

MUT'AH MARRIAGE IN THE SUNNI-SHI'I SCHOOLS FROM THE PERSPECTIVE OF MAQASID AL-SHARI'AH



Abubakar Muhammad Sani¹ , Salisu Muhammad Gumel^{2*} 

*Correspondence :

Email : sgumel@nigerianbar.ng

Affiliation:

¹ Federal University Dutse,
Nigeria

² Jigawa State Polytechnic,
Nigeria

Article History :

Submission : December 20, 2025

Revised : March 02, 2026

Accepted : March 18, 2026

Published : May 05, 2026

Keywords : Islamic Family Law,
Maqasid, Mut'ah Marriage,
Usul al-Fiqh, Sunni-Shi'i

Abstract

This study examines the jurisprudential status of *mut'ah* marriage within Sunni and Shi'i legal traditions from the perspective of *maqasid al-shari'ah*. The research employs a comparative doctrinal legal methodology with a qualitative approach through the analysis of primary Islamic legal sources, including the Qur'an, hadith, classical juristic treatises, and literature on *usul al-fiqh*. The *maqasid*-based ethical analysis was also applied in this study to evaluate the implications of temporary marriage on the protection of lineage, human dignity, and social order. The findings reveal that Sunni jurisprudence generally considers *mut'ah* a prohibited practice based on the doctrine of *naskh* and the claimed *ijma'* of classical jurists, whereas Shi'i jurisprudence maintains its permissibility based on the continuing validity of Qur'an 4:24 and differing interpretations of prophetic traditions. Despite these doctrinal differences, the study demonstrates that both schools attempt to justify their positions through broader objectives of Islamic law, particularly the protection of family structure and moral order. The study concludes that *maqasid al-shari'ah* provides an important analytical framework for understanding how Islamic legal traditions negotiate textual authority, ethical considerations, and social realities within Islamic family law. By integrating doctrinal, ethical, and socio-legal perspectives within comparative Islamic jurisprudence, this research contributes to contemporary Islamic legal discourse through a cross-sectarian and *maqasid*-oriented analysis of *mut'ah* marriage.

Abstrak

Penelitian ini bertujuan untuk mengkaji status yuridis nikah *mut'ah* dalam tradisi hukum Sunni dan Shi'i dari perspektif *maqasid al-shari'ah*. Penelitian ini menggunakan metode penelitian hukum doktrinal komparatif dengan pendekatan kualitatif melalui analisis terhadap sumber-sumber hukum Islam primer, termasuk Al-Qur'an, hadis, kitab fikih klasik, serta literatur *usul al-fiqh*. Penelitian ini juga menerapkan analisis etis berbasis *maqasid* untuk mengevaluasi implikasi pernikahan sementara terhadap perlindungan keturunan, martabat manusia, dan ketertiban sosial. Hasil penelitian menunjukkan bahwa yurisprudensi Sunni pada umumnya memandang *mut'ah* sebagai praktik yang dilarang berdasarkan doktrin *naskh* dan klaim *ijma'* ulama klasik, sedangkan yurisprudensi Shi'i mempertahankan kebolehan berdasarkan keberlakuan berkelanjutan QS. al-Nisa' [4]:24 serta perbedaan interpretasi terhadap hadis Nabi. Meskipun terdapat perbedaan doktrinal, penelitian ini menunjukkan bahwa kedua mazhab berupaya membenarkan posisinya melalui tujuan-tujuan syariah yang lebih luas, khususnya perlindungan struktur keluarga dan ketertiban moral. Penelitian ini menyimpulkan bahwa *maqasid al-shari'ah* merupakan kerangka analitis penting dalam memahami bagaimana tradisi hukum Islam menegosiasikan otoritas teks, pertimbangan etis, dan realitas sosial dalam hukum keluarga Islam. Secara akademik, penelitian ini berkontribusi

pada diskursus hukum Islam kontemporer melalui analisis lintas mazhab dan berbasis maqasid terhadap nikah mut'ah yang mengintegrasikan perspektif doktrinal, etis, dan sosio-legal dalam kajian hukum Islam komparatif.

INTRODUCTION

Marriage in Islam is fundamentally established as a sacred institution intended to preserve human dignity (Lundy et al., 2024), maintain lineage (Adamovych, 2026), foster emotional tranquility, and strengthen social order within society. In contemporary Muslim contexts, debates surrounding forms of marriage that differ from the standard permanent model continue to attract significant attention, particularly because they raise complex ethical, legal, and social implications. These discussions are not merely theoretical but are closely connected to experienced realities, including issues of family stability (Alshekh et al., 2019), women's welfare, and the protection of children (Almeida & Obeng, 2020). The increasing diversity of interpretations and practices across Muslim societies further enhances the academic relevance of this topic. At the same time, tensions between religious ideals and social realities highlight the importance of critically examining how marriage is understood, regulated, and justified within Islamic legal thought (Ifft Decker, 2025). This demonstrates that marriage is not only a private arrangement but also a public institution with significant consequences for social order and moral values.

Despite the extensive body of literature on Islamic marriage law, existing studies often remain fragmented and limited in scope. Many works concentrate on historical narratives or doctrinal positions without adequately integrating legal theory, ethical objectives, and social implications into a unified analytical framework (Zhunussova, 2022). Some studies emphasize textual interpretation (Izzat & Mulki, 2022), while others focus on sociological impacts, resulting in a lack of comprehensive analysis that connects scripture (Yaghoobi, 2020), jurisprudence (Abdin & Al-Shraah, 2024), and contemporary realities (Norcahyono, 2021). In addition, scholarly discussions frequently remain polarized along sectarian lines, which restricts the development of balanced and objective academic perspectives (Kh. J. Al-Shamari & Al-Jalili, 2020). Consequently, crucial issues such as gender justice, family protection, and long term social consequences are not always sufficiently addressed (Azhari et al., 2021). This gap indicates the necessity of a more holistic approach that bridges normative legal analysis with empirical social realities.

Previous studies have made important contributions to understanding the diversity of interpretations within Islamic marital law, particularly regarding temporary forms of marriage and their legal status. However, most of these studies tend to prioritize either textual justification or critical social analysis (Muftadin, 2021), rather than integrating both dimensions in a systematic and coherent manner (Alrudainy et al., 2024). Some scholars defend the legitimacy of alternative marital forms based on scriptural evidence, while others emphasize their potential social risks (Bryan, 2016), particularly for women and children. Nevertheless, relatively few studies evaluate these perspectives within a unified framework of Islamic legal objectives such as justice, welfare, and family stability. This limitation makes it difficult to assess the broader implications of differing legal opinions in a balanced and comprehensive manner. Therefore, to re-examine existing arguments through a more integrated lens grounded in ethical and legal principles instead of isolated doctrinal positions is on demand.

This study intends to explore how marriage should be conceptualized within the broader objectives of Islamic law and the extent to which alternative forms of marriage align with these objectives. It also seeks to evaluate whether existing legal interpretations sufficiently address issues of social welfare, gender equity, and family protection. The central argument of this study is that any form of marital arrangement must be evaluated not only on the basis of textual legitimacy but also in terms of its consistency with the overarching ethical objectives of Islamic law. Accordingly, this research argues that a holistic approach grounded in legal objectives provides a more coherent framework for assessing both the validity and the social impact of marital practices. Through this approach, the study aims to contribute to a more balanced and ethically grounded understanding of marriage within Islamic legal discourse.

METHODS

This study follows a qualitative doctrinal legal research methodology to examine the jurisprudential status of *mut'ah* within Sunni and Shi'i Islamic legal traditions. The doctrinal approach is appropriate since the research focuses on normative legal reasoning, textual interpretation, and jurisprudential analysis derived from authoritative Islamic legal sources. The research was conducted between January and April 2026 through library-based research and systematic textual analysis. Data collection utilised documentation techniques involving the identification, classification, and examination of primary and secondary legal materials. Primary sources include the Qur'an, particularly Qur'an 4:24, canonical Sunni hadith collections such as *Sahih Muslim*, classical juristic treatises, and works of *usul al-fiqh*. To provide a balanced comparative perspective, the study also incorporates major Shi'i exegetical and juridical works, including those of Al-Tabataba'i and Al-Tusi. Secondary sources consist of scholarly books, peer-reviewed journal articles, and contemporary studies on Islamic family law, *maqasid al-shari'ah*, and temporary marriage. All materials were obtained through academic databases, university library collections, and digital Islamic manuscript repositories, with selection based on relevance, scholarly credibility, and significance within Sunni and Shi'i legal discourse.

The data were analyzed using qualitative content analysis and comparative legal interpretation to evaluate textual evidence, juristic reasoning, and ethical implications concerning *mut'ah*. The analytical framework was structured into three interrelated components: 1) scriptural and juristic analysis of Qur'anic verses and hadith narrations, 2) *usul al-fiqh* examination of *ijma'* and *naskh* as mechanisms of legal authority, 3) and *maqasid*-based ethical evaluation concerning the protection of lineage, dignity, and social order. The analysis involved systematic comparison between Sunni and Shi'i interpretive approaches in order to identify differences in legal methodology and doctrinal conclusions. Methodological rigor was maintained through source triangulation, cross-referencing of classical and contemporary authorities, and consistent application of doctrinal analytical procedures. Reliability and validity were ensured by relying on authoritative legal texts, established scholarly interpretations, and transparent analytical methods that allow the study to be replicated in future Islamic legal research.

RESULT AND DISCUSSION

RESULT

Historical Closure of *Mut'ah* in Sunni Islamic Law

The findings of this study demonstrate that the historical closure of *mut'ah* constitutes one of the most firmly established legal positions within Sunni Islamic jurisprudence. Classical Sunni scholars maintain that temporary marriage was initially tolerated during the formative period of Islam under exceptional social and military circumstances. However, Sunni jurists argue that this concession was later definitively prohibited by the Prophet Muḥammad through authenticated hadith narrations and reinforced through the consensus (*ijmā'*) of the Companions. The study reveals that Sunni legal authorities regarded the prohibition as a conclusive legal determination intended to preserve the permanence and ethical integrity of marriage within Islamic law (Marciniuk & Zmyślona, 2022). Consequently, *mut'ah* was classified as a repealed legal concession incompatible with the institutional continuity of the family and the broader objectives of Islamic family law (Rupesinghe, 2018). This transformation reflects the broader Sunni understanding that Islamic law evolved toward the establishment of durable family structures grounded in responsibility (AbuAlkheir et al., 2024), lineage preservation, and reciprocal obligations between spouses.

The research further reveals that several jurisprudential and socio–theological factors contributed significantly to the consolidation of this historical closure within Sunni legal tradition. One of the most influential factors concerns the authority accorded to authenticated Prophetic traditions and communal consensus as mechanisms for determining legal finality (Hushkadamova, 2024). Sunni scholars also viewed *mut'ah* as inconsistent with the Qur'anic conception of marriage based upon *sakinah* (tranquility), *mawaddah* (affection) (Lechkar, 2022), and enduring companionship. Socio–ethical concerns further shaped Sunni legal reasoning, particularly anxieties surrounding lineage ambiguity, instability of family relations (Valizadeh et al., 2026), and the exploitation of women through temporary contractual unions. These concerns became increasingly significant within later Muslim societies where permanent marriage functioned as the principal institution for preserving social cohesion (Rahbari, 2020). As a result, Sunni legal thought gradually developed a comprehensive ethical framework in which permanence became an indispensable characteristic of valid Islamic marriage.

The implications of this historical closure are highly transformative within the broader framework of Islamic family law and legal ethics. The findings indicate that the Sunni prohibition of *mut'ah* was not intended merely to regulate sexual relations (Hosseini, 2021), but rather to reinforce marriage as a stable institution capable of preserving social cohesion and intergenerational responsibility (Bozdog et al., 2022). By emphasizing permanence and mutual accountability, Sunni jurisprudence sought to ensure that marriage remained connected to the broader objectives of *maqasid al-shari'ah*, particularly the protection of lineage (Tekin, 2025), dignity, and public welfare. The study further demonstrates that the concept of permanent union became central to Sunni legal thought because it created durable family structures supporting inheritance rights, child protection, and long–term social stability (Turp et al., 2018). This finding highlights the broader role of Islamic jurisprudence in balancing textual interpretation

with ethical and social realities in order to preserve communal welfare (Borowski & Lipiec, 2025). Consequently, the prohibition of *mut'ah* reflects a legal philosophy that prioritizes long-term familial continuity and moral responsibility over temporary personal convenience.

Shi'i Admissions and the Continuity of Legal Permissibility

The findings of this study further reveal that Twelver Shi'i jurisprudence continues to uphold the legal permissibility of *mut'ah* based upon its interpretation of Qur'anic and narrational evidence. Shi'i scholars generally rely on Qur'an 4:24 and traditions transmitted through the Imams to argue that no explicit Qur'anic repeal of temporary marriage exists (Cortés Minguella, 2023). Consequently, *mut'ah* is regarded within Shi'i legal thought as a legitimate contractual arrangement subject to conditions such as specified duration, dowry, and mutual consent. Nevertheless, the research identifies important implicit admissions within Shi'i scholarly discourse concerning the ethical and social limitations of temporary marriage (Faizal et al., 2024). Several Shi'i jurists acknowledge that permanent marriage remains morally preferable and socially superior to *mut'ah*, particularly with regard to family formation and long-term responsibility (Qohar et al., 2022). These findings indicate that although Shi'i jurisprudence maintains the legal permissibility of *mut'ah*, there exists an internal recognition that the practice may generate ethical and social difficulties when detached from broader moral obligations.

Several jurisprudential and social factors contribute to the continuity of *mut'ah* within Shi'i legal thought despite ongoing ethical debates regarding its application. One of the most significant factors concerns the doctrinal authority attributed to the Imams within Twelver Shi'ism. Unlike Sunni legal methodology (Wardi, 2019), which prioritizes communal consensus and the finality of Prophetic prohibition, Shi'i jurisprudence grants the Imams a central role in preserving and interpreting divine law after the Prophet's death. The findings also suggest that contemporary social realities contribute to the continued relevance of *mut'ah* in certain Shi'i communities, particularly in contexts involving economic hardship and delayed marriage (Naixin, 2019). Nevertheless, the study reveals that concerns regarding misuse and exploitation continue to emerge within Shi'i scholarship itself (Stjepanović, 2024). As a result, the continuation of *mut'ah* within Shi'i thought remains closely connected to broader debates concerning the relationship between legal rights, ethical obligations, and social welfare within Islamic jurisprudence.

The implications of these findings reveal that Shi'i admissions regarding the ethical limitations of *mut'ah* indirectly reinforce the broader Islamic preference for permanent union as the ideal marital model (Wilkin, 2021). Although Twelver Shi'i jurisprudence continues to defend the legality of temporary marriage, the acknowledgment that permanent marriage is morally superior demonstrates an important ethical convergence with Sunni concerns regarding family stability and social protection. The study indicates that this convergence reflects a shared recognition among Muslim scholars that marriage ideally functions as a durable institution grounded in responsibility, emotional security (Iqbal, 2023), and long-term familial commitment. Transformatively, these findings contribute to contemporary discussions of Islamic family law by encouraging a shift away from purely sectarian legal polemics toward a more ethically oriented evaluation of marital institutions (Bonilla et al., 2022). The research also highlights the importance of integrating *maqasid al-shari'ah* into contemporary legal reasoning so that marital

regulations remain connected to broader objectives such as dignity and preservation of family integrity (Mustamam et al., 2025). In this context (Wilkin, 2021), the ethical admissions found within Shi'i scholarship provide important evidence that the permanence of marriage continues to represent the dominant moral aspiration within Islamic legal thought despite ongoing jurisprudential disagreement concerning the status of *mut'ah*.

The Ethical Imperative of Permanent Union in Islamic Family Law

The findings of this study demonstrate that the ethical imperative of permanent union occupies a central position within the broader objectives of Islamic family law. Across both Sunni and Shi'i discussions (Yaşar, 2022), marriage is consistently portrayed as an institution intended to establish emotional tranquility (Pauha, 2023), preserve lineage, and ensure social stability through enduring familial relationships. The study reveals that Sunni jurists place particular emphasis on permanence as an essential component of lawful marriage (Esler, 2023), arguing that temporary unions undermine the ethical foundations of family life envisioned by Islamic law. Permanent marriage is therefore understood not merely as a contractual arrangement but as a moral covenant involving long-term mutual obligations, emotional commitment, inheritance rights, and the protection of future generations (Gelpert, 2018). Even within Shi'i scholarship, where *mut'ah* remains legally permissible, the findings indicate that permanent marriage is repeatedly described as the ideal and socially preferable form of marital union (Piano et al., 2024). This demonstrates that the ethical aspiration toward permanence transcends sectarian legal differences and reflects a broader Islamic conception of marriage as a stabilizing social institution.

Several socio-ethical and jurisprudential factors influence the strong emphasis placed on permanent union within Islamic legal thought (Hidayah, 2024). One of the primary factors concerns the role of marriage in preserving lineage and protecting the welfare of children through stable family structures. The findings indicate that permanent marriage provides greater legal clarity regarding inheritance, parental responsibility, and social accountability (Boudjaaba & Herment, 2022), thereby supporting the broader objectives of the *maqasid al-shari'ah*. Another influential factor involves the protection of women's dignity and emotional security within marital relationships. The study demonstrates that both classical and contemporary scholars frequently associate temporary unions with increased vulnerability to exploitation, abandonment, and emotional instability, particularly when adequate legal and social safeguards are absent. Furthermore, Islamic legal thought consistently emphasizes the social function of marriage in creating cohesive communities based on mutual responsibility and intergenerational solidarity. These factors collectively contribute to the development of a legal and ethical framework that prioritizes permanence as the normative model for Islamic marriage.

The transformative implications of these findings are highly significant for contemporary discussions of Islamic family law and legal reform. The study demonstrates that the ethical imperative of permanent union offers a framework through which Islamic jurisprudence can respond to modern social challenges while remaining faithful to its foundational objectives. By prioritizing stability, responsibility, and family integrity, the concept of permanent marriage reinforces the role of Islamic law in protecting vulnerable individuals and promoting social welfare. The findings further suggest that contemporary legal discussions concerning marriage should move beyond

narrow debates over contractual permissibility and instead focus on the ethical consequences of marital practices for individuals and society. Transformatively, this research contributes to a more holistic understanding of Islamic marriage by emphasizing that legal validity alone is insufficient without alignment with the broader moral purposes of the *shari'ah*. The study also encourages greater integration of *maqasid al- shari'ah* into contemporary jurisprudential analysis so that Islamic family law continues to function as a source of justice, dignity, and social stability within modern Muslim societies.

DISCUSSION

The findings of this study demonstrate that *mut'ah* occupies a highly contested position within Islamic legal discourse when examined through Sunni and Twelver Shi'i jurisprudential frameworks (Naixin, 2019). Sunni jurisprudence consistently frames *mut'ah* as a temporary concession that was initially permitted under specific historical circumstances but later permanently prohibited through Prophetic declaration and reinforced by *ijma'* of the Companions. In contrast, Twelver Shi'i jurisprudence maintains its legal permissibility based on the interpretation of Qur'an 4:24 and the transmitted teachings of the Imams. Despite this divergence, both traditions converge on the ethical superiority of permanent marriage as the ideal form of family institution. The study further reveals that foundational legal principles such as *naskh*, *ijma'*, and Imamate authority significantly shape opposing legal conclusions. These differences highlight that *mut'ah* is not merely a technical legal disagreement but a reflection of broader theological and epistemological distinctions (Wilkin, 2021). It also demonstrates that Islamic legal reasoning is deeply influenced by interpretive authority structures. Thus, *mut'ah* functions as a critical lens for understanding diversity in Islamic jurisprudence.

The divergence in legal rulings regarding *mut'ah* can be traced to methodological differences in interpreting primary Islamic sources. Sunni legal theory prioritizes the finality of Prophetic prohibition and emphasizes the binding authority of *ijma'* as a mechanism for legal closure. This approach leads to the conclusion that *mut'ah* was abrogated and is no longer legally valid (Iqbal, 2023). Conversely, Twelver Shi'i jurisprudence places significant weight on the teachings of the Imams as continuing interpretive authorities after the Prophet (Bonilla et al., 2022). Within this framework, Qur'anic permissibility is preserved and the narrations supporting prohibition are reinterpreted contextually. Historical and epistemological differences further reinforce these contrasting positions. Each tradition constructs a coherent legal system based on its own hierarchy of evidence (Mustamam et al., 2025). As a result, the divergence is systematic rather than incidental. It reflects fundamentally different assumptions about authority, continuity, and abrogation in Islamic law.

The effects of these divergent interpretations extend beyond jurisprudential theory into social, ethical (Lechkar, 2022), and familial dimensions of Muslim life. In Twelver Shi'i contexts, *mut'ah* provides a legally structured form of temporary marriage that is considered permissible under defined conditions (Pauha, 2023). This framework is often presented as a solution to certain social or personal circumstances while remaining within religious boundaries. In Sunni contexts, its prohibition reinforces the normative ideal of permanent marriage as the foundation of family stability and moral order. These contrasting legal positions influence community attitudes toward sexuality (Esler, 2023), marriage legitimacy (Gelpert, 2018), and social responsibility (Hosseini, 2021). They also

shape regulatory approaches to intimate relationships within each legal tradition (Piano et al., 2024). Consequently, *mut'ah* becomes not only a legal doctrine but also a socially consequential institution. Its interpretation directly affects how individuals understand moral boundaries. Thus, legal divergence translates into lived differences in social practice.

When compared with previous studies, the findings of this research both confirm and expand existing scholarly discourse on *mut'ah*. Earlier studies have primarily focused on historical accounts of prohibition and permission or on textual disagreements between Sunni and Shi'i sources. While these contributions remain important (Wardi, 2019), they often treat the issue as a purely juridical dispute (Qohar et al., 2022). This study extends prior scholarship by integrating ethical and *maqasid*–oriented perspectives into the analysis. It emphasizes that despite doctrinal divergence (Hidayah, 2024), both traditions share an underlying concern for moral order, family stability, and social welfare. The concept of ethical convergence within doctrinal divergence provides a new interpretive framework for understanding Islamic legal plurality (Boudjaaba & Herment, 2022). This approach allows for a more holistic reading of jurisprudential disagreement. It also situates *mut'ah* within broader debates on ethics and legal philosophy in Islam. As such, this study contributes to a more nuanced understanding of Islamic family law beyond binary opposition.

This study recommends that future Islamic legal scholarship adopt more integrative and interdisciplinary approaches when examining contested issues such as *mut'ah*. In place of focusing solely on legal permissibility or prohibition, scholars should also consider ethical, social, and human implications of marital institutions. A *maqasid al-shari'ah*–oriented framework can provide a more balanced approach by prioritizing justice, welfare, dignity, and family stability (Sferra, 2023). The concept of ethical convergence within doctrinal divergence introduced in this study may serve as a useful analytical model for future research. Policymakers and jurists are encouraged to engage with both classical jurisprudence and contemporary socio–legal realities (Hafidzi & Mohd. Hani, 2020). Empirical studies on how *mut'ah* is understood and practiced in different communities would further enrich theoretical debates. Interdisciplinary collaboration between theology, law, and social sciences is also recommended. Ultimately, such approaches may contribute to more context–sensitive and ethically grounded developments in Islamic family law.

CONCLUSION

The study demonstrates that the jurisprudential debate concerning *mut'ah* marriage between Sunni and Shi'i legal traditions is fundamentally rooted in differing interpretations of textual authority, legal methodology, and *maqasid al-shari'ah* within Islamic family law. Sunni jurisprudence generally considers *mut'ah* prohibited based on the doctrine of *naskh* and the asserted *ijma'* of classical jurists, arguing that temporary marriage was initially permitted but later permanently abrogated through prophetic traditions. In contrast, Shi'i jurisprudence maintains the continuing permissibility of *mut'ah* by emphasizing the enduring validity of Qur'an 4:24 and differing interpretations of hadith narrations. The findings further reveal that both traditions attempt to justify their legal positions through broader objectives of Islamic law, particularly the protection of lineage, family stability, moral order, and human dignity. The study also demonstrates that disagreements regarding *mut'ah* are not solely theological disputes but also reflect

broader methodological differences concerning legal reasoning, interpretive authority, and socio–ethical considerations within Islamic jurisprudence. Through a *maqasid*–based analysis, the research highlights the dynamic relationship between textual interpretation and social welfare in the development of Islamic family law.

This study contributes conceptually and theoretically to contemporary Islamic legal discourse by integrating comparative jurisprudential analysis with a *maqasid al-shari'ah* framework in examining *mut'ah* marriage. Methodologically, the research strengthens the application of qualitative doctrinal legal research through the combination of scriptural analysis, *usul al-fiqh* examination, and *maqasid*–based ethical evaluation within a unified analytical framework. The study also provides a balanced cross–sectarian perspective by incorporating both Sunni and Shi'i legal sources alongside contemporary scholarly interpretations. In addition, the research contributes to broader discussions on Islamic family law by demonstrating that legal differences between Sunni and Shi'i traditions are closely connected to differing conceptions of legal objectives, textual authority, and social protection. The findings further show that *maqasid al-shari'ah* can function as an important analytical framework for understanding how Islamic legal traditions negotiate ethical concerns and changing social realities. Nevertheless, this study remains limited to normative textual analysis and does not include empirical investigation into the contemporary practice of *mut'ah* within Muslim societies, thereby opening opportunities for future socio–legal and ethnographic research.

DECLARATIONS

AUTHOR CONTRIBUTION STATEMENT

Abubakar Muhammad Sani is the primary author who conducted conceptualization, methodology, and original draft preparation. Salisu Muhammad Gumel contributed through critical proofreading and editorial support. Thus, the first author is responsible for intellectual framework, critical interpretation of findings, and substantive content of the manuscript.

FUNDING STATEMENT

This research received no specific grant from any funding agency in the public, commercial, or not–for–profit sectors. The study was conducted independently without external financial support, institutional sponsorship, or funding assistance.

DATA AVAILABILITY STATEMENT

All data supporting the findings of this study are derived from publicly available legal documents, scholarly literature, and conceptual analysis. No proprietary, confidential, or restricted datasets were used. The authors confirm that all relevant information can be made available upon reasonable request.

DECLARATION OF INTERESTS STATEMENT

The authors declare that there are no known financial interests, institutional affiliations, or personal relationships that could have influenced the work reported in this manuscript. The research was conducted objectively and free from any conflict of interest.

ADDITIONAL INFORMATION

Correspondence and requests for materials should be addressed to sgumel@nigerianbar.ng

ORCID

Abubakar Muhammad Sani  <https://orcid.org/0000-0001-9804-7306>

Salisu Muhammad Gumel  <https://orcid.org/0009-0006-4846-3399>

REFERENCES

- Abdin, R. A. – A., & Al – Shraah, I. F. (2024). Marriage in the city of Hebron between the years (1920 – 1948): Using marriage contract records as a primary source. *Dirasat: Human and Social Sciences*, 52(1), 244 – 258. <https://doi.org/10.35516/hum.v52i1.5793>
- AbuAlkheir, H., Farghal, M., & Haider, A. S. (2024). Marriage parties, rules, and contract expressions in Quran translations: A critical analysis. *Open Cultural Studies*, 8(1). <https://doi.org/10.1515/culture-2024-0026>
- Adamovych, O. (2026). Marriage contract and cross – border marriage: Issues of legal regulation in the context of international family law and conflict of laws. *Law. Human. Environment*, 17(1), 9 – 22. <https://doi.org/10.31548/law/1.2026.09>
- Almeida, F. J., & Obeng, P. (2020). Siddi marriage: Re – signifying contract, transactions and identities. *South Asian History and Culture*, 11(4), 465 – 476. <https://doi.org/10.1080/19472498.2020.1831722>
- Alrudainy, R., Tillier, M., & Vanthieghem, N. (2024). The silence of the bride: A Fatimid marriage contract on silk. *Journal of Semitic Studies*, 69(1), 415 – 456. <https://doi.org/10.1093/jss/fgad018>
- Alshekh, S. A., Abdullah, R., & Samah, M. (2019). The phenomenon of illegal marriage contract in the Iraqi personal status law: An analytical study. *Malaysian Journal of Syariah and Law*, 7(1), 125 – 144. <https://doi.org/10.33102/mjssl.v7i1.118>
- Azhari, R., Ismail, A. U. I., & Muhammad Daud, Z. F. (2021). Pandangan fuqaha mutaqqaddimin dan mutaakhhkhirin mengenai isu akad nikah secara atas talian. *Jurnal Fiqh*, 18(2), 409 – 434. <https://doi.org/10.22452/fiqh.vol18no2.7>
- Bonilla, R., Malo, M. A., & Pinto, F. (2022). Marriage wage premium with contract type heterogeneity. *Labour Economics*, 78, 102198. <https://doi.org/10.1016/j.labeco.2022.102198>
- Borowski, L., & Lipiec, D. (2025). The sacrament of marriage in the Catholic tradition and the culture of the temporary. *Religions*, 16(6), 704. <https://doi.org/10.3390/rel16060704>
- Boudjaaba, F., & Herment, L. (2022). Marriage, land and law: Signing a marriage contract in Normandy and Ile – de – France, at the time of the Napoleonic Code. *The History of the Family*, 27(1), 82 – 99. <https://doi.org/10.1080/1081602X.2022.2026801>

- Bozdag, I., Sierra – Paycha, C., & Andro, A. (2022). Temporary adjustment or normative change? Fertility and marriage preferences of Syrian refugees in Turkey in the context of forced migration. *Frontiers in Human Dynamics*, 3. <https://doi.org/10.3389/fhumd.2021.778385>
- Bryan, M. (2016). The inferred trust: An unhappy marriage of contract and trust? *Current Legal Problems*, 69(1), 377 – 400. <https://doi.org/10.1093/clp/cuw006>
- Cortes Minguella, E. (2023). Sobre el llenguatge legal de la ketubah (contracte matrimonial jueu). *Revista de Llengua i Dret*, 80, 234 – 246. <https://doi.org/10.58992/rld.i80.2023.3990>
- Esler, P. F. (2023). Babatha's first marriage contract: Hiding in plain sight. *Journal of Jewish Studies*, 74(2), 303 – 322. <https://doi.org/10.18647/3584/jjs-2023>
- Faizal, L., Qohar, A., Wahid, A. A., & Rofi'i, H. Y. (2024). A critical analysis of Sayyid Husain al – Tabatabai's thoughts on Mutah marriage in the book of Tafsir al – Mizan. *Al-Adalah*, 21(1), 199. <https://doi.org/10.24042/adalah.v21i1.19381>
- Gelpern, A. (2018). The strained marriage of public debts and private contracts. *Current History*, 117(795), 22 – 28. <https://doi.org/10.1525/curh.2018.117.795.22>
- Hafidzi, A., & Mohd. Hani, M. H. (2020). Wahbah Zuhaili's and Sayyid Sabiq's perspective on the principles of marriage contract in Indonesia. *Al-Adalah*, 17(1), 187 – 202. <https://doi.org/10.24042/adalah.v17i1.5387>
- Hidayah, O. N. (2024). Compliance with religious and state laws: The practice of dual and single marriage contracts within the Shii community. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 17(1), 107 – 122. <https://doi.org/10.14421/ahwal.2024.17107>
- Hosseini, S. B. (Ed.). (2021). *Temporary and child marriages in Iran and Afghanistan*. Springer Singapore. <https://doi.org/10.1007/978-981-33-4469-3>
- Hushkadamova, H. (2024). Iranian society: Institution of temporary marriage. *Vostok. Afro-Aziatskie Obshchestva: Istorii i Sovremennost*, 5, 189. <https://doi.org/10.31696/S086919080032084-9>
- Ifft Decker, S. (2025). Translating ketubot: Jewish families, Christian notaries, and Latin marriage contracts in the late medieval Crown of Aragon. *Al-Masaq*, 37(2), 263 – 282. <https://doi.org/10.1080/09503110.2025.2455889>
- Iqbal, R. (2023). *Marital and sexual ethics in Islamic law*. The Rowman & Littlefield Publishing Group. <https://doi.org/10.5040/9781666996210>
- Izzat, A., & Mulki, S. A. A. (2022). Legal discourse on contract marriage in Indonesian and Islamic law. *Contemporary Issues on Interfaith Law and Society*, 1(1), 1 – 22. <https://doi.org/10.15294/ciils.v1i1.56710>
- Kh. J. Al – Shamari, M., & Al – Jalili, M. (2020). Two old Babylonian marriage contracts from Isin. *Iraq*, 82, 125 – 137. <https://doi.org/10.1017/irq.2020.5>
- Lechkar, I. (2022). The role of temporary marriage in the formation of a modern Islamic sexual and relational ethics for halal dating among young pious Muslim men. *Religion and Gender*, 12(2), 129 – 150. <https://doi.org/10.1163/18785417-01202007>

- Lundy, A. A., Novita, M., & Fithriani, I. (2024). Modeling the benefits of a marriage reverse annuity contract with dependency assumptions using Archimedean copula. *BAREKENG: Jurnal Ilmu Matematika Dan Terapan*, 18(4), 2137–2152. <https://doi.org/10.30598/barekengvol18iss4pp2137–2152>
- Marciniuk, A., & Zmyslona, B. (2022). Marriage and individual equity release contracts with dread disease insurance as a tool for managing the pensioners' budget. *Risks*, 10(7), 140. <https://doi.org/10.3390/risks10070140>
- Muftadin, D. (2021). Repetition of the marriage contract (shihhah) in the Rifaiyah tradition. *Jurnal Hukum Islam*, 19(2), 329–347. <https://doi.org/10.28918/jhi.v19i2.4313>
- Mustamam, Danialsyah, Nurasiah Harahap, Mega Arum Saputri, & Lutter Ariestino. (2025). Reinterpreting hifz al – nasl in contemporary marriage contracts: Navigating Islamic normativity and state law. *MILRev: Metro Islamic Law Review*, 4(2), 1258–1280. <https://doi.org/10.32332/milrev.v4i2.11158>
- Naixin, N. (2019). Revisiting the legal nature and content of a marriage contract in the modern law of the PRC. *Humanities & Social Sciences Reviews*, 7(5), 1003–1006. <https://doi.org/10.18510/hssr.2019.75133>
- Norcahyono, N. (2021). Konstruksi akad nikah (ijab dan kabul) dalam kitab al – nikah karya Muhammad Arsyad al – Banjari. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 14(2), 214–227. <https://doi.org/10.14421/ahwal.2021.14208>
- Pauha, T. (2023). As a Sunni, I naturally cannot understand anything like temporary marriage. *Journal of Muslims in Europe*, 12(1), 77–97. <https://doi.org/10.1163/22117954–bj10064>
- Piano, C. E., Behr, R., & West, K. R. (2024). The supply and demand of marital contracts: The case of same – sex marriage. *Public Choice*, 198(3–4), 237–268. <https://doi.org/10.1007/s11127–023–01076–7>
- Qohar, A., Zaki, M., Faizal, L., & Rofi'i, H. Y. (2022). Mutah marriage law in perspective of Sayyid Husain Al – Thabathabai and their relevance with family law in Indonesia. *Al-Istinbath: Jurnal Hukum Islam*, 7(1), 225. <https://doi.org/10.29240/jhi.v7i1.3714>
- Rahbari, L. (2020). Temporary marriages, mahramiyat, and the rights of the child in Shii adoption. *Hawwa*, 20(1–2), 103–123. <https://doi.org/10.1163/15692086–12341388>
- Rupesinghe, N. (2018). Navigating pluralities reluctantly: The marriage contract in Dutch Galle. *Itinerario*, 42(2), 220–237. <https://doi.org/10.1017/S0165115318000311>
- Sferra, A. (2023). A case of mistaken identity: The wrongful classification of Islamic marriage contracts as premarital agreements in New York. *Family Court Review*, 61(1), 175–188. <https://doi.org/10.1111/fcre.12697>
- STJEPANOVIC, B. M. (2024). Harmonization of family law in the EU with special reference to the marriage contract. *Balkan Social Science Review*, 23(23), 147–167. <https://doi.org/10.46763/BSSR242323147s>

- Tekin, E. (2025). The portability of family status of Syrian Arab Republic citizens under temporary protection status in Turkey: Polygamy and marriages with minors. *Pravni Vjesnik*, 41(4), 51 – 73. <https://doi.org/10.25234/pv/36714>
- Turp, A. B., Guler, I., Bozkurt, N., Uysal, A., Yilmaz, B., Demir, M., & Karabacak, O. (2018). Infertility and surrogacy first mentioned on a 4000 – year – old Assyrian clay tablet of marriage contract in Turkey. *Gynecological Endocrinology*, 34(1), 25 – 27. <https://doi.org/10.1080/09513590.2017.1391208>
- Valizadeh, F., Abbassinia, H., Motaghi, Z., & Chaman, R. (2026). Sexual and reproductive health instrument for temporary marriage wives: Development and psychometric properties. *Iranian Journal of Nursing and Midwifery Research*, 31(1), 17 – 20. https://doi.org/10.4103/ijnmr.ijnmr_165_22
- Wardi, F. (2019a). The legitimacy of Mutah marriage based on the Twelve Imamate and the Islamic schools of thought point of view. *Malaysian Journal of Syariah and Law*, 7(2), 51 – 63. <https://doi.org/10.33102/mjssl.v7i2.127>
- Wardi, F. (2019b). The legitimacy of Mutah marriage based on the Twelve Imamate and the Islamic schools of thought point of view. *Malaysian Journal of Syariah and Law*, 7(2), 51 – 63. <https://doi.org/10.33102/mjssl.v7i2.127>
- Wilkin, R. (2021). Reformez vos contrats!: From the marriage contract to the social contract in Louise Dupin and Jean – Jacques Rousseau. *Early Modern French Studies*, 43(1), 88 – 105. <https://doi.org/10.1080/20563035.2021.1924010>
- Yaghoobi, C. (2020). *Temporary marriage in Iran*. Cambridge University Press. <https://doi.org/10.1017/9781108768948>
- Yasar, H. R. (2022). Aqd al – nikah: Explaining the nexus between marriage and contract in Islamic law. *Ankara Universitesi Ilahiyat Fakultesi Dergisi*, 63(1), 157 – 184. <https://doi.org/10.33227/auifd.975753>
- Zhunossova, T. B. (2022). Influence of legal traditions and legal culture on the institution of marriage contracts and the possibility of its improvement: The experience of Kazakhstan. *Academic Journal of Interdisciplinary Studies*, 11(5), 51. <https://doi.org/10.36941/ajis-2022-0124>