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INTELLECTUAL ELITE MISLEAD THE MARRIAGE IN PAKISTAN

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Abstract

This study investigates the distortion and misrepresentation of the concept of judicial marriage in Pakistan by specific groups within the intellectual and legal community. This article investigates the ways in which lawyers and the public have misinterpreted this concept, thereby promoting practices that are in direct opposition to both Islamic principles and the country's statutory framework, through an analytical and legal review. The study underscores that marriage, across all religions and legal frameworks, is designed to be a public and publicly available institution rather than a secretive act. The research underscores that Pakistani legislation does not acknowledge "court marriage" as a distinct legal process by examining the historical progression of the concept from English law to the subcontinent. The societal repercussions of false information are also covered, including the abuse of legal power and the decline of moral and cultural norms. The conclusion of the analysis is that court marriages in Pakistan are not legally recognised, and citizens are required to rely on genuine religious and statutory procedures for the solemnisation and registration of marriages.

INTRODUCTION

A few days back, while surfing the internet, I came across some websites and Facebook pages on which lawyers across Pakistan offer their services for arranging "court marriages" to interested people (Shoukat et al., 2025). Some of them even offered to keep it "secret from the general public." They discussed the ages, documents, expenses, and other related information in a detailed and highly provocative way, which is a shame (Clark et al., 2020).

In a blind race to ape developed and modernized societies, we have lost regard for our culture, ethics, values, and above all, have ignored the basics of our religion, which is so liberal and modern (Kumar et al., 2022). It came for the guidance of people at a time when Arab society had become highly conservative, and it declared that preference would be given to a girl's wishes at the time of her marriage (Hoodfar et al, 2023). This is the religion that opens its folds for non-Muslim females to enter into wedlock with Muslim males while observing their own religion (Elmali-Karakaya et al., 2020).

But unfortunately, as a nation, we have become lethargic and reluctant to do research and learn about the basics of our religious values, rights, and duties; rather, we depend on the views and research done by the so-called Ulema, who impose their concocted views on us with false statements on religion (Beaujouan et al., 2022). Consequently, owing to a sheer lack of knowledge and awareness, we have adopted the customs and cultures of other nations of the subcontinent as our religious values (Khan et al., 2022). This is absolutely wrong and depicts the decay of ethical values in our society.

Marriage is such a beautiful and purposeful institution in all societies that not even a single religion allows it to be kept secret; rather, around the world either customarily, religiously, or by lawit should be declared and announced publicly to avoid complications of legitimacy, inheritance, and succession (Sheibani et al., 2023).

The same is the case in Islam, as it ordains that marriage should be announced and declared to the community (Erkoc Baydar et al., 2023). Amidst all these facts, these people are openly offering to keep marriages secret, and this is bound to attract complications in the future.

Literature Review

The word "Court Marriage" has not been defined in any Act, Ordinance, Rule(s), or Schedule(s) in Pakistani law (Hoque et al., 2025). Such marriages are solemnized with the help of a lawyer and recognized and ratified by a court of law (Kjosev et al., 2024). The Nikah Nama (Marriage Certificate) in this regard is registered and issued by the Nikah Registrar of the locality, not by the court (Saputri et al., 2023).

The concept of such marriages came into the subcontinent from English law. Initially, this concept was based on the social customs and religions of the parties to the marriage contract (Pedada et al., 2021). But now, it is codified not only in Pakistan but also in India and other countries of the world. India, the United Kingdom, the United States, and many other countries have their separate "Court Marriages Acts," which define the procedure of solemnizing a marriage under the supervision of the court (Findoria et al., 2024).

The basics of human nature and ethical values of all societies are almost the same; therefore, public acceptance of court marriage is far less than that of traditional and religious marriages. No society likes to keep marriages secret.

Discussion

If we analyze the situation, we find that a court marriage is contracted when one or both parties to the marriage either could not get the consent of their parents or fear they will not be allowed to marry each other. The situation may also arise due to differences in the social or economic status of the two families. Differences of religious sects, customs, or even enmity and bad blood between the two families may also cause such issues and lead the parties to solemnize their marriage against the will and wishes of their families. So, the boy and the girl decide to elope and reach the court to get married (Madsen et al., 2023).

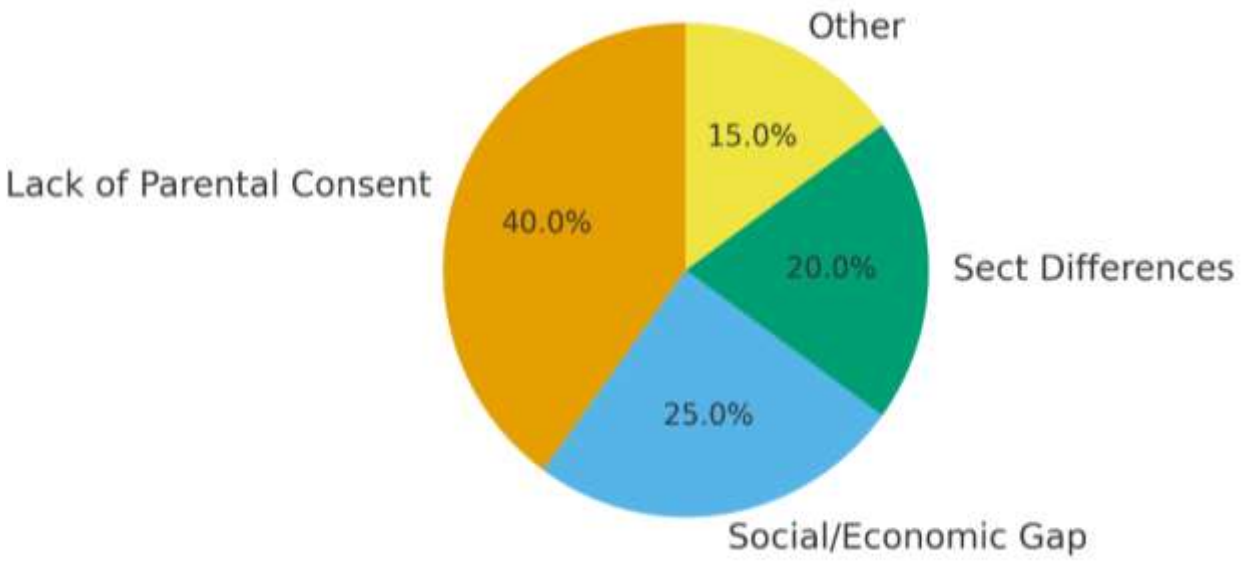


Figure 1: Social and Cultural Factors Leading to Court Marriages in Pakistan.

Even in such situations, the law authorizes the same procedure that is required for an arranged marriage. Intervention of the court is not required, and no court of law in the country is entitled to solemnize any marriage in a courtroom or issue a certificate of marriage (Islam et al., 2023).

Table 1: Comparison of Marriage Procedures

Aspect	Legal Marriage in Pakistan	Misunderstood "Court Marriage"
Registration Authority	Nikah Registrar / Union Council	Claimed to be "Court"
Documentation	CNIC, Nikah Nama, Witnesses	Affidavit before Magistrate
Religious Validation	Mandatory (Nikah Khawan)	Often bypassed
Legal Standing	Fully recognized	No standing in law

People are misguided and misled by lawyers supposed to be the educated elite of society who are legally, ethically, morally, and professionally bound to lead the society and take part in eliminating misconceptions about laws for better administration and establishing the rule of law in the country (Toussaint et al., 2021). By offering such services, these lawyers not only instigate young and innocent people but also mislead them, resulting in many social ills. They are, in effect, adding fuel to the already burning fire of other crimes in society, which we witness on TV screens and in daily newspapers (Elrod et al., 2020).

Hence, let it be very clear: there is no such thing as "Court Marriage" in Pakistan. And if a person offers to facilitate such a marriage, he is a fraud.

Table 2: Major Legal Instruments Related to Marriage in Pakistan.

Law / Act	Year	Key Focus
Muslim Family Laws Ordinance	1964	Marriage registration & rights
Child Marriage Restraint Act	1929	Minimum age for marriage
Christian Marriage Act	1872	Regulation of Christian marriages
Hindu Marriage Act	2017	Rights of Hindu spouses
Foreign Marriage Act	1903	Recognition of marriages abroad

Following laws deal with the solemnization and registration of marriages in Pakistan:

- Muslim Family Laws Ordinance, 1964
- Rules Under Muslim Family Laws Ordinance, 1965
- Child Marriage Restraint Act, 1929
- Child Marriage Restraint (Punjab Amendment) Ordinance, 1971
- The Azad Jammu and Kashmir Family Courts Act, 1993
- Births, Deaths and Marriages Registration Act, 1886
- Christian Marriage Act, 1872
- Conciliation Courts (West Pakistan Amendment) Act, 1969
- Foreign Marriage Act, 1903
- Hindu Marriage Disabilities Removal Act, 1946
- Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946
- Hindu Widows' Remarriage Act, 1856
- The Hindu Marriage Act, 2017

  The Hindu Marriage Act covers the conditions for Hindu marriages in Section 4, which reads: "A Hindu marriage shall be solemnized if the following conditions are fulfilled, namely: (a) at the time of marriage, the parties are of sound mind and capable of giving valid consent; (b) both the parties are not below the age of eighteen years; (c) the parties to the marriage are not within the degrees of prohibited relationship; and (d) neither party has a spouse living at the time of marriage:

Provided that the condition in clause (d) shall not apply where a living female spouse cannot conceive a child and is medically declared to be so."

The Act also states in Section 5: "A Hindu marriage may be solemnized in accordance with the customary rules, rituals, and ceremonies of either party thereto." A marriage certificate called "shadiparat," similar to the Nikah Nama of Muslims, will be issued for all Hindu marriages (Singh et al., 2021).

Shadiparat also proves instrumental in reducing the risk of forced second marriages, as a Hindu woman can give documentary evidence of her first marriage, without which she would be unable to protect herself from an illegal and forced second marriage (Bernardi et al., 2020). Although either spouse may petition for divorce due to desertion, if a Hindu wife is the recipient of a petition for divorce from which she will suffer grave financial hardship, she may oppose the grant of the decree before a court (Priya et al., 2021). Under Section 17 of the Act:

"A Hindu widow shall have the right to remarry of her own will and consent after the death of her husband, provided a period of six months has lapsed after the husband's death."

The Act also gives separated Hindu widows the right to remarry. If a Hindu woman is deprived of her marital rights, she may contest the marriage in a court of law. Under Section 4(d), two concurrent marriages are unlawful, and any violation of the Hindu Marriage Act, 2017, would result in prosecution for the offence of bigamy as per Sections 494 and 495 of the Pakistan Penal Code.

Therefore, keeping in view the above discussion, as vigilant citizens of this country, we all should know the basic requirements for a valid marriage, which are as follows:

- Both parties should be 18 years old or above.
- They should have a valid CNIC at the time of marriage.
- Nikah should be conducted by a registered Nikah Khawan, who is authorized by the Government to register the Nikah and keep its record with him and submit a copy to the nearby Union Council.
- Two adult witnesses at the time of Nikah.
- If the bride is below the age of 18, she should be presented by her Wali.
- Consent of both parties should be free.
- A Muslim girl can never marry a non-Muslim in any case.
- A Muslim man can marry non-Muslim girls, subject to certain technicalities.
- Dower should be discussed among parties.
- A girl who is already married cannot solemnize another marriage without getting a divorce from her husband.
- An already married man may solemnize another marriage in the presence of his first wife or wives but only with their prior permission; in violation of this condition, he shall be fined and imprisoned.

In many cases, infuriated relatives of the bride lodge case of her abduction against the groom, and the couple faces lengthy litigation. Sometimes, the wife is forced to record a statement against the husband, putting the "innocent man" behind bars.

Abdul Waheed v. Asma Jehangir (Saima Waheed Case), PLD 2004 SC 219

This landmark Supreme Court case affirmed that an adult Muslim woman possesses the legal autonomy to contract marriage without the consent of a wali (guardian). The case arose when Saima Waheed's marriage to Arshad Masih was challenged by her family. The Court held that under Islamic law and Pakistani statutes, a sane adult woman is competent to make marital decisions independently. This case became a milestone in recognizing women's right to choice in marriage, reinforcing constitutional principles of liberty and personal freedom. It continues to guide judicial reasoning in cases involving women's consent and autonomy in marital matters (Mehmood et al., 2021).

2. Mst. Khurshid Bibi v. Baboo Muhammad Amin, PLD 1967 SC 97

The Supreme Court of Pakistan ruled that a wife has the right to obtain khulʿ (divorce initiated by a woman) if the marriage relationship becomes unbearable, even without the husband's consent. This case transformed the understanding of women's rights in Islamic jurisprudence and personal law. The Court emphasized that the objectives of marriage include love and mutual respect, and where these are absent, the continuation of marriage is unjust. It

remains a cornerstone judgment that broadened judicial interpretations of marital dissolution on equitable grounds (Munir et al., 2014).

3. Mst. Balqis Fatima v. Najm-ul-Ikram Qureshi, PLD 1959 Lahore 566

This Lahore High Court case preceded Khurshid Bibi and laid the foundation for the modern interpretation of khulʿ. The court recognized that a Muslim woman may dissolve her marriage through khulʿ even if her husband refuses consent, provided she returns her dower. This decision was revolutionary at the time, challenging rigid patriarchal readings of Islamic law. The case established that personal freedom and justice outweigh mechanical adherence to marital restrictions, influencing later decisions on women's rights to divorce and marital equality in Pakistan (Munir et al., 2014).

4. Kaneez Fatima v. Wali Muhammad, PLD 1993 SC 901

In this case, the Supreme Court reiterated the principles from Khurshid Bibi and reinforced that courts must interpret family laws in light of Islamic injunctions ensuring justice and equity. The Court held that where a marriage causes hardship or violates the objectives of Islamic family life, dissolution is permissible. This case further clarified the procedural dimensions of khulʿ, ensuring that women seeking relief are not subject to unnecessary procedural delays or discrimination. It underscored the judiciary's evolving role in harmonizing statutory and religious principles regarding marriage and divorce (Munir et al., 2009).

In order to avoid these situations, when the bride and groom are not facilitated and supported by their respective families, people deceive them in the name of court marriage, and just to avoid criminal proceedings against the groom, they present the bride before an Illaqa Magistrate and submit an affidavit that she is legally married to the groom without any force or coercion, with her free will.

Conclusion

Hence, beware of this fraud named "Court Marriage" in Pakistan, as no such concept exists here. Whether your family is willing or not for a person to become your better half, the procedure of marriage is one and the same but precautions should be taken, as stated in the last paragraph, in order to avoid complications in the future.

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