

## The Institution of Marriage

The Quranic point of view with regard to the institution of marriage is based on the following principles and laws:

Interdependence of man and woman in ensuring fullness of life for each other through mutual affection, mutual confidence and mutual protection, as husband and wife has been stressed by using a metaphor of profound beauty: "They are a garment unto you and you are a garment unto them" (2:187)

For those who can afford it, marriage is an obligation. The Quran says: "Marry those among you who are single, and the pious among your slaves, male or female: if they are in poverty, Allah will give them means out of His Grace: Allah is of ample means, and He is aware of all things." (24: 32)

Contrast it with the attitude of those religions, which advocate celibacy and idolize it as the ideal of perfection, considering sexual satisfaction even in the bond of marriage as a positive evil from the spiritual point of view. Thus, in Christianity: "As an institution, Jesus regards marriage as essentially physical and intended only for the present age. Those who were to share in the blessings of the eschatological kingdom would neither marry nor be given in marriage but would be possessed of the non-physical body in the resurrection." (\*1).

It was this outlook on sex which led to the rule that no man or woman, married or unmarried, who had performed the sex act the previous night, should take part in a Church festival or in the Eucharist. (\*2).

Christianity, writes the Sociologist Ludovici, "preaches that sex is to be deplored, to be avoided, and, if possible, negated. And the Puritan, who may be regarded as the extreme Christian, is notorious for his implacable loathing of sex." (\*3).

Marriage is a social contract. The word Nikah, used for marriage in the Holy Quraan, originally means Aqd, according to Imam Raaghib Asfahaani (\*4). (alaihiraahmah). Thus, the very word Nikah implies that marriage is a social contract, and not a sacrament, although it is a sacred contract. Moreover, the Quraanic permission to terminate the relation of marriage, if it becomes absolutely impossible for the husband and the wife to continue that relation, proves that the Quraan regards marriage as a social contract only.

Women are not to be treated as property (\*5). The Quraan says: "O ye who believe! You are forbidden to inherit (as property) the women against their will." (4:19)

Marriage with persons of certain categories has been prohibited. The Holy Quraan has prohibited marriage with all those who may stand in the relations of consanguinity, or affinity, or fosterage. Almighty Allah states; "Forbidden to you are your mothers and your daughters and sisters and your father's sisters and mother's sisters and your brother's daughters and your sister's daughters, and your mothers who have such to you and your foster sisters and the mothers of your wives and daughters (your step-daughters) who are in your care from the wives with whom you had intercourse but if you had no intercourse with them, then there is no Haraam in their daughters, and the wives of your sons who are of your loins and to have two sisters together except what has already passed (\*6). Undoubtedly, Allah is Forgiving, Merciful." (4: 23)

### Choosing a Husband

Islam has established that every marriage must be preceded by the consent of the woman who is to be married, whether she is a virgin or a woman who had a previous marriage. Her consent must be obtained before her father or the guardian can act for her in any marriage contract.

Indeed, when a marriage is conducted, the government registrar or other official or the Qaadi must satisfy himself that he has the woman's full agreement. If someone is acting for her as her guardian, the Qaadi will ask him to produce two witnesses who testify that she has authorized him to act for her in this marriage. Several Hadith tell us that a previously married woman has more authority over herself than her guardian. A virgin must be asked concerning her marriage. Her consent may be given by keeping quiet. (\*7). The distinction here between a previously married woman and a virgin is merely in the form of how consent is granted. A virgin may be too shy to state in words that she accepts to be married, while a previously married woman has learned practically that there is nothing to be shy about in marriage.

### Matchmaking

After the girl attains adulthood, her parents should find a good match and marry her. During the matchmaking exercise, the parents should abstain from establishing matrimonial relations with families of wrongdoers like Wahabis, Deobandis, Shi'ites, Ahl-e-Hadith (\*8). etc. They should give the

hand of their daughter into the hand of a Sunni boy who sincerely follows the Sharee'ah and the ways of the Ahle-Sunnah wa Jama'at (\*9). .

The Holy Prophet (sallal laahu alaihi wasallam) has said: See four things before marrying a woman:

Wealth,

Status of the family,

Physical looks and

Piety.

The Holy Prophet of Islam (sallal laahu alaihi wasallam) added that religiousness should be given priority at the time of matchmaking. Marriage fulfils the purpose of expanding the generation. It also saves man from illicit relations with other women. Nikah carries high rewards.

A Hadith says: It is written in the Torah, "If a man's daughter attains the age of twelve and he does not arrange her wedding and if the girl gets involved in immoral activities, the father will be punished for the sins of his daughter."

Another Hadith says: The Apostle of Allah (sallal laahu alaihi wasallam) said, "Allah the Almighty has taken the responsibility of helping three persons:

The slave who pledges to pay an amount to his master to get freedom and has total conviction to fulfill the pledge.

One who fights in the way of Allah.

The man or woman who intends to go for marriage to avoid illicit relations with the opposite sex."

Forced Marriage is not acceptable

The idea of a woman being forced into a marriage against her own wishes is not acceptable from the Islamic point of view. A woman came to the Holy Prophet (sallal laahu alaihi wasallam) and complained that her father had married her to his nephew without asking her consent first. She stated that the purpose of that marriage was that her father wanted his reputation enhanced through that marriage. The Glorious Prophet of Islam (sallal laahu alaihi wasallam) annulled that marriage. When he had done so, and the woman was free again, she said to the Holy Prophet (sallal

laahu alaihi wasallam): Now I am free. I willingly consent to this marriage. I only wanted it to be known that men have no say over women in their marriages.

It is often thought that because a father acts for his daughter in marriage, he can marry her to whomever he likes, without seeking her consent. People, who suggest this, make a very superficial judgment. By requiring a father or a guardian to act for the woman in her marriage, Islam emphasizes the woman's honor. Marriage in Islam is the way to establish a family, and this is conducted through families. Therefore, the woman appears to have the consent of her family to her own marriage. She does not appear as the weaker party in a civil contract.

There is no rigid process of choosing a husband. If a man proposes to a family seeking to marry one of their daughters, then he must have based his choice on either first hand knowledge or proper investigation. Similarly, if the woman's family makes the approach, then it must be based on a good knowledge of the man and his character.

As we all know, Islam does not permit the sort of free-mixing between the sexes, which is known in Western societies. If some aspects of that social mixing is practiced among certain sections of society in Muslim countries, then that is something Islam disallows. In a certain situation, a woman is able to know the character and nature of a man and she feels, on the basis of her knowledge, that he can make her a very good husband. It is perfectly conceivable that a woman can acquire such knowledge of a man, either because he is her colleague at work, or because she has had a chance to see him acting in different situations. Such knowledge would enable her to understand his character and to find out that he can be a good family man.

When a woman has known such a man and wishes to marry him, she should speak to her family about it. Her father or guardian will take over and speak to the man either directly or through intermediaries. All this is appropriate. What is not appropriate from the Islamic point of view is that the woman should try to get the man into a love relationship with her as it happens in films or in Western societies.

If a woman selects a man as her future husband and he is considered to be good for her from the social point of view, then the father is required to facilitate her marriage.

Sayyidah Hafsa bint Omar (radi Allahu anha), Sayyiduna Omar's - radi Allahu anhu daughter, became a widow when her husband, Khunais bin Huthafah (radi Allahu anhu), who was a companion of Sayyiduna Rasoolullah (sallal laahu alaihi wasallam), passed away in Madinatul Munawwara Munawwara. Sayyiduna Omar (radi Allahu anhu) reports: I went to Uthman bin Affaan (radi Allahu

anhu) and offered him Hafsa (radi Allahu anha) saying, If you wish, I will give you Hafsa (radi Allahu anha) as a wife. He said, I will consider the matter. I waited for a few days, then Uthman (radi Allahu anhu) met me and said, I have considered the matter and I do not wish to be married now.

Sayyiduna Omar (radi Allahu anhu) goes on in his report: I then met Abu Bakr (radi Allahu anhu) and said, If you wish, I will give you Hafsa (radi Allahu anha) in marriage. Abu Bakr (radi Allahu anhu) kept quiet and gave no answer whatsoever. I felt more aggrieved with him than I was with Uthman (radi Allahu anhu). After a few days, Allah's Messenger (sallal laahu alaihi wasallam) proposed to marry Hafsa (radi Allahu anha) and I gave her away in marriage to him. I then met Abu Bakr (radi Allahu anhu) and he said, You might have felt something against me when you offered me Hafsa (radi Allahu anha) and I gave no reply. I answered in the affirmative. He said, What prevented me from answering your proposal was that I had learned that Allah's Messenger (sallal laahu alaihi wasallam) had expressed his wish to marry her. I am not one who reveals the Prophet's (sallal laahu alaihi wasallam) secret.

Witnesses are necessary in Nikah

Sayyiduna Rasoolullah (sallal laahu alaihi wasallam) is quoted to have said: "No marriage may be made without the presence of the woman's guardian and two responsible witnesses."

The majority of Ulama concur that a woman may not give herself away in marriage, but her guardian (as a representing Wakeel) must act on her behalf by the virtue of her permission in her Nikah to a man. Nor can she give an authority to anyone else to act for her in marriage. Moreover, a woman cannot act (as a Wakeel) for another woman in a marriage contract. (That is to say: even a mother cannot.)

As for the person who should be her guardian for marriage purposes, there is no doubt that it is her father. If he is available, then no one else may act for her. If her father is not available, either because he is dead or mentally deranged, then her paternal grandfather or great grandfather may act for her. If she has no father or grandfather, her brother will act for her or any family elder as agreed by the family and woman.

It should be said that the condition of a guardian to act for a woman in her marriage does not detract from her the ability or the qualification to make the right choice. Indeed, any such guardian should have her consent before he goes ahead with the marriage arrangements. His presence is required not as a witness but as her representative. This is an aspect of the honorable position that Islam assigns to women. Moreover, it reflects on the seriousness with which Islam views marriage. It

is a family matter, which is conducted by families. Moreover, when family represents the woman, this is more conducive to ensuring that her husband respects her rights. Besides, the nature of society Islam builds is one in which the woman normally takes her natural position, looking after the future generation. That is bound to limit her social activities a little. Her judgment of people, especially of men and their characters may, as a result, needs to be supplemented by that of other men in her family.

If a woman marries herself away without the presence of her father or appointed guardian, then her marriage is invalid because there no witnesses as required by the Sharee'ah. The Beloved Habeeb (sallal laahu alaihi wasallam) is quoted to have said: "A woman does not marry another woman away and a woman does not marry herself away. Only an adulteress gives herself away in marriage." (\*10).

Sayyiduna Imam Ahmad (alaihira rahmah) and Abu Da'ood relate on the authority of Sayyidah Ayesha (radi Allahu anha) that the Messenger of Allah (sallal laahu alaihi wasallam) said: "Any woman who marries herself away without the consent of her guardian, her marriage is invalid, invalid, invalid!" (\*11).

Thus we are to understand that the Sharee'ah requires one to announce Nikah either in public or in the presence of witnesses so that the Muslim society does not fall into any doubt about the legitimate relation of two individuals.

A woman, until she gets married, is called the daughter of her parents. After the marriage, she becomes somebody's wife. Now she has much more responsibilities and duties than ever. She has to fulfill additional duties towards her husband. She should be sincere and faithful to her husband and serve him with utmost dedication.

[1] Hastings, Dictionary of the Bible, II, p.138

[2] Scott: History of Prostitution, pp.72, and 73

[3] Woman, p.5

[4] Refer Mufradaat-ul-Qur'an by Imam Raaghib Asfahaani; Aqd means contract

[5] A woman in marriage is not a slave but a partner in trust which should not be abused in any way. They should be the coolness of the husband's eye and likewise, the wife should not do things to offend the husband and become a thorn in his eye.

[6] To have two blood sisters in marriage at the same time is Haraam in Islam. One may marry another sister only after the death of one.

[7] Nisaai, Ibn-e-Majah

[8] The corrupted Sects that have deviated from Islam due to their false Aqaa'id.

[9] The Group of Salvation or the Majority Group about whom Sayyiduna Rasoolullah (sallal laahu alaihi wasallam) said would enter Jannah.

[10] This Hadith Shareef refers to those who marry in secrecy without any witnesses. This is forbidden in Islam as such secrecy creates great doubts in the Muslim society and the identity of the child.

[11] This Hadith Shareef supports the above Hadith Shareef.