

Customary Marriage and the Analysis of the Imaginary : The Impact of Sexual Reality through Perceptions in shaping Customary Marriage A Socio-Cultural Approach

الزواج العرفي وتحليل المتخيل: أثر الواقع الجنسي من خلال التصورات في تشكيل الزواج
العرفي - مقارنة سوسيو - ثقافية

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• Abstract:

The phenomenon of customary marriage is notably widespread in Islamic societies, including Moroccan and increasingly in Algerian society, marked by significant differences among jurists. Some support it as a valid marriage if all its pillars are met, while others oppose it due to its negative consequences on society, spouses, and children.

In this context, we will address the topic through a socio-cultural approach by uncovering the key factors and motivations contributing to the formation of customary marriage. This will involve examining authoritative frameworks and delving into the social and cultural structures of these societies, particularly Algerian society, to diagnose the cultural and social elements rooted in the social imaginary. These elements arise from perceptions that lead to the formation of this type of marriage, which reflects the reality of sexuality in Algerian society within a changing sociology. This includes symbolic capital and its associated pride within Islamic societies, as well as the sexual reality and the resulting emotional and physical deprivation caused by economic and social conditions that make formal marriage unattainable. Thus, customary marriage emerges as a religious solution to "prohibit adultery." Our study aims to clarify the relationship between sexual reality and customary marriage in Algerian society

Keywords:

Customary Marriage, Symbolic Capital, Perceptions, Authoritative Frameworks, Sexuality.

● الملخص:

تعتبر ظاهرة الزواج العرفي إحدى الظواهر المنتشرة في المجتمعات الإسلامية بشكل ملحوظ بما فيها المجتمعات المغربية و ما فتأت أن تتزايد في المجتمع الجزائري مطعمة بكثير من الاختلافات بين الفقهاء، من مؤيد في إيجاز الزواج العرفي كزواج صحيح إذا توفر على جميع الأركان و رفض من طرف فئة أخرى نظرا لما يترتب عليه من آثار سلبية اتجاه المجتمع و الزوجين و الأطفال.

و في هذا السياق، سنتناول الموضوع وفقا لمقاربة سوسيو - ثقافية عن طريق الكشف عن أهم العوامل و الدوافع المساهمة في تشكيل الزواج العرفي و ذلك بالرجوع إلى الأطر السلطوية و الحفر في البنى الاجتماعية و الثقافية لهذه المجتمعات بصفة عامة و المجتمع الجزائري بصفة خاصة بغية تشخيص العناصر الثقافية و الاجتماعية المتجذرة في المخيال الاجتماعي الناتجة عن التصورات التي تؤدي إلى تشكيل هذا الزواج الذي يعبر عن واقع الجنسانية في المجتمع الجزائري في ظل سوسيولوجيا متغيرة ، كرأس المال الرمزي و ما يحمله من فخريّة داخل المجتمعات الإسلامية ، كذلك الواقع الجنسي و ما ترتب عليه من حرمان عاطفي و جسماني ناتج عن الظروف الاقتصادية و الاجتماعية التي تؤدي إلى استحالة تحقيق زواج داخل اطاره الرسمي فيعقد زواج عرفي كحل ديني " تحريم الزنا " ، و من هذا المنطلق جاءت دراستنا التي نهدف من خلالها توضيح العلاقة بين الواقع الجنسي و الزواج العرفي في المجتمع الجزائري.

الكلمات المفتاحية: الزواج العرفي ، التصورات ، رأس المال الرمزي ، الأطر السلطوية ، الجنسانية

● Introduction

Marriage, as a social structure, aims to preserve social order through its educational, cultural, economic, psychological, and social functions, embodied in the family, which forms the backbone of society. The family establishes values, customs, traditions, and social and cultural norms. While marriage is a universal phenomenon, its patterns, nature, and formation vary across societies. Traditional and modern societies have witnessed various forms of marriages, including formal marriages that comply with laws and social norms, blessed by family and friends, ensuring social acceptance. Informal marriages, on the other hand, deviate from social standards, such as pleasure marriages, secret marriages, misyar marriages, and customary marriages. Our focus is on customary marriage, which has spread widely in Islamic countries, including those in the East and the Maghreb, and has expanded in Algerian society since the French colonial era. Its prevalence has notably increased in recent years, raising social and cultural questions. This necessitates examining the historical conditions behind the spread of this type of marriage in Algerian society and the contradictions shaping it, rooted in legal perceptions accepted by society as permissible by some jurists if its conditions are met. For instance, Al-Qaradawi considers it permissible as long as it is not documented (Mahrouk, 2019). On the other hand, some contemporary jurists reject it, viewing it as undesirable even if it meets Sharia conditions but lacks official documentation (Mahrouk, Ibid). In 2006, the Ministry of Religious Affairs issued a directive distributed to 15,000 mosques across 48 provinces, prohibiting imams from conducting Sharia marriages in mosques without an official document from administrative authorities proving

a civil contract between the parties (Ghamrasa, 2006). However, such marriages persist under the name of "Fatha marriage," relying on intermediaries who facilitate these contracts. Legally, these marriages face rejection from legislative authorities, which aim to draw a clear line between the legality of formal marriage as a legal behavior and informal marriage. The phenomenon is also met with social aversion in a society that values moral and symbolic capital and social law. Values play a crucial role in shaping marriage as a general rule, leaving no room for marriage without a legal contract. In a patriarchal society, a child cannot be attributed to the mother if the father refuses to register the child, leading to a form of social death for the child. In cases without children, the marriage faces social denial, resulting in the loss of legal and Sharia rights for both parties. This self-division, which is a division in the social and cultural structure of Islamic societies, including Algeria, is explained by mental backgrounds based on perceptions of the legitimacy of customary marriage. This type of marriage carries an Islamic reference that accepts it, alongside legal and social authorities that reject it. The instinct to connect with others is one of the fundamental human instincts, which cannot be confined to these conflicting societal and legal standards. Sexuality, as a biological instinct for the preservation of the human species, is even found in animals. However, organizing sexuality into a social institution based on marriage between genders is a human characteristic. This raises sexuality as one of the fundamental factors explaining the emergence of customary marriage, considering marriage and sexuality as anthropological phenomena. The primary goal of this socio-cultural study is to address the hidden relationship between sexual reality and customary marriage, linked to perceptions based on an Islamic reference that permits customary marriage and considers adultery a disgrace, thus resorting to Fatiha marriage. This opens many registers regarding the value of the sacred and the separation between the polluted and pure body, rooted in the mentalities of Algerian society, contributing to the crystallization and formation of this type of marriage in a recurring pattern according to the repetitive and changing mental models in a society suffering from sexual deprivation. Based on this, we can pose the following question: Does sexual reality, through perceptions, act as a fundamental factor in shaping customary marriage in Algerian society?

1-Hypothesis :

Sexual reality in Algerian society leads to the spread of customary marriage.

2. Conceptual Frameworks :

2.1 Customary Marriage :

This is an agreement between a man and a woman to enter into a marital relationship for material or moral purposes, following the pillars of formal marriage but without official documentation. This can lead to several harms if not documented later, such as lineage disputes, the loss of legal and Sharia rights for both parties, and lack of social recognition.

2.2 Symbolic Capital :

Symbolic capital is considered a power that involves concealment and inversion, fundamentally transforming power relations. This power works by ignoring the authority it embodies while simultaneously being recognized as a symbolic power capable of real influence. Symbolic systems, such as art, religion, language, and education, are structures that give the world its structure (Ali, Symbol and Power, 2007) .

2.3 Perceptions :

The concept of perceptions plays a significant role in social sociology due to its importance and fundamental role in expressing social reality. Moscovici (1961) defines perceptions as a system of values, ideas, and practices related to specific subjects and aspects of the social environment. They not only allow the stabilization of individuals' and groups' life frameworks but also serve as a tool for guiding the understanding of situations and preparing responses (A.Ael Boutadjine, 2014). Perceptions are also considered a symbolic power with its own force in influencing individuals and determining their orientations. Michel Foucault states that perceptions reside in the imagination of the general public, infiltrating philosophy, literature, and art (al A. B., 20001). Lévi-Strauss argues that collective perceptions stem from individual perceptions, which are less complex and easier to study. Individual mental perceptions control collective perceptions and allow them to emerge (Adel Boutadjine).

2.4 Authoritative Frameworks:

Althusser defines authority as the repressive mechanisms of the state, such as the police, military, and judiciary, with their mechanisms of restraint, deterrence, and punishment. However, scientific sociology views authority in its authoritative framework through the entrenchment of structures, including the cultural, social, and religious structures of society. These structures subject individuals to their conditions and dictate prevailing practices and ideas, exercising a form of power over them

because it is hidden from collective consciousness and not perceived by them. Foucault also notes that

authority is not only embodied in repressive and ideological mechanisms but also in all symbolic systems, such as language, text, education, kinship systems, art, and science (al A. e.). Authority is not only exercised by the state through political violence, forcing individuals into obedience and submission, but also by a social, political, cultural, and religious system that introduces relations of domination into souls and pushes individuals to voluntarily recognize the authority exercised over them as a natural and self-evident relationship between those who exercise authority and those subjected to it (-Khuwaylidi, 2013).

2.5 Sexuality:

Sexuality results from the intersection of biological, psychological, socio-economic, historical, cultural, ethical, legal, and moral factors. This concept is inspired by the definition of the American Regional Organization for Health and the International Society for Sexuality. It suggests a reading of biological data in a specific direction without being determined by it. Sexual identity/biology is only

one level of sexual personality, which includes other levels, such as gender identity and sexual orientation in choosing a partner, whether heterosexual or homosexual. Thus, sexual personality transcends biology (Dialmy, 2009).

Given the specificity of Islamic societies, including those in the East and the Maghreb, and the influence of religious perceptions on the organization of sex, marriage, and kinship systems, as well as the centrality of male sovereignty in these societies, Abdessamad Dialmy, in his book *Sociology of Sexuality*, argues that Arab research must build a concept parallel to sexuality that

includes the biological dimension while transcending it by integrating the human and social dimensions into the epistemological construction of the subject. He distinguishes between five levels in the anthropology of Arab sexuality:

A. Psycho-Physiological Level: Arousal, erection, ejaculation, orgasm, love, hatred.

B. Symbolic-Cultural Level: Circumcision, castration, defloration. These cultural actions must be used as biological data for socialization, as they form rites of passage from a biological state (male-female) to a social state (man-woman) and from one social state to another.

C. Typical Level: Refers to techniques for achieving orgasm, meaning methods of intercourse and reaching sexual climax.

D. Institutional Level: Represented in the social frameworks of sexual acts, such as marriage, family, prostitution, and free cohabitation.

F. Ideological Level: Refers to systems of control, management, and justification specific to each society, based on distinguishing between the sacred and the profane, the legal and the illegal, the normal and the abnormal, and the beneficial and the harmful (Dialmy, Ibid). Given the nature of our topic on customary marriage and its connection to sexuality, addressing these levels plays a fundamental role in understanding the cultural and social structure of customary marriage, which is based on how Islamic societies organize their sexual systems. This reveals the socio-cultural backgrounds behind the phenomenon of customary marriage.

3. Customary Marriage and perceptions : A Socio-Cultural Approach

Sexual Reality through Perceptions and Its Impact on the Formation of Customary Marriage :

The relationship between marriage and sexuality is continuous within the framework of social symbolism, given the psychological, social, and economic functions it plays, as well as its role in preserving and reproducing or transforming social structures. The sexual desire inherent in this relationship does not reflect the sexual reality in Algerian society, which remains constrained by economic, social, political, and religious conditions that hinder formal marriage, requiring significant expenses and responsibility. This leads to sexual and emotional repression in all its forms, which is a fundamental factor in the emergence and spread of informal marriages in Arab and Maghreb societies, including Algeria, such as pleasure marriages, misyar marriages, and customary marriages, which are the focus of this study.

This relationship—the sexual factor through perceptions and its impact on the formation of customary marriage—and its implications require us to address customary marriage as a historical issue involving a network of anthropological questions about marriage and sexuality in Islamic history, based on our conceptual framework defined by: marriage, customary marriage, sexuality, perceptions, authoritative frameworks, cultural structure, social structure, and symbolic capital.

3.1 Authoritative and Social Frameworks of Customary Marriage:

Islam is a source of knowledge, and knowledge is linked to authority. This authority is empowered to establish general and specific laws for society and individuals in managing their daily lives, such as family affairs, marriage, divorce, sexuality, and gender. Islam, as a symbolic system, contains moral and religious values and contributes to instilling perceptions and representations in the collective unconscious, according to Durkheim. Customary marriage derives its meaning from these symbolic perceptions and representations, which refer to the concept of the body by separating the sacred and the profane through the recitation of the Fatiha, as is common in Algerian society with "Fatiha marriage." Based on this, we can rely on Islamic historical and intellectual

heritage to uncover the socio-religious motivations contributing to the formation of customary marriage by highlighting the relationship between the sexual factor through religious perceptions and its role in shaping customary marriage. In Surah Al-Isra (17:32), **"And do not approach unlawful sexual intercourse. Indeed, it is ever an immorality and is evil as a way,"** the verse and its implications regarding adultery as an abomination indicate that sexual relations are only permissible through marriage. Since customary marriage carries a religious reference permissible in Islam through the recitation of the Fatiha, which legitimizes sexual relations between a man and a woman, this leads to social acceptance of this type of marriage. Thus, these religious perceptions are one of the fundamental motivations and factors in the production and reproduction of such marriages in Islamic societies, including Algerian society. Similarly, in Surah Al-Mu'minun (23:5-7), **"And they who guard their private parts except from their wives or those their right hands possess, for indeed, they are not to be blamed. But whoever seeks beyond that, then those are the transgressors,"** the verse and its symbolism, such as the sanctity of the body and its preservation, indicate that sexual pleasure is only permissible through marriage, which is considered a social framework for sexual acts. In Surah Al-Furqan (25:68), **"And those who do not invoke with Allah another deity or kill the soul which Allah has forbidden [to be killed], except by right, and do not commit unlawful sexual intercourse. And whoever should do that will meet a penalty,"** and in Surah An-Nur (24:2), **"The [unmarried] woman or [unmarried] man found guilty of sexual intercourse - lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion of Allah, if you should believe in Allah and the Last Day. And let a group of the believers witness their punishment,"** these verses and their symbolic values, such as the prohibition of adultery and its classification as a major sin, the promise of punishment in this life through stoning to death, and the threat of sin, all influence people's views and perceptions, leading to a fear of adultery. This is precisely why the sexual deprivation suffered by these societies, including Algerian society, due to social and economic conditions for both men and women—such as the fear of spinsterhood, extended periods of study, the desire for polygamy, and delayed marriage even among educated women—explains the resort to customary marriage as an alternative to formal marriage. Thus, religious perceptions impose themselves as an authority with its regulatory system, managing and justifying sexuality at the ideological level for each society to distinguish between the sacred and the profane, the legal and the illegal, the normal and the abnormal, and the beneficial and the harmful, considering marriage as a religious ritual with sexual significance subject to control.

3.2 The Social and Cultural Structure of Customary Marriage: Women in the Field of Pleasure (Invoking the Concepts of Gift, Guardianship, and Polygamy)

On a daily level, there is a wide openness regarding the topic of sexuality in Arab and Maghreb societies, including Algeria, due to several factors, such as increased education, changing social and cultural conditions for both men and women, the changing status of women, and social and cultural tolerance towards sexuality. Additionally, the role of media and social media has played a significant part in marketing and commodifying sexuality in a chaotic manner for economic purposes, resulting in consumer privileges and services, such as the sale of contraceptives, condoms, abortion, and sex videos, known as the sex industry under capitalism. This has led to the

emergence of a new sexuality. However, the lack of proper sexual education in these Arab and Maghreb countries creates a contradiction between what these media promote and the sexual reality in these countries, including Algeria. This process may contribute to alienation between the concept of sexuality as a biological given and as a cultural and social reality, leading to the reinforcement of misconceptions about sexual knowledge. On the other hand, the absence of renewed jurisprudence and clear *ijtihad* (independent reasoning) in this field—the field of sexuality—based on the principle of equality between genders in pleasure, requires us to return anthropologically to how these societies established their sexual systems. Islamic societies before Islam knew various forms of marriage, and anthropologists suggest the precedence of matrilineal marriage over patrilineal marriage. Islam is considered a turning point between these two systems, which play an important role in determining gender and the relationship between sexes in kinship systems. Thus, Islam contributed to creating new relationships that led to social regulation, which in turn regulated women's sexuality by prohibiting all matrilineal relationships as adultery (Mernissi, 2005). From this point, studying customary marriage by delving into the social and cultural structures of these societies, starting from the influence of Islam on these societies, including Algeria, considering Islam as symbolic capital with its role in shaping and reproducing this phenomenon, and as a tool for perceptions about kinship, marriage, family, and sexuality through the production of symbols—*halal*, *haram*, *mubah*, *makruh*—we can take, for example :

The concept of gift (**hiba**): meaning that a woman offers herself to a man for marriage without a dowry, a practice that was prevalent before Islam and gave women the right to determine their fate. The Prophet Muhammad's experience in marrying Khadija is one of the main examples of this, as Khadija was one of the women who proposed marriage to the Prophet. This indicates women's authority and status in the social hierarchy. Among the women who offered themselves to the Prophet were Umm Sharik, whom he rejected, and Layla bint Al-Khatim, whom he accepted but did not marry because her tribe convinced her to withdraw her desire due to her pride, which would not allow her to submit to the demands of marital life within the framework of polygamy (Mernissi, Ibid). However, the revelation of the verse that confirms the gift as a permissible practice for the Prophet alone, in Surah Al-Ahzab (33:50), "O Prophet, indeed We have made lawful to you your wives to whom you have given their due compensation and those your right hand possesses from what Allah has returned to you [of captives] and the daughters of your paternal uncles and the daughters of your paternal aunts and the daughters of your maternal uncles and the daughters of your maternal aunts who emigrated with you and a believing woman if she gives herself to the Prophet [and] if the Prophet wishes to marry her, [this is] only for you, excluding the [other] believers. We certainly know what We have made obligatory upon them concerning their wives and those their right hands possess, [but this is for you] in order that there will be upon you no discomfort. And ever is Allah Forgiving and Merciful." If we accept this perspective, does the concept of gift (*hiba*) act as one of the fundamental factors in shaping customary marriage and reproducing it within the social and cultural field by reconsidering sexual reality in Algerian society, given its Islamic reference and constitution? The rise in spinsterhood even among educated women and the changing status of women in Algerian society, which reflects a change in their authority and position in the social hierarchy, has led women to seek pleasure through symbolic capital imported from human rights documents, such as the Convention on the Elimination of All Forms of Discrimination Against Women, which aims to break the isolation and restrictions imposed on

women based on gender, and the right to sexuality as recognized globally (Dialmy A.), and symbolic capital represented in Islam.

From this, does customary marriage represent a reconciliation between imported symbolic capitalization and another represented in Islamic law, which permits customary marriage if its conditions are met, thus placing the body under a legal cover or Fatiha marriage? As Pierre Bourdieu says, "Symbolic power is a form of power exercised directly on bodies outside any physical coercion, like magic, but this magic only works if it is based on predispositions deposited as motors in the deepest depths of bodies (Bordieu, 2009). In this case, customary marriage responds to two necessities: the first is social, in a society that rejects sexual relations outside marriage, especially for women, and the second is religious, related to values, customs, traditions, and Islamic heritage that reject women seeking pleasure and sexual enjoyment, making it more associated with men than women.

In the same context, we find **polygamy**, one of the systems legitimized by Islam in kinship systems, and this system still exists today in Eastern and Maghreb countries, although it varies from one country to another due to the specificity of each Arab and Islamic society in establishing its positive laws, as well as the nature of these countries' submission to previous colonial powers, which culturally influenced them, such as Algeria and Tunisia, making them more influenced by European culture than Eastern culture despite their Islamic constitutions. From Surah An-Nisa 3, "And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those your right hand possesses. That is more suitable that you may not incline [to injustice]," and in the same surah, verse 129, "And you will never be able to be just between wives, even if you should strive [to do so]," which stipulates justice between wives or refraining from polygamy, as the second verse indicates the impossibility of justice between women.

Tracing this historical trajectory of Islamic thought and its meanings, symbols, and implications leads us to understand and interpret the reality of customary marriage in Algerian society through its influence by Islamic religious perceptions. In her book **Beyond the Veil: The Social Engineering of Sex**, Fatima Mernissi states that the legislation of polygamy came after the Battle of Uhud, where the Prophet was concerned about the fate of widows, divorced women, and orphans, and decided to create a responsible system that could integrate women into family units protected by a man who is not only a relative but also a husband (Mernissi, Ibid). The goal of this legislation is clear: protection. In parallel, Islam elevated the concept of **guardianship** (qiwamah) and assigned it

. In Surah An-Nisa (4:34), "**Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth,**" and here the genius of Islam is evident in creating a balance between genders in the social and cultural structure of Islamic society, where women accept polygamy from men in exchange for protection and maintenance. However, this situation may make women economically dependent on men and thus sexually dependent, which has led to the restriction of women's sexual freedom. However, the changing economic and social structures of Islamic societies, including Algerian society, have led to changes in family structures, especially the dynamics of relationships between genders. Women's education, employment, increased economic income, and cultural level, alongside rising rates of

spinsterhood and divorce, especially after the application of the khula law in some countries, including Algeria, as well as the role of political parties and unions in supporting women's roles in Islamic societies, the emergence of feminist movements, and the influence of Western culture on Islamic culture, have all led to cultural dependency, resulting in an open conflict that has overturned perceptions about the concept of sexuality or the right to equality in pleasure between genders. From this point, institutionalizing monogamy for women to preserve lineage and making the waiting period (iddah) a guarantee of paternity and men's right to polygamy, using this specificity in Islamic history, has made men seek pleasure in polygamy while women now accept polygamy in exchange for pleasure, and here lies the real difference. Previously, the goal of accepting polygamy was protection and maintenance by women, while now it is the search for sexual pleasure for both parties. However, the legal specificity of some countries, including Algeria, which does not allow a husband to remarry without the consent of the first wife (according to Article 8 of the Algerian Family Code) (T.D Musa Ahmed, 2024), imposes restrictions on polygamy, pushing some husbands to resort to customary marriage through the recitation of the Fatha, which is later confirmed by establishing lineage without the consent of the first wife. Thus, customary marriage becomes a response to two necessities for maintaining social balance: first, a legal necessity that allows the establishment of lineage and prevents the loss of children's rights, and second, a social necessity that gives the first wife the right to consent or refuse polygamy to preserve her dignity. Based on this, the religious perceptions of Islamic history have influenced the cultural and social structure of modern society and shaped its specificity, explaining that customary marriage is related to a structural system

4 -Methodological Procedures of the Study :

In social research, methodological procedures represent a foundational phase that follows the development of the study's theoretical framework—namely the identification of the research problem, formulation of hypotheses, and clarification of key concepts. At this stage, it becomes essential to determine the overall methodological approach of the study, including the type of research method adopted, selecting the sample or population under investigation, and outlining the specific data collection tools used, such as observation, interviews, and content analysis techniques.

4 - 1 Research Methodology:

Selecting a research method that closely aligns with the core research question is a fundamental step in any sociological inquiry. For this study, a **qualitative approach** was adopted “ as it enables an in-depth exploration of the diverse perspectives, representations, and social interpretations that individuals and groups construct in relation to their lived realities “ (D, 2019). Through this method, it becomes possible to interpret the meanings and connotations participants associate with ‘*urfi* (customary) marriage in Algerian society, as conveyed through their own subjective understandings.

The qualitative approach in this context is rooted in **interpretive sociology**, particularly the framework developed by Max Weber , “this tradition unfolds in three analytical stages: first, grasping the meanings individuals assign to their actions (*Verstehen*); second, interpreting those meanings by translating them from everyday language into conceptual terms within scientific discourse; and third, explaining the broader causes and motivations that underlie such actions” (Sabah Zine D. A., 2021).

4- 2 Study Sample and Its Characteristics:

In line with the qualitative orientation of this study, the sample was selected using a case study approach. The research focused on ten individuals men and woman involved in ‘*urfi*

(customary) marriages in the Wilaya of Algiers to explore and verify the hypothesis underpinning the research.

5 - Data Collection Tools and Techniques:

To deepen the investigation and achieve the research objectives—particularly the understanding of the meanings and perceptions participants hold regarding the phenomenon under study—a combination of qualitative data collection tools was employed.

5- 1 Direct Observation:

Direct observation was used to gather contextual information and to capture participants' behaviors and reactions. This tool enabled a more nuanced understanding of the social phenomenon under investigation. Additionally, observational insights were used to inform and enrich the development of the interview guide.

5-2Interviews:

Interviews served as the primary tool for collecting empirical data. This technique allowed the research to delve into participants' representations, symbolic meanings, and subjective interpretations of *'urfi (customary)* marriage. It also facilitated the exploration of how participants perceive the influence of sexual norms and realities on the practice of *'urfi (customary)* marriage in contemporary Algerian society.

5- 3 Content Analysis:

Given the centrality of the interview data, content analysis was employed to systematically analyze participants' responses. The analysis included the use of basic statistical tools, such as frequency counts and percentages.

6 - Processing and Analysis of Study Results:

6 -1 Processing and Analysis of the Study's Hypothesis

Table 1: Perceptions of the participants before 'Urfi (Customary) Marriage

Code	Category	Frequency	Percentage
1	Sexual fulfillment	6	30 %
2	Pleasure	5	25 %
3	Emotional satisfaction	3	15 %
4	Family stability	2	10 %
5	Psychological support	1	5 %
6	Protection for women	1	5 %
7	Practical solution	1	5 %
8	Security	1	5 %
Total	8	20	100

As indicated in Table 1: 30% of the participants' responses referred to sexual fulfillment, followed by pleasure, mentioned in 25% of responses. In 15% of the cases, participants emphasized emotional satisfaction, while 10% associated the phenomenon with achieving family stability. In contrast, four remaining categories : psychological support, protection for women, practical solution, and security each received an equal proportion of responses, accounting for 5% respectively.

Participants' responses largely centered on the theme of sexual fulfillment as a key motivation for engaging in 'urfi (customary) marriage. This finding reveals a significant connection between this form of marriage and the repressed sexual realities within Algerian society—realities that are often socially silenced or culturally ignored.

The data further highlight the centrality of sexual needs in the lives of individuals, particularly in social segments marked by deprivation and emotional scarcity. For these groups, the lack of access to fulfilling sexual and emotional relationships within the bounds of socially sanctioned structures often leads them to pursue alternative forms of union, such as 'urfi (customary) marriage, as a compensatory strategy.

This interpretation resonates with the work of Abdel-Samad Dialmy, who, in his study on Arab sexuality, identifies the sexual factor as one of the core drivers behind the prevalence of 'urfi (customary) marriages in Arab societies. Dialmy argues that: "Young Arabs resort to 'urfi marriage for three primary reasons: sexual need, the inability to marry for economic reasons, and fear of divine wrath associated with illicit sexual relations. The sexual imperative has indeed become a dominant concern among Arab youth, yet one that cannot always be fulfilled within the framework of official marriage" (Dialami).

Table 2 : Participants' Perceptions of Islam's View on 'Urfi (Customary) Marriage

Code	Category	Frequency	Percentage
1	Zawāj ḥalāl ¹	4	26,66 %
2	Zawāj shar'ī ²	3	20 %
3	Zawāj ṣaḥīḥ ³	2	13,33 %
4	mīthāq ghalīz ⁴	2	13,33 %
5	Andu nafs el-ḥuqūq mitl ez-zwāj er-rasmī ⁵	1	6,66 %

¹ **Zawāj ḥalāl** : *A lawful/missible marriage* (i.e., in accordance with Islamic law).

² **Zawāj shar'ī** : *A legitimate marriage* (i.e., one that fulfills Islamic legal requirements).

³ **Zawāj ṣaḥīḥ** : *An approved marriage* (i.e., a marriage that is religiously sound and correct).

⁴ **Mīthāq ghalīz** : *A solemn covenant* (a Qur'anic term describing marriage as a deeply binding moral and spiritual contract).

⁵ **Andu nafs el-ḥuqūq mitl ez-zawāj er-rasmī** : *It has the same rights as formal (state-registered) marriage.*

6	Az-zawja bil-Fātiḥa kīma az-zawja nta'ak ⁶	1	6,66 %
7	Zawāj kān fī waqt ar-rasūl ⁷	1	6,66 %
8	Rabbi ḥallal az-zawāj bil-Fātiḥa ⁸	1	6,66 %
Total	8	15	100

As shown in Table 2: 26.66% of participants' responses reflected the belief that 'urfī (customary) marriage is considered *ḥalāl* (religiously permissible) in Islam. Meanwhile, 20% viewed it as a *shar'ī* (legitimate) marriage. The categories of *ṣaḥīḥ* (valid) marriage and *mīthāq ghalīz* (solemn covenant) each received 13.33% of the responses. In contrast, the remaining categories : 'andu nafs el-ḥuqūq mitl ez-zawāj er-rasmī (it has the same rights as formal marriage), az-zawja bil-Fātiḥa kīma az-zawja nta'ak (a wife by the Fātiḥa is like your official wife), *zawāj kān fī waqt ar-rasūl* (this type of marriage existed during the Prophet's time), and Rabbi ḥallal az-zawāj bil-Fātiḥa (God has permitted marriage through the Fātiḥa)—each accounted for 6.66% of the total responses.

The participants' responses regarding Islam's view of 'urfī (customary) marriage—particularly the frequent use of terms such as *ḥalāl* (permissible), *ṣaḥīḥ* (valid), and *shar'ī* (legitimate) reflect the powerful influence of religious representations. Islam, in this context, operates as a form of symbolic capital that shapes individuals' perceptions and regulates their behaviors within society. This religious framing contributes to the prevalence of 'urfī marriage as a means of avoiding *zinā* (illicit sexual relations), with unions being sealed through the recitation of the Fātiḥa under a perceived religious framework. This process lends a sacred legitimacy to sexual relations, as marriage remains the only socially and morally accepted form of sexual engagement in a society that prohibits and condemns sexual activity outside of wedlock. In light of these considerations, one may argue that “the Islamic perspective has provided a comprehensive

⁶ **Az-zawja bil-Fātiḥa kīma az-zawja nta'ak** : A wife through the Fātiḥa (recitation) is just like your legally wedded wife. A belief that reciting the Fātiḥa (Opening Chapter of the Qur'an) legitimizes the union spiritually, even without legal registration.

⁷ **Zawāj kān fī waqt ar-rasūl** : This kind of marriage existed during the Prophet's time. A justification of 'urfī (customary) marriage by invoking historical continuity with early Islamic practices.

⁸ **Rabbi ḥallal az-zawāj bil-Fātiḥa** : God has permitted marriage through the Fātiḥa : A popular religious belief that marriage can be spiritually valid through mutual consent and Qur'anic recitation alone.

vision of sexuality one that integrates it into the social fabric under the cover of religious legitimacy” (Bouhdeiba, 2001)

7 -General Conclusion

This study was grounded in the hypothesis that **the sexual reality in Algerian society contributes to the spread of ‘urfī (customary) marriage**. The participants’ responses, as reflected in their perceptions of the phenomenon, provided strong support for this assumption. The data revealed that many respondents expressed views highlighting unmet sexual needs, suggesting that ‘urfī (customary) marriage emerges as a coping mechanism in response to the sexual repression caused by emotional and physical deprivation.

These findings are consistent with Michel Foucault’s (1976) repressive hypothesis,” in which he emphasizes the mechanisms through which sexuality is historically subjected to prohibitions, denial, regulation, and censorship” (Foucault, 1976)

In the same vein, the findings of the study revealed a form of sexuality that remains restricted unless framed within a legitimate context—namely, ‘urfī (customary) marriage, often referred to as “marriage by the Fātiḥa.” This form of union is widely perceived by participants as valid and religiously permissible in Islam. These perceptions resonate with Pierre Bourdieu’s theory of symbolic power, which posits that symbolic capital is constituted through expressions such as *ḥarām* (forbidden), *ḥalāl* (permitted), *mubāḥ* (allowed), *makrūh* (discouraged), and *yajūz* (legally valid). Such verbal symbols possess the power to authorize, persuade, and construct or transform a vision of the world and, by extension, to alter the world itself. argues that this symbolic power functions as a quasi-magical force that, through its capacity to mobilize belief, can achieve effects comparable to natural or economic power. However, he emphasizes that this power operates only if it is recognized as legitimate, and that its effectiveness is determined by the relational context specifically, the dynamic between those who exercise power and those who submit to it” (Ali, Ibid), . In light of the study’s findings, it can be concluded that ‘urfī marriage represents a negotiated reconciliation between sexual desire and religious prohibition.

• Conclusion:

The phenomenon of customary marriage is among the widespread phenomena in the Islamic world, including the East and the Maghreb, and has notably increased in Algerian society. This phenomenon has received significant attention in the fields of Islamic studies and law but has lagged in sociological studies, requiring us to delve into this field to highlight an unprecedented knowledge gap by referring to the anthropological aspect of Islamic thought and history, in addition to employing a temporal gap represented in the factor of time and space to highlight the role of Islam and its impact on shaping the specificity of modern society (such as the family system, marriage, kinship, children, sexuality, gender, etc.). Despite the time that has passed since the emergence of Islam, religious perceptions have played a significant role in the spread of this phenomenon by reinvesting symbolic capital (halal, mubah, haram, makruh, etc.). Based on this, the concept of the body was present in our socio-cultural approach by separating the sacred and the profane through the recitation of the Fatiha

Based on this, we posed the problem of the sexual factor through perceptions in shaping the phenomenon of customary marriage, explaining the sexual reality in Eastern and Maghreb societies, including Algerian society, resulting from economic, social, political, and religious conditions, as well as highlighting the changes in sexuality in Islamic societies and their role in the emergence of informal marriages, while defining the authoritative and social frameworks of customary marriage

by employing symbolic capital represented in "Islam" as an authority with its regulatory system and its impact on people's perceptions. We interpreted, analyzed, and explained the content of Quranic verses and their role in defining the social framework of sexuality through marriage, including their impact on the production and reproduction of customary marriage, in addition to referring to the cultural and social structure in Islam and invoking concepts from the religious field to uncover the socio-cultural backgrounds behind the formation of this phenomenon and its reproduction: such as the concept of gift (hiba) in Islam, a practice prevalent before Islam where a woman offers herself, and the benefit from the Prophet's experience, and the system of polygamy in Islam and the historical circumstances of its emergence, which is considered a fundamental factor in the emergence of customary marriage, while clarifying the specificity of Algerian society and the concept of guardianship (qiwamah), which is considered a fundamental condition in polygamy, as well as a dividing concept between masculinity and manhood, a concept considered an Islamic specificity. Similarly, the role of Islam in defining gender and the relationship between sexes by highlighting the gender structure in Islamic societies, explaining women in the field of pleasure in the past and present, as well as analyzing some perceptions that showed that customary marriage is a social and cultural construct, and these perceptions highlighted the sexual factor and its connection to the phenomenon of customary marriage.

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