



Marriage and divorce practices in Islamic centers in Italy

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Abstract

This paper studies Muslim marriages and divorces in Islamic centers in Italy, which are influenced by religion, and conducted outside the scope of Italian laws. The paper is basically empirical research, based on interviews with imāms in various Islamic centers, Muslim women and men who have chosen to refer to Islamic centers for their marriage or divorce, and family counselors following different cases. It investigates the motivations behind these practices by analyzing the fieldwork data, and demonstrates the related socio-legal consequences, specifically in relation to the role of Islamic centers and imāms in these marriages and divorces. The current state of religious rights for Muslims in Italy, and the lack of knowledge about the circumstances and reasons for these practices at national level are taken into consideration.

Key words

Marriage; divorce; Muslim; Italy; Islamic centers; imām

Resumen

Este artículo estudia los matrimonios y divorcios musulmanes en centros islámicos de Italia, influenciados por la religión y celebrados fuera del alcance de las leyes italianas. El artículo es básicamente una investigación empírica fundamentada en entrevistas con imanes de varios centros islámicos, hombres y mujeres musulmanes que han elegido centros islámicos para casarse o divorciarse, y consejeros de familia que siguen diferentes casos. Investiga las motivaciones tras esas prácticas, analizando datos de trabajo de campo, y demuestra las consecuencias socio-jurídicas relacionadas,

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específicamente, con el rol de los centros islámicos y de los imanes en esos matrimonios y divorcios. Se toman en consideración el estado actual de derechos religiosos para los musulmanes de Italia y la falta de conocimiento sobre las circunstancias y razones para esas prácticas en el país.

Palabras clave

Matrimonio; divorcio; musulmanes; Italia; centros islámicos; imán

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1. Research methodology

There are a number of scholarly publications on Islamic family law in Italy which focus on explaining marriage and divorce in relation to Islamic law and the Italian legal system (Ferrari *and* Perotti Barra 2003, Fucillo 2011, 158). Several authors have discussed the legal relations and differences between the two different systems in general (Pin 2010, 175) or have focused on family issues in mixed marriages in particular (Zilio-Grandi 2006a, 2006b).

However, few published research papers have given specific attention to the study of the *šarī'ah*¹ law applied among Muslims, while taking into consideration the role of Islamic centers (Sona 2018).

This paper aims to explore the socio – religious framework which regulates these marriage and divorce practices, by assimilating empirical research data to explore current procedures in Islamic centers and individual choices. The paper then explains and analyzes field data findings benefiting from previous theoretical studies on the subject. The paper is also well-engaged with socio-legal literature, previous empirical research conducted in other European countries into similar procedures and practices, or even identical individual choices and needs. The current state of the acknowledgment of the role of imāms in Islamic centers in Italy is taken into consideration.

The specific aim of this paper is to present fieldwork data research of the socio – religious practices of marriage and divorce within the Muslim community in Italy in order to combine the theoretical and practical aspects in understanding this field of unofficial practiced Muslim family law. The fieldwork data gives indicative information on how Muslims comprehend the religiosity and values of marriage and divorce, and how they apply this in their life within a European society. This is essential in understanding the framework of Muslim family law in Europe, especially when it comes to the related issues arising in the European context that need further research and solutions.

The main questions in this paper are: first, what is the current role of Islamic centers in Muslim marriages and divorce cases in Italy?

Second, how do imāms proceed with a Muslim marriage or divorce case, and what policy do they follow as religious guides on the one side, and as responsible people before the Italian State and the Muslim community on the other?

Third, why do Muslims in Italy refer to Islamic centers for their marriages and divorces, and are they noticeably interested in proceeding with a marriage or a divorce before the State?

Fourth, what are the effects – whether social, religious, or legal – of a marriage or a divorce in an Islamic center in Italy, and are the imāms in particular, and Muslims in Italy in general, aware of the consequences?

Therefore, the paper explores through its analysis, firstly, how Muslims in Italy perceive an Islamic marriage and divorce, and how they accommodate this understanding in

¹ “Most often translated as “Islamic law,” the term “*Šarī'ah*” describes both Muslim practices that relate to law in Western understanding and others that do not. It includes both the rules that regulate the Muslim's relationship to God, such as the ritual practices of worship (prayer, fasting, pilgrimage, etc.) and the rules that regulate the worshippers' relationships to one another and to society” (see: *Šarī'ah*, 2014).

correspondence to their different interests and circumstances in their private life and how imāms in Islamic centers respond to individual needs in this matter under their current limited authority.

The paper analyses the data based on interviews conducted by the researcher during the first five months of 2019 with the various parties involved: first, imāms in charge at the Islamic centers, most of whom follow a clear policy on marriage and divorce issues. These imāms were in their 50s, while two were in their 60s. All of them have been living in Italy for more than 25 years.

The interviews were held with an overall number of five imāms in charge in five Islamic centers. Two were in Milan, one in Rome, one in Brescia, and one in Reggio Emilia.

The centers were chosen on the basis of a number of factors. First, their location in the main Italian cities, such as Rome and Milan. Second, the large presence of Muslims, such as the city of Brescia in the north of Italy (Cuciniello 2017). Third, the generally active role played by these Islamic centers which are well-known for being serious and reliable by the Muslims, as well as by the Italian authorities. Fourth, their particularly active role in Muslim marriages due to the high number of marriages celebrated in each of these centers which is around 50 every year. Fifth, the variety of Muslims who go there, whether native converted Italians or settled immigrants, either first or second generation.

In addition to these five Islamic centers, interviews were conducted with two representatives of the Italian Islamic Association of Imams and Religious Guides (Associazione Islamica Italiana degli Imam e delle Guide Religiose; Facebook page: <https://www.facebook.com/Associazione.ImamItalia/>), which has over (100) imāms as official members, working in different Islamic centers distributed nationwide. They were thus able to give specific answers about the general policy followed by these imāms in this research area.

Second, informal discussions and private conversations with Muslim men and women, talking about their family stories and choices. Thanks to the researcher's direct access to the Muslim community, thirteen cases were followed over the past years, since the researcher is in constant contact with most of these people who are usually willing to talk about their personal lives, and do not object to being interviewed and asked private questions. They are Muslims living in different cities in Italy, from various countries of origin, both immigrants and native Italians, of various ages, from the early 20s to 50, and both men and women. However, women were the majority since they are more likely to have unsolved family issues, are still in search of practical solutions, and more willing to talk about their experiences.

Third, five Muslim family counselors from four cities – Rome, Milan, Trento, Brescia – were chosen and interviewed. All had a university degree, were over 40 years of age, had been living in Italy for at least 20 years or were born in Italy, were actively involved in following marriage and divorce cases and fully aware of the real situation of every case. They were all women, in order to achieve a gender balance between the total number of interviewees, since all the imāms were men. It was important to listen to these expert women give different perspectives to the imāms' information, in their role as counselors evaluating the different issues that were raised during the interviews.

It should be mentioned that the researcher clearly explained before every interview why the research was being conducted. The trust between the researcher as a member of the community on the one side and the interviewees on the other was very important in proceeding with the interviews. In addition, the researcher's excellent knowledge of the language and cultural expressions used during the interviews – in Arabic or Italian – and in understanding the personal reflections of the interviewees, as well as in translating their answers appropriately into English were an advantage.

It should be stated here that most of the data was obtained from Sunnī² Muslims, since they are the dominant Muslim population in Italy (Menonna 2016). Although the results of these interviews do not represent all Muslims in Italy, they offer an indication of the wide range of current situations, and identify areas of interest for further research on the topic.

Therefore, the paper contributes to the research by illustrating the little-known šarī'ah law, which is applied locally by Islamic centers that seek to provide a reasonable response to the complex social – legal needs of Muslim families, and acting in compliance with Italian law, with their limited authority, and lack of legal recognition.

In order to understand the circumstances surrounding the cases studied, the paper starts with a comprehensive description of the current basic demographic and socio-legal status of Muslims and Islamic centers, and then examines the consequences on Muslim marriage and divorce choices and practices in Italy.

2. Background: Muslims and Islamic centers in Italy

There are currently 2.6 million Muslims living in Italy, and 1.7 million are non-Italian citizens. Moroccans, followed by Albanians are the majority. The remaining 0.9 million are Italian citizens, including converted Italians (Menonna 2016).

They remain a religious minority inside the total population of 60 million in the country, where the majority, around 70% is Catholic (Ciocca 2018a).

The 2.7 million Muslims live mostly in the northern regions, about 60% reside in four regions in the north of Italy, Lombardy, Piedmont, Veneto and Emilia Romagna (Ciocca 2018b, 16). 10% live in the two largest cities in Italy, Rome and Milan (Ciocca 2018a, 9).

Consequently, the places of worship known as Islamic centers are concentrated in these four regions where the majority of the Muslims in the country live (Cuciniello 2017, 8).

When talking about mosques in general, we refer to the place of worship where Muslims meet regularly to pray five times during the day.³ However, additional social and cultural functions are being added to most Muslim places of worship in Italy, including

² “The Sunnīs are the largest branch of the Muslim community, at least 85 percent of the world’s 1.2 billion Muslims. The name is derived from the Sunnah, the exemplary behavior of the Prophet Muḥammad. All Muslims are guided by the Sunnah, but Sunnīs stress it, as well as consensus. The other branch of Islam, the Ši‘is, are guided as well by the wisdom of Muḥammad’s descendants, but through his son-in-law ‘Alī”. See: *Sunni Islam*, 2003.

³ “The word “mosque” is derived ultimately from the Arabic masjid, “place for (ritual) prostration.” Jāmi‘ is a designation for the congregational mosque dedicated to Friday communal prayer; in modern times it is used interchangeably with masjid. The term “musallā” designates informal areas set aside for prayers and open-air spaces used for prayer on the major feast days, outside cities or in town squares” (*Mosque*, 1995).

marriage ceremonies and divorce proceedings. Moreover, these places can be considered the physical symbol of the local Muslim community, through which Muslims interact with other national institutions or associations.

Therefore, these places of worship are known as Islamic centers because of their various social, cultural, and religious activities, with different levels of importance depending on the extent to which they engage with the Muslim community as well as with the local and national authorities. This is the case of Islamic centers not only in Italy but also in Europe (Allievi 2010, 15, 2014).

The legal status and official recognition of Islamic centers as places of worship, and the appointment of imāms who are in charge in these centers in Italy is quite relevant to the research topic regarding marriage in the Muslim community.

This can be explained by considering religious freedom, which is guaranteed by the Italian Constitution under Art. 19: (Anyone is entitled to freely profess their religious belief in any form, individually or with others, and to promote them and celebrate rites in public or in private, provided they are not offensive to public morality).⁴

The Italian Constitution defines the relationship between non-Catholic religious denominations and the State in Art. 8: (All religious denominations are equally free before the law. Denominations other than Catholicism have the right to self-organization according to their own statutes, provided these do not conflict with Italian law. Their relations with the State are regulated by law, based on agreements with their respective representatives).⁵

In light of these two articles, and as a result of the abovementioned agreement in Art. 8 with the State, a religious denomination is legally recognized, with the recognition of places of worship, and the right to appoint religious ministers through specific Ministry of Internal Affairs procedures who have the authority to perform religious marriage ceremonies which are legally valid under Italian law.⁶

For the Muslim community in Italy, several official attempts have been made to reach a signed agreement with the Italian State, but they have been unsuccessful to date (Alicino

⁴ Italian Constitution. Art. 19: "Tutti hanno diritto di professare liberamente la propria fede religiosa in qualsiasi forma, individuale o associata, di farne propaganda e di esercitarne in privato o in pubblico il culto, purché non si tratti di riti contrari al buon costume".

⁵ Italian Constitution. Art. 8: "Tutte le confessioni religiose sono egualmente libere davanti alla legge. Le confessioni religiose diverse dalla cattolica hanno diritto di organizzarsi secondo i propri statuti, in quanto non contrastino con l'ordinamento giuridico italiano. I loro rapporti con lo Stato sono regolati per legge sulla base di intese con le relative rappresentanze". It should be mentioned here that the Polish Constitution is very similar to the Italian one when regulating relations between the State and the Roman Catholic Church, on the one hand, and the State and other churches religious denominations on the other; see Polish Constitution Art. 25 (3) (5) For more details about the different models in the European constitution in organizing the relationship between the State and the Church/ religious confessions see: Saiz Arnaiz *et al.* 2013, 23.

⁶ Ministero dell'interno n.d.-a. European constitutions in general differ in how they consider religious marriages. In Lithuania (Art. 38) for example, the State recognizes church registration of marriages whereas in Belgium (Art. 21) the recognition of a religious wedding requires a prior civil wedding. For more details see: Saiz Arnaiz *et al.* 2013, 24. In other countries like Germany, religious marriages are not considered valid under German civil law, since all marriages should be conducted before an authorized civil registrar (Civil Code, sections: 1310, 1311) For more discussion see: Khalfaoui 2020, 121, Jaraba 2020, 30.

2017, 9-10, Morucci 2018, 38, Guolo 2020, 76). Therefore, Muslims in Italy today cannot benefit from an official agreement with the Italian State. In other words, they cannot appoint imāms as official religious ministers to perform religious marriage ceremonies which are legally valid simply because Islam is not yet legally recognized in Italy (Ministero dell'Interno n.d.-b).

Considering this current legal status, and lacking an agreement as in Art. 8 of the Italian Constitution, relations with religious denominations that have not entered into agreements with the State, like the Muslim community, are instead governed, in general, by "La legislazione sui culti ammessi" Legislation on permitted religions, No. 1159/1929 and its implementing regulation, Royal Decree 28 February 1930, n.289. These are pre-Republic regulations made in conformity with the Italian legal system by a series of sentences of the Constitutional Court (Ministero dell'Interno n.d.-a, n.d.-c).

In this social and juridical scenario, there is clearly a gap in the legislative treatment of religious denominations where there is an agreement with the Italian State based on Art. 8 of the Italian Constitution and those without an agreement, where their relation with the State is governed by the legislation on permitted religions, No. 1159/1929. The legislation of appointing religious ministers is one of the aspects in which there is a gap.

More specifically, the principle of autonomy and the self-referentiality of the appointment of religious ministers is reserved to religious dominations having an agreement with the State without at the same time eliminating the right of the State to verify the conformity of the religious domination and of the persons appointed with the principles of the State system.

This is not the case for religious dominations without an agreement, such as the Muslim community, where a series of additional stringent procedures established by the legislation of admitted religions are to be followed by the person wishing to be appointed to the position of religious minister, which can be approved or not by the Italian Ministry of Internal Affairs (Alicino 2015, 7–10. See also: Barberini and Canonico 2013, 147, Finocchiaro 2015, 408).

This noticeable gap between the two different legislations, Art. 8 of the Italian Constitution and the law of admitted religions has a strong impact on the choices made by Muslim community representatives, where the main concern goes towards the benefit of the self-referentiality of the appointment of the religious ministers, and not submitting single applications that involve long and strict procedures.

Sona (2018, 526) has discussed the case, and reported that the legal option given by the Italian legal system to recognize religious marriages has not been utilized by the Muslim community in Italy by applying for religious minister positions, possibly due to the stringent prerequisites.

However, it seems that the main current concern within the Muslim community goes towards achieving an official agreement under Art. 8 of the Italian Constitution, to benefit from the right to self-organization, including appointing religious ministers who are authorized to perform religious marriage ceremonies which are legally valid under Italian law, more than being governed by pre-Republic regulations under the legislation on permitted religions, No. 1159/1929 (for more discussion, see S. Ferrari 1996, A. Ferrari 2008, 260–267, Cardia and Dalla Torre 2015, 122–128).

The lack of imāms who are authorized to be religious ministers has several consequences on marriages between Muslims in Italy, as will be illustrated during this research.

However, the title of religious minister has been given to several imāms in Italy, in addition to imāms in charge of an Islamic center located in a given area, as religious ministers who provide the spiritual and religious support needed by Muslims in hospitals or jails for example, but without any legal effects (Carnì 2015, 27–28).

It should be mentioned that this lack of official legal recognition is not due to tensions with the State, since the Italian government and the Muslim community in Italy which is represented by its national Italian-Muslim unions and associations⁷ have always maintained good relations, especially in terms of an inclusion policy and integration activities.

For example, and given the imāms' key role at national level, the Italian Ministry of Internal Affairs has organized several training courses for imāms⁸ where important issues are being discussed, such as the issue of religious ministers, and when and how they can be legally recognized as individual imāms or religious representatives.⁹

Moreover, the Ministry of Internal Affairs organized a number of meetings in 2016–2017 and produced important documents with the representatives of the Muslim community through the Council for Relations with the Italian Islam. The first document known as the Public Role Report, addresses the recognition and training of imāms, while the second document known as the National Pact for an Italian Islam, focuses on promoting an open, integrated Muslim community which adheres to the values and principles of the national legal system (Buttinelli and Costantino 2017, La Repubblica 2017). However, an official legal agreement that refers to Art. 8 of the Italian Constitution has not yet been reached (for more discussion, see Alicino 2015, 7–10).

The paper will examine two basic areas, marriage and divorce, and related subtitles under each area to illustrate the field data on both Islamic centers and individuals.

3. Marriage profile

The important religious value that marriage holds for Muslims begins with the special attention that is given to marriage and family life in the Qur'ān, and the Sunnah, where Muslims are warmly recommended to marry. This religious value is emphasized by the various norms and provisions on marriage in the two main sources of Islamic jurisprudence, the Qur'ān, and the Sunnah. This gives a spiritual and normative attention to personal life, where marriage is closely linked to the emotional, physical, and social needs of human beings, in addition to its importance in building societies, since marriage is the basis for establishing families which in turn build societies (Al-Ashqar 2009, 358).

⁷ Like the UCOII (Unione Delle Comunità Islamica D'Italia, www.ucoii.org) and the CII (Confederazione Islamica Italiana, www.conf-islamica.it).

⁸ An example is the academic course for imāms on their rights and duties under the Constitution, organized by the Department of Law at the University of Bologna in 2017, under a national project funded by the Ministry of Internal Affairs, Department of Civil Liberty, and Immigration (Unibo Magazine 2017).

⁹ Conditions for a Ministry of Religion are explained in general in the official website of the Ministry of the Interior (Ministero dell'Interno n.d.-a).

When referring to the marriages under discussion in this paper, and in order to distinguish between the cases, the main focus here is on religious marriage. This refers to a marriage performed under *šarī‘ah* – based conditions and provisions, and therefore is a *šarī‘ah* – compliant marriage, or as expressed by Muslims in Italian “*Matrimonio Islamico*” simply to state that the marriage complies with Islamic conditions and provisions. The Arabic terms used to define the same kind of marriage correspond to the words used in Islamic literature: “‘*Aqd Zawāg*” or “*Nikāḥ*”.¹⁰

While the paper basically studies religious marriages, it also analyses the connection with, or lack thereof to civil marriages in relation to Muslim practices and motivations.

This civil marriage i.e. a civil ceremony in a municipality in accordance with Italian civil law is known by “*Matrimonio Civile*” which is the exact translation of civil marriage in Italian (Italian Civil Code. Art. 106, Art. 107, Art. 108).

In this context, it is important to clarify the nature of a religious Muslim marriage, since its religious importance and blessing does not make it a sacred ceremony (Syed 2004a, Al-Ashqar 2009, 357–359, O’Sullivan and Jackson 2017, 23). A *šarī‘ah* – compliant marriage is simply a contract between two parties (Alqawasmi 2014, 51), and does not require a specific religious authority such as an *imām*, or a mosque (O’Sullivan and Jackson 2017, 23, Bone 2020, 166). Under Islamic jurisprudence, there are a number of basic requirements for a truly binding religious marriage. The first is the consent of the bridegroom and the bride, then the recital and exchange of the offer and acceptance by both. Second, the dowry, owed to the bride by the bridegroom. Then, the consent of the bride’s guardian, who is usually her father, to the marriage, and lastly, two trustworthy witnesses (for more explanation, see Pearl and Menski 1998, Syed 2004a, An-Na’im 2006, 2–30, Al-Ashqar 2009, 364–265).

This demonstrates that the special religious value of marriage for Muslims is not a specific ceremony, but adherence to and conformity with the principles of *šarī‘ah* (Bone 2020, 168).

Consequently, this explains why it is important for Muslims to refer to a religious body to have their marriage conducted under the standards and conditions of their religion. It also explains why Muslims in Europe are more interested in proceeding with a religious marriage than a civil one in order to ensure that their marriage complies with religious requirements (Buchler 2012, 8, Uddin 2018, 408) as will be better highlighted in the analysis that follows in this paper.

This paper presents and analyzes field data on religious marriage, through the procedures followed by Islamic centers, and then explores individual choices and motivations, in the following order.

3.1. Religious marriages at Islamic centers

Here, the interviewees were *imāms*, or the heads of Islamic centers. They were asked about their current role and procedures in religious marriages, in order to identify the current situation, as well as any emerging concerns. The main questions were: What

¹⁰ Uddin 2018, Bone 2020, 164. The term “*Nikāḥ*” is widely used within the Muslim community in the UK, unlike Muslims in Italy, who usually use the abovementioned terms in Italian.

policy is followed when performing a religious marriage? What documents are usually required? What is the legal status of this marriage? Why do you think Muslims want to marry in an Islamic center?

The field data was used to form groups according to the discussion topic, in order to cover all the important points discussed during the interviews. This brought the following items of interest to my attention:

Key role and legal marital status:

The fieldwork data indicates that Islamic centers play a key and sensitive role in religious marriages. This key role is evident starting with the term that is used to refer to a marriage performed in an Islamic center or mosque as a mosque marriage (Sona 2018, 519) putting this religious center at the heart of the scene (Akhtar *et al.* 2018, 370).

The key role of these centers is noticeable in terms of numbers, since the centers where the interviews took place usually conduct a good number of religious marriages every year – from 40 to 50.

The nature of this role starts with the religious value of marriage in Muslim life, where requirements and conditions must be respected for a marriage to be religiously truly binding. Therefore, Muslims here consider these Islamic centers as the religious body they can refer to in order to assure that their marriage is šarī‘ah – compliant. This was underlined when all the imāms confirmed that they perform marriage ceremonies and meet the conditions and provisions of a šarī‘ah – compliant marriage.¹¹

Consequently, this basic task that imāms perform establishes the general policy followed by Islamic centers in proceeding with a marriage, where they have to first ensure that both the bride and the groom consent to the marriage, as should the bride’s guardian, that the dowry is clearly established, and that two trustworthy witnesses are present.

Therefore, the importance of fulfilling these requirements for a religious marriage explains why Muslims are more interested in marrying in mosques and Islamic centers rather than a civil marriage, not only in Italy, but in other European countries as well (Mustasaari and Al-Sharmani 2018, 465–466), simply because they are searching for what they consider truly religiously binding. In England and Wales for example, the absence of any dowry in the civil marriage ceremony means that it is not religiously recognized by most Muslims, and consequently a civil marriage is not very attractive for them (Uddin 2018).

Despite the religious value of the role of imāms and Islamic centers in religious marriages, these religious – only marriages do not give sufficient protection of marital rights under the law. This is the case not only in Italy, in Germany for example, religious-only marriages which are not registered officially in the related authorized offices, and do not comply with the required formalities, are not legally recognized (Jaraba 2020, 30).

Imāms are aware of this situation where a couple could avoid their marriage commitments, and do not have any authority over couples to ensure their serious intentions.

¹¹ See the previously mentioned conditions under the subtitle of “Marriage Profile” (Section 3).

When asked about the official authority given to imāms to perform religious marriages that are legally valid, all the responses by the imāms reflect their awareness of the importance of appointing religious ministers who are legally authorized to celebrate these marriages which cover both the religious value of marriage for Muslims and legally protects the marital rights, since both religious and legal values are necessary in this context. However, this is currently quite difficult for the Muslim community in Italy, due to the lack of an official agreement with the Italian Ministry of Internal Affairs as previously explained.

Given this situation, the internal policy of Islamic centers, in order to protect marital rights as far as possible, is to provide documents for every religious marriage performed under their local authority. Therefore, every religious marriage is registered in their records and three copies are issued; one for the center, one for the wife, and the third copy for the husband.

Second, they urge the spouses to formally register the religious marriage in the Islamic center, whenever possible, whether in their country of origin if they are immigrants, or to have a civil marriage ceremony as well.

This internal policy of promoting a formal legally valid marriage is also found in other European countries¹² and is a direct reflection of how these Islamic centers see their role as being informal given their current legal status. This confirms findings by Akhtar, Probert, and Moors regarding the situation in Europe in general who stated that “the role played by mosques and religious institutions is diverse and depends on multiple factors, including whether they view their role as formal or informal...” (Akhtar *et al.* 2018, 373).

Polygamy and age limit

In terms of the documents that are required in order to perform a religious marriage, Islamic centers request the usual identifying documents. They usually also ask for a single status affidavit, or a divorce decree, since all the interviewees stated that they do not perform religious marriages for a married person, whether a man or woman. When asked about cases of polygamy within the Muslim community in Italy, there were two justifications by the imāms who were interviewed. The first was that these cases of polygamy were mainly from the country of origin. The second was that even though they follow the policy of refusing a polygamy marriage, they do not have any authority over people, and cannot control them outside their centers. In addition, since the requirements for performing a marriage are an internal matter and depend on the policy of each Islamic center, there could be polygamy in cases where single imāms do not follow this policy.

This means that cases of polygamy are not controlled, and could be found elsewhere, whether the marriages have been performed inside or outside Italy. Even though a polygamous marriage was officially conducted in a country where polygamy is legal, this is not the case in Italy, since foreign marriages are not recognized as valid in Italy

¹² Mustasaari and Al-Sharmani 2018, 455-456. See also the same tendency between Moroccans in the Netherlands: Sportel 2020, 68, Bone 2020, 167.

if they are contrary to public policy, such as polygamous unions (for more discussion see: Sona 2020, 89–91).

When it comes to age limit, in the Italian legal system the spouse must be at least 18 years of age, and if not, the marriage is void. However, permission to marry can be given for serious reasons for a spouse who has is 16 years old (Italian civil code, art. 84). Respecting the age limit of 18, a certificate of birth was also needed as a general policy to proceed with a religious marriage in Islamic centers.

One imām explained:

‘We want to be sure about the age’. ‘Therefore no marriages for those who are under 18 years of age?’, I asked, and he answered: ‘Definitely not, we are careful about this, exactly as under Italian law’.

Another imām referred to a case when he refused to perform a marriage because the woman was under 18.

Unfortunately, they were married elsewhere, and there were serious problems with the girl (...). I tried to convince them, but they did not listen.

This confirms that as with polygamy, the authority of these imāms as religious guides is limited and is only within the Islamic center, and not on Muslims as individuals, even though they could be members of the Islamic center.

Moreover, it indicates a selective behavior by Muslims towards the imāms’ policy in religious marriages. Although they do refer to imāms when seeking a binding religious marriage, they still can refuse to follow the imām’s opinion, and choose to follow another according to what suits them since there is no single nationwide policy.

The connection or lack thereof to civil marriage:

The interviews show that Islamic centers set other additional conditions before performing marriages. Many require proof of a previous civil marriage, or a confirmed appointment to proceed in one at least.

One of the imāms, who plays an active role in administrative procedures as well as being a religious spiritual guide, was the strictest in his answer about the requirements for performing religious marriage ceremonies at the center:

We only agree to marry people who have already been married in a civil ceremony, or who at least confirm they have an appointment with the town hall to be married in a civil ceremony (...) and if so, we will not give any marriage document to the husband or to the wife until they bring us documents attesting to their civil marriage (...). We are very strict and clear in this (...) four years ago, we were accepting people without requiring proof of a civil marriage, but a lot of complications came to the surface.

Another imām stated that ten years ago they did not give the same importance to a civil marriage, but after several problematic cases due to unprotected marital rights, he and his colleagues decided not to perform religious marriages without a combined official registration, which could be either civil marriage in Italy, or a marriage registered at the Consulates.

These answers clearly indicate that imāms are giving attention to the legal value of a marriage, and the necessity of an official registration, which is not currently the case with

religious marriages here. So, their condition is to combine between the religious marriage and the civil one that has the legal recognition of the Italian State.

Although the condition of a civil marriage is not the general policy followed by all Islamic centers, importance is still given to the legal aspect by advising people to register their marriage officially. This was explained by an Islamic center leader in Milan when he answered the question of having a connection or not to civil marriage:

Everyone is free to enter into a civil marriage or not. We do not intervene in what people want to do after they are married here, but we advise them to register their marriage whenever possible, in order to guarantee rights to both parties.

A similar answer was given by an imām in Rome, who explained that they do not have any condition requiring a civil marriage, but still advise the spouses to register their marriage with an authorized authority.

On the other hand, this raised the following question: what is the sense of a religious marriage in an Islamic center if a couple is officially married in a civil ceremony?

The answers were similar and reflected uncertainty towards a civil marriage. Even though a civil marriage is legally binding in Italy, there are still doubts as to whether it is also religiously binding for Muslims. Since the requirements for a šarī‘ah – compliant marriage, such as dowry, Muslim witnesses (Abu-Zahra n.d., p. 52, Assartawi 1997, pp. 67, 123) must be fulfilled if a Muslim marriage is to be religiously binding, these requirements could be added to a civil marriage, but are not guaranteed, because they are not required for a civil marriage procedure.

Consequently, a civil marriage could be religiously binding (Fatwà N. 92; see also Alqawasmi 2014, 157–159) or not. This depends if the Muslim spouses added all the requirements of the šarī‘ah – compliant marriage in their civil marriage.

Given this uncertainty towards a civil marriage, many Muslims find themselves needing to celebrate their marriage with the Muslim community in a mosque where all the šarī‘ah requirements are fully met, since the imām will be responsible for meeting all these requirements. This demonstrates a responding behavior from Muslims to the religious value and the spiritual meaning of marriage in their lives.

Lack of official documents

In terms of the residency requirements for proceeding with a religious marriage, there were different answers to the question about whether an imām would refuse to marry illegal residents.

Several answers were: “... yes, we cannot perform a marriage for illegal residents”.

On the other hand, other imāms did not consider this requirement of legal residency at all. They clearly stated that they do not distinguish between those who are legally resident or not. These imāms think that they should consider personal circumstances, in order not to complicate the marriage for people who lack legal residence status in Italy.

One imām explained why they do not have this condition:

We are dealing with critical situations, because it is quite difficult for illegal residents, or for those who do not have the necessary documents to be officially married anywhere, therefore we need to help him/her if they want to get married.

This means that there are people who refer to Islamic centers to marry because they do not have the documents needed for a civil marriage, or because it is quite difficult to obtain them from their country of origin. It should be mentioned here that referring to Islamic centers for a religious marriage because the documents required for a civil marriage cannot be obtained has also been reported in various European countries (Mustasaari and Al-Sharmani 2018, 463, Akhtar *et al.* 2018, 367–375).

This mainly relates to refugees and asylum seekers, who usually find it difficult to obtain their personal documents from their country of origin. Religious motivations are not involved in this case.

However, imāms still advise the couple to register their marriage whenever possible to guarantee family rights. Which is the same policy previously mentioned regarding Islamic centers that do not have a condition of having a civil marriage, or an appointment to proceed with one.

A number of interviewees mentioned exceptions when the Islamic center has strict conditions regarding legal residence or a previous registered marriage. The imām examines the case of the two spouses if they do not have legal residence or a registered marriage before deciding whether to perform the religious marriage or not, as a kind of internal and exceptional policy. Especially when it is almost impossible for both, the man and woman, to be officially married anywhere else. According to fieldwork data, several imāms will perform a religious marriage they would not normally accept, but with other additional conditions, when there are ten known referees. As one imām said, if both sides are already well known to the community, according to another imām, in addition to the regular condition of two witnesses (Abu-Zahra n.d., p. 52, Assartawi 1997, pp. 67, 123). The aim in this case is to guarantee the serious intentions of both sides towards their marriage, and to create a kind of social protection for this marriage inside the community, as far as possible.

However, these exceptional cases depend on the personal decision of the imām, because they go against the policy of the center. Therefore, in some cases no marriage certificates are issued. When one imām was asked about this delicate situation with no marriage certificate, he answered that in many of these cases both parties are not concerned about the certificate, they just want to start a serious relationship, which is not against the principles of Islam, since an intimate relationship outside of marriage is prohibited in Islam. Some are already living together and go to the Islamic center to comply with the requirements set by their religion.

Under these circumstances therefore, the imāms respond to what they feel is their moral duty which, in addition to their key role as religious guides, is to safeguard the important values in Muslim life. Therefore, they are somehow obliged to proceed with a marriage regardless of the official documents. Noteworthy here is that this moral and religious duty of imāms towards the future spouse has also emerged clearly in other research data; Mustasaari, and Al-Sharmani have presented a similar situation in mosques in Finland:

“On the other hand, for the imāms of two other mosques who perform a significant number of marriages, some of which are religious-only, providing this latter service is an integral part of the mosque’s religious duty to help Muslims lead a pious life, especially as they are serving Muslims who seek to enter into Islamic marriages but lack

the proper documents for registering. But again, these mosques also stressed that they point out to the couples that their marriages are not considered legally valid in their country of residence" (Mustasaari and Al-Sharmani 2018, 466).

3.2. Individual practices and choices

Here, thirteen family cases were studied, taken from personal contacts, informal discussions and private conversations with Muslim women and men living in Italy from various countries of origin, both immigrants and native Italians, talking about their family stories and choices. Based on this, the paper focuses on why these people married in an Islamic center, what the circumstances were, and what it meant for them to be married there.

This is followed by interviews with five Muslim women who are family counselors, and who usually help solve family disputes and offer counseling in family issues. The interviews took place over the same period of months during which the imāms were interviewed.¹³

These family counselors, were asked the same questions that were asked during the private conversations with individuals as well as with the imāms. The aim was to highlight any different perspectives that may have been overlooked during the other interviews and conversations.

The interviews brought to light two main motivations for which individuals usually decide to marry in Islamic centers; first, religious and cultural motivations, second, private and personal circumstances, even though these personal circumstances are common within the Muslim community in Italy.

When it comes to religious and cultural motivations, for many interviewees, marrying in an Islamic center is essential in order to be married as Muslims, especially if they want to celebrate their religious marriage with the community, friends and families, whether they are practicing Muslims or not, and whether they are also interested in an officially recognized civil marriage or not. Therefore, a religious marriage is related to the concept of religious identity and how individuals express it. This was confirmed by the answer that was repeatedly given by the interviewees to the question: Why do you go to an Islamic center for a religious marriage:

Simply because I am a Muslim, and this is how Muslims get married.

However, many also want an officially recognized civil marriage, either before or after their religious marriage in an Islamic center, in order to combine the civil and religious elements, which is also common and recommended among many Muslims in Europe (Probert and Shabana 2018, 383–384, Bone 2020, 166).

Therefore, the religious value that marriage in Islam holds for Muslims is demonstrated by recognizing this form of marriage as Muslims. However, they are also interested in combining it with a civil ceremony which is the official and legal form in front of the State. This is exactly what was previously explained in the interviews with imāms, especially concerning their key religious role in this kind of marriage.

¹³ A full description of these family counselors is detailed in the methodology of this paper.

On the other hand, one of the family counselors talked about couples who are getting married without the full approval of their parents, and in order to solve this family issue, their parents suggest celebrating a religious marriage with the community, family and friends.

She explained the interest in a religious marriage in this case:

Since the parents are aware that they can do nothing if their sons and daughters insist on this marriage, they find that celebrating marriage in an Islamic center with the community is a good solution to avoid any social embarrassment.

So, the parents here are trying to adhere to their cultural values, and overcome any embarrassment for the family within the Muslim community. This is clearly related to cultural and traditional norms, whatever their relationship with religion.

When it comes to the private and personal motivations for a religious marriage in an Islamic center, three main reasons were provided during the interviews.

The first is when the official documents that are required for an official registered marriage elsewhere are not available. As the imāms said, many people refer to an Islamic center where they can find an imām who would either accept or not to proceed with a religious-only marriage for them. Which is also a common reason in other European countries; for example, Jaraba (2020, 29) has clearly indicated that insufficient documentation is a crucial factor for an increasing number of Muslims in Germany, particularly in Arab communities and among refugees, in deciding to enter into a religious-only marriage. Especially when it comes to the legal requirement to procure a marriage eligibility certificate from the country of origin, to prove that both couples are not yet married. This document is usually difficult to obtain, in particular for refugees.

The second reason is about mainly young people who decide to get married in a religious-only marriage in an Islamic center, which is not followed by an official marriage, because they want to start a relationship that is compatible with their religious standards and principles, known as a “Ḥalāl”¹⁴ relationship. Yet many consider this a marriage without any serious commitments, since most do not care about its official registration. Which is a similar finding by Vora within Muslims in the UK where “young couples who cannot otherwise date or have relationships within the parameters of their social norms and religious beliefs, may wish to have “trial” marriages as religious-only contracts akin to “starter marriages” (Vora 2020, 153).

Families usually agree to these marriages, especially for young people, in order to encourage their sons and daughters to avoid any relationships outside marriage.

Some of these couples can continue to live in two different places, or even different cities, depending on where they study or work. And they usually meet whenever possible. When they talk about their future plans they generally express their intention to build a stable family life but there are no plans for an official registration, or civil marriage until they are sure about the stability of their relationship.

¹⁴ “The Qur’ānic term ‘ḥalāl’ denotes that which is lawful or allowed. The word can refer generally in Muslim practice to that which is proper and therefore permitted for use; more specifically, in Muslim legal discourse it has come to be applied to rules pertaining to the consumption of food and drink, and related issues, where it is contrasted with the notion of ‘ḥarām’, the forbidden” (*Ḥalāl*, 1995).

This includes university students who are not yet ready for the responsibilities of a marriage. For these young men and women, as they stated during the interviews, this marriage is easy to start, and easy to end, without any serious consequences. Three young couples who entered into this marriage, said they had ended their relationships, which lasted no more than one to two years.

The third reason for getting married in an Islamic center was mentioned by family counselors is when people are already living together as husband and wife, and either one or both of them are Muslim, decide for religious reasons to contact an Islamic center to make their relationship “Ḥalāl” by getting married at the center. This is not necessarily followed by a civil marriage if they are not concerned about marital rights.

Sometimes, the woman is due to give birth to a child, or the couple may already have children born outside a legally recognized marriage. Therefore, they contact the Islamic center motivated by the importance of having their children considered legitimate under their religion. These couples then want to have their marriage officially registered.

The above confirms what the interviews with the imāms brought to light when they mentioned that there are several cases of unmarried couples living together as husband and wife who refer to Islamic centers for a religious marriage in order to have their relationship comply with the requirements set by their religion.

These people are searching for a legitimate relationship through this religious marriage, which is a kind of response to their religious values. An important question that is underlined here, is whether or not these Muslims are challenging or not the spirit of the values of marriage within Islam, which are seriousness, commitment, and continuity, especially in the case of starting a trial relationship; since marriage in Islam cannot be defined as a trial relationship (Al-Ashqar 2009, 357–268).

Therefore, in light of the norms on cohabitation, and in view of the rising numbers of informal family relationships in Europe, can we consider these cases of religious-only marriages among Muslims a kind of cohabitation in European societies?

Taking into consideration the widespread acceptance of cohabitation as an informal family relationship in Europe, Akhtar (Akhtar *et al.* 2018, 369) concluded that religious-only Muslim marriages are another form of marriage, rather than cohabitation under another name because couples in a religious-only marriage usually celebrate this relationship as a wedding and present themselves as spouses, which is not the case in a cohabitation relationship.

This conclusion also applies to Italy since data shows that when many couples enter into a religious-only marriage as a “Ḥalāl” relationship, which is easy to terminate, this is to have the wider community’s acceptance of their relationship. Yet at the same time, they cannot eliminate their marital status in regard to their religious standards, even though their marriage is not legally registered.

This data confirms what other researchers in the field have shown concerning Muslim marriages in two other European countries; Malta (Sadegh and Zammit 2018, 517–518), England and Wales (Probert and Shabana 2018, 376–377) They concluded that at the individual level, the need for unregistered religious marriage, without any legal formalities, can be for a series of individual issues such as trying a relationship, entering

into a religious marriage rather than just dating, or not being ready for a legal marriage. In addition, there are cases where the required documents are not available, which are similar to the cases previously mentioned during the analysis of my interviews with imāms in Italy.

To sum up, a religious marriage is basically necessary for religious reasons and is the procedure to follow in order to be married as a Muslim, but also in response to cultural norms, legal situations, and as a solution to personal needs and problems. This makes their choices and decisions a very wide and individual matter and represents one of the clear findings for a number of studies in this field outside a Muslim-majority population (Akhtar *et al.* 2018, 367–375, O’Sullivan and Jackson 2017, 22–23, Jaraba 2020, 29).

After this investigation of religious marriage, the paper will illustrate the issue of divorce cases and the role of Islamic centers and individual circumstances under the following titles:

4. Divorce cases

The dissolution of a marriage under Muslim family law can be carried out in specific ways. First, the will of the individual, which is unilateral divorce, and known as Ṭalāq. This is basically the husband’s right, but also can be a right for the wife if she registered this as a condition in their marriage, known as Ṭalāq-i-tafwīd. Second, by mutual consent of both husband and wife, which can be Ṭalāq mubāra’ah, or Khul‘. Third, with the judgment of an authorized šarī’ah judge, that can vary, depending on every case that comes before the judge. This can be the annulment of the marriage, known as Faskh, or can be another form of Ṭalāq, called Tafriq, or can be judicial, Khul‘ (for more details, see Assartawi 1997, Syed 2004b, Al-Ashqar 2009, 368–372).

In every single case, the dowry, or the mahr, and other financial rights for the wife are both important. When the dissolution is a unilateral divorce, whether by the husband or by the wife, all the related dowry, and financial rights are preserved for the wife. However, when the marriage is dissolved by mutual consent, the wife must waive her financial rights after the divorce if it is a Ṭalāq mubāra’ah, and return the dowry to her husband in the case of a Khul‘ by mutual consent.

When the dissolution is made by the judge, these rights are determined by court, and vary from one case to another. In the case of a judicial Khul‘ however, the wife still has to return the dowry to the husband.

Moreover, whenever Muslim family law is officially applied in Muslim-majority countries, all aforementioned cases should be certified and officially registered in the related authorized court, in order to clearly determine the personal status of a person, and also to legally protect family rights after a divorce.¹⁵

When a divorce is the unilateral will of the husband or wife, or by mutual consent, if both spouses registered their divorce officially, and took care of the financial issues on their own, no problems should emerge if both agree.

However current statistics show that where Muslim family law is applied, a lot of divorce cases end up in front of the authorized šarī’ah court, especially when it comes

¹⁵ See for example: The Jordanian personal status cod. Art.36, 97, the Syrian personal status cod. Art.40–46.

to the financial rights.¹⁶ This is understandable given the tension and the instability that usually surrounds divorce cases. Therefore, even if the divorce is unilateral, or by mutual consent, the related financial rights are not guaranteed unless an authorized court follows the case. However, some cases of divorce required the intervention of a judge from the beginning, as in the cases of Faskh and of judicial Khul' mentioned above.

Therefore, given the sensitivity, instability, and disagreement that usually surrounds divorce cases, there is a need for an official authority to intervene in order to protect any related rights after divorce, for both sides. Islamic centers do not have any official authority in Muslim divorce here, and cannot legally defend any related rights for the Muslim community in Italy, nor can imāms replace the role of a judge. This is clearly demonstrated by field data, where a very limited space was given by imāms to divorce cases, and can be illustrated as the following:

4.1. The role of imāms

Here, extended interviews were conducted with the same imāms interviewed previously. They were asked about their current role and procedures in Muslim divorce cases, in order to identify the current status as well as emerging concerns. The main questions were: What is their role in family problems? How do Islamic centers deal with divorce cases? Why do Muslims refer to these centers for a divorce? What are the circumstances surrounding a divorce from a religious-only marriage?

Fieldwork data indicates that the role of imāms here is very limited; because divorce is a sensitive issue in general, since it comes as a result of a lack of understanding between the spouses. The authority of a judge is essential in order to proceed in a divorce, and imāms have neither the authority of a judge, nor the legal authority to intervene on people's individual will. This was evident in the definitive answer from imāms to the question of what role they have in divorce:

We do not have a role in divorce (...) this needs a judge.

At the same time, the interviews showed that Islamic centers are concerned about family problems, and people usually refer to imāms for their family issues because of their respected spiritual and religious position within the community in providing qualified guidance and advising them honestly, which is also the function of imāms in Muslim communities in general (Hallaq 2009, 57–59).

However, imāms feel responsible in a divorce case only if the marriage was performed at their center, referring to the previously discussed religious marriage, because they are familiar with the circumstances of this marriage.

Otherwise, when the marriage is not performed at the center, the role of the imām is basically to bring the spouses together and help them overcome this situation, offering hope for a stable marriage. It should be pointed out here that imāms give the priority, as they do with all the cases whether the marriage was performed in the center or not, to settling the relationship between the spouses and finding reasonable solutions for both

¹⁶ For the increasing numbers of divorce cases in front of šari'ah court in Arab countries see Aljazeera Media network 2007.

whenever possible. This is a normal response to how Muslims view reconciliation as a moral duty and a religious obligation (Bano 2017, 46–73).

The interviews brought to light two main examples of a request to divorce in Islamic centers. The first was a religious-only marriage and the second, a civilly valid marriage.

In the first, an imām referred to a case he had dealt with. The couples had been married at the Islamic center only, the wife was not happy in this marriage, while the husband did not care, and would not accept any kind of divorce by mutual consent. The woman could not file for divorce with the court since their marriage had not been officially registered. When the imām realized that there was no solution and the wife insisted on divorce, the only way for him to help her was through a divorce decision as if he were a judge.

‘This was a very rare case’, the Imām explained. ‘We had the duty to help her, she did not want anything from her husband except divorce’.

Therefore, his helping the woman was limited to the divorce itself, without any related possible rights after the divorce, since an imām has no legal authority over financial rights. However, it was important for the woman to obtain a divorce from her religious-only marriage in order to move on with her life, even though no other rights were obtainable in her case.

Moreover, this does not mean that imāms can usually help a woman in a similar case, even if she only wants to divorce. The imām was clear when he described the case as “rare” because he was talking about an unusual intervention by himself as an imām. He was fully aware that this decision had to be taken only by a judge.

In light of this, and in any other divorce case with a religious-only marriage, it is very difficult for a woman to divorce if she is unable to find an imām to help her, unlike the case mentioned above. As a wife, she can proceed with a divorce from her religious-only marriage on her own only if the right to unilateral divorce was registered as a condition in her marriage. Otherwise, she needs to file for divorce before a judge. Even though she can proceed with a *Khul‘* by mutual consent, where she should return her dowry to her husband, if the husband does not agree to a *Khul‘*, she will need to obtain a court divorce, which definitely requires the authority of a judge.

In other words, obtaining a divorce from a religious-only marriage in Italy is quite difficult for a wife without the agreement of the husband.

Noteworthy here is that none of the imāms who were interviewed made any mention of having a role in a *Khul‘* even if there was mutual consent. Their repeated answer was simply: “No, we do not have any role in this”.

In the second case of a civilly valid marriage, the role of imāms is different.

In one of the cases explained by an imām, the spouses had filed for divorce with the court in Italy. Since they were also civilly married, in addition to their religious marriage at the Islamic center, and the imām decided to act as a witness for the wife, and clearly explained:

We act as a witness for the woman if she is having serious problems with her husband, in order to help her, because they were married at this center.

This is more likely to be the policy of the Islamic center when dealing with the issue; since they feel responsible for religious marriages performed at the center.

It also indicates that these Islamic centers which follow and are concerned about Muslim divorce cases in Italian civil courts are aware of the legal importance of proceeding in a divorce with a fully authorized authority.

Another imām assured that he usually advises the spouses if a reconciliation is impossible:

I tell them: You can refer to the civil court for your divorce, you are civilly married, and your civil divorce will be also religiously valid.

This is not the opinion of one imām, but is Islamic jurisprudential position on the need for the Muslim-minority population to have a judge intervene in their divorce. It is based on considering civil marriage as a proxy given by the spouses to the civil court judges to intervene in their divorce if one or both of them takes the case to the civil court (Decision N. (3/5).

Therefore, if the Muslim spouses had a civil marriage ceremony, they can file for divorce with the Italian civil court, and this will also be religiously valid, under this Islamic juridical opinion. And they can obtain legally valid solutions for any financial issues arising after divorce.

This Islamic juridical opinion is widely accepted within the Muslim community in Italy, and is promoted by several imāms, even though in other European countries it is not. Uddin (2018, 410, 426) showed that the British Muslim community will not accept civil divorce as a religious divorce. There is also a lack of acceptance in regards to the wife's right to delegated divorce known as *Ṭalāq-i-tafwīd* in the Muslim community in England and Wales, which could be due to different traditional norms.

On the other hand, no other legal role of Islamic centers in family issues was reported.

Imāms seem to be aware of their limited role in this matter, and there were similar answers from several imāms explaining the situation:

We do not have any authority, we just perform religious marriages, and help solve family problems, people ask us for fatwà,¹⁷ or for our help in dealing with their family issues. This is in addition to our activities in organizing social courses or seminars for families.

4.2. Individual circumstances

Here, field data is based on the previous sample of individuals whose practices and choices regarding religious marriage were examined, since the private conversations and informal discussions with them included their divorce stories as well as their marriage choices.

The conversations with individuals regarding divorce focused on the following questions: What were the circumstances surrounding their marriage? Would they

¹⁷ "Fatwà is a legal-theological opinion based on *Ṣarī'ah*, the religious law. The opinion is given by an authoritative scholar of Islam who in his particular capacity as jurisconsult is called a mufti" (Berger 2014). See also: Hallaq 2009, 173.

consult an imām to solve their family problems? Do they refer to Islamic centers for a divorce or not, and why? What are the expected results when referring to an Islamic center for a divorce?

This was followed by interviews with the five family counselors mentioned above. The same questions addressed to the individuals regarding divorce were also discussed with these family counselors in order to focus on the issues from different perspectives, and to benefit from the family counselors' opinion as experts in the field.

The interviews showed that Muslims usually contact Islamic centers to find solutions for their family problems, and many find what they are seeking and overcome critical problems, especially when both husband and wife are willing to continue with their marriage. They contact them when their closest family members and friends are unable to help, which is common not only within the Muslim community in Italy.

Because "the majority treat family problems as internal matters that should only be dealt with within the family setting" as Khalfaoui (2020, 123) explained. There is a similar tendency within the Muslim community in Germany towards solving family problems, where people are cautious not to make private matters public.

Therefore, referring to these imāms confirms the particular spiritual and social role of imāms within the community, and the imāms in turn consider that their role in helping spouses to overcome their family problems is as important as individual Muslims do. This is regardless of where they were married, in the Islamic center, or elsewhere.

However, there are also cases where the couple wants to divorce, and refers to the Islamic center to end the marriage.

When examining the various circumstances under which men and women usually refer to an Islamic center for a divorce, the research data showed a variety of individual situations and needs.

A common divorce procedure in Islamic centers is by mutual agreement. In this case the divorce procedure takes a short time to complete even though Islamic centers deal with the issue by first attempting to save the marriage. In this common situation the marriage is only religious, not officially registered anywhere, the spouses are usually young, in their early twenties, and it is their first marriage. In addition, in most cases the marriage lasted no more than two years, and there were no children born from this marriage.

It was clear that they chose this form of marriage because they wanted a "Ḥalāl" relationship that reflects their attention towards having religious consent to a relationship. At the same time, they were not interested in a civil marriage, or any other possible official registration. Therefore, if their relationship does not last very long, they can easily agree to terminate it by divorcing in an Islamic center, without any other commitments. This situation meets their personal needs when they are no longer interested in this relationship. This indicates a clear connection between the two choices, starting with a religious-only marriage, and divorcing by mutual agreement. And as shown in previously studied motivations explored during the interviews with imāms, for young people especially, the reason for entering into a religious-only marriage in an Islamic center is because it is simply easily to start, and easy to end.

The second common cases of divorce are women who are unhappy in their marriage and are still trying to save it but without any concrete solutions.

One of the family counselors spoke of two cases of two women who were unhappy with their husbands, yet they had tried to save their marriages by referring to the imām in the Islamic center to help them. The first did not want to get divorced because the couple had children. The second did not want to get divorced either, but because they had married just recently, and it seemed that she still had hope in the marriage.

Both obtained a divorce, the woman with children was divorced in an Italian court since her marriage was officially registered and she wanted to have financial support for her children. So, after giving up any acceptable solution to continue with her marriage, she was able to file for a divorce and related rights because of her officially registered marriage. The second woman was divorced by mutual agreement at the Islamic center where she was married, with no other official registration. It was not known to the family counselor if the second woman was satisfied with this divorce, but it was important for her in order to start a new life, in terms of her personal status in relation to her religious standards. She had to end her religious-only marriage before starting a new, stable life elsewhere.

The counselor expressed that by saying:

I did not ask her if she was satisfied with this divorce (...) you know (...) usually women are not happy with divorce (...) but in her case, it was a great achievement to finally get divorced, otherwise, how could she start a new life!

The case of the first woman shows that even though women in general try to save a marriage despite family problems, when it comes to a divorce they will go through the official legal procedures whenever possible in order to keep their rights after divorce, especially when they need child support, which is not possible if they divorce in an Islamic center.¹⁸

There is also a third common example of divorce when there is an unstable marital situation and even a divorce without any financial support is unobtainable for the wife. This was highlighted with one of the family counselors, who expressed her deep regret during the interview, because of many problems she was facing with women who had married in Islamic centers without any official registration of their religious-only marriages. Their husbands did not care about them or about their children. Perhaps they were not even legally resident in Italy. In some cases, they were separated, but still married and they could not do anything about this since their husbands would not agree to a divorce by mutual consent, and the imāms could not intervene to help them divorce in any other way. The counselor continued talking about the need to have officially registered marriages since a religious-only marriage in an Islamic center does not guarantee marital rights. She deeply expressed her concern about them:

These women really need help (...) they need authorized people to find solutions for their unstable life (...) I am so upset about their unfair situations.

¹⁸ In terms of financial interests, Sportel (2017, 61-62) refers to the connection between financial interests and the law that Muslims in the Netherlands choose, which is the Islamic law of the country of origin or Dutch law. There were several cases where women chose Dutch law due to different outcomes in terms of financial support.

These marriages were performed several years ago, and the children are still not officially registered as born in a marital relationship. When asked why these women accepted a marriage that was not officially registered her answer was:

There are many reasons (...) she just fell in love and wanted to marry him, without thinking about the future (...) I also had women who needed to marry for financial protection, since they did not have a stable job.

Therefore, the impact of a religious-only marriage on women is clearly identified in this situation. Since their marriage was not officially registered anywhere, they will not be able to divorce without the consent of their husbands, nor will they be able to claim financial rights before a civil court. This has also been reported as being a serious concern in other European countries, where many women are unable to divorce and are forced to live an unsettled personal life, waiting for a divorce that depends on the will of their husbands (Jaraba 2020, 31, Vora 2020, 160). Described by O'Sullivan and Jackson: "Although some couples may have jointly and deliberately chosen to eschew the formalities and enter into a religious Muslim marriage only (not wishing to obtain legal marital status), it is ever more apparent that a potentially substantial number of Muslim spouses remain unaware of the lack of legal status which may attach to their marriage or may have been misled by their spouse as to the latter's intention to obtain legal recognition for the marriage following the religious ceremony" (O'Sullivan and Jackson 2017, 22–23; see also Probert and Shabana 2018, 400).

In these critical situations, Islamic centers usually collaborate as much as possible in their limited capacity. As a family counselor pointed out, there have been several cases during the last two years where the Islamic center helped women to divorce from their husbands. The cases were similar since all had religious-only marriages performed in an Islamic center. The Islamic center first tried to solve the problems between the couples, but without any results. The women insisted on divorce, while the men did not. The Islamic center therefore proceeded with the only solution that was left, which was to convince the husbands to divorce. This confirms the results underlined during the interviews with imāms, in which the importance of the respectful spiritual and religious position of imāms within the Muslim community can be helpful for these women, but still not as binding as the intervention of a judge. This places the spotlight on what is essential for a Muslim woman in her meaningful religious marriage; the protection of marital rights by law.

5. Conclusion

This paper examines marriage and divorce practices in Islamic centers in Italy, by studying how the people in charge of the centers and the imāms are dealing with the issue on the one side, and by analyzing individual choices and motivations on the other. Empirical data showed that these Islamic centers play an important role for Muslims in family issues, especially in matters of marriage, divorce and family problems while there is seldom any intervention in other family-related legal matters. This demonstrates the importance of religious guidance in Muslim family life and of governing these needs in accordance with Italian laws in order to protect rights.

Lacking any official agreement between the Muslim community and the Italian State under Art. 8 of the Italian Constitution, the Muslim community in Italy currently cannot

benefit from the self-referentiality of the appointment of religious ministers who are authorized to perform a šarī‘ah – compliant, civilly valid marriage. This has had several effects on the choices of individuals in their family issues.

The paper shows that the marriage procedures followed in Islamic centers vary and can be described as local and internal governance by the imāms in cases of people arriving at the center, with a general tendency to comply with the requirements for a civil marriage in Italy. Marriages performed in Islamic centers do not give the same marital status and rights as officially recognized civil ceremonies unless a civil marriage ceremony has been, or will be performed. In divorce matters, Islamic centers generally tend to solve family problems regardless of where the couples were married, and tend to handle divorce cases only for marriages performed at the center. Islamic centers do not play any central role in divorce matters since a judicial authority is needed.

On the individual level, the study confirms the findings from previous research which is that people’s choices and decisions to refer to Islamic centers for marriage and divorce depend on their own preferences, needs and circumstances. The study revealed that people marry in an Islamic center for a variety of socio-religious and legal reasons. Some believe this is necessary in order to ensure a šarī‘ah-compliant family life, and that this marriage should then be followed by a civil marriage, in order to register their marital status and rights. Many need this marriage to avoid non-marital relationships which are contrary to Islamic values and principles and are not interested in official civil marriages. For others, however, a religious marriage in an Islamic center is the only choice since they do not have the required documents to proceed with a civil one.

Given the limited authority of Islamic centers over individuals, there are more likely to be cases of un-registered marriages. The individuals’ different standards in dealing with the importance of a šarī‘ah-compliant marriage for them as Muslims, and the need for a civil marriage for civil and marital rights, creates a state of legal chaos, in the absence of a single marriage that combines both.

As for individuals referring to Islamic centers in divorce matters, most seek social assistance to solve family problems, or to divorce when both spouses agree and mainly only when the marriage was performed in the same center. Many will refer to the Italian civil court to divorce if their marriage is officially registered, especially women, in order to guarantee their financial rights after divorcing.

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