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**MUTA MARRIAGE: A CONTRACTUAL FORM OF LIVE-IN  
RELATIONSHIP**

**ASHMITA MITRA & AMULYA BAID**

## ABTRACT

The presence of muta marriage or temporary marriage can be seen in the Islamic jurisprudence over a period of time. This form of marriage is only practiced by the Shi'a school, on the other hand, the Sunni school defies its existence. Although both these schools agree to the presence of this form of marriage as been accepted by Prophet Mohammad at one point of time, the Sunni school believe that the prophet eventually denied the practice of muta marriage. Muta marriage has been abused and misinterpreted for over centuries now. Some researchers go to the extent of calling muta marriage as an extension of prostitution. However, with the change in the modern structure of society, a more liberalised approach towards companionship can be seen to be accepted both socially and legally. With the apex court of the country giving legal recognition to live-in relationships it now becomes a debatable issue as to whether this form of companionship had already been in existence in the Islamic jurisprudence in the form of temporary marriages or not. On close examination, it can be seen that muta marriage and live-in relationships have an inherent similarity and have come into existence from the same principle, i.e. freedom of choice, in the modern context. Muta marriage can also be seen as a contractual form of live-in relationship wherein the rights and the responsibilities of the parties are pre-decided. Through this paper, the question as to whether muta marriage is a superior version of a live-in relationship will be examined. Also, a comparative study between the relatively new concept of live-in relationship as supported by Hindu law and temporary marriage as accepted by the Shi'a school will be looked into.

**Keywords:** *muta marriage, Shi'a school, live-in relationship, Islamic jurisprudence, superior, comparative study.*

## INTRODUCTION

Muta-marriage has been criticised vehemently and misinterpreted for over a long time now. This form of temporary marriage is practiced by the Shia school which is a minor sect in the whole population of people professing and practising Islam and a major part comprising the Muslim population in India. The marriage of muta is a contractual relationship that lasts for a specific period<sup>1</sup>. Although this form of marriage was recognised earlier both by the Shia and Sunni school, the Sunnis believe that the Prophet allowed muta-marriage as a matter of policy but later he discontinued or banned the practice.<sup>2</sup> However, Shias believe that the prophet had never actually discontinued muta marriage and hence it is not illegal to practice it. In Shias as well, the Itna Ashari School recognises muta-marriage but the Zaidi Shia and Ismaeli Shia along with Sunni consider this form of marriage illegal.<sup>3</sup> Muta-marriage has as well be known as the legalised form of prostitution and it has seen huge criticism and was called out for being derogatory towards the rights of Muslim women. However, with the advancement of society and a slight shift from a hugely patriarchal society to a liberal society if not socially in its entirety but legally, a new contention has come into the surface that muta-marriage is a superior version of live-in relationship. This concept in its periphery seems like a justification of a toxic patriarchal practice. However, if one examines this concept thoroughly it can be seen that there are certain practices both in a live-in relationship and muta-marriage that are inherently similar to each other and in some cases it can be seen that muta-marriage is indeed higher to the practice of live-in relationship in some cases or the other. In this paper, therefore, the idea of muta-marriage as a positive practice will be looked into.

## MUTA MARRIAGE AND LIVE-IN RELATIONSHIPS

### HINDU LAW AND LIVE-IN RELATIONSHIP

Live-in relationships have been identified by Indian courts as a legalised institution till recently and although there is no explicit provision in the Hindu Marriage Act, 1955 to contain this relatively new concept, nevertheless, time and again it has been recognised and

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<sup>1</sup> Sachiko Murata, *Muta', Temporary Marriage Islamic Law* (Ahlul Bayt Digital Islamic Library Project. 1986) <<https://www.al-islam.org/muta-temporary-marriage-islamic-law-sachiko-murata>> accessed on 18 March 2020.

<sup>2</sup> Konika Mondal, 'Concept of Marriage Among Muslims : A Study on Muta Marriage' (2016) 3 International Journal of Law and Legal Jurisprudence Studies 295 <<http://ijlljs.in/wp-content/uploads/2016/02/18.pdf>> accessed on 18 March 2020.

<sup>3</sup> Ibid 1.



upheld by the courts in India and it gets its legitimisation through judicial precedents. But this new concept can be seen as a development of the Hindu Marriage Act, 1955. Although the concept of live-in relationship is not bound to religious beliefs and is in itself a secular form of institution that is both practiced and recognised by people of all faith. However, from a religious point of view, live-in relationship is considered to be a ‘haram’ in Islam as under the Islamic jurisprudence one can only have sexual relationship in a temporary marriage, permanent marriage or slave ownership.<sup>4</sup> This temporary form of marriage that is largely debated in Islam and its existence is a disputed issue, can be traced back to the pre-Islamic period and is not what most people like to debate as a new inclusion to the religion<sup>5</sup> muta has existed from time immemorial and is also told to be accepted by the prophet in his earlier part of life.<sup>6</sup> This practice though defied by Sunni Muslims can be equated to the live-in relationship that is prevalent in today’s India and is also a legally accepted institution. However, live-in relationships are largely criticised and the magazine *Zan-e-Ruz*, or *Modern Women*, state that: “If men and women get together for three, four months, what is the difference between this and male-female relationship in the West?” This clearly indicates an aversion of acceptance of the culture of West, i.e. live-in relationships. Although the *Zan-e-Ruz* criticised the practice of muta, nevertheless, there is an inclination of acceptance of this practice in many scholars. The *Kayhan* daily positions mut’a as the middle path between “moral decadence” and “promiscuity” of the West.<sup>7</sup> Thus although there have been cases of Muslim couples going into live-in relationships and the apex court identifying it as valid,<sup>8</sup> from a religious point of view it is held to be as a violation of the teachings of the Prophet. Therefore, if compared, live-in relationship as we have in Hindu law as interpreted by the courts as “relationship in nature of marriage”<sup>9</sup> is to some extent comparable to the practice of muta that had been in existence from the pre-Islamic time and is practiced even today in modern-day India.

### **DISPARITY BETWEEN MUTA MARRIAGE AND LIVE-IN RELATIONSHIP**

However, the institution of muta and live-in relationships has some inherent differences. To begin with, muta-marriage is a contractual form of temporary marriage wherein all the duties and rights arising from this time-bound institution is mentioned and agreed to before-hand,

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<sup>4</sup> Ibid 7 at 70.

<sup>5</sup> Ibid 7 at 49.

<sup>6</sup> Ibid 7 at 1.

<sup>7</sup> Id 16.

<sup>8</sup> *Mohabbat Ali Khan v. Md. Ibrahim Khan* 1921 SCC OnLine PC 21: AIR 1929 PC 135.

<sup>9</sup> *ibid* 17.

this creates an upper hand for the aggrieved party to prove the presence of the institution in the court of law if another one denies its existence. On the other hand, live-in relationship is a non-contractual form of institution wherein the time period a couple has to stay together is not defined and it is defined by the court as “reasonable time”<sup>10</sup> thus, what constitutes reasonable time is a debatable issue and varies from a case to case basis. Therefore, the aggrieved party in instances of live-in relationships has an inherent difficulty proving the existence of such an institution and thus enforcing their rights. Again, due to the presence of a contract, in muta-marriages there is a greater of freedom of choice as everything is pre-agreed for example, one can have a muta marriage with a prior condition of not consummating the marriage<sup>11</sup> but in a live-in relationship although there is freedom of choice to some extent, live-in couples are expected to behave as couples of a fixed marriage and sexual relationship with the partner enhances the chance of establishment of such institution.<sup>12</sup> Another difference between the two is, if a live-in relationship is established, the aggrieved party can claim for maintenance<sup>13</sup>, whereas in muta the wife can only claim maintenance in case it is agreed upon in the contract and not otherwise<sup>14</sup> Again, children born out of both muta and live-in relationships are legitimate, nevertheless in case of live-in relationship, children born out of such marriages are not stigmatised, in a case<sup>15</sup> the court held that the birth of a child out of such a relationship has to be viewed separately and due recognition to its legitimacy along with its rights has to be given to the child. In another case<sup>16</sup> the court held that “Law leans in favour of legitimacy and frowns upon a bastard.” However, children born out of muta face certain stigmatisation in society. If the case is taken to court and the father denies his paternity, his words are honoured and due process is not followed.<sup>17</sup>

### **MUTA MARRIAGE: WOMEN’S STATUS**

As per Duhaime's Law Dictionary, Muta Marriage is a temporary marriage for a fixed period of time<sup>18</sup>. Muta is an Arabic term which means, enjoyment, pleasure or desire. This kind of

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<sup>10</sup> Indra Sharma v VKV Sharma 2014 (1). RCR (Crl). 179. (SC).

<sup>11</sup> Allamah Murtaza Mutahheri, *Woman And Her Rights*, M A Ansari(tans.) (Islamic Seminary Publications ) <<http://www.mutah.com/fixedtimemarriage.htm>> accessed on 20 March 2020.

<sup>12</sup> Ibid 31.

<sup>13</sup> Chanmuniya v. Virendra Kumar Singh Kushwaha (2011) 1 SCC 141.

<sup>14</sup> Al-Khui, Minhaj, 2 267 retrieved from Sayyid Mohammad Rizvi MARRIAGE AND MORALS IN ISLAM (1 edn, Ahlul Bayt Digital Islamic Library Project,1990) <<https://www.al-islam.org/marriage-and-morals-islam-sayyid-muhammad-rizvi>> accessed on 20 March 2020.

<sup>15</sup> Revanasiddappa v. Mallikarjun (2011) 2 UJ 1342.

<sup>16</sup> Badri Prasad v. Director of Consolidation AIR 1978 SC 1557.

<sup>17</sup> Supra 7 at 55.

<sup>18</sup> Mulla D, *Principles of Mahomedan Law*, (14 ED. 1955) 239.

marriage is prevalent in South Asian countries like Arabia, most parts of the Middle East, India, Pakistan, Africa, parts of Spain, and Portugal. Muta Marriages are currently practised by the Shia Schools of Law. The Sunni believed in the muta marriage until the survival of Prophet, they believed that this marriage was allowed and recognized by the prophet throughout his lifetime. Later on, which was maintained that at the end of his life it was completely banned by the prophet and the Sunni school renounced the concept of muta marriage. In contrast to the Sunni school, the Shia school maintained the concept of muta marriage and recognized that it was not banned by the prophet and they establish the same with various sources of their religion. Having established the legality, they then devote tremendous care and attention to defining its legal status and all the rules and regulations connected with it.<sup>19</sup> Professor Fyzee states that “Muta” translates literally to “pleasure” in Arabic. In the Shia context, Muta refers to a “temporary marriage.” A man pays a woman a sum of money (i.e. a so-called “dowry”) and he can have sexual relations with her for however long they agree for in the Muta contract. The Muta time period can be as little as one night, or even one hour enough time for the man to do the sexual act<sup>20</sup>. Temporary marriage is a special form of marriage in which the parties contract to stay married for a specific duration in exchange for a certain sum of money, although such a marriage according to the Quranic texts and the pronouncements made by the prophet failed to be recognized. While the prophet permitted temporary marriages during journeys and military campaigns before the Islamic legislative process was complete, he later forbade it and made it forever haram<sup>21</sup>.

The concept of muta marriage was allowed during the early period of Islam because of the transitional period i.e. from Jahiliyyan to Islam. During this period infidelity was very common and widespread along the pre-Islamic Arabs. After the advent of Islam, the Muslims were required to go on military expeditions all around the world this led to a creation of great pressure due to the absence from the wives for a long period of time. The people who had a strong faith in the Islamic religion did not commit the crime of infidelity on their quests around the world while the weak ones failed to remain committed to their wives. The weak ones feared that they would be tempted to commit adultery, a major sin and an evil course,

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<sup>19</sup> Sachiko Murata, *Temporary marriage in Islamic law* <<https://Shiapdfresources.files.wordpress.co>> accessed on 20 March 2020.

<sup>20</sup> A. Fyzee, *Outlines of Mohammedan law* (2nd Edition, Oxford Publications, 2003).

<sup>21</sup> *Excerpts from "Al-Halal wal-Haram fil Islam"* <<http://www.zawaj.com/qaradawi/marriage.html>> accessed on 20 March 2020

while the strong in faith, on the other hand, were ready to castrate themselves<sup>22</sup>. This led to the development of temporary marriage to avoid the dilemma among the Muslims who portrayed both weak and strong during the quests. This led to the legalisation of marriages that were not permanent and chaste this widened the scope of relationship ties that were realised through marriages. Though this served as a solution for infidelity according to the religious obligations but also empowered the Muslim men to form ties as a man wantonly desires and serving them as well. This marriage gave a license to the Muslim men to fulfil their sexual desires with as many women as they want and with woman whom they could financially afford. Such an arrangement led to the categorization of such woman as hired woman and lowered the status of the woman in the society. Such a marriage could be contracted by the Muslim men with any woman irrespective of their age, character, religion and conduct. In a case the court passed a judgement that said, “Except for these, all others are lawful, provided you seek them [in marriage] with gifts from your property, desiring chastity, not lust. So for whatever you have enjoyed from them, give them their compensation as an obligation. This verse clearly emphasizes the concept of chastity through regular marriage. One can discern for himself whether such a practice leads to sheer promiscuity or promotes chastity<sup>23</sup>.” Such marriages neither require any witnesses nor any obligation on the man’s part to provide the woman with food or shelter. The only prerequisite being that the woman must agree to the duration of the continuation of the marriage and the amount of dower to be paid for the same. the dower amount is fixed before such an arrangement is carried out and if the marriage is terminated and there has been no sexual relationship between the husband and wife, the wife gets only half of the amount fixed as dower, such a judgement was given in the case of, Mohd Abid Ali Kumar Kadar v Ludden Sahiba, the court held that although at the time of contracting the muta marriage, a dower is fixed and the husband may deduct a portion of the woman’s dower if the marriage is not consummated. She is entitled to full dower only if the marriage is consummated, whether they continue to cohabit or not<sup>24</sup>.The ‘ulama', both Sunni and Shia, agree that Muta was permitted at the beginning of Islam. However, they disagree as to the reasons it was permitted<sup>25</sup>. In the sura entitled 'Women', after listing those women to whom marriage is forbidden, the Qur'an states as follows: 'Lawful for you is what is beyond all that you may seek, using your wealth, in wedlock and not in license? So those of them whom you enjoy, give them their appointed wages; it is no fault in you in agreeing

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<sup>22</sup> Ibid

<sup>23</sup>Shorat v. Jafri Begum, ILR (1914) 17 Bom LR

<sup>24</sup>(1887) ILR 14 Cal 276.

<sup>25</sup>ShahzadaQanun v. Fakhar Johan, AIR 1953 Hyd 6.

together after the due apportioned. God is All-Knowing, All-Wise'. All Shia ulama' and some Sunni ulama' hold that this verse-especially the words: 'Such wives as you enjoy (istamta'tum)'-refers to the permissibility of muta. The Shias present several arguments to prove this point<sup>26</sup>. This kind of marriage has been acknowledged by the Indian courts in several cases and the court laid the essentials for the same and held that “concerned with the law applicable to Shias. Under the Shia law *marriage* between a Muslim and a non-Muslim is unlawful and void, but a valid *Muta Marriage* can be contracted with a kitabia, which...includes a Christian or a Jew but not a Hindu. *Muta marriage* is a temporary *marriage* as distinguished from the ordinary permanent *marriage*. A Shia of the male sex may contract a *Muta marriage* with professing Mohammedan, Christian or Jewish religion or even with a woman who is a fire-worshipper but not with a woman following any other religion. It is essential to the validity of a *Muta Marriage*.<sup>27</sup>” Though this system was introduced to reduce the infidelity amongst the Muslim the expansion of this kind of marriage to fulfil the religious objective of Islam gave an opening to potential exploitation of women for the sexual desires of the men. The exploitation started when panders came into the picture of the arrangement and started making a readily available population willing to enter into a contract of muta marriage, in return for compensation to meet the financial requirements of herself. This led to an increase in the outlets of women being used for sexual exploitation. This was seen throughout the world in the countries of Saudi Arab, US, Iraq, Jordan, Syria, Arabia. The exploitative effects of temporary marriages are repeatedly mentioned in the US State Department’s 2013, 2014, 2015, and 2016 Trafficking in Persons Report<sup>28</sup>. There have been reported stories about the women who entered into such marriages few of the interviews available, clearly portray the ill-treatment of women under such marriage, as a woman said in her interview that, “I had lots of regrets for all of this, and I felt embarrassed and disgusted and to top it off the first man lied to me about so many things, to manipulate me into only listening to him and doing what he wanted for his sick and perverted reasons<sup>29</sup>. A ‘symbiotic relationship’ is generated between the shame assigned by the individual themselves and the shame assigned by outside actors and society<sup>30</sup>. This clearly shows the social stigma the women who enter into such marriages have to face, the men do not go through the same

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<sup>26</sup> Professor Abu 'l-QasimGurji , Faculty of Theology at Tehran University<<http://www.al-islam.org/al-serat/muta/>> accessed on 20 March 2020.

<sup>27</sup> Syed Amanullah husa v Rajamma and ors, AIR 1977 AP 152.

<sup>28</sup>U.S. Department of State, 2017(566).

<sup>29</sup>Islamic marriage, <<http://www.zawaj.com/askbilqis/my-fourth-marriage-is-unravelling-because-of-suspicion-and-lack-of-trust/>>, accessed on 21 March 2020.

<sup>30</sup> Chase and walkers, *Investigation Into Poverty* (2012) 36.

treatment in society. The bi standards of society lead to the distress of women who go through with such marriages. The social condemnation of women is not the only disadvantage of muta marriage. Another disadvantage is the exploitation of women. The men enter in such arrangements mainly for the main objective of consummation, while women enter into such relations for the compensation; this arrangement is more on the contractual side of the concept of nikah which is contractual only in the basic sense of the term. The legality of the duration is also questionable and such marriages are suspended only at the option of the husband. The woman has no choice in dissolving such marriages. In the case of *Shoharat Singh vs Musammat Jafri Bibi*, the court held that “If the deed in question-be a genuine deed, and the statements in it be taken as true, then not only was there a nikah marriage between Muhammad Kazim and Achchhi Bibi at or about the time of its execution, but their cohabitation originated in a muta marriage. There is no evidence as to the original term for which this muta marriage was contracted, but such term, whatever it was, may from time to time have been extended by agreement, and in their Lordships' opinion, if it be once proved that the cohabitation originated in a muta marriage, the proper inference would, in default of evidence to the contrary, be that the muta continued during the whole period of cohabitation<sup>31</sup>.”

### **SIMILARITIES BETWEEN MUT'A MARRIAGE AND LIVE IN RELATIONSHIPS**

The live-in relationship as described in the Webster dictionary is —A living arrangement in which an unmarried couple lives together in a long-term relationship that resembles a marriage<sup>32</sup>. It is a mutually consensual relationship between two people who stay with each other in arrangement of a marriage. The concept of live-in relationship was legalised in India. There have been a number of cases since then where the Indian judiciary has given women rights similar to a wife and has laid down various criteria for the recognition of live-in relationship similar to a marriage. In *D Velusamy v D Patchaiammal*, the Court ruled in 2010 that for a live-in relationship to be considered a “relationship in the nature of marriage”, the couple must have been cohabiting for a reasonable period of time for the society look upon them as spouses<sup>33</sup>. Again in another judgement, the Supreme Court identified five types of live-in relationship, two of these being relationships between male and female adults and

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<sup>31</sup>(1915) 17 BOMLR 13.

<sup>32</sup> Live-in relationships in international perspective<[https://shodhganga.inflibnet.ac.in/bitstream/10603/214286/11/chapter%20ii\\_live-in%20relationships%20in%20international%20perspective.pdf](https://shodhganga.inflibnet.ac.in/bitstream/10603/214286/11/chapter%20ii_live-in%20relationships%20in%20international%20perspective.pdf)>accessed on 29<sup>th</sup> march 2020.

<sup>33</sup> (2010) 10 SCC 469.

between married men and unmarried women. The judgement also laid down eight guidelines for considering a live-in relationship to be “in the nature of marriage”. These relate to the duration of the relationship, the partners’ respective roles during cohabitation, and whether others perceive them as husband and wife<sup>34</sup>. In *Abhijit Bikhaseth Auti v State of Maharashtra*, the apex court ruled that marriage in “strict form” is not required to claim maintenance under Section 125 of the Criminal Procedure Code<sup>35</sup>. The requisite for a live-in relationship is that the couple should reside in the nature of marriage. There are strict guidelines laid down for recognition of the relationship and there must be an adequate time of residing together for a relationship to be legally recognised as a legal relationship. Muta marriage is in the form of a temporary legal arrangement between two people who consensually decide to cohabit together, the time period and compensation for the same is fixed and written in the contract. Muta marriage clubs the concept of live-in relationship and marriage, upto certain extent. Under the live-in relationship, the women can claim maintenance under the Domestic Violence Act, though she has to prove through a cumbersome process. In contrast to the live-in relationship this marriage is merely for cohabitation and does not give rise to marital obligation whereas in live-in relationship the couple cohabit as a married couple and share their expenses and carry out marital obligation inconsistency with the relationship of marriage. Also, children born out of both live-in relationship and muta marriage are legitimate as in case of live-in relationship the court held in the case of *P.S Balasubramanyam v Suruttayan* that “If a man and woman are living under the same roof and cohabiting for some years, there will be a presumption under Section 114 of the Evidence Act that they live as husband and wife and the children born to them will not be illegitimate.”<sup>36</sup> And for muta marriages in the case of *Syed Amanullah Hussain and ors v Rajamma*<sup>37</sup> and ors, it was held that “such type of marriage does not create mutual rights of inheritance between husband and wife but children conceived are legitimate and capable of inheriting from both parents.” This was further reiterated in *Shoharat Singh v Musammat Jafri Bibi*<sup>38</sup> it was held “a muta marriage is, according to the law which prevails among the Mohammedans of the Shia sect, a temporary marriage, its duration being fixed by agreement between the parties. It does not confer on the wife any right or claim to her husband's property, but children conceived while it exists are legitimate and capable of inheriting from

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<sup>34</sup> *Indra sharma v vkvsharma*, (2013) 15 SCC 755.

<sup>35</sup> 2009 (1) AIR Bom 212.

<sup>36</sup> AIR 1994 SC 133.

<sup>37</sup> AIR 1977 AP 152.

<sup>38</sup> (1915) 17 BOMLR 13.

their father.” Both in muta and in live-in relationship divorce are not required as they are not entirely equal to the permanent marriages in the society. Also, both live-in relationship and muta marriage comes from the concept of freedom of choice and gives greater freedom to women if not misused<sup>39</sup>. With the Supreme Court recognising, at least partially, the rights of partners in live-in relationships, it is debatable whether muta can be held constitutionally invalid. In fact, it can be argued that the Shia institution of temporary marriage is superior to live-in relationships, particularly those that do not endure for long<sup>40</sup>.

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<sup>39</sup> Id 32.

<sup>40</sup> Ibid 16.



## CONCLUSION

The various books, verses and judgements viewed, for drawing a conclusion on the validity of muta marriage and reasons for the difference in opinion of the two eminent schools that is the Shia school and the Sunni school clearly portrays that the concept of muta marriage has been upheld due to the relation of the same to the Islamic traditional practices. Though the concept of muta marriage has not been widely accepted and has faced immense criticism on it being a social inequality on the very basis of gender. The practice has not been ruled out as unconstitutional by the apex court due to the fact that, the supreme court has recognised the concept of live-in- relationship. Comparison is being drawn between live-in-relationship and muta marriages as both do not bind the parties into a permanent form of marriage but legitimize the temporary arrangement between the parties in the form of husband and wife.

Thus, as far as the interpretation of legal scholars on the meaning of muta, they talk about muta in the meaning of a gift, in the sense of what they make obligatory on a man who has married a woman without specifying a dower, and then divorces her before having sexual relations<sup>41</sup>. They would necessitate that divorced women be given a gift that is appropriate for his economic status<sup>42</sup>. The muta marriage is not a form of temporary marriage but at many instances is questioned upon the integrity of such marriages, due to the denial of muta marriage by a major sect of the Muslims and being approved by the other, this leads to a lot of question regarding the legality of such marriages. The courts have in various instances validated such marriages and have laid down essentials for the same to bifurcate any personification of arrangements of any form in the shield of muta marriages.

The first part of the paper deals with, drawing a comparison between live-in relationships and Hindu law and the pre-Islamic practice of muta marriages that are still observed in some sects of the Muslim community. It highlights how from a religious point of view, live-in relationship in Islam is considered a 'haram' and how muta and live-in relationship is in some way similar. It also draws dissimilarity between both and shows how if the contract of muta is drawn properly, it can prove to be a superior form of live-in relationship in various aspects.

The second part deals with the stigmas in relation to the muta marriages, it also brings down the various judgements given by the courts with regard to muta marriage. The controversy of denunciation of muta marriage due to the ill-treatment of women under such marriages is also

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<sup>41</sup>NayerHonarvar, 'Behind the Veil: Women's Rights in Islamic Societies', (1988) 6 Journal of Law and Religion 355.

<sup>42</sup> Id 14.

looked into. The women who have been a part of such marriages, the stigma they face and the exploitation they suffered has been quoted to give a realistic impact of the muta marriages on the lives of people. The reports showing the exploitation of women under such marriages have been looked into and various reports regarding the same have been the looked into to draw conclusion regarding the use of muta marriage and whether it can be equated with live-in relationships which do not involve imparting compensation and the importance of consummation with regard to the muta marriage.

The third part deals with the similarities in muta marriage and live-in relationship and shows that these two concepts though different are intrinsically similar in some aspects. Muta marriage clubs the concept of live-in relationship and marriage, upto certain extend. Under the live-in relationship, the women can claim maintenance under Domestic Violence Act, though she has to prove through a cumbersome process. In contrast to the live-in relationship this marriage is merely for cohabitation and does not give rise to marital obligation whereas in live-in relationship the couple cohabits as a married couple and share their expenses and carry out marital obligation inconsistency with the relationship of marriage. Also, like in muta marriage, children under live-in relationships are given legitimacy. Both in muta and in live-in relationship divorce are not required as they are not entirely equal to the permanent marriages in the society. Also, both live-in relationship and muta marriage comes from the concept of freedom of choice and gives greater freedom to women if not misused.

Thus, all the above instances validate the hypothesis: *Muta marriage an ancient pre-Islamic custom prevalent in the Itna Ashari School if studied thoroughly can be equated to a superior form of live-in relationships that we have today.*