READING ON WOMEN ISSUES

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OPINIONS OF CONTEMPORARY MUSLIM JURISTS ON THE REGISTRATION OF MARRIAGES

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ABSTRACT

Registration of marriages is one of the debatable issues among contemporary Muslim scholars. Considering the fact that it was not implemented during the Prophet's s.a.w time, many scholars discuss the validity of its practice as one of Shari'ah requirements to recognize a marriage contract. Thus, the main objective of this paper is to critically analyze the opinions of Muslim contemporary scholars on the registration of marriage as a requirement for a marriage contract to be recognized and officially authenticated, as currently practiced in many Muslim countries. This paper will give adequate attention to the issue regarding the Sharī'ah status,
as the registration of marriage has no basis among the Sharī‘ah requirements for a valid marriage contract. At the end of this research, findings based on the general principles of Sharī‘ah show that the registration of marriage, though not basically required for a Sharī‘ah compliant marriage, cannot as such be regarded as alien to Islamic law, as it is comfortably fitted into those aspects of Sharī‘ah meant for accommodation of contemporary issues. Prominent among these are al-Qiyās, Sadd al-Dharā‘i‘, al-Istīlāsān, Maqāsid al-sharī‘ah and as-Siyāsah al-shar‘iyyah otherwise known in “the principles of Islamic Jurisprudence” as secondary sources of Sharī‘ah.

Keywords:

1. INTRODUCTION
For Muslims, the Sharī‘ah is the law of God. God alone is the giver of law; the function of man is to comprehend the law and to obey its divine provisions. The Sharī‘ah covers all aspects of life and every field of law – constitutional, international, criminal, civil, and commercial – but at its very hearth lays the law of the family.

Although by the mid-nineteenth century, many areas of traditional Islamic law had been swept away by, inter alia, the Tanzimāt reforms, the changes in the law of the family came later and were undertaken with great delicacy. The countries of the Islamic world which felt the need to effect changes in the law of the family in order to address contemporary requirements attempted to do so within the framework of Islamic legal principles, so preserving the Islamic context of the law.