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Palestine: Marriage registration and issuance of marriage contracts and marriage certificates

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Introduction

The following note describes the procedure for registration of marriage at the Sharia Court and issuance of marriage contracts. The note also describes marriage registration at the Ministry of Interior and issuance of marriage certificates, both covering the West Bank and Gaza.

The note includes a description of signatures and stamps required at the marriage contract and the layout of the marriage contracts and the marriage certificates. The note also includes a short description of late registration and reissuance of the documents. Registration of divorce and issuance of divorce certificates is also described in the note, including a short description of the waiting period between marriages.

In the introduction below, the civil law and the legislative framework related to marriage and divorce in the West Bank and Gaza is described as well as the administrative structure of the Sharia Courts.

The note is primarily based on interviews with representatives from the Supreme Sharia Court in Ramallah as well as other interviews conducted in Ramallah and Jerusalem in September 2019. The note is one out of several notes published by the Danish National ID Centre focusing on Palestinian documents.

Civil law in the West Bank and Gaza

Due to the Egyptian control of Gaza in the period 1948-1967, The Egyptian Law of Family Rights (1954) is applied in cases regarding matters of family law for the Muslim population in Gaza. Similarly, due to Jordanian control of the West Bank in the period 1948-1967, The Jordanian Law of Personal Status (1976) is applied in cases regarding matters of family law for the Muslim population in the West

Bank.¹ According to the Supreme Sharia Court in Ramallah, the Family Law from 1976 regulates registration of marriage and the procedures are the same in both Gaza and the West Bank.²

The civil status law introduced in 1999, amended in 2009, regulates issuance of identity cards, registration of birth and death and issuance of related certificates and change of marital status and issuance of marriage and divorce certificates.³

Recognised ecclesiastical minorities have their own set of family law.⁴ Their marriages are not registered at a Sharia court but at their own religious institution. Afterwards, the marriage can be registered by the Ministry of Interior at a local civil status department in the West Bank or Gaza in order to change their civil status from single to married and to have a marriage certificate issued.⁵

Civil marriage is not recognised in Palestine and it is not possible to have a civil marriage registered.⁶

The minimum age for entering into a legally valid marriage is 16 years for the husband and 15 years for the wife in both the West Bank and Gaza according to the personal status law.⁷ The delegation was informed that the Ministry of Justice is in the process of amending the law in the West Bank so that the legal age for entering into marriage will be 18 for both husband and wife.⁸

Polygamy is permissible for men in Palestine, and a man can enter into marriage with up to four wives.⁹

Administrative structure of the Sharia court

The Sharia court handles cases regarding marriage, divorce and other matters related to family issues. There are 24 local Sharia courts in the West Bank and 11 in Gaza. The local courts are where the actual registration of marriage and divorce and issuance of related certificates takes place. The Supreme Sharia Court does

¹ Migrationsverket, Lifos, 11 November 2009, p. 19.

² Supreme Sharia Court, Ramallah September 2019.

³ Ministry of Interior, October 2019.

⁴ Migrationsverket, Lifos, 11 November 2009, p. 19; Palestinian Population Registry, Ramallah September 2019; Ministry of Interior, October 2019.

⁵ Palestinian Population Registry, Ramallah September 2019; Ministry of Interior, Ramallah, September 2019; Ministry of Interior, October 2019.

⁶ Supreme Sharia Court, Ramallah, September 2019.

⁷ Ministry of Interior, October 2019; Supreme Sharia Court, Ramallah September 2019.

⁸ Supreme Sharia Court, Ramallah September 2019.

⁹ Supreme Sharia Court, Ramallah September 2019; Palestinian Population Registry, Ramallah September 2019.

not keep an archive and does not do any actual registration. They act as an independent body and are not under the Ministry of Justice.¹⁰

As of September 2019, there is no central registration database concerning marriage or divorce at the Sharia court. Every local court has its own computer and a manual and digital register and keeps a manual archive. The same applies for all 35 courts in both the West Bank and Gaza.¹¹

Registration of marriage at the Sharia court

Registration of marriage at the Sharia court is mandatory by law for the Muslim part of the population. Registration takes place at a Sharia court in the West Bank, Gaza or at a diplomatic mission abroad.¹² According to the law, registration in the Sharia court makes the marriage valid.¹³

The persons authorised to register a marriage and to issue the marriage contracts at the Sharia court are the judges and appointed administrative workers. Registration of the marriage has to take place where the wife lives.¹⁴

Prior to registration a form is filled out by the involved persons with information about place and date of birth, residency, nationality, work and level of education. The form is signed and stamped by an administrative worker at the court.¹⁵

The required documents to be submitted are birth certificates and ID cards for both spouses. A medical report is required to check for the genetic disease thalassemia, that only one of the involved parties is allowed to carry. If the wife is under the age of 16 and thus does not have an ID card, her birth certificate is the only document required to be submitted. If one of the involved persons is not a Palestinian national an AIDS check is required and a testimony stating that the person is unmarried.¹⁶

A copy of the divorce certificate is required if either husband or wife has previously been married, in which case a copy of the divorce certificate is attached to the marriage contracts.¹⁷

¹⁰ Supreme Sharia Court, Ramallah, September 2019.

¹¹ Supreme Sharia Court, Ramallah, September 2019.

¹² Supreme Sharia Court, Ramallah, September 2019.

¹³ Supreme Sharia Court, Ramallah, September 2019; Ministry of Interior, October 2019.

¹⁴ Supreme Sharia Court, Ramallah, September 2019.

¹⁵ Supreme Sharia Court, Ramallah, September 2019.

¹⁶ Supreme Sharia Court, Ramallah, September 2019.

¹⁷ Supreme Sharia Court, Ramallah, September 2019.

The submitted documents are verified by the court by controlling the original documents and by the testimony of the witnesses.¹⁸

If it is the bride's first marriage, the consent of a male guardian is required. The guardian is often the father of the bride. In cases where the guardian does not consent without a valid reason, the judge can act as her guardian. If the bride has previously been married, a guardian is not required.¹⁹

It is mandatory that both bride and groom are represented when the marriage is registered either by themselves or by proxy. Both parties can be represented by proxy. The same person can act as both representative and guardian for the bride. If one or both of the parties is represented by proxy a declaration of consent from the person(s) not present is required.²⁰

It appears from the signatures at the marriage contracts if one or both parties were represented by proxy.²¹

1	شهود العقد والوكالة والتحرير	7
	الخطابة على الشروط	8
	موافقة الولي أو إذن المحكمة	9
2	3	10
		صيغة العقد
		11
		12

أنا مانح من طرفة الزواج في الزوجة أو وكيلها الزوج أو وكيله شاهد ومعرف شاهد ومعرف تصديق القاضي الشرعي المأذون في الجريت هذا العقد على الوجه المفصل أعلاه بعد التحقيق من استكمال الشروط وعدم الوجود.

Image 1: Bottom of a blank marriage contract, Supreme Sharia Court, Ramallah, September 2019 (NIDC reference material).

As shown on the illustration above, box number one holds information on witnesses and representatives if one or both parties is married by proxy. Box number two holds the signature of the bride or the person representing her. Box number three holds the signature of the groom or the person representing him.

Marriage contracts issued by the Sharia court

When a marriage is registered at the Sharia court, a marriage contract is issued. The marriage contract is issued in three copies. One copy is given to the bride, one to the husband and one to the court archive. All three documents have the same document number. The document is filled out by hand by a judge representative and all three copies contain the exact same information. Each of the three contracts is signed by the person who did the actual registration and by the judge and

¹⁸ Supreme Sharia Court, Ramallah, September 2019.

¹⁹ Supreme Sharia Court, Ramallah, September 2019.

²⁰ Supreme Sharia Court, Ramallah, September 2019.

²¹ Supreme Sharia Court, Ramallah, September 2019.

Late registration at the Sharia court

It is normal that a marriage is registered at the Sharia court and afterwards celebrated at a wedding celebration. The deadline for registration is 10 days.²⁶

However, marriages performed outside the Sharia court can also be recognised as valid. In those cases, the court checks up on the conditions for the marriage, before they decide if the marriage can be registered. The normal procedure is that the marriage is recognised as valid and thus registered.²⁷

If the marriage took place before registration, the date at the marriage contract is the date the marriage took place (solemnisation) and not the date the marriage was registered. The registration and issuance date is not mentioned at the marriage contract even if registration took place a year after the marriage took place.²⁸

If the marriage is registered later than the deadline of 10 days, there is a penalty for the husband, the wife, the witnesses and the person performing the marriage. The penalty can be a fine or a prison sentence from three to six months. When a marriage is registered late, the registration undergoes a special procedure, and has to take place at the Supreme Court or at an appeal court.²⁹

Signatures and stamps

The persons authorised to sign and stamp the marriage contract are the judge and the concerned employee who did the actual registration. The contract is stamped by the court or by the diplomatic mission where the registration took place. The signatures and the stamp from the place where the registration took place are required in order for the marriage contract to be considered valid. The remaining stamps often found on the document are either for interior reasons regarding payment of the contract, or because the document has been legalised. Every court has its own stamp, and the Supreme Court has specimens of every stamp.³⁰ A marriage contract issued at a diplomatic mission is identical with a contract issued at a Sharia Court. The only difference is that the place of marriage says 'embassy' instead of 'court' and the stamp is the embassy stamp.³¹

Beside the judge and the involved court employee the contract is signed by the husband and wife or the person(s) representing them. The contract is also signed

²⁶ Supreme Sharia Court, Ramallah, September 2019.

²⁷ Supreme Sharia Court, Ramallah, September 2019.

²⁸ Supreme Sharia Court, Ramallah, September 2019.

²⁹ Supreme Sharia Court, Ramallah, September 2019.

³⁰ Supreme Sharia Court, Ramallah, September 2019.

³¹ Supreme Sharia Court, Ramallah, September 2019.

by the guardian of the wife if it is her first marriage and the two required witnesses. In that case, the marriage certificate contains seven signatures.³² If the guardian and the representative of the wife is the same person, he would normally sign the document twice, but if he only signs once, the certificate will only contain six signatures. The same applies if the bride has been married before and a guardian therefore is not required.³³

If the judge acts as both judge and guardian of the bride, he does not need to sign the contract twice. In that case, a document is attached to the contract proving that the judge approved the marriage and is acting as a guardian for the bride.³⁴

If one of the involved persons is illiterate, the person puts his/her fingerprint on the contract instead of a signature.³⁵

If the contract is a reissued document it is only signed by the judge and stamped by the court, and does not hold other signatures. Besides the numbers of signatures, the reissued contract is an exact copy of the original marriage contract.³⁶

Registration of marriage at the Ministry of Interior

When the marriage has been registered at the Sharia court the marriage can be registered at the central population register at the Ministry of Interior, in order for the personal status of the involved parties to be changed from single to married, and to have a marriage certificate issued. According to the Ministry of Interior, registration of marriages at the central population register is mandatory under the Civil Status Law. However, marriages not registered at the Ministry of Interior are considered legally valid as long as the marriage has been registered at the Sharia courts and a marriage contract has been issued.³⁷

This registration is done in one of the 14 local civil status departments under the Ministry of Interior in the West Bank, the central civil registration unit in Ramallah, or in one of the five local civil status department in Gaza.³⁸

The required documents to be submitted are the original marriage contract issued by the Sharia court and copies of the ID card of both spouses. When the marriage is registered, the couple's personal status is changed from single to married in the

³² Supreme Sharia Court, Ramallah September 2019.

³³ Supreme Sharia Court, Ramallah, September 2019.

³⁴ Supreme Sharia Court, Ramallah, September 2019.

³⁵ Supreme Sharia Court, Ramallah, September 2019.

³⁶ Supreme Sharia Court, Ramallah, September 2019.

³⁷ Ministry of Interior, October 2019.

³⁸ Ministry of Interior, October 2019.

central population register. A form containing the new data on the persons is sent to the Israeli side by the Ministry of Interior.³⁹

When the marriage has been registered, a marriage certificate can be issued.⁴⁰

A person's civil status has to be registered as 'married' at the central population register when a child is registered, why registration of civil status often is changed at the same time a child is registered.⁴¹

Because a marriage is considered valid after registration at the Sharia court, and registration at the central population register at the Ministry of Interior is not compulsory, there is no deadline for registration and consequently no penalty for late or no registration.⁴²

According to a representative from the Palestinian Population Registry, the Sharia court sends information of changes in civil status directly to the Ministry of Interior.⁴³

Marriage certificate issued by the Ministry of Interior

Both husband and wife can apply for a marriage certificate, and there is no requirement for documents to be submitted. The only requirement is that the marriage is already registered in the central population register.⁴⁴

It is possible to obtain an original marriage certificate at any time and in the numbers of documents required by the person applying. The marriage certificate has to be stamped by the department in which the certificate was issued.⁴⁵

The marriage certificate is issued in English or in Arabic. On the following pages are shown examples of the marriage certificate issued by the Ministry of Interior.

³⁹ Ministry of Interior, October 2019

⁴⁰ Ministry of Interior, October 2019.

⁴¹ Ministry of Interior, October 2019.

⁴² Ministry of Interior, October 2019.

⁴³ Palestinian Population Registry, Ramallah, September 2019.

⁴⁴ Ministry of Interior, October 2019.

⁴⁵ Ministry of Interior, October 2019.



Marriage Certificate

Cert. No. ■■■77	Husband Data	Wife Data
Id No.	■■■■■	0000
First Name	■■■■■	■■■■■
Father's Name	MOHAMMaD	SAADAT
G.F.'s Name	■■■■■	
Family Name	■■■■■	■■■■■
D. of Birth	■■■■/1992	■■■■/1991
Nationality	Palestinian	American
Address	■■■■■	■■■■■
Religion	MUSLIM	MUSLIM
Prev. Marital Status	DIVORCED	SINGLE

Marriage Document Data

Marriage Document Date	■■■■/2019	■■■■■
Marriage Document No.	■■■■■	■■■■■
Marriage Place	RAMALLAH	

This Certificate has been issued on the basis of civil registry data on ■■■■/2019 in Ramallah

موقع الموظف المختص
Employee Signature



Image 3: Samples of marriage certificates; English version, Mol (NIDC reference material).



شهادة زواج

بيانات الزوج	بيانات الزوجة	رقم الشهادة
76	0000	رقم الهوية
		الاسم الأول
محمد	سعدات	اسم الأب
	***	اسم الجد
		اسم العائلة
/1992	/1991	تاريخ الميلاد
فلسطيني	أمريكي	الجنسية
	الولايات المتحدة	العنوان
مسلم	مسلم	الديانة
مطلق	اعزب	الحالة الاجتماعية السابقة

بيانات عقد الزواج

تاريخ عقد الزواج	/2019
رقم عقد الزواج	
مكان عقد الزواج	رام الله

صدرت هذه الشهادة من واقع سجل السكان بتاريخ 2019/ بمديرية رام الله



Image 4: Samples of marriage certificates; Arabic version, Mol (NIDC reference material).

Stamps

All official documents issued by the Civil Status Department and the General Directorate of Civil Status shall be stamped with official stamps bearing the name of the Ministry of Interior, General Directorate of Civil Status and the name of the area where the document was issued.⁴⁶ Every registration office has its own stamp. The Ministry of Interior keeps a central register of the stamps.⁴⁷

Divorce

Registration of divorce at the Sharia court is mandatory by law for the Muslim population. However, the divorce is considered valid from the time where the decision on divorce was final, if the decision was not taken by the court. Registration is required within 14 days after the decision of divorce is final. The penalty for not registering a divorce within the required two weeks is 15 Jordanian dinars.⁴⁸

Every local Sharia court can register a divorce and issue a divorce certificate. Registration of divorce and issuance of divorce certificates can only take place at a Sharia court, and not at a diplomatic mission. There is not a uniform certificate concerning divorce, and it is possible to have a divorce registered by proxy.⁴⁹

There are different ways of dissolving a marriage in the West Bank and Gaza that are considered valid. E.g. the husband can divorce his wife without her agreement or they can mutually agree on the divorce.⁵⁰ The delegation was not informed whether the wife can divorce her husband without his approval.

If both parties agree to dissolve the marriage, the court requests the marriage contract to be submitted together with a request for divorce. The court will try to mediate between the husband and wife, and set a period for the couple to come back to the court before the divorce is registered and the divorce certificate is issued. The length of the period is the decision of the judge. If the couple does not come back, the request for divorce is considered to have been withdrawn.⁵¹

As for marriages, the divorce can be registered at the central population register and a divorce certificate can be issued by the Ministry of Interior.⁵² This certificate is different from those issued by the Sharia court.

Divorce registration and issuance of divorce certificates

⁴⁶ Ministry of Interior, October 2019.

⁴⁷ Ministry of Interior, Ramallah, September 2019.

⁴⁸ Supreme Sharia Court, Ramallah, September 2019.

⁴⁹ Supreme Sharia Court, Ramallah, September 2019.

⁵⁰ Supreme Sharia Court, Ramallah, September 2019.

⁵¹ Supreme Sharia Court, Ramallah September 2019.

⁵² Ministry of Interior, Ramallah, September 2019; Ministry of Interior, October 2019.

The divorce certificate issued by the Sharia court is issued in three copies. One belongs to the wife, one to the husband and one stays at the court archive. The divorce certificate is only signed by the judge. The wife, husband and witnesses sign another document that only stays in the court archive. The date registered at the divorce certificate is the date of the agreement upon divorce, and not the date the divorce is registered.⁵³

It is not required that the father of the bride is informed about the divorce, however, the father is sometimes informed by the Sharia court about the divorce in conservative regions as a courtesy. When a divorce is final, the woman is considered as her own legal guardian. Only if the wife is under the age of 18, the approval from her father or legal guardian is required.⁵⁴

When a divorce is registered, the required documents are a request for divorce, the marriage contract, witnesses if the divorce took place outside of the court and the ID cards of the husband, the wife and the witnesses. If only the husband or the wife is present when the divorce is registered, only that person's ID is required. If other persons than the husband and wife were present when the decision on divorce was final they are counted as witnesses. If there were no other persons present, any adult in a good state of mind can act as witness.⁵⁵

If the husband registers the divorce at the court without the presence of the wife, it is required that he submits a form claiming that he has already divorced his wife. The judge at the Sharia court then registers the divorce and issues the divorce certificate.⁵⁶

The husband does not receive the wife's copy of the divorce certificate. It is the responsibility of the court to inform the wife in person within seven days if she was not present when the divorce was registered. When the wife receives the certificate, she signs a notification saying that she has received the divorce certificate.⁵⁷

If the wife goes to court disputing that her husband has divorced her, she can file a civil lawsuit if she contests to the decision of divorce. The court then calls for a civil lawsuit, and registration and issuance of divorce certificate are postponed.⁵⁸

⁵³ Supreme Sharia Court, Ramallah September 2019.

⁵⁴ Supreme Sharia Court, Ramallah September 2019.

⁵⁵ Supreme Sharia Court, Ramallah September 2019.

⁵⁶ Supreme Sharia Court, Ramallah September 2019.

⁵⁷ Supreme Sharia Court, Ramallah, September 2019.

⁵⁸ Supreme Sharia Court, Ramallah, September 2019.

If the divorce was not a mutual agreement that took place outside of the court, it will be mentioned in the divorce certificate.⁵⁹

Waiting period

A waiting period between a dissolved marriage and a new marriage is required if the wife has had an affair before the divorce or if she is pregnant at the time for the request for divorce.

In case of the wife had an affair there is a waiting period of three months before she can remarry. If she is pregnant at the time of divorce, she has to wait until the child is born. There is no waiting period for the husband.⁶⁰

If the husband and wife want to remarry each other, or if none of them has had an affair, there is no required waiting period.⁶¹

⁵⁹ Supreme Sharia Court, Ramallah, September 2019.

⁶⁰ Supreme Sharia Court, Ramallah, September 2019.

⁶¹ Supreme Sharia Court, Ramallah, September 2019.

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