

International Journal of Advanced Research

Publisher's Name: Jana Publication and Research LLP

www.journalijar.com

REVIEWER'S REPORT

Manuscript No.: IJAR-57074

Title: Marriage with the intention of divorce: A jurisprudential and objective study.

Recommendation:

Accept after minor revision

Rating	Excel.	Good	Fair	Poor
Originality		✓,		
Techn. Quality		✓,		
Clarity	✓,			
Significance	✓,			

Reviewer Name: Dr.Abdul Haseeb Mir

Detailed Reviewer's Report

The manuscript titled "Marriage with the Intention of Divorce: A Jurisprudential and Objective Study" addresses a complex and controversial intersection of Islamic law, ethics, and modern social reality. Utilizing a descriptive inductive method alongside a critical analysis of scientific material, the researcher explores the phenomenon of individuals entering into a marriage contract while secretly intending to dissolve it later. The study is particularly relevant in the contemporary context of migration and economic instability, where motives for such unions range from obtaining citizenship or work permits in foreign countries to the pursuit of personal pleasure without long-term responsibility. By documenting texts from approved sources and tracing hadiths from established books of Sunnah, the paper attempts to provide a clear legal and moral standing on this practice.

The primary strength of the article lies in its rigorous effort to categorize the varied motives behind this form of marriage. The researcher correctly identifies that the shift toward "marriage with the intention of divorce" is often a byproduct of geopolitical and economic pressures that prevent Muslims from returning to their countries of origin. By distinguishing between marriages intended for "chastity" and those intended for "utilitarian gain" (such as nationality), the paper provides a nuanced view of the internal moral conflicts faced by individuals. The use of the Uthmani script for Quranic verses and the careful documentation of prophetic traditions lend the work a high degree of traditional scholarly authority, which is essential for a jurisprudential study of this nature.

Furthermore, the "Objective Study" component of the paper adds a necessary sociological dimension to the legal inquiry. The author does not merely look at the contract in a vacuum but considers the "status of

REVIEWER'S REPORT

the woman" and the broader social implications of such unions. The discussion on whether these marriages respect the inherent dignity and rights of the spouse—regardless of their religious background—is a vital inclusion. This approach allows the researcher to move beyond a binary "halal or haram" assessment to explore the ethical "spirit of the law" (Maqasid al-Shari'ah), particularly regarding the protection of the family unit and the prevention of deception.

However, for a journal-level submission, the manuscript would benefit from a more explicit engagement with the diverse schools of Islamic jurisprudence (Madhahib). While the researcher seeks to answer the ruling on this practice, the analysis would be much more robust if it compared the Hanafi, Maliki, Shafi'i, and Hanbali perspectives in a systematic narrative. For example, some classical scholars distinguish between a "condition" of divorce stated in the contract (which would invalidate it) and a "hidden intention" (which some argue does not affect the legal validity, even if it is morally reprehensible). A more detailed exploration of these classical debates would provide the depth necessary for an advanced jurisprudential study.

Another area for improvement involves the discussion on "Modern Necessity" (Darurah). The paper mentions that individuals resort to these marriages due to "injustice" or economic hardship. The author could strengthen the analysis by evaluating whether these external pressures truly meet the legal threshold of "necessity" in Islamic law. This would involve a critical look at whether the "harm" caused by the deception inherent in marriage with the intention of divorce outweighs the "benefit" of obtaining work or citizenship. Without this critical weighing of harms and benefits, the study remains somewhat descriptive and misses the opportunity to provide a definitive legal guideline for modern practitioners.

The methodological section claims to use a "scientific method" in critiquing the material, but the "Results" section could be more clearly articulated. The researcher should transition from the "inductive method" of gathering evidence to a more "deductive" application of these principles to modern cases. For instance, how should a modern Sharia court or an Islamic council in a non-Muslim country rule when such a marriage comes to light? Providing a "procedural recommendation" for contemporary scholars would make the research more impactful and practical.

The language and tone of the paper are appropriate, maintaining a balance between religious devotion and academic inquiry. However, the author should be careful to avoid repetitive phrasing in the summary and ensure that the critique of the motives is not solely based on moralizing but is firmly rooted in legal precedents. The transition between the historical documentation and the contemporary problem needs to be smoother to ensure a cohesive narrative throughout the 10-page document.

In conclusion, "Marriage with the Intention of Divorce" is an important and timely contribution to the field of contemporary Islamic studies. It successfully highlights the tension between the formal

International Journal of Advanced Research

Publisher's Name: Jana Publication and Research LLP

www.journalijar.com

REVIEWER'S REPORT

requirements of a marriage contract and the underlying ethical obligations of the parties involved. With revisions focused on a more comparative jurisprudential analysis and a deeper evaluation of the doctrine of necessity, this article will serve as a significant resource for understanding the complexities of Muslim identity and legal practice in a globalized world.

Recommendations:

- Expand the jurisprudential section to include a comparative analysis of the four major Sunni schools of thought regarding "hidden intention" (niyah) versus "explicit condition" (shart) in marriage contracts.
- Integrate a discussion on the "Objectives of Sharia" (Maqasid al-Shari'ah), specifically focusing on how marriage with the intention of divorce aligns with or contradicts the goal of "preserving progeny" and "protecting lineage."
- Evaluate the concept of "Legal Necessity" (Darurah) more critically, determining if economic or political gain justifies the use of a sacred contract for secular ends.
- Include a section on the "Rights of the Woman" in these unions, addressing the potential for exploitation and the legal recourse available to a spouse who was unaware of the other party's secret intention.
- Update the bibliography to include contemporary fatwas from recognized international bodies, such as the International Islamic Fiqh Academy or the European Council for Fatwa and Research, to provide a modern contextual baseline.
- Refine the narrative to clearly distinguish between the "legal validity" of the contract and its "moral/religious permissibility," providing a clearer set of conclusions for the reader.
-

Recommendation: Recommend for publication with minor revision.