



ORIGIN OF HALALA MARRIAGE AND CONTEMPORARY PRACTICES

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INTRODUCTION: SCOPE AND SIGNIFICANCE OF HALALA MARRIAGE

Halala marriage, a practice within Islamic jurisprudence, requires a woman who has been irrevocably divorced by her husband through *triple talaq* to marry another man, consummate the marriage, and then be divorced or widowed before remarrying her previous husband (Qur'an 2:230; Esposito, 2011).¹ Rooted in interpretations of Quranic verses, this practice has been discussed and codified differently across classical schools of Islamic law, particularly within Hanafi and Shafi'i jurisprudence (Kamali, 2008; Hallaq, 2009).² While some jurists argue that halala serves as a deterrent against impulsive divorce and preserves the sanctity of marriage, thereby upholding principles of lineage and purity (Engineer, 2008; Ali, 2006),³ others strongly condemn its misuse, describing it as exploitative and degrading, especially when practised in a commercialised or coercive form (Bano, 2021; Mahmood, 2019).⁴ This study explores the historical origins of halala marriage, tracing its treatment within Islamic legal thought, and examines its contemporary practice, highlighting its prevalence, controversies, and the complex legal and social challenges it continues to pose in modern societies (Singh, 2020; Mir-Hosseini, 2000).⁵ The scope of this research is twofold: first, to understand halala in its doctrinal and historical context within Islamic law; and second, to critically analyse its contemporary application (Kamali, 2008; Hallaq, 2009).⁶ By examining primary sources such as the Qur'an, Hadith, and classical juristic opinions, the study establishes how the concept of an "intervening marriage" developed and was justified by different schools

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¹ Qur'an 2:230; Esposito, J. (2011). *What Everyone Needs to Know About Islam*.

² Kamali, M.H. (2008). *Shari'ah Law: An Introduction*; Hallaq, W. (2009). *An Introduction to Islamic Law*.

³ Engineer, A.A. (2008). *Rights of Women in Islam*; Ali, A.Y. (2006). *The Holy Qur'an: Text, Translation and Commentary*.

⁴ Bano, S. (2021). *Muslim Women and Shari'ah Councils in Britain*; Mahmood, T. (2019). *Personal Law in Islamic Societies*

⁵ Singh, P. (2020). "Triple Talaq and Halala: Constitutional Challenges in India." *Indian Law Review*; Mir-Hosseini, Z. (2000). *Marriage on Trial: A Study of Islamic Family Law in Iran and Morocco*.

⁶ Kamali, M.H. (2008). *Shari'ah Law: An Introduction*

of thought (Qur'an 2:230; Ali, 2006; Esposito, 2011).⁷ It then situates the practice within modern debates, focusing on South Asia, the Middle East, and diaspora communities, where halala remains a contested issue in both religious and secular spaces (Bano, 2021; Mir-Hosseini, 2000).⁸ This dual approach allows the research to move beyond textual interpretation to consider the lived realities of Muslim women affected by the practice (Engineer, 2008; Mahmood, 2019).⁹ The significance of this research lies in its attempt to bridge doctrinal analysis with contemporary human rights discourse. Halala is not merely a theological question but also a social phenomenon with deep implications for gender equality, bodily autonomy, and the dignity of Muslim women. In countries like India, ongoing public interest litigations challenge halala on constitutional grounds, framing it as a violation of women's rights under Articles 14 and 21 of the Indian Constitution (Singh, 2020). At the same time, defenders of the practice insist on its religious authenticity and argue against state interference in personal laws. Studying halala, therefore, provides a lens to understand the broader conflict between religious freedom, women's rights, and legal reform.

Halala marriage, also known as Nikah Halala, is a practice rooted in Islamic marital jurisprudence, specifically concerning the laws of Talaq (divorce). According to traditional interpretations of Islamic law, if a man divorces his wife with a triple talaq (an irrevocable divorce), he cannot remarry her unless she marries another man and is subsequently divorced or widowed. This intervening

DOCTRINAL ORIGINS IN QUR'AN AND HADITH

The primary Qur'anic reference to halala arises in Surah al-Baqarah (2:230), which states that after a husband divorces his wife irrevocably, she cannot return to him unless she marries another man and that marriage ends naturally (Qur'an 2:230).¹⁰ This verse is interpreted by scholars as establishing the rule of an intervening marriage before remarriage to the former husband (Ali, 2006).¹¹ Classical exegetes such as al-Tabari emphasised that this condition was intended as a safeguard against impulsive divorces, ensuring that divorce was not used frivolously (Tabari, 1987).¹² Later scholars like Ibn Kathir echoed this understanding, linking

⁷ Qur'an 2:230 (on remarriage after triple talaq)., Ali, A.Y. (2006). *The Holy Qur'an: Text, Translation and Commentary*.

⁸ Bano, S. (2021). *Muslim Women and Shari'ah Councils in Britain*.

⁹ Mahmood, T. (2019). *Personal Law in Islamic Societies*.

¹⁰ Qur'an 2:230.

¹¹ Ali, A.Y. (2006). *The Holy Qur'an: Text, Translation and Commentary*.

¹² Tabari, al-. (1987). *Jami' al-Bayan fi Ta'wil al-Qur'an*.

the verse to a moral and social deterrent for men, discouraging them from misusing the power of divorce (Ibn Kathir, 1999).¹³ Several Hadith collections explicitly address halala, distinguishing between a genuine intervening marriage and one arranged solely to make a woman permissible for her first husband. For instance, Sunan Abi Dawud (Hadith 2076)¹⁴ and Sunan Ibn Majah (Hadith 1936) record that the Prophet Muhammad cursed both the man who conducts a marriage for halala (*muhallil*) and the one for whom it is conducted (*muhallal lahu*) (Abi Dawud, 1997; Ibn Majah, 2007).¹⁵ These narrations are cited by jurists as clear evidence that contrived halala is impermissible and sinful, even if the intervening marriage technically fulfils the Qur'anic requirement (Kamali, 2008).¹⁶ The emphasis in Hadith literature, therefore, is on intention (niyyah), distinguishing between a legitimate marriage that ends naturally and a manipulative arrangement designed to circumvent divine law (Hallaq, 2009).¹⁷ Based on these Qur'anic and Hadith foundations, early Islamic jurists developed nuanced interpretations of halala. The Hanafi school held that a remarriage after triple talaq is valid only if the intervening marriage was genuine and consummated, but condemned deliberate arrangements made solely for halala purposes (Engineer, 2008).¹⁸ The Shafi'i and Maliki schools similarly acknowledged the Qur'anic mandate but stressed that the Hadith curse made contrived halala religiously reprehensible, even if legally binding (Kamali, 2008).¹⁹ Over time, these interpretations shaped a doctrinal consensus: halala was not meant as a loophole to reverse divorce but as a deterrent mechanism embedded in Islamic family law (Esposito, 2011; Mahmood, 2019).²⁰

INTERPRETATIONS BY CLASSICAL JURISTS AND ISLAMIC SCHOOLS OF LAW

Hanafi School: The Hanafi school, dominant in South Asia and parts of the Middle East, interpreted the Qur'an and Hadith on halala with a focus on legal validity. Hanafi jurists ruled that a divorced woman cannot return to her first husband unless she has married another man in a genuine marriage and consummation has taken place (Kamali, 2008).²¹ However, while such a marriage would legally satisfy the Qur'anic condition, the Hanafis condemned marriages

¹³ Ibn Kathir. (1999). *Tafsir al-Qur'an al-'Azim*.

¹⁴ Abi Dawud, S. (1997). *Sunan Abi Dawud*. Trans. Ahmad Hasan

¹⁵ Ibn Majah. (2007). *Sunan Ibn Majah*. Trans. Nasiruddin al-Khattab

¹⁶ Kamali, M.H. (2008). *Shari'ah Law: An Introduction*.

¹⁷ Hallaq, W. (2009). *An Introduction to Islamic Law*

¹⁸ Engineer, A.A. (2008). *Rights of Women in Islam*

¹⁹ Esposito, J. (2011). *What Everyone Needs to Know About Islam*.

²⁰ Mahmood, T. (2019). *Personal Law in Islamic Societies*.

²¹ Ali, A.Y. (2006). *The Holy Qur'an: Text, Translation and Commentary*

that were deliberately arranged for the sole purpose of halala, citing the Hadith that curses the *muhallil* and *muhallal lahu* (Abi Dawud, 1997).²² This reflects a distinction between formal validity (the remarriage is technically legal) and moral disapproval (the intention behind it renders it sinful) (Hallaq, 2009).²³

Shafi'i School: The Shafi'i school, influential in Southeast Asia and East Africa, took a stricter view on halala. Shafi'i jurists stressed that the intervening marriage must not only be consummated but also entered into without the precondition of later divorcing the woman so she could remarry her first husband (Ibn Kathir, 1999; Kamali, 2008).²⁴ They relied heavily on Hadith evidence, particularly the reports in Sunan Ibn Majah condemning pre-arranged halala, to argue that such arrangements undermine the sanctity of marriage (Ibn Majah, 2007).²⁵ In the Shafi'i framework, intention (*niyyah*) carried great weight — a marriage performed with the hidden motive of halala was considered legally valid but ethically void, a tension that reflects broader Shafi'i emphasis on sincerity in religious acts (Hallaq, 2009).²⁶

Maliki and Hanbali Schools: The Maliki school, prevalent in North and West Africa, also acknowledged the Qur'anic requirement of an intervening marriage but was particularly wary of halala being abused as a loophole. Maliki jurists considered marriages explicitly contracted for halala purposes as invalid if proven, stressing that the purpose of the law was to deter rash divorces rather than enable reconciliation through manipulation (Engineer, 2008).²⁷ Similarly, the Hanbali school, followed in parts of the Arabian Peninsula, adopted a conservative approach. Hanbali scholars strongly emphasised the Prophet's condemnation of contrived halala, arguing that it not only invalidates the marriage's spiritual value but also constitutes a form of deception against divine law (Ibn Qudamah, 1997; Esposito, 2011).²⁸

Juristic Consensus and Divergence: Despite differences in approach, all four Sunni schools converged on a key point: halala is not intended as a loophole but as a deterrent against impulsive divorce. The Hanafi allowance of formal validity contrasts with Maliki and Hanbali tendencies to treat contrived halala as invalid, while the Shafi'i is maintained a middle ground

²² Abi Dawud, S. (1997). *Sunan Abi Dawud*. Trans. Ahmad Hasan.

²³ Ibn Majah. (2007). *Sunan Ibn Majah*. Trans. Nasiruddin al-Khattab

²⁴ Ibn Kathir. (1999). *Tafsir al-Qur'an al-'Azim*.

²⁵ Ibn Majah. (2007). *Sunan Ibn Majah*. Trans. Nasiruddin al-Khattab.

²⁶ Hallaq, W. (2009). *An Introduction to Islamic Law*.

²⁷ Engineer, A.A. (2008). *Rights of Women in Islam*.

²⁸ Ibn Qudamah. (1997). *Al-Mughni*.

— legally valid but morally condemned (Kamali, 2008).²⁹ The divergences illustrate how jurists balanced legal form, moral intention, and social policy within Islamic family law. Across the madhhabs, the consensus that emerged was that halala should not be engineered or commercialised, and that the spirit of the Qur'anic rule was to uphold marital stability rather than encourage cycles of divorce and remarriage (Mahmood, 2019; Mir-Hosseini, 2000).³⁰

PURPOSE AND RATIONALE OF THE INTERVENING MARRIAGE RULE

The first and most widely accepted rationale for the intervening marriage rule is that it was meant to deter husbands from using divorce casually or impulsively. In early Arabian society, men had almost unrestricted power to pronounce talaq, and the Qur'an sought to regulate this by introducing consequences (Qur'an 2:229–230).³¹ By requiring that a divorced woman must marry another man before returning to her first husband, the rule served as a warning to men: divorce is not a decision to be taken lightly, as it could mean losing the woman permanently (Hallaq, 2009; Kamali, 2008). In this sense, halala functioned as a social safeguard against the abuse of talaq.

Another rationale emphasised by classical jurists is that the intervening marriage upholds the sanctity and seriousness of marriage. A marriage is not supposed to be a reversible game where spouses separate and reunite without consequence. By requiring a genuine marriage with another man, the rule creates a pause that forces both parties to reflect on their actions (Esposito, 2011).³² This interpretation suggests that the Qur'an wanted to ensure that reconciliation, if it happens, is grounded in maturity and genuine intent, not in temporary anger or manipulation. A further purpose often cited by scholars is the protection of lineage and family stability. Islamic law places strong emphasis on clarity in matters of parenthood and inheritance. By enforcing a real intervening marriage — including consummation — the rule prevents “mock marriages” that could blur family lines or reduce marriage to a mere contract for convenience. In this way, halala was not only about deterring rash divorces but also about maintaining the integrity of family structures in a society where lineage determined social and legal rights. Finally, beyond law, the intervening marriage rule also carries a moral and ethical rationale. The Hadith that curses both the man who arranges a halala marriage (*muhallil*) and the one who accepts it (*muhallal lahu*) shows that the Prophet discouraged manipulative

²⁹ Kamali, M.H. (2008). *Shari'ah Law: An Introduction*.

³⁰ Mir-Hosseini, Z. (2000). *Marriage on Trial: A Study of Islamic Family Law in Iran and Morocco*.

³¹ Qur'an 2:229–230.

³² Esposito, J. (2011). *What Everyone Needs to Know About Islam*.

practices (Abi Dawud, 1997; Ibn Majah, 2007).³³ Scholars argue this reflects a broader principle: laws are not just technical requirements but moral guidelines for building just and respectful relationships (Mir-Hosseini, 2000).³⁴ Thus, the rule was designed not as a loophole, but as a deterrent with moral weight, reminding believers that marriage and divorce are sacred responsibilities, not matters for exploitation.

COMPARATIVE PERSPECTIVES: SUNNI AND SHIA APPROACHES TO HALALA

Sunni Foundations: In Sunni jurisprudence, halala is firmly rooted in Qur'an 2:230, which states that after an irrevocable divorce (triple talaq), the woman cannot return to her first husband until she has lawfully married another man and that marriage has ended (Ali, 2006).³⁵ All four Sunni schools — Hanafi, Shafi'i, Maliki, and Hanbali — uphold this principle, though they differ slightly in application. The common Sunni understanding is that the intervening marriage must be genuine, consummated, and not pre-planned for halala (Kamali, 2008).³⁶ Hadith reports condemning contrived halala, such as those in Sunan Abi Dawud and Sunan Ibn Majah, play a central role in Sunni rulings, as they warn against reducing marriage to a technical device (Abi Dawud, 1997; Ibn Majah, 2007).³⁷ Thus, while Sunnis recognise the necessity of halala in theory, they also strongly emphasise its moral limits. Within Sunni law, Hanafi jurists consider halala legally valid even if intentionally arranged, but they classify it as sinful due to the Prophet's condemnation (Hallaq, 2009).³⁸ By contrast, Maliki and Hanbali scholars take a stricter stance, treating a pre-planned halala marriage as void if proven, since it violates the spirit of Qur'anic law (Engineer, 2008).³⁹ The Shafi'i school adopts a middle ground, acknowledging the validity of such a marriage but stressing its ethical corruption (Kamali, 2008).⁴⁰ This diversity shows that while all Sunni schools share the same Qur'anic foundation, they balance differently between legal formalism and moral intention. What unites them is the consensus that halala should not be a loophole for careless divorce but a deterrent against its misuse.

³³ Abi Dawud, S. (1997). *Sunan Abi Dawud*. Trans. Ahmad Hasan, Ibn Majah. (2007). *Sunan Ibn Majah*. Trans. Nasiruddin al-Khattab.

³⁴ Mir-Hosseini, Z. (2000). *Marriage on Trial: A Study of Islamic Family Law in Iran and Morocco*

³⁵ Ali, A.Y. (2006). *The Holy Qur'an: Text, Translation and Commentary*.

³⁶ Kamali, M.H. (2008). *Shari'ah Law: An Introduction*.

³⁷ Abi Dawud, S. (1997). *Sunan Abi Dawud*. Trans. Ahmad Hasan, Ibn Majah. (2007). *Sunan Ibn Majah*. Trans. Nasiruddin al-Khattab.

³⁸ Hallaq, W. (2009). *An Introduction to Islamic Law*.

³⁹ Engineer, A.A. (2008). *Rights of Women in Islam*.

⁴⁰ Kamali, M.H. (2008). *Shari'ah Law: An Introduction*.

Shia perspective: In Shia jurisprudence, particularly among Twelver (Ja‘fari) Shias, halala is viewed with greater suspicion and stricter limits. While Shia scholars also accept Qur'an 2:230 as binding, they emphasise that the intervening marriage must be entered into freely and without any hidden or explicit agreement of later divorce (Haider, 2014).⁴¹ Unlike the Sunni acceptance of a halala marriage as valid even when the intention is questionable, Shia jurists argue that if the marriage is shown to have been arranged solely for halala, it is invalid both legally and morally (Al-Khoei, 1989).⁴² Shia traditions place strong weight on niyyah (intention), interpreting halala not as a formality but as a genuine marital bond, which makes deliberate arrangements highly problematic (Mir-Hosseini, 2000).⁴³ This leads to a stricter prohibition of contrived halala practices in Shia communities compared to Sunni practice.

HALALA IN CONTEMPORARY PRACTICE: CASE STUDIES AND EXAMPLES

Halala today appears in two distinct forms: the classical/doctrinal form — a bona fide intervening marriage that ends before a divorced woman may remarry her first husband — and a contrived or commercialised form in which marriages are arranged expressly to make the woman “permissible” again. Scholars note that while the doctrinal form is what classical jurists discussed, the gap between theory and on-the-ground practice has widened in some places, producing exploitative variations. Contemporary literature, therefore, treats halala both as a juristic question and as a social phenomenon that can produce civil and criminal harms when abused. India has been a focal point for public debate and litigation over contemporary halala practices, especially after the triple-talaq controversies of the late 2010s. Multiple petitions were filed from 2018 onwards asking the Supreme Court to examine the constitutional validity of nikah-halala (and polygamy), including W.P.(C) 222/2018 (Sameena Begum), which explicitly asked the Court to declare such practices inconsistent with Articles 14, 15 and 21.⁴⁴ The Supreme Court has repeatedly indicated that these pleas should be heard by a Constitution bench, and in 2022–2023, moved to re-constitute a five-judge bench to consider petitions against polygamy and nikah-halala (India, 2022). Government sources and press reporting also show the Centre has collected data and faced pressure to take a position as these petitions proceeded. Investigative journalism has further exposed the commercialisation of halala, both in South Asia and in diasporic communities. A 2017 BBC Asian Network investigation

⁴¹ Haider, N. (2014). *Shia Islam: An Introduction*.

⁴² Al-Khoei, A. (1989). *Islamic Laws*.

⁴³ Mir-Hosseini, Z. (2000). *Marriage on Trial: A Study of Islamic Family Law in Iran and Morocco*.

⁴⁴ Sameena Begum v. Union of India, Writ Petition (Civil) No. 222 of 2018 (India).

revealed clerics in the UK offering “one-night halala” services, often advertised online, in exchange for money. (Anon., (July 19, 2017) Around the same time, an India Today sting operation in India uncovered clerics openly offering to arrange halala marriages for fees, with some suggesting exploitative overnight arrangements. These reports provoked public outrage because they revealed halala’s transformation from a contested doctrinal practice into a commodified service where vulnerable women were doubly disadvantaged—first by divorce and second by financial and sexual exploitation. Importantly, such exposés also linked halala debates to broader issues of unregulated religious authority and the absence of legal safeguards for women in both majority-Muslim and minority-Muslim contexts.

The transnational character of these case studies underscores that halala is not confined to a single jurisdiction. In the UK, the BBC’s revelations triggered calls to regulate informal *sharia* councils, which many Muslim women rely upon to resolve marital disputes outside the formal legal system. Government reviews in the UK highlighted how these councils operate without accountability, creating space for exploitative practices, and recommended clearer protections for women. Similarly, diaspora media such as The Muslim Times emphasised that wherever social demand, weak legal oversight, and economic vulnerability intersect, halala “services” may emerge as a parallel market. This international dimension is crucial because it shows that halala is not merely an internal Muslim doctrinal debate but also a global governance issue implicating migration, minority rights, and gender justice.

In India, the combination of litigation and media exposure has accelerated legal and policy responses. Petitioners like Sameena Begum and Aafreen Rahman have approached the Supreme Court of India seeking constitutional remedies against halala, polygamy, and related practices, arguing they violate Articles 14, 15, and 21 of the Constitution. The Court has consolidated these petitions and signalled a willingness to hear them before a larger bench, indicating the potential for landmark jurisprudence. Alongside this, the Government of India has begun collecting data on halala and polygamy to assess their prevalence and social effects, though it has not yet taken a definitive legal position. Civil society actors, including Muslim women’s groups, have simultaneously mobilised to press for doctrinal clarity and legislative action, often stressing that religious freedom cannot extend to practices that commodify women.

LEGAL AND JUDICIAL PERSPECTIVES IN INDIA AND BEYOND

Legal and judicial systems are increasingly being called upon to assess *nikah halala* not just as a religious or social practice but as one with constitutional, rights-based, and regulatory implications. In India, petitions have been filed in the Supreme Court seeking to declare halala unconstitutional; meanwhile, religious boards have defended it, and there is active debate over whether existing statutes should be interpreted or amended. In other countries (e.g. Pakistan), there are media reports and public discussion, but fewer high court or supreme court rulings to date. The key questions are: does *nikah halala* violate constitutional rights (such as equality, non-discrimination, dignity)? Is it covered under criminal law? And to what extent can personal law be challenged under constitutional norms? In India, the most important legal steps have come through Public Interest Litigations (PILs) seeking judicial review of *nikah halala* (and polygamy) as violating Articles 14, 15, 21, and sometimes 25 of the Constitution. One such petition filed by advocate Ashwini Kumar Upadhyay argues that *nikah halala* “grossly injures the fundamental rights of married Muslim women” under equality, non-discrimination and personal liberty.⁴⁵ In March 2018, the Supreme Court referred a batch of pleas to a Constitution bench to decide on the constitutional validity of *nikah halala* and polygamy, following arguments that these practices are inconsistent with modern gender justice norms.⁴⁶ The Court has also sought responses from the Centre (Government of India) and other bodies like the National Commission for Women, signalling that it's taking these petitions seriously.⁴⁷ Petitions challenge whether sections of the Indian Penal Code (IPC) apply to *nikah halala* when it is misused or commercialised. For example, petitioners have argued that halala could amount to rape under Section 375 IPC when the intervening marriage is a pretext for sexual abuse, or that enforcement under Section 498A (cruelty), or bigamy under Section 494 IPC, should be applicable in certain cases.⁴⁸ There is also debate over the Muslim Personal Law (Shariat) Application Act, 1937, which gives legal recognition to personal law practices among Muslims.

⁴⁵ Aditi Singh, PIL in SC challenges constitutional validity of polygamy and Nikah-Halala, 5 Mar 2018, <https://www.livemint.com/Politics/UaI1MtvoXMhD2QrEQ6Ic8N/PIL-in-SC-challenges-constitutional-validity-of-polygamy-and.html>, accessed on 8 oct 2025.

⁴⁶ Nikah halala, polygamy: Supreme Court to examine validity of practices, refers matter to Constitution bench, March 26 2018, dianexpress.com/article/india/supreme-court-polygamy-nikal-halala-constitution-bench-triple-talaq, accessed on 8 oct 2025.

⁴⁷ Top Court Seeks Centre's Response On Plea Against Polygamy, Nikah-Halala, Jul 04, 2018, <https://www.ndtv.com/india-news/supreme-court-seeks-centres-response-on-plea-against-polygamy-nikah-halala>, accessed on 8th October 2025.

⁴⁸ Fresh plea in Supreme Court to declare polygamy, nikah-halala in Islam illegal, March 14, 2018, <https://indianexpress.com/article/india/fresh-plea-supreme-court-polygamy-nikah-halala-islam-illegal>, accessed on 8th October 2025.

The petitions argue that in so far as this act validates or permits *nikah halala*, it may be unconstitutional for violating other provisions of the Constitution.⁴⁹ Thus far, courts have not declared halala illegal, but have clearly signalled that they may do so: referring pleas to larger benches, seeking extensive responses, and treating halala with the same level of constitutional scrutiny as practices like triple talaq.⁵⁰ Outside India, legal and judicial action around halala is less developed, but there are some signals and media reports. In Pakistan, for instance, media personalities have raised alarm about *halala centres* advertising in cities like Karachi, arguing that they operate with little regulation, and that women may be exploited.⁵¹ In other jurisdictions with Muslim minorities (UK, etc.), the issue comes up more in regulatory policy and reports rather than in binding judicial decisions. For example, UK Home Office/government reports into Sharia councils have discussed how religious arbitration bodies may lack oversight and that women brought before them in matters including marriage/divorce may be vulnerable. (I didn't find a direct Supreme Court-type judgment in those jurisdictions in the sources I reviewed, but several working papers and policy reviews note concern. From the Indian case, it appears likely that *nikah halala* will be judicially examined for constitutionality, whether the practice, as recognised by personal law, should be struck down or modified to ensure women's rights under equality and liberty. The arguments about applying sections of IPC show the possibility of criminal or penal regulation in cases of abuse, coercion or fraud.

Yet gaps remain: there is little judicial precedent determining when exactly halala becomes coercion (vs religious practice freely entered), or how consent, intention, and exploitation are to be legally measured. Also, in other countries, the absence of litigation means less clarity on how constitutional/human rights norms may override or limit religious personal laws in this context.

CONCLUSION: RECONCILING FAITH, LAW, AND GENDER JUSTICE

The debate surrounding *nikah halala* represents one of the most complex intersections between faith, personal law, and constitutional justice. Rooted in early Islamic jurisprudence and

⁴⁹ Supreme Court seeks govt's reply on plea against polygamy, nikah halala, Apr 23, 2018, <https://www.hindustantimes.com/india-news/supreme-court-seeks-govt-s-reply-on-plea-against-polygamy-nikah-halala/story>, accessed on 8th October 2025.

⁵⁰ SC to hear pleas challenging polygamy and 'nikah halala' among Muslims, Jan 20, 2023, <https://www.indiatoday.in/india/story/sc-to-hear-pleas-challenging-polygamy-and-nikah-halala-among-muslims>, accssed on 8th October 2025.

⁵¹ "They are misusing Islamic law:" Nadia Khan reveals presence of Halala centres in Pakistan

originally intended to preserve the sanctity of marriage and prevent impulsive divorces, halala has evolved into a practice that, in some contexts, undermines the very moral and ethical framework it sought to protect. Contemporary misuse—ranging from coerced marriages to the commercialisation of religious rituals—has led to growing recognition that religious interpretation must coexist with evolving principles of human rights and gender equality. This tension calls for an empathetic yet critical dialogue between religious scholars, legal institutions, and civil society.

In democratic and plural societies such as India, reconciliation between religious autonomy and constitutional morality is both delicate and necessary. The Supreme Court's willingness to examine halala's constitutionality reflects an ongoing struggle to ensure that personal laws align with the guarantees of equality, dignity, and liberty under Articles 14, 15, and 21 of the Constitution. Yet reform must go beyond judicial pronouncements—it requires theological engagement within the Muslim community itself. When religious scholars and jurists revisit classical doctrines through the lens of *maqasid al-sharia* (the higher objectives of Islamic law), which emphasise justice and compassion, they pave the way for interpretations that preserve faith while rejecting patriarchal distortions.

Ultimately, reconciling faith, law, and gender justice means recognising that religious identity and women's rights are not mutually exclusive. A jurisprudence of balance—anchored in both constitutional equality and ethical Islamic principles—can empower women while maintaining respect for religious freedom. The path forward lies in inclusive reform, where women, clerics, and lawmakers collaborate to dismantle exploitative practices and promote genuine consent, dignity, and agency. By confronting the misuse of halala through both legal reform and moral renewal, societies can move toward a vision of justice that honours the spiritual essence of Islam while upholding the universal principles of human rights.