

**MARRIAGE FOR THE PURPOSE OF OBTAINING  
CITIZENSHIP AND ITS EFFECTS FROM A SHARIA  
AND LEGAL POINT OF VIEW**

(Perkawinan Untuk Tujuan Mendapatkan Kewarganegaraan  
dan Efeknya Dari Syariah dan Sudut Pandang Hukum)

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**Abstrak:** Cara termudah untuk mendapatkan tempat tinggal di negara-negara maju adalah melalui pernikahan dengan penduduk negara-negara maju. Saat ini, sudah umum terjadi fenomena bukan pernikahan nyata, namun pasangan menandatangani kontrak hanya di atas kertas. Akta nikah tidak dimaksudkan oleh para pihak sebagai fakta perkawinan, tetapi para pihak menyetujui bukan tentang tinggal serumah (kohabitasi) baik secara tersurat maupun tersirat. Dalam Syariah tidak diperbolehkan untuk menandatangani kontrak pernikahan tanpa niat menikah, hal itu dianggap ilegal dan dianggap sebagai kejahatan dalam hukum. Dalam kasus seorang pria dan wanita mengklaim bahwa mereka adalah pasangan. Jenis ini adalah klaim yang mengandung kebenaran dan kebohongan, dan pernikahan tidak dilakukan dalam kedua kasus tersebut. Mengenai pernikahan visual dengan penegasan dan penerimaan tetapi tanpa niat pernikahan, sekelompok sarjana kontemporer menundukkan jenis pernikahan ini dengan pernikahan bercanda (hazl). Mayoritas ulama dari Hanafi, Maliki, Syafi'i dan Hanbali percaya bahwa itu adalah pernikahan yang sah yang memiliki efek, sama seperti dalam pernikahan bercanda. Namun, pandangan lain dari Maliki dalam pernikahan candaan adalah bahwa itu tidak sah dan tidak memiliki efek apa pun. Pernikahan sementara adalah pernikahan mut'ah jika lelaki itu muncul dalam upayanya untuk bercerai. Akhirnya, peneliti mendukung fatwa yang menyatakan pernikahan di atas kertas lebih seperti pernikahan 'penghalalan' yang tidak dimaksudkan untuk pernikahan sejati

**Kata Kunci:** Pernikahan Visual, Pernikahan Palsu, Penipuan Pernikahan,

**Abstract:** The easiest way to obtain residency in developed countries is through marring residents of developed countries. Nowadays, it is common instead of real

marriage, couples sign contract only on the paper. The paper marriage is not intended by the parties to the fact of marriage but the parties agree on non-cohabitation either expressly or implicitly. It is not permissible in Sharia to conclude a marriage contract without marriage intention, and it is illegal and considered a crime in law. In case a man and a woman claim that they are a couple. This type is a claim that bears the truth and lies, and marriage is not held in both cases. Regarding visual marriage with affirmation and acceptance but without the intention of marriage, a group of contemporary scholars subjoined this type of marriage to the joking (*hazl*) marriage. The majority of the scholars from the Hanafis, Malikis, Shaafa'is and Hanbalis believe that it is a valid marriage that has its effects, the same as in the marriage of joking. However, another view of the Maalikis in the marriage of the joking is that it is not valid and it does not have any effects. Temporary marriage is a *mut'ah* marriage if the man appeared his attempt to divorce. Finally, the researcher supports the fatwa that stated paper marriage is more like *tahlil* marriage which is not meant to be a true marriage.

**Keywords:** Visualised marriage, A sham Marriage, Fraud Marriage,

## INTRODUCTION

Vast different between wealthy and poor countries cause people to migrate to developed countries in order to benefit from material affluence, economic prosperity and political stability. The easiest way for this migration is through marrying residents of developed countries.<sup>1</sup> For instance, who marries a United States (US) citizen, instead of six years after three years he/she is capable of obtaining citizenship as long as the marriage ongoing. Therefore, this highly benefit is cause attract migrants to exploitation the law of immigration.<sup>2</sup>

Shaikh Ibn Uthaimin defined marriage as "It is a mutual contract between a man and a woman whose goal is for each to enjoy the other, become a pious family and a sound society." Furthermore, in Sahih Muslim, marriage is defined as "a relation between a man and a woman which is recognized by custom or law and involves

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<sup>1</sup> Farah Deeba Chowdhury. "Immigration Through Marriage: A Case Study of Bangladeshis in Toronto." *Journal of Muslim Minority Affairs* 38 (2): 280-300

<sup>2</sup> George S. Asllani, "Dissecting Marriage Fraud as a True Immigration Crime." *Laws* 5 (1): 8. <https://doi.org/10.3390/laws5010008>.

certain rights and duties, both in the case of the parties entering the Union, and in case of the children born of it".<sup>3</sup> however a paper marriage is a marriage in which a man and women engage in a contract in which they simulate to be husband and wife in front of the legal authorities.<sup>4</sup> Evidence provided by investigators illustrates that the organized marriages contracting in exchange for taking money in exchange to regularize migration statues and the couples not attempt to make real ongoing marriage.<sup>5</sup> For detect fraud marriage there are some criteria such as the couple does not speak shared language between them to understand each other and they never met before the contract of marriage; false statements about their personal relationship and personal details; and evidence of taking money in cultures that the dowry is not common and another criterion is happening divorce shortly after residency obtained.<sup>6</sup>

In this matter, there are many and multiple types. All Islam Scholars agreed that it is not permissible for a Muslim woman to marry unbelievers from the people of the Book or others. Allah expresses (And do not marry polytheistic men [to your women] until they believe. al-Baqarah: 221). In addition, scholars agreed that it is not permissible for a Muslim to marry unbelievers unless she is immune, and she is chaste women from the people of the Book, and they are the Jews and Christians only.<sup>7</sup> Even marry an immune

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<sup>3</sup> Md Zahidul Islam. "Interfaith Marriage in Islam and Present Situation." *Global Journal of Politics and Law Research* 2 (1): 36-47.

<sup>4</sup> Zahid Law Associates. "What Is Paper Marriage? Is It Permitted in Islam?" *Family Lawyers Pakistan* (blog). 2019. <https://zahidlaw.com/paper-marriage/>

<sup>5</sup> Katharine Charsley, and Michaela Benson. "Marriages of Convenience, and Inconvenient Marriages: Regulating Spousal Migration to Britain." *Journal of Immigration, Asylum and Nationality Law for Permission* 26 (1): 19.

<sup>6</sup> Betty de Hart. "The Europeanization of Love. The Marriage of Convenience in European Migration Law." *European Journal of Migration and Law* 19 (3) 2017: 281-306.

<sup>7</sup> Amin Alshaqawi. "الزواج السوري للمسلمين في الغربية." [www.alukah.net](http://www.alukah.net). 2015. <http://www.alukah.net/web/shigawi/0/93925/>.

woman from the people of the Book is not permissible if the contract results are falling into sharia taboos or leave legitimate orders such as given responsibility (qawwamah) to women, or the mother to have a choice of the religion of children and so on. In addition, it is not permissible for the spouses to agree upon signing the marriage contract which includes when the contract will break. While Muslim scholars divided about the ruling on marriage with the attempt to divorce it is better to Muslim not do it while there is not necessarily.<sup>8</sup> In addition, the current research is focused on the paper marriage in details. This type of marriage has many names such as paper marriage, visualized marriage, a sham marriage, bogus marriage, fraud marriage, white marriage and the marriage of convenience.

Iraqi Personal Status Law not contains visualized marriage and visually contract is only mentioned in Iraqi Civil Law. Article (147) of the Iraqi Civil Code stipulates the following: (1- if simulated contract concluded with positive intention, the parties of the contract should hold the simulated marriage and they are capable of prove that the contract is simulated and it is harm them and they hold the hidden contract. 2- If the interests of the concerned parties are in conflict, some of them hold the apparent contract and the others hold the hidden contract, the priority is for the first). While the Article (148) of the Iraqi Code stated that (1- The hidden contract is effective among the contractors and there is no trace of the apparent contract between them. 2- And if parties of contract hid real contract by visible contract, the real contract is true as long as it has fulfilled its conditions of truth).<sup>9</sup>

Marriage is an easy mean for a Muslim to preserve his/her chastity status.<sup>10</sup> Prophet Muhammad (peace be upon him) said,

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<sup>8</sup> Ibid.

<sup>9</sup> Suhaib Salim. "Image suit and rulings." *Journal of college of Law for Legal and Political Sciences* 7: 267-324.

<sup>10</sup> Abdul Muqadas Ishaq El-Mubarak, and Ahamad Faosiy Ogunbado. "Late Marriage In Islam: Malaysia As A Case Study." *International Journal of Innovative*

"When a man marries, he has fulfilled half of his religion, therefore let him fear Allah regarding the remaining half." (Ahmad, 2003). And with respect to sexual relations, Islam takes a middle position. It does not allow it absolutely. In the same time, it does not condemn it entirely (Laluddin et al. 2013). Marriage in Sharia has pillars of which is not valid only by them which are: the presence of the guardian of women, or his representative, with the justice witness, and a formula for the marriage contract, if any kind of marriage has met these conditions and elements it is true marriage, the purpose of obtaining benefits such as citizenship from this marriage has no effect on its validity.

The Council of Islamic Jurists in America with European Council stated that the paper marriage is not intended by the parties to the fact of marriage which is prescribed by Allah and His Messenger, they do not adhere to its pillars and conditions, and are not keen on the absence of inhibitions. However, the parties agree on non-cohabitation either expressly or implicitly. It is no more than that administrative procedure to collect some interests or evade some evil. It is more like tahlil marriage which is not meant to be true marriage; but to make women that divorced triple, permissible to her first husband.<sup>11</sup> Objectives of the current study are to state the jurisprudential and legal ruling of marriage in order to obtain residence papers and citizenship and its effects which is a modern type of marriage in the current period.

## **RULING ON MARRIAGE FOR THE PURPOSE OF CITIZENSHIP In Sharia point of view:**

In Sharia, it is not permissible to conclude a marriage contract, in order to obtain residency, without marriage intention. In fatwa of

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*Knowledge*                      *Concepts*                      5                      (7)                      2017.  
<http://www.ijikc.co.in/index.php/ijikc/article/view/536>.

<sup>11</sup> Alshaqawi, 2015

“Islam Question and Answer” stated that (Marrying that European woman for the purpose of obtaining residency and then divorcing her is a haram action).<sup>12</sup> It is perpetrator considered transgressor for his contempt for the legitimate contract, and make it room for tampering.<sup>13</sup> Marriage in this manner is forbidden in the Islamic religion because they don’t have the intention of marriage, and this contract far from his legitimate purposes and because it contains conditions that are contrary to its purpose.<sup>14</sup> In addition, this marriage is forbidden because it is the type of forgery and fraud on the laws and this distortion of the reputation of Islam and Muslims and reached to consume people's money in vain in case the purpose of this marriage is to obtain financial benefits.<sup>15</sup> In addition, wrongdoing even to unbelievers not approve by Allah and marrying a Christian woman on the paper is a type of cheating.<sup>16</sup>

Shaykh al-‘Allaamah ‘Abd al-‘Azeez ibn Baaz, stated that: “It is not one of the purposes of marriage according to Islamic Sharia to marry for the purpose of gaining residency rights and then to receive divorced. It appears to me that this is not permitted.”<sup>17</sup> In addition, the Council of Islamic Jurists in America with European Council decided that this type of marriage is forbidden (muharram) in the religion point of view because they have not the will of marriage. This contract is out of legitimate purposes and it contains conditions

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<sup>12</sup> Muhammad Al-Munajjid, “Ruling on Getting Married and Divorced on Paper in Order to Have Residency in a Kaafir Country - Islam Question & Answer.” 2007. <https://islamqa.info/en/answers/103432/ruling-on-getting-married-and-divorced-on-paper-in-order-to-have-residency-in-a-kaafir-country>.

<sup>13</sup> Muhammad Al-Munajjid. ” أجبرها أهلها على زواج صوري ليحصل الزوج على إقامة وحنسية ! - الإسلام سؤال وجواب. ” 2008. <https://islamqa.info/ar/answers/106719/>

<sup>14</sup> Salah Al-Sawy, “2017. ” موسوعة فتاوى الصاوي. ” الزواج الصوري. <http://fatawaalsawy.com/>

<sup>15</sup> Alshaqawi 2015

<sup>16</sup> Muhammad Al-Munajjid . “Marrying a Christian Woman on Paper in Order to Have the Right to Reside in a Kaafir Country - Islam Question & Answer.” 1999. <https://islamqa.info/en/answers/2886/marrying-a-christian-woman-on-paper-in-order-to-have-the-right-to-reside-in-a-kaafir-country>

<sup>17</sup> Muhamamd Al-Munajjid 1999

that are contrary to its purpose, therefore, it is not permissible to take it.<sup>18</sup>

### **In law point of view:**

In the US, Germany and many countries marriage contract for the purpose of residency is illegal and considered a crime from a legal point of view. In the US it is considered a fraud. It is fraud because it does not fulfil requirements of marriage law, for instance, German law requires married couples to "live together" and to take social responsibility of marriage. Article 1353 of the Civil Code of Germany stated that ("Marriage is entered into for life. The spouses have a mutual duty of conjugal community; they are responsible for each other"). In the absence of this requirement, the authorities may cancel the marriage, according to section 1314 (2) no. 5 of the German Civil Code.<sup>19</sup>

## **IS THE PAPER MARRIAGE CONSIDERED HOLD?**

### **From a legitimate point of view:**

It is important we know is it considered valid or not valid because the effects of marriage relied on it. Generally, "If a man marries a woman who is permissible for him, and it is done in accordance with the conditions prescribed in sharia, with the essential parts being fulfilled and in the absence of any impediments, then it is a valid marriage with all its that implies."<sup>20</sup>

There are controversy and detail in the opinion of Islamic scientist and sharia scholars about marriage fraud for the purpose of residency or citizenship. Sheikh Abdulrahman Suhaim stated that if

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<sup>18</sup> Amin Alshaqawi. "الزواج السوري للمسلمين في الغربية." [www.alukah.net](http://www.alukah.net). 2015. <http://www.alukah.net/web/shigawi/0/93925/>

<sup>19</sup> Muhiadin Hussein. "ما هي التبعات القانونية للزواج السوري في ألمانيا؟" | DW | 17.06.2018." DW.COM. 2018. <https://www.dw.com/ar/>; Carmen v. Schöning. "Civil Code in the Version Promulgated on 2 January 2002." 2002. [https://www.gesetze-im-internet.de/englisch\\_bgb/englisch\\_bgb.html#p4790](https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p4790)

<sup>20</sup> Muhammad Al-Munajjid, 2007.

they hold it and that marriage had provided the pillars of marriage such as the guardian, witnesses, the designation of a dowry, acceptance and affirmation, she becomes his wife.<sup>21</sup>

In contrast, Shaykh Muhammad Saalih al-Munajjid stated that "It is not more than ink on paper. This marriage is a kind of toying with the rulings of sharia. It is not permissible to do it or to take part in it and it is essential to endeavour to cease it when the aim is to achieve some haram purpose, such as the one who does that in order to receive residency in a non-Muslim country."<sup>22</sup>

The reality of the paper marriage is the parties of marriage appear either in contract or express or by circumstance, unintentionally to its reality. It has three types:

**The first type:** A man and a woman claim that they are a couple. This type is a claim that bears the truth and lies and marriage is not held in both cases. Imam al-Nawawi (may Allah have mercy on him) said: "the consensus of imams agreed that lying is forbidden" and Ibn Hazm (may God have mercy on him) said (1): "They agreed on the prohibition of lying with the exception the lying in war, blandishment of man with his wife, pacification between the two, and push iniquity."<sup>23</sup>

**The second type:** to narrate and represent two people in which the marriage contract is made. Some of the scholars express it is related to the surah of joking (hazl), which shows that it is not correct to consider this type as the marriage of joking because the joking creates a word that does not desire its meaning and truth however the actor informs the words of others and desire its pronounce and its meaning. Therefore, the contract of marriage and divorce is not held by narrating and play.

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<sup>21</sup> ما حكم الزواج السوري؟" 2005 Abdulrahman Al-Suhaim. <http://www.almeshkat.net/vb/showthread.php?t=37814>.

<sup>22</sup> Muhammad Al-Munajjid, 2007

<sup>23</sup> Hila Alyiabs. "الطلاق السوري: حقيقته وحكمه في الفقه الإسلامي. الرياض: جامعة الإمام محمد بن 2017." ".... سعود الإسلامية. مركز التميز البحثي في فقه



**The third type:** parts of contract pronounce words of holding marriage contract such as affirmation and acceptance, without the intention of marriage, but to collect a benefit and evade a harmful. A group of contemporary scholars subjoined this type of marriage to the joking marriage.<sup>24</sup> And they have two opinions regarding the marriage of joking: The first view is that it is a valid marriage that has its effects, as in the marriage of joking according to the majority of scholars, from the Hanafis, Malikis, Shaafa'is and Hanbalis. The second view is that it is not valid and it does not have any effects. This is a view of the Malikis in the marriage of the joking.

This attachment of paper marriage with joking marriage has a support in terms of joking is meant by something without its reality, however, it is issue is joke (hazl) is futile and vain, it does not receive a benefit, and it does not prevent harmful, while, this type of marriage is prevented harmful and receive the interests. The more correct opinion is that, if a person has to pronounce the contract marriage words such as acceptance or have to pronounce the dissolution of the divorce, it does not entail the provisions of marriage or divorce.<sup>25</sup>

The evidence of this situation is words of Ibrahim (peace be upon him) to his wife: (my sister), if such a statement would be considered based on its apparent it is zihar or prohibition, but as it was a necessity, its provisions did not follow. Bukhari in his Sahih in the book of coercion, which consults this meaning, he said: (section if he said to his wife when he forced: this is my sister, he is no sinner).<sup>26</sup>

In a question has been enquired to the Permanent Committee for Scholarly Research and Ifta in Saudi Arabia, the questioner expresses: What is the ruling on marrying an American Muslim

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<sup>24</sup> Khalid bin Abdullah Al-Muslih. " الزواج الصوري صورته وحكمه - خالد بن عبد الله المصلح. " 2013. <https://ar.islamway.net/fatwa/41041>.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

woman with the intention of obtaining residence papers and then divorcing her? The answer was: Temporary marriage is a mut'ah marriage, which is a false marriage according to the Islamic text and consensus of the Sunnis and the community [Fatwa number 19504 (447-446)].<sup>27</sup>

The sharia scholars differed concerning the ruling on marriage with intention of divorce on two groups: The first is the opinion of nullifying marriage with the intention of divorce and considering it a mut'ah marriage. The owners of this view are Imam Ahmad, Al-Awzai, Ibn Hazm and a number of modern scholars such as Sheikh Al-Albani, Sheikh Ibn Uthaymeen, and the Permanent Committee for Scholarly Research and Ifta in Saudi Arabia. The second group is the opinion of those who express that it is permissible and valid, and they are the public of Hanafis, Malikis, Shaafa'is and Ibn Qwdama of Hanbalis.<sup>28</sup>

**From a legal point of view:**

It is considered a correct marriage if the marriage agrees with the requirements of marriage law of the country. However, if the government knows surely this is marriage of convince and it is done by the couple not in purpose to live together as spouse however the motivation is receiving residency or citizenship by the foreigner and to receive amount of money by the citizen of the country, in many countries the government will not accept it and it is considered a crime.

**DISADVANTAGES OF PAPER MARRIAGE**

Paper marriage contains many disadvantages such as; Trespassing on the purposes of marriage and taking the verses of Allah as joking; Due to the deficiency of its pillars or conditions of

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<sup>27</sup> Alshaqawi, 2015.

<sup>28</sup> Nouri Hama Said Haidar. "Differences between the Types of Common Marriage Contracts and Their Ruling in Islamic Jurisprudence and Iraqi Law." *Tikrit University Journal of Legal Sciences* 1 (3) 2018: 507-56.

truth, it is usually invalid; Sometimes it contains conditions which contrary to the intent of the contract; if it is included timing overtly, it is type of marriage of mut'ah; Declaring the intention of divorce in paper marriage make it a marriage with the intention of divorce, which is a false marriage with some fuqaha, and it is true with some others, however, even they believe it true, who do it is sinner because it is fraud and deception which leads in the countries of non-Muslims to defame the reputation of Islam and Muslims; There is a similarity between paper marriage and tahlil marriage, as it is a ritual marriage, not a marriage of desire; it is a type of fraud and deception with the laws and if this marriage results in financial benefits, it causes consume people's money in vain;<sup>29</sup> because a legal bond between them, they may tempt each other.

When it is considered a marriage that entails a plenty of evil, including: the husband does not have authority over his wife and is not aware of her behaviour, and he cannot prevent her from deceiving and adultery whoever she desires;<sup>30</sup> including the disadvantages of mixing genealogies and the introduction of the man himself and his family who are not of them if a woman comes with children in this period and attributed to him; it becomes more ugly and forbidden if it is in the case of marrying a Muslim woman with a non-Muslim man; it was known that this contract is invalid and forbidden by Muslim consensus. In this case, she may not be able to refrain herself from intercourse if he desires it due to their legal association, and her weakness in this relationship and her keenness not to anger him in order not to cease the process of desired residency.<sup>31</sup>

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<sup>29</sup> Alshaqawi 2015

<sup>30</sup> Salah Al-Sawy, "الزواج السوري للحصول على الإقامة مقابل دفع مبلغ" موسوعة فتاوى الصاوي. 2012. <http://fatawaalsawy.com/>

<sup>31</sup> Al-Sawy, 2012

According to the Islamic Jurisprudence Council Decision No. 23 (11/4), a Muslim marriage with non-Muslim is legally forbidden by the Quran, the Sunna and the consensus. Al Qurtubi said: (The nation gathered on that the polytheist does not stink a believing woman)<sup>32</sup> The scholars agreed on that it is forbidden of the marriage of Muslim woman with the Jewish and Christians because there is no text that excludes any of the infidels and allow them to marry a Muslim women.<sup>33</sup>

## **EFFECTS OF THE PAPER MARRIAGE**

### **Effects of paper marriage from a legitimate point of view**

Shaykh Abdul Aziz ibn Abdullah ibn Baz stated in the answer to question no. 2886: "If he marries her without fulfilling the conditions of marriage, such as marriage without a guardian (wali), or with an impediment to the validity of marriage, such as if she were an adulteress and did not repent, or she is not from the people of the Book, this marriage is forbidden and invalid. however, if he marries her and fulfilled the pillars and conditions of marriage, and the marriage was liberated of impediments, his marriage is true and it brings implications however his intention to divorce forbidden.<sup>34</sup>

### **Effects of paper marriage from a legal point of view**

Its rule seemingly depends on the extent of the demonstration in front of the judiciary. If the parties acknowledge it is only the contract on the paper or the judge surely know it through circumstances and clues surrounded it, he decides its invalidity, however if its fraud not proven, when the elements of marriage have been achieved and it's deterrents be exiled, the judge decided that it is valid.<sup>35</sup>

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<sup>32</sup> Ali Swait. "حكم الزواج بين المسلمين وأهل الكتاب." *مجلة جامعة الانبار للعلوم الإسلامية* 9: 66-115.

<sup>33</sup> Aqraib Nuraldin and Abdalhaq Maimuna. "زواج المسلمة بغير المسلم في الفقه الإسلامي و" *جامعة محمد بوضياف المسيلة*, Thesis, *الاتفاقيات الدولية و قوانين دول المغرب العربي*. <http://localhost:8080/xmlui/handle/123456789/6162>.

<sup>34</sup> Alshaqawi 2015.

<sup>35</sup> Ibid.

## THE PENALTY OF PAPER MARRIAGE

In many countries, marriage only to obtaining residency is illegal, type of crime and there is the penalty for it is the perpetrator. The US law (Immigration and Nationality Act § 275(c); 8 U.S. Code § 1325(c)) states that committers of marriage fraud is capable of punished with prison, a fine, or both, as follows: "Any individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than \$250,000, or both."<sup>36</sup>

This penalty applies to both the US citizen and the foreign beneficiary. Committers of this crime may additionally be charged with additional penalties because it may include other crimes such as visa fraud, harbouring an alien, conspiracy or making a false statement. In addition, they may be deported and not allowed to return to the US even if after that they are entered into genuine marriage with a US citizens.<sup>37</sup> However, a few of fraud committers are ever punished because it is really difficult to prove it.<sup>38</sup> When the document benefit fraud unit determined that fraud exists in any marriage, it transacts: (1) deprived of connecting to criminal law, deny the benefit; or (2) to prosecute the fraud, work with law execution departments.<sup>39</sup>

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<sup>36</sup> Ilona Bray. "Penalties for Committing Immigration Marriage Fraud." *Www.Nolo.Com*. 2019. <https://www.nolo.com/legal-encyclopedia/free-books/fiance-marriage-visa-book/chapter1-9.html>. ; justice.gov. "1948. Marriage Fraud -- 8 U.S.C. 1325(c) And 18 U.S.C. 1546." 2015. <https://www.justice.gov/jm/criminal-resource-manual-1948-marriage-fraud-8-usc-1325c-and-18-usc-1546>.

<sup>37</sup> Ilona Bray 2019

<sup>38</sup> David Seminara. "Hello, I Love You, Won't You Tell Me Your Name." *Backgrounder*. 2018.

<sup>39</sup> George S. Asllani. "Dissecting Marriage Fraud as a True Immigration Crime." *Laws* 5 (1): 8. <https://doi.org/10.3390/laws5010008>.

In Spain the penalty of the marriage of convenience range from 500 to 10,000 euros.<sup>40</sup> In addition, in Germany, who do a marriage of convenience for the purpose of residency is punishable with up to three years imprisonment or a fine (§ 95(2) no.2 of the German Residence Act).<sup>41</sup> Additionally, in Italy who commit the marriage of convenience to make an unfair profit is punishable by imprisonment up to four years and a fine up to 15,000 €.<sup>42</sup>

In sharia point of view, who deliberately makes an incorrect contract, if he achieves haram things with it, there is no doubt that he is committing sin, and this contract (if he knows his invalidity), sinning afflicts him as much as this gratification with this invalidity contract.<sup>43</sup>

## CONCLUSION

Vast different between wealthy and needy countries cause people to migrate to developed countries in order to benefit from material affluence, economic prosperity and political stability. The easiest way to obtaining residency of developed countries is through marrying residents of these countries. The paper marriage is not intended by the parties to the fact of marriage, however, the parties agree on non-cohabitation either expressly or implicitly. It is no more than that administrative procedure to collect some interests. It is more like tahlil marriage which is not meant to be a true marriage. It is not

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<sup>40</sup> ICNlegal.com. "Penalties for Marriages of Convenience in Spain." ICN Legal. 2017. <http://icnlegal.com/en/penalties-faced-members-marriage-convenience>.

<sup>41</sup> Carmen v. Schönig. "Civil Code in the Version Promulgated on 2 January 2002." 2002. [https://www.gesetze-im-internet.de/englisch\\_bgb/englisch\\_bgb.html#p4790](https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p4790).

<sup>42</sup> EMN. "Ad-Hoc Query on Marriages of Convenience." [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/ad-hoc-queries/family-reunification/303\\_emn\\_ad-hoc\\_query\\_marriage\\_of\\_convenience\\_18mar2011\\_wider\\_dissemination\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/family-reunification/303_emn_ad-hoc_query_marriage_of_convenience_18mar2011_wider_dissemination_en.pdf).

<sup>43</sup> Isam Maghribi. "2004" ملتنقى أهل الحديث. الزواج الأبيض - <https://www.ahlaltheeth.com/vb/showthread.php?t=62161>.

permissible in Sharia to sign a marriage contract without marriage intention and it is illegal and considered a crime.

The paper marriage has some types if a man and a woman claim that they are a couple. This type is a claim that bears the truth and lies, and marriage is not held in both cases. Regarding visual marriage with affirmation and acceptance, without the intention of marriage, a group of contemporary scholars subjoined this type of marriage to the joking marriage. The majority of the scholars from the Hanafis, Malikis, Shaafa'is and Hanbalis believe that it is a valid marriage that has its effects, as in the marriage of joking. However, a view of the Malikis in the marriage of the joking is that it is not valid and it does not have any effects on it. Temporary marriage is a mut'ah marriage if the man appeared his attempt to divorce. The researcher supports the fatwa that stated paper marriage is more like tahlil marriage which is not meant to be a true marriage.

Regarding the effect of the paper marriage Shaykh 'Abd al-'Azeez ibn Baaz stated if he marries her without fulfilling the conditions of marriage this marriage is forbidden and invalid. However, if he marries her and fulfilled the pillars and conditions of marriage, and the marriage liberates of impediments, his marriage is true and it brings implications however his intention to divorce forbidden.

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