

Guide to

FIQH

Marriage and Divorce



Asmaa Abdul Hameed

Guide to Fiqh

Part 6

Marriage and Divorce

فقه الزواج والطلاق

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Introduction

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allah, the Most Gracious, the Most Merciful

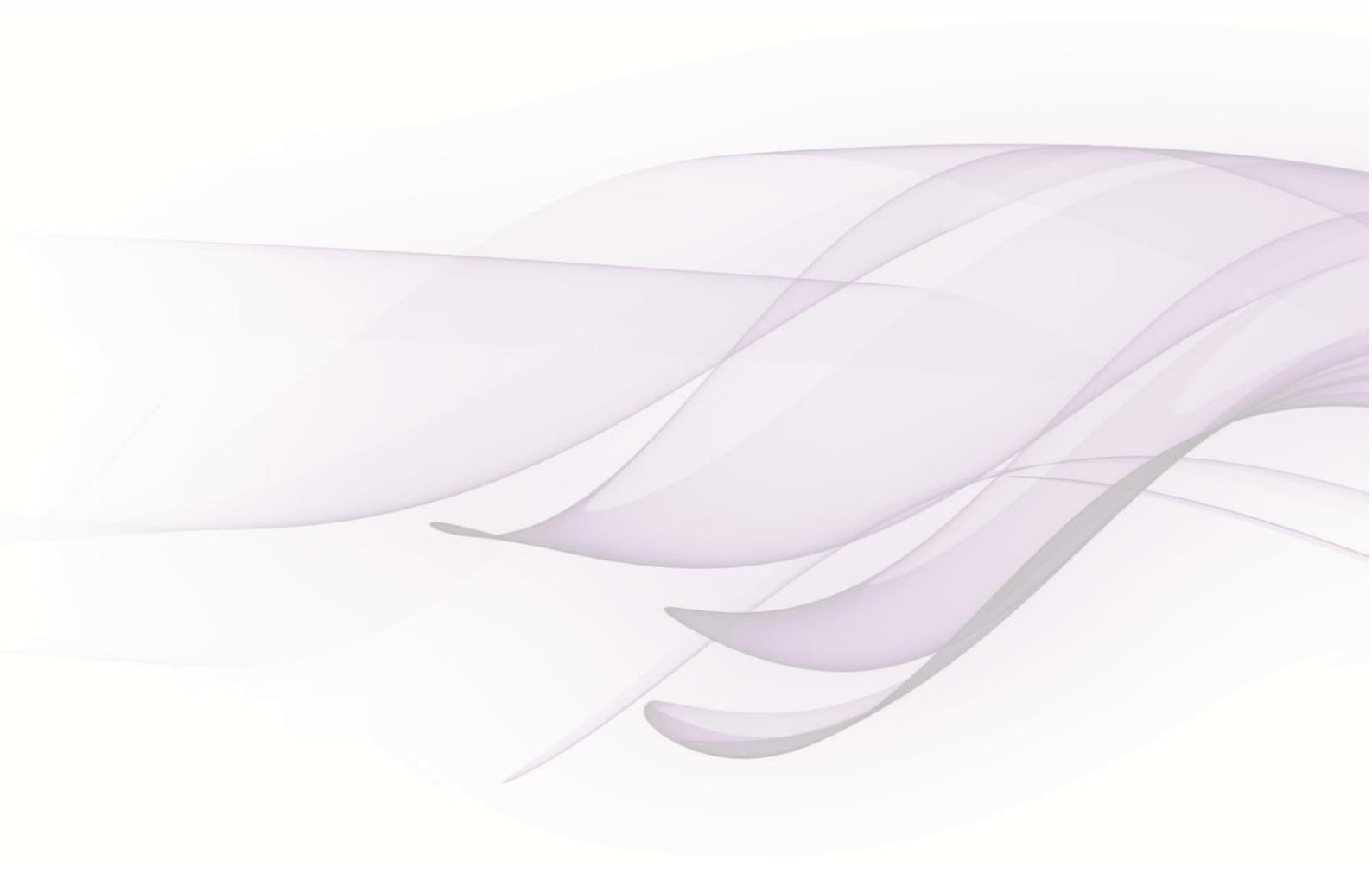
Fiqh, the understanding of Islamic rulings derived from the Qur'an and Sunnah, is essential for every Muslim who seeks to worship Allah correctly and live in accordance with His guidance. Learning fiqh helps a believer distinguish between what is permissible and what is forbidden, ensuring that one's actions are pleasing to Allah.

Among the most important areas of fiqh is the fiqh of marriage, as marriage is a foundational institution in Islam. It not only fulfills a natural need but also protects chastity, builds families, and strengthens the Muslim community. Understanding the rulings of marriage and divorce ensures that this sacred bond is established and maintained according to the commands of Allah and the teachings of His Messenger ﷺ.

This book has been prepared to guide the reader through the essential rulings, etiquettes, and wisdom related to marriage and divorce in Islam, so that this important aspect of life is approached with knowledge, sincerity, and adherence to the Shari'ah.

Latifa N Alsaeed





وَمِنْ ءَايَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ
مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ (سورة الروم ٢١)

And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought. (Ar-Rum:21)





1

Marriage (Nikaah)

1.1 Preserving the Five Necessities

1.2 Importance of Marriage in Islam

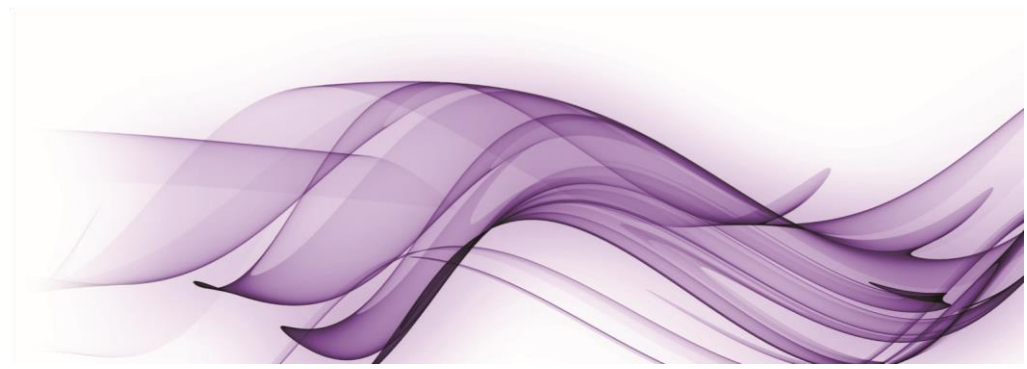
1.3 Position of a family in Islam

1.4 Definition of Marriage (Nikaah)

1.5 Proofs from Quran and Sunnah

1.6 Purpose and Goals of Marriage

Review Questions 1



1.1 Preserving the Five Necessities

Allah has sent down the messengers to humankind with guidance, which allows humans to maintain justice and fairness among themselves. Islam is the last religion which Allah has sent with His final messenger Muhammad ﷺ.

Shariah, or the moral code sent down by Allah, has aimed to protect the five core values important to mankind to ensure individual and social welfare of the man in this life and the Hereafter. Following are the five essentials of life that are covered by this final religion sent down by Allah:

- I. **Religion:** To ensure the establishment of religion, Allah has made belief in Him and worship obligatory.
- II. **Life:** To ensure the preservation of human life, Allah legislated marriage, healthy eating and living, and forbade the taking of life unjustly. It is prohibited to take a life without a just cause whether it is the life of a human, animal or insect.
- III. **Intellect:** Allah has permitted that sound intellect and knowledge be promoted through the means of seeking knowledge and teaching it, and forbidden that which corrupts or weakens it, such as alcohol and drugs.
- IV. **Lineage:** Marriage was legislated for the preservation of one's lineage, and illicit relationships outside marriage were forbidden. Respecting individuals' dignity is one of the top priorities of Islam.
- V. **Wealth:** Allah has made it obligatory to support oneself and the ones a person is responsible for, and placed laws to regulate the trade and transactions between people, in order to ensure fair dealing, economic justice in a society, and to prevent oppression and dispute.

This book will focus on how Shariah has protected two of the above necessities, life and lineage, and discuss the laws and regulations pertaining to marriage and divorce by providing us guidelines found in the Quran as well as from the Sunnah of our beloved Prophet Muhammad ﷺ.

1.2 Importance of Marriage in Islam

Allah has created everything in pairs and He created men and women as companions for one another, and enabled them to be intimate with each other so that they can procreate and live in peace and tranquility according to the commandments of Allah and the directions of His Messenger ﷺ. Allah said :

وَاللَّهُ جَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ بَنِينَ وَحَفَدَةً وَرَزَقَكُمْ مِنَ الطَّيِّبَاتِ أَفَبِالْبَاطِلِ يُؤْمِنُونَ
وَبِغَمَتِ اللَّهِ هُمْ يَكْفُرُونَ

And Allah has made for you from yourselves mates and has made for you from your mates sons and grandchildren and has provided for you from the good things. Then in falsehood do they believe and in the favor of Allah they disbelieve? [16:72]

Teacher's Note: Encourage the students to use Arabic Terminology such as Quran, Sunnah, Nikaah, Talaq, etc. throughout the course.

This verse of the Noble Quran clearly shows that in contrast to other religions like Christianity, Buddhism, Judaism etc. which consider celibacy or monasticism as a



great virtue and a means of salvation, Islam considers marriage as one of the most virtuous deeds.

عن أنس رضي الله عنه قال ، قال رسول الله ﷺ:
مَا بَالُ أَقْوَامٍ قَالُوا كَذَا وَكَذَا لِكَيْ أُصَلِّيَ وَأَنَا مُ وَأَصُومُ وَأُفْطِرُ وَأَتَزَوَّجُ النِّسَاءَ فَمَنْ رَغِبَ عَنِّي فَلَيْسَ مِنِّي " .
صحيح مسلم

Anas bin Malik رضي الله عنه narrated that the Messenger of Allah ﷺ said:

What has happened to these people that they say so and so, whereas I observe prayer and sleep too; I observe fast and suspend observing them; and I marry women. And he who turns away from my Sunnah, he has no relation with Me. Sahih Muslim

1.3 Position of a Family in Islam

A family is a group of people living together as one unit such as fathers and mothers, their children, the grandparents, and the grandchildren, aunts and uncles, nephews and nieces, and so on. A Muslim family is the centre of an upright society.

The father is the leader and the provider in the family, while the mother is responsible for raising her children and taking care of them. The children are raised according to the Islamic principles. The marriage should be approached according to the laws legislated by Allah.

1.4 Definition of Marriage – Nikaah

It is a mutual contract between a man and a woman, a formal union, which makes it permissible for them to enjoy each other within the limits of what has been laid down for them by Allah in terms of rights and obligations concerning both spouses. Nikaah also means intercourse.

1.5 Proof from Quran and Sunnah

Allah has informed us in the Quran that marriage is based on love and mercy as noted in the verse:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought [30:21]

Allah described marriage as “Sakan”, a shelter, where one can find peace and tranquility, security and comfort, and feel safe and secure.

In Quran, the word Nikaah means both the physical relationship between man and woman, as well as the contract of marriage which makes this relationship lawful.

عن عبد الله بن مسعود رضي الله عنه قال: قال رسول الله ﷺ مخاطباً الشباب: " يَا مَعْشَرَ الشَّبَابِ مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ فَإِنَّهُ أَغْضُ لِلْبَصْرِ وَأَحْصَنُ لِلْفَرْجِ ". بخاري ومسلم

On the authority of Abdullah ibn Masud رضي الله عنه the Messenger of Allah ﷺ said: "O young men, those among you who can support a wife should marry, for it restrains eyes from casting (evil glances)" but those who cannot marry should devote themselves to fasting for it is a means of controlling sexual desire." Bukhari & Muslim

1.6 Purpose and Goals of Marriage

Marriage is a social necessity because through marriage, families are established and the family is the integral part of our society. Furthermore, marriage is the only legitimate (halal) way to indulge in intimacy between a man and a woman.

Islam takes a middle position when it comes to sexual relations, it neither condemns it nor does it allow it freely. Islam urges us to control and regulate our desires, whatever they may be so that we remain dignified and don't become like animals.

From among the purposes of marriage:

1. Procreation (Children)

One of the main goals of marriage is to produce righteous children who will be obedient to Allah, and a source of reward for the parents after their death.

Righteous progeny is also considered a form of charity (sadaqah) that one keeps getting rewarded for even after his or her death.

عن أنس بن مالك رضي الله عنه قال: قال رسول الله ﷺ: " تَزَوَّجُوا الْوَدُودَ الْوَالِدِ، فَإِنِّي مُكَاثِّرٌ بِكُمْ الْأَمَمَ يَوْمَ الْقِيَامَةِ. " أبو داود

Narrated Anas ibn Malik رضي الله عنه that he Prophet of Allah ﷺ said, "Marry women who are loving and fertile, for I shall outnumber the peoples by you on the Day of Judgment (Qiyamah)." Abu Dawud

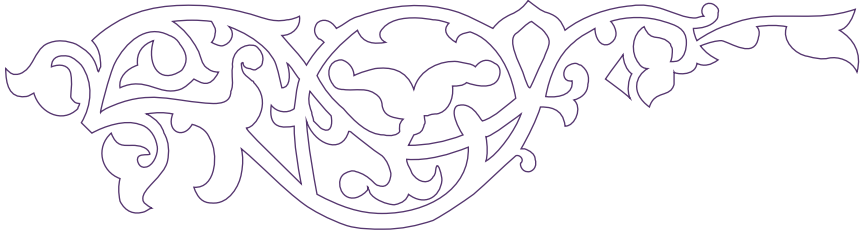
2. Pleasure

- Islam is the religion of fitrah i.e. it is consistent with the natural instincts and inclinations of mankind. Men are inclined towards women and women are inclined towards men by nature. Marriage is an institution which fulfills this desire in the ways pleasing to Allah. Allah says :

زُيِّنَ لِلنَّاسِ حُبُّ الشَّهَوَاتِ مِنَ النِّسَاءِ وَالْبَنِينَ وَالْقَنَاطِيرِ

Beautified for people is the love of that which they desire – of women and sons, heaped-up sums of gold and silver [3:14]

The desire of men and women for each other is an urge which needs to be fulfilled. If it is left unfulfilled, it will be a source of discord and disruption in society. For this reason, the Prophet ﷺ ordered all men who are capable of meeting the responsibilities of marriage to get married as soon as possible for them. Marriage protects one from adultery and indecent acts as well as helps in lowering the gaze.



3. A source of Comfort and Security:

Marriage serves as a shelter for humans in this life, and gives one a companion with whom he can share his joys and sorrows. Allah said:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ
يَتَفَكَّرُونَ

And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought. [30:21]

In Islam, the marriage is a blessed contract between the two spouses who are enjoined to take care of each other and in helping each other attain the lofty principles and manners that Allah ﷻ taught us through His Messenger ﷺ. Allah said:

هُنَّ لِبَاسٌ لَكُمْ وَأَنْتُمْ لِبَاسٌ لَهُنَّ

They are clothing for you and you are clothing for them.[2:187]

This verse denotes the special relationship between a husband and a wife, who complement and complete each other, becoming a source of comfort and concealment of each other's faults like the closeness of a person's clothes.

4. Being patient and forbearing

Marriage also enables the practice of self-discipline and combating the soul (nafs) while training it in taking up of responsibility and custody by fulfilling all obligations and duties toward one's family. It takes effort and hard work to provide for one's family, and requires a believer to be patient and forbearing with others around when they commit errors or make mistakes.

عَنْ سَعْدِ بْنِ أَبِي وَقَّاصٍ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ لَهُ: "إِنَّكَ لَنْ تَنْفِقَ نَفَقَةً تَبْتَغِي بِهَا وَجْهَ اللَّهِ إِلَّا أُجِرْتَ عَلَيْهَا حَتَّىٰ مَا تَجْعَلُ فِي فَمِ امْرَأَتِكَ." البخاري

Sa'd bin Abi Waqqas رَضِيَ اللَّهُ عَنْهُ narrated that Allah's Messenger ﷺ said, "You will be rewarded for whatever you spend for Allah's sake even if it were a morsel which you put in your wife's mouth." Bukhari

5. Preservation of Lineage:

Marriage was legislated to protect the lineage and preserve the honour of the people and to free the society from immoral relationships .

6. Bonding between People:

Marriage facilitates relationship between families, and creates bonds between people from different places.

Review Questions 1

Fill in the blanks with suitable words from the table:

contract	sexual intercourse	intellect	lineage	health	rights	early
desirable	religion	life	wealth	wisdom	obligations	late

- Allah ﷻ sent down the moral code of law to preserve the _____, _____, _____, and _____.
- The meaning of the word nikaah is _____ and _____.
- Marriage lays down the grounds for _____ and _____ for both the spouses.
- Marriage is an act which is highly _____ in Islam.
- It is recommended to get married as _____ as possible.

Choose the correct answer:

- With regards to marriage, one of Allah's important laws is that He created things:
 - from water.
 - in two worlds.
 - in pairs.
 - after the creation of the heavens.
 - from clay.
- The Prophet ﷺ instructed young men to get married, and if they could not, he advised them to:
 - pray tahajjud (night prayer).
 - give charity.
 - propose anyway.
 - fast.
 - to do nothing.
- The goals of marriage are:
 - protect from zina.
 - Increasing the number of Muslims
 - pleasure and peace
 - raising righteous children
 - all of the above

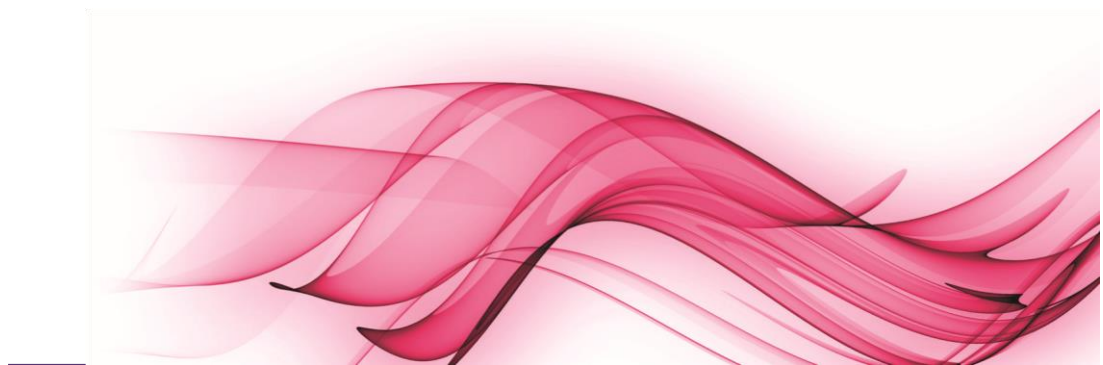




2

Introduction to Marriage

- 2.1** Desirable Qualities to look for in a spouse
- 2.2** The Proceedings
 - 2.2.1** Looking at potential spouse
 - 2.2.2** Talking to potential spouse
- 2.3** Khitbah (Engagement)
 - 2.3.1** Definition
 - 2.3.2** Ruling on Khitbah
 - 2.3.3** Categories of Engagement
 - 2.3.4** Two Suitors Seeking to Marry the same Woman



2.4 Istikhara and Seeking Advice

2.4.1 Dua & Istikhara

2.4.2 Seeking Advice

2.4.3 Violations in a Khitbah

Review Questions 2

2.1 Desirable Qualities to look for in a spouse

Making sure that spouses are well-matched in marriage is one of the most important and difficult functions in Muslim society. The individual seeking marriage must have his/her priorities straight and should be clear about which characteristics are the most important in a spouse in order to have a successful marriage. There are many characteristics that are important in a husband or a wife but some are exceedingly more important than others.

a. Religion and Good Character:

Religion and character are of utmost importance and should be sought after in both men and women when seeking to get married. The prospective spouses must ask and find out about the religious commitments and character of the other person.

عن أبي هريرة رضي الله عنه قال: قال رسول الله ﷺ: "إذا خطب إليكم من ترضون دينه وخلقه فزوجوه، إلا تفعلوا تكن فتنة في الأرض وفساد عريض." الترمذي

On the authority of Abu Hurairah رضي الله عنه the Prophet ﷺ said: "If someone with whose piety and character you are satisfied comes to you, marry to him. If you do not do so, there will be trials in the earth and a great deal of evil."

At-Tirmithi

Marrying someone who fears Allah is beneficial, because if the person loves his or her spouse, they will be generous with them, and if not, then they will not be unjust towards them due to their fear of Allah.

عن أبي هريرة رضي الله عنه: قال النبي ﷺ: "تنكح المرأة لأربع لمالها ولحسبها ولجمالها ولدينها فاظفر بذات الدين تربت يداك" البخاري

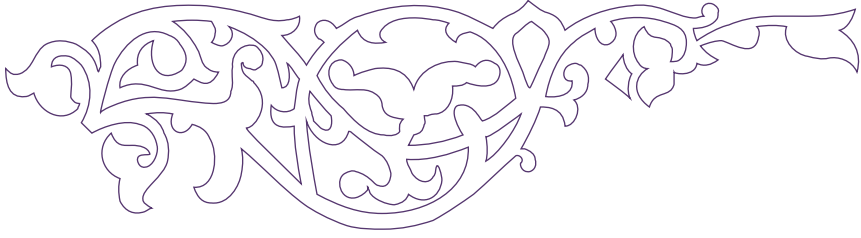
Narrated by Abu Hurairah رضي الله عنه that the Messenger of Allah ﷺ said: "A woman is married for her wealth, her family status, her beauty and her religion. You must go for the one with religion, may your hands be in the dust!* (if you fail to heed)."

(If you do not do so, then you will be a loser) Bukhari

The hadeeth above state the importance of seeking a religious spouse. From the traits of a good character are: honesty, generosity, politeness, etc.

b. Good Lineage:

It is commendable for both of the spouses to be from a good lineage, as it raises the compatibility between them.



c. Kafa'a (suitability and compatibility):

There should be a degree of compatibility between the spouses in the following:

1. *Religion:*

A religious person is incompatible with a person who openly commits sins.

Teacher's Note: Teachers can discuss other traits that are a part of a good character.

2. Profession:

There should also be compatibility between the spouses' academic and professional backgrounds.

3. Physically fit:

Both spouses need to be physically fit unless both the spouses have no objection towards each other in this regard.

d. Virginitv:

It is preferred for a man to get married to a fertile maiden, as is recommended by the Messenger of Allah ﷺ

عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ : قَالَ رَسُولُ اللَّهِ ﷺ : «عَلَيْكُمْ بِالْأَبْكَارِ ؛ فَإِنَّهُنَّ أَعْدَبُ أَفْوَاهًا وَأَفْتَقُ أَرْحَامًا وَأَحْسَنُ أَفْبَالًا وَأَرْضَى بِالْيَسِيرِ.» ابن ماجه

Narrated by Ibn Umar رَضِيَ اللَّهُ عَنْهُمَا that the Messenger of Allah ﷺ said "You should marry virgins, for their mouths are sweeter, their wombs are more fertile and they are satisfied with less." Ibn Majah

Fertility- Child-Bearing:

A man is encouraged to marry fertile women, and the fertility of a woman can be determined by her closest female relatives such as her sisters, and aunts, as to how many children they bore.

عن أنس بن مالك رَضِيَ اللَّهُ عَنْهُ أَنَّ قَالَ رَسُولُ اللَّهِ ﷺ : "تَزَوَّجُوا الْوَدُودَ الْوَالِدِ، فَإِنِّي مُكَاتِرٌ بِكُمْ الْأُمَّمَ يَوْمَ الْقِيَامَةِ." أبو داوود

Narrated by Anas bin Malik رَضِيَ اللَّهُ عَنْهُ he Prophet of Allah ﷺ said, "Marry women who are loving and very fertile, for I shall outnumber the peoples by you on the day Of Judgment (Qiyamah)" Abu Dawud

e. Beauty:

This characteristic has a certain role to play since one of the purposes of marriage is to keep both spouses from falling into sins if there is no attraction between them. The best way to do this is to have a strong attraction between the spouses.

f. Maintainer:

It is of utmost importance that the man be able to provide for his family to the best of his ability as he has been given the role of the leader, protector, maintainer, and the breadwinner in Islam. It is not wrong to look for someone who is financially stable and can provide for his family.

Teacher's Note: It should be kept in mind that what is deemed as compatible can vary from country to country, and culture to culture.



2.2 The Proceedings

The man seeking a potential wife should set up an appointment with the relatives of the girl and is allowed to look at her as well as talk to her in the presence of her Wali (guardian) such as her father, or her brothers etc. If he likes what he sees of her, and vice versa, then both parties can take things ahead and set up a date for engagement.

2.2.1 Looking at potential spouses

It is highly recommended to look at one's potential spouse

قال المُغِيرَةَ بْنِ شُعْبَةَ رضي الله عنه: أتيت النبي صلى الله عليه وسلم فذكرت له امرأة اخطبها، فقال: « اذهب فانظر إليها فإنه أجد أن يؤدم بينكما. » الترمذي

One companion, Mugheerah bin Shu'ba رضي الله عنه decided that he was going to get married.

The Prophet of Allah صلى الله عليه وسلم asked if he had seen her. When the man said no, he صلى الله عليه وسلم said "Go and look at her for it is more likely to produce love between the two of you."

Tirmidhi

The Prophet صلى الله عليه وسلم encouraged men considering a certain woman for marriage to get a look at her. He صلى الله عليه وسلم said in another hadith:

قال رسول الله صلى الله عليه وسلم: "إذا خطب أحدكم امرأة فلا جناح عليه أن ينظر منها، إذا كان إنما ينظر إليها لخطبتها.." أحمد

The Messenger of Allah صلى الله عليه وسلم said "If one of you proposes to a woman and if he is able to look at of her that which motivates him to marry her, let him do so."

Note: This hadith does not abrogate the limits of what a woman may expose to nonmahram. She must continue to be well covered except for her face and hands in front of all of them and the prospective husband, even if he has proposed, is no exception to this ruling. Allah said:

وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا

and not expose their adornment except that which [necessarily] appears thereof [24:31]

Also, it is clear that the purpose of this look is very specific: to help one determine whether or not they would like to marry that person. Once that has been determined and the decision has been made, it is no longer permissible for them to look at each other. If a man and a woman decide that they want to marry each other, this does not make it allowed for them to continue to see each other.

Conditions:

- It is prohibited for a man to look intently at a woman if he is not her mahram. Looking for the purpose of getting married is an exception to this case.
- The look should only be for the purpose of marriage.
- Looking should be without touching or khulwa (a private meeting with no mahram around)

Are Woman allowed to look?

Just as a man is allowed to look at his prospective bride, a woman is allowed to look at her intended husband, keeping the conditions of modesty in mind.

2.2.2 Talking to potential spouses

Talking and correspondence are permissible between a man a woman seeking to get married, but under certain conditions such as:

- It should be done under the presence of the girl's guardian.
- There should be no exclusive meetings in the absence of a guardian, not even in the public places.
- There should be no touching involved.
- The etiquettes of hijab and modesty should be upheld.
- It is not allowed for a man and a woman to be alone, even if they have been engaged for a long time.

2.3 Khitbah: (Engagement)

2.3.1 Definition

When a man finds a woman of good attributes for marriage, his next step would be to propose to her or her family. This is known as **Khitbah**, or engagement. It is the act of asking for a woman's hand in marriage.

If the proposal is accepted, the woman is considered engaged to the man. Khitbah is not nikaah .

2.3.2 Ruling on Khitbah:

There are certain rules to be followed in order for the engagement to be valid:

- It is permissible to get engaged to a woman who isn't married, or in her waiting period ('iddah) .
- A man who has 4 wives cannot get engaged to another woman- unless he divorces one or more of his wives.
- It is permissible to imply engagement, but not proclaim it (directly), to a woman who is in her waiting period ("iddah) due to her husband's death, or the one who has been divorced permanently (three divorces) by her current husband

Allah said:

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خُطْبَةِ النِّسَاءِ أَوْ أَكْنَنْتُمْ فِي أَنْفُسِكُمْ عَلِيمَ اللَّهِ أَنْتُمْ سَتَدْكُرُونَهُنَّ وَلَكِنْ لَا تُوَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا وَلَا تَعْزِمُوا عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابَ أَجَلَهُ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ وَاعْلَمُوا أَنَّ اللَّهَ عَفُورٌ حَلِيمٌ

There is no blame upon you for that to which you [indirectly] allude concerning a proposal to women or for what you conceal within yourselves. Allah knows that you will



have them in mind. But do not promise them secretly except for saying a proper saying. And do not determine to undertake a marriage contract until the decreed period reaches its end. And know that Allah knows what is within yourselves, so beware of Him. And know that Allah is Forgiving and Forbearing. [2:235]

- It is prohibited to propose a woman who is married, whose husband intends to take her back after her waiting period ('iddah) is complete

Allah said:

وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا

And their husbands have more right to take them back in this [period] if they want reconciliation. [2:228]

2.3.3. Categories of Engagement

a. Direct:

The name of the person is mentioned directly by using the word khitba.

b. Indirect:

Indirect is used for women who have been permanently divorced, or are widowed, such as by sending gifts, etc.

2.3.4 Two suitors seeking to marry the same woman

When a man is proposing to a woman, it is not permissible for other men to propose to her and they should wait until it has been made clear whether the proposal was accepted or not by the woman.

عن أَبِي هُرَيْرَةَ رضي الله عنه أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ: "لَا يَخْطُبُ الرَّجُلُ عَلَى خِطْبَةِ أَخِيهِ حَتَّى يَنْكِحَ أَوْ يَتْرَكَ"
البخاري

Abu Hurairah رضي الله عنه narrated that the Messenger of Allah صلى الله عليه وسلم said: "And none should ask for the hand of a girl who is already engaged to his (Muslim) brother, but one should wait till the first suitor marries her or leaves her. Bukhari

A woman can look into more than one proposal at the same time as long as she has not accepted one of the proposals, and a man can also propose to more than one woman. If the woman has already accepted one of the proposals, then it is prohibited to approach her.

Teacher's Note: Explain the issue of waiting period and the reason behind it.

2.4 Istikhara and Seeking Advice

2.4.1 Dua & Istikhara

Istikhara means to seek good by completely putting one's trust in Allah ﷻ. A believer should perform istikhara before undertaking any important decision, whether religious or worldly.

2.4.2 Seeking Advice

In addition to Istikhara, it is also recommended to consult others before making a final decision. It is strongly recommended for those intending to get married to find out about their partner by asking others who know their character and personality well.

The person whose advice is sought should be truthful and honest. This advice should be limited to the matter being asked about, and should not extend into other areas that have no bearing on the matter.

روت فاطمة بنت قيس أن معاوية وأبو جهم خطباها فذكرت ذلك لرسول الله فقال رسول الله ﷺ :
 "أَمَّا مُعَاوِيَةُ فَرَجُلٌ لَا مَالَ لَهُ وَأَمَّا أَبُو جَهْمٍ فَرَجُلٌ شَدِيدٌ عَلَى النِّسَاءِ". قَالَتْ فَحَطَبَنِي أُسَامَةُ بْنُ زَيْدٍ
 فَتَزَوَّجَنِي فَبَارَكَ اللَّهُ لِي فِي أُسَامَةَ." الترمذي

Fatima bint Qias narrated that Muawya and Abu Jaham proposed her so she went to the Messenger of Allah ﷺ and mentioned that to him, and he said: «As for Muawiyah, he is a man with no wealth, and as for Abu Jahm he is a man who is harsh with women.» She said: «Then Usamah bin Zaid proposed to me, and he married me. So Allah ﷻ blessed me with Usamah.» Tirmidhi A proof from Sunnah:

A guardian wali can offer his daughter in marriage to someone he thinks is worthy of her

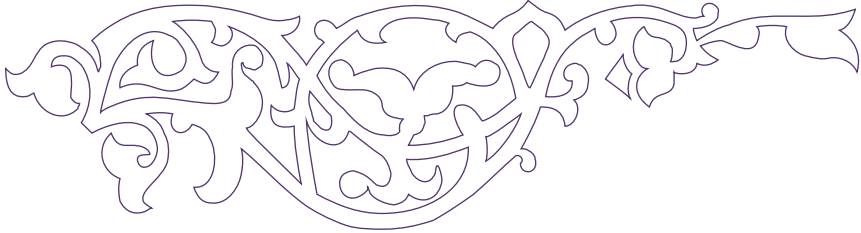
Umar ibn Al Khattab ؓ offers his daughter Hafsa in marriage to Abu Bakr ؓ who did not give Umar ؓ a response. Umar ؓ then approached Uthman bin Affan ؓ. who apologized by saying that he wasn't seeking to get married currently. This refusal was followed by the refusal of Abu Bakr ؓ. Umar's anguish increased at this, at the refusal of both of his friends, and he went up to the Messenger of Allah ﷺ to complain. Prophet of Allah ﷺ smiled at this and informed Umar ؓ:

“يتزوج حفصة من هو خير من عثمان، ويتزوج عثمان من هي خير من حفصة.” البخاري

“Hafsa will get married to someone who is better than Uthman and Uthman will get married to someone who is better than Hafsa.” Bukhari

Later Hafsa married the Prophet ﷺ and Uthman ؓ married married Umm Kalthoom the daughter of the Prophet ﷺ .

Teacher's Note: Emphasize the importance of patience and seeking the right counsel from others.



2.4.3 Violations in a Khitbah:

Below are some of the offenses committed by the couples during the engagement period, and most of it is derived from the cultural practices of non-Muslims that have no basis in the Islamic Shariah.

Privacy and Intimacy between the engaged couple:

The woman's family sometimes allows their daughter to be in seclusion with her fiancé, turning a blind eye to the fact that it isn't befitting of a Muslim to transgress the limits that Allah ﷻ has imposed upon him and her.

عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا عَنِ النَّبِيِّ ﷺ قَالَ: " لَا يَخْلُونَ رَجُلٌ بِامْرَأَةٍ إِلَّا مَعَ ذِي مَحْرَمٍ " البخاري

Narrated ibn Abbas رَضِيَ اللَّهُ عَنْهُمَا that the Prophet ﷺ said, "No man should stay with a lady in seclusion except in the presence of a Dhu- Muhram." Bukhari

After all, an engagement is only a promise of a marriage in the future, not the contract itself.

Prolonging the engagement period:

When the engagement period goes on for years, there is a higher chance of both the man and woman to fall into sinning and coming together in seclusion.

Engagement party:

In many Muslim countries, the engagement party is held publicly and is as grand as a marriage ceremony, where the couple gets together and have their pictures taken and rings and various other gifts are exchanged in the presence of their families and friends. It is a form of extravagance and in great discord with the Islamic teachings and therefore, should be totally avoided.

Exchanging rings and other items:

The engaged couple often exchange rings to mark the beginning of their engagement period. This ring or any other form of jewelry given during this period as a symbol of commitment or loyalty has no basis in Islam and originates from an old Christian practice that the Muslims should not imitate.

Teacher's Note: Teacher should encourage the students to discuss and share the un-Islamic practices in their own culture and traditions.

Review Questions 2

Mark True or False:

1. Making sure that the spouses are well matched is not important at all. ()
2. Religion and a person's character are the most important qualities to look for in marriage. ()
3. It is highly recommended to look at potential spouses. ()
4. It is okay to exchange rings when getting engaged. ()
5. A wali can offer his daughter in marriage. ()
6. Khitbah and Nikaah are the same. ()
7. It is permissible to propose to a woman who has accepted proposal from another man. ()

Choose the correct answer:

1. In selecting a suitable wife or husband, priority should be given to the person's:
 - a. wealth.
 - b. personality.
 - c. piety.
 - d. family background.
 - e. beauty.

2. When selecting a spouse we are encouraged to marry those who are:
 - a. very attractive.
 - b. unattractive so as not to attract others.
 - c. richer than us.
 - d. the best in lineage.
 - e. religiously committed.

3. After the khitbah is made the couple:
 - a. be alone together, but without touching each other.
 - b. can hold hands, but nothing beyond that.
 - c. are considered married.
 - d. are allowed to have physical contact other than sexual intercourse.
 - e. cannot do anything they could not do before it.

4. After praying the istikhaarah prayer one should:
 - a. immediately go to sleep to see the answer.
 - b. reverse one's garments and take another route home from the mosque.



- c. wait for a sign from Allah telling which decision to take.
- d. make two units of formal prayer.
- e. go ahead with one's decision.

5. Courting a woman who is being courted is:

- a. forbidden as long as the person who proposed is righteous.
- b. not allowed under any circumstance.
- c. allowed if the woman was previously married.
- d. permissible if the woman or her family have not decided.
- e. only permissible if the other person's proposal is rejected.





3

The Rules of Marriage

3.1 Importance of the Contract

3.1.1 Definition of Rukn and Shart

3.2 Basic Elements

3.2.1 The spoken form

3.2.2 Bride's & Bridegroom's eligibility

3.2.3 Wali's approval

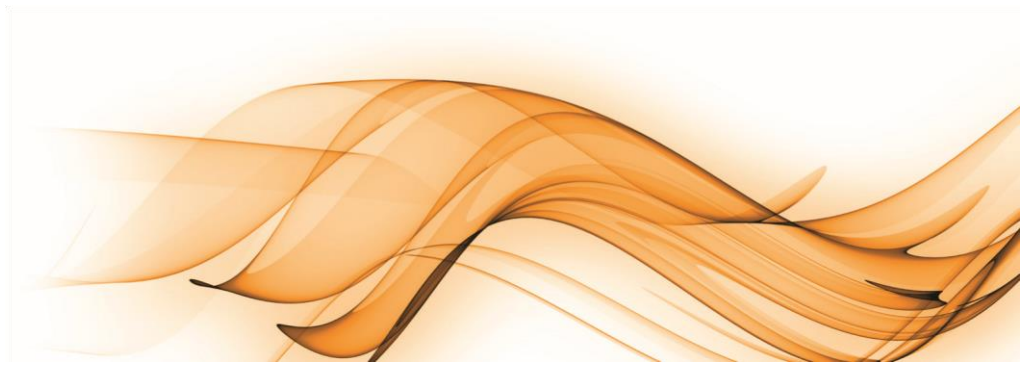
3.2.4 Two witnesses

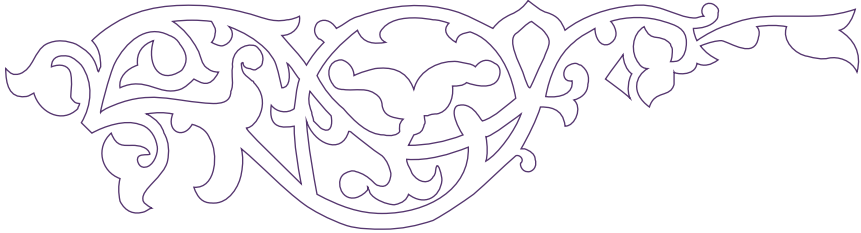
3.3 Bride's permission

3.4 Marrying the People of the Book

3.5 The Marriage of disbelievers amongst themselves

Review Questions 3





3.1 Importance of the Contract

The contract is the formal bond that turns two individuals from strangers to husband and wife, with rights and obligations.

As any contract, there are certain elements which are considered as essential, or the pillars of that contract, without which the contract would not be valid, or at the very least, defective.

3.1.1 Definition of Rukn and Shart

Rukn - ركن plural **arkan** أركان : can be translated as “pillar” and is an essential part of the legal reality of something. Without it, that legal reality does not exist.

Shart - شرط plural **shurut** شروط : can be translated as “prerequisite” or “condition” is a requirement for the legal reality or validity of something but:

1. is external to it and/or :
2. does not completely void the legal reality if not found.

3.2 Basic Elements

There are five basic pillars of the marriage contract:

- 3.2.1. The spoken form
- 3.2. 2. The bride’s eligibility
- 3.2. 3. The bridegroom’s eligibility
- 3.2. 4. Wali (Guardian)
- 3.2. 5. The Two Witnesses

3.2.1 The spoken form الصيغة

It is the formal spoken offer made by one party (**al-Ijaab** الإيجاب)

And the acceptance is made by the other party (**al-qubool** القبول)

Conditions:

- Should make the use of words *Zawaj*, or *Nikaah*.
These were the words used in Quran and Sunnah to denote marriage, and using any other words will not commence the marriage.
- Declaration of marriage should be pronounced clearly in both the offer and the acceptance.
For example, if the father says, ‘I have married off my daughter to you..’, the proper response to it from the groom would be, ‘I accept her marriage to me..’. Responding with only “I accept” would be considered invalid.
- It should be done in real-time, with no unusual delays.
-

Teacher’s Note: Explain the difference between the Rukn and Shart. For example Al Fatiha is a rukn of the prayer. Wudhu is a shart for Salah to be valid.

Other Rulings

a. The contract in languages other than Arabic:

The marriage contract is valid in any other language as long as the conditions of the offer and the acceptance have been fulfilled. The contract will be valid in another language even if both the parties knew or understood Arabic. **b. The contract using metaphors:**

A contract using metaphors isn't valid, in any language. The figures of speech could be such as "I have gifted you my daughter", or "My daughter is permissible to you".

c. The contract done through writing (letters, e-mails...etc) :

It is also an invalid form of contract, whether both the parties were present or absent.

For example: If a man writes a letter to another person saying that he has married off his daughter to him, and upon receiving the letter the groom accepts his offer, the contract isn't initiated because one of the conditions of validation is that the offer and the acceptance should be done in real-time.

d. Using sign language:

Sign language can only be used if:

- A person cannot speak
- It was clearly understood
- Expressed with the intentions of marriage

It is not acceptable if both the parties were available and able to speak.

e. The Offer and the Acceptance should be done in the same session:

Both the statements should be said in real-time. There must not be a long interruption, or silence between the offer and the acceptance.

f. The exact correspondence of Offer and Acceptance should match:

The response to the offer should be in the same words. For example, if the offer is made as, "I offer my daughter to you in marriage." The response to this would be, "I accept her in marriage to me" and so on.

Offer and acceptance can only come into effect when:

The acceptance has been pronounced. If there is some interruption between the offer and the acceptance, and then he pronounces his acceptance, the marriage will not come into effect. The offer will have to be made again.

Likewise, if the offer was made, and the guardian was unable to accept the offer from the side of the groom, the contract will not come into effect.

Teacher's Note: Students should not confuse the contract done through writing with written contract that is documented form of the spoken form.



The spoken form should come into effect immediately:

A time frame cannot be attached to the marriage. Nor can a person attach a condition to the contract, such as if a man says that he will marry off his daughter in Ramadan if she passes her exams, and the groom says that he accepts this offer. For the contract to be valid, it has to come into effect immediately after fulfilling the requirements.

1. Invalid Marriages using the spoken form

• The temporary marriage (المتعة)

- It used to be acceptable in earlier times.
- It was forbidden later because it does not have implications of life long relationships

حَدَّثَنِي الرَّبِيعُ بْنُ سَبْرَةَ الْجُهَنِيُّ، أَنَّ أَبَاهُ، حَدَّثَهُ أَنَّهُ، كَانَ مَعَ رَسُولِ اللَّهِ ﷺ فَقَالَ: "يَا أَيُّهَا النَّاسُ إِنِّي قَدْ كُنْتُ أَذِنْتُ لَكُمْ فِي السِّتْمَتَاعِ مِنَ النِّسَاءِ وَإِنَّ اللَّهَ قَدْ حَرَّمَ ذَلِكَ إِلَى يَوْمِ الْقِيَامَةِ فَمَنْ كَانَ عِنْدَهُ مِنْهُنَّ شَيْءٌ فَلْيُخَلِّ سَبِيلَهُ وَلَا تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا." مسلم

Sabra al-Juhanni reported on the authority of his father that while he was with Allah's Messenger ﷺ he said: "O people, I had permitted you to contract temporary marriage with women, but Allah has forbidden it (now) until the Day of Resurrection.

So he who has any (woman with this type of marriage contract) he should let her off, and do not take back anything you have given to them (as dowry)." Muslim

2. Nikaah al-Shigaar

عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ رَسُولَ اللَّهِ ﷺ: "نَهَى عَنِ الشُّغَارِ، وَالشُّغَارُ أَنْ يُزَوَّجَ الرَّجُلُ ابْنَتَهُ عَلَى أَنْ يُزَوَّجَهُ الْخَرُّ ابْنَتَهُ، لَيْسَ بَيْنَهُمَا صَدَاقٌ." البخاري

Narrated Ibn `Umar ؓ that Allah's Messenger ﷺ forbade Ash-Shighar, which means that somebody marries his daughter to somebody else, and the latter marries his daughter to the former without paying Mahr. Bukhari

3. Other unacceptable forms of marriages:

- Marriage with an intention of divorce
- Marrying someone so that she can return to her husband
- Secret marriage
- Marriage without a Wali (Guardian) or witnesses

The Two Contracting Parties:

Conditions in general for both parties:

- They should be known by name
- Legal competence
- To be free from any defects

- Not to be in the state of Ihram

3.2.2 Bride's & Bridegroom's eligibility

Bride's Eligibility	Bridegroom's eligibility
Must be a Muslim, Jewish, or Christian female	Must be a Muslim
Should be chaste	Should be chaste
Should be sane	Should be sane
Must not be married or in her waiting period ("iddah)	Attained puberty
Must not be related to the groom whether by blood, breastfeeding, or marital relationship	Must not be related to the bride whether by blood, breastfeeding, or marital relationship
Must not be related to the groom by temporary prohibition	Must not be related to the bride by temporary prohibition
Must consent willfully and not by compulsion	Must consent willfully and not by compulsion

3.2.3 Wali's approval:

A wali is a guardian of the woman's affairs, such as her father, grandfather, her brother, and so on. A wali has the authority to dispose ones affairs. In Islam, women need a wali, and men don't need a wali in marriage.

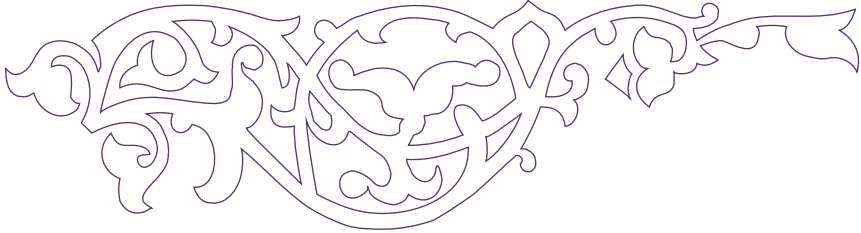
If a woman's close relatives are non-Muslims, they cannot be her guardians. Instead, an Islamic authority such as a ruler or the judge is appointed as a wali for her. A woman cannot appoint her own wali.

عَنْ أَبِي مُوسَى رضي الله عنه: أَنَّ النَّبِيَّ صلى الله عليه وسلم: قَالَ " لَا نِكَاحَ إِلَّا بِوَالِيٍّ " سنن أبي داوود

Narrated Abu Musa رضي الله عنه: The Prophet صلى الله عليه وسلم said: "There is no marriage without the permission of a guardian." Abu Dawud

Ruling:

- A woman cannot give herself away in marriage without a wali
- Presence of a wali is a condition for the validity of the contract
- The wali needs to take consent of the woman if she is a virgin
- Marriage without wali's consent is null and void
- A woman cannot be forced into marriage by her Wali.



Teacher's Note: Share and discuss with the students why a Muslim woman can marry only a Muslim man.

عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ قَالَ رَسُولُ اللَّهِ ﷺ " أَيُّمَا امْرَأَةٍ نَكَحَتْ بِغَيْرِ إِذْنِ مَوْلَاهَا فَنِكَاحُهَا بَاطِلٌ. (ثَلَاثَ مَرَّاتٍ) فَإِنْ دَخَلَ بِهَا فَالْمَهْرُ لَهَا بِمَا أَصَابَ مِنْهَا فَإِنْ تَشَاجَرُوا فَالسُّلْطَانُ وَلِيُّ مَنْ لَا وَلِيَّ لَهُ " سنن أبي داوود

Narrated Aishah: The Messenger of Allah ﷺ said: "The marriage of a woman who marries without the consent of her guardians is void. (He said these words) three times. If there is physical intimacy, she gets her dowry for the intercourse her husband has had. If there is a dispute, the sultan (man in authority) is the guardian of one who has none". Abu Dawud

A difficult Wali:

The wali, whether natural or appointed, holds a great responsibility in front of Allah ﷻ. He should represent those under his authority in the best possible manner. He should make sure that the man who seeks to marry her is suitable for her. His criteria should be what pleases Allah ﷻ, and not what brings him greater social status, wealth, or other worldly gains.

If a wali causes unnecessary harm to those under his authority, then a woman can protest and dispute that in front of an Islamic authority such as a judge.

عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ قَالَ رَسُولُ اللَّهِ ﷺ: " فَإِنْ تَشَاجَرُوا فَالسُّلْطَانُ وَلِيُّ مَنْ لَا وَلِيَّ لَهُ " أبو داوود

Narrated Aishah: The Messenger of Allah ﷺ said: " If there is a dispute, the sultan (man in authority) is the guardian of one who has none (guardian)." Abu Dawud

Conditions of a Wali:

- Muslim
- Sane
- Male
- Trustworthy
- Mature
- Being free from the state of Ihram

The order of Guardianship among the bride's relatives:

The wilayah follows the inheritance law system.

1. Father
2. Grandfather
3. Son
4. Brother
5. Paternal Uncle

In the absence of a Wali, an Imam (Muslim ruler) can be the wali.

Commissioning in marriage contracts (الوكالة):

A Wali can appoint someone else to act on his behalf as a commissioner in case of his absence. The conditions of a commissioner are the same as that of a wali that he must be a Muslim, mature, trustworthy, etc.

3.2.4 Two Witnesses:

At least 2 witnesses need to be present at the time of the contract. The wisdom behind its stipulation is to show the importance of marriage, and to avoid the people being accused of something haram. A marriage is invalid without the two witnesses.

عن أنس رضي الله عنه عن النبي ﷺ قال : “ لا نكاح إلا بولي وشاهدي عدل. ” ابن حبان

Narrated by Anas رضي الله عنه the Prophet of Allah ﷺ said, "A marriage (contract) is not valid without a wali and two trustworthy witnesses" Ibn Hibban

Conditions:

- Legal competence
- Two men
- Ability to hear the spoken form and reply

3.3 Bride's permission:

A bride's permission is also one of the required elements of the marriage contract without which it would be invalid. Just like a wali's approval is needed for the marriage, so is the permission from the bride to be.

Rulings:

- The silence of a young virgin bride is taken to be her consent, if she leaves it to her wali.
- A non-maiden bride must either say yes or no

3.4 Marrying the People of the Book:

People of of the Book is the title given to those who believe in a revealed book before the Quran, such as Bible, or Torah. A man can marry a Christian or a Jewish lady providing she fulfils certain conditions such as:

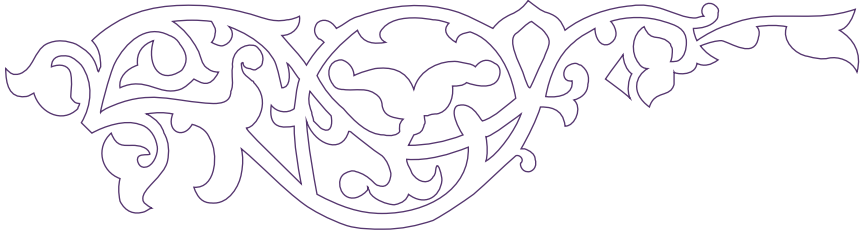
- She is chaste
- She bears no animosity or hatred towards Islam

3.5 The Marriage of disbelievers amongst themselves:

The marriage of the disbelievers amongst themselves is valid. If both the spouses become Muslims together, then their marriage is valid and no new contract is stipulated for them.

Other points:

- If a man becomes a Muslim, his marriage to a woman *only* from the people of the Book remains valid.



- If the woman is a polytheist, Buddhist etc, and doesn't accept Islam within the given time period, then she is to be separated from her husband who became a Muslim.
- If however, she accepts Islam, then their marriage would remain valid.
- If a woman accepts Islam, and her husband doesn't, then she enters into a waiting period. If her husband accepts Islam during that period then she can return back to him.
- If he doesn't accept Islam during her waiting period, and accepts at a much later point, then she can return to him only after a new contract and a new mahr.

Review Questions 3

Fill in the blanks with suitable from the table:

pillar	virgin	wali	ijab	invalid	Torah	same
invalid	valid	condition	five	qubool	Bible	silence

1. Rukn is a _____, whereas the Shart is a _____ .
2. There are _____ basic elements of the marriage contract.
3. A _____ is the guardian.
4. A wali needs to take the permission of the _____ bride.
5. Offer and acceptance are known as _____ and _____ in Arabic.
6. A marriage contract can be _____ in any language apart from Arabic.
7. People of the Book are those who received the _____, and _____.
8. Marriage of disbelievers is _____ amongst themselves.
9. Offer and acceptance should be made in the _____ session.
10. The _____ of a virgin bride is taken to be her consent.

Mark True or False:

1. An insane person can be a wali. ()
2. Marrying the woman from People of the Book is permissible in Islam. ()
3. Temporary marriages are allowed in Islam. ()
4. There should be at least two witnesses present at the time of the marriage. ()
5. A person cannot get married in the state of Ihram. ()
6. Marriage without wali's consent is permissible. ()
7. Both the bride and the groom should be known by their names at the time of their marriage. ()



4

Requirements of the Marriage Contract

4.1 The Dowry - المهر

4.1.1 Ruling

4.1.2 Condition

4.2 The Suitable Match - الكفاءة

4.2.1 Ruling

4.3 The Pre-requisites

4.3.1 Adding stipulations to the contract

4.4 The Protocol of the Contract

4.4.1 Documentation

4.4.2 Ceremony

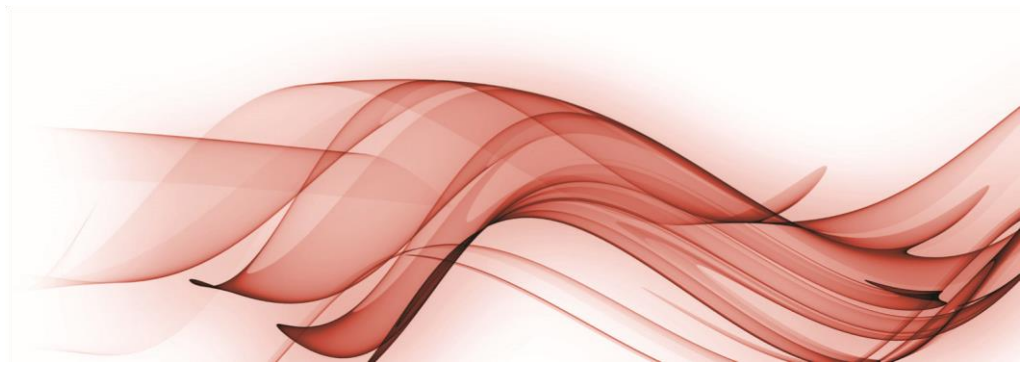
4.4.3 Announcement

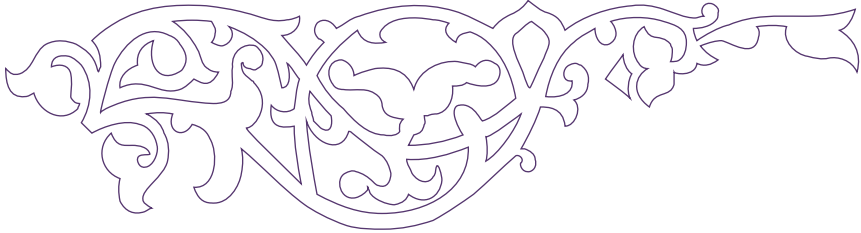
4.4.3.1 Wedding party

4.4.3.2. Wedding dinner (walimah)

4.4.3.3. Manners for the Guests

Review Questions 4





4.1 The dowry – المهر

A wife has specific rights upon her husband that are the result of the sound marriage contract. Some of these rights are material while others are non-material.

From among the material rights is the dowry , also known as المهر or الصداق in Arabic. There are many other names given to the dowry in Arabic which are mentioned in Quran such as : النحلة - الفريضة - الطول

Allah ﷻ said:

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً

And give the women [upon marriage] their [bridal] gifts graciously [4:4] This is given as an honor to one's wife. It is given in exchange for marriage as a gift and is agreed upon by the two parties. It is a possession of a woman and none of her guardians or relatives have a share in it, unless she chooses to give it to them. No one has any power over her concerning how she wishes to dispose of it, as long as she does so in a legally accepted manner.

4.1.1 Ruling

- The dowry is something given by the man to the woman and not vice versa.
- It is Sunnah to state the dowry at the time of the marriage contract.
- Dowry is not a pre-requisite of the contract, but it is a requirement of a sound marriage.
- One should state the dowry at the time of the contract in order to avoid future disputes.
- If the dowry is not stated, then it becomes equal to the dowry of a similar woman (Mahr al Mithal)
- A marriage where the two parties agree not to have any dowry is invalid.
- There is no upper limit to the dowry, the minimum is whatever is considered to be wealth. It is recommended to make the dowry light and easy on the husband.

عن عائشة رضي الله عنها عن النبي ﷺ : «أَنَّ مِنْ يُمِّنِ الْمَرْأَةِ تَيْسِيرُ خِطْبَتِهَا، وَتَيْسِيرُ صَدَاقِهَا، وَتَيْسِيرُ رَجْمِهَا»
أحمد والحاكم

Aishah (R.A) reported that Allah's Messenger ﷺ said: "Verily, a sign of blessing for a woman is that her engagement, sadaq (dowry), and womb (i.e. giving birth), are all made easy." Ahmad and Al Hakim

It can also be a non-material gift.

Teacher's Note : Discuss the cultural practices in some Muslim countries where the dowry is provided by the woman instead of the man.

4.1.2 Condition:

- It should not be something haram.
- It should not burden the husband beyond his means.
- It should have value.

Mahr al Mithal – مهر المثل

If no amount has been agreed upon as a dowry, then one should go by the amount customary in the social class of the bride's relatives.

When is the woman entitled to receive her dowry in full?

After the consummation of her marriage.

When is the woman entitled to receive half of her dowry?

If she was divorced and her marriage was not consummated, then she is entitled to half of her dowry. Allah ﷻ said:

وَإِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَنِصْفُ مَا فَرَضْتُمْ إِلَّا أَنْ يَعْفُونَ أَوْ يَعْفُوَ الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ وَأَنْ تَعْفُوا أَقْرَبُ لِلتَّقْوَى وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ إِنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ

And if you divorce them before you have touched them and you have already specified for them an obligation, then [give] half of what you specified – unless they forego the right or the one in whose hand is the marriage contract foregoes it. And to forego it is nearer to righteousness. And do not forget graciousness between you. Indeed Allah, of whatever you do, is Seeing [2:237]

When does the woman lose her right to end her marriage?

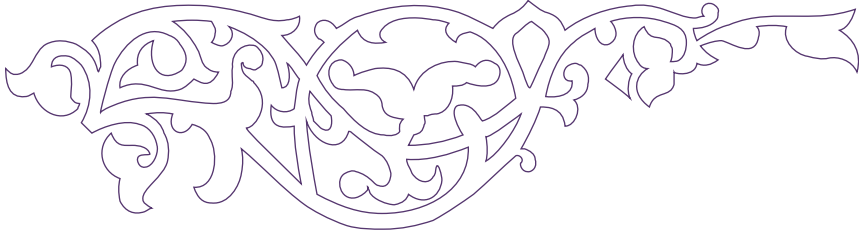
If a woman decides to end her marriage and seek divorce, or if she cheats in the marriage contract.

4.2 The Suitable Match: الكفاءة

There needs to be a certain degree of compatibility among the spouses so that the resulting marriage is harmonious and lasting. It is a condition to make the contract binding.

4.2.1 Ruling:

- If her guardians reject, then it will not be a suitable match.
- The bride's family possesses the right to nullify the marriage if they deem it unsuitable for their daughter.
- If the bride feels incompatible with the match chosen for her, she has the right to nullify her marriage immediately.



4.3 The Pre-requisites

a. Prerequisites of validity (of the contract):

- The bride and groom should not be each other's mahram
- Presence of the wali at the time of the contract
- Presence of witnesses

b. Prerequisites of effectiveness (of the contract):

- Competence of both parties
- To have the authority to perform the contract

c. Prerequisites of a binding agreement:

- Should be free from any deceit or defect (ex. Lying about age or health before marriage)
- Should be free from any final condition (ex. I will try it for a week and then think over it..)

4.3.1 Adding stipulations to the contract

1- Stipulations which are obligatory to be fulfilled:

They are the part of requirement in general such as spending over the wife and giving her time etc. Mahr does not fall in this category as it is already stated and has to be paid.

2- Stipulations which are legally nullified:

Any condition that contradicts some of the integrals of the contract such as stating that the husband will not spend any time with his wife.

3- Stipulations made in interest of the wife:

Any condition which the wife sets in general, such as wanting to live in a specific place after marriage, or not leaving her hometown. Also if the wife wishes to work after marriage the husband and wife should seek to agree on issues as long as they don't put a strain on their marriage. Such conditions need to be fulfilled if one agrees to them.

4- Stipulations that are prohibited:

Any condition that is haram and/or causes harm to one or both of the parties, such as cutting ties with the families or not wearing Islamic clothing etc.

4.4 The Protocols of the Contract

4.4.1 Documentation:

It is recommended to document the marriage. It is not wajib. Documentation is also known as al-aqd in Arabic.

The documentation protects the rights of both the parties and can be referred back to in times or dispute. The wording should be clear and concise i.e. easily understood and to the point.

4.4.2 Ceremony:

The ceremony is to be performed by an authority in the area. The bride does not need to be present in the same place, her wali would suffice once he has her approval.

The Ijaab and Qabool (offer and acceptance) are the main pillars of the contract. They need to be stated in clear, well defined words, in the same sitting, and in the presence of the two witnesses, with the approval of the wali and the bride.

4.4.3 Announcement:

4.4.3.1 Wedding party:

It is important to announce the marriage as the contract marks the beginning of a new relationship between a man and a woman who had until recently been strangers. Since the couple will be seen together in the public, it is important to make the marriage as public as possible so as to avoid others having any ill thoughts about them. One should not be excessive or extravagant in the announcement of marriage.

عن عبد الله بن الزبير رضي الله عنه أن رسول الله ﷺ قال: "أعلنوا النكاح" أحمد

Abdullah bin Zubayr رضي الله عنه reported that the Messenger of Allah ﷺ said: "Announce the Marriage." Ahmad

It is also recommended to invoke blessings and prosperity for the married couple;

عن أبي هريرة رضي الله عنه قال: كان رسول الله ﷺ إذا رفا الإنسان إذا تزوج قال: "بارك الله لك وبارك عليك وجمع بينكما في خير" أبو داود

Abu Hurairah رضي الله عنه reported that the Prophet of Allah ﷺ would say to a newlywed: "May Allah bless for you (your spouse), make you blessed, and join you two in prosperity." Abu Dawud

As a general rule, music is prohibited in Islam, with the exception of duff.

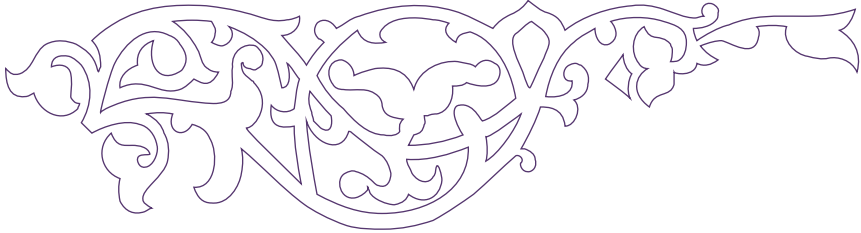
عن أبي مالك الأشعري رضي الله عنه أنه سمع رسول الله ﷺ يقول: "ليكونن من أمتي قوم يستحلون الحر والحرير والخمر والمعازف." البخاري

Abu Malik al-Ash'ari رضي الله عنه reported that the Prophet of Allah ﷺ said: "There will be among my Ummah those who would indulge in hir (unlawful sex), wearing silk (for men), Khamr (any alcoholic beverage), and musical instruments." Bukhari

As for the Duff, it is similar to a tambourine, but without bells or rings. Furthermore, all reports in the Sunnah about the duff indicate that only women and children beat it. Thus, today's practice during the celebrations where men sing, play music, and dance is in discord with the Sunnah.

Singing:

Singing should be done using simple and innocent wording, avoiding corrupt songs that call to indecency and disobedience.



Giving Gifts:

It is a good practice on all occasions.

عن أبي هريرة ؓ عنه قال: قال رسول الله ﷺ "تهادوا تحابوا" البخاري

Abu Hurairah ؓ reported that Allah's Messenger ﷺ said: "Exchange gifts, this will bring love among you." Bukhari

Points to keep in mind when giving gifts:

- They should not be given with extravagance, or to show off.
- They should not be viewed as a mandatory practice associated with the wedding such as holding a bridal shower where the attendees are obliged to bring gifts for the bride.
- Gifts should be items permissible in Islam and not prohibited things like musical instruments, statues, etc.

Avoiding un-Islamic appearances:

When preparing for the wedding day, both the parties should avoid un-Islamic clothing, hair styles, or other ways that are usually associated with the disbelievers.

Women are only allowed to wear perfume if they will be in the company of other women, or around their mahrams.

عن أبي موسى الأشعري ؓ عنه قال: قال رسول الله ﷺ "أيا امرأة استعطرت فمرت على قوم ليجدوا منها ريحا فهي زانية" أبو داود

Abu Musa al Ash'ari ؓ reported that the Prophet ﷺ said: "Any woman who wears perfume and passes by men who would smell her perfume is an adulteress."

Abu Dawud

There needs to be a balance between elegance and moderation. The clothes needs to cover the awrah entirely and conceal the body's shape.

4.4.3.2. Wedding Dinner (Walimah)

Definition:

The walimah, or wedding feast, is a meal offered by the husband to the friends and family after the consummation of marriage.

عن بريدة ؓ قال لما خطب علي فاطمة ، قال رسول الله ﷺ " إنه لا بد للعروس من وليمة " أحمد

Burayda bin al-Hasib ؓ reported that when Ali ؓ married Fatimah, Allah's Messenger ﷺ said: "Indeed, a wedding (or a bridegroom) must have a walimah."

Ahmad

Timeframe for Walimah:

Following the Sunnah, walimah should be normally held on the wedding night or within the first three days following it.

It is also recommended to include meat in a walimah, with a minimum of one sheep or goat- if that be affordable. However, meat is not a condition for the walimah itself.

The walimah is an obligation on the Muslim husband. It is permissible for others to help him in its cost or preparation. When inviting to a walimah, there should be no distinction made between the poor and the rich, as all are considered brothers in faith.

عن ابي هريرة رضي الله عنه قال : قال رسول الله ﷺ : "بئس الطعام طعام الوليمة، يطعمه الأغنياء وينعه المساكين ومن لم يجب فقد عصى الله ورسوله" مسلم

Abu Hurairah رضي الله عنه reported that the Messenger of Allah ﷺ said: "The worst food is that of a walimah to which the rich are invited but the poor are not. And he who rejects the invitation (to a walimah) has surely disobeyed Allah and His Messenger." Muslim

Rulings for the Walimah:

- Most of the conditions of wedding itself are applicable here as well such as avoiding unlawful things and extravagance.
- The use of gold and silver utensils is also prohibited.
- One should invite over as many people as possible and should honor his guests.

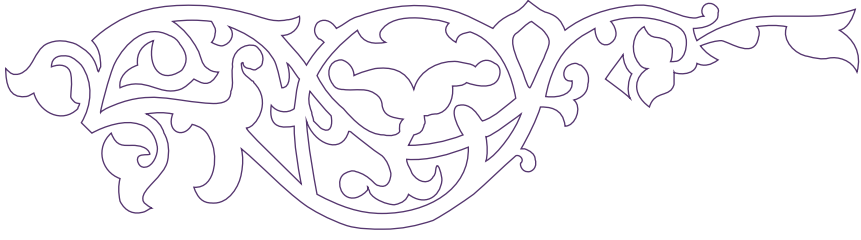
4.4.3.3. Manners for the Guests:

Responding to an invitation to the wedding feast is a religious obligation upon every believer, unless there is a legitimate excuse that justifies not attending the walimah.

عن ابن عمر رضي الله عنه قال : قال رسول الله ﷺ "إذا دعي أحدكم إلى الوليمة فليأتها ومن لم يجب الدعوة فقد عصى الله ورسوله" البخاري ومسلم

Ibn Umar رضي الله عنه reported that Allah's Messenger ﷺ said: "When one of you is invited to a walimah, he should attend it. And whoever does not answer the invitation, he has surely disobeyed Allah and His Messenger." Bukhari& Muslim

- One can avoid attending a walimah if he has a legitimate excuse to do so, such as a long and expensive trip.
- One should avoid invitations that involve disobedience such as mixed gatherings and where alcohol is served.
- It is not obligatory to eat from the food of walimah, though it is better to eat.
- A fasting person can continue his fast and he should supplicate for the host. However, if the fast is a voluntary fast, it is recommended for him to break it, especially if this will bring joy to the heart of the believers.
- If the guest has been invited to an open place, then there is no need to seek permission before entering.
- If the gathering is in a private place such as someone's home, then the guests need to seek permission before entering.



قال الله ﷻ:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَدْخُلُوا بُيُوتًا غَيْرَ بُيُوتِكُمْ حَتَّى تَسْتَأْذِنُوا وَتُسَلِّمُوا عَلَى أَهْلِهَا ذَلِكَ خَيْرٌ لَكُمْ لَعَلَّكُمْ
تَذَكَّرُونَ

O you who have believed, do not enter houses other than your own houses until you ascertain welcome and greet their inhabitants. That is best for you; perhaps you will be reminded [24:27]

Teacher's Note: Encourage Muslims in general to invite new Muslims to share their joy.

Review Questions 4

Match the following English words with the meaning in Arabic :

- | | |
|----------------------|-------------|
| 1. Dowry | () Walimah |
| 2. Wedding feast | () Mahar |
| 3. Marriage Contract | () Al Aqd |
| 4. documentation | () Nikaah |
| 5. Suitable match | () Kafa'a |

Mark True or False:

1. The dowry is a possession of a woman and none of her guardians have share in it. ()
2. The most blessed food is the food of walimah where the poor are also invited. ()
3. The bride should be present during the documentation of the contract. ()
4. A Muslim should avoid attending a walimah that involves disobedience of Allah Almighty. ()
5. If the bride feels incompatible with the match chosen for her, she does not have the right to nullify her marriage. ()

Give two examples of stipulations (added to the contract) made in interest of the wife:

a. _____

b. _____

Give two examples of stipulations (added to the contract) that are prohibited:

a. _____

c. _____



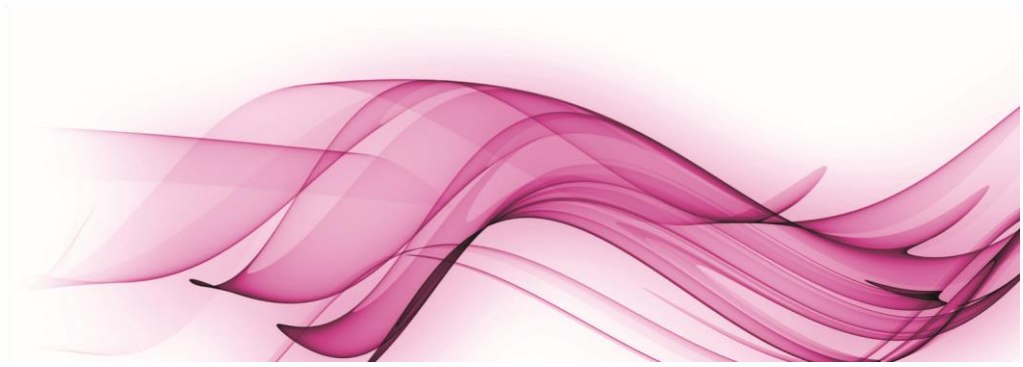
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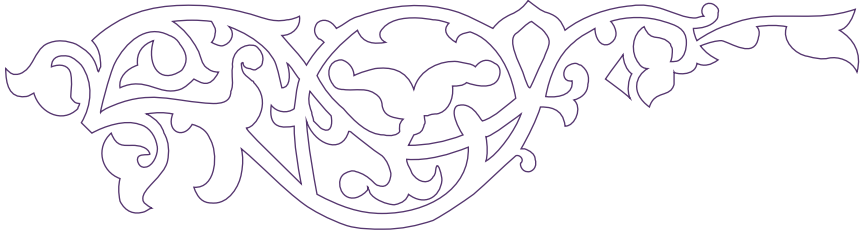
Intimacy in Islam

Consummating the Marriage

- 5.1 Praying two Raka'ah together
- 5.2 Invoking Allah's Blessings
- 5.3 Supplication before Intercourse
- 5.4 Rights and Obligations
 - 5.4.1 Wife's Basic Rights
 - 5.4.2 Husband's Basic Rights
 - 5.4.3 Rights of In-Laws

Review Questions 5





Consummating the Marriage

After the terms of marriage contract have been fulfilled, and the nikaah ceremony has been performed, the man and woman are lawfully regarded as husband and wife. Since the wedding night is the first time the couple come together, it is of utmost importance that they set a right intention when forming this union in order to please Allah. They should mention the name of Allah before entering their house.

وعن جابر رضي الله عنه قال : سمعت رسول الله ﷺ يقول : "إذا دخل الرجل بيته، فذكر الله تعالى عند دخوله وعند طعامه، قال الشيطان لأصحابه: لا مبيت لكم ولا عشاء، وإذا دخل، فلم يذكر الله تعالى عند دخوله، قال الشيطان: أدركتم المبيت؛ وإذا لم يذكر الله تعالى عند طعامه قال : أدركتم المبيت والعشاء." مسلم

Jabir رضي الله عنه reported: I heard Messenger of Allah ﷺ saying, «If a person mentions the Name of Allah upon entering his house or eating, Satan says, addressing his followers: <You will find nowhere to spend the night and no dinner. > But if he enters without mentioning the Name of Allah, Satan says (to his followers); <You have found (a place) to spend the night in, and if he does not mention the Name of Allah at the time of eating, Satan says: <You have found (a place) to spend the night in as well as food." Muslim

5.1 Praying two Raka'ah together

It is recommended for the married couple to pray two units of prayer together, with the wife standing behind the husband, and the husband leading the prayer. It was something practiced by some of the companions of the Prophet of Allah ﷺ.

5.2 Invoking Allah's Blessings:

After praying together, it is recommended for the husband to supplicate and invoke Allah's blessings on himself and his wife.

عن عبد الله بن عمرو رضي الله عنه قال : قال رسول الله ﷺ "إذا تزوج أحدكم أو اشترى خادماً فليقل : اللهم إني أسألك خيرها وخير ما جبلتها عليه، وأعوذ بك من شرها ومن شر ما جبلتها عليه." أبو داود

Abdullah Ibn Amir رضي الله عنه reported that Allah's Messenger ﷺ said: When anyone of you marries a woman or buys a servant, let him say, "O Allah, I ask You her good, and the good You created in her; and I seek refuge from her evil and the evil You created in her". Abu Dawud

5.3 Supplication before Intercourse

One of the noble purposes behind marriage is to create righteous offspring, who will then be a source of mercy for the parents in their lives and after the parents have died. Thus it is important to supplicate to Allah ﷻ to keep the devil away from him and his progeny.

عن ابن عباس رضي الله عنه قال: قال النبي ﷺ: «لو أن أحدكم إذا أتى أهله قال اللهم جنبني الشيطان وجنب الشيطان ما رزقتني فإن كان بينهما ولد لم يضره الشيطان ولم يسلط عليه» البخاري

Ibn Abbas رضي الله عنه reported that the Messenger ﷺ said: "If, whenever anyone of you makes sexual approach to his or her mate, you say: O Allah, keep Satan away from

us, and keep him away from any offspring You may bless us with, then the Satan will never harm any offspring you are destined to produce." Bukhari

Other Rulings:

- The man can have intercourse with his wife from the front only. Approaching her from the back is a major sin in Islam.

عن خزية بن ثابت رضي الله عنه قال: "قال رسول الله ﷺ: إن الله لا يستحي من الحق (ثلاث مرات) لا تأتوا النساء في أدبارهن." أحمد

Khuzaymah Ibn Thabit رضي الله عنه reported that the Messenger of Allah ﷺ said: «Allah is not too shy to tell you the truth: Do not have sex with your wives from the back.» Ahmad

- During menstruation, a man is forbidden from having intercourse with his wife, but may otherwise enjoy other parts of her body. Allah ﷻ said:

وَيَسْأَلُونَكَ عَنِ الْمَحِيضِ قُلْ هُوَ أَدَىٰ فَأَعْتَرِلُوا النِّسَاءَ فِي الْمَحِيضِ وَلَا تَقْرَبُوهُنَّ حَتَّىٰ يَطْهُرْنَ فَإِذَا تَطَهَّرْنَ فَأْتُوهُنَّ مِنْ حَيْثُ أَمَرَكُمُ اللَّهُ إِنَّ اللَّهَ يُحِبُّ التَّوَّابِينَ وَيُحِبُّ الْمُتَطَهِّرِينَ

And they ask you about menstruation. Say, «It is harm, so keep away from wives during menstruation. And do not approach them until they are pure. And when they have purified themselves, then come to them from where Allah has ordained for you. Indeed, Allah loves those who are constantly repentant and loves those who purify themselves.» [2:222]

- It is strongly prohibited for the spouses to disclose to anyone whatever happens during their intimacy sessions.

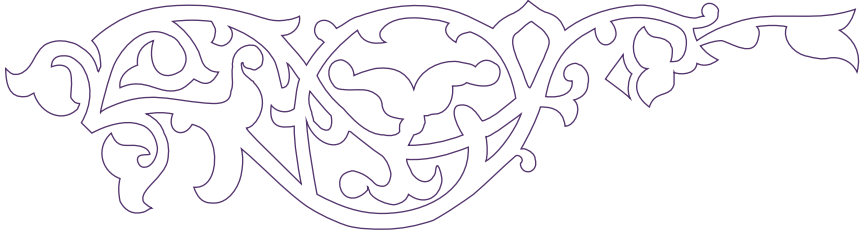
عن أسماء بنت يزيد رضی الله عنها أنها كانت عند رسول الله ﷺ والرجال والنساء قعود فقال : «لعل رجلاً يقول ما يفعل بأهله ولعل امرأة تخبر بما فعلت مع زوجها ؟ فأرم القوم فقلت : إي والله يا رسول الله . إنهن ليفعلن وإنهم ليفعلون . قال : فلا تفعلوا ، فإنما ذلك مثل الشيطان لقي شيطانة في الطريق، فغشيها والناس ينظرون !» أحمد

On the authority of Asmaa' bint Yazid who narrated «that she was once in the presence of the Prophet ﷺ and there were both men and women sitting. The Prophet ﷺ then said: "Perhaps a man might discuss what he does with his wife, or perhaps a woman might inform someone what she did with her husband?" The people were silent. Then I said: "O, Yes! O Messenger of Allah verily both the women and men do that." Then the Prophet ﷺ said: "Do not do that. It is like a male Satan who meets a female Satan along the way, and has sex with her while the people look on!" Ahmad

5.4 Rights and Obligations

Marriage is a bond of mutual rights and responsibilities. Each spouse has an essential and active role in this partnership, which they shall be questioned about on the Day of Judgment.

Teacher's Note: Explain the meaning of approaching from behind to the students.



Shared obligations and rewards:

Some of the obligations are shared by men and women equally in a marriage. Such as:

- Their belief in Allah ﷻ
- Both are accountable for their actions
- Men and women get the same reward for their obedience to Allah ﷻ, as well as similar punishment for disobeying Allah ﷻ : Allah ﷻ said:

مَنْ عَمِلَ سَيِّئَةً فَلَا يُجْزَى إِلَّا مِثْلَهَا وَمَنْ عَمِلَ صَالِحًا مِّنْ ذَكَرٍ أَوْ أَنَّىٰ وَهُوَ مُؤْمِنٌ فَأُولَٰئِكَ يَدْخُلُونَ الْجَنَّةَ
يُزْفُونَ فِيهَا بِغَيْرِ حِسَابٍ

Whoever does an evil deed will not be recompensed except by the like thereof; but whoever does righteousness, whether male or female, while he is a believer – those will enter Paradise, being given provision therein without account [40:40]

- Both spouses are equally responsible for taking care of their duties, and raising righteous children upon the firm principles of Islam

عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رضي الله عنه أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ " كُلُّكُمْ رَاعٍ وَمَسْئُولٌ عَنْ رَعِيَّتِهِ، فَالْأَمِيرُ الَّذِي عَلَى النَّاسِ رَاعٍ وَهُوَ مَسْئُولٌ عَنْهُمْ، وَالرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ وَهُوَ مَسْئُولٌ عَنْهُمْ، وَالْمَرْأَةُ رَاعِيَةٌ عَلَى بَيْتِ بَعْلِهَا وَوَلَدِهِ وَهِيَ مَسْئُولَةٌ عَنْهُمْ، وَالْعَبْدُ رَاعٍ عَلَى مَالِ سَيِّدِهِ وَهُوَ مَسْئُولٌ عَنْهُ، أَلَا فَكُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ. »
البخاري

Narrated `Abdullah bin Umar رضي الله عنه: Allah's Messenger صلى الله عليه وسلم said, «Every one of you is a guardian and is responsible for his charges. The ruler who has authority over people, is a guardian and is responsible for them, a man is a guardian of his family and is responsible for them; a woman is a guardian of her husband's house and children and is responsible for them; a slave (Abu) is a guardian of his master's property and is responsible for it; so all of you are guardians and are responsible for your charge.

Bukhari

- Both spouses should respect each other and be kind and just with each other. Some examples of a kind treatment:
 - Good manners when dealing with each other
 - Being truthful and humble
 - Showing mercy and kindness
 - Forgiving and overlooking the faults of each other
 - Avoiding oppression in the state of anger or doubt
 - Avoiding foul language and quarrelling
 - Avoiding suspicion
 - Helping one another in goodness
 - Enjoining the good and forbidding the wrong

- o Fulfilling each other's desire
- o Safeguarding their family from evil

5.4.1 Wife's Basic Rights

Allah ﷻ said

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا

And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allah makes therein much good [4:19]

The first and the worthiest condition of marriage to be fulfilled by the husband is to keep the promises he made to his wife at the time he married her.

عن عقبه ؓ عن النبي ﷺ قال: "أحق ما أوفيتكم من الشروط أن توفوا به ما استحللتم به الفروج." البخاري

Uqba ؓ narrated that the Prophet ﷺ said: «The stipulations most entitled to be abided by are those with which you are given the right to enjoy the (women's) private parts (i.e. the stipulations of the marriage contract). Bukhari

عن جابر بن عبد الله ؓ قال: قال رسول الله ﷺ: «فَاتَّقُوا اللَّهَ فِي النِّسَاءِ فَإِنَّكُمْ أَخَذْتُمُوهُنَّ بِأَمَانِ اللَّهِ وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَةِ اللَّهِ وَلَكُمْ عَلَيْهِنَّ أَنْ لَا يُوطِئَنَّ فُرُوشَكُمْ أَحَدًا تَكْرَهُونَهُ. فَإِنْ فَعَلَنَّ ذَلِكَ فَاضْرِبُوهُنَّ ضَرْبًا غَيْرَ مُبْرَحٍ وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ» مسلم

Narrated by Jabir bin Abdullah ؓ that the Prophet of Allah ﷺ said: "...Fear Allah concerning women! Verily you have taken them on the security of Allah , and intercourse with them has been made lawful unto you by words of Allah: "You too have right over them, and that they should not allow anyone to sit on your bed whom you do not like. But if they do that, you can chastise them but not severely. Their right upon you are that you should provide them with food and clothing in a fitting manner. ..." Muslim

Being treated fairly and kindly by their husbands:

قال الله : وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ حَكِيمٌ

"...And due to the wives is similar to what is expected of them, according to what is reasonable..." [2: 228]

عن أم المؤمنين عائشة رضي الله عنها قالت: قال رسول الله ﷺ: "خيركم خيركم لأهله وأنا خيركم لأهلي" الترمذي

Narrated by Aishah that the Messenger of Allah ﷺ said:" The best of you is he who is best to his family, and I am the best among you to my family." Tirmidhi

Teacher's Note: If a husband promises his wife before marriage that he will allow her to study, or work, then it has become obligatory on him that he fulfills his promise.



The Messenger of Allah ﷺ never hit any of his wives.

عن عائشة رضي الله عنها قالت: "ما ضرب رسول الله شيئاً قط بيده، ولا امرأة ولا خادماً، إلا أن يُجاهد في سبيل الله." مسلم

Narrated by Aishah: "The Messenger of Allah ﷺ never struck a servant of his with his hand, nor did he ever hit a woman. He never hit anything with his hand, except for when he was fighting Jihad in the cause of Allah." Muslim

A Muslim husband needs to emulate the character of our beloved Prophet Muhammad ﷺ in his dealings.

A husband should be financially generous with the wife:

It is upon the husband to take care of his wife physically, emotionally, as well as financially. It means he should provide her for food, clothing, shelter, and other basic needs. It is the duty of a husband to spend on his wife from his wealth. He should always bear in mind that this woman has disassociated herself from her parents, brothers and sisters, relatives and friends and has joined him to share all the ups and downs of life, hence, it has become his duty to look after her basic needs and comforts.

عن أبي مسعود الأنصاري ؓ عن النبي ﷺ قال: إذا أنفق المسلم نفقة على أهله، وهو يحتسبها كانت له صدقة. البخاري

Abu Masood Al Ansari ؓ narrated that the Prophet ﷺ said: "When a man spends anything on his family and he expects to be rewarded for it is a charity in his favour."

Bukhari

The husband should not behave as a miser in meeting the materialistic requirements of his wife nor should be extravagant in her maintenance. He should define his expenditure as per his capacity.

The husband has no right to take any of his wife's possessions (including her money, jewelry, clothes, , etc) without her permission.

Separate accommodation for the wife:

The wife has the right to live in separate accommodation with her husband and children, if she does not like to share it with anyone like her in-law or relatives.

Fair treatment of co-wives:

One of the rights that a wife has over her husband is that she and her co-wives should be treated equally, if the husband has other wives, with regard to nights spent with them, spending and clothing.

Teacher's Note: Discuss with the students the issue of wife-beating. Islam does not permit what some men do to their wives in the name of religion. It is prohibited to cause physical harm, or injury to one's wife.

عن أبي هريرة رضي الله عنه قال: قال رسول الله ﷺ «من كانت له امرأتان فمال إلى أحدهما، جاء يوم القيامة وشقه مائل» أبو داود والترمذي

Abu Hurairah رضي الله عنه narrated Allah's Messenger ﷺ said: "If a man was married to two wives and is inclined to one of them (and favored her over the other), he will come on the Day of Judgment with one side of his body tilted (as a punishment for his unjust treatment)." Abu Dawood & Tirmidhi

Man, as the husband, however will not be held responsible or accountable for things that he has no control over, such as love, and affection. Allah ﷻ said:

وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ فَلَا تَمِيلُوا كُلَّ الْمَيْلِ فَتَذَرُوهَا كَالْمُعَلَّقَةِ وَإِنْ تُصْلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا

Allah ﷻ stated in the Glorious Quran: "And you will never be able to be equal [in feeling] between wives, even if you should strive [to do so]. So do not incline completely [toward one] and leave another hanging. And if you amend [your affairs] and fear Allah then indeed, Allah is ever Forgiving and Merciful" [4: 129]

In case of multiple wives, the husband must be fair and just with all of them, and treat them fairly in terms of expenditure, housing, time .. etc. Being unfair or even inclined and preferring one wife over the other is considered one of the major sins, and is a form of oppression.

Avoid harming the wife:

A husband should also not harm his wife. This is one of the basic principles of Islam. Because harming others is forbidden in the case of strangers, it is even more so in the case of harming one's wife.

عن عبادة بن الصامت رضي الله عنه قال : قال رسول الله ﷺ : "لا ضرر ولا ضرار" ابن ماجه

It was narrated from 'Ubaadah Ibn As-Saamit رضي الله عنه that the Messenger of Allah ﷺ ruled: "There should be no harming nor reciprocating harm." Ibn Maajah Among the things to which Allah drew attention in this matter is the prohibition of hitting or beating in a severe manner.

عن جابر رضي الله عنه ان رسول الله ﷺ قال في خطبة حجة الوداع "....فإن فعلن ذلك فاضربوهن ضرباً غير مبرح ولهن عليكم رزقهن وكسوتهن بالمعروف". مسلم

It was narrated from Jaabir رضي الله عنه that the Messenger of Allah ﷺ said in his Farewell Sermon: "...But if they do that, you can chastise them but not severely. Their rights upon you are that you should provide them with food and clothing in a fitting manner." (part of the above-mentioned hadeeth) Muslim

Teacher's Note: The issue of multiple wives is a sensitive issue for new and old Muslim women alike. The believers accept the laws of their Creator and should have patience. One cannot make halal things haram and vice versa.



5.4.2 Husband's Basic Rights

Woman's submission to her husband is from the command of Allah ﷻ

Allah ﷻ said:

وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ حَكِيمٌ

And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility and authority].

And Allah is Exalted in Might and Wise. [2:228]

This degree is a degree of responsibility in running the family, and qualifies him for a number of rights. The man earns this by being truly worthy of the trust that Allah conferred to him, and loses it by neglecting this trust.

Allah has divided the duties and responsibilities within the family, and has set the man as the one in authority. The woman should not reject or challenge that authority, rather, she should accept it in fulfillment of Allah's commands. She should view her submission to her husband's authority as a submission to Allah's decree.

عن أبي هريرة ؓ عن النبي ﷺ قال: " لو كنت أمرا لأحد أن يسجد لأحد لأمرت المرأة أن تسجد لزوجها. " الترمذي

Abu Hurairah ؓ reported: The Prophet ﷺ said, «If I were to order anyone to prostrate himself before another, I would have ordered a woman to prostrate herself before her husband». At-Tirmidhi

- The rights granted to husband are necessary for the peaceful and productive running of the family.
- The husband constantly offers his wife and children guidance, support, protection, nurturing, etc. Neglecting any of that would reduce his rights on his wife.
- When the husband fulfills his responsibilities towards his wife, he becomes worthy of her full gratitude and support.

It is also from a wife's duty to be grateful and kind to her husband who provides for her and takes care of all her needs. A woman should avoid harming her husband and give him good treatment.

Khadijah (R.A) who was wealthier than the Prophet ﷺ , was never arrogant or ungrateful to her husband even though she had the financial advantage over him. She was a great example of modesty and kindness that the Prophet ﷺ continued to remember throughout his life.

وعن ابن عمر ؓ أن النبي ﷺ قال: " يا معشر النساء تصدقن، وأكثرن من الاستغفار، فإني رأيتكن أكثر أهل النار " قالت امرأة منهن: مالنا أكثر أهل النار؟ قال: " تكثرن اللعن، وتكفرن العشير " مسلم

Ibn Umar ؓ said: The Prophet ﷺ said, "O women folk! You should give charity and be diligent in seeking Allah's forgiveness because I have seen (i.e., on the Night of the Ascension to the highest heavens) that the majority of the dwellers of the Hell are women." A woman amongst them said: "Why is it that the majority of the dwellers of

Hell are women?" The Prophet ﷺ replied, "You curse frequently and are ungrateful to your husbands" Muslim

Kindness and obedience to the husband is an act of worship

عن أبو أذينة ؓ عن النبي ﷺ قال: «خير نسائكم الولود الودود والمواتية وإذا اتقين الله.» البيهقي

Abu Uthaynah ؓ reported that Allah's Messenger ﷺ said: "The best of your women are those who are bearers of many children, (loving to their husbands), comforting and tolerant- provided that they have taqwa (fear) of Allah." Bayhaqi

Obedying the husband is an obligation in Islam, just like it is obligatory for the husband to take care of his wife and be just with her.

عن عبد الرحمن بن عوف ؓ قال: "إذا صلت المرأة خمسها وصامت شهرها وحفظت فرجها وأطاعت زوجها قيل لها ادخلي الجنة من أي أبواب الجنة شئت." أحمد

Narrated by Abdur Rahman bin 'Awf ؓ that the Messenger of Allah ﷺ said: "When a woman prays her five (prayers), fasts her month (Ramadan), preserves her chastity, obeys her husband, she will be told (on the day of Judgment), "Enter Jannah from any of its (eight) gates." Ahmad

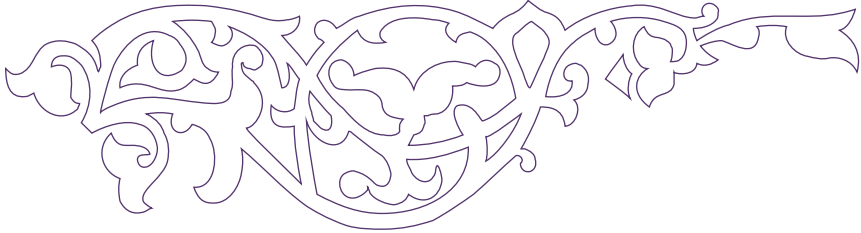
Doing things that please her husband:

عن أبي هريرة ؓ سئل رسول الله ﷺ: "أي النساء خير؟ قال: «التي تسره إذ نظر، وتطيعه إذا أمر، ولا تخالفه في نفسها وماله با يكره.» النسائي

Abu Hurairah ؓ reported that the Messenger of Allah ﷺ was asked: Which of the women are the best? The Messenger of Allah ﷺ responded: "The best of women is that who pleases him (her husband) when he looks at her, obeys him when he orders, and does not subject per person or money to what he dislikes." An-Nasai

It should be noted that pleasing the husband can only be in a way that complies with Islam. It means a believing woman should uphold the highest virtues of Islam prescribed upon her by her Creator and not act in any way that would displease Allah ﷻ. For example, a woman cannot take off her hijab even if her husband commands her to do so.

Teacher's Note: Teachers should clarify to their students that the spouses need to honour their marriage and not keep secrets from each other that will harm their marriage. Men and women should care of their conduct whether online on social media sites like FB, twitter, Instagram, etc or offline. This is to ensure that marriages are preserved and don't end due to suspicion or doubt.



A woman should not allow anyone into her husband's house without his consent:

عن أبي هريرة رضي الله عنه أن رسول الله ﷺ قال: «لا يحل لامرأة أن تصوم وزوجها شاهد - يعني حاضر - إلا بإذنه ولا تأذن في بيته إلا بإذنه.» البخاري ومسلم

Abu Hurairah رضي الله عنه narrated that the Messenger of Allah ﷺ said "It is not permissible for a woman to fast, while her husband is present, without his permission – except for Ramadan. Nor is it permissible for her to admit anyone to his house except with his permission." Bukhari and Muslim

The husband's consent in this case can also be implicit for everyday matters, and the wife does not have to take her husband's permission every time someone wants to visit her, unless the husband has specifically stated that he dislikes so and so from visiting.

Answering his call for sexual intimacy:

Part of things obligated upon a wife is to answer her husband's call for sexual intimacy. It is a major sin to deny the intimate pleasure that her husband seeks with her.

عن أبي هريرة رضي الله عنه قال : قال رسول الله ﷺ : " إذا دعا الرجل امرأته إلى فراشه فلم تأتة فبات غضبان عليها؛ لعنتها الملائكة حتى تصبح." متفق عليه

Abu Hurairah رضي الله عنه reported that the Prophet ﷺ said: "If a man invites his wife to bed and she refuses to come and he sleeps while angry (with her), the angels curse her till the morning." Agreed upon

A woman should also safeguard her husband's possessions, and spend his wealth with his permission:

A woman must not dispense any of her husband's possessions without his permission or implicit consent (i.e. if she is sure he would not mind). If a woman gives in charity from her husband's money knowing that he would not mind, then both of them would get the reward for that.

Taking care of the Children:

Taking care of the children is a shared responsibility between the two spouses, however, it is more emphasized for the wife because she normally gets to spend more of her time with the children and is in position to exercise more supervision and guidance.

Children are the greatest fruit of a marriage and raising them up righteously upon the good Islamic teachings is obligatory.

قال الله : يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ

O you who have believed, protect yourselves and your families from a Fire whose fuel is people and stones[66:6]

Leaving the house with her husband's permission:

قال الله: وَقَرْنَ فِي بُيُوتِكُنَّ وَلَا تَبَرَّجْنَ تَبَرُّجَ الْجَاهِلِيَّةِ الْأُولَى وَأَقِمْنَ الصَّلَاةَ وَآتِينَ الزَّكَاةَ وَأَطِعْنَ اللَّهَ وَرَسُولَهُ

And abide in your houses and do not display yourselves as [was] the display of the former times of ignorance. And establish prayer and give zakah and obey Allah and His Messenger [33:33]

A wife in general should seek her husband's permission before going outside as he has the right to know of her whereabouts. The husband cannot forbid his wife from going to the mosques.

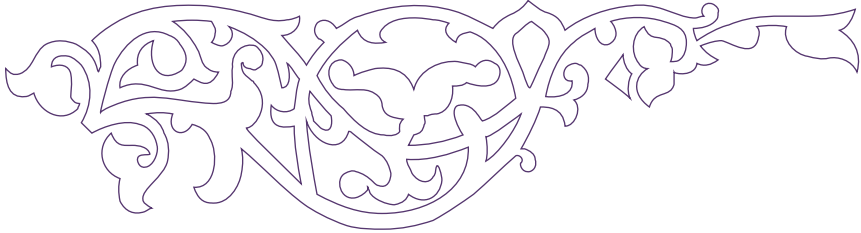
عن عبد الله بن عمر رضي الله عنه قال: أن النبي صلى الله عليه وسلم قال: "إذا استأذنت أحدكم امرأته إلى المسجد فلا ينعهها."
البخاري ومسلم

Narrated Abdullah ibn Umar رضي الله عنه that the Messenger of Allah صلى الله عليه وسلم said: "If the wife of any of you seeks permission to go to the masjid, he may not prevent her." Bukhari and Muslim

5.4.3 Rights of In-Laws

Both the spouses should be kind and hospitable to their respective in-laws while at the same time maintaining a good relationship based on mutual respect.

If misunderstandings arise, the parents in-law can come together to find a solution for their children, but at the same time should not interfere in the marital life of their children nor force them to make some decisions that they are not happy with. The marriage contract also establishes the forbiddance of marriage to relatives, and this shall be discussed in the next chapter.



Review Questions 5

Mark True or False:

1. A wife can spend her husband's money without his permission or knowledge. ()
2. A husband can take away the dowry from his wife. ()
3. It is Sunnah to say the supplication before intercourse. ()
4. A husband can have intimate relationship with his wife during her periods. ()
5. A husband and wife can help each other in the matters of deen and dunya. ()
6. A woman can allow anyone in her house without her husband's permission. ()
7. Only a woman is responsible for bringing up righteous kids. ()

Mention 4 rights of the husband:

- a. _____
- b. _____
- c. _____
- d. _____

Mention 4 rights of the wife:

- a. _____
- b. _____
- c. _____
- d. _____





6

Maharim and Polygyny

6.1 Maharim (definition)

6.1.1 Temporary Maharim

6.1.2 Permanent Maharim

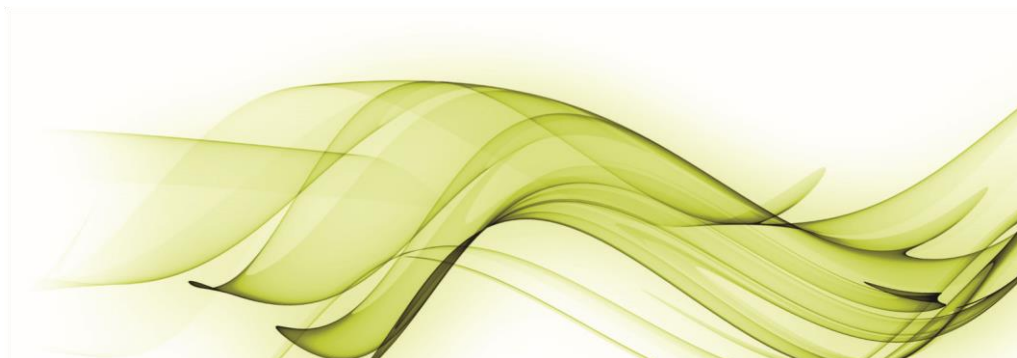
6.2 Polygyny in Islam

6.2.1 Conditions in which polygyny is recommended

6.2.2 Restrictions on Polygyny

6.2.3 Spousal rights and obligations

Review Questions 6





6.1 Mahram (definition)

A mahram is someone who can never marry the person for whom they act as a guardian. It is loosely translated as unmarriageable kin.

A Mahram (for a woman) is he, between whom and her marriage is unlawful, whether this is due to the relationship of lineage/kin, or for some other reasons, such as foster relationship, or relationship by marriage.

The Mahram can be divided into two categories:

- Temporary
- Permanent

6.1.1 Temporary Mahram

Temporary mahram is the one who has been forbidden in marriage due to one reason or another; if the cause of forbiddance is removed, then the forbiddance is also removed. For example:

- A man cannot marry two sisters at the same time, but if he divorces one, he is free to marry the other one.
- A man cannot combine in marriage between a woman and her aunt, or between a woman and her sibling's daughter, or between a woman and her son or daughter's girl.

عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: "لَا يُجْمَعُ بَيْنَ الْمَرْأَةِ وَعَمَّتِهَا، وَلَا بَيْنَ الْمَرْأَةِ وَخَالَتِهَا." البخاري

Narrated Abu Hurairah ؓ that Allah's Messenger ﷺ said, "A woman and her paternal aunt should not be married to the same man; and similarly, a woman and her maternal aunt should not be married to the same man." Bukhari

The wisdom behind this prohibition is that this could cause hatred and envy to develop in the hearts of the wives for their nearest kin.

One cannot marry any woman if a man already has four wives, unless he divorces one of his current four wives. Other temporarily forbidden women are:

- Marrying a slave girl when the man is already married to a free woman.
- "iddah" due either to death or divorce is not allowed to marry until her waiting period ends.
- A woman upon whom a man has made (li'an) unless he confesses that he lied. Al-li'an is where the husband accuses the wife of adultery but cannot bring witnesses so he swears that it occurred and the two are separated after the wife swears that she is innocent. He can never marry her again unless he confesses that he was lying.
- A woman who is neither Muslim, Jewish nor Christian. A man cannot marry a woman who is a Hindu, or Buddhist, unless she either accepts Islam, or one of the religions of the People of the Book.

6.1.2 Permanent Mahram

The permanent unlawfulness of marriage is established with the above-mentioned three types of relationships, and a Mahram is he with whom marriage is unlawful permanently. It means that the person cannot get married to the people falling under this category ever. One becomes a permanent Mahram due to these three types of relationships:

1. Relationship of family/lineage (Qarabah)

It is permanently unlawful for a man to marry the following: (he will be considered a Mahram for them)

- a. Mother, grandmother, and those above
- b. Paternal grandmother, and those above
- c. Daughters, granddaughters, and those below
- d. All type of sisters (whether full or half)
- e. Maternal and paternal aunts
- f. Nieces (brother's or sister's daughters)

As for the woman, it is unlawful to marry the following permanently:

- a. Father, grandfather, and those above
- b. Paternal grandfather, and those above
- c. Sons, grandsons, and those down
- d. All types of brothers (whether full or half)
- e. Maternal and paternal uncles
- f. Nephews (brother's or sister's sons)

Allah ﷻ said:

حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخْوَاتُكُمْ وَعَمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأُخْتِ وَأُمَّهَاتُكُمْ اللَّاتِي
أَرْضَعْنَكُمْ وَأَخْوَاتُكُمْ مِّنَ الرَّضَاعَةِ وَأُمَّهَاتُ نِسَائِكُمْ وَرَبَائِبُكُمُ اللَّاتِي فِي حُجُورِكُمْ مِّن نِّسَائِكُمُ اللَّاتِي دَخَلْتُمْ
بِهِنَّ فَإِن لَّمْ تَكُونُوا دَخَلْتُمْ بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ وَحَلَائِلُ أَبْنَائِكُمُ الَّذِينَ مِنْ أَصْلَابِكُمْ وَأَن تَجْمَعُوا بَيْنَ
الْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ إِنَّ اللَّهَ كَانَ غَفُورًا رَّحِيمًا

Prohibited to you [for marriage] are your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, your sister's daughters, your [milk] mothers who nursed you, your sisters through nursing, your wives' mothers, and your step-daughters under your guardianship [born] of your wives unto whom you have gone in. But if you have not gone in unto them, there is no sin upon you. And [also prohibited are] the wives of your sons who are from your [own] loins, and that you take [in marriage] two sisters simultaneously, except for what has already occurred. Indeed, Allah is ever Forgiving and Merciful [4:23]



Besides the abovementioned relatives, marriage with others relative will be lawful, and they will not be considered to be mahram, such as male and female cousins, etc.

2. Relationship of Breastfeeding (Radha'a)

Whosoever is a Mahram through the relationship of lineage, will also be considered a Mahram by fosterage. The relationships that are unlawful through blood and lineage will also be unlawful through fosterage. As such, a foster-father (foster mother's husband), foster-brother, foster-uncle, foster-nephew, etc. will all be considered to be a woman's Mahram, and one will be a Mahram to a foster-mother, foster sister, foster niece, etc.

One should be careful in determining who is a Mahram through foster relations, for determining this, at times, can be complex and complicated. One must refer to a scholar before coming to a judgment.

3. Relationship of marriage

The third relationship with which marriage becomes permanently unlawful and consequently the relationship of being a Mahram is established through marriage.

There are four types of people with whom marriage becomes unlawful permanently due to the relationship of marriage:

- a. One's wife's mother (mother in-law), grandmother and on up: Marriage with her becomes unlawful by merely contracting marriage with the daughter, regardless of whether the marriage was consummated or not.
- b. One's wife's daughter (from a previous marriage), grand-daughter and on down: Marriage with her becomes unlawful (permanently) if the marriage with her mother was consummated.

Also included in the ayah 23 of Surah An Nisa will be one's wife's son's (stepson's) daughter, for she is also considered to be a stepdaughter (rabiba).

- c. The wife of one's son, grandson, and down: This is regardless whether the son consummated the marriage or otherwise.

The verse (An Nisa:23) specifically refers to one's real sons, thus marriage with one's foster son's wife will be permissible, if he was to divorce her.

- d. One's stepmother, step grandmother: Meaning those women who have been in the marriage of one's father or paternal or maternal grandfather.

Teacher's Note: Polygamy refers to the practice of having more than one spouse. It is broader than polygyny, which refers to situations where a man has multiple wives.

The circumstances in which this verse was revealed illustrate the sincere teachings of Islam regarding polygyny. It was revealed after the battle of Uhud, in which a significant number of Muslim men were martyred and as a consequence, many women were widowed and their children orphaned. To safeguard the new Muslim community, this just and compassionate law was revealed, and it will remain in effect until the end of time.

6.2 Polygyny in Islam

Before the advent of Islam, polygyny had been practiced unlimitedly in many parts of the world. A man used to marry several women at one time. Even the Prophets were not immune from it.

Under Islamic marital jurisprudence, Muslim men are allowed to practice polygyny under Islam, that is, they can have more than one wife at the same time, up to a total of four. Polyandry, the practice of a woman having more than one husband, by contrast, is not permitted. Allah ﷻ said:

فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَى وَثُلَاثَ وَرُبَاعَ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ
ذَلِكَ أَذْنَىٰ أَلَّا تَعُولُوا

..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] [4:3]

6.2.1 Conditions in which polygyny is recommended

It is recommended for a man to marry more than one in conditions such as:

- He feels the need to have more than one spouse
- His current spouse is barren
- His current spouse is sick and unable to perform her obligations towards her husband
- If he feels that he will be able to maintain justice between the two to the best of his ability
- It reduces the chances of immoral relationships in a community

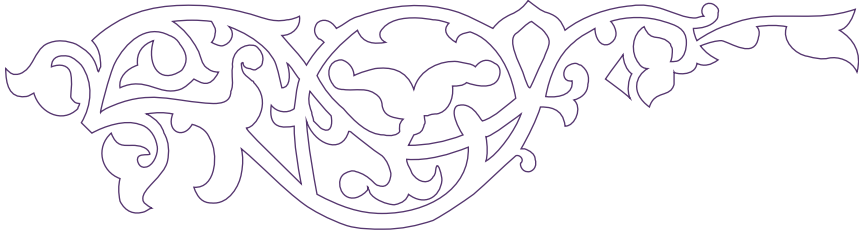
Polygyny protects the interests of women and children in society. Men, in Western society make the laws. They prefer to keep polygyny illegal because it frees them of responsibility of another woman. Legalized polygyny would require them to spend on their additional wives and their offspring. Marrying only one woman allows them to enjoy extra-marital affairs without economic consequence.

Even those who are financially capable of looking after additional families are often reluctant due to the psychological burdens of handling more than one wife. The family problems and marital disputes are multiplied in plural marriages.

It is a known fact that there are more women than men and that they have a longer life. More men die due to wars and other incidents. The average life span of females is more than that of males.

If we restricted men to having only one wife, then there would be many women without husbands, like it has happened in our times. When a woman is divorced or she becomes a widow, at times it is very difficult for her to remarry. In permitting polygyny,

Teacher's Note: Emphasize the fact that multiple wives is something legislated by Allah and not mankind so people should not speak against it out of desire.



there is a solution to this problem. These women will have someone to look after their social and economic needs. By permitting polygyny, the door of extra-marital affairs is closed.

6.2.2 Restrictions on Polygyny

A man can take up to four wives at a time. Fairness is a condition for polygyny. Thus, if a man knows he cannot be fair with multiple wives, then he is not allowed to marry more than one. Fairness in this context refers to material justice, which includes giving each of his wives equal wealth, turns to spend time with, and also being equitable with them in regard to food, clothes, and dwelling, etc.

6.2.3 Spousal rights and obligations

A man with multiple wives is required to give them equal turns. This means spending an equal number of nights with each wife. This rule must not be violated except in three cases:

- If the husband is going on a journey on which he can take only one of his wives with him. He should then choose by lot which of his wives will be his companion on that journey.
- One of the wives may choose to give up her turn for another wife.
- On her wedding, a newly-wed wife gets seven consecutive nights with her husband if she is a virgin, and three consecutive nights if she is not.

عن أنس رضي الله عنه عن النبي صلى الله عليه وسلم قال: "للبركر سبعٌ وللثيبِ ثلاثٌ" مسلم

On the authority of Anas رضي الله عنه that the Prophet of Allah صلى الله عليه وسلم said: "A virgin (bride) gets seven (additional) nights (with her husband), and a non-virgin gets three." Muslim
Unfairness towards multiple wives is an act of oppression that deserves punishment on the Day of Resurrection.

عَنْ أَبِي هُرَيْرَةَ رضي الله عنه عَنِ النَّبِيِّ صلى الله عليه وسلم قَالَ: "مَنْ كَانَتْ لَهُ امْرَأَتَانِ فَمَالَ إِلَى إِحْدَاهُمَا جَاءَ يَوْمَ الْقِيَامَةِ وَشِقُّهُ مَائِلٌ."
أحمد

Abu Hurairah رضي الله عنه reported that Allah's Messenger صلى الله عليه وسلم said: "Whoever has two wives and he leans unfairly toward one of them, he will come on the Day of Resurrection with one of his sides dropping." Ahmad

Fairness does not involve the feelings of the heart; it does not apply towards love and affection.

Allah عز وجل said:

وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ فَلَا تَمِيلُوا كُلَّ الْمَيْلِ فَتَذَرُوهَا كَالْمُعَلَّقَةِ وَإِنْ تُصْلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ عَفُورًا رَحِيمًا.

And you will never be able to be equal [in feeling] between wives, even if you should strive [to do so]. So do not incline completely [toward one] and leave another hanging. And if you amend [your affairs] and fear Allah – then indeed, Allah is ever Forgiving and Merciful [4:129]

Teacher's Note: Just as a woman is expected to obey Allah's commands, a man is expected to be just and kind towards his wives.

Review Questions 6

Fill in the blanks with the suitable words from the table:

mahram	seven	permanent	step daughter	sister in law
four	cousin	brother	temporary	brother in law

1. A _____ is the person forbidden in marriage.
2. A _____ is a Mahram.
3. A _____ and a _____ are not non-Mahram .
4. A man can take up to _____ wives.
5. A mahram can be divided into two categories _____ and _____.
6. A man is a mahram to his _____.

True and False:

1. A husband can take up more than five wives in marriage. ()
2. It is okay to be unfair towards one's wife. ()
3. A grandson is forbidden in marriage. ()
4. Relationships through breastfeeding also make a person forbidden in marriage. ()
5. A woman and her aunt should not be married to the same man at the same time. ()
6. A virgin bride gets three additional nights with her husband , while anon virgin gets seven additional nights. ()

List three of benefits of polygyny:

1. _____
2. _____
3. _____



7

Marital Discord and Divorce

7.1 Nushooz- Definition

7.1.1 Remedy

7.1.2 The Role of Arbitrators

7.2 Dissolution of a Marriage

7.2.1 Talaq and the Wisdom Behind it

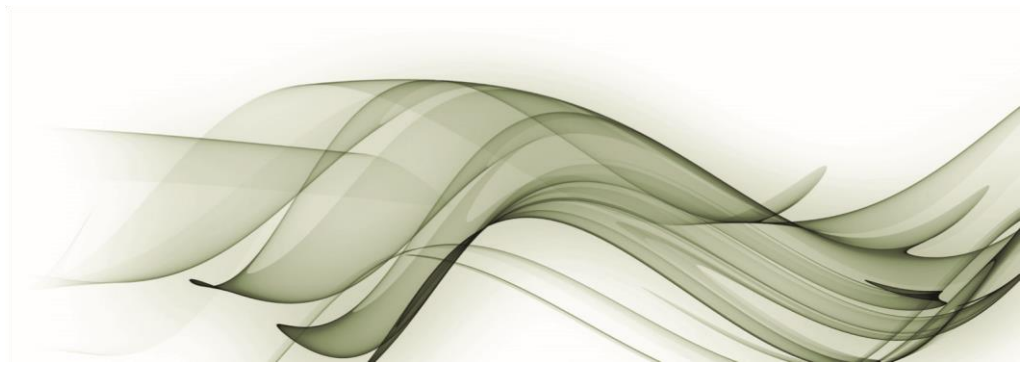
7.2.2 Termination of a Marriage

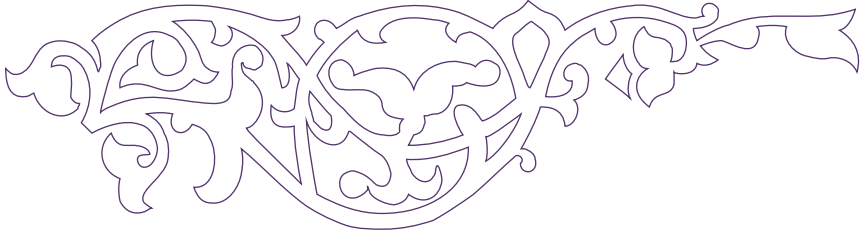
7.3 Khul'a

7.4 "Iddah (Waiting Period)

7.5 Financial Responsibility after Divorce

Review Questions 7





7.1 Nushooz- Definition

The meaning of Nushooz in Fiqh: Disobedience and aggression towards one's spouse. An-nushooz can be on the part of the wife, the husband or both can claim it to be from the other.

The Islamic ruling on nushooz is divided into two parts:

Nushooz on the part of the wife

Nushooz on the part of the husband

Nushooz on the Part of the Wife

Allah ﷻ said:

وَاللَّاتِي تَخَافُونَ نُشُورَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

But those [wives] from whom you fear arrogance – [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand. [4:34]

Nushooz on the part of the wife can be due to any of the following reasons:

- She does not beautify herself for her husband when he desires that from her, while beautifying herself for other people and social gatherings.
- She disobeys her husband with respect to coming to his bed and she refuses to respond to his calls.
- She leaves the house without his permission.
- She does not perform her obligatory religious duties, such as failure to perform some prayers, fasting Ramadan, covering her 'awra, or any other obligatory act of Islam.
- She disobeys her husband in general, or refuses to take care of their children.

Nushooz on the Part of the Husband

Allah ﷻ said:

وَإِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُورًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ وَأُحْضِرَتِ الْأَنْفُسُ الشُّحَّ وَإِنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا

And if a woman fears from her husband contempt or evasion, there is no sin upon them if they make terms of settlement between them – and settlement is best. And present in [human] souls is stinginess. But if you do good and fear Allah – then indeed Allah is ever, with what you do, Acquainted [4:128]

The types of nushooz on the part of husband can revolve around the followings:

- The husband wrongfully elevating and raising himself arrogantly above his wife, and above the obligations which Allah ﷻ has placed upon him with regard to her.
- He transgresses against her by beating her, harming her, abusing her and not treating her properly.

- He fails to fulfill his obligations toward her such as support, etc.
- He becomes harsh toward her and unconcerned for her by boycotting her in talk or in the bed, refusing to speak to her, etc.
- He oppresses her, or refuses to spend on their children.

7.1.1 Remedy

When a wife is in a state of nushooz, the husband can address it with the following three steps that are taken from the guidance from the Quran:

- Admonition and guidance.
- Boycotting
- Striking her

The First Step: Admonition and Guidance

The first thing a husband should do when his wife commits nushooz is to attempt to warn her verbally, using Quran and Sunnah to remind her of her duties toward Allah ﷻ and toward her husband. Allah ﷻ said:

وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ

But those [wives] from whom you fear arrogance – [first] advise them [4:34] Admonition is a cure that is gentle and mild. Its goal is to replace rebellion with love, compassion and togetherness in obedience to Allah ﷻ. All of the scholars early and late have agreed that this admonition is allowed only as long as it is in agreement with the Shari'a .

It also involves advising and reminding one of the outcome of one's rebellious actions. Reminding humans in a way that softens their hearts is encouraged in Islam.

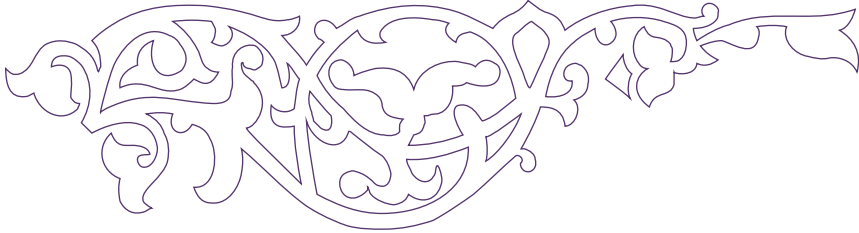
The Second Step: Boycotting

Sometimes the verbal admonition may have no effect on ending her state of estrangement and disobedience. In fact, it may increase her disobedience. The next step in trying to end her disobedience is boycotting her and avoiding her "in the bed".

Linguistically, this "boycotting" (al-hajr) is defined as "avoiding, cutting off and not having contact with the one who is being boycotted. This could mean either avoiding her entirely and sleeping somewhere else or it could mean sleeping in the same bed but keeping away from her and not speaking, etc.

The boycotting may include boycotting her in speech, but that should not last more than three days.

As for boycotting her in the bed, this can continue for as long as he believes it may still lead to her stopping her acts of nushooz but in no case exceeding four months. This is the strongest opinion among the scholars.



If the wife who does not mend her ways after four months of boycotting , then it is better to seek separation. At the very least, it can be said that she will not be able to live with her husband in a pleasant and proper manner.

The Third Step: Striking Her

In some cases, the solution to the problem may require some harshness and toughness. Generally speaking, it is not recommended for a husband to strike his wife, as their relationship is based on mutual love and mercy for each other. The Messenger of Allah ﷺ never struck any of his wives.

However, in some cases resorting to harshness including striking may be a beneficial cure which in fact returns the partners back together in love and compassion. In these cases, it can be a positive cure and a spiritual discipline. It is not meant for revenge or punishment. Whoever does it in such a manner is committing a sin and transgressing against his wife.

The Remedy When Nushooz is by the Husband

A wife can take the following steps when nushooz is by her husband:

- Try to discover the reason for his rough and/or bad behavior.
- Admonish her husband and remind him of his responsibility in front of Allah ﷻ towards his wife such as good behavior and kind treatment.
- Try to please her husband in order to make things right. This can be done by showing kindness and concern and can also include compromising some of her own rights for the sake of harmony. Allah ﷻ said:

وَإِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ

And if a woman fears from her husband contempt or evasion, there is no sin upon them if they make terms of settlement between them – and settlement is best. [4:128] The remedy is taken from the Quran. If it becomes clear to her that he is turning away from her out of dislike for her and wishing to be away from her, then there is no sin upon either of them if the “work out terms of peace”. This means that she may give up some of her due rights in order to stay in the marriage. For example, she may give up some of her rights to support, housing or equality of nights with other wives in order to remain under his protection and in the marriage. Or, she may give up some or all of her in exchange for his divorcing her. If the wife does not feel comfortable living like this, then she can part ways.

7.1.2 The Role of Arbitrators

“Arbitration” (At-tahkim) means to judge or decide a matter. The two disputing spouses appoint two men from their respective families to bring about accord between them and to settle their dispute.

Teacher’s Note: Remind the students that Islam does not encourage violence and no woman should suffer in silence if she is domestically abused.

The two arbitrators have a very important role to play, a noble purpose and a great responsibility. They should be willing to face the matter patiently for Allah's sake.

It is one of the greatest deeds to bring peace between two people. The arbitrators have the authority to separate the spouses according to the strongest opinion among the scholars. In a case where there seems to be no hope of bringing the two back together in a harmonious marriage, then the only solution may be to free the spouses from one another by separation.

The Ruling Concerning Such Arbitration

Allah ﷻ said:

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا

And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things] [4:35]

Qualifications of the Arbitrators

The two arbitrators must meet the following conditions:

Muslim

Adult

Mentally competent

Male

Mature following right guidance

People of insight and understanding

They must have knowledge concerning matters of reuniting and separating spouses in the Shari'a and what they have been commissioned for.

Their intention must be solely to please Allah

Pious having fear of Allah

It is recommended that they be from the relatives of the spouses

7.2 Dissolution of a Marriage

In order for the institution of marriage to fulfill its goals as described earlier, divorce must be allowed in certain situations. Divorce should not be seen as something "ugly". When it becomes necessary, it should be done with consideration, dignity and kindness.

Allah ﷻ said:

فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ فَارِقُوهُنَّ بِمَعْرُوفٍ

And when they have [nearly] fulfilled their term, either retain them according to acceptable terms or part with them according to acceptable terms [65:2]



The Means by which a Marriage may be Terminated

There are a variety of ways in which a marriage is terminated in Islamic law either automatically or on the initiative of the husband, the wife or a judge.

Those seeking to end their marriage need to have a strong basis for them to file for a divorce.

عن ابن عمر رضي الله عنهما أن رسول الله صلى الله عليه وسلم قال: "أبغض الحلال إلى الله الطلاق" أبو داوود

Narrated by ibn Umar رضي الله عنهما that the Messenger of Allah صلى الله عليه وسلم said: "The most loathed of the lawful to Allah is the divorce." Abu Dawud

Any human being who wishes to sow seeds of hatred or harm the relationship of a couple has been severely warned by Allah and His Messenger صلى الله عليه وسلم.

عن أبي هريرة رضي الله عنه قال رسول الله صلى الله عليه وسلم: "ليس منّا من خبب امرأة على زوجها أو عبداً على سيده" أبو داوود

On the authority of Abu Hurairah رضي الله عنه that the Messenger of Allah صلى الله عليه وسلم reported: "He is not one of us who sows dissension of a woman on her husband or a slave on his master." Abu Dawud

Also, if any woman who demands a divorce from her husband for no valid reason has also been warned.

عن ثعبان رضي الله عنه أن رسول الله صلى الله عليه وسلم قال: "أيما امرأة سألت زوجها طلاقاً من غير بأس؛ فحرام عليها رائحة الجنة" أبو داوود

On the authority of Thauban رضي الله عنه the Messenger of Allah صلى الله عليه وسلم said: "Any woman who asks her husband to divorce her with no anguish (suffering), then the smell of paradise is forbidden on her." Abu Dawud

7.2.1 Talaq and the Wisdom Behind it

Talaq is the Islamic form of divorce, where the husband may initiate the divorce process by pronouncing the talaq. The first two times the talaq is pronounced, it may be withdrawn. But the third time it is pronounced, the divorce is irrevocable.

Allah صلى الله عليه وسلم said:

الطَّلَاقُ مَرَّتَانِ فَإِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ

Divorce is twice. Then, either keep [her] in an acceptable manner or release [her] with good treatment [2:229]

Real and Innovative Divorce

Talaq can be

- Real or
- Innovative

a. Real

It is the form of divorced pronounced as legislated by Allah.

It is when the husband divorces the wife with one pronouncement while the wife is in the state of purity, and he has not touched her. The wife then enters the waiting period and the husband can decide to take her back or not during her waiting period. Once a woman's 'iddah (waiting period) is completed she becomes a "stranger" for her husband and she is not permissible for him except with a new marriage contract.

b. Innovative

Pronouncing three divorces in one sitting is considered an innovation and it goes against the command of Allah.

عن عبد الله بن عمر رضي الله عنهما أنه طلق امرأته وهي حائض على عهد رسول الله فسأل عمر بن الخطاب رسول الله عن ذلك فقال رسول الله ﷺ "مره فليراجعها ثم ليمسكها حتى تطهر ثم تحيض ثم تطهر ثم إن شاء أمسك بعد وإن شاء طلق قبل أن يمس فتلك العدة التي أمر الله أن تطلق لها النساء." البخاري

On the authority of Abdullah bin Umar ؓ that he divorced his wife while she was in her periods, during the days of Messenger of Allah ﷺ. Thereupon Umar bin al Khattaab ؓ asked the Messenger of Allah ﷺ about that and he said: "Order him to return her back. Then let him hold her until she purifies. Then to have her menses once more, then to purify. Then, if he desires, he holds her after that. Otherwise, he divorces her before touching her. This is the "Iddah (waiting period) which Allah has ordered that the women may be divorced for." Bukhari

However, if the husband pronounces three divorces in one sitting, then that divorce also occurs. But it is better to do as legislated by Allah.

Talaq and Reconciliation:

Talaq can be given in one of the following ways:

1. **Direct:** The word divorce is used and it is clear that the wife has been divorced.

It is the explicit divorce is that which takes place regardless of the intention and its statement bears only one meaning according to the language. This includes using the word divorce.

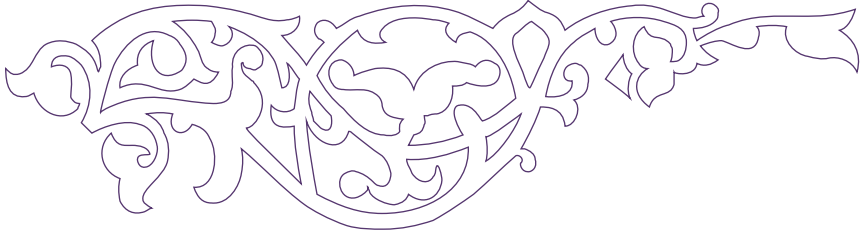
2. **Indirect:** The indirect word that carries the meaning of divorce.

It is when the implicit can bear several meanings and divorce takes place only if there was an intention for it with the initiation of the statement. Some examples are, "go back to your parents", "you are on your own", or "start calculating your 'iddah".

Divorce is not to be taken lightly. If a man intends to divorce his wife and then utters the words to do so, divorce occurs. If a man jokes about divorcing his wife, or jokes about taking her back, then that occurs too, as these matters are taken very seriously as started in a hadith:

عن أبي هريرة ؓ قال: قال رسول الله ﷺ "ثلاث جدهن جد وهزلهن جد: النكاح والطلاق والرجعة." الترمذي

On the authority of Abu Hurairah ؓ that the Messenger of Allah ﷺ said: "Three things whose seriousness is considered earnestness and their mock is also serious: the marriage, the divorce, and the taking back (of one's wife)." Tirmidhi



3. Divorce can also occur by **writing**.

The Revocable and The Irrevocable Divorce:

1. **Talaaqur Raj'ee** (revocable divorce) طلاق رجعي
2. **Talaaqul Baa'in** (irrevocable divorce) طلاق بائن
3. **Talaaqul Mughallazah** (permanently irrevocable divorce) الطلاق المغلظة (ثلاثاً)

1. Talaaqur Raj'ee

Talaaqur Raj'ee is that type of divorce where the husband divorces his wife in clear and explicit terms. Once the husband utters such words, the wife becomes divorced and she has to sit in 'iddah (waiting period). The 'iddah will be three menstrual cycles if she experiences menses, three months if she does not experience menses or at child birth if she is pregnant. The husband now has the choice of revoking his divorce before the end of the 'iddah.

The husband may revoke his divorce by verbally expressing his desire to take her back into his nikaah or by having physical contact with her by way of kissing, fondling, touching her with passion or having intercourse with her. If the husband does not revoke the divorce during the 'iddah period, the divorce becomes irrevocable. Now, if he wishes to take her back (i.e. after the 'iddah period has lapsed), he can only do so by performing a new Nikah.

2. Talaaqul Baa'in

Talaaqul Baa'in is an irrevocable divorce where the husband uses vague words to divorce his wife. Talaaqul Baa'in will only take place if the husband has the intention of divorce at the time of uttering these words. If he merely uttered these words out of anger or he had some other meaning besides divorce in mind, divorce will not take place.

Once the husband has issued one or two Talaaqul Baa'in, the nikaah has been broken and she has to sit in 'iddah. If the husband wishes to take back his wife, a new Nikaah will have to be performed.

3. Talaaqul Mughallazah

Talaaqul Mughallazah is when the husband issues three divorces to his wife. Once the husband issues his wife with three divorces (Talaaqur Raj'ee or Talaaqul Baa'in), their nikaah is completely broken. She cannot marry him until she completes her 'iddah and she marries another man and spends part of her marital life with him. And if due to some valid reason her next husband divorces her, the woman can choose to return to her former husband or not after completing her 'iddah.

Allah ﷻ said:

فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ

And if he has divorced her [for the third time], then she is not lawful to him afterward until [after] she marries a husband other than him [2:230]

7.2.2 Termination of a Marriage:

A marriage can be terminated as follows:

- a. By the husband
- b. By the wife
- c. By the judge
- d. By mutual consent

1. By the husband

The husband can bring an end to the marriage by one of four means:

1. Divorce,
2. Turning away from her for four months
3. Making a statement which makes her unlawful to him
4. Swearing an oath that she committed adultery

2. By the wife

In certain unusual situations, the wife has the means to dissolve the marriage. The first of these is called the “option of puberty”. This is where the girl is married before puberty. When she reaches puberty, she has the right to accept or reject the marriage.

The second means is “empowerment” where the husband gives the wife the right to pronounce divorce on his behalf. Thus, in some sense it is a divorce by the husband (with the pre-specified “power of attorney” from him), actually initiated by the wife.

3. By the judge

At the insistence of the husband

The wife has a defect

The wife has a serious character deficit making them “unequal” or inappropriate for each other

The wife fails to perform marital obligations

Al-li’an where the husband swears an oath four times that she committed adultery

At the insistence of the wife

The husband has a defect

Husband is missing and presumed dead

Husband mistreats her

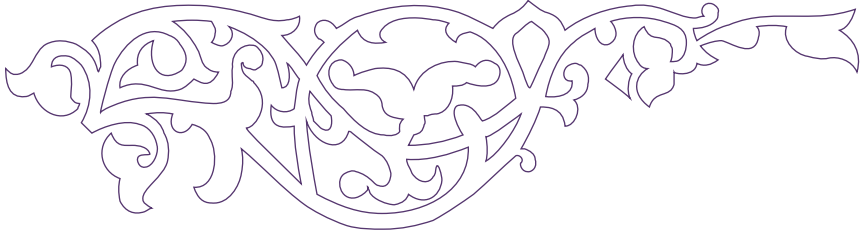
Husband fails to perform marital obligations

Husband commits inequality between multiple wives

On his own (Judge’s) initiative

Marriage contract has a fatal flaw

Husband refuses to comply with a judge’s order to divorce.



4. By Mutual consent

The husband and wife may agree on an end to the marriage. This is done by what is known as khul'a, which will be discussed later, or by arbitration, as discussed earlier.

7.3 Khul'a

The divorce initiated by the wife is known as Khul'a. It requires that the wife returns her dowry to end the marriage because she is the 'contract-breaker'. In the instance of Talaq, where the husband is the 'contract-breaker', he must pay the dowry in full in cases where all or part of it was deferred, or allow the wife to keep all dowry if she has already been given it in full.

In the case that the husband is at fault and the woman is interested in divorce, she can petition a judge for divorce. She would be required to offer proof that her husband had not fulfilled his marital responsibilities. If the woman had specified certain conditions that are Islamically accepted in her marriage contract, which were not met by the husband, she could obtain a conditional divorce.

The proof for Khul'a in Quran is: Allah

ﷻ said:

الطَّلَاقُ مَرَّتَانٍ فَإِمْسَاكَ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ

Divorce is twice. Then, either keep [her] in an acceptable manner or release [her] with good treatment. And it is not lawful for you to take anything of what you have given them unless both fear that they will not be able to keep [within] the limits of Allah. But if you fear that they will not keep [within] the limits of Allah, then there is no blame upon either of them concerning that by which she ransoms herself. These are the limits of Allah, so do not transgress them. And whoever transgresses the limits of Allah - it is those who are the wrongdoers [2:229]

7.4 'Iddah (Waiting period)

Allah ﷻ said:

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ وَاتَّقُوا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيِّنَةٍ وَتِلْكَ حُدُودُ اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا

O Prophet, when you [Muslims] divorce women, divorce them for [the commencement of] their waiting period and keep count of the waiting period, and fear Allah, your Lord. Do not turn them out of their [husbands'] houses, nor should they [themselves] leave [during that period] unless they are committing a clear immorality. And those are the limits [set by] Allah. And whoever transgresses the limits of Allah has certainly wronged himself. You know not; perhaps Allah will bring about after that a [different] matter. [65:1]

"Iddah is the waiting period for the woman who has been divorced, or whose husband has died, or she has been separated from him. The wisdom behind this act is to know

if the woman is pregnant or not, so that the child is not associated unjustly with another man. It also gives the spouses another chance to rebuild their marital life if they see any good in it. Allah ﷻ said:

وَالْمُطَلَّاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ

Divorced women shall keep themselves in waiting for three menstrual courses [2:228]

Types of 'iddah:

- The 'iddah of the woman who has her periods is 3 menstrual cycles
- The 'iddah of the woman who is in her menopause or does not get her periods is 3 lunar months
- The 'iddah of the woman whose husband has died is 4 lunar months and 10 days
- The 'iddah of the pregnant lady is until she delivers her child
- The 'iddah of the woman who seeks divorce (khul'a) is one menstrual cycle

Conditions of 'iddah:

- The women who are in their waiting period are told to stay in their marital houses until their waiting period has been fulfilled. Allah ﷻ said:

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ وَاتَّقُوا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيِّنَةٍ وَتِلْكَ حُدُودُ اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا

O Prophet, when you [Muslims] divorce women, divorce them for [the commencement of] their waiting period and keep count of the waiting period, and fear Allah, your Lord. Do not turn them out of their [husbands'] houses, nor should they [themselves] leave [during that period] unless they are committing a clear immorality. And those are the limits [set by] Allah. And whoever transgresses the limits of Allah has certainly wronged himself. You know not; perhaps Allah will bring about after that a [different] matter [65:1]

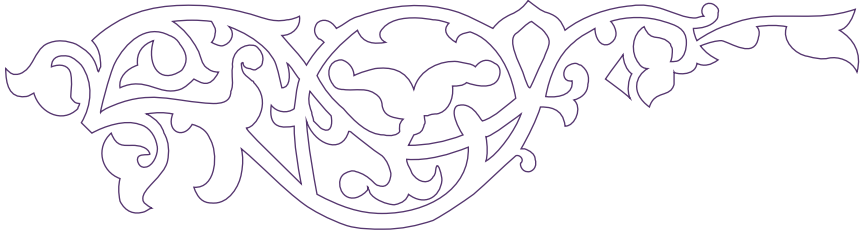
- If a woman's husband has passed away, then she is to mourn over his death during her waiting period
- A woman can only go out for necessity during her waiting period
- As for the pregnant women who have been divorced their waiting period is as mentioned in the Quran:

Allah ﷻ said:

وَاللَّائِي يَيْسَنَ مِنَ الْمَحِيضِ مِنْ نِسَائِكُمْ إِنْ ارْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَاثَةُ أَشْهُرٍ وَاللَّائِي لَمْ يَحِضْنَ وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ

And those who no longer expect menstruation among your women - if you doubt, then their period is three months, and [also for] those who have not menstruated.

And for those who are pregnant, their term is until they give birth [65:4]



7.5 Financial Responsibility After Divorce:

If the woman is pregnant, then her waiting period extends till she delivers the baby, which means she will continue to enjoy all these benefits of lodging, financial support from her husband and everything till the day of delivery.

Furthermore, if she is breastfeeding their child while she is divorced, the father of the child (ex-husband) should pay her for that. We read in the Qur'an what means: Allah ﷻ said:

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ وَإِنْ كُنَّ أُولَاتٍ حَمْلًا فَأَنْفِقُوا عَلَيْهِنَّ حَتَّىٰ يَضَعْنَ حَمْلَهُنَّ فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ وَأَتَمِرُوا بِبَيْنِكُمْ بِالْمَعْرُوفِ وَإِنْ تَعَاَسَرْتُم فَسُدِّضُوا لَهُنَّ لَكُمْ أَوْلِيًّا

Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them. And if they should be pregnant, then spend on them until they give birth. And if they breastfeed for you, then give them their payment and confer among yourselves in the acceptable way; but if you are in discord, then there may breastfeed for the father another woman [65:6]

All these payments are made to the woman during her waiting period to cover her own expenses, not those of the child, because the child is another issue.

As for the children who are taken care of by the mother, it is the father's responsibility to bear the full cost of the care. He alone is responsible for their housing, clothing, food, school fees, etc., even though the children are in the mother's custody or home.

The husband is not to pay half of the expenses; he has to pay full expenses, and that is not considered like a gift or a favor from him, simply because it is his responsibility. He should pay for all the needs in a considerable and moderate way that suits the standards of an honorable life without exaggeration or stinginess. If the woman does not have any children from her husband, then after her waiting period is over, the husband owes her nothing.

And Allah knows best.

Review Questions 7

Match the following:

- | | | |
|---------------------------------|-----|--------------------------|
| 1. Admonition and guidance | () | Khul'a |
| 2. Divorce initiated by Husband | () | Waiting period |
| 3. To judge or decide a matter | () | Talaaq |
| 4. Divorce initiated by a wife | () | Remedy for Nushooz |
| 5. 'Idda | () | Revocable or Irrevocable |
| 6. Talaaq can be | () | Arbitration |

True and False:

1. The role of the arbitrators is to bring reconciliation and harmony between the disputing spouses. ()
2. The i'ddah of the woman who has her periods is three menstrual cycles. ()
3. Khul'a is a form of divorce that can be by the husband or the wife. ()
4. The wife bears the financial responsibility of the children after the divorce. ()
5. The husband may initiate the divorce process by pronouncing the talaq three times. ()

List the three steps that a husband should follow when his wife is in a state of nushooz :

- a. _____
- b. _____
- c. _____



Key to Review Questions



Key to review questions 1

Fill in the blanks with suitable words from the table:

1. religion – life – lineage – wealth - intellect
2. sexual intercourse - contract
3. rights - obligations
4. desirable
5. early

Choose the correct answer:

1. c
2. d
3. e

Key to review questions 2

Mark True or False

1. f
2. t
3. t
4. f
5. t
6. f
7. f

Choose the correct answer

1. c
2. e
3. e
4. e
5. d

Key to review questions 3

Fill in the blanks with suitable from the table:

1. pillar - condition
2. five
3. wali
4. virgin
5. ijaab - qubool
6. valid
7. Torah – Bible
8. valid
9. same
10. silence

Mark True or False

1. f
2. t
3. f
4. t
5. t
6. f
7. t

Key to review questions 4

Match the following English words with the meaning in Arabic :

1. (2)
2. (1)
3. (4)
4. (3)
5. (5)

Mark True or False

1. t
2. t
3. f
4. t
5. f

Give two examples of stipulations (added to the contract) made in interest of the wife:

- a. Wanting to live in a specific place.
- b. Allowing the wife to continue her study.

Give two examples of stipulations (added to the contract) that are prohibited:

- a. Cutting ties with the families
- b. Not spending time with each other at all.

Key to review questions 5

Mark True or False:

1. f
2. f
3. t
4. f
5. t
6. f
7. f

Mention four rights of the husband:

1. A wife should accept the authority of her husband.
2. A wife should show kindness and obedience.
3. A wife should answer her husband's call for sexual intimacy.
4. A wife should safeguard her husband's possessions.

Mention four rights of the wife:

1. Being treated fairly and kindly.
2. A husband should be financially generous with his wife.
3. A husband should avoid harming his wife.
4. A wife should have separate accommodation.

Key to review questions 6

Fill in the blanks with suitable words from the table:

1. mahram
2. brother
3. cousin – brother-in-law
4. four
5. permanent – temporary
6. step-daughter

Mark True or False

1. f
2. f
3. t
4. t
5. t
6. f

List three benefits of polygyny:

1. If the man feels the need to have more than a wife.
2. If the wife is barren.
3. Polygyny reduces the chances of immoral relationships in a community.

Key to review questions 7

Match the following English words with the meaning in Arabic:

1. (4)
2. (5)
3. (2)
4. (1)
5. (6)
6. (3)

Mark True or False

1. t
2. t
3. f
4. f
5. t

List the three steps that a husband should follow when his wife is in a state of nushooz :

1. admonition
2. boycotting
3. striking her

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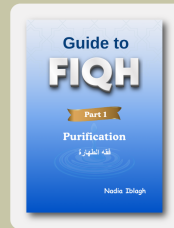
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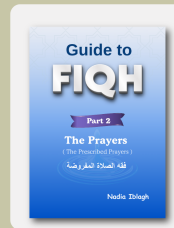
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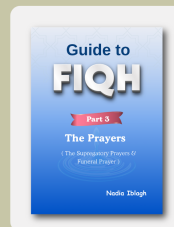
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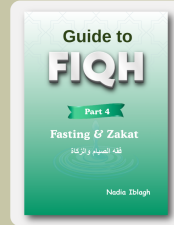
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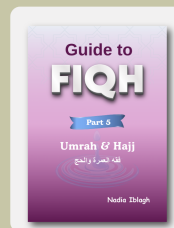
The Prayers
(The Prescribed Prayers)



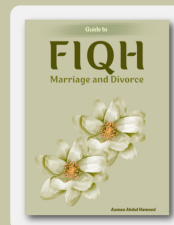
The Prayers
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**Fasting &
Zakat**



**Umrah &
Hajj**



**Marriage &
Divorce**