



FUNDACJA
INSTYTUT PRAWA
USTROJOWEGO

A study prepared as part of the project:

The Concept of Marriage Through the Prism of Imperative Requirements Theory

Title of the study:

Engagement, Marriage and Divorce in Sunni Islam (expert opinion)

Author of the study:

PhD Marzena Toumi¹

¹ Associate professor at War Studies University; ORCID: 0000-0003-3838-13315.



Ministerstwo
Edukacji i Nauki



NAUKA DLA
SPOŁECZEŃSTWA

POJĘCIE  MAŁŻEŃSTWA



FUNDACJA
INSTYTUT PRAWA
USTROJOWEGO

Table of contents

Introduction	3
Narrative (khitbah)	5
Marriage (nikah/zawāğ)	8
Divorce (talak)	12
Summary	14
Bibliography	16



Introduction

The engagement period (the time between engagement and marriage) is considered the gateway to marriage. It is a time for the couple to get to know each other better, so that on the wedding day they are fully aware of their decision and take full responsibility for carrying out their marriage vows.

Marriage (*nikah*² /*zawāğ*³) in Islam is seen as an important and sacred relationship between a man and a woman. It is the loving devotion of man and woman to the Creator and His timeless laws. It is one of the graces of the Most High God shown to mankind⁴. It is also a social necessity because it creates the family, the basic social cell⁵.

Although there have been attempts since the 20th century to reform the legal systems in countries where Islam is the dominant religion, in virtually all of them, the civil legislation enacted - the so-called personal status laws - in matters of family law not only conform to the Sharia⁶, but explicitly refer to it.

According to Islamic teachings, a man and a woman should marry as early as possible, but on the condition that they reach “marriageable age” and sexual maturity. Thus, the prospective spouses (regardless of gender) must have full legal capacity, be physically ready to be husband or wife, and be mentally mature. The *sine qua non* of a marriage contract is the free and informed consent of both potential spouses⁷.

² The Arabic word *nikah* literally means the union of the sexes; M. Toumi, P. Hare, *Małżeństwo w prawie kanonicznym i w prawie koranicznym (szari'a)* [in:] *Człowiek, Państwo, Kościół. Księga jubileuszowa dedykowana Księdzu Profesorowi Arturowi Mezglewskiemu*, Lublin 2020, p. 535.

³ *Zawāğ* – this word is used in the Qur'an to describe a couple or companions.

⁴ S. Grizak, R. Manafov, *Małżeństwo i relacje rodzinne w islamie*, Sztambuł 2021, p. 5.

⁵ See L. Blenkhorn, *Islamic Marriage Contracts in American Courts: Interpreting Mahr Agreements as Prenuptials and Their Effect on Muslim Women*, “Southern California Law Review”, 2002, 76 (1), p. 195, http://lawweb.usc.edu/why/students/orgs/lawreview/documents/Blenk-horn_Lindsey_76_1.pdf [accessed: 13/12/2022].

⁶ Quranic law is a component of the socio-religious worldview and is referred to as Shariah. It covers all aspects of human life. According to tradition, its creator and guarantor of its permanence and immutability is God, not state authority. Because the source of the law is the Quran and Sunnah, it is considered an essential part of revelation. Since this divine regulation is only known through human interpretations – *fikh* (literally: understanding), and *ahkam* (specific laws/rules, the settlements resulting from a particular scholar's attempt to discover the Shariah, it emphasizes the principle that every rule is only an interpretation of the Holy Law by a particular scholar). The aim of *fikh* is to formulate a legal regulation and implement it in people's lives. Therefore, it can be said that the field of *fikh* is a source for the judge in issuing judgements, the mufti in issuing fatwas (legal opinions) and a source for every believer wishing to know his or her obligations, injunctions and prohibitions. While sharia is an immutable, divine legal order, *fikh* is a historically variable human understanding of it and, even if based on the text of the Quran, can be subject to discussion, amendment or demonstration of error. M.M. Dziekan, *Dzieje kultury arabskiej*, Warszawa 2008, p. 164-166; M. Lipska-Toumi, *Wprowadzenie do ustroju i prawa państw arabskich*, Lublin 2015, p. 183; S. Mahmasani, *Filozofia prawa w islamie*, Bejrut 1952, p. 14; M. Toumi, *Jurisprudencja. Wykładnia Koranu*, [in:] *Zderzenie cywilizacji w Europie*, red. Z. Brodecki, Warszawa 2018, p. 108–109; A. Quraishi-Landes, *Wspólnota wiedzy jest warunkiem pokoju*, „As-Salam”, 2013, nr 3, p. 9.

⁷ A consequence of this is the prohibition of marriage for the mentally ill and those with mental retardation. Most Muslim scholars agree that the earliest a woman can enter marriage is when she has reached the age of puberty. This position is further



Although Islam recognizes that marriage between one man and one woman is the norm, it allows a man to have more than one wife. However, it places certain conditions on him, such as having enough money to cover all the expenses of each family, being physically capable of fully satisfying the sexual desires of each wife and observing full justice and equality between each family in all respects without any favoritism. “Traditionalists interpret equality in legal terms: it means the right of each wife to her own farm and equality of material goods. Modernists, who add an emotional and psychological dimension to the concept of equality, claim that polygyny is unacceptable because no man can be required to have an equal emotional relationship with each of his wives”⁸.

Every person has the right to marry. However, the right to marry is subject to the fulfillment of certain requirements that the law imposes on those who wish to marry⁹. The Shariah indicates permanent and temporary prohibitions (impediments) to marriage that prevent the conclusion of a marriage that produces legal effects¹⁰.

A formal, binding marriage contract – oral or written – is considered an integral part of a religiously valid Islamic marriage. It defines the rights and responsibilities of the spouses. Once married, the husband and wife acquire a new status. They become the foundation of the family. The parties become permissible to each other.

On the part of the husband, there is an obligation to support the family. The woman acquires the

compounded by the state laws of individual states, most of which set 15–18 years of age for women and 17–18 for men as the minimum age for marriage, per M Toumi, *Prawo do małżeństwa w prawie koranicznym (szari'a)*, [in:] *Prawo do małżeństwa na progu XXI wieku*, ed. K. Motyka, Lublin 2022, p.133; The events of the Arab Spring (2010–2012) had a devastating effect on the minimum age requirement for marriage in Arab states. Child marriage has become a growing problem for Syrian refugee girls in Jordan, Lebanon, Iraq and Turkey, among others; *A Look at Legal Age of Marriage in Some Islamic Countries*, <https://www.odvv.org/blog-2565-A-Look-at-Legal-Age-of-Marriage-in-Some-Islamic-Countries> [accessed: 10.06.2023].

⁸ M. Ruthven, *Islam. Bardzo krótkie wprowadzenie*, Warszawa 1998, p. 114.

⁹ The Cairo Declaration on Human Rights in Islam (CDHRI), an international document signed on August 5, 1990 by 45 foreign ministers representing countries affiliated to the Organization of Islamic Cooperation, setting forth the basis for human rights legislation in Islamic countries with Shariah as its foundation, includes a provision on the family, stating that it is “the foundation of society and marriage is the basis for its creation. Men and women have an equal right to marriage, and there are no restrictions based on race, color or nationality that would prevent them from exercising this right” (Article 5 p. a.); see further M Toumi, *Prawo do małżeństwa*, op. cit., p. 127–142.

¹⁰ **In Islam**, they are considered in two categories: as permanent and temporary obstacles. Permanent obstacles include those that can never be eliminated. Temporary obstacles, on the other hand, are removable – their cessation nullifies the prohibition. Permanent impediments arise from consanguinity, affinity resulting from marriage or dairy kinship. Temporary impediments to marriage include difference of faith, marriage and *idda*, marriage to the wife's sister or her aunt, and triple divorce; see more extensively *The Right to Marriage Versus the Right to Marry under Sharia Law*, [in:] *Marriage as a Legal and Social Institution in Poland*, ed. E. Krzysztofik, M. Maksymiuk, transl. M. Robak-Sobolewski, Lublin 2022, pp. 133–135; M Toumi, *Prawo do małżeństwa*, op. cit., p. 138–139.



right to receive mahr. In case of the death of one of the partners, the rules of inheritance are applied¹¹.

While Islam recognizes the continuity and permanence of marriage as its self-evident attributes, it does not exclude the possibility of dissolving such a union, although according to the Sunnah: “For God, the most distasteful of all things permitted is divorce”¹².

Engagement (*khitbah*)

Formally, betrothal begins with an engagement that is preceded by a declaration. In turn, betrothal is the moment of making a decision of free will and taking responsibility for that decision.

If a man wants to marry and has decided to propose, he should go to the guardian of the woman of his choice alone or with someone from the family who will propose marriage on his behalf. These issues are very important and the prevailing customs should always be respected. In some countries, it is considered inappropriate for a suitor to go alone. A woman may ask for some time to think and consider the engagement. She has the right to accept or reject the engagement and cannot be forced to do so in any way. If she accepts the man's proposal, then she is called *machthubah* – engaged¹³.

If more than one suitor proposes to a woman at the same time, her guardian in such a case has the right to choose the best of them in terms of religiosity and noble morals.

In Islam, it is also permissible for a woman to propose to a man by sending a trusted person (her uncle, her father) to propose marriage on her behalf¹⁴. However, a Muslim woman may not become engaged to, let alone marry, a non-Muslim man¹⁵.

¹¹ S. Grizak, R. Manafov, *Małżeństwo i relacje rodzinne w islamie*, op. cit., pp. 30–34.

¹² *Divorce (Kitab Al-Talaq)* Sunnah.com – Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم) [accessed: 1.07.2023].

¹³ U. Ghumman, *Khitbah (Engagement) in Islam*, <https://tipyaanacademy.com/engagement-in-islam/> [accessed: 20.06.2023].

¹⁴ According to Islam, also the guardian of a young girl can approve the engagement of the right man, and when they grow up, if they approve the consent of their parents, it will be completed by entering into this marriage; *20 Islamic Rules for Engagement Before Marriage*, Reviewed by Yuli SE., MM AZIslam.com [accessed: 29.06. 2023].

¹⁵ There is a consensus among almost all Islamic jurists that Muslim women are not allowed to marry non-Muslims. Such a relationship is considered adultery under Sharia. It is a Koranic prohibition: “Do not marry polytheists [with your women] until they believe. And a believing slave is better than an idolater, even if he might please you”, see Quran [2:221; 5:5; 60:10], in: *Koran z interpretacją i przypisami w języku polskim*, przeł. z j. arabskiego na j. angielski A. Ünal, przekład z j. angielskiego na j. polski J. Surdel, Warszawa 2013; **In 2017, despite strong opposition, Tunisian women won the right to marry non-Muslims, breaking a taboo common in the region, after R. Abouzeid, Women's voices must be heard everywhere. What Feminism Looks Like in Africa and Arab Countries**, <https://www.national-geographic.pl/artukul/prawa-kobiet-jak-kobiety-na-swiecie-walczą-rownouprawnienie-plci-feminizm-w-afryce-i-krajach-arabskich?page=3> [accessed: May 12, 2023]; In contrast, it is permissible for a Muslim to marry a Jewish or Christian woman (because Jews, Christians and Muslims believe in the revealed books, so to some extent they share a common worldview). Such marriage is permitted by the legislation of Egypt, Lebanon, Tunisia and Jordan, among others; M. ibn Ally, *Islam*, [in:] *Problemy etyczne w tradycjach sześciu religii: hinduizm, buddyzm, sikhizm, judaizm, chrześcijaństwo, islam*, ed. P. Morgan, G. Lawton,



Conversely, a Muslim man may not propose to an engaged woman until her first betrothed withdraws or agrees¹⁶. Such a betrothal is *haram* (forbidden)¹⁷, because a Muslim man is forbidden to covet what his Muslim brother has, to hurt him, or to hurt his feelings. The prohibition is also intended to prevent a woman from abandoning her first suitor if she is tempted by a proposal from the latter.

A man may also not ask for the hand of a woman who is *mahram* to him¹⁸, who is married, who is unmarried, but during the period of *iddah*¹⁹, *machthubah* and during *ihram*²⁰, until he completes it. A Muslim is also not allowed to ask a woman who is already married to another man to get divorced and marry.

In Islam, announcing a betrothal is *mustahabb* (permitted but not required)²¹ and means that a Muslim has already asked a girl to marry him and she has agreed, so no other Muslim can get engaged to her.

Hosting a party to celebrate the engagement and exchanging gifts related to the engagement,

Warszawa 2007, p. 324; E. Machut-Mendecka, *Współczesna rodzina muzułmańska*, [in:] *Oblicza współczesnego islamu*, ed. E. Machut-Mendecka, Warszawa 2003, p. 66; M.J. Zmichrowska, *Marriage and Family*, op. cit., p. 183.

¹⁶ Sahih al-Bukhari 4746, *Prophetic Commentary on the Qur'an* (Tafseer of the Prophet (pbuh)) – كتاب التفسير Sunnah.com – *Sayings and Teachings of Prophet Muhammad* (سليم و عليه الله صلى) [accessed: 29.06.2023].

¹⁷ It was transmitted by Ibn Umar that the Prophet said: "None of you should propose to a woman when someone else has already proposed to her," Sunan an-Nasa'i 3238, *The Book of Marriage* – كتاب النكاح Sunnah.com – *Sayings and Teachings of Prophet Muhammad* (سليم و عليه الله صلى) [accessed: 01.07.2023].

¹⁸ "Forbidden to you are your mothers (including stepmothers and the mothers of your fathers) and daughters (including granddaughters), and sisters (including stepsisters), your aunts on your father's side and on your mother's side, the daughters of your brothers and the daughters of your sisters; your mothers who breastfed you, your milk sisters, the mothers of your wives, your stepdaughters in your custody, born of your wives, with whom you have consummated marriages; but if you have not consummated marriages, you shall have no sin (when you marry their daughters) – and the wives of your sons, born of your loins; and (you must not) take as wives two sisters (this also applies to your niece and her aunt) – except for what has happened in the past [...]. And (you are also forbidden) all married women, except those who will possess your right hand (and therefore – among the prisoners of war. The bonds of these women have been practically broken. This is the binding decree of Allah upon you [...])" [Quran: 4:23–24].

¹⁹ For the waiting period after a revocable divorce or the death of a previous husband, see footnote 59.

²⁰ *Ihram* – is in Islam a sanctified state that a Muslim must assume before entering the *haram* of Mecca and Medina, at a point called *mikat*, in order to perform the rites of *hajj* or *umrah* (the so-called great and lesser pilgrimage). One enters the state of *ihram* by observing certain purification rituals (hygienic procedures) and wearing appropriate attire, *What is Ihram? Qurbani Religious Dues. Muslim Aid*, www.muslimaid.org/what-we-do/religious-dues/qurbani/what-is-ihram/ [accessed: 28.06.2023]; The basis for this prohibition is a hadith that states that *muhrim* (those in the state of *ihram*) may not marry or assist others to marry or become engaged, *Sahih Muslim Book 8 Marriage, Hadith Number 3278*, www.hadithcollection.com/sahihmuslim/sahih-muslim-book-08-marriage/sahih-muslim-book-008-hadith-number-3278 [accessed: 27.06.2023].

²¹ *Mustahabb* – is a jurisprudential term referring to actions and practices that are preferable to omission under Islamic law, but are not obligatory: "duties that are recommended but not essential, the fulfillment of which is rewarded, although they can be neglected without penalty". M. Hāshimī al-Shāhrūdī, *Farhang-i fiqh muṭābiq-i mazhab-i Ahl-i Bayt 'alayhim al-salām*, vol. 1, Mu'assasah-i Dāirat al-Ma'ārif-i Fiqh-i Islāmī 2003, p. 397.



including engagement rings (*dublach*), fall into the category of permitted customs²².

The engagement period is also a time of preparation for the wedding ceremony itself. If the girl and her family agree to the suitor's proposals, the first thing to be agreed upon is the *mahr*²³, the wedding expenses and the wedding date itself. This also depends on local customs, what the man can afford to pay, and what he has already done to prepare to marry. Some people get engaged and sign the marriage contract (*nikah*) all at once, while others postpone the marriage contract after the engagement – if they are not ready to enter into a permanent marriage contract and wish to do so at another time or in a special ceremony, the parties may also enter into a temporary marriage contract²⁴ until the time comes to enter into a permanent marriage contract. All this is permissible²⁵.

Betrothal is not a legal institution, but a social custom. The purpose of betrothal is to promise to marry. It is a kind of personal commitment – a promise made to the other person and his or her family.

²² Wearing an engagement or wedding ring/ring is not considered illegal from an Islamic perspective, as there is no religious text stating this. According to representatives of the Hanafite, Maliki and Hanbalite schools, in order to make a wife happy, a husband may wear a ring – preferably on his left hand (although this is not obligatory). If the ring is silver, there is nothing wrong with both men and women wearing it. But if it's made of gold, women can wear it and men can't. Also, engraving names inside a wedding ring in the hope that it will create a stronger bond between husband and wife is forbidden (*haram*). The belief in the symbolism and power of the wedding ring (many believe that once it is worn, a strong bond is formed, and removing it is a bad sign) has no connection with Islamic teachings. A happy and harmonious family is not built by putting on wedding rings, but by daily efforts made for the common good; see *Can we wear a Wedding Ring in Islam – Rules for bride and groom*, <https://www.waytonikah.com/blog/can-we-wear-a-wedding-ring-in-islam-rules-for-bride-and-groom/4841> [accessed: 28.06.2023]; *Is Engagement Ring Permissible?*, <https://fiqh.islamonline.net/en/is-engagement-ring-permissible/> [accessed: 28.06.2023].

²³ *Mahr* - a gift, a dowry from the groom to the bride. *Mahr* is an obligatory part of the marriage contract and is a Koranic injunction: “[...] And if you seek either of them to rejoice in marriage [...], give the wedding gift due to them [...]” Quran [4:24].

²⁴ Marriage (*zawāğ or al-misyar* – the marriage of a traveler) is a type of contract permitted by some Sunni jurists. The woman's father must consent to such a contract (as is the case with a permanent marriage contract). “*Misyar* is widespread because many have to keep their marriages secret, either because of the first wife's objections or because of other family pressures [...]. In a *misyar* marriage, a woman relinquishes some of the rights she would enjoy in a normal marriage, such as the right to housing and livelihood (*nafaqa*), among others. This practice is often used in some Islamic countries to legally recognize behavior that might otherwise be considered adultery. Most *misyar* brides do not relocate, but marry on a visitation basis [...]. Despite the consensus among much of the religious scholars on the legality of the *misyar* model, in part because it keeps youth from entering into illicit extramarital relationships, the practice is still considered taboo in many communities [...]. It also comes to the rescue of young people, many of whom cannot afford the short- and long-term costs of regular marriages”. *Misyar* marriages have become a *widespread reality* in Saudi Arabia, per Abdul Hannan Tago, *Misyar now a widespread reality*, Arab News 12.10.2014 <https://www.arabnews.com/saudi-arabia/news/642991> [accessed: 1.07.2023]; According to Saudi lawyer Abdullah bin Sulaiman bin Menie, a wife in a *misyar* marriage can withdraw from relinquishing her property rights at any time and demand that her husband give her all marital rights, including living with her and meeting her financial needs. The husband can then either do so or grant her a divorce, per Mariam Al-Hakeem, *Misyar marriages gaining prominence among Saudis*, World Gulf, 24.05.2005, <https://gulfnews.com/world/gulf/saudi/misyar-marriages-gaining-prominence-among-saudis-1.288374> [accessed: 2.07.2023].

²⁵ Muhammad entered into a marriage contract with Aisha when she was six years old, and consummated the marriage with her when she was nine: Sahih al-Bukhari 5158 – Wedlock, Marriage (Nikaah) – النكاح كتاب Sunnah.com, *Sayings and Teachings of Prophet Muhammad* (سليم و عليه الله صلى) [accessed: 17.06.2023].



However, it does not give the fiancées any special rights in relation to each other and excludes the establishment of intimate relations between the fiancées. The engagement does not make the relationship *halal* (permissible). At this stage, the man and the woman are still strangers to each other²⁶. All that is allowed is to talk and look at each other but only in the presence of a person who is a *mahram* for the woman²⁷, to see if this relationship has a chance of turning into marriage²⁸.

Marriage (nikah/zawāğ)

Islam views marriage as an act of reverence and obedience to Allah. According to accounts, the Prophet Muhammad said: “There is no institution in Islam more beloved and dearer to Allah than marriage”²⁹.

Once married, a man and a woman acquire a new status and become the foundation of the family.

Although there is a religious dimension to Muslim marriage, it is first and foremost a contract between two people or those acting on their behalf that defines the rights and obligations of each spouse. Islamic jurisprudence, as developed by various schools of legal thought³⁰, considers the primary purpose of the marriage contract (*aqd*) to be to make the sexual act between husband and wife lawful (*halal*) and to legitimize the offspring born of that union³¹.

The obligatory elements of any marriage contract are the pillars (*arkaan*) and conditions (*szurut*)

²⁶ *Is engagement allowed in Islam? Answered as per Hanafi Fiqh by Muftisays.com* www.islamqa.org/hanafi/muftisays/9428/is-engagement-allowed-in-islam-2/ [accessed: 17.06.2023].

²⁷ *Mahram* comes from the word *haram* and means something sacred or forbidden. In Islam, a *mahram* is a family member with whom marriage would be considered permanently unlawful (*haram*). A woman's mahram is: father, grandfather, son, grandson, brother. A woman does not have to wear the hijab (traditional headgear) in their presence, and an adult male *mahram* may accompany a woman on a trip, although this escort may not always be mandatory. *Mahram – Oxford Islamic Studies Online*, www.oxfordislamicstudies.com [accessed: 29.06.2023]; *Who Is Your Mahram and Non Mahram?*, www.al-islam.org/media/who-your-mahram-and-non-mahram [accessed: 29.06.2023].

²⁸ Al-Mughira bin Shu'bah proposed to a woman, so the Prophet said: “Look at her, for verily, it is more likely to improve the situation between you”. Jami` at-Tirmidhi 1087 – The Book on Marriage – كتاب عن النكاح صلى الله رسول عن النكاح كتاب – وسلم عليه الله صلى الله وسلم و عليه الله صلى [accessed: 29.06.2023]; Sunan Ibn Majah 1865 – The Chapters on Marriage – كتاب النكاح Sunnah.com, *Sayings and Teachings of Prophet Muhammad* (سلم و عليه الله صلى) [accessed: 29.06.2023].

²⁹ “Better is the sleep of a married person with Allah than (a person) who is unmarried, who fasts during the day and keeps vigil at night in prayer”, *Bihar al-Anwar*, Vol. 103, p. 221, <http://www.khanwadeabulib.com/public/ilm/article/Hadiths-regarding-Marriage,-a-Great-Wors/783/58> [accessed: 29.06.2023].

³⁰ In Sunni Islam, there are four main schools of interpretation of Quranic law (Hanafite, Malikite, Shaafite and Hanbalite). They take their names from their precursors: Abu Hanifa of Kufa (699-767), Malik Ibn Anas (712–796), Idris Ash-Shafi'i (767–820), Ahmad ibn Hanbal (780–855) and Jafar as-Sadik (700–765). The main differences between the various schools concern the methods to be applied to the principles of lawmaking, and in practice there is little difference. However, there is an obligation to belong to one of the schools and a prohibition on mixing their principles, M. Toumi, *Jurisprudencja. Wykładnia Koranu*, op. cit., p. 112.

³¹ Ibn Fāris, Abū al-Ḥusayn Aḥmad ibn Fāris, *Mu'jem al-Makāyīs al-Luga*, Damaszek 1979, p. 475.



necessary for its validity and to produce certain legal effects³². The various schools of Muslim law, however, are unable to clearly define the *arqan* and *shurut*, “while they agree in principle” that the *arqaan* of the marriage contract includes “the offer and its acceptance” (*al-ijab wa al-qubul*). Most scholars also agree that the parties to the contract, i.e. the future husband and the woman's guardian, are also included in the *arkan*, while such elements of the marriage contract as the presence of witnesses, the *mahr*, and the content of the contract are mostly included in the *szurut*.

Consequently, based on the fulfillment of *arqaan* and *szurut*, a marriage contract can be divided into three categories: *sahih* – a contract that fulfills all of the *arqaan* and *szurut* and has full legal effect; *baatil* – a contract that has not fulfilled a specific *arqaan* or life *shurut* and has no legal effect³³; *faasid* (defective) – this is a contract that does not fulfill part of the *shurut*, but not the *arqaan*.

If the conditions required for the validity of a marriage contract are not met, according to the Hanbalite school, the contract is *faulty* (*faasid*), while according to the other school of jurisprudence (Maliki, Hanafi and Shafi) it is invalid (*baatil*).

For a marriage to be valid, it must meet four basic conditions: consent of both parties, *mahr*, two male witnesses, the marriage should be made public.

A Muslim marriage is contracted by agreement between the groom and the *wali* – the woman's guardian³⁴.

The three Sunni schools of jurisprudence (Maliki, Hanafi and Shafi) agree that a virgin who wishes to marry must obtain permission from her father or guardian³⁵. Nor should she participate in the

³² *The marriage contract*, https://nikah.com/marriage/contract_shaadi.asp [accessed: 3.07.2023].

³³ If, for example, a marital property contract is found to be invalid, even if it is only established after completion, the legal status will be as if it never happened. The father's line will not be established and there is no waiting period (*iddah*) for the woman. An example of this would be if a man married a woman who at the time was married to someone else.

³⁴ Only an adult Muslim, of full mental capacity, can become the bride's *wali*, unless the bride is of Christian or Jewish faith; in such cases, it should be someone from her religious background; According to Muslim jurists, *al-wilayah* (guardianship) is the power to decide, regardless of the approval of others. It falls into two categories: general *kratah* (authority of the head of state) and special guardianship (over daughters, sons or affinities, based on blood ties, vested in the male line – patrilineality). “In the case of marriage – a *wali* is a man who has been granted authority to marry on behalf of someone”. Muhammad Farooq, *Walayah (Guardianship): The Authority Over A Woman's Choice in Marriage and How This Reflects A Desire To Control and Kafa'a (Equality): A Barrier To A Woman's Marriage Choice?* “Granite Journal”, 2019, Vol. 3, No. 2, pp. 20–27; Moroccan family law reform of 2004 abolished the requirement that the *wali* participate in the marriage of the parties. Azizah Y. al-Hibri, *Marriage and Divorce: Legal Foundations*, [in:] *The Oxford Encyclopedia of the Islamic World*, Oxford 2009, p. 494.

³⁵ “A widow and a divorced woman should not remarry unless she consents to the marriage, while a virgin should not marry – until her consent is obtained. How can you tell if she consents? By her silence”, [for:] *Sahih Muslim 1421a – The Book of Marriage Sunnah.com, Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم)*, <https://sunnah.com/muslim:1421c> [accessed: 30.06.2023]; *Sahih al-Bukhari 4843 – Prophetic Commentary on the Qur'an (Tafseer of the Prophet (pbuh))*. – *كتاب التفسير Sunnah.com, Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم)* [accessed: 30.06.2023].



drafting of the marriage contract. An exception applies to a previously married woman – *the wali* cannot give her in marriage without her express permission. Only the Hanafi school holds that a mature, mentally healthy woman can marry without anyone's consent³⁶.

Sharia does not prescribe any particular form of marriage contract or any particular religious ceremony, which in practice leads to the use of a form according to the traditions of the country where the ceremony takes place.

Public announcement of the marriage is essential. This is because it is not permitted to marry in secret³⁷. It should be such a ceremony that there is no doubt that the existing betrothal has turned into a marriage³⁸. The wedding ceremony is presided over by a judge (*kadi*)³⁹.

Both the making of the offer (*ijab*) and its acceptance (*qubul*) should take place in one sitting and must be spoken by the contracting parties or their representatives (*vakile*) in the presence of the other party and in the presence of two male witnesses or one male and two female witnesses. The witnesses must be Muslims, adults and of sound mind⁴⁰. The marriage contract may also be concluded by representatives acting *ad hoc* on behalf of the fiancées themselves or their guardians, as the case may be⁴¹.

A marriage contract is not only a contract between spouses, but also a contract between two families. It is usually signed at the bride's home, where she waits in a separate room while her father, the groom and their male relatives complete the formalities with an official called a *maathun*, who has special authority to perform weddings. After the groom signs the contract, the document is taken to the

³⁶ If the guardian's refusal to *marry* a virgin will cause her serious harm or contribute to social corruption, or cause her unbearable hardship, then his guardianship is annulled and she may immediately *marry* without his permission, provided such a decision was not based on emotion; But if she is not intellectually mature, she becomes a ward of religious authority (*marja'*). Also, in a situation where none of the guardians is alive – the decision remains in the hands of the woman. S. Taqi Al-Moddaressi, *The Laws of Islam*, Enlight Press, p. 439; see also: *Is it sinful for a girl to marry without the permission of her parents?* <https://www.al-islam.org/ask/is-it-sinful-for-a-girl-to-marry-without-the-permission-of-her-parents> [accessed: 14.06.2023].

³⁷ M. ibn Ally, *Islam*, op. cit., p. 324.

³⁸ “It is not permissible to try to keep the marriage secret, and the announcement is obligatory (before the consummation). According to Ibn Taymiyah, if there are witnesses but the marriage has not been announced, there is some doubt about the validity of the marriage contract. This is to distinguish a valid marriage from immorality, since *zina* is practiced secretly, while a legal marriage is announced openly”. *Divorce (Talaq), Marriage (Nikah)*, Question # 242: Arkan (pillars) and Shuroot (conditions) of Nikah (Marriage), published by: Abu Zeenat Afdal, 28.08.2017, <https://studentsofknowledge.org/question-242-arkan-pillars-and-shuroot-conditions-of-nikah-marriage/> [accessed: 28.06.2023].

³⁹ M. Toumi, P. Zajac, *Malżeństwo w prawie kanonicznym*, op. cit.

⁴⁰ See: Azizah Y. al-Hibri, *The Nature of the Islamic Marriage: Sacramental, Covenantal, or Contractual*, [in:] *Covenant Marriage in Comparative Perspective*, ed. J. Witte Jr., E. Ellison, Grand Rapids 2005, pp. 182–216.

⁴¹ *Marriage in Islamic Law – A Brief Introduction*, <https://www.3djb.co.uk/articles/6/marriage-in-islamic-law-e28094-a-brief-introduction> [accessed: 12.06.2023].



bride for her signature⁴².

In a marriage contract, a Muslim woman may include a number of conditions, most often designed to secure her rights or privileges. These conditions must be feasible, consistent with the purpose of the marriage, and not contrary to Shariah⁴³. Usually this is the right to education, to work, or that the husband will not take other wives⁴⁴ or move his wife out from his hometown⁴⁵.

Of the four Sunni schools of jurisprudence, only the Hanbali consider such clauses permissible in a marriage contract and assert that the husband's failure to abide by the terms permitted by law and included in the contract gives the wife the option of going to court to demand the dissolution of the marriage. On the other hand, lawyers from three other school of jurisprudence (Maliki, Hanafi and Shafi) consider both clauses to be completely invalid and ineffective⁴⁶. So, while a woman can include such provisions in her marriage contract, she cannot enforce them in any way – at least according to the prevailing view of the lawyers of the three schools.

The marriage contract also defines the further rights and duties of each spouse. Apart from the basic obligation to treat each other well, which is not defined by law, these rights and duties are differentiated according to the sex. They are also interdependent – the failure of one spouse to fulfill a particular duty may jeopardize his or her claim to a particular right.

The husband's first obligation is to pay his wife the agreed upon wedding gift – the dowry (*mahr*) as an expression of his willingness to honor the contract. Its purpose is for the husband to show honor and respect to his wife, and to enter into the marriage contract with a sense of responsibility for the family being established⁴⁷.

The dowry becomes the exclusive property of the wife, who can freely dispose of it⁴⁸. “Muslim

⁴² N. Darwish, *Okrucieństwo w majestacie prawa*, Warszawa 2008, p. 65.

⁴³ Conditions contrary to Muslim law do not render a marriage invalid, but they are considered non-existent.

⁴⁴ This does not mean that any additional marriages she enters into will be invalid, only that she may choose to leave him if she marries again.

⁴⁵ A wife cannot obligate her husband to stay with her in her city, but she can obtain a divorce if her husband insists on her moving: *Fiqh al-Mar-ah al-Muslimah* – shaykh al-Uthaymeen.

⁴⁶ See, among others: M. Tabiu, *Unlawful marriages and their effect in Islamic law of the maliki school*, “Islamic Studies”, 1992, Vol. 31, No. 3, pp. 319–337.

⁴⁷ A. Marek, *Obyczaje w islamie*, [in:] *Islam. Między stereotypem a rzeczywistością*, ed. P. Klodkowski, A. Marek, Warszawa 2006, p. 49.

⁴⁸ Provisions for the *mahr* are negotiated by the groom, his family and the bride's guardian during the engagement. *Mahr* can be paid both in kind and in cash. “To the women [whom you marry] give marriage gifts (*mahr*) willingly (and do not expect them to be returned). However, if they of their own free will give you any part of them, then use it for health and prosperity”, Quran [4:4].



jurists point out that a marital gift can be anything that has value and is not contrary to the Shariah⁴⁹. Although the law does not specify the amount of the dowry, it does require that it be specified in the marriage contract⁵⁰.

In addition to the dowry, the wife is entitled housing, clothing and maintenance. If she has a co-wife, she is also entitled to an equal share of her husband's time⁵¹.

One of the main duties of a wife is to contribute to the success and bliss of the marriage. She must provide for her husband's comfort and well-being. A wife must be faithful, trustworthy, honest and obedient⁵². She should take care of her attractiveness and should also be responsive to her husband's advances. A Quranic verse illustrating this point states: “Our Lord! Grant us that our spouses and our offspring be a joy to our eyes [...]”⁵³.

Divorce (*talak*)

Talak is defined as the nullification of the legal force of marriage by pronouncing certain formulas⁵⁴. However, divorce cannot be considered in any arbitrary situation, and a pious Muslim must know that the Prophet said: “Marry and do not divorce, for Allah does not love any man of divorcee taste from among men and women”⁵⁵. Although divorce is something undesirable, sometimes it is a necessity that cannot be avoided.

⁴⁹ M. Sadowski, *Kontrakt małżeński w prawie islamu*, „Studia Prawno-Ekonomiczne”, 2017, Vol. 103, p. 108.

⁵⁰ *The mahr* is usually divided into two parts: the so-called quick *mahr* (*mu'ayyal*) – paid during the marriage, and the deferred *mahr* (*mu'ayyal*) – paid only after the dissolution of the marriage by death, divorce or other contractually agreed legal event. S. Grizak, R. Manafov, *Małżeństwo i relacje rodzinne w islamie*, op. cit., p. 27.

⁵¹ A wife who refuses his courtship or leaves the matrimonial home without permission or with permission, but in her own name, forfeits her right to maintenance, as well as any claim to a portion of her husband's time.

⁵² Obedience does not mean blind obedience and applies only to things that fall within the husband's rights.

⁵³ Quran [25:74].

⁵⁴ There are four degrees of divorce formulas:

- 1) A husband may have in mind to carry out a divorce and not express it in words.
- 2) He may not have in mind either the divorce formula or the rule associated with it (divorce).
- 3) He may have in mind the divorce formula without the rule associated with it.
- 4) He may have in mind a formula and a rule associated with it.

The first two categories are not recognized by Sharia, meaning they are not effective, while the last two result in divorce; *Forms of Divorce in Islam. Simplified Islamic jurisprudence based on Qu'ran and Sunna*, vol. 2, *From marriage to inheritance*, ed. by M.M. Abdul-Fattah, transl. M. Shaban, <https://sites.google.com/site/oislamie/5-eksi%C4%85%C5%BCki/formy-rozvodu-w-islamie> [accessed: 26.06.2023]; M. Toumi, P. Zajac, *Małżeństwo w prawie kanonicznym i w prawie koranicznym (szari'a)*, op. cit., p. 539.

⁵⁵ Al-Jassas, *Ahkam al-Kur'an*, vol. 2, Beirut 1986, p. 133.



If efforts to reconcile the spouses and restore good relations between them fail, and they decide that it is impossible for them to continue living together, no one is allowed to pressure or force them to remain in the relationship: “[...] do not keep them, intending harm, to transgress (against them) [...]”⁵⁶.

The Quran outlines in general terms the reasons why a marriage may be dissolved. Divorce occurs as a result of the failure of one or both spouses to fulfill their obligation to live in kindness, peace and compassion⁵⁷. On this basis, Muslim jurists have developed indicators of marital failure that may constitute grounds for divorce or annulment of marriage.

Divorce can be: mandatory (*vajib*) – when there is a rift between the spouses. The judge then sends two peacemakers (arbitrators) to determine the nature of this split. If they decide that the spouses should be separated – the husband must divorce his wife; prescribed (*mandub*) – if the wife neglects the duties imposed on her by God, e.g. neglects prayer, and the husband cannot influence her to fulfill these duties; permitted (*mubah*) or permissible – occurs when it is required as a result of the wife's bad conduct or behavior or conduct (towards the husband); undesirable (*makruh*) – when divorce occurs without any reason, while the relationship between the spouses is good; forbidden (*haram*) – a man divorces his wife while she is menstruating, or divorces her between menstruations and when (during this interval) he has a sexual intercourse with her. This is known as *bidah divorce* (divorce being a heresy, an innovation).

There are three forms of divorce: repudiation of the wife by the husband (*talaq*), repudiation of the husband by the wife (*khul*) – that is, separation after the return of the wedding dowry (*mahr*), and a decree by the court as arbitrator⁵⁸.

From the wife's point of view, the following situations justify divorce: the husband's long absence, during which the wife has no news of his whereabouts; his long imprisonment or remaining in captivity during the war; his refusal to support his wife; severe poverty; impotence.

There are also circumstances that may apply to either party, including abandonment, insanity, failure to understand the meaning of the marriage contract, improper conduct, abuse, debauchery or moral promiscuity, and fraud⁵⁹.

⁵⁶ Quran [2:231].

⁵⁷ M. Ibn Ally, *Islam*, op. cit., p. 332.

⁵⁸ M. Toumi, *Prawo do małżeństwa*, op. cit., p. 90; see also: A.M. Piwko, *Muzułmańskie prawo rodzinne: sposoby rozwiązania małżeństwa w islamie oraz zasady dziedziczenia majątku* „Nurt SVD”, 2003, 47/1, p. 204–234.

⁵⁹ Ex: if one of the parties conceals his infertility or the existence of chronic diseases. This does not always determine the dissolution of the marriage, but the deceived party has the right to demand it. Presenting a non-virgin woman as a virgin is also considered cheating.



There are also circumstances that actually force the dissolution of the marriage, such as: the wife's conversion to Islam while her husband remains a non-Muslim; apostasy and the legal nullity of the original marriage contract.

According to the Quran, a man is allowed to separate from the same woman twice and marry her again. When he wants to marry her after the third rejection, she must be married and divorced to another man in the meantime: “A divorce may be [revoked] twice, whereupon the marriage must either be resumed in fairness or dissolved in a goodly manner”⁶⁰.

After the husband's divorce decree, the wife must wait three months or three menstrual cycles (*iddat*)⁶¹. During this period, the wife is allowed to stay in the same house, and the husband is responsible for her welfare and maintenance. During *iddat*, he may choose to reconcile with her in a process known as *ruju*. This can be a verbal declaration or the resumption of normal marital life. If the husband does not accept his wife back after this waiting period, the couple is completely divorced.

A divorce must be sworn to by witnesses and is only final after a judge attests and declares guilt. The compensation for effecting a divorce is most often specified in the marriage contract, and proof of the wife's guilt also results in the return of the *mahr*⁶².

Summary

In Muslim communities around the world, both the proposal and marriage and related ceremonies depend on local customs. Islam allows for this cultural diversity as long as the practices do not contradict principles of Shariah.

⁶⁰ Quran [2:229].

⁶¹ *Iddat* – that is, the waiting period (period of purity) when a woman whose marriage has been dissolved by divorce, death of her husband or declaring him dead, is required to remain in seclusion and refrain from marrying another man, with the goal of clearly identifying the father of a possible child. The period of *iddat* varies from case to case: a divorced woman observes it for three months, while a woman whose husband died observes it for four lunar months and 10 days after her husband's death, regardless of whether the marriage was consummated or not; the period of *iddat* lasts for a divorced pregnant woman until delivery or miscarriage; if a woman is pregnant at the time of her husband's death, she observes *iddat* for a full year, consisting of nine months of pregnancy and three months of *iddat*. If a husband divorces his wife before consummating the marriage, *iddat* is not applicable to her. *Iddat under Muslim Personal Law*, <https://blog.iplayers.in/iddat/> [accessed: 13.05.2023].

⁶² “And if you wish to divorce and take another wife, do not take away from the first one anything of her inheritance which you offered her. Do you not know that in doing so you would defame yourselves and commit a sin; How could you do this, since you have intercourse with each other and have taken a solemn oath to them?” Quran [4:20, 21]. For more on divorce, see, among others: J.J.A. Nasir, *The Islamic Law of Personal Status*, London 1990; D. Perl, W. Menski, *Muslim Family Law*, London 1998; M. Sadowski, *Małżeństwo w prawie islamu. Wprowadzenie*, Poznań 2001; M. Zyzik, *Marriage in Muslim Law*, Warszawa 2003.



In Islam, marriage is a legal union between a man and a woman based on mutual consent⁶³. The marriage contract gives permanence and responsibility to the relationship between a man and a woman, and confirms their mutual acceptance as spouses⁶⁴, committing them to live together in accordance with Islamic teachings⁶⁵.

The relationship in marriage should be permanent and stable, and the partners are expected to make serious efforts to live together in harmony and mutual respect, and to maintain these efforts constantly. Thus, it should be a relationship based on mutual understanding, kindness and love, closeness and harmonious interaction.

Marriage should unite people who share the same worldview and morals, and who participate in the same work of God's governance (*chalifat*). Therefore, Muslims should not marry people who profess a religion other than Islam. Mixed marriages are permitted by Quranic law only under strictly defined circumstances.

Although marriage in Islam is a civil contract, the institution is deeply embedded in the religion. All of its provisions must be in accordance with Sharia law, otherwise it is considered legally non-existent⁶⁶.

Since the marriage itself is entered into by the signing of a marriage contract, if the terms of the contract are not fulfilled, the marriage may be dissolved in cases specified by law. Islam discourages divorce, but unlike some religions, provides for divorce for either party.

Divorce is always considered a last resort. When a marriage is in danger, couples are advised to use all possible means to rebuild the relationship. When this is not possible, the religion provides general guidelines for the divorce process, emphasizing that both parties adhere to the values of justice and kindness in formalizing the end of their marriage.

⁶³ According to Islamic teachings, which are a religious obligation, a man may marry a maximum of four women (with all the precepts associated with this). I. Amini, *An Introduction to the rights and duties of women in Islam*, <https://www.al-islam.org/introduction-rights-and-duties-women-islam-ibrahim-amini/islam-and-polygamy> [accessed: 30.06.2023].

⁶⁴ Through marriage, couples commit to a lifelong relationship; it is based on mutual mental, spiritual and physical satisfaction, M. al Khatebb, *Islamic Marriage Contracts. A Resource Guide For Legal Professionals, Advocates, Imams & Communities*, San Francisco 2012, p. 6.

⁶⁵ M. ibn Ally, *Islam*, op. cit., p. 324.

⁶⁶ See M. Sadowski, *Divorce according to talaq procedure in Islamic law*, "Legal Advisor", 2017, No. 3 (12).



Bibliography

Literature:

- Al-Hibri A.Y., *The Nature of the Islamic Marriage: Sacramental, Covenantal, or Contractual*, [in:] *Covenant Marriage in Comparative Perspective*, ed. J. Witte Jr., E. Ellison Grand Rapids 2005, pp. 182–216.
- Al-Jassas, *Ahkam al-Kur'an*, vol. 2, Beirut 1986.
- Azizah Y. al-Hibri, *Marriage and Divorce: Legal Foundations* [in:] *The Oxford Encyclopedia of the Islamic World*, ed. by John L. Esposito, Oxford University Press 2009.
- Darwish N., *Okrucieństwo w majestacie prawa*, Warszawa 2008.
- Dziekan M.M., *Dzieje kultury arabskiej*, Warszawa 2008.
- Grizak S., Manafow R., *Małżeństwo i relacje rodzinne w islamie*, Stambuł 2021.
- Ibn Fāris, Abū al-Ḥusayn Aḥmad ibn Fāris, *Mu'jem al-Makāyīs al-Luga*, Damaszk 1979.
- Hāshimī al-Shāhrūd M., ī, *Farhang-i fiqh muṭābiq-i mazhab-i Ahl-i Bayt 'alayhim al-salām*, vol. 1, Mu'assasah-i Dāirat al-Ma'ārif-i Fiqh-i Islāmī 2003.
- ibn Ally M., *Islam* [in:] *Problemy etyczne w tradycjach sześciu religii: hinduizm, buddyzm, sikhizm, judaizm, chrześcijaństwo, islam*, ed. P. Morgan, C. Lawton, D. Chabrajska, Warszawa 2007.
- Koran z interpretacją i przypisami w języku polskim*, przeł. z j. arabskiego na j. angielski A. Ünal, przekład z j. angielskiego na j. polski J. Surdel, Warszawa 2013.
- Lipska-Toumi M., *Wprowadzenie do ustroju i prawa państw arabskich*, Lublin 2015.
- Machut-Mendecka E., *Współczesna rodzina muzułmańska*, [in:] *Oblicza współczesnego islamu*, ed. E. Machut-Mendecka, Warszawa 2003.
- Maha al Khatebb, *Islamic Marriage Contracts. A Resource Guide For Legal Professionals, Advocates, Imams & Communities*, San Francisco 2012.
- Mahmasani S., *Filozofia prawa w islamie*, Beirut 1952.
- Marek A., *Obyczaje w islamie* [in:] *Islam. Między stereotypem a rzeczywistością*, ed. P. Klodkowski, A. Marek, Warszawa 2006.
- Nasir J.J.A., *The Islamic Law of Personal Status*, London 1990.
- Oblicza współczesnego islamu*, ed. E. Machut-Mendecka, Warszawa 2003.
- Perl D., Menski W., *Muslim Family Law*, London 1998.



- Piwko A.M., *Muzułmańskie prawo rodzinne: sposoby rozwiązania małżeństwa w islamie oraz zasady dziedziczenia majątku* „Nurt SVD”, 2003, 47/1, pp. 204–234.
- Quraishi-Landes M.A., *Wspólnota wiedzy jest warunkiem pokoju*, „As-Salam”, 2013, nr 3, pp. 8–11.
- Ruthven M., *Islam. Bardzo krótkie wprowadzenie*, Warszawa 1998.
- Sadowski M., *Kontrakt małżeński w prawie islamu*, „Studia Prawno-Ekonomiczne”, 2017, Vol. 103, pp. 95–111.
- Sadowski M., *Małżeństwo w prawie islamu. Wprowadzenie*, Poznań 2001.
- Tabiu M., *Unlawful marriages and their effect in Islamic law of the maliki school* “Islamic Studies”, 1992, vol. 31, No. 3, pp. 319–337.
- Taqi Al-Moddaressi S., *The Laws of Islam*, Enlight Press 2016.
- Toumi M., *Prawo do małżeństwa w prawie koranicznym (szari'a)* [in:] *Prawo do małżeństwa na progu XXI wieku*, ed. K. Motyka, Lublin 2016.
- Toumi M., *Prawo do małżeństwa a prawo do zawarcia małżeństwa w prawie szariatu*, [in:] *Małżeństwo jako instytucja prawno-społeczna w Polsce*, ed. Z. Brodecki, Warszawa 2018, pp. 108–115.
- Toumi M., *The right to marriage vs. the right to marry in Sharia law* [in:] *Marriage as a legal and social institution in Poland*, ed. E. Krzysztofik, M. Maksymiuk, Lublin 2022, pp. 127–142.
- Toumi M., *The Right to Marriage Versus the Right to Marry under Sharia Law* [in:] *Marriage as a Legal and Social Institution in Poland*, ed. E. Krzysztofik, M. Maksymiuk, transl. M. Robak-Sobolewski, Lublin 2022, pp. 123–128.
- Toumi M., Zając P., *Małżeństwo w prawie kanonicznym i w prawie koranicznym (szari'a)* [in:] *Człowiek, Państwo, Kościół. Księga jubileuszowa dedykowana Księdzu Profesorowi Arturowi Mezglewskiemu*, Lublin 2020, pp. 529–565.
- Zyzik M., *Marriage in Muslim law*, Warszawa 2003.
- Zmichrowska M. J., *Marriage and family in Christianity and Islam. Common traditions*, Walbrzych 2017.

Online sources:

- Abouzeid R., *Women's voices must be heard everywhere. What Feminism Looks Like in Africa and Arab Countries*, <https://www.national-geographic.pl/artukul/prawa-kobiet-jak-kobiety-na-swiecie->



walcza-rownouprawnienie-plci-feminizm-w-afryce-i-krajach-arabskich?page=3 [accessed: 12.05.2023].

Al-Hakeem M., *Misyar marriages gaining prominence among Saudis*, “World Gulf”, 24.05.2005, <https://gulfnews.com/world/gulf/saudi/misyar-marriages-gaining-prominence-among-saudis-1.288374> [accessed: 2.07.2023].

A Look at Legal Age of Marriage in Some Islamic Countries, <https://www.odvv.org/blog-2565-A-Look-at-Legal-Age-of-Marriage-in-Some-Islamic-Countries> [accessed: 10.06.2023].

Azizah Y. al-Hibri, *Marriage and Divorce: Legal Foundations*, [in:] *The Oxford Encyclopedia of the Islamic World*, Oxford 2009.

Bihar al-Anwar, vol. 103, p. 221, <http://www.khanwadeabutalib.com/public/ilm/article/Hadiths-regarding-Marriage,-a-Great-Wors/783/58>.

Blenkhorn L., *Islamic Marriage Contracts in American Courts: Interpreting Mahr Agreement as Prenuptials and Their Effect on Muslim Women* “Southern California Law Review”, 2002, 76 (1), p. 195, http://lawweb.usc.edu/why/students/orgs/lawreview/documents/Blenkhorn_Lindsey_76_1.pdf [accessed: 13.05.2023].

Can we wear a Wedding Ring in Islam – Rules for bride and groom, <https://www.waytonikah.com/blog/can-we-wear-a-wedding-ring-in-islam-rules-for-bride-and-groom/4841> [accessed: 28.06.2023].

Divorce (Kitab Al-Talaq) Sunnah.com, Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم) [accessed: 1.07.2023].

Divorce (Talaq), Marriage (Nikah)_Question # 242: Arkan (pillars) and Shuroot (conditions) of Nikah (Marriage), published by: Abu Zeenat Afdal, 28.08.2017, <https://studentsofknowledge.org/question-242-arkan-pillars-and-shuroot-conditions-of-nikah-marriage/> [accessed: 28.06.2023].

Farooq M., *Walayah (Guardianship): The Authority Over A Woman's Choice in Marriage and How This Reflects A Desire To Control and Kafa'a (Equality): A Barrier To A Woman's Marriage Choice?* “Granite Journal”, 2019, Vol. 3, No. 2, pp. 20–27.

Forms of Divorce in Islam. Simplified Islamic jurisprudence based on Qu'ran and Sunna, Vol. 2, *From marriage to inheritance*, ed. by M.M. Abdul-Fattah, transl. M. Shaban,



<https://sites.google.com/site/oislamie/5-e-ksi%C4%85%C5%BCki/formy-rozvodu-w-islamie>
[accessed: 26.06.2023].

Ghumman U., *Khitbah (Engagement) in Islam*, <https://tipyaanacademy.com/engagement-in-islam/>
[accessed: 20.06.2023].

Hannan Tago A., *Misyar now a widespread reality*, Arab News 12.10.2014,
<https://www.arabnews.com/saudi-arabia/news/642991> [accessed: 1.07.2023].

Iddat under Muslim Personal Law, <https://blog.ipleaders.in/iddat/> [accessed: 13.05.2023].

Inrahim A., *An Introduction to the rights and duties of women in Islam*, <https://www.al-islam.org/introduction-rights-and-duties-women-islam-ibrahim-amini/islam-and-polygamy>
[accessed: 30.06.2023].

Is Engagement Ring Permissible?, <https://fiqh.islamonline.net/en/is-engagement-ring-permissible/>
[accessed: 28.06.2023].

Is it sinful for a girl to marry without the permission of her parents? <https://www.al-islam.org/ask/is-it-sinful-for-a-girl-to-marry-without-the-permission-of-her-parents> [accessed: 14.06.2023].

Jami` at-Tirmidhi 1087 – The Book on Marriage – - كتاب النكاح عن رسول الله صلى الله عليه وسلم - Sunnah.com,
Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم) [accessed: 29.06.2023].

Marriage in Islamic Law – A Brief Introduction, <https://www.3djb.co.uk/articles/6/marriage-in-islamic-law-e28094-a-brief-introduction> [accessed: 12.06.2023.]

Mahram – Oxford Islamic Studies Online, www.oxfordislamicstudies.com [accessed: 29.06.2023].

Sadowski M., *Marriage to a Muslim – legal aspects*,
https://www.temidium.pl/artukul/malzenstwo_z_muzulmaninem_aspekty_prawne-1018.html.

Sahih al-Bukhari 4746 – Prophetic Commentary on the Qur'an (Tafseer of the Prophet (pbuh)) – كتاب التفسير Sunnah.com, *Sayings and Teachings of Prophet Muhammad* (صلى الله عليه وسلم) [accessed: 29.06.2023].

Sahih al-Bukhari 5158 – Wedlock, Marriage (Nikaah) – كتاب النكاح Sunnah.com, *Sayings and Teachings of Prophet Muhammad* (صلى الله عليه وسلم) [accessed: 17.06.2023].

Sunan an-Nasa'i 3238 – The Book of Marriage – كتاب النكاح Sunnah.com, *Sayings and Teachings of Prophet Muhammad* (صلى الله عليه وسلم) [accessed: 1.07.2023].



FUNDACJA
INSTYTUT PRAWA
USTROJOWEGO

Sunan Ibn Majah 1865 – The Chapters on Marriage – - كتاب النكاح Sunnah.com, *Sayings and Teachings of Prophet Muhammad* ((صلى الله عليه و سلم [accessed: 29.06.2023].

Text of the Cairo Declaration on Human Rights in Islam (CDHRI), <http://hrlibrary.umn.edu/instree/cairodeclaration.html>; 2013-population-data-sheet_eng-pdf [accessed: 3.07.2023].

The marriage contract, https://nikah.com/marriage/contract_shaadi.asp [accessed: 3.07.2023].

What is Ihram? Qurbani Religious Dues. Muslim Aid, www.muslimaid.org/what-we-do/religious-dues/qurbani/what-is-ihram/ [accessed: 28.06.2023].

Who Is Your Mahram and Non Mahram?, www.al-islam.org/media/who-your-mahram-and-non-mahram [accessed: 29.06.2023].