and intention. The contract outlines the terms of the marriage, including the rights and responsibilities of both parties, any financial arrangements etc. . The contract can also include conditions and provisions that are important to the couple, such as custody of children or inheritance arrangements.
7. In Hinduism, marriage is considered a sacred union between two individuals and is often accompanied by religious ceremonies and rituals. Unlike in Islam, Hindu marriage is not considered a legal contract but rather a spiritual bond between two souls. However, there are legal procedures and requirements that must be followed in order for a Hindu marriage to be recognised by the state, such as obtaining a marriage certificate. The ceremony itself involves a series of rituals and customs, such as the exchange of garlands and the tying of the mangalsutra (sacred necklace), which symbolises the couple’s commitment to each other. The ceremony is usually performed by a Hindu priest and is considered a sacred and joyous occasion for both families.

Overall, while both Hindu and Muslim marriages share the common goal of uniting two people in matrimony, they differ in their religious beliefs, customs, legal requirements, and social practices.

Essential conditions of a Muslim Marriage

There are several essential conditions that must be met for a Muslim marriage to be valid:

1. Consent: Both the bride and groom must freely and willingly consent to the marriage. In Islam, forced marriage is not allowed.

2. Witnesses: At the time of the marriage contract, at least two Muslim witnesses must be present to confirm the marriage.
3. The offer and acceptance: The bride and groom, or their representatives, must verbally agree to the marriage, with the groom offering and the bride accepting.
4. Mahr: A mahr is a gift that the groom must give to the bride at the time of the marriage. It is a symbol of his commitment to her, and it becomes her property.
5. Legal capacity: Both the bride and groom must have the legal capacity to marry. This means they must be mentally and physically mature and not already married to someone else.
6. The absence of any legal impediments: The marriage must not be prohibited by Islamic law. For example, a Muslim man cannot marry a non-Muslim woman, and a Muslim woman cannot marry a non-Muslim man.
7. The marriage must be officiated by a person with the right to do so, like an imam. This person will make sure that all of the other requirements have been met.

It is important to keep in mind that, even though these conditions must be met for a Muslim marriage to be legal, they may be a little different depending on the culture or law where the marriage takes place.

Difference between Shia and Sunni Laws of Marriage

While there are similarities between the Shia and Sunni laws of marriage, there are also some key differences. Here are some of the main distinctions between the two:

1. Temporary marriage: One of the main differences between Shia and Sunni marriage law is the concept of temporary marriage, or Mut’ah, which is only permitted in Shia sect. In a temporary marriage, the couple agrees to be married for a specified period, after which the marriage is dissolved. Sunni sect considers temporary marriage to be haram, or forbidden.
2. The role of the dowry: Both Shia and Sunni sects recognize the concept of the dowry, or mahr, which is a gift from the groom to the bride. However, in Shia sect, the mahr is not necessarily a fixed amount and can be renegotiated throughout the marriage. In Sunni sect, the mahr is agreed upon at the time of the marriage and is typically a fixed amount.
3. The role of witnesses: In both Shia and Sunni sects, the marriage contract must be signed in front of two witnesses. But in Shia sect, the witnesses must be Muslim men. In Sunni sect, on the other hand, witnesses can be either Muslim men or women.

4. The role of the imam: In Sunni sect, any Muslim who is thought to be in good standing can sign the marriage contract. In Shia sects, the marriage contract must be officiated by a qualified religious authority, such as an ayatollah or mujtahid.
5. Divorce: In both Shia and Sunni sects, divorce is allowed, but the process and requirements may differ. In Shia sect, a man can divorce his wife through a process known as talaq, while a woman can request a divorce through khula. In Sunni sect, a man can divorce his wife through talaq, while a woman can request a divorce through khula or faskh, which is a form of judicial divorce.

Overall, while there are some differences between Shia and Sunni laws of marriage, both hold marriage as an important institution and share many similar beliefs and practices.

More Notes on Personal Law

- Notes on Fundamentals of Divorce under Hindu Law
- Notes on Fundamentals of Hindu Guardianship Act
- Legality of Live-in Relationships in India