
Marriage Fiqh

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| Permissible number of wives in marriage | The wisdom behind marriage | The consequences of marriage | The ruling on divorce and what is considered in it | The consequences of divorce

MUCH MORE

**Marriage from pen of Noble
Shaykh Ibn al-'Uthaymeen**

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[01] - Definition of nikaah

Linguistically – It means "the contract of marriage", and it also means "having intercourse with the wife". Abu 'Alee al-Qaalee said: "The Arabs have differed with respect to the use of the word

((contract)) and ((intercourse)). So, if they say: So and so made nikaah with a girl or the daughter of so and so, then what they intend is the contract of marriage. And if they say: He made nikaah with this woman or his wife, then what they intend is sexual intercourse."

Technically – A contract of agreement between a man and a woman, each intending by it to seek pleasure/enjoyment with the other and building a pious family leading to a stable community.

It needs to be mentioned here, that the intention behind nikaah is not

simply to seek pleasure/enjoyment with one's partner, rather, it is also intended to build a pious family leading to a stable community.

However, it may well be that one of the two of these intentions takes precedence over the other according to the specific circumstances of a person.

[02] - The wisdom of nikaah

Nikaah in itself is legislated, and more so for the one who experiences desires and is capable (of getting

married). It is also from the Sunnah of the Messengers, as Allaah (Subhaanahu wa Ta'aala) says:

{And indeed We sent Messengers before you (O Muhammad), and made for them wives and offspring. And it was not for a Messenger to bring a sign except by Allaah's Leave. (For) each and every matter there is a Decree (from Allaah).} (Soorah ar-Ra'd, Aayah 38)

And the Prophet (sal-Allaahu 'alayhe wa sallam) also married, and he said:

«Indeed, I marry women. So, whoever goes against my Sunnah, then he is not from me.»

Because of this, the scholars have said: "marriage for one who experiences desires is better than voluntary acts of worship, since it entails much good", as shall be explained a little later on, inshaa.-Allaah.

But at certain instances, nikaah may become obligatory, such as in the case of a man who has strong desires and fears for himself that he may fall into that which is prohibited if he does not get married. In this case

therefore, it is obligatory upon him to get married so as to prevent himself from falling into that which is prohibited.

The Prophet (sal-Allaahu 'alayhe wa sallam) said:

«O young men! Whoever among you can afford to get married, let him do so, for it is more effective in lowering the gaze and protecting one's chastity. Whoever cannot do that, let him fast, for it will be a shield for him.»

[03] - The conditions for nikaah

Part of the beauty of the Islaamic system and the precision applied in legislating its rulings is that conditions exist for every contract which are applied, and in so doing establishes limits/constraints within which they are carried out and sustained. So, every contract has conditions without which the contract is incomplete. And this is clearly indicative of the Islaamic

rulings and its perfectness, since it came from One Who is All-Wise and knows all that is good for His creation. So He has legislated for them that by which their religious and worldly affairs are improved so that the situation does not become chaotic and without limits. One of these contracts is the contract of nikaah; and the contract of nikaah has conditions, and we shall mention the important ones here:

1) Consent of both parties: So it is incorrect to force either the man or the woman to marry each other, if

they do not so desire. Allaah
(Subhaanahu wa Ta'aala) says:

{O you who believe! You are forbidden to inherit women against their will...} (Soorah an-Nisaa., Aayah 19)

And the Prophet (sal-Allaahu 'alayhe wa sallam) said:

«A virgin should not be married until her approval is sought», and they said: O Messenger of Allaah, what form will her agreement take? He said:

«That she remains silent.»

So the Prophet (sal-Allaahu 'alayhe wa sallam) has prohibited the marriage of a woman who has not consented; and this includes the virgin and the divorcee or widower. However, in the case of the latter, her verbal consent is imperative, but for the virgin, silence is sufficient since it is possible that she may be shy in (verbally) indicating her consent.

If she is not interested in getting married, then it is not permissible for anyone to force her, even her father, as mentioned in the hadeeth:

«...and regarding the virgin, then her father is to seek her consent.»

And there is no sin upon her father if he does not marry her off in such a situation, because she herself is not interested. However, he must (continue to) maintain and protect her.

If two individuals were to seek her hand in marriage and she expresses a preference for one over the other, and her walee wants her to marry the other, then she is to be married off to the one she chooses if he is suitable for her. However, if he is not suitable for her, then her walee is to prevent

her from marrying him, and as such there is no sin upon him.

2) The walee: The nikaah is not valid if the bride does not have a walee, as the Prophet (sal-Allaahu 'alayhe wa sallam) said:

«There is no nikaah without a walee.»

So if a woman marries herself off, her nikaah is invalid.

The walee is a male adult who is an adult, responsible person among her closest male relatives (from her father's side), such as the father, or grandfather (father's father), the son, the grandson, (son's son), the blood

brother, the father's brother, the father's uncle and their children.

As for the mother's brother, his children and the grandfather (mother's father), then they do not Islaamically have any guardianship over her.

Since it is imperative for her to have a walee, and it is obligatory upon the walee to choose the most suitable and the most ideal partner for her if there are a number to choose from.

And if there is only one person who has sought her hand in marriage, and he is suitable and she is pleased with

him, then her walee must marry her off to him.

Let's pause for a moment to understand the extent of this major responsibility which the walee undertakes on behalf of the woman Allaah has made him a guardian over. She is therefore a trust upon his shoulders and it is obligatory upon him to take care it and place it in its proper place. Also, it is forbidden for him to hoard her for his own personal goals, or marry her off with other than one who befits her, out of greed for that in which he may give to him. Certainly, this is part of the

betrayal of trust and Allaah
(Subhaanahu wa Ta'aala) says:

{O you who believe! Betray not Allaah and His Messenger, nor betray knowingly your Amânât (things entrusted to you)} (Soorah al-Anfaal, Aayah 27).

He also says:

{Verily! Allaah likes not any treacherous ingrate to Allaah}
(Soorah al-Hajj 38).

And the Prophet (sal-Allaahu 'alayhe wa sallam) said:

«Each one of you is a shepherd, and each one of you will be questioned about his flock.»

(Unfortunately) you find some suitable people who seek a woman's hand in marriage from her walee, and her walee simply continues to reject one after the other. So, whoever is found to be like this, then his guardianship over her becomes nullified and another walee from the closest of those who qualify (for the responsibility) should marry her off.

[04] - Characteristics of the woman whom it is most befitting to marry

As we have previously mentioned, what is intended by nikaah is for the

husband and wife to seek pleasure/enjoyment with each other and build a pious family leading to a stable community. So, based upon this, the type of woman whom it is most befitting to marry is the one who exemplifies these two issues, and that she is both physically and spiritually/internally beautiful.

As regards physical beauty, this entails completeness of structure, the more beautiful and sweeter in speech a woman is, the more pleasing she is to the eyes, and likewise her speech is to the ears. So the heart opens up to her and feels comfortable in her

presence, and in so doing, actualising the statement of Allaah (Subhaanahu wa Ta'aala):

{And among His Signs is this, that He created for you wives from among yourselves, that you may find repose in them, and He has put between you affection and mercy...} (Soorah ar-Room, Aayah 21)

Her spiritual/inner beauty, on the other hand entails completeness of religion and manners, and the more complete a woman is in her religion and manners the more beloved she is to the soul and the better are the

consequences (of marrying her).
Because, a religious woman obeys Allaah's commands and safeguards her duties towards her husband, his bed, his children and wealth; She assists him in obeying Allaah, when he forgets she reminds him and if he is lazy she encourages him, if he is angry she cools him down. And a well mannered lady does things to increase her husband's love, respects him and does not stay back in anything he likes her to go ahead with, nor does she go ahead in anything he likes her to stay back in. The Prophet (sal-Allaahu 'alayhe wa

sallam) was asked: who is the best wife? And he answered:

«One who pleases him when he looks, obeys him when he commands, and does not go against his rules in her person and his wealth, in a manner he dislikes.» And he also said:

«Marry loving wives with high birth rates for I will be proud of your numbers in front of the (other) Prophets (or nations).»

Thus, if a woman with both physical and spiritual/inner beauty can be obtained, then this is the height of

perfection and the greatest happiness with the guidance of Allaah.

[05] - Those to whom marriage is prohibited

The Prophet (sal-Allaahu 'alayhe wa sallam) said:

«Indeed Allaah has prescribed the obligatory (actions), so do not leave them, and He has specified the limits, so do not transgress them.»

Part of the overall Islaamic limits is that He has specified in marriage (nikaah) that which is permissible and that which is impermissible,

Thus, He has prohibited a man from marrying certain women due to their relation (ties of the womb) to him, or due to them having been breastfed by the same woman or other than that.

Women to whom marriage is prohibited are therefore of two categories:

(1) Those to whom marriage is prohibited forever and

(2) Those to whom marriage is prohibited until circumstances dictate otherwise.

(1) Those to whom marriage is prohibited forever – and they are of three types:

[A] Those that are prohibited due to their relation (to the man): And they are seven (in total) as Allaah has mentioned them in Soorah an-Nisaa.:

{Forbidden 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...} (Soorah an-Nisaa., Aayah 23)

(i) (The word) "your mothers", encompasses the mother, and the

grandmothers – from both the mother's and father's side, (no matter how high up);

(ii) And (the word) "your daughters", encompasses one's own daughters, and his son's daughters and his daughter's daughters, no matter how low down;

(iii) And (the word) "your sisters", encompasses (full) blood sisters (sharing the same mother and father), (half-)sisters from the father's side and (half-)sisters from the mother's side;

(iv) And (the word) "your father's sisters", encompasses one's own

paternal aunts, and the paternal aunts of his father, and the paternal aunts of his grandfathers, and the paternal aunts of his mother and the paternal aunts of his grandmothers;

(v) And (the word) "your mother's sisters", encompasses one's own maternal aunts, and the maternal aunts of his father, and the maternal aunts of his grandfathers, and the maternal aunts of his mother and the maternal aunts of his grandmothers;

(vi) And (the word) "daughters of your brothers", encompasses the daughters of his (full) blood brother, and the daughters of his (half)

brother from his father (sharing the same father), and the daughters of his (half) brother from his mother (sharing the same mother), and the daughters of their sons and the daughters of their daughters and so on;

(vii) And (the word) "daughters of your brothers", encompasses the daughters of his (full) blood sister, and the daughters of his (half) sister from his father (sharing the same father), and the daughters of his (half) sister from his mother (sharing the same mother), and the daughters

of their sons and the daughters of their daughters and so on;

[B] Those who have been breastfed by the same woman: And they are exactly the same as those who have been mentioned in the first category. The Prophet (sal-Allaahu 'alayhe wa sallam) said:

«Breastfeeding results in prohibition of whatever is prohibited by blood relationship»

However, there are conditions for this prohibition which include:

(i) That the child must have drunk from the woman's breast milk five

times or more. So if he were to have drunk from the woman's breast milk only four times, then she is not considered a mother to him.

This is based upon what Imaam Muslim transmitted on the authority of 'Aa.ishah (radhi-yAllaahu 'anhaa) who said:

«It was revealed in the Qur.aan that drinking from a woman's breast ten times prohibits her to the child; this was then abrogated by five. The Messenger of Allaah (sal-Allaahu 'alayhe wa sallam) then died while this was being recited in the Qur.aan»

(ii) That breastfeeding is done before weaning, that's all the drinking of the breast milk is done five times, before weaning. But, if it is done after the weaning (period) or some of it before weaning and some of it after weaning, then the woman does not become a mother to him.

When the conditions for breast feeding are complete, then the baby becomes a child of the woman and her children become brethren to him, whether they were born before or after him. Similarly, the children of the husband whose child she was

breastfeeding at the time become brothers and sisters to him, whether they are from the same woman who has breastfed him or from others.

Here, we should note that the relatives of the breastfed baby other than his offsprings have no relationship with the breastfeeding and it does not affect them at all.

Thus, it is permissible for his blood brother to marry his breastfeeding mother or his sister from breastfeeding. But, the children of the baby (who was breastfed) become children of the breastfeeding mother and the husband whose baby

she was suckling at the time, (that is) the ruling applies to him too.

[C] Those that are prohibited due to marital relationships:

(i) The wives of fathers and grandfathers no matter how high up, be they from the father's or the mothers side, because of the saying of Allaah:

{And marry not women whom your fathers married, except what has already passed; indeed it was shameful and most hateful, and an evil way.} (Soorah an-Nisaa., Aayah 22)

Thus, once a man enters a marital contract with a woman, she becomes forbidden to his children and their children no matter how low down, whether or not he has had sexual intercourse with her.

(ii) The wives of (his) children no, matter how low down, because of the saying of Allaah:

**{the wives of your sons who
(spring) from your own loins}**
(Soorah an-Nisaa., Aayah 23)

Thus, whenever a man enters into a marital contract with a woman she becomes forbidden for his father and his grandfathers, because of the

contract alone, even if he does not have intercourse with her, no matter how high up, be they from the father's or from the mother's side.

(iii) The mother of the wife and her grandmothers no matter how high up, because of the saying of Allaah the Exalted:

{And the mothers of your wives}

(Soorah an-Nisaa., Aayah 23)

Thus, once a man marries a woman, her mother and grandmothers become forbidden for him, because of the contract alone, even if he does not have intercourse with her, no matter how high up, be they

grandmothers from her father's or from her mother's side.

(iv) Daughters of the wife and the daughters of her sons, and the daughters of her daughters, and their descendants (i.e. his step-children and their descendants), no matter how low down, on condition that he has had sexual intercourse with her. But if divorce occurred before he has intercourse with the wife, then these children and their descendants are not forbidden to him, because of the saying of Allaah the Exalted:

{...your step daughters, (who are) under your guardianship, born of

your wives to whom you have gone in - but there is no sin on you if you have not gone in to them (to marry their daughters)} (Soorah an-Nisaa., Aayah 23).

Thus, once a man marries a woman and has intercourse with her, her children and their descendants become forbidden to him, no matter how low down, whether they were born in a marriage before or after she married him. But, if divorce happens between them before sexual intercourse, then the step-daughters and their descendants are not forbidden to him.

(2) Those to whom marriage is prohibited until circumstances dictate otherwise – and they are of the following types:

[A] The sister of his wife and her aunts (maternal and paternal), till he parts with the wife either after her death or in her life after she has finished Iddah (waiting period) because of the saying of Allaah the Exalted:

{(and also forbidden upon you is that) you combine between two sisters} (Soorah an-Nisaa., Aayah 23)

and the saying of the Prophet (sal-
Allaahu 'alayhe wa sallam):

«A woman should not be married together with her paternal or maternal aunt»

[B] A woman in the state of iddah for another husband: that is if a woman is in her waiting period, (from a divorce) of another husband, it is forbidden for him to marry her till she finishes her Iddah. Similarly it is forbidden for him to propose to her during her iddah till she concludes it.

[C] A woman in a state of Ihraam for Hajj or Umrah: It is forbidden to

marry a woman in such a situation till she concludes and goes out of the state of Ihraam.

Though there are other types of forbidden women but I decided to neglect them in order to avoid going into a lengthy discussion.

But, menstruation does not forbid conducting marriage with a woman, so she may be married off even though she may be in her period, but she should not have sexual intercourse except after the period is over and she has taken a bath (ghusl).

[06] - Permissible number of wives in marriage

Since allowing anybody to marry any number of wives he wishes without limit is something which will lead to chaos, injustice and an inability to cope with the women's rights; And because restricting a man to only one wife will lead to evil and satisfying sexual desires by other forbidden means; Islaam allowed marrying up to four wives only, because that is the limit of the number of wives with which a man can be able to observe justice and

cope with the women's rights, if at all he needs more than a single wife.

Allaah the Exalted said:

{...then marry (other) women of your choice, two or three, or four but if you fear that you shall not be able to deal justly (with them), then only one or (the captives and the slaves) that your right hands possess. That is nearer to preventing you from doing injustice.} (Soorah an-Nisaa., Aayah 3)

And during the time of the Prophet (sal-Allaahu 'alayhe wa sallam), Ghaylaan al-Thaqafee accepted

Islaam while having ten wives under him. Thus, the Prophet (sal-Allaahu 'alayhe wa sallam) directed him to choose four of them and divorce the rest. Also, Qays ibn al-Haarith said: "I accepted Islaam while having eight wives, then I came to the Prophet (sal-Allaahu 'alayhe wa sallam) and told him that, and he said:

«Select four out of them.»

The benefits of (allowing the marriage of) wives up to this number:

1) Sometimes it may be absolutely necessary to do so such as the case

where the wife is elderly or sick or if he were to restrict himself to her he cannot safeguard his desires and she has children with him. For, if he holds on to her he is afraid he will fall in to difficulty by forsaking sexual affairs or he may probably be afraid of falling into adultery. But, if he were to divorce her, he will separate her from her children. Thus, this problem cannot be eliminated except by the only solution:

Polygamy (marrying more than one wife);

2) Marriage is a means for relationships and ties between

people, and Allaah has made it co-equal with kinship where he says:

{And it is He Who has created man from water, and has appointed for him kindred by blood, and kindred by marriage...}

(Soorah al-Furqaan, Aayah 54)

Thus, polygamy links between several families connecting them to each other and this is one of the reasons why the Prophet (sal-Allaahu 'alayhe wa sallam) married a number of wives;

3) It leads to the protection of a large number of women and (providing) their needs such as feeding,

accommodation, and a lot of children and descendants (result from it). All of these are things aimed at by the Islaamic Law;

4) Among men, there are some who have strong desires and cannot be satisfied by a single wife, even though they may be pious, clean and afraid of adultery. But, they want to fulfill their desires through legal means. Thus, out of the mercy of Allaah to His creation, He allowed them to have more than one wife in a safe manner.

[07] - The wisdom behind marriage

Before we start discussing this issue, it is compulsory for all of us to know with full certainty that all the rulings of the Sharee'ah are wise, and each is in its proper place, and they do not contain any jest and foolishness. This is because they are from the Wise, the all-Knower. But, is all that wisdom (clearly understandable) for the creatures? Certainly human beings have limited knowledge, thought and mind. So, it is not possible for them to understand everything, nor can they be given

intuitive knowledge of everything.
Allaah the Exalted says:

{And they ask you (O Muhammad) concerning the Rooh (the Spirit); Say: "The Rooh is one of the things, the knowledge of which is only with my Lord. And of knowledge, you (mankind) have been given only a little.} (Soorah al-Israa., Aayah 85)

Also, it is compulsory to willingly accept the rulings of the Sharee'ah sent down by Allaah upon His servants, whether or not we understand the wisdom behind them.

Some of the wisdom behind marriage (include):

1) Safeguarding and protecting each of the couple: The Prophet (sal-Allaahu 'alayhe wa sallam) said:

«O group of youth, whoever can bear the burden should get married, for it is better in covering your eyes and safeguarding your private parts.»

2) Safeguarding the society from evil and moral degeneration: for, if not because of marriage, abominable acts would have become widespread among men and women;

3) Each of the couple enjoys rights and partnership from the other: The man takes care of the woman, feeds, accommodates and clothes her according to his ability and the norm. The Prophet (sal-Allaahu 'alayhe wa sallam) said:

«Their rights upon you is their maintenance and clothing according to the norm.»

And the woman takes care of the man by doing what is compulsory upon her in the house such as caring and maintaining it. The Prophet (sal-Allaahu 'alayhe wa sallam) said:

«... and a woman is a shepherd in her husband's house and will be questioned about her flock.»

4) Forming sound relationships between families and ethnic groups: How many distant families, unknown to each other, were brought together, close and firm, through marriage? That is why Allaah (Subhaanahu wa Ta'aala) made marriage co-equal with kinship as mentioned earlier;

5) The continued existence of the human race via a safe manner: because marriage is a means to childbirth, through which continued

human existence is guaranteed.

Allaah the Exalted said:

{O mankind! Be dutiful to your Lord, Who created you from a single person, and from him He created his wife, and from them both He created many men and women and fear Allaah through Whom you demand your mutual (rights), and (do not cut the relations of) the wombs (kinship). Surely, Allaah is Ever an All-Watcher over you.} (Soorah an-Nisaa., Aayah 1).

And if not for marriage, one of two

things must occur: either the extinction of the human race or the existence of people resulting from adultery, having no genealogy, nor living according to any morality.

I think it is good for me to digress a bit here, and discuss the ruling concerning birth control. I therefore state as follows:

Restricting childbirth by a particular number is against the goal of Allaah, because the Prophet (sal-Allaahu 'alayhe wa sallam) directed his followers to marry women who have high birth rates and the reason he gave for that, that he wants to be

proud (of our numbers) in front of other prophets and nations (on the day of Judgement). Scholars of Islaamic Jurisprudence said that, a man should marry a woman who is known for her high birth rate either herself, if she was married earlier, or through (analogy with) her close female relatives such as her Mother or sister, if she was not married earlier.

Furthermore, what need is there for restricting the (number of) children? Is it out of the fear of poverty and meager means or fear of the difficulties of upbringing? If the

former is the reason, then, this is a (form of) harbouring a negative thought towards Allaah (Subhaanahu wa Ta'aala) because whenever the Glorified and Exalted creates any creation, He definitely provides its sustenance.

Allaah (Subhaanahu wa Ta'aala) says:

{And no (moving) living creature is there on earth but its provision is due from Allaah.} (Soorah Hood, Aayah 6)

and He said:

{And so many a moving (living) creature there is, that carries not

its own provision! Allaah provides for it and for you. And He is the All-Hearer, the All-Knower.}

(Soorah al-'Ankaboot, Aayah 60)

and He also remarked, concerning those who kill their children for fear of poverty,

{And kill not your children for fear of poverty. We provide for them and for you. Surely, the killing of them is a great sin.}

(Soorah al-Israa., Aayah 31)

If on the other hand, the reason behind birth control is the fear of the difficulties in their upbringing , then this is a mistake. How many times

have a few number of children caused suffering to their parents during their upbringing? whereas a large number of children were easy to bring up – with the Help of Allaah (Subhaanahu wa Ta'aala)! So, the more a servant fears His Lord and follows the prescribed Islaamic route, Allaah the Exalted will make his affairs easy. Allaah states:

{And whosoever fears Allaah and keeps his duty to Him, He will make a way for him to get out (from every difficulty).} (Soorah at-Talaaq, Aayah 2)

Once it is clear that restricting childbirth is not permissible in Islaam, the question is: Is planned pregnancy a manner which befits the mother's situation also like that or not?

The answer: No! A planned pregnancy according to the mother's situation is not at all part of (the forbidden) birth-control, and what I mean by planned pregnancy is that the married couple use a means of preventing pregnancy at certain times, (but) not all the time. This is permissible if both the husband and wife agree to do so, such as where

the wife is weak and a pregnancy increases her weakness or sickness, and she is frequently pregnant, so she may use tablets, with the permission of her husband, to prevent a pregnancy for a given period of time and there is no harm in that. In fact the Sahaabah – companions of the Prophet (sal-Allaahu 'alayhe wa sallam) – may Allaah be pleased with them, used to practice al-'Azl – coitus-interruptus – during the lifetime of the Prophet (sal-Allaahu 'alayhe wa sallam), but they were not forbidden from doing that. Of course al-'Azl is among the

means of preventing a pregnancy from that particular sexual intercourse.

[08] - The consequences of marriage

There are many consequences of marriage, including:

1) The dower becomes compulsory: the dowry is the wealth given to the bride as a result of the marriage contract, becomes established for the woman because of the marriage,

whether it was stated as a pre-condition or not.

Thus, if it was specified, then it is the specified amount, be it little or much; But, if it was not specified, such as a case where the marriage is concluded but he did not give her anything, and nothing was specified, then the husband has to give her 'the dower of her choice', that is what is normally given to women of her category. Similarly, the dowry could be (in the form of) tangible wealth, or it may be in the form of a service, because the Prophet (sal-Allaahu 'alayhe wa sallam) married off a

woman to a man on condition that he teaches her something from the Qur.aan.

The correct Islaamic guidelines concerning the dower is to make it as little as possible, because, the lesser it is the better (the marriage is), in emulation of the Prophet (sal-Allaahu 'alayhe wa sallam) and so as to achieve blessings; because the most blessed of marriages is the least burdening, and (Imaam) Muslim has reported in his Saheeh collection that a man said to the Prophet (sal-Allaahu 'alayhe wa sallam): I married a woman, and he asked:

"How much did you give her as dowry?" He answered: Four Awaaq (meaning 160 Dirham), upon which the Prophet (sal-Allaahu 'alayhe wa sallam) said:

«Four Awaaq!?! As if you excavate silver from the face of this mountain! We don't have that to give you, but we may dispatch you along with a battalion, perhaps you may get something, from there.»

And 'Umar (radhi-yAllaahu 'anhu) said:

"Do not make the dowry of women too high, because if it were an honour in this world or righteousness in the hereafter, the Prophet (sal-Allaahu 'alayhe wa sallam) would have been the most deserving of that than you. But, the Prophet (sal-Allaahu 'alayhe wa sallam) never gave a dowry to any woman among his wives nor collected for any of his daughters more than 12 Awaaq and an Awaaq is equal to 40 Dirham."

In fact the rise in dowry these days has had its negative effect in preventing several people from marriage, men and women, and men

have ended up spending several years before they can acquire the dowry, as a result of which several evils have come up including:

a) Many men and women could not get married;

b) The family of a lady have started looking at the dowry, is it big or small? Thus, to many of them, the dowry is what they can gain from the man not the bride; so if it is much, they marry her off to him, and do not care about the consequences, but if it is small, they reject the proposal even if he is acceptable by religious and moral standards;

c) That when the relationship between the husband and the wife becomes bad, but the dowry is such a huge amount, then in most cases he wouldn't allow himself to divorce her in kindness, rather he will harm and stress her, perchance she may return part of what he gave to her. But, if the dowry were small, he would have found it easy to part with her.

Certainly if people were moderate in dowry and helped one another in that and some notable figures start to implement this, a lot of good would have spread in the society, much peace of mind would have occurred,

and many men and women would have been safeguarded.

Unfortunately, people have now begun to compete in raising dowries, to the extent that they introduce new things which were not known, every year, in fact we don't know when they will stop? But, some people, especially the Bedouins used to take a good approach which is a little bit easier, that is by delaying a part of the dower; for example, he may give him the bride for a certain amount of dowry, but half will be paid now and the other half a year later or more or

less. This definitely makes it a bit easier for the husband.

2) Taking care of her personal needs: It is compulsory upon the husband to take care of his wife according to his means and the norm, supplying her with food, drink, clothing and shelter. Thus, if he refused to give any of the compulsory things, he is a sinner and she is allowed to take from his wealth the equivalent of what will satisfy her needs, or to borrow on his behalf, and he must pay the debt.

Waleemah is a part of the compulsory spending, and it refers

to the food normally prepared by the bridegroom and for which he invites people to take. It is a Sunnah – an established practice of the Prophets (sal-Allaahu 'alayhe wa sallam) – which we have been commanded to observe, because the Prophet (sal-Allaahu 'alayhe wa sallam) did that and directed others to do the same. But, forbidden extravagance should be all avoided during Waleemah and it should also be according to the ability of the husband. As for what some people do, where by huge amounts of money are spent in them, this should not be so and it leads to

unnecessarily spending huge amounts of money without any benefit.

3) Relationship between the husband, the wife and their families: Certainly Allaah placed love and kindness between a husband and his wife, and this relationship brings about responsibilities which are placed upon his shoulders according to the norm, because wherever there is a relationship, responsibilities have to be shouldered accordingly.

4) Forbiddance of Marriage: That is the husband becomes a Mahram, forbidden from marrying her mothers

and grandmothers, no matter how high up; and her daughters and the daughters of her daughters no matter how low down, so long as he has had sexual contact with her. Similarly, the wife becomes a Maharam, forbidden from being married to his fathers and grandfathers no matter how high up, and to his sons and grandchildren, no matter how low down.

5) Inheritance: Once a man enters into a valid marital contract with a woman, then inheritance will occur between them and there is no difference in the ruling, whether or

not he has had sexual intercourse with her because of the saying of Allaah:

{In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debts. In that which you leave, their (your wives) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may

have bequeathed or debts...}

(Soorah an-Nisaa., Aayah 12)

[09] - The ruling on divorce and what is considered in it

Divorce is the separation (of a husband) from a wife via a statement or a writing or an indication (sign). The basic rule concerning divorce is that it is distasteful (makrooh, discouraged) because it leads to the loss of the benefits of marriage mentioned earlier, and causes the family to become scattered. A hadeeth said:

«The most hateful thing permitted by Allaah is divorce.»

But, since sometimes divorce is unavoidable, either because the woman is suffering by remaining with the husband, or because he is suffering by remaining with her, or for other reasons, Allaah permitted it out of mercy to His servants, and did not restrict them with difficulty and strictness.

Thus, if a man dislikes his wife, and cannot persevere and stay with her, then he is allowed to divorce her, but he must observe the following:

- 1) That he should not divorce her during her monthly period, and if he divorces her during her period, he

has committed a sin towards Allaah and His prophet (sal-Allaahu 'alayhe wa sallam), has done a forbidden act, and must revoke her divorce and keep her under his custody till she is clean, and then he may divorce her if he wishes, but the best thing is to wait till she has observed another period, then when she has become clean, he may divorce or retain her.

2) That he should not divorce her, even outside her menstrual period, if he has already had intercourse with her except if her pregnancy has already become apparent. Thus, if a man wishes to divorce his wife, after

he has already had sexual intercourse with her after her period, he should not divorce her until she has observed and finished another period, even if the time were long. Then, he may divorce her before he has intercourse with her. Except if her pregnancy has already appeared, or she was already pregnant. In that case he is allowed to divorce her.

Allaah the Exalted says:

{O Prophet! When you divorce women, divorce them to face their 'Iddah (prescribed periods), ...}

(Soorah at-Talaaq, Aayah 1)

Ibn Abbas (RA) said: (the meaning is) "Do not divorce her while she is in her period, nor after that if you have already had intercourse with her. Rather, he should leave her, till she has finished her period, then divorce her once."

3) That he should not divorce her more than once: Thus, he should not say: "You are divorced twice, or three times!" Or: "You are divorced! You are divorced! You are divorced!" Because pronouncing three divorces at once is forbidden, as it was reported that the Prophet (sal-Allaahu 'alayhe wa sallam) said,

concerning a man who divorced his wife three times at once, "Is the Book of Allaah taken in mockery whereas I am in the midst of you?" To the extent that a man stood up and said: O Prophet of Allaah (sal-Allaahu 'alayhe wa sallam) shouldn't I kill him?

Certainly many people are ignorant about the rules of divorce, so at any time they thought of divorcing, they divorce, without worrying about the time or number. But, it is compulsory upon the servant to stay within the Allaah's limits because Allaah the Exalted has said:

{And whoever transgresses the limits ordained by Allaah, then such are the Zaalimoon (wrongdoers, etc.).} (Soorah al-Baqarah, Aayah 229)

[10] - The consequences of divorce

Since divorce is a separation from a wife, there are several rulings that follow this separation:

1) 'Iddah (waiting period) becomes compulsory upon her if the husband has had intercourse or being in private with her. But, if he divorced

her before having intercourse or being in private with her, then there is no Iddah upon her because of the statement of Allaah the Exalted:

{O you who believe! When you marry believing women, and then divorce them before you have sexual intercourse with them, no 'Iddah have you to count in respect of them...} (Soorah al-Ahzaab, Aayah 49).

'Iddah is the (waiting for a) period of 3 menstrual cycles, or 3 months if she does not have monthly periods, or until delivery if she is pregnant.

2) The wife becomes forbidden for the husband if he had previously divorced her twice: This means that if her husband divorces her and then revokes it within the iddah or remarries her after the 'iddah, and then divorces her again and revokes it within the 'iddah or remarries her after the 'iddah, and then divorces her for the third time, then she becomes forbidden to him after that till she marries another husband, a valid marriage, and he has sexual intercourse with her after the marriage, and then he loses interest in her and divorces her. Only after

that will it be permissible for the first husband to remarry her, because of the saying of Allaah the Exalted:

{(Revokable) Divorce is twice, after that, either you retain her on reasonable terms or release her with kindness... And if he has divorced her] meaning for the third time, [then she is not lawful unto him thereafter until she has married another husband. Then, if the other husband divorces her] that is the second husband [it is no sin on both of them] meaning the first husband and his divorcee, [that they reunite, provided they

feel that they can keep the limits ordained by Allaah. These are the limits of Allaah, which He makes plain for the people who have knowledge.} (Soorah al-Baqarah, Aayah 229-230).

And Allaah did not forbid remarriage with a woman who was divorced a third time till after she has married another person, except because people at the beginning of the mission of Islaam used to divorce and revoke it as many times as they wish; then, a man became angry with his wife and said to her: I swear by Allaah I will never bring you

back to my care (as a wife) nor will I separate from you. So, she mentioned that to the Prophet (sal-Allaahu 'alayhe wa sallam), hence Allaah revealed:

{Divorce is only twice, then either you hold on to them in kindness or separate from them in a just and equitable manner} (Soorah al-Baqarah, Aayah 229), and limited the permissible number of divorces to three, out of mercy for the women against their husbands.

Dear brothers, I believe we may have mentioned many aspects of the

rulings concerning marriage, trying our best to see that it is in a manner that is suitable, neither too long and boring, nor too short and deficient. I therefore ask Allaah to make it beneficial, and to make the work purely for His sake, in accordance with His Pleasure, and to produce a generation from this Ummah that is knowledgeable about the rulings of Allaah, observant of His limits, performing what He has commanded, and guiding servants of Allaah.

O Allaah! Do not deviate our hearts after You have guided us! And

bestow a mercy upon us from You!
Most certainly You are al-Wahhab
(the One Who Bestows).

O Allaah! Give us good in this world
and good in the hereafter, and protect
us from the punishment of Hell! May
the salat and salam be upon our
Prophet Muhammad, his family and
companions.

- See more at:

<http://islamiliveforit.blogspot.com/2011/07/marriage-from-pen-of-noble-shaykh-ibn.html#sthash.D7pDLvhO.dpuf>