



## Muslims and the Dilemma of Marriage Registration in Ghana: Perspectives from the Wala Muslim Community, Ghana

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### ABSTRACT

The Marriages Act, which regulates the various forms of marriages, outlines what constitutes a valid Muslim marriage in Ghana. It makes registration of Muslim marriages a requirement for its validity. Recently, a ‘Muslim Marriage and Divorce Bill, 2019 was addressed to the Office of the National Chief Imam, and various Muslim groups. This was largely informed by Muslims lack of patronage of the previous law regulating marriages and marriage registration in Ghana. The law was thus conceived with a view to get the inputs of the Muslim community into the new law to make it workable law. The central question that this study addresses is, why Muslims were not interested to patronize the previous legal expectations. The authors depended on oral sources and utilized qualitative approach in data analysis. Using the Wala Muslim community as the context, the article argues that Muslims are disinterested in the law because of the tension between secular law and Islamic Shari’ah principles. The tenets of the marriage registration law violate Islamic law, while aspects of it are impracticable. It is recommended that steps should be taken to educate the Muslim public on the need to register their marriages as well as empowering Imams to register marriages.

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### INTRODUCTION

One of the most perplexing issues emanating from Muslim attitudes toward government policy directives on family law is their ambivalence to the Marriage Act (1884-1985). The Act makes the registration of Islamic marriages mandatory. The problem of Muslim non-compliance with this law is not a recent development but extends to the colonial period. The British administration has sought to introduce the Marriage of Mohammedans Ordinance by which it intended to propose among other things, the licensing of Mohammedan Priests.<sup>1</sup> Additionally, Muslim clerics in the northern territories were expected to obtain documentary evidence in Kumasi as well as register marriages that they solemnised at the district office before the expiration of one week after the marriage ceremony. Interestingly, for diverse reasons, Muslims did not comply with these legal procedures.<sup>2</sup> While the

<sup>1</sup> Mervyn Hiskett, “Commissioner of Police v. Musa Kommandanda and Aspects of the Working of the Gold Coast Marriage of Mohammedans Ordinance,” *Journal of African Law* 20, no. 2 (1976): 127–46.

<sup>2</sup> Hiskett, “Commissioner of Police v. Musa Kommandanda and Aspects of the Working of the Gold Coast Marriage of Mohammedans Ordinance.”

objective was to harmonise the Muslim marriage system in the legal context and provide administrative consistency with the Gold Coast Marriage Ordinance of 1884, the unrealistic nature of most of the provisions could not allow Muslims to comply with the law.

One noticeable trend in both the British colonial law on Muslim marriage with the recent Marriage Act is the unrealistic timelines that married couples ought to comply with. New couples are expected to register their marriages within a week period and failure would attract a penalty. A recent study by Amina Ali Issaka on why Muslims equally fail to comply with marriage registration under Act (cap 127) is largely because the law strictly recognizes monogamous legal means of marriage in Ghana as legitimate. Thus, those intending to get married are required to give notice to the marriage registrar in the district where the marriage was going to occur.<sup>3</sup> Curiously, many international legal regimes require that all marriages be documented and registered.<sup>4</sup>

This study builds on previous works by offering new perspectives on why the Marriage Ordinance is not being complied with by Muslims.<sup>5</sup> Using the Wala Muslim community in the Upper West region as a case, this study explores and analyses diverse reasons accounting for non-compliance with marriage registration in Ghana. The argument is that Muslim refuse to comply with the marriage registration law due to the fact that the legal provision violates Islamic principles in addition to the fact that the law is fraught with challenges on account of the inaccessibility of the marriage registration offices in a predominantly Wala Muslim community.

Methodologically, the study depended on oral sources in the form of interviews through qualitative data to construct this paper. The outcome of the study is structured in three parts. The first part examines the literature by analysing the significance of marriage as an institution. It is followed by the Wala marriage system; then the debates on the dilemma of marriage registration.

### **Perspectives on Marriage and Registration Challenges**

In most societies, marriage is considered a foundation for beginning a family, shared responsibilities, parenting, intimacy and life security. The religious significance of marriage can be seen in its being regarded as a sacred institution. The famous proclamation of Pope St. John Paul II which argues that “as the family goes, so goes the nation, and so goes the whole world in which we live” outlines the micro-to-macro representation of marriage to building a family. Thus, marriage represents the foundation of every family, community, nation and the world as a whole.

Contemporary scholarly works have been analysing whether marriage is a public or private issue.<sup>6</sup> While this has become necessary to delineate boundaries, it overlooks the significance that marriage leads to family, community and nation-building and thus resulting in national development. In the perspective of Burgess, marriages are in a transition of transformation from a social institution to a private arrangement where companionship and emotional bonds between autonomous individuals shape the trend.<sup>7</sup> Nock argues that the dimension that the marriage debate has taken is a recognition of its significance in nation-building and its cultural values in building family life.<sup>8</sup>

In Ghana, several forms of marriage are practised. Customary marriages, marriages under the ordinance, and marriages under the Mohammadan ordinance are legally regarded marriage forms in

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<sup>3</sup> Amina Ali Issaka, “The Utility of Marriage of Mohammedans Ordinance Under the Current Ghanaian Legal Dispensation,” Ghana Law Hub, July 26, 2020, <https://ghanalawhub.com/the-utility-of-marriage-of-mohammedans-ordinance-under-the-current-ghanaian-legal-dispensation/>; Yüksel Sezgin, “Undignified Jurispathy: Muslim Family Law at Ghanaian Courts,” *Law & Social Inquiry*, 2022, 1–31; Raymond A. Atuguba, “The Registration of Islamic Marriage in Ghana’s Plural Legal System -Challenges and Strategies for Improvement,” in *Paper Presented at a Workshop Organized by Family Law Focal Person Area of the German Technical Cooperation, Hohoe District Assembly, Legal Resource Center*, 2020.

<sup>4</sup> Issaka, “The Utility of Marriage of Mohammedans Ordinance Under the Current Ghanaian Legal Dispensation.”

<sup>5</sup> Issaka, “The Utility of Marriage of Mohammedans Ordinance Under the Current Ghanaian Legal Dispensation.”

<sup>6</sup> Steven L Nock, “Marriage as a Public Issue,” *The Future of Children*, 2005, 13–32.

<sup>7</sup> Ernest W Burgess, “The Family in a Changing Society,” *American Journal of Sociology* 53, no. 6 (1948): 417–22.

<sup>8</sup> Nock, “Marriage as a Public Issue.”

Ghana.<sup>9</sup> The customary marriage is the most common form of marriage in Ghana. The specific customary rites that are followed vary from group to group. In virtually all cases customary marriage involves a gathering at which the bridegroom's family makes payment of a bride-price to the bride's family. This is followed by the bride being asked if she will accept the bridegroom as her husband. After the families are satisfied with the necessary customary rites, the couple could then register at the district where the couple would be accompanied by one witness each and pay a small amount of money.<sup>10</sup>

There is no legal limit to the number of customary wives a man may have, nor is there any limit to the number of such marriages that can be legally registered under the Customary Marriage and Divorce Registration Law, 1985 (PNDCL 112). The potentially polygamous nature of customary marriage distinguishes it from marriages performed under the Marriage Ordinance. Customary marriages are registered under the Customary Marriage and Divorce Registration Law, 1985 (PNDCL 112). Marriage under the Marriage Ordinance is monogamous, meaning that unless the man or woman dies or the marriage is legally dissolved, neither party can marry another person. This means that a man who has married under the Marriage Ordinance may not be eligible to marry another woman, whether under the Marriage Ordinance or customary law.<sup>11</sup>

It is observed that the usage of such a word as polygamy is associated with both customary and Islamic marriages and there is no limit to the number of such marriages that can be legally registered. However, Abd al-Ati, believed that polygamy means the plurality of mates. More specifically, if a man has more than one wife at the same time, this is called polygyny.<sup>12</sup> On the other hand, if a woman has more than one mate, it is called polyandry. If it is a mixture of men and women, it is a group or communal marriage. These three basic types of plural marriages have been more or less practised by different societies of different ages under different circumstances.<sup>13</sup>

From the perspective of Asante three forms of Ordinance Marriages exist in Ghana: Marriage by a Registrar of Marriages, Marriage by a Marriage Officer/minister and Marriage by Special License. A Marriage Registrar is an officer at the Registrar General's Office, Metropolitan, Municipal or District Assembly (MMDA), with the responsibility to perform marriages. A Marriage Officer is a minister of a religious body (Christian or Muslim) who has been duly licensed and gazetted to perform marriages. This means the person has been recognized and given a certificate by the Government to perform Ordinance marriages. Marriage by Special License is where the Registrar General's Office, MMDA waives certain conditions for an Ordinance such as the length of time for notices or permits, and a venue (other than the Registrar General's Office, MMDA or church) to be used for the performance of the marriage. A valid Islamic marriage would occur in Ghana after it has been celebrated under the Islamic tradition if it is performed by a licensed Imam and registered.<sup>14</sup>

Nevertheless, marriage is viewed as a medium of companionship and partnership does not preclude the requisite procedures that it must undergo. Different communities including religious groups have what they termed as basic requirements that marriages have to pass through before it is regarded as a valid one. And in the context of Islam, the condition for a valid marriage must include among others; proposal and acceptance, the need for witnesses, presentation of dowry, and requirement for publicity among others.<sup>15</sup> Other religious communities have their rules on what constitutes a valid marriage. The requirements for marriage in African Traditional settings vary drastically from one ethnic group to another. That notwithstanding, there are some commonalities in some practices.

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<sup>9</sup> Appiah Victoria Agyare, "The Rights of Muslim Women in Marriage Relationship within the Kumasi Metropolitan Area" (Kwame Nkrumah University of Science and Technology, 2014).

<sup>10</sup> Reindorf Twumasi Ankrah, "You Are Not Engaged, You Are Married: In Defence of Customary Marriage" (Kumasi, 2016).

<sup>11</sup> Kwame Asante, "Marriage and Registration Report Section Report" (Kumasi, 2021).

<sup>12</sup> Hammudah Abdulati, *Islam in Focus* (American Trust Publications, 1993), <https://books.google.com.gh/books?id=THnWAAAAMAAJ>.

<sup>13</sup> Asante, "Marriage and Registration Report Section Report."

<sup>14</sup> Asante, "Marriage and Registration Report Section Report."

<sup>15</sup> Abdulati, *Islam in Focus*, 60.

Beyond the introduction of bride and groom, marriages are viewed as institutions binding families and promoting communal relationships.<sup>16</sup>

Scholarly works have also analysed how various governments have been grappling with the challenges of the registration of marriages in recent times.<sup>17</sup> This became necessary because various governments have conceived the need to provide a common framework through which marriage registrations can be harmonized in their respective legal regimes. Quite revealing, such laws have come under criticism or have not been complied with by the religious communities. Focusing on the Muslim community worldwide, one gets a sense that most of such legal frameworks were not complied with for one reason or the other.

The background of the British Gold Coast is revealing. In 1907, the British colonial government proposed the Marriage of Mohammedans Ordinance with a view to harmonising Muslim marriages under the customary system of marriage. Interestingly, the policy failed on account of its impracticality. Beyond requiring that Muslim clerics would have to travel from the northern territories to register the marriages consummated in Kumasi, Mohammedan Priests, as they were called were expected to obtain licenses from the colonial district offices.<sup>18</sup> The distance between the northern territories and Kumasi and the administrative bottlenecks that were embedded in the law worked against its successful implementations. Also, it was observed that the nature of Muslim marriages in certain parts of the north is intertwined with local traditional values where the local chiefs play significant roles.<sup>19</sup> To quote Mervyn Hiskett, “The Ordinance remains, or has become, largely a dead law.”<sup>20</sup> More importantly, marriage registration deemed as legitimate under the Registrar General Department office makes it extremely problematic for Muslims to embrace. The law under Marriage Act (Cap 127) strictly allows monogamous legal means of marriage in Ghana.<sup>21</sup> Undoubtedly, any law restricting Muslims to only monogamous marriages offend not only the principles of Islamic Shari’ah but undermines its successful implementation.

Some studies in other jurisdictions equally highlight that the attempts by governments to regulate marriage registration in Muslim communities encountered some challenges. In Indonesia, many Muslim couples do not comply with this registration requirement. This notwithstanding, there is the potential ‘criminalisation of unregistered marriages. The non-registration which was subject to administrative fines has been turned into a felony and is liable for prosecution of up to three years imprisonment.<sup>22</sup> Nisa Eva argues that the efforts of the Indonesian state to bureaucratize Muslim marriages by advocating for the registration of marriages have attracted contestations from diverse activists. While some Muslims see it as an integral of social reform, others view it as an attempt to intrude into the authority of the Ulama whose purview is to officiate and mediate on Muslim marriages.<sup>23</sup> Yilmaz Ihsan emphasizes that the application of Muslim marriage laws in a secular state like Britain is characterized by contradictions between the official legal requirement for recognition

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<sup>16</sup> Asante, “Marriage and Registration Report Section Report .”

<sup>17</sup> Stijn Cornelis Van Huis and Theresia Dyah Wirastri, “Muslim Marriage Registration in Indonesia: Revised Marriage Registration Laws Cannot Overcome Compliance Flaws.,” *Australian Journal of Asian Law* 13, no. 1 (2012); Eva F Nisa, “The Bureaucratization of Muslim Marriage in Indonesia,” *Journal of Law and Religion* 33, no. 2 (2018): 291–309.

<sup>18</sup> Hiskett, “Commissioner of Police v. Musa Kommanda and Aspects of the Working of the Gold Coast Marriage of Mohammedans Ordinance.”

<sup>19</sup> J N D Anderson, *Islamic Law in Africa* (Taylor & Francis, 2013), <https://books.google.com.gh/books?id=WPln3PTWIYOC>.

<sup>20</sup> Hiskett, “Commissioner of Police v. Musa Kommanda and Aspects of the Working of the Gold Coast Marriage of Mohammedans Ordinance,” 196.

<sup>21</sup> Registrar Generals Department, “Marriage Registration,” RGD Services, 2019, <https://rgd.gov.gh/marriage.html#:~:text=MARRIAGE REGISTRATION&text=This is governed by Marriages,marriage is going to occur.>

<sup>22</sup> Van Huis and Wirastri, “Muslim Marriage Registration in Indonesia: Revised Marriage Registration Laws Cannot Overcome Compliance Flaws.”

<sup>23</sup> Nisa, “The Bureaucratization of Muslim Marriage in Indonesia.”

on one hand and unofficial and unrecognized Muslim law which permeates every day.<sup>24</sup> The analysis demonstrates that Muslims in Britain apply relevant law in various contextual situations to meet the demands of different overlapping normative ordering. This approach illustrates post-modernist approaches to the limitations of legal modernity in the application of the law.<sup>25</sup>

### **Wala Traditional Setting and Marriage System**

This section analyses the Wala traditional social life and their marriage system. The section thus explores the Wala social and political systems in order to set the context to examine the Wala system of marriage. The authors adopted a historical approach in their analysis to examine the socio-political structure of the Wala people. To begin with, the Ghanaian society is multi-ethnic and divided into six main groups: the Akan, the Ewe, the Ga-Adangbe, and the Mole-Dagbani, among others. The Wala ethnic group falls under the broader rubric of the Mole-Dagbani ethnic group.<sup>26</sup> *Wala* is the language of the people of Wa in the Upper West Region of Ghana, and Wala is the common name for the people. In a literal sense, the word Wala implies comers. This implies that people of diverse ethnicities have come to settle in Wa.<sup>27</sup> The above argument is reinforced by some scholarly works that analyse the origin of the Wala ethnic. Wilks indicates that 'Wala' as the name of a tribe is more than an arbitrary title derived from the name of the capital town, Wa, and applied to the heterogeneous people who nominally come under the jurisdiction of the Wa Naa (Chief) of Wa.<sup>28</sup>

In terms of social setting and marriage system, the Wala people are invariably Muslims, notwithstanding their diverse ethnic backgrounds. They see themselves as one community where marriages are not only meant to establish a relationship among the heterogeneous community but bringing two families together. While there are three forms of marriage recognised in Ghana, the customary type of marriage largely shapes the marriage tradition among the Wala people. This includes the *Nabihi* (royals) and *Tengdamba* (traditionalist) type of marriage on one hand, and *Yarihi* (Muslim leaders) and Muslim type marriage on the other hand. The differences in these forms of marriage are related to approaches to marriage consummation. It must be emphasised that the two forms of marriage discussed here were the subject of Bin Saleh's book.<sup>29</sup>

That notwithstanding, Salih's work was limited to forms of marriage in metropolitan Wa; that is the *Yarihi* (Muslim) type of marriage. The work did not also cover issues related to Muslim marriage registration. This paper builds on his analysis by broadening the scope to cover the *Nabihi* (Wala royals) *Tengdamba* (traditionalist) types of marriage. In addition, this work contributes to the concerns arising from marriage registration which has received a marginal interest in recent scholarship.

Conditions pertaining to the *Nabihi* and *Tengdamba* type of marriage begin with the man proposing his interest through his in-law (*dacheya*). The lady's positive response marks the beginning of the relationship. In due time, the lady's family would finally demand the formalization of the marriage process at the request of the bride worth. The bride worth though paid in the name of the girl does not go to the girl but belongs to her family. After payment of the bride's worth, it is assumed that the girl becomes the man's wife with all rights and responsibilities. If there is a divorce, the money and items (bride worth) would have to be returned to the husband's family. In the event that the marriage ceases not to exist due to misunderstanding and incompatibility, the bride's worth is expected to be returned to the groom's family. If the necessary customary rites and procedures are not followed before the woman marries a new husband, it will be deemed that children born out of the new marriage

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<sup>24</sup> Ihsan Yilmaz, "The Challenge of Post-Modern Legality and Muslim Legal Pluralism in England," *Journal of Ethnic and Migration Studies* 28, no. 2 (2002): 343–54.

<sup>25</sup> Yilmaz, "The Challenge of Post-Modern Legality and Muslim Legal Pluralism in England."

<sup>26</sup> Ankrh, "You Are Not Engaged, You Are Married: In Defence of Customary Marriage."

<sup>27</sup> Sheikh Yusuf Issah, Islamic scholar, an elder of Dzenbeyeri ward of Wa, interviewed, Catering Rest House, Wa, 29<sup>th</sup> July, 2019

<sup>28</sup> Ivor Wilks, *Wa and the Wala* (Cambridge: Cambridge University Press, 1989), 16.

<https://catdir.loc.gov/catdir/samples/cam031/88027439.pdf>

<sup>29</sup> Bin Salih Mohammed, *Our Cultural Heritage, Some Aspects of Customary Law, Usage and Tradition of the Wala* (Accra: Salihsons, 2009).

as per the Wala tradition would belong to the former husband.<sup>30</sup> While this may raise some challenges in the context of modern legal jurisdiction, it underscores the manner that the Wala people uphold their tradition of marriage. On the other hand, it has been argued that upholding traditional norms on marriage may not raise any legal problems because the Supreme Court has conclusively settled similar cases in favour of preserving traditions.<sup>31</sup>

The traditional type of marriage mostly takes the form of elopement when the girl accepts the proposal duly communicated to her family. The potential couple can start to visit each other from time to time. One day, they will plan an elopement on an agreed date, time and venue, usually a marketplace, during a festival, or at any other public ground; the man's family will elope the girl. Having eloped, the man's family would communicate to their in-laws that their daughter is with them. They would be required to present a white fowl and a token of about 20 pesewas. The presentation of these items means that the marriage is legalised, familiarised and commenced with all duties, rights and responsibilities.<sup>32</sup>

While these forms of marriage conditions prevail in the Wala setting, the Ghanaian secular system requires that marriages must be registered in order to render them legitimate before the law as outlined earlier. In line with this thinking, one can argue that marriage registration is a new trend as far as *Nabiihi* and *Tengdamba* type of marriages is concerned. It must be emphasised that the impact of Islamisation on the social life of the Wala people is affecting the *Nabiihi* and *Tengaamba* types of marriage and its potential decline in Wa Metropolis. It is, however, mostly practised in rural communities which are not exposed to Islamic revival.

The *Yarihi* type of marriage, on the other hand, is mostly practised within the Wa metropolis and influenced by Islamic traditions and practices. The processes can be divided into a number of stages. The beginning is *Pogopyan* (courtship stage), *Anjoho* (knocking, stage), presentation of *pogopalybuhon* (Bridal Gift), *Forilaybo* (solemnisation of the marriage) and *Pogo beyalibu* (Escorting bride to bridegroom). Significantly, these processes conform to Islamic marriage practices. It highlights that the Wala marriage process is borrowed from the Islamic system but localised in terms of the Wala tradition and dialect. While marriage registration is a requirement for its validity, it appears the subject is a new trend in the Wala marriage system whether in the *Nabiihi*, *Tengdamba*, or *Yarihi* (Muslim) types of marriage.

### **Causes of Muslims Disinterest in Marriage Registration**

One major cause that this study identified about Muslim lack of patronage of the marriage registration law is low awareness among Muslims of the existence of the law requiring Muslims to register their marriage. A respondent intimated that though he registered his marriage, he was not aware that marriage registration is a requirement for its validity in Ghana. But further interaction suggests that his marriage registration was not official but rather local.<sup>33</sup> The findings suggest that some of the people who were not aware of mandatory marriage registration were not just ordinary married couples but key players and Ulama in the marriage industry. Additionally, some advocates on child welfare and girl-child protection groups in the Municipality and beyond were also not aware that registration of marriage is a requirement for its validity in the Ghanaian legal system.<sup>34</sup>

Indeed, the lack of awareness on mandatory registration of marriage by people in the community was so endemic that even Imams, opinion, leaders, and public marriage consultants lacked information regarding the registration of marriage. This finding may be similar to Abubakar's study of about 300 respondents which showed that only 12 (4%) of the respondents were aware of the legal

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<sup>30</sup>Alhaji Sufyani Copral, family head Kayanijaka, Dodoli interviewed, Kayanjaka, Dondoli, 17<sup>th</sup> March 2019

<sup>31</sup> Rangita de Silva de Alwis, *Child Marriage and the Law* (New York: Wellesly Centre for Women, 2007), [https://www.wcwoonline.org/pdf/asia2007conf/Child Marriage and the Law.pdf](https://www.wcwoonline.org/pdf/asia2007conf/Child%20Marriage%20and%20the%20Law.pdf).

<sup>32</sup> Abu Walee Master, Prince and retired educationist, former teacher of Wala language at Wa SHS, interviewed, Kpagory, 16<sup>th</sup> March 2019.

<sup>33</sup> Sheikh Yakub Mohammed, Islamic cleric interviewed, 9<sup>th</sup> March, 2019 Wa Traffic light.

<sup>34</sup> Hajia Hawau Mohammed, Upper West Regional Chairperson, Federation of Muslim Women Association of Ghana (FMWAG), Member, women Dawah Committee Sumaaly Radio, interviewed Wa, Jongu, 30<sup>th</sup> June, 2019

requirement for the registration of Islamic marriages in Ghana while 298 (96%) of the respondents said they had no knowledge of the law requiring them to register their marriages.<sup>35</sup>

The study revealed that due to this lack of information and knowledge gap, Wala Muslims are not interested in registering their marriages. The very few who do so are educated people; even the educated do it to fulfil travel documentation, employment demands, and other compelling issues.<sup>36</sup> Since registration of marriage is related to material and economic interest, the paper explores the role of the Wa Municipal Assembly (WMA) in the awareness creation of the registration of marriage.

The study reveals that the Human Resource Department of the Assembly in collaboration with the Department of Social Welfare and Community Development sometimes undertakes public sensitisation on the subject. However, available information suggests that not much attention was given to such education and sensitisation among the Muslim community because of the kind of people that are involved in the sensitisation activities who are mostly the workers in the assembly. The key issue raised here was that the best people who could communicate marriage issues to the understanding and admiration of the Muslim public are the Imams, the Muslim theologians, and the scholars. This is because of the trust and respect that the Muslim public accords to them. Based on such arguments, it became obvious that there is a huge collaboration gap between the state or policymakers on one hand and religious bodies, and civil society organizations on the other hand. The data gathered also revealed that the Municipal Assembly never organises any workshop in collaboration with the Muslim leadership as far as marriage registration is concerned though the policy has been in place for decades. A member of the assembly explains that their inability to offer sensitization education in the Muslim community is due to a lack of funds to enhance their work.<sup>37</sup> This paper, thus, argues that the lack of awareness of the law on marriage registration has affected its popularity among Muslims.

Following a lack of awareness, some Muslims also fear the implications of registering their marriages as the law requires. The argument is that registering a marriage violates the norms and standards of the society. A respondent stated that registering a marriage will give women more power, and controlling them becomes very difficult. On the other hand, others say registration of marriage will prevent them from marrying more than one wife as approved in the Islamic culture and tradition.<sup>38</sup>

In an interaction with Dr. Baba Ibrahim, he said, *“My wife is always on me to register our marriage. I thought registering marriage will prevent me from marrying more than one wife as permitted in Islam.”* However, through the interaction, he said now he knew that if he registered the marriage under the Islamic marriage, he still has the right to marry more than one wife as approved in Islam. Then he further remarked:

*“After this conversation, I am going to explain to my wife the position of the law and ask that they should go and register their marriage. I know very well that when she gets to know that registering marriage under the Islamic marriage system will not take away the right of a man marrying more than one wife, she will not be interested in registering the marriage.”<sup>39</sup>*

In effect, some men fear that registering marriage will limit the number of women one can marry. On the other hand, some women want their husbands to register their marriage, thinking that would limit the number of women the men can marry. This thus shows how marriage registration is viewed differently by the couples and affects its operationalization among the Muslim community in Wa.

A man said he wanted to register his marriage but he overheard that a Muslim man somewhere in the country registered his first marriage under the ordinance marriage system. Subsequently, he

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<sup>35</sup> Yushawu Abubakari, “Marriage Under the Muhammadan Ordinance in Ghana: Knowledge and Perceptions of Muslims in Tamale in the Northern Region,” *ADRRJ Journal of Arts and Social Sciences* 19, no. 1 (7), January 2022-March (2022): 175–82.

<sup>36</sup> Madam Aishah Musah, Human Resource Manager, and in charge of marriage registration at the Wa Municipal Assembly, interviewed 2<sup>nd</sup> July, 2019

<sup>37</sup> Madam Aishah Musah, interviewed 2<sup>nd</sup> July, 2019.

<sup>38</sup> Hajia Hawau Mohammed, interviewed Wa, Jongu, 30<sup>th</sup> June, 2019.

<sup>39</sup> Dr. Baba Ibrahim, a married man, Dondoli, Wa phone interviewed, 17<sup>th</sup> October, 2019

married a second wife. The first wife took the man to court, and the court declared the second marriage invalid and asked the man to stay away from the second wife and this is the source of his fear.<sup>40</sup> Clearly, in Wala culture, a woman who took her husband to court will be called *pogogandawu* (a woman above men, that is being a disrespectful and arrogant woman) because her actions contradict the norms of the society.

In line with the previous scholarly findings,<sup>41</sup> the lack of licensing Imams who will have superintended the registration of Muslim marriages has further affected its operation among the Wala Muslims. Nii Nortey explains that the reason why the registration of marriage failed among Muslims is because of the fact that the state did not enforce strict compliance with the tenets of the Marriage of Mohammedans Ordinance through the Registrar General's Department (RGD). He concluded that the enforcement of the law in addition to providing the necessary resources including training of Imams will have sustained the expectation of registration.<sup>42</sup>

This paper argues that even the hassle of securing a registered Imam to officiate a marriage ceremony is one of the disincentives for registering Islamic marriages.<sup>43</sup> The findings suggest that the lack of existing licensed Imams to operationalise the law has compelled many families to depend on alternative Marriage Certificates issued by some Muslim groups and organisations for people in need of certificates for other purposes as explained below.

The interest of Muslims to obtain a marriage certificate most often become necessary when they either want to travel and the requirements are such that the couples must produce a marriage certificate. An informant revealed that when one of his brother's daughters wanted to join her husband abroad, it was very difficult to get a marriage certificate because their marriage was not registered. Learning from that bitter experience, the *Sunnah* Community, the Salafi group, of the Upper West Region introduced their Marriage Certificates.<sup>44</sup> Similarly, *Jamiatal -Hidayat- Islamiyat*, (Islamic Guidance Society) a renowned Non-governmental Islamic Organisation NGO in the community, has produced its marriage certificate to assist people in need of marriage certificates.<sup>45</sup> This notwithstanding, these certificates are only locally recognised in the community and among Muslim groups in Ghana. Most of these certificates are not recognised by the Municipal Assembly and Registrar General Department was not aware of such registration. All efforts to get a sample of this certificate from the informant failed.<sup>46</sup>

Lastly, some Muslims were not happy that Muslims are expected to register their marriages or risk being invalid marriages. A rhetorical question was raised about whether marriage is a secular institution or a religious one. These groups of Ulama emphasise that they are married because it's a religious injunction from the Quran. They do not thus want to be seen taking directives from a secular law on how a marriage must be valid or not.

## RECOMMENDATIONS

From the findings and discussion above, the article recommends that the needed steps should be taken by the various stakeholders to educate the Muslim public on the need to register their marriages. Also, the Imams need to be empowered to register marriages.

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<sup>40</sup> Saeed Saani, teacher Ghana Education Service a married man, interviewed at Wa 26 December 2019.

<sup>41</sup> Issaka, "The Utility of Marriage of Mohammedans Ordinance Under the Current Ghanaian Legal Dispensation," 3.

<sup>42</sup> GNA, "Muslims to Be Schooled on Islamic Marriage Registration," Ghana News Agency, 2013, <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Muslims-to-be-schooled-on-Islamic-marriage-registration-294032>.

<sup>43</sup> Atuguba, "The Registration of Islamic Marriage in Ghana's Plural Legal System -Challenges and Strategies for Improvement."

<sup>44</sup> Sheikh Mashood Mahakhtar, Islamic cleric, Arabic teacher an Imam ASWAJ, interviewed, Adabiyah, Wa 10<sup>th</sup> March, 2019.

<sup>45</sup> Sheikh Yusif Issah, Islamic scholar, an elder of Dzenbeyeri ward of Wa, interviewed, Catering Rest House, Wa, 29<sup>th</sup> July, 2019

<sup>46</sup> Sheikh Zakariya Siddiq, Islamic cleric, Arabic teacher leading member *Tamarimuni* Family Wa interviewed, Kumbiyahi Wa, 30<sup>th</sup> March, 2019.

## CONCLUSION

This study has explored why Muslims have been disinterested to register their marriages as a legal requirement in the Ghanaian system. Having explored the nature of the Wala Muslim societies and the extent to which they have been largely influenced by the Islamic culture, the findings highlight the fact that marriage registration as a legal requirement only existed in the law books without any efforts to educate the community to embrace the law. The Marriage Act and its provisions are in tension with Islamic Shari'ah which regulates Muslim family law in Ghana. Interestingly, the study realised that Muslims largely approach their understanding of a valid marriage from the Islamic religious tradition which regulates their daily life. In accounting for the lack of patronage of the law by Muslims in Wa, the study reveals that several factors informed this trend which include among others, lack of education about the existence of the law, the fear of not being able to practice polygamy by men. The study also finds that some men fear losing their patriarchal roles in the society and hence refused to register their marriages. The study realised that the registration of marriage only becomes necessary in the community when people intend to embark on travelling or job requirements push them to produce a marriage certificate. Thus, the recommendations stated above should be put in place so that Muslims are able to fulfil their legal duties to the state.

## BIBLIOGRAPHY

- Abdulati, Hammudah. *Islam in Focus*. American Trust Publications, 1993.  
<https://books.google.com.gh/books?id=THnWAAAAMAAJ>.
- Abubakari, Yushawu. "Marriage Under the Muhammadan Ordinance in Ghana: Knowledge and Perceptions of Muslims in Tamale in the Northern Region." *ADRRI Journal of Arts and Social Sciences* 19, no. 1 (7), January 2022-March (2022): 175–82.
- Agyare, Appiah Victoria. "The Rights of Muslim Women in Marriage Relationship within the Kumasi Metropolitan Area." Kwame Nkrumah University of Science and Technology, 2014.
- Anderson, J N D. *Islamic Law in Africa*. Taylor & Francis, 2013.  
<https://books.google.com.gh/books?id=WPln3PTWIY0C>.
- Ankrah, Reindorf Twumasi. "You Are Not Engaged, You Are Married: In Defence of Customary Marriage." Kumasi, 2016.
- Asante, Kwame. "Marriage and Registration Report Section Report ." Kumasi, 2021.
- Atuguba, Raymond A. "The Registration of Islamic Marriage in Ghana's Plural Legal System - Challenges and Strategies for Improvement." In *Paper Presented at a Workshop Organized by Family Law Focal Person Area of the German Technical Cooperation, Hohoe District Assembly, Legal Resource Center*, 2020.
- Burgess, Ernest W. "The Family in a Changing Society." *American Journal of Sociology* 53, no. 6 (1948): 417–22.
- GNA. "Muslims to Be Schooled on Islamic Marriage Registration." Ghana News Agency, 2013.  
<https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Muslims-to-be-schooled-on-Islamic-marriage-registration-294032>.
- Hiskett, Mervyn. "Commissioner of Police v. Musa Kommanda and Aspects of the Working of the Gold Coast Marriage of Mohammedans Ordinance." *Journal of African Law* 20, no. 2 (1976): 127–46.
- Huis, Stijn Cornelis Van, and Theresia Dyah Wirastri. "Muslim Marriage Registration in Indonesia: Revised Marriage Registration Laws Cannot Overcome Compliance Flaws." *Australian Journal of Asian Law* 13, no. 1 (2012).
- Issaka, Amina Ali. "The Utility of Marriage of Mohammedans Ordinance Under the Current Ghanaian Legal Dispensation." Ghana Law Hub, July 26, 2020. <https://ghanalawhub.com/the-utility-of-marriage-of-mohammedans-ordinance-under-the-current-ghanaian-legal-dispensation/>.
- Mohammed, Bin Salih. *Our Cultural Heritage, Some Aspects of Customary Law, Usage and Tradition of the Wala*. Accra: Salihsons, 2009.
- Nisa, Eva F. "The Bureaucratization of Muslim Marriage in Indonesia." *Journal of Law and Religion*

33, no. 2 (2018): 291–309.

Nock, Steven L. “Marriage as a Public Issue.” *The Future of Children*, 2005, 13–32.

Registrar Generals Department. “Marriage Registration.” RGD Services, 2019.

<https://rgd.gov.gh/marriage.html#:~:text=MARRIAGE REGISTRATION&text=This is governed by Marriages,marriage is going to occur>.

Sezgin, Yüksel. “Undignified Jurispathy: Muslim Family Law at Ghanaian Courts.” *Law & Social Inquiry*, 2022, 1–31.

Silva de Alwis, Rangita de. *Child Marriage and the Law*. New York: Wellesley Centre for Women, 2007. <https://www.wcwoonline.org/pdf/asia2007conf/Child Marriage and the Law.pdf>.

Wilks, Ivor. *Wa and the Wala*. Cambridge: Cambridge University Press, 1989.

<https://catdir.loc.gov/catdir/samples/cam031/88027439.pdf>.

Yilmaz, Ihsan. “The Challenge of Post-Modern Legality and Muslim Legal Pluralism in England.” *Journal of Ethnic and Migration Studies* 28, no. 2 (2002): 343–54.

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