

Cousin Marriage Is Not Choice: Muslim Marriage and Underdevelopment[†]

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The Middle East has much going for it. It is strategically located connecting three continents. Its oil-rich countries suffer no shortage of capital. Its population is young and in many cases well educated. Still, the economic performance of the Middle East has been less than stellar, something it shares with the Muslim world at large. The commonality is curious considering the varied natural conditions within its realm. Stretching from sub-Saharan Africa to the islands of Indonesia, it can claim the world's largest desert, highest mountain range, and the river plains of the fertile crescent.

While European colonial history or more recent events may have done it few favors, the failure to keep up is longstanding (Lewis 2002; Kuran 2011). Not tied to a particular circumstance, time period, or geographic region, the problem appears endemic suggesting that its source originates from a common denominator.

Specifically, this paper points to classical Muslim marriage law which denies women the right to decide their own marriage. While men are free to make their own marriage decisions, women are subject to guardianship. That is, women marry by parental consent as in arranged marriage regimes. Marriage that is half free and half arranged may be all one thing or all the other. Which one is it then?

This paper makes three points. First, it argues that classical Muslim family law produces a consent regime that effectively amounts to parental consent, despite men's freedom to marry. Thus, the marriage regime does not only favor men

over women, but also the old over the young (Edlund and Lagerlöf 2006).

Second, the paper provides a novel explanation for why cousin marriage is common in the Muslim world (consanguinity rates have been estimated in the 20–60 percent range, e.g., Hamamy 2012).¹ While the power to consent to marriage lies with the bride's guardian (typically her father), the resulting marriage payment *mahr* is hers, a split bill that encourages cousin marriage, I propose.

Cousin marriage may be viewed as a form of barter, the bride giver's reward is an equivalent woman in return. When the giver is the bride's father, the woman given in exchange is presumably more valued by a younger and less married man, for instance his son. Thus a system can arise in which daughters are committed to a bridal pool in exchange for sons' rights to draw from said pool. Cousin marriage is a short step away.

Cousin marriage diverting resources from the bride to her male kin, thus undoing a principal improvement for women introduced under Islam—the bride being the designated owner of the *mahr*—has to the best of my knowledge not been considered previously.

Third, this marriage system may handicap economic growth. When women decide whom and whether to marry, men jockey among themselves to deliver what women want. In cousin marriage, by contrast, men marry by guarding their sisters and staying on the right side of their uncles. The predicted societies are starkly different. In one, women have high status and individualism is celebrated. In the other, women are reduced to male property and conformity and clan loyalty are prized. Societal capacity for

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¹The inbreeding coefficient between spouses is that of second cousins or higher.

self-sustaining, innovation driven growth may differ accordingly.

I. Classical Muslim Family Law

Marriage, according to classical law, is a transactional and hierarchical relationship. The groom is required to pay the bride a *mahr*, part of which can be deferred (paid at the dissolution of the marriage). The marriage payment is followed by the bride's taking up residence with the husband. The husband owes the wife maintenance, and the wife owes the husband conjugal society and obedience. By this is typically meant that the wife should grant the husband sexual access and not leave the husband's domicile without his consent.

The Muslim marriage contract requires the consent of the groom. By contrast, the bride's consent is neither necessary nor sufficient.² The operative consent is that of her guardian, *wali*. The rights of the *wali* are vested with (in order of priority) the father, grandfather, or other male relative. Importantly, a father (or grandfather) can force a girl to marry. That is, he can arrange her marriage without her consent (Esposito and DeLong-Bas 2001, p. 16),

A distinguishing feature of Islamic law is the power that it bestows upon the father or grandfather, who can contract a valid marriage for minors that cannot be annulled at puberty.

Further, even adult women cannot marry without the consent of their *wali*. Three of the four Sunni schools are of the opinion that the guardian has the *sole* authority with respect to the marriage of his sane and major female ward if she is a virgin. Only if she has been previously married is her consent also required (alongside that of the guardian's).

Only the Hanafi school allows an adult woman to contract her own marriage, but this right is undermined by two provisions. First, the *wali* can dissolve an "unsuitable" marriage. Second, the above power of the father (or guardian) to contract a minor daughter in marriage by force holds *even in the Hanafi school*. This right,

²Two possible factors explaining why the marriage contract has resisted change.

combined with no minimum age of marriage, supports a culture in which it is a father's right to marry off daughters.

Sharia law is Islamic canonical law based on the teachings of the Quran and the traditions of the Prophet. It was formulated in the first centuries of Islam, a formative period which culminated in the ninth century. In the nineteenth century, modernization demands in the Muslim world led to the adoption of Western legal systems but reform of family law was considered un-Islamic and exempted.

Recent attempts to bring family law in line with, say, the Universal Declaration of Human Rights (UDHR) have been met with equally solid resistance on similar grounds (Mir-Hosseini et al. 2013). Change would require recognition of marriage by individual consent only (United Nations 1948, article 16), a fundamental challenge to classical law's placing of women under male guardianship.

In sum, classical law gives the father the power to decide his daughter's marriage, but also designates the bride the owner of the marriage payment *mahr*. All this power to no avail? Cue cousin marriage.

II. Cousin Marriage

The prevalence of cousin marriage in the Muslim world stands out (Bittles and Black 2010; Hamamy 2012), in particular that between children of brothers (Korotayev 2000). In Pakistan (Hussain and Bittles 1998) and Saudi Arabia (el-Hazmi et al. 1995), the rate of consanguineous marriage³ has been found to approach 60 percent; in other Muslim countries, rates fall in the 20–50 percent range.⁴

Frazer (1919) noted the similarity between cousin marriage and marriage by barter, a form of exchange favored in materially simple environments such as those of Australian Aboriginals. Absent other means of exchange, a man pays for his bride by providing an equivalent female in return. For practical reasons, sisters are at

³Spouses are second cousins or closer.

⁴Its extensive practice through the generations has led to elevated levels of autosomal recessive diseases and congenital anomalies, consequences that are obscured by high mortality/morbidity or under-served environments, e.g., Corry (2014).

high risk of being used thus.⁵ If the exchange of sisters is possible between two unrelated men, would kinship not make this trade even more feasible, he observed.

Still, why would materially more advanced societies such as those of the Muslim world resort to cousin marriage? The answer, I propose, lies in the father's right to decide a daughter's marriage but lacking the right to the resulting *mahr*. Faced with this situation, other forms of compensation may beckon. For instance, a daughter could be given as a gift to the rich and powerful in return for patronage.⁶ But brides-as-gifts has sharply decreasing returns, there are only so many powerful men to go around.

A more common variation might be to have a man give a daughter in marriage against the promise of a bride in return, possibly at a future date. The ability to enforce such promises can be challenging and here family can come in handy. On average, fathers have equally many sons and daughters. By promising daughters to a extended-family bridal pool, and allowing sons to draw from the same, a system of exchange can be maintained in which daughters' marriage market value is captured by fathers and brothers.

That cousin marriage comes with lower *mahr* is a well-known stylized fact. Existing explanations have viewed this as reflecting a more beneficial marriage to the bride. By marrying in the family, or exchanging sisters, a web of connections protect women against abuse—the in-laws are family or married to family (Jacoby and Mansuri 2010; Do, Iyer, and Joshi 2013). This paper offers a less benign interpretation. Sharia makes the woman the owner of the *mahr*; male guardianship—via cousin marriage—erodes its value.

This explanation of cousin marriage assumes that fathers are scrupulous enough to not accept side payments, while all the same seeking to benefit from a daughter's marriage, assumptions which can be questioned: an unscrupulous father can accept a side payment for which the rules of the *mahr* need not apply; a scrupulous father may exercise his rights in a way that does not result in cousin marriage, etc. After all, cousin marriage is not universal.

⁵Marriage by sister exchange, or *watta satta*, is in fact barred in Saudi Arabia on the grounds that using a sister as payment for a bride is contrary to the spirit of Islam.

⁶Osama Bin Laden's sixth wife was a gift from her father.

Still, cousin marriage may be common enough to support another pervasive feature of Muslim society: the importance of the *hamula*, "a group of descendants from common ancestor, usually from five to seven generations, living side-by-side in a rural or even urban area." (Lewis and Churchill 2009, p. 3). Further, "[members] were bound together by strong ties of loyalty, reinforced by the common practice of marrying within the hamula, usually cousins" (Lewis and Churchill 2009, p. 194).

Cousin marriage among advanced societies is not unique to the Muslim world. European aristocracy was no stranger to cousin marriage and it could be argued that the aristocracy formed the European equivalent to clans.⁷ However, outside of the landed classes, cousin marriage was rare and obligations toward kin fell off rapidly once outside of the immediate family. In Muslim society, by contrast, expectations of clan loyalty are commonplace. As a result, nepotism and conformism is valorized over meritocracy and independence. Guardianship over daughters may explain the difference: it affords even poor men leverage over sons and nephews.

III. Growth

In its first 600 years or so, the Muslim world did very well. Then it lost momentum. Medieval Europe, on the other hand, powered on. By the late Middle Ages, Europe was ahead (Mokyr 1990)—a lead it has maintained since.

Thus, the story of the Muslim world's lagging behind is equally that of European ascent, the latter which has been well chronicled. Still unanswered, however, is why Europe managed to maintain sustained, innovation driven growth. Economic historians concur that Europe was more accepting of new ideas, risk taking, and individual enterprise (Landes 1969; Jones 1988; Mokyr 1990; Gorodnichenko and Roland 2011). But, the origins of this more independent and iconoclastic mentality—individualism in short—remains a holy grail of sorts.

This paper points to individual consent in marriage—in place in Europe (since Late Antiquity), and, lately, East Asia and Israel—as a condition for productivity-driven sustained

⁷Concern for status of in-laws in a highly hierarchical society can result in cousin marriage, e.g., Edlund (1999).

growth. Granted, Muslim guardianship only applies to women and only to marriage. But, in the limit, guardianship in marriage is to women what slavery is to men. This is so because on the marriage market, women sell and men buy.⁸ Since the female side has the goods traded, control of that side matters the most.

The link from guardianship to growth inhibiting gerontocracy can only be a speculation. But just as young firms are more likely to champion new technology (Greenwood and Jovanovic 1999), the harnessing of the young mind may be critical for innovation driven growth. Mokyr (1990, pp. 182–183) wrote:

All societies developed to some extent a disapproval of young members who do not conform to existing practices. ... The more hostile this attitude, the more likely conformist attitudes will dominate and the new generation will be just like the old ones, producing technological stasis.

IV. Discussion

This paper has argued that by denying women individual consent in marriage, Muslim family law not only deprives women of a fundamental right, but also dulls the initiative and ambition of young men by producing a system in which marriage is preordained, subject to conformity to clan notions of loyalty. Jones (1988, p. 95) wrote: “The literature concerning the Ottoman world is especially full of remarks about cultural introversion and metaphors of dormancy.”

The system turns on unmarried females being committable to the extended-family bridal pool, giving brothers a direct stake in their sisters’ chastity and obedience. As self-appointed guarantors of their sisters’ arranged marriages, brothers emerge as chief enforcers of the so-called honor culture and its not-so-honorable killings.

Until the twentieth century, individual consent was largely limited to Western countries. Since then, a number of countries have joined the ranks, including: Japan (parental and individual 1898, individual 1947), Turkey (1923), Israel (1948), PRC (1950), Taiwan (1950),

Tunisia (1957), Singapore (1965), and South Korea (1977).

Among these, Turkey and Tunisia stand out. Both are Muslim majority and neither country has approached the growth performance of the others listed, thus seemingly contradicting the case for consent as a key growth factor. However, unlike their East Asian counterparts, neither country has de facto broken with parental consent. For concrete evidence, look no further than consanguineous marriage—estimated rates of which fall in the 16–65 percent range for Tunisia (Ben Halim et al. 2016) and around 20 percent for Turkey (Koc 2008; Kaplan et al. 2016)—numbers hard to reconcile with marriage by individual choice.

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⁸Specifically, rights to children. Absent marriage, there is only one known parent, the mother. Paternity presumption makes husband the father of children borne by the wife (Edlund and Korn 2002).

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