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# Chapter 2: Matrimonial Rights, Adolescence, Mahr

## **Matrimonial Rights**

"And women shall have rights similar to the rights upon them in a just and equitable manner; but men have a degree over them." (2:228)

**Fatma**: This verse is perhaps one of the most controversial and misrepresented verses regarding the relationship between a husband and a wife. Does the verse only pertain to rights within a marriage or does it also extend into the whole of society as well? Secondly, could you expound the entirety of this verse and cite some examples?

**Sayyid:** The verse, which you quoted, may not be a suitable translation. Sometimes it can be difficult to translate the precise meaning of an Arabic word into English. There are many Arabic words that cannot be translated from their original meaning or meanings into any language.

Transcribers have to search for alternative words in an attempt to most accurately define a particular Arabic term. In some instances the precise meaning of the word can be lost, misrepresented, or misinterpreted. Let me attempt to translate that verse:

And the rights of the wives —in relation to their husbands— are equal [just/enabled] to their obligations —toward their husbands— but men in their obligations – toward their wives – stand a step further: Wa lahunna methullathi 'al ayhinna bil-ma'uruf: walir-rijaali 'alayhin-na darajah. (2:228)

Regarding your first question, Muslim scholars (fuqaha) comment that this verse only pertains to family affairs, not to the relationships of men and women in society or outside the boundaries of family life.

In regards to society, the Qur'an states that Muslim men and women share life's moral and social

responsibilities equally and jointly. In addition, they are equal in front of the law and in all religious obligations 1 and punishments. 2

In addition to the verse mentioned, there is another verse in the Qur'an that is conjointly related, and thus, it is important to explain them both simultaneously.

Men are the supporters and sustainers of women according to what Allah has given [or enabled] advantages of one over the other and because they support them from their means. Therefore the righteous women are truly devout ones: Ar-rijaalu qaw-waamuuna 'alan-

nisaa-ʻi bima faz-zalallaahu ba'-za hum ʻalaa ba ʻzinwwa bimaa ʻanfaquu min'amwaalihim. Fas-Saalihaatu qaanitaatun. (4:34)

The Qur'an has decreed.

"Men in their obligations — toward their wives — stand a step further: walir-rijaali 'alayhin-na darajah." (2:228)

The "step further" of which the Qur'an speaks is not a position of greater rank or nobility. The "step" the Qur'an makes reference to is the obligatory duty given to the man in the care of the woman; it is not a degree of superiority. Allah ordained men with the responsibility to preserve and solely sustain women. This is supported by the verse that states,

"Men are the supporters and sustainers of women: ar-rijaalu qaw-waamuuna 'alan-nisaa-'i." (4:34)

The "**step further**" is in no way a form of dominance or preference.

The Qur'an reminds us that men and women were created from the same essence.

"[Allah] created you all out of one living entity: khalaqakum min-nafsinw-waahida." (4:1)

The Qur'an consistently makes reference to equity, parity, and equilibrium among the genders. It disposes of genders and makes no distinction whatsoever between the superiority or inferiority of men and women. On the contrary, it is the piety of a person that distinguishes him or her by ranks or degrees, not gender or lineage.

"The most honored of you [male or female] in the sight of Allah is he who is most righteous of you: in-na 'akramakum 'indal-laahi 'atqaakum." (49:13)

Islam does not represent favoritism or show partiality in the interest of men. Precedence is given toward the general welfare of society, not genders. It is equilibrium of interest between both genders that benefits all members of society.

The totality of society always supersedes one sector of society. The rights and responsibilities of a woman are equally proportioned to those of a man, but they are not necessarily identical. Equality and identicalness are two different issues.

"Certainly we sent Our Messengers with clear proofs and sent down with them the Book and the Balance, so that humankind may conduct itself with equity." (57:25)

Women and men are symmetrically balanced when it comes to their relationship with Allah. On the other hand, the symmetrical balance differentiates when it comes to men and women's roles and responsibilities, not only toward themselves and each other, but also to society as a whole. It is never implied that one gender surpasses the other; in essence, both genders must be in an equal pace with one another, each recognizing the importance of its unbiased contribution.

Women and men in Islam are complementary to each other. According to a tradition of the Prophet, "Men and women are siblings of one another."3

The Qur'an mandates that the husband exclusively shoulders the responsibility of maintaining his wife financially, and that he safeguards the interest of the family. In Islam, the wife is not obligated to pay for her living expenses, and it is incumbent upon the husband to maintain her according to his means.

If the husband is wealthy, then he must provide for his wife an affluent lifestyle or, on the other hand, if the husband is poor, then the wife forestalls a less than moderate way of living.4

Referring to the two verses (2:228 & 4:34), assuredly, they have defended the honor and integrity of women. When a Muslim woman marries, she has the privilege of never working outside the home. She does not have to contend with raising children, managing a home, and contributing additional income to support the family.

Islam has acknowledged the noble responsibility and tasks that a woman must endure in raising a family. Therefore, Islam has freed her from the additional undertaking of providing for the family financially. In fact, she is not obligated for any of the domestic affairs.

Fatma: Are you implying that there is no such concept as a "homemaker" in Islam?

**Sayyid:** There is no such term as "homemaker" in Islam. A woman in Islam is not compelled to cook, clean, launder, or perform any other domestic duties. If the wife chooses to do the work, it would be considered noble and thoughtful; otherwise, she is not obligated to do so.

Besides, she can also request monetary compensation for any of the work, even that of nursing her own child. Nonetheless, Islam does not want to undermine the importance or the need of the wife to assist with the household duties. To be considered a homemaker is prestigious, if not the noblest of all roles for a woman. Not to deter from the subject, it is important to note some very important traditions from the Prophet regarding domestic duties.

How much reward is there for a woman's housework? Um-Salamah (wife of the Prophet) asked the Prophet. The Prophet replied, any woman who in the way of improving the order of the house, takes something from somewhere and places it somewhere else would enjoy the grace of Allah and whoever attracts the blessings of Allah would not be tormented by Allah's anger. 5

The Prophet said, "O women! Whosoever among you is busy in arranging the domestic affairs, Allah willing, she will get the reward of Islam's soldiers and mujahedeen6."7

Sequentially, in reference to the two verses, they have not only sanctified the prestige of women, but have underwritten a fostered relationship for raising and caring for children by assuring that the mother would be home and exempted from toilsome domestic work. She is then able to dedicate all her time, thoughts, and love toward nurturing the family.

Some people have taken these two verses and adversely interpreted them as a form of male dominance, or as a form of superiority over women, even defining the verses as the wife being compelled to submit herself to her husband's will unconditionally.

These interpretations are entirely contrary to the foundations and principles of Islam. Islam, by no manner or mean, would allow any form of superiority. Islam adamantly opposes tyranny, oppression, dictatorship, abuse, or the infringement of rights. The Qur'an specifically states,

"Treat them [wife] in a just manner: wa lahunna methullathi 'al ayhinna bil-ma'ruuf," (2:228)
and

"Live with them on a footing of kindness and equity: wa 'aashiruuhun-na bil-ma'-ruuf." (4:19)

These verses, among many others found in the Qur'an, and hundreds of noted traditions of the Prophet, constitute the basis of marriage.

"And the rights of the wives — in relation to their husband — are equal to their obligations — toward their husbands." (2:228)

This verse affirms that the husband is neither an authoritative partner who cannot be questioned, nor one who is to be favored with absolute obedience. Allah has enunciated in this verse entitlements for wives similar to those of husbands.

To clarify, the matrimonial rights are conditional, and are dependent upon a reciprocal compliance in which each partner has a set of responsibilities or duties that must be fulfilled. If one or both partners fail to perform his or her duties, then, subsequently, an injunction and verdict may be implemented.

**Fatma:** Later, I would like you to explain these conditions, but in continuance of 4:34, the Qur'an mentions two things that need clarifying. One is the word "**fadallah**," which has been translated as

"given or enabled advantages of one over the other," and the other is "truly devout: qaanitaat." What do they mean exactly?

**Sayyid:** The word "fadallah" may mean given, enabled, preferred, or distinguished in responsibilities and duties, depending on the context of the sentence. In reference to this particular verse, it is best to use the word enabled, given, or distinguished, but not preferred.

"Fadallah" is interpreted as distinguishing men from women concerning the undertakings and responsibilities of supporting, sustaining, and taking full care of the family. It does not signify that men are preferred or greater in excellence than women.

In fact, upon studying the Qur'an and traditions of the Prophet, one may conclude that admiration, leniency, and preference are sometimes given more to women. There are extraordinary traditions by the Prophet that summarize the eminence of women. Once a man came to the Prophet asking:

O Messenger of Allah, who among the people is the most worthy of my good companionship? The Prophet said, your mother. The man said, then who is next? The Prophet said, your mother. The man asked for the third time, then who is next? The Prophet said, your mother. The man further asked, then who is next? Only then, the Prophet said, your father.8

Also, the Prophet said, "Heaven lies beneath the feet of mothers." 9

Allah would not permit any form of injustice or deficiency among His creations. Allah bestowed unique and distinguishable features upon each individual mentally, physically, and spiritually.

"And wish not for the things in which God hath bestowed His gifts freely on some of you than others." (4:32)

This verse denotes that every man and woman is created with notable qualities.

**Fatma:** Why did Islam choose men to be the caretakers of women?

**Sayyid:** Scholars cite many explanations. However, primarily scholars focus on the biological fact that men are physically stronger than women; therefore, men are more apt to exert themselves for the livelihood of their families. Hence, men become the caretakers of women. In addition, the nature of a man's psychological development is audacious and chivalrous.

Addressing the word "qaanitaat," some scholars have transcribed the word as meaning obedient, yet it has many other meanings in Arabic. For example, it can mean truly devoted, or lifting of hands during prayer, or listening, or submitting, and perhaps it could give meaning of obedience, but again obedience toward the husband is only limited within the religious perimeter.

That is to say, if the husband makes a request of his wife, and that request is indoctrinated or practiced

by Islam, and if it were within her ability, then the wife should cooperate and adhere to the request. On the other hand, if the husband makes a request of his wife which is religiously unlawful, or inappropriate, or not within her ability, then she is not obligated to obey his request.

**Fatma:** In the archives of Islamic literature, there are some traditions regarding women that I find to be degrading and highly reprehensible. I would like your comment on one particular tradition of the Prophet and its veracity.

It is not right that any human being should prostrate to another being, and if it were right for any human being to prostrate to another human being I would have ordered the woman to prostrate to her husband due to the greatness of his rights upon her. By Him in whose Hands my soul, if from his foot to the crown of his head there was a wound pouring forth with puss and she came and licked that then she would still not have fulfilled his rights. 10

**Sayyid:** Keep in mind when we discussed the authenticity of some traditions in the chapter "Seeking Clarity," I explained that not all traditions of the Prophet are authentic. Then, in the beginning of this chapter, I also discussed that not all Arabic terms can be translated properly. However, I am familiar with the first half of the tradition, but I cannot verify the authenticity of the second half ("licking the puss...").

This tradition is allegorical, in the sense that if a woman were fortunate enough to marry a pious man with exceptional qualities, one who treated her extraordinary well, and fulfilled her physical and emotional needs, then, respectfully, she would treat him in the same manner.

**Fatma:** How do you explain the following tradition from Imam Ali, who not only happened to be one of the rightful rulers of Islam, 11 but also shared one of the closest ties to the Prophet?12

O, you people! Women are deficient in faith, deficient in shares, and deficient in intelligence. As regards to the deficiency in their faith, it is their abstention from prayers and fasting during their menstrual period.

As regards to deficiency in their intelligence, it is because the evidence of two women is equal to that of one man. As for the deficiency of their shares, that is because of their share in inheritance being half of men. So, beware of the evils of women. Be on your guard even from those of them who are good. Do not obey them even in good things so that they may not attract you to evils. 13

**Sayyid:** Imam Ali was not suggesting or confirming that Allah insufficiently created women. There is no deficiency in the creation of women.

#### "We have indeed created man in the best of molds." (95:4)

The concluded examples that Imam Ali draws on are metaphoric and the tradition is missing a fundamental part which was the incident that infused the words. Imam Ali was indirectly addressing one woman who caused a great deal of damage to the Islamic community in the Battle of Camel. However, this subject would deter us from our topic. For further details, one can refer to other resources. 14

#### Fatma:

"And the rights of the wives —in relation to their husbands— are equal to their obligations—toward their husbands." (2:228)

You briefly touched upon this verse and, interestingly, mentioned the words "conditional" and "reciprocal compliance." Can you elaborate on this matter?

**Sayyid:** When it comes to the rights of men and women, the Qur'an always speaks about mutuality, cooperation, and respect. These are the fundamental principals in any matrimonial relationship.

"Wa lahunna methullathi 'al ayhinna bil-ma'ruuf" is translated as "And the rights of the wives —in relation to their husbands— are equal to their obligations toward their husbands." (2:228)

This verse is the basis by which the foundation of matrimonial relationships must thrive. Allah notes that in the same way men have rights over women, women also have rights over men.

Fatma: What are those rights that a husband has upon his wife?

**Sayyid:** It is extremely important to mention both the husband's rights upon the wife, and the wife's rights upon the husband in order to compare and comprehend the very delicate issue of Islamic matrimonial rights. Keeping in mind that the relationship of husband and wife is based on mutuality, cooperation, and respect, there are indoctrinated rights which husbands have upon their wives, and Muslim scholars (fuqaha) note them as the following:

- 1) Haq al-ta'a: which means the right of compliance from the wife. The compliances are that the husband can require his wife to comply with her religious and moral duties. Furthermore, she is not to leave the house without his permission, if it encroaches upon his right for "tamkeem" (see below #2).
- 2) Tamkeem: which means that the wife makes herself physically available to her husband provided that she is physically and psychologically well. Alternatively, some scholars refer to it as haqq istimta'a —the right of physical and emotional enjoyment.
- 3) Haq al-maiyah: which means that the wife spends time with her husband; a form of companionship.

The wife's rights upon her husband are as follows:

- 1) Nafaqa: which means that the husband is required to financially cover all the living expenditures of his wife. This is a very broad term, and it involves a stupendous list of miscellaneous items needed for living, such as shelter, clothing, home fixtures, and money.
- 2) Haq al-irwa al-jinsi: which means physical gratification. This right not only discusses the act of intimacy, but also entails the romantic and playful gestures made by the husband to his wife.

3) Muthajia: which means to be in bed with one's wife. It does not necessarily mean being intimate with her, but coming home, being next to her, sleeping in the same house, in the same bed (mandated: wajib) at least one night out of every four. Although it is highly recommended to be with one's wife every night.

4) The Qur'an words it beautifully,

"Live with them [women] on a footing of kindness and equity: wa 'aashiruuhun-na bil-ma 'ruuf," which means a peaceful coexistence between the couples. (4:19)

This verse inevitably touches upon every aspect of a woman's life —physical, psychological, emotional, financial, and spiritual.

It is important to note that the rights stated are conditional and not absolute.

**Fatma:** Fascinating. Although it may be too complex to extensively detail each right you mentioned, I believe that it is important to briefly explain them. In addition, you indicate that these rights are governed by reciprocal compliances, and if broken, then subsequently an injunction and verdict would be issued. Could you clarify the circumstances regarding the potential injunctions and how the verdicts could be implemented?

**Sayyid:** Muslim scholars use the Arabic terms nushuuz and shiqaaqa whenever there is a predicament or an abiding breach of matrimonial rights. Consequently, there are two classifications of discordance or incompliance.

- 1) Nashiz pertains to the sole partner who has neglected or disregarded the matrimonial responsibilities.
- 2) Shiqaaq pertains to partners that are disagreeing simultaneously or behaving evasively toward their obligatory duties.

When any of the classifications are in violation, then subsequently a judgment would be rendered.

Fatma: How is nushuuz defined?

**Sayyid:** Nushuuz involves the physical, financial, emotional, or moral obligations required of each partner. Nushuuz can be defined as disobeying, abuse, mistreatment, desertion, disagreements, or conflicts being perpetrated by the husband or wife.

The Qur'an has described some of the natures of nushuuz. In addition, the decree that attempts to solve or direct certain circumstances has also been rendered.

As for those women whose recalcitrance and offensiveness [nushuuzahun] you have reason to fear, admonish them, and refrain from any contact with them, and wathrebuhun 15 them if this becomes unavoidable and fair to prevent very serious harm caused by them against themselves

or others; but if they want to keep you company, do not try in any way to be unfair or harmful to them. (4:34)

If a wife feels cruelty or desertion [nushuuzan] on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such a settlement is best. (4:128)

**Fatma:** Would the judgments differ depending on the classification of discordance, and if so, how would they be enforced?

**Sayyid:** Without a doubt the judgments are contingent upon the situation. Earlier, I mentioned that these rights are reciprocal and conditional. For example, if the husband fails to fulfill his obligations, then an Islamic judge can render the wife with sanctions to withhold some of the rights that her husband can request of her.

Fatma: Could you state some circumstantial examples of the sanctions that the wife can enforce?

**Sayyid:** Suppose the husband is not fulfilling his obligations, or that he is engaging in religiously unlawful or damaging practices which are having a negative effect on the family such as, drinking alcohol, gambling, or abusing his wife physically or emotionally.

If after much dissuasion from the wife the husband continues his activities, then the wife may implement one of the injunctions by refusing to share her bed with him, for example. If the activities continue, the wife may then seek assistance by presenting her case to the Islamic judiciary system. Upon studying the case, the judge may issue a variety of inflictions.

The judge may frighten the husband with physical punishment, penalize him financially, or threaten to separate him from his wife.

Fatma: What are the injunctions when the wife is nashuza, not complying with her duties?

**Sayyid:** If the wife were noncompliant with her duties or engaging in religiously unlawful or damaging practices, then the husband may exercise the same injunctions that the wife has upon her husband if he is in defiance. The only difference is that the husband does not have to resort to the courts immediately for assistance.

To begin, the husband is to admonish the wife or seek professional assistance. If the problem continues, the husband may then refuse to share the matrimonial bed with her. After every endeavor has been made and exhausted, and the husband still fears the recalcitrance and offensiveness of his wife, and if it will end the serious harm caused by her to herself, or the

Family, then he may apply a very delicate verdict —to tap the wife lightly. One must keep in mind, however, that the wife is within her rights to implement the same punishment upon her husband. I will

discuss this matter in detail later. 16

**Fatma**: Most definitely these issues need to be discussed in detail. Returning to the term scholars use "haq-al-ta'a," meaning the husband's right of compliance from the wife, compliance has an extent of varying definitions. By what means and to what degree is compliance required?

**Sayyid:** When Islamic scholars discuss the rights that husbands have upon their wives they use the term haq-al-ta'a, which means the right of compliance from the wife, but again compliance is not absolute; it is conditional. It is compliance in the sense of adhering to all the commands set by Allah; women should conform to all the decrees Allah has prescribed.

When a husband requests of his wife something which Allah has already intended or prescribed, then a wife should comply. Secondly, the husband has the final decision in family affairs. This applies to many areas, such as how many children they will have, where they will live, activities of the wife, and others. Yet, again, compliance is conditional.

**Fatma:** Hypothetically, if the husband does not practice his own religious duties, and he requests his wife to practice hijab<u>17</u> when she herself wishes not to, could he rightly do so? If so, is there not a verse from the Qur'an that adamantly states,

#### "There is no compulsion in religion." (2:256)

**Sayyid:** When the Qur'an speaks about "**no compulsion in religion**" it is referring to people who have not accepted Islam as their religion. Islam is not a forced or compulsory religion; one may forsake it any time one wishes. However, once one claims to be a Muslim then that person has independently chosen the religion of Islam.

The root meaning of Islam is tasleem, to surrender. When people refer to themselves as Muslims then, in essence, they have surrendered to the teachings and practices of Islam.

True Muslims are constantly implementing every aspect and guideline of the Qur'an and traditions of the Prophet throughout their daily lives. Such guidelines and traditions infiltrate many areas of a Muslim's life, such as the manner of greeting one another, conducting business, education, family affairs, political or social events, even the etiquette upon entering someone's home.

Hijab is a commandment not to be demanded by a husband, but by Allah. A husband is within his right to ask his wife to practice wearing hijab because he is asking of her something that Allah has already requested. If the husband requests of his wife an action or deed that is religious or appropriate, then she should comply.

Even if he does not fully practice his religious duties like praying, fasting, or paying alms, he is still within the religious guidelines to request his wife to adhere to hers. As long as the husband is not commanding her to do religiously unlawful or irrational tasks, then she should cooperate.

Conversely, the husband should never order his wife not to wear hijab. The husband, on no account, should make his wife do anything contrary to the ordinances of Islam. The wife is not compelled to listen to her husband when he demands of her something that is contrary to the commandments of Allah, even if he threatens her with divorce.

**Fatma:** I would assume, that due to financial reasons, the husband limits the number of children he will have, but may he also limit the activities of his wife?

**Sayyid:** Your assumption is not entirely correct. In general, both issues are contingent upon the situation. If the husband displays a sense of financial maturity by maintaining a suitable lifestyle for his family, then the husband will essentially have the final word in limiting the number of children they will bring into this world.

Islam has placed a huge burden on the father of children. The father is solely and completely responsible for financially maintaining his children until they are capable of supporting themselves. Furthermore, if the father has adult daughters and they remain in his home, then he is obligated to continue supporting them.

Perhaps, it may seem unfair for a mother to have to bear and raise children for many years. Most certainly, the mother undergoes incredible difficulties physically and emotionally in raising children, but one must remember that within a few years the children will become adults. The mother's allotted task will cease, but the father's financial duty remains.

In contrast, an area of dispute or disagreement would be if the father could not provide the basic or adequate lifestyle for his children such as, tuition for their education, health care coverage, or good housing, etc. In such a case, if the husband still insisted on having more children then the wife is within all of her rights to not adhere to his wishes.

Another area of conditional compliance is deciding where the married couple will live. If the wife does not specify in her marriage contract where she wants to live, then the husband is at liberty to choose the city or country of residence. Taking into account that the husband will be the sole financial supporter of the family, his decision, in most cases, will be based on financial security, an ethical society, and perhaps being adjacent to family members.

If the wife refuses in the matter of location, then her objection must be based on a sound predicament. For example, if the husband wishes to live by the beach and the wife objects, and she bases her objection on the environment influencing the children in a negative manner, she can request postponing the relocation until the children have independently moved on with their lives. Her objection would prevail.

With respect to limiting the wife's activities, this is also conditional. If the wife needs to educate herself religiously, then the husband cannot prevent her from doing so. In addition, if the wife wants to make her

pilgrimage to the hajj<u>18</u> with her own money, and she has secured her safety, then the husband cannot refuse her permission.

**Fatma:** I have read in numerous sources that the wife must seek permission of the husband before leaving her home. Is this accurate?

**Sayyid:** Again, it depends on the circumstances. Ordinarily, this law is rarely exercised; only when it is necessary may it be used. If the husband is content with his wife's activities, then there may be no need to seek his permission. If the wife senses that her husband harbors a concern or an objection, then she should try to avoid the behavior or resolve the matter with her husband.

In most cases, this rule does not mean every time the wife steps outside the home she has to notify her husband and seek his permission, unless there are what Muslim scholars regard as muftadha, meaning an illegitimate intention, corruption, or consequential quandary. These are areas in which the husband may fully implement his right to restrict his wife's outside activities.

For instance, the wife has a set of friends with disreputable character and she wishes to spend time associating with them. If the husband does not approve, then it is within his right to forbid his wife from associating with such people. Or, perchance, she leaves the house or the children carelessly, or perhaps the husband begins to justifiably

suspect his wife of immoral actions. These are just a few examples in which the husband is within his right to limit his wife's activity. However, it is important to note that a wife may stipulate in her marriage contract that she will not be prevented from going out of her home on suitable occasions or for her economical or social needs, provided that the action does not infringe on the rights of her husband or children.

Fatma: Can the wife implement the same ruling thereby restricting the activities of her husband?

**Sayyid:** It all depends on the circumstances. If the husband's activities are having a harmful effect upon the livelihood of the family, and she is unable to change his actions, then the wife should seek assistance from community leaders, imams, 19 or Islamic courts in an attempt to reform her husband.

**Fatma:** In most cases a marriage is based on the three fundamental principles you mentioned earlier: mutuality, cooperation, and respect. Why is it then necessary to establish a law that mentions the wife seeking permission to leave the house?

Would you not agree, in general, a wife who honors her husband would try to avoid situations that might displease her husband or bring about illegitimate situations?

**Sayyid:** Most certainly. A wife who loves and respects her husband would automatically avoid displeasing him, but nonetheless, it is important to note the situations in case of disagreement.

To illustrate, there are customary laws, laws that are perceived as common, such as driving cautiously through a school zone where one would instinctively slow down without the need to read the posted speed limit. Although there are posted laws that specifically state the speed limit, drivers commonly slow down.

The only time the law would be enforced is if it were broken. Similarly, the wife (before leaving the home) knows what situations would be contrary to her husband's wishes and would instinctively avoid them. If necessary, the rule may be again elucidated.

**Fatma:** If a Muslim woman wants to make her hajj pilgrimage, why is it necessary that she seek written permission from her husband, and why does she need a chaperone (muharam) to travel with her?

**Sayyid:** For the sake of clarity, the husband's written consent for the wife to fulfill her hajj or to travel is only a legal formality imposed by certain Muslim countries. Islam never mentions that one must have a written consent for the wife to travel. However, it requires that the husband voluntarily consent and approve of her travel or activities.

The reason why a woman may need a chaperone with her when she travels is to protect her from the iniquitous acts prevalent in some societies. Islam is not a religion that dominates or inhibits women; on the contrary, Islam is a religion that wants to protect women by preventing transgression or encroachment from immoral societies. Islam has taken the precautionary measure of safeguarding her journey by providing her with a male chaperone.

**Fatma:** Are the laws of travel found in the Qur'an or traditions of the Prophet?

Sayyid: The guidelines for a woman traveling may be found in numerous traditions of the Prophet.20

**Fatma:** Some scholars state that the husband may execute his right to prevent his wife from visiting her family. Is this accurate?

**Sayyid:** If it infringes on his legitimate right, such as companionship with his wife then, yes. However, the husband should always remember that his wife is a human being with feelings and a tendency for a social life. Visiting her family is essential in catering to her emotional needs.

**Fatma:** What happens in situations when the husband forbids his wife from leaving the home without justifying the reason? How can a wife protect herself from a husband who pompously abuses his right in an ill-manner?

**Sayyid:** The situation mentioned is usually caused by an argument in which the couple was quarrelling. Typically, if the husband were a religious man, he would not act in an unfashionable manner because he would break one of the covenants.21

On the other hand, if the husband inscrutably misuses his right, and the wife feels that he is treating her

unjustly then this would be grounds for arbitration. The Qur'an gives an objective account of how to address the problem.

"If ye fear a breach between them twain, appoint two arbiters, one from his family and one from hers; if they wish for peace, Allah will cause for their reconciliation." (4:35)

Again, the husband is in no way left free to pursue his self-willed desire. If he were a man of faith and honor, he would not violate the laws of Islam. The husband must always remember that the wife also has a set of rules that govern, protect, and guide her. The wife is entitled, at any time, to withhold or enforce her rights whenever any form of injustice is being perpetrated against her.

**Fatma**: There is a well–known tradition that requires all Muslims to obtain an education. You made a reference that the husband cannot prevent his wife from leaving the home when it relates to accessing a religious education.

What would be the case if the marriage contract were not conditioned, and the wife wanted to pursue her college degree, or even, wished to work in her field of study? Could her husband prevent her, and if she did, without his approval, would it be considered a transgression?

**Sayyid:** The husband should do his best to accommodate his wife's aspirations and needs. The wife should not pursue her studies or work without her husband's consent.

Fatma: The Qur'an provides reasons why wives must comply with their husbands wishes;

"Allah has given or enabled advantages of one over the other and because they support them from their means." (4:34)

Is the Qur'an justifying that the reasons why the wife should comply with her husband's wishes is because the husband is more capable of physically, psychologically, and financially supporting her? If so, is this not a form of preference or subordination?

To underline again, is the Qur'an justifying compliance based on financial support? Moreover, are not the responsibilities that the wife undertakes an equitable balance of diverse responsibilities?

Sayyid: Once again, iterating what the Qur'an mentions,

"Live with them [women] on a footing of kindness and equity: wa 'aashiruuhun-na bil-ma 'ruuf," (4:19)

And

"To treat them [wife] in a just manner; wa lahunna mislullazi 'al ayhinna bil-ma'ruuf." (2:228)

These verses are the epitome of regulations that govern the manner in which women are to be treated.

Islam is based on mu'amalla, the good treatment of others, and on akhlaq, excellent manners. If women are treated in a well and justified manner, then certainly it leaves no room for preference, injustice, and especially subordination.

There are numerous traditions that address the manner in which a husband should treat his wife. I will cite a few.

A man once asked Imam Sadiq22 about the rights of a wife over her husband. The Imam replied, "He should fulfill all of her fundamental necessities and must not terrify her by becoming angry time and again. If after he fulfills her

needs, he is kind, and affectionate toward her, then I swear by Allah, he has fulfilled his wife's rights." 23
The Prophet said, "The most perfect believers are the best in conduct and best of you are those who are best to their families." 24

There is much more to a marriage than just sustenance. Islam has recognized the basis of a successful marriage, which is mutual cooperation, respect, love, trust, understanding, tolerance, and patience. Islam regards the institution of marriage as a continuation of humanity, fulfilling and safeguarding psychological, emotional, and physical desires, based upon faith and virtue. "No foundation of Islam is as beloved and as mighty as the foundation and institution of marriage," said the Prophet.25

"And of His signs is that He created your mates from yourselves that you might find in them rest, and He put between you affection and compassion." (30:21)

"They (women) are raiment for you, and you are a raiment for them." (2: 187)

"It is He who has created you from a single person and made its mate of like nature in order that he might dwell with her in love." (7:189)

Regarding your last point, without undermining the responsibilities of women, Islam has burdened men with more obligations, such as sustaining and supporting the family. With that point considered, complying with the requests of the husband is not intended as a form of balance for sustenance. The Qur'an has described its reasoning best;

"And as for the believing men and believing women, they are guardians of each other." (9:71)

**Fatma:** Earlier you mentioned the rights that couples have upon each other. Starting with the wife, could you describe some of the precepts of her matrimonial rights?

**Sayyid:** One of the most monumental rights and greatest endowments ever given to women in Islam is financial independence, nifiqa. The husband is completely responsible for the livelihood of his wife and children. There are two major cornerstones that govern the rules and expectations of one's livelihood.

"Let the man of means spend according to his means and the man whose resources are restricted, let him spend according to what Allah has given him." (65:7)

Nafiqa translates as "living expenditure" in Arabic. It is a very broad term and it covers a variety of itemized means of inventorial sustenance, such as clothing, housing, furniture, and spending money. There are collections of books that pertain to this matter; they detail the necessary provisions the husband must provide for his family.

Some of the books are meticulous and go as far as specifying what is to be stored in the pantry, for instance, cooking oil, sugar, flour, and the recommended food items that should be served on Muslim holidays.

Fatma: Does the financial dependence only pertain to husbands maintaining their wives?

**Sayyid:** Women in Islam whether married, unmarried, divorced, or widowed are never obligated to work for their livelihood. If she is single or divorced, her father secures her provisions. If her father is deceased, then her brother provides for her. If she is widowed then her husband's estate or her son will maintain her.

If this is insufficient, then her father, brother, or paternal uncles will support her. This does not mean that a Muslim woman cannot seek employment or that she is not to pursue her career ambitions. This is a choice, the prerogative of every Muslim woman.

If she wishes to exercise her religious right of financial dependence, then she is within her right to do so. On the other hand, if she proves to be a responsible individual and wishes to support herself, then that would also be acceptable.

Fatma: Why has Islam given women this level of ease in financial matters?

**Sayyid:** Islam looks upon women as worthy of honor and respect. Islam has preserved the dignity of women by liberating them from the exceedingly great tasks of physically laboring or mentally exhausting themselves in order to survive. Yet, its true intention and purpose is to enable them to pursue the most important job —to raise an upright, moral, and respectable family.

Generally, women and men expect and desire one day to be married and raise a family. When a woman decides to do so, and on becoming a mother, then she may undergo extraordinary physiological and psychological changes — things over which she has no control. Islam has been considerate of a woman's disposition and has given her the tremendous relief of not adding to her burden by providing and securing her means of livelihood.

It is not insinuated that women are mentally or physical incapable of supporting themselves. Some women have proven to be capable of toiling as much as some men, and, in addition, have demonstrated leadership qualities.

Nevertheless, the uniqueness of a woman's disposition has placed her in a particular standing. In most cases, women are bound by their physiological structure, which not only limits them physically, but also affects them emotionally.

Women, in general, have two qualities by which Allah distinguishes them from men. First, they are essential for the creation and propagation of the human race. Second, they have comparatively delicate bodies and sensitive perceptions. These distinctions place them in a unique position which requires special guidelines concerning their lives.

Islam generally does not "personalize." Islamic laws or injunctions mainly are based on the welfare of society. Islam advocates that men are better fit to work outside the home while women are better suited to tend to the family.

Islam does not mandate or force anyone to abide by the guidelines completely; there is a choice in the matter. If both partners mutually agree on their lifestyle, then they are within their rights to live their lives as they deem fit, as long as it does not contradict the rules of Islam.

**Fatma:** You made an interesting point regarding having a choice about the recommended guidelines, this matter must be elaborated on later. Returning to the rights that a wife has upon her husband, too often Muslim women are informed of their conjugal responsibilities toward their husbands. Could you state the manner of intimacy that the wife can expect from her husband?

**Sayyid:** There is a famous saying in Islam, "There is no shyness when asking a question about faith." This means that every subject is open for dialogue. There is not one issue that is barred from discussion, no matter how private, objective, or controversial the topic may be.

Islam is very sensitive and extremely responsive to the physical and emotional needs of women. One of the major rights a woman has upon her husband is called haqirwail jinse in Arabic —the physical fulfillment and playful

actions before intimacy. Muslim scholars have gone into great details about the intimacy and mannerism of haqirwail jinse. I will list some traditions made by the Prophet.

In the same manner that a wife is to make herself available for her husband, the husband is to make himself available for his wife. It is forbidden for a man to abandon his wife physically for more than four months.26

Even if he is traveling, he must cut short his trip and return home, unless he is physically restrained from leaving, for example, by being imprisoned. Additionally, if the wife strongly desires intimacy, and her husband has abandoned fulfilling his duties, then he would be committing a transgression.

**Fatma:** Correct me if what I read is wrong. If a wife refuses intimacy with her husband because she has a headache, or she is tired, or not in the mood, then the angels will curse her.

**Sayyid:** Regardless of whether she is in pain from her head, back, or any point in her body, I challenge anyone to cite a credible tradition which states that if a wife were in physical pain and denied her husband intimacy then the angels would curse her. If she were truly in pain, and not pretending, it would be inconsiderate for the husband to approach her.

The conjugal right is a requirement and obligation of both partners. If the wife were to deny her husband on account that she was simply lazy or not in the mood then she would not be fulfilling her matrimonial commitment. On the same account, if the husband denied his wife intimacy he would not be fulfilling his duties as well.

Returning to our original conversation, there is an Arabic term called muda'abah. It describes the way a mother plays with her child — lovingly, teasingly, and endearingly. This term is also used when referring to the relationship between the husband and wife. It is highly recommended that the husband display his emotions toward his wife by behaving affectionately.

There is a tradition from Imam Sadiq that has a significant meaning. "One of you who approaches his wife and finishes with her and she is not fully satisfied and then she exits from beneath him, that if she finds a slave she would hold to him." 27 The significance of this tradition is to enlighten the husband about the importance of fulfilling his wife's needs before parting from her.

Fatma: Why is a slave used as a reference?

**Sayyid:** Before, during, and after the time of the Prophet, slavery existed. Although, slavery was in the process of being abolished by Islam, it still existed for a short while after the time of the Prophet. Slaves did not have the same rights or prestige as free individuals. For this reason, slaves were viewed as second-class citizens.

The reference to a slave is to make a point that when married couples are at their most intimate time together, and the husband has completely satisfied himself and has left his wife not satisfied, then, in essence, he has left her in a vulnerable state in which she may attempt to satisfy herself with another man, even an inferior man, like the example of a slave given in the tradition.

Imam Sadiq said, "When a husband is being intimate with his spouse, he should not come to her like a bird—hit and run. He should prolong until she fulfills her needs." 28

The Prophet once said, "When a man approaches his wife he should not hasten until she is satisfied because women have needs."29

The Prophet said, "If a man has a collection of women and he does not have physical contact and if one of the wives commits adultery then the [greater] sin is placed on the man because he did not fulfill his duties."30

Another expected right that a wife has upon her husband is that he be well groomed. Meaning that his

body is clean, his facial hairs trimmed accordingly, he smells pleasant, his attire is neat, and so forth. There is a tradition from Imam Rida<u>31</u> on the account of the Prophet that states, "Women of the Bani Israel deviated from the path of chastity because their men were not bothered about cleanliness and their good looks. What you expect of your wife, she expects from you."32

The Prophet said, "You men must make yourselves tidy and be prepared for your wives, as you would like them to be prepared for you."33

Once a man was relaying an incident to another man that he had with Imam Ali. He said:

I saw Imam Ali who had dyed his hair. I asked if indeed he had dyed his hair. Imam Ali stated, "Yes. Adornment of a man for the sake of his wife helps her keep her chastity. Women who deviate from the path of chastity do so due to the carelessness and faults of their husbands. Do you like to see your wife untidy?" The man replied, "No." Imam Ali then added, "She thinks just the same as you do."34

Now, the third right that a wife can ask of her husband is muthaja'ah, a form of companionship and close association. Meaning, the husband spends nights with his wife, not necessarily being intimate with her, but being together in the same bed.

Lastly, as the Qur'an beautifully states,

"Live with them [women] on a footing of kindness and equity: wa 'aashiruuhun-na bil-ma 'ruuf." (4:19)

This verse is self-explanatory and firmly covers every facet of treating a woman.

**Fatma**: Tamkeem, or haqq istimata'a, is the wife making herself available for her husband. These are rights the husband could request of his wife. Could you clarify their particulars?

**Sayyid:** One of the essential behaviors of a wife in marriage is tamkeem or haqq istimta'a. This is when the wife makes herself physically available to and pleasantly charming for her husband.

There are exceptions to this rule, such as when the wife is menstruating, post-childbirth, illness, hajj performance, and obligatorily fasts and prayers. Otherwise, the wife should make herself physically and emotionally available to her husband.

Once a woman came to the Prophet to complain about her husband. After she expressed her complaint, the Prophet concluded that she was, in part, responsible. He said, "Maybe you are one of the delayers." She asked, "Who are the delayers?" The Prophet replied, "The delayer is the wife whose husband is inviting her to be with him and she keeps on delaying him until he tires and falls asleep."35

This anecdote has profound meaning. Sometimes women can be so caught up with domestic duties, careers, or social affairs that when their husbands want their companionship they keep putting them

aside. Although, some of these undertakings may be considered important; nevertheless, they do not measure up to the relationship one must establish and ensure with one's partner. Remember, marriage is a partnered tie.

Similarly, the recommendations listed for the husband's right in tamkeem are equivalent to the wife's right in haq al-irwa al-jinsi. The wife should only beautify herself for her husband, for instance showering, using make-up, perfume, wearing jewelry, and dressing attractively. Even if her husband were blind or deaf, his sense of smell and touch may still be highly developed.

Continuing with the last and final right (that is truly the pivotal point of a firm relationship) is haqq almaiya, a form of companionship and friendship. The husband may request of his wife to accompany him, or to be home upon his arrival, or to spend evenings together.

These are the only rights a husband and wife may impose upon each other. For some couples these rights may be deemed impractical, or rarely practiced, or even unnecessary to mention, while for others they are the focal point on which couples base their relationship.

Islam does not impose on couples complete adherence to all of the rights verbatim. It mentions them in case of disparities, disagreements, or as guidance to either advise, direct, recommend, or to solve certain problems. Every individual is within his or her right, before his or her marriage contract, to accept or reject any of the rights.

**Fatma**: You mentioned previously that a woman has a choice concerning the recommended guidelines. Are you stating that the rights mentioned are optional?

**Sayyid:** Upon contracting the marriage, the rights that were just mentioned are automatically presumed. Couples do not necessarily have to go through each and every single right and agree upon them; they are already fixed as a platform for either securing their rights in marriage or enforcing them. Interestingly though, if one or both partners chooses to modify or relinquish certain marital rights, upon agreement of the other partner, then they are within their domain to do so.

**Fatma**: My assumption was that Qur'anic laws always superseded changes or modifications done by any person.

**Sayyid:** Indeed, Qur'anic laws may never be modified or relinquished; however, rights may be. In Islam, there are two differentiating rules of procedures and conduct. One is called hukom and the other is called haqq.

Hukom is a judgment — a divine injunction, an order set by Allah. No one may alter, modify, relinquish, or postpone it in any way. Take, for example, practicing hijab, no one should ever argue that, in this day and age, or that because a woman lives in this area of the world that she should not practice hijab, or that her husband does not want her to observe it.

Observing hijab is not up to an individual simply because he or she does not see a reason for it. Hijab is mandatory; it is an injunction ordered by Allah. No person could ever override such a law, just like the prayers, fast, alms giving, performing the hajj, not drinking or gambling, and so forth. These are all injunctions; laws that are mandated for every Muslim to follow.

Haqq, within the domain of marital rights and responsibilities, is also considered as an obligatory rule that maybe altered, relinquished, modified, or conditioned, provided that both parties agree and that the changes do not contradict Islamic laws (shariah). Here is where the Qur'an has been generous. The Qur'an has given people liberty to live their lives as they see fit.

The marital rights listed are not unbreakable; they may be modified. Islamic law (shariah) allows couples to place clauses, stipulate terms, or renounce any part of their marital contract granted that the parties mutually agree, and that the changes do not contradict the laws of Islam.

Allah wants people to live a life based on mutuality within the prescribed rules (hukom). Allah does not want to dictate to people how they are to live their lives entirely. Allah wants married couples to agree on what best defines a respectable lifestyle. Mutual agreement, cooperation, and shared interests are what build healthy and lifelong relationships.

It is highly recommended that, before marriage, couples are in agreement regarding matters they consider important and relevant. If couples come to an acceptable agreement, and it is within the boundaries of Islamic law, then there is no need to refer to the marital rights that were mentioned. Islamic scholars only refer to the matrimonial rights when couples had presumably accepted the rights, and then one spouse (or both) defies them.

To illustrate, there have been cases where some wives, especially elderly women, place a clause in their marital contract that waives conjugal relations with the husband. If the man agrees, then the contract would be in order. Although it may be unusual, she is within her right to place this condition provided that the man agrees.

Perhaps her intentions for marriage are not personal. Perhaps the marriage was more of a business contract, a social entitlement, or as a form of security. She is within her right to place such and any conditions, again, provided that the modifications are jointly agreed upon and do not contradict (binding) Islamic laws.

As another example, a man who wishes to marry may propose conditions to the wife. He may say to her, "I will marry you provided you agree this will be your moderate home, your economical car, and the amount of money you will receive each month." If she agrees, then the contract would be in order, even if he were able to provide for her a better lifestyle and chooses not to, perhaps for personal reasons.

For example, he may fear that she may abandon him one day, or that she may use the money or provisions for her relatives. He has the right to exercise conservativeness or caution in his spending.

Fatma: Did you not mention that there was a major cornerstone governing the rules of one's livelihood?

"Let the man of means spend according to his means and the man whose resources are restricted, let him spend according to what Allah has given him." (65:7)

Is this verse not an injunction (hukom)? Would not this verse protect a woman from a man who is miserly?

**Sayyid:** The verse you cited was for a particular injunction mentioned in the chapter entitled "**Divorce**" in the Qur'an, that orders the husband to maintain sustaining his former wife who is nursing his child. However, the verse may also be applied to other areas of one's life, for example, marital expenditures.

This verse is an injunction, but the verse also pertains to marriages in which there are no changes, no stipulations, no conditions, and no modifications. This verse is related to the typical marital contract in which no stipulations are contracted; hence, the prescribed typical rights would then be assumed.

If we refer to the previously mentioned example of the man who planned on marrying yet had placed conditions prior to the marital contract, he had in fact given the woman the option to marry with conditions or to not marry him.

He was not imposing the restrictions after the fact of the marriage contract; he stated them prior. A woman is in no way obligated to marry such a man. She is entitled to either accept such conditions or refuse the proposed offer.

**Fatma:** At the time of contracting the marriage, the rights of each partner are already presumed, even if the partners are ignorant of their expectant rights (haqq), correct?

**Sayyid:** Correct. Upon completing the prescribed marital contract, all the rights (huqoq) are automatically accepted, regardless of whether one (or both) of the partners was unaware of the specifics.

Fatma: If the couple decides, they can add or delete rights (huqoq), correct?

**Sayyid:** Only if the changes are within religious boundaries and each person agrees. As long as it is not forbidden religiously, then they can add or delete whatever they wish.

**Fatma**: The Qur'an has already stipulated that a man of means must provide accordingly. How then do scholars distinguish between verses that are obligatory or binding (hukom) and those that are permitted to be altered (haqq)?

**Sayyid:** Primarily, the way in which scholars differentiate between obligatory injunctions (hukom), such as prayers, fasts, or alms giving and some rights (haqq) that can be modified is when they are based on social contracts, such as marriages, divorces, or business agreements.

Take, for example, the verse

#### "Men are the supporters and sustainers of women." (4:34)

The verse mandates husbands to bear the responsibility of financially supporting and maintaining their wives. However, the verse is not compulsory (hukom); it is a right (haqq). If, for example, a wealthy woman opted to sustain her husband, she may. Islam would not forbid her from supporting her husband financially.

Fatma: Could a woman contract that her husband may not marry a second wife?

**Sayyid:** She is within her right to implement such a rule, provided the husband agrees.

**Fatma:** But you mentioned that the stipulation must not conflict with religious doctrine; yet, Islam allows the man to marry up to four women.

**Sayyid:** The key word is allowed, meaning it is permitted. It is important to note that marrying a second wife is not obligatory (wajib), it is permissible (mubah). There is a difference between obligatory issuances and permissible acts. If polygamy were obligatory then she would not be entitled to impose such restrictions.

When a wife stipulates in her marriage contract that she does not want her husband to marry another wife, essentially she is stating "as long as you are married to me, you may not practice this permissible act, and, if you wish to, then you must divorce me before you act upon this matter." She does not state that he may not marry another woman.

She is not avowing that it is forbidden (haram) for him to do so; it is allowed (halal). He may marry another woman, but her marital contract specifically states that if he wants to marry another woman then he must divorce her first.

**Fatma:** When couples modify their marriage contract, must it be documented with an imam (Islamic scholar) or Islamic court?

**Sayyid:** It is highly recommended that couples rightfully document the modifications and obtain two just witnesses. The document would serve as a reminder and security if any future problems occur.

**Fatma:** According to some traditions, marriage is considered as fulfilling half of one's religion. These traditions give the impression that marriage is mandatory for all Muslims. Is it?

**Sayyid:** Marriage in Islam is regarded as a dogmatic practice, not an obligatory order. Islam considers the institution of marriage as a form of protecting and securing the well-being of an individual, such as morally, emotionally,

physically, and spiritually. Therefore, it becomes a mandatory issuance. The Prophet said, "Whoever

marries protects half of his religion."36 Hence, in order to ensure and protect one's chastity, it becomes incumbent upon a Muslim to marry. Although for some people who do not marry, it would not be considered a sin.

**Fatma:** Does marriage require witnesses?

**Sayyid:** In the school of Ahlul Bayt, witnesses are recommended but not mandatory. If a couple recites the formula of marriage between themselves, with no witnesses, then their marriage will be valid. Unlike divorce, which requires witnesses and places obstacles, marriage does not. Islam encourages and facilitates couples to marry.

Fatma: Must the marriage formula be recited in Arabic?

**Sayyid:** Most contemporary scholars prefer that the marriage formula be recited in Arabic, but if it is impossible then any other language would suffice.

**Fatma:** When a Muslim woman marries, she is entitled to keep her maiden name. She is not required to replace her father's name with her husband's name, correct?

**Sayyid:** If the wife wishes, she can keep her maiden name and maintain her independent identity.

**Fatma:** It is well known that a Muslim woman cannot marry a non–Muslim, yet there are opposing arguments regarding a Muslim man marrying a Christian or Jewish woman. Those that are in favor of such marriages refer to the verse which states,

"Lawful unto you in marriage are not only chaste women who are believers, but chaste women among the People of the Book: wal muhsanato minal mo-minati wal muhsanato minal lazina utul kitaba min qab-likum." (5:5)

Can a Muslim man marry a Christian or Jewish woman without her conversion to Islam?

**Sayyid:** The verse, which you quoted, is related to events which were occurring during the time of the Prophet. When Islam became prevalent and popular in Arabia, some Muslim men became proud of their religious heritage. As a consequence, some of these men wanted to marry only women who were born Muslim.

They gave no opportunity to the faithful, converted Muslim women who descended from the Jewish or Christian faiths. Islam wanted Muslim men to marry women who were not only born Muslim, but also faithful women who had newly converted to Islam from previously divine scriptures.

Islam is a continuation and completion of the three monotheistic religions. Islam believes in the original texts of the Torah and Bible, and considers the followers of Prophet Moses and Prophet Jesus as "People of the Book."

Since one of the principles of marriage is firm family values and shared interests, today's contemporary scholars of Ahlul Bayt, as a mandatory precaution, state that it is not recommended for a Muslim man to permanently marry a Jewish or Christian woman.

The reason for this is to avoid conflicts in religious matters and to provide a lifestyle that may be compatibly shared, in particular, when it comes to raising children. It is for the benefit and serenity of not only the couples, but also for the children that parents be mutually involved in the same religion.

### **Adolescence**

**Fatma:** When a girl reaches the end of her ninth year in the Islamic (Lunar) calendar, she becomes responsible for fulfilling her religious duties independently (mukalif). Is this age also considered lawful for marriage?

**Sayyid:** According to some scholars, a girl who reaches the end of her ninth year in the Islamic calendar (hijra) becomes responsible for her religious duties, such as prayers and fasts. There are also some scholars that state a

girl's religious responsibility commences upon menstruation. Nevertheless, the consensus of contemporary scholars is that menstruation is the primary criterion for marriage, not necessarily one's age, as being the main factor.

Despite this consensus, in our time and age, I would not recommend marriage before mental and physical maturity, and a demonstration of one's ability to bear the task of being a full partner in the family.

**Fatma:** How does Islam justify a "young age" for marriage when, in most cases, adolescent girls are immature and incapable of managing the tremendous responsibilities of a marriage?

**Sayyid:** One must understand that Islam knows no race or culture, and it is not bonded to time. Islam is a religion sent for all time and humankind. Although there may be many girls in the world who are young and too immature for marriage, there are also many adolescent (ages 13–19) girls who may be ready for marriage. It would be prejudicial to state that all adolescent girls are too immature for marriage.

In most cases, if we compare the maturity level of adolescent girls in Western societies to those of Eastern societies, one would tend to find that the readiness and ability levels of the Eastern girls for marriage surpass that of the Western girls.

**Fatma:** Islam is a religion that demands of its adherents physical rituals 37 that require psychological and spiritual conceptualization. Considering that, in general, most young adolescent girls are not mature enough to comprehend the religious undertakings mandated of them, how then does Islam explain the equivalence level of religious responsibilities of young girls to that of adult women, since both are required to implement their religious duties?

**Sayyid:** It would be unfair to state that the religious expectancy levels of young girls and adult women are equivalent. The Qur'an gives, through parables, numerous examples of degrees in accountability and affirms that people will not be judged in the same manner.

#### "Allah does not impose upon a soul a duty but to the extent of its ability." (2:286)

When girls begin to change physically, mentally, and emotionally, it is an introductory stage toward womanhood. It is during this phase that Islam also introduces itself. The development of the spirit is the foundation that makes a person become a rightful human being.

**Fatma:** In Islam, when a girl reaches physical, mental, and social maturity, she is entitled to manage and dispose of her property or commercial enterprises as she pleases, correct?

Sayvid: Considering that she is fully mature in all the areas you mentioned, correct.

**Fatma:** Taking into consideration that Islam has recognized her as a responsible person, then why is it necessary for her to seek the permission of her father to marry (for the first time)?

**Sayyid:** Marriage should not be impetuously decided upon. It requires mature thought and keen perception. There is the famous saying "Love is blind." Marriage should never be based solely on love, and, unfortunately, it is the mere romantic emotion that drives the immature adult into making unwise decisions.

In general, when young women are emotionally involved with a man, their sense of perception is somewhat distorted. It is during this critical time that the father who raised her, cared for her, and loved her all those years, responsibly analyzes if that particular man is well–suited for his daughter. Generally, fathers want what is best for their daughters.

If the groom was a man who feared and obeyed Allah, and he was able to provide for his daughter a comfortable lifestyle, then there would be absolutely no objection to the marriage. In fact, most fathers would give their blessings from the beginning of the religious courting.

Some women may take offense to this particular ruling, but one should not view it in a negative or demeaning manner. This is a form of protection. This ruling protects the girl from being taken advantage of and from making an irrational decision.

Let us presume that you have a twenty-year-old daughter and she was in love with a man who drank and was consistently in and out of work. Would you give your blessings or would you state your opposition to such a marriage? Even though your daughter is twenty years old, would you agree that she is making an appropriate decision? Age is not the only criterion for marriage; maturity counts as well.

**Fatma:** Permission of the father for marriage is religiously required for a young woman who marries for the first time. Is there a certain age limit to this ruling? What would be the case if the woman were thirty-

something? Would she still be required to obtain her father's permission?

**Sayyid:** Scholars of Islam state that, as an obligatory precaution and as a gesture of respect for the father, the woman should seek her father's approval.

**Fatma:** According to some schools of thought, the father or grandfather are permitted to contract a marriage for a minor, whether male or female. Then, upon puberty (baleigh) that contract becomes binding unless one of the parties opposes the marriage. A traditional story has been told:

A young girl came before the Prophet perplexed and anxious. She exclaimed, "O Messenger of Allah, from the hand of this father..." "But what has your father done to you?" the Prophet asked. "He has given me in marriage before consulting me in the matter," she said.

"Now that he has done it, agree and be his wife," said the Prophet. "How can I be a wife to a man I do not like?" asked the woman. "If you do not like him, that is the end of the matter. You have full authority. Go and make the choice of a man whom you would like to marry," said the Prophet.38

All the varying schools of thought agree that a marriage contract is only valid when both parties consent, but my inquiry is to understand why Islam allows the father or grandfather to contract a marriage prior to the maturity of the girl or boy when their approval is a prerequisite for the marriage contract to be binding?

**Sayyid:** In the early days of Islam, it was customary for some individuals to marry at a young age. Parents used to arrange marriages for their children. This was the tradition. Islam encourages parents to seek the best suitor for their children, but it forbids parents to exercise a marital contract in which one or both parties oppose.

**Fatma:** What happens in cases when the father unjustifiably rejects his daughter's suitor and she decides to elope. Would her marriage be void (batal)?

**Sayyid:** In order to answer that question correctly, unjustifiably must be clarified.

If the suitor were a man of good faith, a practicing Muslim, compatible with the moral and religious standing of her family, and was capable of sustaining her then there would be no basis for the father's objection. If

the daughter eloped, then her marriage would be in order. At the same time, Islam advises that the woman continue to seek her father's blessings.

## **Mahr**

Fatma: Is a mahr mandatory in marriage?

Sayyid: A marriage would not be valid without stipulating a mahr. Some people assume that the mahr is

a form of buying a bride; it is not. The mahr is a gift. Traditionally, it has been money, but it is not necessary that it be money. It could be anything from an extravagant gift, sending one's wife for her hajj pilgrimage, or presenting one's wife with a Qur'an.

**Fatma**: Traditionally it has been money; therefore, there were monetary reasons for the mahr. What is Islam's position regarding the mahr?

**Sayyid:** A monetary mahr can be a form of financially securing a woman with provisions. In the past, and even in contemporary times, many women have struggled for financial security. A monetary mahr may become a means of providing financial security for a woman who may in the future require assistance in which to live. Also, it may establish an opportunity to market the money to gain economic strength.

**Fatma:** What happens in cases where the mahr amount had not been settled? Would the wife then be entitled to a mahr appropriate for her socio–economic status (mehr–i–mithl)?

**Sayyid:** The mahr would be considered equivalent to that of her peers. Presuming one daughter's mahr was \$10,000 then it would be expected that the other daughter's mahr to be the same.

**Fatma:** What happens if a wife dies and the husband still has not paid the mahr in full? Would the husband be required to pay into the deceased wife's estate in order for her living parents and children to inherit from her?

**Sayyid:** If the wife died, and the husband had yet to pay the full mahr, then he would have to pay his deceased wife's estate.

Fatma: How would the wife ensure her mahr if the husband died and he had not paid the mahr in full?

**Sayyid:** If the mahr had not been paid in full then it would be considered as a loan or as a debt the husband owed his wife. The wife, at anytime throughout the time of her marriage, may request her husband to pay the mahr. If the husband died before paying the full amount of the mahr, then the wife's mahr would be considered a debt. It would need to be paid off from his estate before anyone could claim inheritance from his will.

**Fatma**: Consider the scenario that a couple agreed on a mahr in the sum of \$10,000. At the time of marriage, the husband gave his wife \$3,000 with a promise to pay her the remaining \$7,000 in the future. Would the remainder of the mahr in the future be paid according to the exact amount (\$7,000), or would it depend on a variety of circumstances, such as the cost of living, the currency of the country, or the financial status of the husband at the time of payment?

**Sayyid:** The remaining balance of the mahr would be equivalent to the present value of what would have been considered equivalent had it been paid off at the past market value. In other words, if the value of \$7,000 ten years ago is presently worth \$14,000, then the husband would be required to pay the

cost of the current market.

Husbands must understand that if the mahr is money, and if it has not been paid in full, then it is considered a loan that must be paid. It is a promissory note to pay the full amount, and husbands must take into consideration that if they delay paying the remainder of the mahr, then they run the risk of the mahr increasing to the current market value.

Islam does not force men to settle on an exorbitant sum for the mahr. Men should offer according to their capabilities. The mahr does not have to be money. It could be anything that has value, whether it be a sentimental

gift or Currency

**Fatma**: Therefore, the currency of the country or the financial status of the husband cannot be used in modifying the remaining balance of the mahr, correct?

**Sayyid:** If the husband were unable to pay the remaining mahr, then the general rule of debt would apply.

"If the debtor is in difficulty, grant him time till it is easy for him to repay. But if you remit it by way of charity, that is best for you if you only knew." (2:280)

- 1. Qur'an, 9:71.
- 2. Qur'an, 24:2.
- 3. Al-Hadith An-Nabawi, Mawsu'at Atraaf, v. 3, p. 55 & 266.
- 4. Qur'an, 65:7.
- 5. Usul al-Kafi, v. 5, p. 113.
- 6. Struggling for the cause of Allah.
- 7. Nuhjul Fasaahah
- 8. Wasail Al-Sh'iah, v. 3, p. 6.
- 9. Al-Nisa'i, Ibn Majah, & Ahmad.
- 10. Ahmad
- 11. Imam Ali, the first of the twelve infallible successors to the Prophet.
- 12. Imam Ali, first cousin to the Prophet & son-in-law (married to Fatima).
- 13. Nahjul Balagha, v. 1, sermon 80.
- 14. Tarikh Al-Tabari & Ibn Al-Althueer.
- 15. Defined by the Prophet as a light tap.
- 16. See chapter "Disciplinary Action."
- 17. Statutory Islamic dress for women; covering of the body & hair.
- 18. Hajj is a pilgrimage Muslims must undertake, if permitted, once in their lifetime to the house of Allah called the Kabah, located in Mecca, Hijaz.
- 19. Religious scholars/leaders of Islam.
- 20. Ibn Abbas.
- 21. Qur'an, 4:19 & 2:228.
- 22. Imam Ja'far Assadiq was the sixth Imam of Ahlul Bayt and successor to the Prophet.
- 23. Usul al-Kafi.
- 24. Bihar Al-Anwar, v. 103, p. 224.

- 25. Mustradrak Al-Wasel, v. 2, p. 531.
- 26. Al-Tahtheeb, v. 7.
- 27. Man La Yuhthoral Al-Faqeeh, v. 3, p. 364.
- 28. Usul al-Kafi, v. 5.
- 29. Usul al-Kafi, v. 5.
- 30. Usul al-Kafi, v. 5.
- 31. Ali Rida is the eighth Imam in the twelve descendents of Ahl al-Bayt.
- 32. Bihar Al-Anwar, v. 76, p. 102.
- 33. Mustadrak Al-Wasel, v. 2, p. 559.
- 34. Wasail Al-Sh'iah, v. 14, p. 183.
- 35. Usual, Al-Kafi, v. 5.
- 36. Wasail Al-Sh'iah, v. 5.
- 37. e.g., five daily prayers, fasting, ritual cleansing baths, and others.
- 38. The Rights of Women in Islam, Murtaza Mutahheri.

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