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Islām and the United Nations Human Right Charter (Universal Declaration of Human Rights Article 16) About Importance of Religion for Marriage: A Comparative Study

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Abstract:

This article explores the intersection of religion and marriage by comparing the perspectives outlined in the Universal Declaration of Human Rights (UDHR) Article 16 and *Islāmic* teachings. While both UDHR and *Islām* underscore the importance of marriage for the well-being of individuals and families, they diverge on the association between religion and marriage. The study delves into the details of UDHR Article 16 and the *Islāmic* viewpoint on the link between religion and marriage. Notably, Muslim-majority countries have endorsed the UDHR, obligating them to adhere to its 30 articles. However, an emerging realization among these nations is the divergence in opinions regarding the role of religion in marriage as stipulated in the UDHR, leading to conflicts and concerns. With approximately 1.8 billion Muslims constituting a significant portion of the global population, this article highlights the implications of the UDHR's stance on the religious aspect of marriage. It addresses the need for Muslim-majority countries to critically assess and potentially amend certain aspects of the UDHR, particularly those related to the link between religion and marriage (*Nikāh*). Simultaneously, it urges the UN Human Rights Department to reconsider this specific point in light of diverse religious beliefs, regional variations, and cultural values. The ultimate goal is to facilitate a constructive dialogue that encourages Muslim populations to recognize, reassess, and advocate for modifications in certain UDHR articles, specifically those pertaining to the religious dimension of marriage. Additionally, the article calls for the UN Human Rights Department to revisit and accommodate diverse religious perspectives, fostering a more inclusive and culturally sensitive approach within the framework of international human rights.

Keywords: *Marriage, Human Rights, Islām, UDHR, Family.*

Introduction and Overview about Mankind Creation & Its Purpose of Life

In current time Muslim population reached around 1.8 Billion people which is massive number and these are the people who believe on oneness of Allah Almighty, Prophet Muḥammad (ﷺ) as last messenger of Allah and Holy Book is authentic book for believer. Attitude of *Islām* toward Human creation is very positive¹. *Islām* believe that creation of Human being which started with Ḥaḍrat Ādam (A.S) and Ḥaḍrat Ḥawwā

(A.S) is the ever unique and strange experience of the whole universe which based on will of Allah Almighty. The birth of human is perfect and pure. The birth of Human is blessing of Allah Almighty not displeasure, birth is awareness of divine will to mankind to following his origin. Man come in this world with some specific purpose not just sake of staying for short time, in short *Islāmic* philosophy of human birth lies between decent and practical relation with man and Allah Almighty for this and upcoming world. In *Islāmic* philosophy “Alfitrah”(الْفِطْرَةَ) mean “creation” but this creation is not about genetic point of view which reduce its human parameters.² Further a well know Muslim scholar, *Imām Rāghib Aṣḥānī* explain that which mentioned in Past books, “Nature is creation and origination of things vested with apparent capacity to perform any act”.³

Overall Human rights is hot issue in recent past for both *Islāmic* and western point of view, normally when we discuss about Human rights we consider those rights only which we used in daily routine not in detail which may be used in individual as well head of family member as well. Rights of all creation including Human being change with period of time from start of humankind to till modern time of mankind. When we discuss about *Islām* and other religion, *Islām* is far better is in this way that *Islām* is not only religion its complete code of conduct both for this world and upcoming world as well, therefore *Islām* guide his follower to follow *Islām* completely not in less percentage. *Islām* start with concept of education, to knowing Allah Almighty, himself and man behaviour in whole society. *Islām* its self-mean “peace” means when you accept *Islām* as religion it means you entered in peace and will work for peace of other people mean whole surrounding. In same way the last Holy book of Allah Almighty *Qur’ān Majīd* share rights of all creation which normally a human face throughout his life. The last addressing of Holy Prophet(ﷺ) in Makkah in place of ‘*Arafāt* mentioned the complete charted of Human rights, the one of points which share with his loving companion says that “be-careful about women and salves rights”.

Religion Link with Marriage According to *Islām*

According to *Islāmic* approach, *Islām* is the religion which provide complete code of conduct regarding all aspect of this life and life after. *Islām* guide his follower and also provide complete information before and after of every part of life with grade by grade progress and day by day living, for example *Islām* provide guideline to his follower deal your children in this way and avoid other way which may cause damage your children’s and your whole family as well. In the same way, *Islām* guide his follower to do this in young age and don’t do this if you follow this checklist do and don’t it will protect you and whole society because collections of members called society. Same way *Islām* provide complete information with specific rule of laws in every stage of life ,how you deal before marriage with opposite sex and how to deal when you become married with girl ,what you need to do when you become father ,husband ,uncle ,son, grandfather same way when girl change his status from girl to wife, mother ,aunt, grandmother etc ,in short *Islām* provide good enough education to his follower in every stage of life. *Islām* is not religion it is complete *Dīn* which mean it provide the law and regulation which will help his follower to get success not only in this world but world after.

So using this concept, *Islām* provide complete information to his follower to choose

which class of partner for his or her marriage life, *Islām* give open choice to both boy and girl to choose partner of his or her choice because according to *Islām* Marriage is not a matter of one day or nights or few month or year, it's a matter of whole life of both persons even it's a matter of two families⁴.

Normally *Islām*ic law about choosing life partner is that one should choose is life partner on the basis of four different aspect, it includes wealth, family status, beauty and religion .After providing four different options to both girl and boys *Islām* also provide guideline to spouses to choose those one who is following religion if you want to succeed in this world and world after.

Muslim Marriage with Non-Believer According to Qur'an

Now with the help of *Qur'an* and *Sunnah*, we will try to explain why inter religion marriage is important according to *Islām*ic law because two major sources of *Islām*ic law are *Qur'an* the holy book and second one is *Sunnah* mean the way the Holy Prophet *Ḥaḍrat Muhammad* (ﷺ) spent his life, do not to do etc. In *Qur'an*:

وَلَا تَنْكِحُوا الْمُشْرِكِيْنَ حَتَّىٰ يُؤْمِنَ ۚ وَلَآئِمَةٌ مُّؤْمِنَةٌ خَيْرٌ مِّنْ مُّشْرِكَةٍ وَآلُوْا أَعْجَبَتْكُمْ وَلَا تُنْكِحُوا الْمُشْرِكِيْنَ حَتَّىٰ يُؤْمِنُوا وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ وَآلُوْا أَعْجَبَتْكُمْ أَوْلِيَّكُمْ يَدْعُونَ إِلِلَآئِنَّا وَاللَّهُ يَدْعُوْا إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ ۖ وَيُبَيِّنُ ءَايَاتِهِ ۖ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُوْنَ⁵

Do not marry the polytheist women, unless they come to believe (in *Islām*); a Muslim slave-girl is better than a polytheist woman, even though she may attract you; and do not give (your women) in marriage to polytheist men, unless they come to believe; a Muslim slave is better than a polytheist, even though he may attract you. They invite to the Fire when Allah invites, by His will, to Paradise, and to forgiveness. He makes His verses clear to the people, so that they may heed the advice.

As per one of the famous *Islām*ic scholars *Mufīṭ Muḥammad Taqī Uthmānī* the simple English understanding is like this, according to *Islām*ic law which derived from *Qur'an* that don't marry with Non-Muslim women till the moment they embraced *Islām*, you can marry with Muslim salve girl but not with Non-Muslim girl, even you have more attraction with Non-Muslims girls because Salve Muslim girl is better than Non-Muslim attractive women or girl.

In the same Allah Almighty give order in form of *Qur'ānic* word that not give your women for marriage to Non-Muslim men till the moment they become believer because Muslim Salve man is far better than Non-Muslim men even though Non-believer have more attraction for you⁶. As per *Islām*ic law according to *Qur'an*, Allah Almighty call you for paradise but non-believer surly will call you for destruction mean fire of hell.

Islāmic Law about Muslim Marriage with People of the Book

One of another verse of *Qur'an* also provide enough information about importance of religion in *Islām* because *Islām* wants his follower to be successful in this world and world after.

الْيَوْمَ أُحِلَّ لَكُمْ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حِلٌّ لَّكُمْ وَطَعَامُكُمْ حِلٌّ لَّهُمْ وَ الْمُحْصَنَاتُ

مِنَ الْمُؤْمِنَاتِ وَ الْمُحْصَنَاتِ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أُجُورَهُنَّ مُحْصَيْنِينَ
غَيْرِ مُسْفِحِينَ وَلَا وَ أُجُورَهُنَّ مُحْصَيْنِينَ غَيْرِ مُسْفِحِينَ وَلَا مُتَّخِذِي أَخْدَانٍ وَمَنْ يَكْفُرْ بِالْإِيمَانِ
فَقَدْ حَبِطَ عَمَلُهُ وَبَوَى فِي الْآخِرَةِ مِنَ الْخَسِرِينَ⁷

This day, good things have been made lawful for you. The food of the people of the Book is lawful for you, and your food is lawful for them, and good women from among believers, and good women from among those who were given the Book before you, provided you give them their dowers, binding yourself in marriage, neither going for lust, nor having paramours. Whoever rejects Faith, his effort will go to waste and, in the Hereafter, he will be among the losers.

One of the understanding of above verse is like this “Allah Almighty made good things legalized, material regarding food which may belong to Christians or Jews become legal for Muslims as well, same for believer as well. One of the other point which mentioned in above verse that the women which having good character whether they belong to other religion like Christianity or Jewish is Halal (Permissible) for Muslim men after pay “*Mahr*” but considering this point that they should believe on this that next generation surly become Muslim, also this marriage should be for your modesty not for your desiring because Almighty know very well which you are doing and what is hiding. Allah Almighty will destroy the all deeds of non-believer on the day of judgement.

Concept of Inter-Religion Marriage In Islām

This point of inter religion marriage also mentioned in *Sunnah* of Holy Prophet Ḥaḍrat Muḥammad Peace be upon as Narrated in *Ṣaḥīḥ Bukhārī*:

عَنْ أَبِي هُرَيْرَةَ . رَضِيَ اللَّهُ عَنْهُ . عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ " تَنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ
لِمَالِهَا وَلِحَسَبِهَا وَجَمَالِهَا وَلِدِينِهَا ، فَاظْفَرْ بِذَاتِ الدِّينِ تَرِبَتْ يَدَاكَ"⁸

Narrated by *Abū Hurairah*: The Prophet (ﷺ) said, "A woman is married for four things, i.e., her wealth, her family status, her beauty and her religion. So, you should marry the religious woman (otherwise) you will be a loser.

As mentioned in above Hadiths that if you want to marry with someone you need to consider four basic points which need to be consider before finalizing the marriage decision, you need to check her property status, domestic status, attractiveness and most important affiliation with religion here its mean religion of *Islām*. *Islām*ic law under *Sunnah* of Holy Prophet Ḥaḍrat Muḥammad ﷺ that as *Islām* follower you need to consider religion mean *Islām* follower lady as first option if you want to get success in this or after world.

Men and Women are Blessing for Each Other

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ
فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ⁹

And of His Signs is that He has created mates for you from your own kind that you may find peace in them and He has set between you love

and mercy. Surely there are Signs in this for those who reflect.

It is clear from that your women or wives are one of sign of Allah Almighty who create for you man, through these you got peace from them, Allah Almighty also put love and mercy between you and here these are the signs for those who believe on it.

Further it's also mentioned in above verse of *Qur'ān* that in general way the main purpose of marriage exist in three main points called calmness, liking, kindness in marital affairs for whole family. In first purpose Calmness meant that both wife and husband will leave under calmness for both the family and sibling. The second purpose is affection or liking its mean that both Husband and Wife should act under liking and affection to leave peaceful life. The Third and final message of above verse is that both Husband and wife both have strong common feeling and have sympathetic to each other.

UDHR Article 16 Details According to UN

Before discussing the details, it is appropriate to mention the provisions of the said article, which are as follows:

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.¹⁰

Normally most of the articles of UDHR started with words of everyone, All, No one etc., without difference of gender, male or female but article 16 started with “Men and Women” mean that this article is describing a point which related to both gender about marriage right.

Earlier it seems that this article considers to limiting heterosexual marriage but now it considers that this marriage act is for both type of marriage whether a man marry with woman or Man marry with Man or Woman marry with Woman, it seems. In recent time UN Human rights departments urging different states to consider same sex marriage as legal, means that State need to protect all types of marriages whether it's between, man and woman, Man and Man or between Girl and Girl. After this most of the countries started modification marriage act according to UN standard¹¹.

Article 16 is about marriage right of Human being. It is stated that every adult both man or woman have the right to get marriage and start new family if they want. Same manner Man and woman have same right of divorce. One more point is added in this regard that it is duty of state to protect family as well.

In addition, the people who not supporting marriage or marriage life will impact their civilized status in their society so after this, south African court reject the definition of marriage that it is civilized contract between only man and woman, means that this contract may be between same sex as well. It is mentioned in other report from Pakistan that we human should have a legal forum that have both international and domestic impact.

This article was also the response of Nazi Law which say Inter-Racial marriage is prohibited so this article allows every man and woman of full age to get marriage and complete their family without any limitation of race, Nationality or religion. This article also allows both man and woman equal right before, after even closing of marriage contract.

This article is about the marriage agreement between two personalities which normally mean man and women but now also consider person to person, woman to woman and many other options like transgender girl to transgender boy etc. and now it come addition with marriage with himself or herself.

This marriage is between two different person or personalities mean mainly agreement between two people like man and woman and person to person, woman to woman and many other options like transgender girl to transgender boy etc. mean these two people look after each other and society will help them to live peaceful and calm life to avoid any conflict¹².

In second part of the article mentioned that “marriage shall be entered into only with the free and full consent of the intending spouses.” Here it includes the word “Full age” of first part of article because free and full consent also depend on full age as well because these aspects are interlinked with each other but unluckily under age marriage is big issue which world is facing, in recent time around one Million girls married under age of eighteen every month.

Related to above discussion one supportive issue is mentioned that “Forced Marriage” ,means that in different part of the world girls married with man with high difference of age with paying bride price as mentioned in description south Sudan where a father of sixteen year old girl put auction ,sixteen year old girl available for marriage using social media plate form of Facebook and get highest price which upraise the other people to put bride on social media for marriage etc., although Facebook face lot of pressure about this auction.

A recent decision from International criminal court against specific army “in the case against Dominic Ongwen of the Lord’s Resistance Army that forced marriage, when part of a widespread or systematic attack against civilians, may amount to a crime against humanity was, for many, a welcome development in jurisprudence.” So, it’s necessary to achieve acceptable result for human being that injustice or war attack against any poor or developing countries may cause increase crime against humanity.

According to report of 2018 mentioned by committee who protecting woman rights in Kyrgyz Republic that government is failed to implement those laws who protect woman rights regarding marriage to sop force marriage ,sexual violence which damage woman right according to this article that every woman should have her free and full consent to get marriage .This also mentioned in the report that government of Kyrgyz Republic also fail to fulfil basic steps to avoid bridal kidnapping which is their domestic norm “It also found that the Kyrgyz Republic had knowingly failed to take effective measures to address discriminatory stereotypes and norms that legitimize bride kidnapping, as well as to enforce existing laws criminalizing the practice alongside child marriage” means that bride kidnapping is going to be their continuous domestic tradition and

government is not in this position to change it forcefully.

One of another topics under article 16 is that having family right mean that having family is the right of every man and woman who got married. Its mean that “right to found a family” reflects the prevailing morality of the time associating families with marriage “mean that after getting married it’s the conscious decision of both man and woman to having family ,further need to add the right to plan and control of birth and reproduction of upcoming child even now add a right” to in-vitro fertilization which mean that test tube baby where man and woman sperm mutually added in laboratory and put in woman ovary to proceed to child birth .

In 2012, Navi Pillay ex UN Human right chief discussed that sexual violence and rejection of contraception are the normal issue which used against woman which damaging women personalities internally and externally badly, Further UN Human right chief focus on that it’s needs to be add in the basic rights of the woman that they must have enough power to protect their bodies and it will be the first step to gain equality between men and women because without providing these basic rights to women UN cannot achiever target to provide equal right to women even in developed countries ,further she explained that even in personal issue such as it’s should be the right of the women when ,how and with whom she want sex, in next step she also mentioned that it should be the right of the women when ,how and with home she select to have family meaning having children’s come under women domain. Only Women have the power to when, how and whom she wants sex relationship and having babies.

In short, it’s the right of every men and women of adult age to have marriage with opposite or equal sex or sex of her or him choice without considering race, any nation, any religion to complete their families with their own willing with complete authority of women to how, when and whom they want sex relation and whom they want to having babies for growing next generation.

In addition, both man and woman have equal right to having before marriage, having marriage and even they have equal right to close this chapter of marriage. Further both men and women have the same right to choose their life partner with free and full choice, mean that it’s right of a man to choose his life partner with his full free choice without any influence of family or domestic norms. In the same way woman have the same right to choose her life partner with full of her choice without considering any influence. Family is the basic unit of the family to it’s the duty of society and state to support family and put effort to take necessary action to protect family and its member.

Marriage Link with Religion: *Islām* & UDHR Article 16

Islām does not support to marriage with Non-Muslim girls or boys till they accept *Islām*. *Islām* Support to marriage with book People but only for those who have clear vision and Practice of Christianity and Jewish, in recent time looks near to impossible to marriage with so called book people because they almost divert from their original Religion.

Islām provide complete information to his follower to choose which class of partner for his or her marriage life, *Islām* give open choice to both boy and girl to choose partner of his or her choice because according to *Islām* Marriage is not a matter of one day or

nights or few month or year, it's a matter of whole life of both persons even it's a matter of two families¹³. Normally *Islāmic* law about choosing life partner is that one should choose is life partner on the basis of four different aspect, it includes wealth, family status, beauty and affiliation with religion. After providing four different options to both girl and boys *Islām* also provide guideline to spouses to choose those one who is following religion if you want to succeed in this world and world after.

According to United Nation or UDHR all human being is equal and have the right to enjoy their life freely without considering any type of nationality, area, colour, contest, linguistic, Political point of view or any type of background.

These types of statement mentioned in United Nation Human rights related document because claim of UDHR that all human beings belong to same family so under this point every human have the equal right to know his dignity as member of Human being family which help the whole world to keep this world as peaceful space to living place. The United Nation official document about international treaties is a book called "The core international Human rights Treaties" mentioned in Page #97 of this book that ,This statement is mentioned under Child rights convention "Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status¹⁴.

In other word Universal Declaration of Human Rights focused and clear about this points that every human come in this world as free human and not have the power to change him in any type of slavery which may be in type of any gender discrimination, any type of race, any type of colour, any type of regional superiority, any type of skin colour, any political or economic opinion, any social order he or she follow and belong to any religion.

Conclusion

Religion link with Marriage concept is one of the burning issue for discussion between *Islāmic* community and Universal Declaration of Human Right because both team having their own solid point of view, now it's up to the present and forthcoming researcher that how they associate between Religious beliefs and Human Rights angles permitting to changed cultures and standards. Actually this comparison or dissimilarity of opinion is about religious belief, regional ethics, social value and United Nation Human Right Standard. *Islāmic* concept of Religion regarding Marriage supporting Inter religion marriage and marriage with book people while UDHR documented article 16 backup that a marriage can be done between two person without considering any type of religious beliefs, people of any religion can married with anyone who having religion or don't ,UDHR consider having religion as personal matter not society matter. This battle or alternative type of opinion between *Islām* and UN Human Right department is test for these two parties to be-composed take obligatory action to protecting all religious and culture adjustment while concluding Universal human rights characters. One of the explanation regarding Religion link with marriage is like that both UN Human right department and *Islāmic* group of competent people recognize

each other on mutual ground, negotiation need to encourage to provide respect religious views, cultures, regional value which proceeding peace and Harmony through International Human Right.

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