

NEGOTIATING MULTIPLE IDENTITIES: RELIGIOUS MARRIAGE AS SOCIAL PRACTICE AMONG MUSLIMS IN THE NETHERLANDS

Farid F. Saenong¹

¹Universitasi Islam Internasional Indonesia (UIII), Indonesia

Corresponding Author: Farid F. Saenong (farid.f.saenong@uiii.ac.id)

Keywords:

*Muslim marriage,
Muslim family law,
Religious marriage,
Unofficial marriage,
Muslims in the
Netherlands,*

ABSTRACT

Building upon extensive ethnographic fieldwork conducted across various cities and towns in the Netherlands, this study aims to examine the practices of religious marriage among Muslim communities. By religious marriage, this paper refers to any kind of Muslim marriages that are not officially registered to the local Municipal or gementee in the Netherlands. It is widely known that the institution of marriage lies at the centre of Muslim family law for the status of marriage will definitely determine all other kinds of Muslim personal law. This paper presents ethnographic data that have been collected from interviews with Muslim wedding couples, extended families, local Imams, and officials in the Netherlands. As the problem of technical terms exists in the classical discourses of religious marriage in Fiqh (Islamic law), discussions on religious marriage technical terms found from books or practices on the ground from many Muslim countries, have enriched the theoretical discourses of this unofficial marriage. The research shows that Muslim couples in the Netherlands often conclude religious marriages without civil registration due to administrative barriers, economic motives, polygyny, under-age traditions, and financial costs. These unions are viewed as valid under Islamic law, even without state recognition. Importantly, couples do not reject Dutch law but see marriage as a personal religious contract. The practice reflects continuity from countries of origin, adapted to Dutch circumstances, creating a socio-legal dynamic where Islamic and secular law coexist but not always harmoniously.

Received:

September 2, 2025

Accepted:

December 6, 2025

Published:

December 8, 2025

Author(s) retain copyright and grant the journal right of first publication with the work simultaneously licensed under a Creative Commons Attribution-ShareAlike License (CC BY-SA 4.0) that allows others to share the work with an acknowledgement of the work's authorship and initial publication in this journal.



How to cite:

Saenong, F. F. (2025). NEGOTIATING MULTIPLE IDENTITIES: RELIGIOUS MARRIAGE AS SOCIAL PRACTICE AMONG MUSLIMS IN THE NETHERLANDS. *Jurnal Al-Dustur*, 8(2). doi:<https://doi.org/10.30863/aldustur.v8i2.10579>

INTRODUCTION

It is widely known that the institution of marriage lies at the centre of Muslim family law for the status of marriage will definitely determine all other kinds of Muslim personal law. Inheritance, for example, as well as certain sexual acts, will depend only on the validity of

marriage.¹ A court could prevent or order anybody to be allowed or not to be allowed his or her rights of inheritance. In some cases, Muslim society could also apply a kind of social sanction on a couple who live together without concluding a lawfully marriage.

It is generally known that (classical) Islam does not differentiate civil marriage from the Islamic or the religious one. Both types of marriage coincide in some Muslim countries. If a Muslim emigrates from one country to another, he or she will always feel bound by the same Islamic law. Turkish Muslims in Britain, for example, would conclude marriage according to Turkish marriage law.² ³ By referring to scholarly polemics of the status of marriage in Islam, Hodkinson, for example, calls marriage in Islam a civil contract.⁴ It is different from that in Christian theology where marriage is a holy sacrament. He argues that Islamic marriage needs no such religious rites and ceremonies, although there has been a number of a criticism of this attitude such as various opinions of Pakistani scholars and jurists.⁵ However, the absence of religious rites and ceremonies in the marriage contract does not mean that a marriage has no sacred and no divine religious purposes. This leads some contemporary Muslim thinkers to say that marriage in Islam is both profane and sacred at the same time.⁶

Without mentioning any facts, Van Koningsveld and Shadid initially mentioned that there is an exclusive kind of marriage practiced by Muslims in the Netherlands. This kind of marriage simply does not need any documents regarding this civil contract. Van Koningsveld and Shadid mention that the main motive of the contract is to avoid pre-marital sexual intercourse, which is strongly condemned by Islam. With this “marriage”, a Muslim couple, especially young Muslims, could live together as husband and wife. Another motive, as they mention, is that the marriage is a continuation of such a practice in countries of origin. It seems also that the “marriage” allows Muslims who want to practice polygamy, or who want to marry to a person under the legally required minimum age of marriage.⁷

Drawing on the facts and practices of religious marriage in the Netherlands, this paper seeks to answer questions such as to what extent do Muslims in the Netherlands such as Imams, Muslim parents, and young Muslim couples propose or conduct such religious marriage? This leads to yet other, namely how they deal with the Dutch law regarding marriage? Before that, this paper explores the problem of technical terms and the discussions of religious marriage in Fiqh (Islamic law). Both are important as this would help to understand the Islamic context of such marriage practices in the Netherlands. At the end, this paper also addresses the position of women in such marriage practices.

¹ Anna V. Barankevych, “Special Ways to Protect The Inheritance Rights of Minors,” *Social and Legal Studies* 5, no. 3 (2022): 38–43, <https://doi.org/10.32518/2617-4162-2022-5-3-38-44>.

² Ihsan Yilmaz, “Marriage Solemnization among Turks in Britain: The Emergence of a Hybrid Anglo-Muslim Turkish Law,” *Journal of Muslim Minority Affairs* 24, no. 1 (April 1, 2004): 57–66, <https://doi.org/10.1080/1360200042000212232>.

³ Ihsan Yilmaz, “Legal Instrumentalisation, Social Engineering and Islamic Law in Turkey and Pakistan,” *SSRN*, 2018, <https://doi.org/10.2139/ssrn.3278478>.

⁴ Keith Hodkinson, *Muslim Family Law: A Sourcebook* (London and Canberra: Croom Helm, 1984).

⁵ Hodkinson.

⁶ Mai Yamani, “Cross-Cultural Marriage within Islam: Ideals and Reality,” *Cross-Cultural Marriage*, 2021, 153–69.

⁷ Wasif A R Shadid and P Sj van Koningsveld, *Muslims in the Margin: Political Responses to the Presence of Islam in Western Europe*, vol. 1 (Peeters Publishers, 1996).

METHODS

This study employed a qualitative socio-legal approach with a specific emphasis on Islamic family law to examine the dynamics of religious marriage practices (*nikāh sirrī*, *‘urfī*, and *shar‘ī*) among Muslim communities in the Netherlands. The research was conducted in several urban centers, including Amsterdam, Rotterdam, The Hague, Leiden, Delft, and Breda, which are known to have significant Muslim populations with diverse cultural backgrounds. The study adopted an empirical-legal research design that integrates doctrinal analysis of Islamic legal concepts with field-based ethnographic inquiry.⁸ This approach enables a comprehensive understanding of how Islamic marriage norms are interpreted and practiced within the context of a secular legal system such as that of the Netherlands. Primary data were collected through in-depth semi-structured interviews with 23 Muslim informants, both male and female, who were either directly involved in or knowledgeable about religious marriages. The interviews were conducted primarily in Arabic, and secondarily in English, Bahasa Indonesia, French, and Dutch with the assistance of professional translators when necessary. The sample size was determined based on the principle of data saturation; data collection was concluded once no new significant themes or variations emerged, and diverse motives for engaging in religious marriage had been identified. Then, the names listed in this article are initials or anonymous, this is done to maintain the confidentiality of informants and data.

Given the sensitive and personal nature of religious marriage practices, gaining access to informants required a careful and respectful strategy. In several cases, third parties or mediators were engaged to establish trust and facilitate contact with potential participants. To ensure the confidentiality and protection of participants, real names and specific national identities were not disclosed. All identifiers used in the research were randomized and anonymized, except in cases where informants explicitly granted permission to be mentioned. Interview transcripts were systematically analyzed using thematic content analysis to identify recurring legal, cultural, and religious patterns associated with the practice of religious marriage. The findings were then examined through the lens of Islamic legal principles (*fiqh al-usrah*) and comparative family law, particularly regarding the relationship between religious norms and state legal frameworks.⁹ This methodological framework reflects the characteristics of Islamic law research,¹⁰ in which textual-normative doctrines (classical *fiqh* and contemporary legal *fatwas*) are contextualized with empirical realities. The study does not merely describe social practices but critically analyzes how Islamic legal norms on marriage are interpreted, adapted, and negotiated by Muslim communities living under non-Islamic legal systems.

RESULT AND DISCUSSION

The Problem of Technical Term

Regarding this kind of marriage, there are actually several related terminologies namely *nikāh sirrī* (lit: secret marriage), *nikāh ‘urfī* (lit: customary marriage), and *nikāh shar‘ī* (lit: Islamic marriage), which are always confused with and overlap each other. Even though he does not mention *nikāh shar‘ī*, Shaltūt (1893-1963) in his *Fatāwā*, for example, has differentiated *nikāh*

⁸ Aikaterini Argyrou, “Making the Case for Case Studies in Empirical Legal Research,” *Utrecht Law Review* 13, no. 3 (2017).

⁹ Andrejs Vilks, Aldona Kipane, and Anatolijs Krivins, “The Role of Religious Norms in the Formation of Legal Systems: The Theological Foundations of Law in Different World Religions,” *Pharos Journal of Theology* 106, no. 3 (2025).

¹⁰ Muslih Muslih and Almi Jera Almi, “Compilation of Islamic Law within the Framework of State Typology: A Critical Analysis of the Reform of Islamic Family Law in Indonesia,” *ADHKI: JOURNAL OF ISLAMIC FAMILY LAW* 6, no. 1 (2024).

‘*urfî* from *nikâh sirrî*. He argued that *nikâh sirrî* is a marriage without the attendance of witnesses and it is not made public. The marriage is also officially not registered, and the couple lives together without people being aware of it. When it is attended by witnesses, the marriage is no longer *nikâh sirrî*, but a *nikâh shar‘î*. Shaltût actually does not mention the term *nikâh shar‘î*, but he said “...*wa kâna ṣahîhan shar‘an*” literary meaning that it is lawful in Islam.¹¹ However, Khalîl, the writer of *al-Zawâj al-Sirrî fî Awsât al-Shabâb* gives a different definition. According to him, the term *nikâh sirrî* still holds for a marriage which is attended by witnesses but not registered to any authorities. Basing himself on the semantic approach, he also coins a new term *i.e. nikâh ghayr ‘urfî* to replace the common understanding of *nikâh ‘urfî* since the *nikâh ‘urfî* is also attended by witnesses. So, if there are no witnesses, according to Khalîl, the best term to designate it is *nikâh ghayr al-‘urfî*.¹² Meanwhile, Ibn al-Jabarayn and Ibn Bâz (d. 1999), members of the Saudi Permanent Committee of Islamic Law, prefer to use the term *nikâh ‘urfî* to designate what so called *nikâh mut‘a* or temporary marriage among Shi‘î Muslims,¹³ even though Ibn Bâz is not as strict as Ibn al-Jabarayn.

The use of the term *nikâh ‘urfî* has slightly different context in the Muslim world.¹⁴ In Egypt, for example, it also has an additional substance.¹⁵ The Egyptian newspapers use the term to designate “Islamic marriage” practiced by young couples in the Egyptian universities.¹⁶ This kind of marriage fulfills all the requirements in the Islamic marriage such as the presence of two witnesses, bridal gift, but without being acknowledged by their families.¹⁷ In explaining the effect of the feminist struggle in Egypt, Zuhur even says that *nikâh ‘urfî* is to date a typically Egyptian phenomenon.¹⁸

Facing this terminological problem, Dessing and van Koningsveld at Universiteit Leiden agree to use the term “religious marriage” to designate all the kind of these marriages.¹⁹ I also will always use this neutral term in designating the marriage I am dealing with in this paper. However, what I mean exactly by religious marriage is the marriage, which is mainly not registered with the local authorities. Therefore, it also probably includes *nikâh al-misyâr* (marriage without financial agreements), *nikâh al-sigâr* (marriage as compensation), *nikâh al-ghulâm* (under-age marriage) and so forth that will also be discussed later.

¹¹ Maḥmūd Shaltût, “Al-Fatâwâ: Dirâsa Li Mushkilât Al-Muslim Al-Mu‘âṣir Fî Ḥayâtihi Al-Yawmiyya Al-‘amma,” in *Al-Fatâwâ: Dirâsa Li-Mushkilât Al-Muslim Al-Mu‘âṣir Fî Ḥayâtihi Al-Yawmiyya Al-‘amma* (Cairo: Dâr al-Shurūq Cairo, 2004), 268.

¹² Imam Hasânayn Khalîl, *Al-Zawâj Al-Sirrî Fî Awsât Al-Shabâb: Dirâsa Ijtimâ‘iyya Qânûniyya* (Cairo: Dâr Misr al-Mahrûsa, 2002).

¹³ Muhammad b. ‘Abd al-‘Azîz al-Musnad (ed.), *Fatâwâ Islâmiyya* (Riyâd: Dâr al-Watan, 1994).

¹⁴ M Rozali and Ulya Hikmah, “Married ‘Urfi Sheikh Muhammad Ali Jum’Ah’s Thoughts and Their Relevance in the Modern Era,” *SMART: Journal of Sharia, Tradition, and Modernity* 3, no. 1 (2023): 69–82.

¹⁵ Dina Taha, “Marriage Economics, Bargaining and Strategic Agency: Egyptian-Syrian Inter-marriage Practices in the Context of Displacement,” *International Journal of Intercultural Relations* 101, no. January (2024): 101995, <https://doi.org/10.1016/j.ijintrel.2024.101995>.

¹⁶ Mona Abaza, “Perceptions of ‘urfi Marriage in the Egyptian Press,” *Isim Newsletter*, 2001.

¹⁷ Dina M. Taha, “Marriage in Displacement: Gendered (Self)Resettlement Strategies of Syrian Women in Egypt,” *British Journal of Sociology* 76, no. 1 (2025): 34–49, <https://doi.org/10.1111/1468-4446.13145>.

¹⁸ Sherifa Zuhur, “The Mixed Impact of Feminist Struggles in Egypt during the 1990s,” *Middle East Review of International Affairs* 5, no. 1 (2001): 78–89.

¹⁹ Nathal M Dessing, *Rituals of Birth, Circumcision, Marriage, and Death among Muslims in the Netherlands*, vol. 2 (Leuven: Peeters Publishers, 2001).

The Religious Marriage in Normative Discourses

Generally speaking, a marriage is regarded as lawful in Islam since it meets all the conditions in terms of Islamic law.²⁰ The lawful conditions that are generally agreed by *'ulamâ'* are the presence of the groom, the bridal gift (*mahr*), the presence of guide (*wali*), and the presence of two witnesses. There is actually huge discussion on these conditions. Ibn Taymiya, for example, does not consider witnessing as a condition.²¹ Moreover, under modern Islamic family law, the majority of Muslim countries require the couple to conclude a marriage before the state authorities or register their marriage with local authorities.²² Based on the definition of religious marriage presented in the previous section, it seems that the religious marriage is greatly concerned with witnesses and marriage registration.

First, making the marriage public might emphasise the presence or the function of witnesses. I think that Abû Zahra's statement that all classical and modern *'ulamâ'* agree that the ultimate goal of the presence of witnesses is, to some extent, to make the marriage public (*al-i'ân*) to particular society²³ is the best starting point for this discussion. This leads to a question "is the presence of two witnesses as agreed by *'ulamâ'* in a marriage enough to represent the announcement?" In addition, what is the legal status of a marriage if both witnesses who attended it are somewhat ordered to keep it a secret? As far as I am concerned, regarding the function of witnessing in a marriage, there are generally two opinions of *'ulamâ'*. *First*, some *'ulamâ'* stress the presence of witnesses in a contract of marriage to be an independent condition. As long as the witnesses attend it, the marriage is automatically lawful in the sense of Islamic law. *Second*, other *'ulamâ'* emphasise the function of witnesses in spreading news of a marriage to a particular society. When the function fails, the marriage is regarded as illegal and unlawful.

Germane this problem, there are at least, according to Abû Zahra,²⁴ three comments of classical *'ulamâ'*. *First*, Mâlik (93/712-179/789) gave the opinion that witnessing is actually not a condition, but the announcement is the pertinent condition. Sahnûn al-Tanûkhî (777-854) in *al-Mudawwana al-Kubrâ*²⁵ mentions that Mâlik differentiates *nikâh al-sirr* which is intentionally kept secretly by the people involved in the contract from *nikâh bi-ghayr al-bayyina* (marriage without evidence) which is made public. Mâlik deems the former unlawful,²⁶ whereas the latter conversely is lawful. Al-Tanûkhî explains further that marriage with evidence --even with a plenty of evidences-- but is still kept secret qualifies as a kind of illegal marriage. Marriage with no evidence is conversely legal if the marriage is not kept secret. The Mâlikite *'ulamâ'* base their opinion on several texts originating from the Prophet himself ordering that the marriage be made public, even though by playing a tambourine.²⁷ Abû Bakr is reported to have said that secret marriage is

²⁰ Syawaluddin Hanafi, "Legal Politics of Changes to Marriage Laws in Indonesia," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 1 (2024): 68-85, <https://doi.org/10.32505/qadha.v11i1.8867>.

²¹ Abd al-Rahmân b. Muhammad Qâsim, *Majmû'a Fatâwâ Shaykh Al-Islâm Ahmad b. Taymiya* (Medina: Majma' Al-Mâlik Fahd, 1995).

²² Hodgkinson, *Muslim Family Law: A Sourcebook*.

²³ Muhammad Abû Zahra, *Muhâdarât Fî 'Aqd Al-Zawâj Wa Athâruhû* (Beirut: Dâr al-Fikr, 1975).

²⁴ Muhammad Abû Zahra.

²⁵ Sahnûn al-Tanûkhî, *Al-Mudawwanah Al-Kubrâ* (Cairo: Dâr al-Sa'âda, 1923).

²⁶ Sahnûn al-Tanûkhî.

²⁷ Arisman Faisol, Dkk, *Hukum Keluarga Kontemporer* (Pekanbaru: Cahaya Firdaus, 2023). See also in Hadith no. 1009 (Kitâb al-Nikâh) of Sunan al-Tirmidhî, no. 1885 (Kitâb al-Nikâh) of Sunan Ibn Mâja, and no. 15.545 in Musnad Ahmad

not permitted.²⁸ Other illegal marriages, according to the majority of Sunnite Muslims, are *nikâh mut'â* (temporary marriage), *nikâh al-sigâr* (marriage under certain condition such as that A marries his daughter or family to B and B must marry his to A), *nikâh al-misyâr* or marriage without financial support.²⁹

The second opinion is that, even though the Hanafite, Hanbalite, and Shafi'ite '*ulamâ*' also acknowledge the ultimate goal of witnessing to be announcement, they still consider the presence of witnesses an independent condition. They actually agree that it is wrong to ask the witnesses to keep the marriage secret. However, the presence of witnesses, according to them automatically makes the marriage public. Therefore, they regard all activities that physically announce the marriage e.g. *walîma* or wedding party as *sunna* (recommended) as Ibn Qudâma (d. 620/1223), a highly representative figure in the Hanbalite school of law, says.³⁰ They base their opinion on several Hadith such as *lâ nikâh illâ bi-shuhûd*, that there is no marriage except with two witnesses. They also challenge the Hadis used by the Mâlikite '*ulamâ*'. Al-Sarakhsî (d. 483/1090), a leading Hanafite figure, for example, regards those Hadis as one way among others to announce the marriage.³¹ Al-Kasânî (d. 587/1191), another Hanafite, adds that the function of witnesses is to deny of being accused as *al-sifâh* (adultery) and *zîna* (unlawfully sexual intercourse) and to deny *fitna* or disaster.³² The third opinion, Abû Zahra adds that some '*ulamâ*', after pursuing Mâlik's opinion, even say that a marriage with no single witness is lawful as long as it is announced. He unfortunately does not mention the '*ulamâ*' to whom he is referring to (n.d.: 92). Ibn Taymiya adds that there was a report regarded as coming from Ahmad b. Hanbal (164/780-241/855) that both conditions (witnessing and announcing) must be performed. However, another report also from Ahmad b. Hanbal says that only one of them must be performed.³³

Meanwhile, al-Zuhaylî (b. 1932) and Shaltût seem closer to Mâlik's opinion. Al-Zuhaylî defines *nikâh sirrî* as a marriage in which the groom asks the witnesses to keep it secret from the family of the witnesses and society.³⁴ Moreover, Shaltût states that the effort to keep a marriage secret by asking the witnesses to shut up means that the marriage has not reached its ultimate goal and vitiates the function of witnesses namely to spread the marriage to society. However, Shaltût does not mean to say that a marriage contact (*'aqd*) may not be attended by witnesses.³⁵ Commenting this problem, Muhammad Quraish Shihab (b. 1944), a contemporary very prominent Indonesian *mufassir* has coined a new term "*kerahasiaan terbatas*" (lit. limited secretness). Delivering his *fatwâ* regarding *nikâh al-sirr*, he has decided witnessing to be a condition and regards the announcement as *sunna* (recommended). Keeping the marriage secret has a tendency of equating it to *zîna*. In addition, "limited secretness" among two or three people is still acceptable as long as the witnesses and people attending the marriage are not forced to

²⁸ James Robson, "Muslim Wedding Feast," in *Glasgow University Oriental Society: Transactions* (Leiden: Brill Academic Publishers, 1961), 10.

²⁹ Abd al-Rahmân 'Abd al-Khâliq Al-Yûsuf, *Marriage in Islam* (Florida: The Dâr of Islamic Heritage 1997, 1997).

³⁰ Muwaffaq al-Dîn b. Qudâma, *Al-Mughni* (Riyâd: Dâr 'Alam al-Kutub, 1997).

³¹ Shams al-Dîn al-Sarakhsî, *Kitâb Al-Mabsûf* (Cairo: Al-Sa'âda, 1924).

³² Alâ` al-Dîn al-Kâsânî, *Badâ'i' Al-Sanâ'i' Fî Tartîb Al-Sharâ'î'* (Beirut: Dar al-Kutub al-'Ilmiyah, 1986).

³³ Abd al-Rahmân b. Muhammad Qâsim, *Majmû'â Fatâwâ Shaykh Al-Islâm Ahmad b. Taymiya*.

³⁴ Wahba Al-Zuhaylî, *Al-Fiqh Al-Islâmî Wa Adillatuhu* (Damascus: Dâr al-Fikr, 1989).

³⁵ Shaltût, "Al-Fatâwâ: Dirâsa Li Mushkilât Al-Muslim Al-Mu'âshir Fî Hayâtihi Al-Yawmiyya Al-'amma."

keep it secret.³⁶ However, a *fatwâ* issued by ʿĀlih b. Fawzân, a *mufî* in Saudi Arabia, says that as long as the conditions are met, a marriage is lawful. The *fatwâ* was issued as an answer to a question regarding the permissibility of *nikâh sirrî* in which people involved in the contract were asked to keep it secret because of the huge difference in social stratification between the couple.³⁷

Second, marriage registration has actually no debates among classical ‘*ulamâ*’. Rather it is a contemporary phenomenon of Islamic family law in the Muslim world. It seems that civil registration regarding any religious social interaction is a recent development of *fiqh* or *al-ahwâl al-shakhṣiya* (Islamic family law). Since Islamic family law deals very much with rules issued by governments of Muslim countries, each government then develops and improves Islamic family law in its own country. Moreover, efforts to reform Islamic family law were an interesting phenomenon in some Muslim countries in early twentieth century.³⁸ The compilation of *Mudawwana* (Moroccan Codification of Islamic Family Law, 1957), *Turkish Civil Code* (1926) in Turkey, and *Kompilasi Hukum Islam* [Compilation of Islamic Law, 1991] in Indonesia are some examples of this development. More particularly, the efforts to reform marriage law in Muslim world has three general purposes;³⁹ to unify the marriage law as the case of Tunisia; to enhance the status of women such as in Egypt and Indonesia; and to respond to modern developments and demands which are not met by the classical *fiqh*.⁴⁰

Almost all Muslim countries administratively and legally now oblige marriage registration. “Registration is enforced by (i) the *shari’a* court’s regretting unregistered marriages..., (ii) considering the registration certificate as the sole proof of marriage..., and (iii) making the solemnizer, bridegroom, and witnesses liable to penal sanction.”⁴¹ Some of them have even promulgated legal act for unregistered marriage.⁴² The *Egyptian Code of Organization and Procedure for Shari’a Courts of 1897* states that a marriage or divorce must be approved by an act. After a number of amendments in 1909-1910, 1911, and 1913, in the regulation of 1931, it is clearly stated that there must be an official certificate from the Egyptian authorities. Legal action of the unregistered marriage *e.g.* divorce, will not be served.⁴³ In Pakistan and Bangladesh, after having obliged registration, the *Muslim Family Law Ordinance of 1961* also mentions that failure to register a marriage could become punishable by imprisonment (three months) or a fine (1,000 rupees). Traditional Pakistani ‘*ulamâ*’ agreed the regulation with a condition that the registration

³⁶ M Quraish Shihab, *Fatwa-Fatwa M. Quraish Shihab: Seputar Ibadah Dan Muamalah* (Bandung: Penerbit Mizan, 1999). See also in M Quraish Shihab, *Wawasan Al-Qur’an: Tafsir Maudhu’i*, Bandung: PT Mizan Pustaka, 2007.

³⁷ Abû Muhammad Ashraf b. ‘Abd al-Maqsûd, *Fatâwâ Al-Zawâj Wa ‘Ashrat Al-Nisâ’* (Riyâd: Adwa’ al-Salaf, 2000).

³⁸ Lena-Maria Möller, “An Enduring Relic: Family Law Reform and the Inflexibility of Wilāya,” *The American Journal of Comparative Law* 63, no. 4 (October 1, 2015): 893-925, <https://doi.org/10.5131/AJCL.2015.0027>.

³⁹ Islam Uddin, “Reformulation of Islamic Matrimonial Law: British Muslims, Contemporary Understandings and Normative Practices,” *Journal of Muslim Minority Affairs* 40, no. 1 (January 2, 2020): 6-25, <https://doi.org/10.1080/13602004.2020.1737413>.

⁴⁰ Hafiz Falak Shair Faizi and Hafiz Sfarish Ali, “The Core Principles of Islamic Jurisprudence within Legal Theory: A Comprehensive Analysis,” *Online Journal of Research in Islamic Studies* 11, no. 2 (2024): 57-72.

⁴¹ A. Layish and R. Shaham, “Nikah; In the Modern Islamic World,” in *Encyclopaedia of Islam* (E.J. Brill, 1995).

⁴² Kieran Seager, “Muslim Reformist Thought and Rethinking the Institution of Nikah,” *SOAS LJ7* (2020): 192.

⁴³ James Norman Dalrymple Anderson, “The Syrian Law of Personal Status,” *Bulletin of the School of Oriental and African Studies* 17, no. 1 (1955): 34-49.

is only administrative and does not influence the validity of marriage.⁴⁴ However, as Esposito discusses, the implementation of the restriction is very weak.⁴⁵ *Jordanian Law No. 61 (1976)* also compels the registration and punishes whosoever (couple or officer) breaking the law. The couple shall be punishable by simple imprisonment, which may extend to six months (*Jordanian Criminal Ordinance*, Article 279), and the officer would be resigned according to *Jordanian Law No. 61/1976 Article 4*.⁴⁶ In Indonesia, a marriage solemnized under the Islamic law must be performed before and under the aegis of a marriage registration officer. Consequently, unregistered marriages have no legal power, according to *Kompilasi Hukum Islam*, Article 5-6.⁴⁷ Anyone who breaks the law will be fined a maximum of Rp. 7,500 or €0,80 (*Government Law No. 9/1975*). Iran in its *Qânûn Izdiwâz*, 1931,⁴⁸ Iraq in its *Iraq Act No. 11/1984 Article 10-11*,⁴⁹ and Syria in its *Syrian Ordinance No. 34/1975 Article 40*,⁵⁰ are among the Muslim countries, which require the registration and punish people for breaking the law.

Some Muslim countries still oblige the registration, but do not have any legal sanction to deal with unregistered marriages. In Morocco, according to *The Code of Personal Status 1957/1958 Article 42*, there must be signatures of two notaries for the validity of the registration. The original certificate must be sent to a local Moroccan court, and a copy to the office of Civil Registration Directorate.⁵¹ Lebanon (*The Law of the Right of the Family of 16 July 1962 Article 37* and *Druze Ordinance No. 24/1948*), Tunisia (*Tunisian Act No. 40/1957*), Algeria (*Algerian Law No. 84-11 1984, Article 18*), and Yemen (*Yemen Ordinance No. 20/1992*) are among Muslim countries, which only oblige the registration, but do not impose any legal consequences.⁵²

Even though this governmental regulation is mostly regarded as administrative, the process which put in place has indeed passed through theological and academic discourses. As one of his proposals to reform personal-status law in Egypt presented in Alexandria (October 5th, 1917), Ahmad Safwat, an Egyptian scholar, suggested making the contracts of marriage and divorce subject to official registration and control. Safwat based his proposal on a notion that there are three categories of rules issued by the Qur'an: rules which prohibit certain action; rules which make other actions obligatory; and rules which declare a third variety of actions permissible. With regard to the second category, he emphasized that the presence of witnesses

⁴⁴ Syed Tahir Mahmood, *Family Law Reform in the Muslim World* (Bombay: N.M. Tripathi, 1972). See also in Mehdi Rubya, *The Islamization of the Law in Pakistan, Abingdon, Routledge* (Surrey: Curzon, 1994).

⁴⁵ John L. Esposito, *Women in Muslim Family Law* (Syracuse: Syracuse University Press, 2001). See also in Muhammad Faizul Haque et al., "Women Rights to Inheritance in Muslim Family Law: An Analytical Study," *International Journal of Islamic Business & Management* 4, no. 1 (2020): 15-26, <https://doi.org/10.46281/ijibm.v4i1.543>.

⁴⁶ Mahmood, *Family Law Reform in the Muslim World*. See also in Dawoud El-Alami and Doreen Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*, vol. 2 (London: The Hague: Kluwer Law International, 2023).

⁴⁷ Muji Mulia, "PEMBAHARUAN HUKUM ISLAM DI INDONESIA (Analisis Historis Tentang Kompilasi Hukum Islam)," *Jurnal Ilmiah Islam Futura* 7, no. 1 (2018): 64, <https://doi.org/10.22373/jiif.v7i1.3056>. See also in RI Kementerian Agama, *Kompilasi Hukum Islam Di Indonesia, Direktorat Jenderal Bimbingan Masyarakat Islam, Direktorat Bina KUA Dan Keluarga Sakinah* (Jakarta: Kementerian Agama RI, 2018).

⁴⁸ Mahmood, *Family Law Reform in the Muslim World*.

⁴⁹ El-Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*.

⁵⁰ Anderson, "The Syrian Law of Personal Status."

⁵¹ El-Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World*.

⁵² El-Alami and Hinchcliffe.

leads for publicity. Publicity in turn compels the registration.⁵³

In addition, the objective of marriage registration is to maintain the rights and obligations of all parties involved in the marriage. Shaltût added that the registration is also to anticipate any disavowal promise leading to a running away from obligations. This is indeed a preventive effort.⁵⁴ Tanṭâwî, the current Grand Sheykh of Al-Azhar, issued a *fatwâ* allowing ‘urfi-wed women to divorce and has pleaded for punishment of those who practice *nikâh ‘urfi*.⁵⁵ In the general context of Indonesia,⁵⁶ as well as Tanṭâwî,⁵⁷ say that the marriage without registration will lead to sin for it breaks the regulation issued by the government and people’s representatives (*ûl al-amr*) whom Muslims are obliged to obey as the Qur’ân teaches. Therefore, the registration is in line with the spirit of the Qur’ân.

However, has the presence of two witnesses always a relationship with announcement and making public of a marriage? Muhammad Al-‘Aqîl, the current Moroccan Imam of Al-Hijrah mosque in Leiden, says that the presence of witnesses has no such relationship. The announcement or making public is different from the purpose of witnessing. A marriage, he believes, must always be made public. Therefore, *nikâh sirrî* in which the marriage is kept secret or *nikâh ‘urfi* as tremendously practised in Egyptian universities, according to Nasr Farîd Wâsil, a former Egyptian *mufîi*, is absolutely unlawful and illegitimate.⁵⁸ However, Al-‘Aqîl continues, even though the marriage is religiously lawful, registration in the *Gemeente* (municipality) is much better. He always tells all couples to have an administratively, legally, and religiously lawful marriage. The registration definitely covers the *al-maqâšid al-shar‘iya* (ultimate objectives of divine law) and a kind of *mašlahah* (benefit), which is highly taken into account in Islamic teaching. The hope is that by the presence of marriage registration and document, the rights of women and children some day will be properly protected.⁵⁹ Seyit Bedir (b. 1965), the current Turkish Imam and *khâtib* of the Mimar Sinan mosque in Leiden also shares the more or less the same ideas. He adds that women and children will be the main victims of any marriage without official documents.⁶⁰

Concluding the debates, almost all Muslim scholars agree that a marriage must be made public. All regulations in Muslim countries even oblige the registration, even though not all regulations have certain legal effects for people breaking the law. Some ‘ulamâ’ regard the presence of witnesses as being representative to making a marriage public. Some other ‘ulamâ’ contextualize the publicity function of witnesses by making the marriage subject to official registration.

⁵³ Ahmad Safwat, “Qâ’ida Işlâh Qânûn Al-Ahwâl Al-Shakhşiya,” in *The Rule of Law and Liberalism in Modern Egypt* (Stanford: Stanford University, 1968), 119–21. See also in Hussein Ali Agrama, *Islam, Sovereignty, and the Rule of Law in Modern Egypt* (Chicago: University of Chicago Press, 2012), <https://doi.org/doi:10.7208/9780226010700>.

⁵⁴ Shaltût, “Al-Fatâwâ: Dirâsa Li Mushkilât Al-Muslim Al-Mu‘âşir Fî Hayâtihi Al-Yawmiyya Al-‘amma.”

⁵⁵ Abaza, “Perceptions of ‘urfi Marriage in the Egyptian Press.” See also in Rabea Benhalim, “Contract Customization, Sex, and Islamic Law,” *Minn. L. Rev.* 108 (2023): 1861.

⁵⁶ Shihab, *Wawasan Al-Qur’an: Tafsir Maudhu’I*.

⁵⁷ Abaza, “Perceptions of ‘urfi Marriage in the Egyptian Press.”

⁵⁸ Interview with Mr. MA. See also Benhalim, “Contract Customization, Sex, and Islamic Law.”. See also in Abaza, “Perceptions of ‘urfi Marriage in the Egyptian Press.”

⁵⁹ Interview with Mr. MA.

⁶⁰ Interview with Mr. SB.

The Netherlands Cases

The issue of religious marriage in the Netherlands reflects diverse perspectives among Muslim communities, couples, Dutch society, and even foreign representatives. Many couples face difficulties when unable to conclude an official marriage through the municipality (*Gemeente*), embassies, or consulates of their countries of origin, or when registering their marriage with Dutch authorities. These challenges highlight the tension between religious practices and civil requirements, while also raising broader social concerns. Opinions from Dutch society and consular staff emphasize that the matter is not only religious but also intertwined with questions of legality, recognition, and social integration.

Imams in the Netherlands consistently encourage Muslims to pursue marriages that are valid administratively (*idâriyan*), legally (*qânûniyan*), and Islamically (*shar'îyan*).⁶¹ Couples are generally expected to marry before the *Gemeente* and then before the Imam, as is common among Indonesians and Turkish communities, while Moroccan couples often reverse the order. In some cases, both ceremonies are conducted on the same day and at the same venue, reflecting efforts to harmonize civil and religious obligations. Official marriages are considered preferable, as they satisfy both governmental requirements and religious expectations. Nevertheless, Islamic law is understood to remain independent: as long as the four essential conditions—groom, two witnesses, and *walî*—are fulfilled, the marriage is deemed religiously valid. The presence of an Imam is not strictly required, yet many couples invite or consult one to officiate. In situations where a bride lacks an ordinary *walî*, the Imam assumes the role of *walî hâkim*, functioning as a trusted authority akin to a *qâdî* in non-Muslim countries. This perception of Imams as quasi-governmental figures underscores their importance in diaspora communities. Scholars such as Van Koningsveld and Shadid have examined how Imams serve as religious authorities in Western contexts, reinforcing their central role in legitimizing marriages.⁶²

Dutch Family Law, however, imposes specific requirements for civil marriage. Couples must provide documents such as birth certificates, proof of single status, and residency permits. Foreign documents require apostille certification, and foreigners marrying Dutch nationals must obtain permission from the immigration police. Two non-Dutch nationals may marry in the Netherlands if at least one holds residency.⁶³ Religious motives remain the primary reason many Muslims choose mosque-based ceremonies, even when civil requirements are difficult to meet. Couples often describe such marriages as bringing peace to the heart and soul. Civil ceremonies offered by the *Gemeente* may take place in diverse venues—windmills, zoos, museums, castles, or historic town halls—but mosques are not included among the options. For Muslim communities, this exclusion reinforces the preference for religious ceremonies, even when civil recognition is limited.⁶⁴

The next paragraphs explore major issues related to religious marriage in the Netherlands. The issues are administrative obstacles, economic motive, Polygamy cases, and cultural practices such as under-age marriage. **First, administrative obstacles.** In many cases, Muslim immigrants in the Netherlands struggle to meet the administrative requirements

⁶¹ Interview with Mr. SB, a Turkish Imam (Mimar Sinan Mosque). Interview with Mr. MA, a Moroccan Imam (Al-Hijrah Moskee). Talking and interview with Mr. NS, an Indonesian Imam (Mesjid Al-Hikmah).

⁶² Wasif Shadid and Pieter Sjoerd van Koningsveld, *Religious Authorities of Muslims in the West: Their Views on Political Participation, Intercultural Relations and Religious Authorities: Muslims in the European Union* (Leuven: Peeters Leuven, 2002).

⁶³ Stephanie Dijkstra (ed.), *The Holland Handbook 2003-2004* (The Hague: XPAT Media, 2004).

⁶⁴ (ed.), *The Holland Handbook 2003-2004*.

necessary for an official marriage. A wide range of documents must be arranged both from the country of origin and within the Netherlands. From abroad, couples often need to obtain a new birth certificate to replace those issued after five years, or proof of single status. These documents must then be translated into Dutch and legalized by sworn translators and officials, a process that consumes significant time and financial resources. For low-income Muslims, the costs involved present a major obstacle. Time constraints also become critical when a bride is pregnant, leading some couples to conclude a religious marriage immediately rather than wait for lengthy bureaucratic procedures.⁶⁵ Within the Netherlands, municipalities (Gemeente) impose further requirements. Couples must provide valid identification cards, birth certificates, municipal registration letters (Gemeentelijke BasisAdministratie/GBA), and witnesses with clear identification. In certain cases, divorce or death certificates are also required. Additionally, the Gemeente may request an M-46 letter from the Vreemdelingendienst (Governmental Agency for Foreigners), certifying that the individual is free from terrorist connections. All foreign documents must be translated into Dutch, German, French, or English by sworn translators. For non-EU nationals, the M-46 letter confirming no objection to the marriage is mandatory.⁶⁶

Embassies and consulates of Muslim-majority countries also impose their own conditions. Moroccan and Turkish couples seeking official Islamic marriages at their respective consulates must submit passports with residence permits, birth certificates, and supporting documents from their countries of origin. Without proper administrative compliance, neither consulate can arrange or legalize the marriage. Indonesian couples face even more complex requirements at the Indonesian Embassy in The Hague. They must provide letters of request from the bride's guardian, agreements from both bride and groom, family records, parental documents from local Indonesian authorities (kelurahan), original birth certificates, and copies of passports and residence permits. Indonesians permanently residing in the Netherlands must also submit proof of single status from the local Gemeente.⁶⁷ By contrast, Egyptian couples encounter fewer obstacles. At the Egyptian Embassy in The Hague, only passports and birth certificates are required. Proof of single status is not demanded, as Egyptian law acknowledges polygyny. However, marriages are arranged only for Egyptian Muslims who are legal residents of the Netherlands.⁶⁸

The broader context of immigration sheds light on these challenges. The Netherlands has long welcomed immigrant workers, particularly from Mediterranean countries. Kayser notes that in 1975, among 214,000 immigrant workers employed in the Netherlands, approximately 33,000 (15.42%) were from Turkey and 24,000 (11.21%) from Morocco, with other Mediterranean countries contributing the remainder.⁶⁹ It is estimated that 10% of the total immigrant workforce in Western Europe originates from Islamic countries⁷⁰

⁶⁵ Interview with eleventh informant, a staff member at the embassy of a Muslim country.

⁶⁶ Uitgave Gemeente Leiden, *Huwelijk en geregistreerd partnerchap, 2004*, 7-8.

⁶⁷ Talking with Mr. MAG (Head of Protocol and Consular, Indonesian Embassy). See also Kamil (1987): 32.

⁶⁸ Interview with NS, Head of Consular Section, Egyptian Embassy.

⁶⁹ Bernard Kayser, *L'échange Inégal Des Ressources Humaines: Migrations, Croissance et Crise En Europe*, *Revue Tiers Monde* (Berlin: JSTOR, 1977).

⁷⁰ Tugrul Ansay, "Problems of Migrant Workers in Europe," in *The Reform of Family Law in Europe: The Equality of the Spouses—Divorce—Illegitimate Children* (Deventer: Springer, 1978), 323-38. See also in Arno Tausch, "Migration from the Muslim World to the West," *Jewish Political Studies Review* 30, no. 1/2 (October 20, 2019): 65-225, <https://www.jstor.org/stable/26642824>.

Within this demographic, many couples face difficulties due to irregular residency status. Some immigrants entered legally but failed to renew their permits, while others arrived illegally. To remain in the Netherlands beyond three months, foreigners must hold three permits: *Machtiging tot Voorlopig Verblijf* (authorization for temporary stay), *Verblijfsvergunning* (residence permit), and *Tewerkstellingsvergunning* (work permit).⁷¹ Without these, many immigrants remain undocumented. For such individuals, registering a marriage with the *Gemeente* risks exposure to arrest and imprisonment. Consequently, some couples resort to religious marriages officiated by Imams, which provide spiritual legitimacy without civil recognition.⁷²

Financial obstacles further complicate matters. Municipalities charge varying fees for civil marriages, with only limited free slots available. For example, in Leiden, free marriages are offered only twice weekly at 08:30 on Mondays and Tuesdays. Beyond these times, fees range from €162.79 for weekday mornings to €823.57 for evening or weekend ceremonies. Additional costs include marriage books, priced between €9.91 and €31.63 depending on the cover material. For low-income Muslims, these expenses are prohibitive. Some couples, despite registering, abandon the civil process due to long queues and high costs, opting instead for religious ceremonies.⁷³ Taken together, these administrative, legal, and financial barriers explain why many Muslim immigrants in the Netherlands resort to religious marriages. While such unions provide spiritual comfort and community recognition, they lack civil validity, leaving couples vulnerable in matters of law, inheritance, and social rights. The persistence of these challenges underscores the complex intersection of religious practice, immigration status, and state regulation in the Dutch context.

Second, economic motives. Economic considerations also play a significant role in the decision to conclude religious marriages among Muslims in the Netherlands. This motive is particularly evident in widow-widower couples.⁷⁴ Under Dutch law, widows retain rights to property and a portion of their late husband's pension. By entering into a religious marriage without registering it with Dutch authorities, they are able to preserve these entitlements while simultaneously benefiting from the financial support of a new spouse. In effect, this arrangement allows them to maintain a double income. One widow in Utrecht⁷⁵ explained that she would only remarry officially after reaching the age of sixty, when Dutch law guarantees lifelong access to these facilities. Embassy staff from her country of origin acknowledged the situation but emphasized that they could not issue administrative documents to support such marriages, while Dutch society expressed mixed reactions, with some condemning the practice as unfair.^{76,77}

A similar case was observed in Rotterdam, where a widow aged fifty-nine entered into a religious marriage with a partner of different origin. The couple planned to remarry officially later in the year to secure civil documentation. Their decision was also shaped by a mutual agreement not to have children, thereby avoiding further administrative negotiations with the

⁷¹Interview with Mr. F.

⁷²Interview with the first, sixth, eleventh, twelfth informant.

⁷³Talking with Mr. S.

⁷⁴Ministerie van Justitie, *Trouwen, geregistreerd partnerchap en samenwonen*.

⁷⁵Interview with the ninth informants.

⁷⁶Interview with the eleventh.

⁷⁷Talking with Mr. E.

municipality.⁷⁸

Third, polygamy cases. A number of Muslims still acknowledge that polygamy is permissible in Islam according to their textual understanding of Q.S. al-Nisâ' [4]: 3. The Qur'ân says, "And if you are fear that you shall not be able to deal justly with the orphan-girls, then marry to other women of your choice, two, or three, or four..." (Q.S. al-Nisâ' [4]: 3). A man, according to them, is allowed to have a maximum four wives. Almost all the tribal leaders in Arabian Peninsula before the advent of Islam had approximately several tens wives. This pre-Islamic practice unconsciously pervaded Islam throughout a long history, and influences their understanding of the verse.

The Dutch family law absolutely does not acknowledge polygamy. A husband can only marry a woman. A Turkish man living in Rotterdam, religiously married to another woman. He did not register this second marriage since Dutch law does not acknowledge polygamy. "Why should I register it with an institution which does not acknowledge it at all", says the Turkish husband.⁷⁹ He does not care of what the Dutch law says. He will not strive for the usual rights of husband and wife acknowledged by the Dutch law. He will not register his children from the second wife, for example. Interestingly he says that he can easily obtain any documents regarding his family from the countryside in Turkey where he comes from.⁸⁰

This case (polygyny) does not a matter for Egyptians since Egypt acknowledges it. The Egyptian Embassy does not need any proof of single status, or permission from the first, the second, or the third wife. The husband simply comes to the embassy and states his wishes.⁸¹ In the deed of contract (*'aqd zawâj*) which will be copied in quadruplicate, the names of the previous wife(s) are simply written. However, the religious marriage concluded by Egyptians is not prompted by the practice of polygyny. It seems that they really practise polygyny, but one of them does not have residence permit -as we describe above- while the embassy requires it.

Fourth, cultural practices; under-age marriage. Islam was introduced to Western societies through waves of Muslim immigration, and with it came a strong sense of continuity in religious teachings and practices. Many Muslims hold that Islam is not essentially subject to change, and this conviction sustains traditions across generations. One such practice is under-age marriage, referred to in fiqh as *nikâh al-ghulâm*.⁸² The issue lies in differing definitions of childhood and maturity. Historically, child marriage was not unique to Islam; it was a widespread tradition in ancient societies such as China, Japan, India, Babylonia, Rome, Athens, among Jewish communities, and in Christian Europe during the Middle Ages. Motzki has briefly examined this phenomenon in Palestine.⁸³ In contemporary times, however, reformed Islamic family law rejects the practice, and Dutch civil law explicitly prohibits marriage under the age of eighteen.⁸⁴

Under-age marriage often takes the form of arranged unions, reflecting patriarchal structures where fathers dominate decisions about what is considered "best" for their children. Such arrangements are frequently motivated by the desire to preserve social status within a

⁷⁸Interview with the third informant.

⁷⁹Interview with the eight informant.

⁸⁰Many thanks to Mrs. L who was willing to deliver my questions to this eighth informant.

⁸¹Interview with NS, Head of Consular Section, Egyptian Embassy.

⁸²Qudâma, *Al-Mughni*.

⁸³Motzki "Child Marriage in Seventeenth-Century Palestine."

⁸⁴Uitgave Gemeente Leiden, *Huwelijk en geregistreerd partnerchap*, 2004, 7-8.

community. In Indonesia, for instance, members of the Assegaf (Al-Saqqâf) family, a prominent Hadrami lineage, traditionally marry within their clan or with families of equal or higher standing. A parent of Hadrami descent but Turkish nationality in Rotterdam explained that this practice continues as a way of safeguarding family reputation.⁸⁵ Another rationale is the prevention of premarital sexual relations among youth.⁸⁶ Parents express concern that children, exposed to unsupervised environments at school or during holidays, may engage in relationships outside parental control. In this sense, under-age marriage is perceived as a form of Islamic legitimation for youthful love affairs, ensuring that relationships remain within lawful boundaries. Interviews with couples and Imams reveal that the central motivation is the desire to “communicate and relate” lawfully under Islamic law. A girl of Turkish origin with German nationality, residing in Leiden, described her plan to marry her boyfriend as a way of affirming her identity and existence within the Muslim community.⁸⁷ Importantly, these marriages do not permit couples to live together as ordinary spouses until a later, formal marriage is concluded. Parents often emphasize that arranged marriages in the Netherlands have not failed, contrasting with the potential risks of breakdowns when couples mature and encounter serious conflicts. Notably, there is no evidence of extreme practices such as marrying infants, which were historically documented in pre-modern Islamic law.⁸⁸

Scholars Van Koningsveld and Shadid report that some Muslims in the Netherlands continue to arrange marriages when one partner, usually the bride, is under the legal age.⁸⁹ Community testimonies confirm this persistence. For example, an owner of an *Islamitisch slagerij* in Leiden recounted that a friend married a sixteen-year-old girl.⁹⁰ Although Imams such as Al-‘Aqîl, a Moroccan in Leiden,⁹¹ and Seyit Bedir,⁹² a Turkish Imam, refuse to officiate such unions, they acknowledge that the practice persists within certain circles. Dutch parents, such as Mrs. Berends and her husband in Leiden, strongly oppose these marriages, arguing that they are harmful to young people, particularly girls, who deserve the freedom to enjoy their youth before assuming marital responsibilities.⁹³

Women in Religious Marriage

Generally speaking, albeit some Muslim countries have reformed their Muslim family law, the position of women in Islamic family law is still quite critical.⁹⁴ This is probably caused by the lack of good understanding among women about Islamic family law, or because a wrongful application of the law. A number of writers even consider that Islamic family law itself is

⁸⁵ Many thanks to Mrs. L who mediated me with the tenth informant.

⁸⁶ Wasif A R Shadid, *The Integration of Islam and Hinduism in Western Europe: [Proceedings of the Workshop on Religion and Emancipation of Ethnic Minorities in Western Europe Held in Leiden from the 12th Trough the 14th of September, 1990]* (Kok Pharos Publ. House, 1991). See also Sawitri Saharso et al., “No Sex before Marriage? Migrant Youth Navigating Restrictive Norms Regarding Premarital Relationships,” *Ethnic and Racial Studies* 46, no. 14 (2023): 3145-65.

⁸⁷ Interview with the seventh informant.

⁸⁸ Motzki “Child Marriage in Seventeenth-Century Palestine,” 130.

⁸⁹ Motzki “Child Marriage in Seventeenth-Century Palestine,” 130.

⁹⁰ Interview with the fifth informant.

⁹¹ Interview with Mr. MA.

⁹² Interview with Mr. SB.

⁹³ Talking with Mrs. B & her husband.

⁹⁴ Kristen Stilt, Salma Waheedi, and Swathi Gandhavadi Griffin, “The Ambitions of Muslim Family Law Reform,” *Harv. Women’s LJ* 41 (2018): 301.

complicated. Mahmood, for example, proposes that there are at least thirteen issues in Muslim family law which really needs a radical reformation. The issues include minimal age, role of *wali*, polygamy, economic competence, marriage registration, family allowance, divorce, rights and obligations after divorce, pregnancy and its implications, correct guidance right of parents, inheritance, last exhortation, and *waqf*.⁹⁵ A writer of an article exploring the high number of religious marriages (*nikâh sirri*) in Pasuruan, a small region in East Java-Indonesia, rains his angry by entitling his article with “Nikah Sirri, Pintu Darurat Lelaki Yang Dibenci Wanita” (Secret Marriage, An Emergency Gate for Men Hated by Women).^{96 97} An Indonesian NGO concerned with women rights even issued a booklet describing the negative effect of religious marriage for women. The booklet also provides some better solutions for women trapped in such a marriage.⁹⁸ It seems that these deleterious effects are also present in the Netherlands, albeit they do not appear on the surface. They probably will not reach the surface since Dutch law does not acknowledge religious marriage. Dutch law has indeed nothing to do with such marriage. Dutch law simply considers it a personal problem between man and women, or between couples living together (*samenwonen*).

Even though such a marriage is permissible in Islamic teaching, Al-‘Aqâ,⁹⁹ a Moroccan Imam in Leiden, and Bedir,¹⁰⁰ a Turkish Imam in Leiden agreed they had repugnance such a marriage. The most important point, according to them, is that the unregistered marriage is extremely dangerous and offensive to women. Bedir was once very sorry for he religiously married a man to a woman. In some days later, the marriage ended in divorce. It was finally discovered that the man married the woman in order to get his hands on and spend her money. The woman now live alone accompanied by his daughter without being well financially supported. Moreover, Naf’an,¹⁰¹ an Indonesian Imam in The Hague also admitted this serious effect for women. It has actually been found among a number of Indonesians who have entered such a marriage. After being told about this, Hendrik, a Dutch parent living in Breda seemed horrifying. “Is Islam that bad to women?” he asked doubtfully. He does not understand why this still exists. According to him, women have often suffered in an ordinary (registered) marriage. He cannot imagine women sufferings after being divorced from an unregistered marriage.¹⁰²

⁹⁵ Fouad Al Salahi and Arwa Al Aazi, “The State of Marriage in Yemen,” in *The Handbook of Marriage in the Arab World*, ed. Ahmed Aref and Md Mizanur Rahman (Singapore: Springer Nature Singapore, 2024), 381-436, https://doi.org/10.1007/978-981-97-7620-7_7.

⁹⁶ “Nikah Sirri, Pintu Darurat Yang Dibenci Wanita” in www.suara-santri.tripod.com/files/lintasan/lintasan1.htm.

⁹⁷ Andi Muhammad Akmal and Mulham Jaki Asti, “The Problems of Siri Marriage, Online Marriage and Siri Divorce and Their Legal Implications in Marriage Jurisprudence,” *Al-Risalah Jurnal Ilmu Syariah Dan Hukum* 21, no. 1 (2021): 45, <https://doi.org/10.24252/al-risalah.v1i1.22247>.

⁹⁸ Ridwan Arifin, Rodiyah Rodiyah, and Fadhilah Rizky Afriani Putri, “The Legal and Social Aspect for Underage Marriage Women’s Education Rights in the Perspective of Human Rights: Contemporary Issues and Problems,” *Sawwa: Jurnal Studi Gender* 15, no. 2 (2020): 219-40, <https://doi.org/10.21580/sa.v15i2.5165>.

⁹⁹ Interview with Mr. MA.

¹⁰⁰ Interview with Mr. SB.

¹⁰¹ Interview with Mr. MNS.

¹⁰² Talking with Mr. H.

CONCLUSION

This research has explored how religious marriages are practiced among Muslim communities in the Netherlands. The findings reveal that many Muslim scholars (*‘ulamā*) view marriage primarily as a civil contract, independent of any state legalization. This perspective is rooted in classical Islamic jurisprudence, which traditionally does not require state involvement for a marriage to be valid. However, in many Muslim-majority countries such as Egypt, Pakistan, Turkey, and Indonesia, this classical view has been reformed through the introduction of marriage registration systems, reflecting the growing role of the state in family law. As a result, the issue of religious marriage today involves two major legal authorities: Islamic religious authority (*ulama*) and state authority. These two often operate within different legal frameworks. While religious scholars rely on Islamic law as their source of legitimacy, the state applies secular legal principles. This duality is particularly visible in the Netherlands, a secular state that allows religious communities to practice their faith freely but does not legally recognize religious marriages. In this context, religious marriage is seen as a private religious matter rather than a legal institution. Consequently, the state has no direct role in regulating or validating these marriages. The study identifies at least five key motives or obstacles behind the decision of Muslim couples to conclude religious marriages without state registration: *First*, Administrative barriers, Many couples lack the legal documents required for official marriage, such as valid residence permits; *Second*, Economic considerations, some couples choose religious marriage to retain economic benefits such as pension or housing support; *Third*, Polygyny, certain men enter religious marriages to practice polygyny, which is not recognized under Dutch civil law; *Fourth*, Under-age marriage, some communities maintain cultural practices of early marriage, though child marriage as practiced in some countries of origin does not occur in the Netherlands; and *Fifth*, Financial obstacles, the costs and bureaucratic requirements of legal marriage also lead some couples to opt for religious ceremonies only.

Importantly, this study finds no indication that couples avoid registration because they reject Dutch law as un-Islamic. Rather, they perceive marriage in Islam as a personal and religious contract that can be valid without state recognition. This attitude reflects a continuity of practices from their countries of origin, adapted to local Dutch circumstances. Religious marriages, therefore, are not a phenomenon unique to Western countries; they are also widespread in Muslim-majority nations. The difference lies in how states engage with these marriages: in Muslim countries, the state often requires registration, whereas in the Netherlands, the state does not interfere in religious matters as long as they do not affect public interests. The findings also suggest that religious marriage practices evolve through a combination of continuity and change. While cultural and religious traditions are maintained, their expressions are shaped by the legal and social environment of the Netherlands. This interplay creates a unique socio-legal dynamic, in which Islamic law and secular law operate side by side, but not always in harmony. Finally, some scholars propose the development of hybrid legal frameworks often referred to as “*angrezi shariat*” by Menski and Pearl that allow certain aspects of Muslim personal law to coexist with national legal systems. Such an approach has been attempted in countries like the United Kingdom. In the Dutch context, this could offer a space where religious personal law and secular law operate in parallel, each maintaining its authority while respecting the other.

REFERENCES

- A. Layish and R. Shaham. "Nikah; In the Modern Islamic World." In *Encyclopaedia of Islam*, 28. E.J. Brill, 1995.
- Abaza, Mona. "Perceptions of 'urfi Marriage in the Egyptian Press." *Isim Newsletter*, 2001.
- Abd al-Rahmân b. Muhammad Qâsim. *Majmû'a Fatâwâ Shaykh Al-Islâm Ahmad b. Taymiya*. Medina: Majma' Al-Mâlik Fahd, 1995.
- Abû Muhammad Ashraf b. 'Abd al-Maqsûd. *Fatâwâ Al-Zawâj Wa 'Ashrat Al-Nisâ*. 'Riyâd: Adwa' al-Salaf, 2000.
- Agrama, Hussein Ali. *Islam, Sovereignty, and the Rule of Law in Modern Egypt*. Chicago: University of Chicago Press, 2012. <https://doi.org/doi:10.7208/9780226010700>.
- Akmal, Andi Muhammad, and Mulham Jaki Asti. "The Problems of Siri Marriage, Online Marriage and Siri Divorce and Their Legal Implications in Marriage Jurisprudence." *Al-Risalah Jurnal Ilmu Syariah Dan Hukum* 21, no. 1 (2021): 45. <https://doi.org/10.24252/al-risalah.v1i1.22247>.
- Al-Yûsuf, Abd al-Rahmân 'Abd al-Khâliq. *Marriage in Islam*. Florida: The Dâr of Islamic Heritage 1997, 1997.
- Al-Zuhayli, Wahba. *Al-Fiqh Al-Islâmî Wa Adillatuhu*. Damascus: Dâr al-Fikr, 1989.
- Alâ` al-Dîn al-Kâsânî. *Badâ'î' Al-Sanâ'i' Fî Tartîb Al-Sharâ'i'*. Beirut: Dar al-Kutub al-'Ilmiyah, 1986.
- Anderson, James Norman Dalrymple. "The Syrian Law of Personal Status." *Bulletin of the School of Oriental and African Studies* 17, no. 1 (1955): 34-49.
- Anna V. Barankevych. "Special Ways to Protect The Inheritance Rights of Minors." *Social and Legal Studios* 5, no. 3 (2022): 38-43. <https://doi.org/10.32518/2617-4162-2022-5-3-38-44>.
- Ansary, Tugrul. "Problems of Migrant Workers in Europe." In *The Reform of Family Law in Europe: The Equality of the Spouses—Divorce—Illegitimate Children*, 323-38. Deventer: Springer, 1978.
- Argyrou, Aikaterini. "Making the Case for Case Studies in Empirical Legal Research." *Utrecht Law Review* 13, no. 3 (2017).
- Arifin, Ridwan, Rodiyah Rodiyah, and Fadhilah Rizky Afriani Putri. "The Legal and Social Aspect for Underage Marriage Women's Education Rights in the Perspective of Human Rights: Contemporary Issues and Problems." *Sawwa: Jurnal Studi Gender* 15, no. 2 (2020): 219-40. <https://doi.org/10.21580/sa.v15i2.5165>.
- Benhalim, Rabea. "Contract Customization, Sex, and Islamic Law." *Minn. L. Rev.* 108 (2023): 1861.
- Dessing, Nathal M. *Rituals of Birth, Circumcision, Marriage, and Death among Muslims in the Netherlands*. Vol. 2. Leuven: Peeters Publishers, 2001.
- El-Alami, Dawoud, and Doreen Hinchcliffe. *Islamic Marriage and Divorce Laws of the Arab World*. Vol. 2. London: The Hague: Kluwer Law International, 2023.
- Esposito, John L. *Women in Muslim Family Law*. Syracuse: Syracuse University Press, 2001.
- Faisol, Dkk, Arisman. *Hukum Keluarga Kontemporer*. Pekanbaru: Cahaya Firdaus, 2023.
- Faizi, Hafiz Falak Shair, and Hafiz Sfarish Ali. "The Core Principles of Islamic Jurisprudence within Legal Theory: A Comprehensive Analysis." *Online Journal of Research in Islamic Studies* 11, no. 2 (2024): 57-72.

- Hanafi, Syawaluddin. "Legal Politics of Changes to Marriage Laws in Indonesia." *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 1 (2024): 68–85. <https://doi.org/10.32505/qadha.v11i1.8867>.
- Haque, Muhammad Faizul, Sohirin Mohammad Solihin, Nadzrah Ahmad, and Mohd Shah Jani. "Women Rights to Inheritance in Muslim Family Law: An Analytical Study." *International Journal of Islamic Business & Management* 4, no. 1 (2020): 15–26. <https://doi.org/10.46281/ijibm.v4i1.543>.
- Hodkinson, Keith. *Muslim Family Law: A Sourcebook*. London and Canberra: Croom Helm, 1984.
- Kayser, Bernard. *L'échange Inégal Des Ressources Humaines: Migrations, Croissance et Crise En Europe. Revue Tiers Monde*. Berlin: JSTOR, 1977.
- Kementerian Agama, RI. *Kompilasi Hukum Islam Di Indonesia. Direktorat Jenderal Bimbingan Masyarakat Islam, Direktorat Bina KUA Dan Keluarga Sakinah*. Jakarta: Kementerian Agama RI, 2018.
- Khalīl, Imam Hasānayn. *Al-Zawāj Al-Sirrī Fī Awsāṭ Al-Shabāb: Dirāsa Ijtīmā'īya Qānūniya*. Cairo: Dār Misr al-Mahrūsa, 2002.
- Mahmood, Syed Tahir. *Family Law Reform in the Muslim World*. Bombay: N.M. Tripathi, 1972.
- Möller, Lena-Maria. "An Enduring Relic: Family Law Reform and the Inflexibility of Wilāya." *The American Journal of Comparative Law* 63, no. 4 (October 1, 2015): 893–925. <https://doi.org/10.5131/AJCL.2015.0027>.
- Muhammad Abū Zahra. *Muhādarāt Fī 'Aqd Al-Zawāj Wa Athāruhū*. Beirut: Dār al-Fikr, 1975.
- Muhammad b. 'Abd al-'Azīz al-Musnad (ed). *Fatāwā Islāmīyya*. Riyād: Dār al-Watan, 1994.
- Mulia, Muji. "PEMBAHARUAN HUKUM ISLAM DI INDONESIA (Analisis Historis Tentang Kompilasi Hukum Islam)." *Jurnal Ilmiah Islam Futura* 7, no. 1 (2018): 64. <https://doi.org/10.22373/jiif.v7i1.3056>.
- Muslih, Muslih, and Almi Jera Almi. "Compilation of Islamic Law within the Framework of State Typology: A Critical Analysis of the Reform of Islamic Family Law in Indonesia." *ADHKI: JOURNAL OF ISLAMIC FAMILY LAW* 6, no. 1 (2024).
- Qudāma, Muwaffaq al-Dīn b. *Al-Mughni*. Riyād: Dār 'Alam al-Kutub, 1997.
- Robson, James. "Muslim Wedding Feast." In *Glasgow University Oriental Society; Transactions*, 10. Leiden: Brill Academic Publishers, 1961.
- Rozali, M, and Ulya Hikmah. "Married 'Urfi Sheikh Muhammad Ali Jum'Ah's Thoughts and Their Relevance in the Modern Era." *SMART: Journal of Sharia, Tradition, and Modernity* 3, no. 1 (2023): 69–82.
- Rubya, Mehdi. *The Islamization of the Law in Pakistan*. Abingdon, Routledge. Surrey: Curzon, 1994.
- Safwat, Ahmad. "Qā'ida Iṣlāh Qānūn Al-Ahwāl Al-Shakhṣīya." In *The Rule of Law and Liberalism in Modern Egypt*, 119–21. Stanford: Stanford University, 1968.
- Saharso, Sawitri, Jort van Hoogstraaten, Romy Claassen, and Milica Jokic. "No Sex before Marriage? Migrant Youth Navigating Restrictive Norms Regarding Premarital Relationships." *Ethnic and Racial Studies* 46, no. 14 (2023): 3145–65.
- Sahnūn al-Tanūkhī. *Al-Mudawwanah Al-Kubrā*. Cairo: Dār al-Sa'āda, 1923.
- Salahi, Fouad Al, and Arwa Al Aazi. "The State of Marriage in Yemen." In *The Handbook of Marriage*

- in the Arab World*, edited by Ahmed Aref and Md Mizanur Rahman, 381–436. Singapore: Springer Nature Singapore, 2024. https://doi.org/10.1007/978-981-97-7620-7_7.
- Seager, Kieran. “Muslim Reformist Thought and Rethinking the Institution of Nikah.” *SOAS LJ7* (2020): 192.
- Shadid, Wasif A R. *The Integration of Islam and Hinduism in Western Europe: [Proceedings of the Workshop on Religion and Emancipation of Ethnic Minorities in Western Europe Held in Leiden from the 12th Through the 14th of September, 1990]*. Kok Pharos Publ. House, 1991.
- Shadid, Wasif A R, and P Sj van Koningsveld. *Muslims in the Margin: Political Responses to the Presence of Islam in Western Europe*. Vol. 1. Peeters Publishers, 1996.
- Shadid, Wasif, and Pieter Sjoerd van Koningsveld. *Religious Authorities of Muslims in the West: Their Views on Political Participation. Intercultural Relations and Religious Authorities: Muslims in the European Union*. Leuven: Peeters Leuven, 2002.
- Shaltūt, Maḥmūd. “Al-Fatāwā: Dirāsa Li Mushkilāt Al-Muslim Al-Mu’āṣir Fī Ḥayātihi Al-Yawmiyya Al-‘amma.” In *Al-Fatāwā: Dirāsa Li-Mushkilāt Al-Muslim Al-Mu’āṣir Fī Ḥayātih Al-Yawmiyya Al-‘amma*, 268. Cairo: Dār al-Shurūq Cairo, 2004.
- Shams al-Dīn al-Sarakhsī. *Kitāb Al-Mabsūṭ*. Cairo: Al-Sa’āda, 1924.
- Shihab, M Quraish. *Fatwa-Fatwa M. Quraish Shihab: Seputar Ibadah Dan Muamalah*. Bandung: Penerbit Mizan, 1999.
- . *Wawasan Al-Qur’an: Tafsir Maudhu’I. Bandung: PT Mizan Pustaka*, 2007.
- Stephanie Dijkstra (ed). *The Holland Handbook 2003-2004*. The Hague: XPAT Media, 2004.
- Stilt, Kristen, Salma Waheedi, and Swathi Gandhavadi Griffin. “The Ambitions of Muslim Family Law Reform.” *Harv. Women’s LJ* 41 (2018): 301.
- Taha, Dina. “Marriage Economics, Bargaining and Strategic Agency: Egyptian-Syrian Inter-marriage Practices in the Context of Displacement.” *International Journal of Intercultural Relations* 101, no. January (2024): 101995. <https://doi.org/10.1016/j.ijintrel.2024.101995>.
- Taha, Dina M. “Marriage in Displacement: Gendered (Self)Resettlement Strategies of Syrian Women in Egypt.” *British Journal of Sociology* 76, no. 1 (2025): 34–49. <https://doi.org/10.1111/1468-4446.13145>.
- Tausch, Arno. “Migration from the Muslim World to the West.” *Jewish Political Studies Review* 30, no. 1/2 (October 20, 2019): 65–225. <https://www.jstor.org/stable/26642824>.
- Uddin, Islam. “Reformulation of Islamic Matrimonial Law: British Muslims, Contemporary Understandings and Normative Practices.” *Journal of Muslim Minority Affairs* 40, no. 1 (January 2, 2020): 6–25. <https://doi.org/10.1080/13602004.2020.1737413>.
- Vilks, Andrejs, Aldona Kipane, and Anatolijs Krivins. “The Role of Religious Norms in the Formation of Legal Systems: The Theological Foundations of Law in Different World Religions.” *Pharos Journal of Theology* 106, no. 3 (2025).
- Yamani, Mai. “Cross-Cultural Marriage within Islam: Ideals and Reality.” *Cross-Cultural Marriage*, 2021, 153–69.
- Yilmaz, Ihsan. “Legal Instrumentalisation, Social Engineering and Islamic Law in Turkey and Pakistan.” *SSRN*, 2018. <https://doi.org/10.2139/ssrn.3278478>.

———. “Marriage Solemnization among Turks in Britain: The Emergence of a Hybrid Anglo-Muslim Turkish Law.” *Journal of Muslim Minority Affairs* 24, no. 1 (April 1, 2004): 57-66. <https://doi.org/10.1080/1360200042000212232>.

Zuhur, Sherifa. “The Mixed Impact of Feminist Struggles in Egypt during the 1990s.” *Middle East Review of International Affairs* 5, no. 1 (2001): 78-89.