

Marriage

Introduction

The Islamic legal system regulates the relationship between members of the opposite sex covering its various important aspects and expanding on its details. That is because it is an important need of the human race and many issues relating to the individual and society are based on it.

There are many rules concerning the relationship between man and woman. Yet, I shall confine myself only to the ones that are relevant to Muslims residing in non-Muslim countries.

General Rules

380. Marriage is among the highly recommended deeds. The Prophet has said, “Whosoever marries, he has protected half of his religion.”¹ He also said, “Whoever likes to follow my tradition, then [he should know that] marriage is of my tradition.”² In another *hadith*, he said, “No Muslim man has gained a benefit besides Islam better than a Muslim wife who is a source of his pleasure whenever he looks at her, who obeys him when he commands her, and remains faithful to him when he is away.”³

381. Man should give importance to the qualities of the woman he would like to marry. He should not marry except a woman who is chaste, honourable, of good lineage, and righteous. She should be a source of help to him in the affairs of this world and the hereafter.

382. And should not confine his choice to the woman’s physical beauty and wealth. It has been narrated from the Prophet (s.a.w.) that he said, “O People! Beware of the green grass [growing] in a waste site.” Someone asked, “O Messenger of Allah! And what is the green grass in a waste site?” He replied, “A beautiful woman in an evil environment.”⁴

383. The woman and her guardians should give importance to the qualities of the man she chooses to marry. She should not marry except a man who is religious, chaste, of good character, not a drunkard or someone who commits sins and evil deeds.

384. It is better not to reject the proposition of a man who is religious and of good character. The Prophet has said, “When a man whose religion and character pleases you comes to you [with a proposition], then marry him. If you do not do so, there will be chaos and a great corruption in the world.”⁵

385. It is *mustahab* (recommended) to work in getting people married, in being intermediary, and in bringing the two parties to an agreement.

386. It is permissible for a man to look at the attractive features of the woman he intends to marry. Similarly, it is permissible to talk to her before proposing. So, it is permissible to look at her face, hair, neck, hands and wrists, and legs and other parts of her body, provided that he does not so without sexual gratification. (See the question–answer section below.)

387. In Islamic law, marriage is of two kinds: permanent and temporary. Permanent Marriage means the marriage in which there is no fixed time. The wife in this marriage is known as “the permanent wife”.⁶

Temporary Marriage means the marriage in which the time limit is fixed to a year or more or less. The wife in this marriage is known as “the temporary wife”.⁷

388. The formula for solemnizing the permanent marriage is as follows: The woman says to the man: “*Zawwaj–tuka nafsi bi mahrin qadruhu x* — I give myself to you in marriage for the marriage gift which is x.” (In place of “x” mention the agreed marriage dowry [*mahr*].) The man immediately says, “*Qabiltut tazweej* — I accept the marriage.”

The formula for solemnizing the temporary marriage is as follows: The woman says to the man: ““*Zawwaj–tuka nafsi bi mahrin qadruhu (x) li muddati (x)* — I give myself to you in marriage for the dowry of (x) for the time period (x).” (In place of first “x” mention the agreed *mahr* and in place of the second “x” mention the agreed time.) The man immediately says, “*Qabiltut tazweej* — I accept the marriage.”

389. It is permissible for the couple to recite the formula of marriage agreement by themselves or by appointing representatives who will recite it on their behalf. There is no condition for the presence of witnesses during the solemnization of the marriage, just as the presence of a cleric is not a condition for the validity of the marriage.

390. For a person who cannot recite the formula of marriage in Arabic, it is permissible to say it in a language that would convey the meaning of marriage, even if he can appoint someone to say it in Arabic.

391. A Muslim man is allowed to marry a Christian or a Jewish woman in temporary marriage. Based on precaution, it is obligatory to refrain from marrying a non–Muslim woman in permanent marriage.

A Muslim man is not allowed to marry, neither permanently nor temporarily a non–Muslim woman who is not among *Ahlul Kitab*. Based on obligatory precaution, a Muslim man must refrain from marrying a

Zoroastrian woman, even temporarily.

As for a Muslim woman, she is not allowed to marry a non-Muslim man at all. (See the question-answer section below.)

392. In marrying a virgin woman, whether Muslim or from *Ahlul Kitab*, it is necessary to get the consent of her father or paternal grandfather, if she is not independent. However, it is precautionarily obligatory to seek their consent [i.e., of the father or the paternal grandfather], even if she is independent. Consent of the woman's brother, mother, sister or other relations is not required.

393. The consent of the father or the paternal grandfather to marry a virgin woman, who is both adult and sensible, is not required [in the following cases:]

- a. if they stop her from marrying someone who is her equal in the eyes of both *shar'ia* and common practice;
- b. if they completely withdraw from the involvement in her marriage;
- c. when it is not possible to get their consent because of their absence.

In these cases, she is permitted to marry, if she is in need of marriage.

394. The consent of the father or the paternal grandfather is not required in the marriage of a non-virgin woman (that is, a girl who had previously married and had sexual intercourse). But the case of the woman who had lost her virginity because of fornication or another cause is like that of a virgin.

395. In countries where the majority of people consists of atheists and *Ahlul Kitab*, i.e. non-Muslims, it is necessary for a Muslim to ask the woman whom he wants to marry about her religion so that he may ensure that she is not an atheist and thus the marriage be valid. Her answer [about her faith and religion] is to be accepted.

396. A Muslim man who is married to a Muslim woman is not allowed, in his concurrent second marriage, to marry an *Ahlul Kitab* woman, i.e. a Jew or a Christian, without asking the consent of his Muslim wife. Based on obligatory precaution, the man should refrain from marrying her, even it is temporary and his Muslim wife consents to it. Whether or not the Muslim wife lives with him is irrelevant. (See the question-answer section below.)

397. It is not permissible to engage in sexual relations with an *Ahlul Kitab* woman without a marriage contract, even if the government of her country is in a state of war with Muslims. (See the question-answer section below.)

398. Based on obligatory precaution, one should refrain from marrying a woman whose notorious for adultery, unless she has repented. Similarly, based on obligatory precaution, the adulterer should not

marry the woman with whom he committed adultery, unless she has repented. (See the question–answer section below.)

399. If the marriage that took place among non–Muslims is valid according to their custom, such marriage is also considered valid by us regardless of whether the spouses are both *Ahlul Kitab*, both *non–Ahlul Kitab*, or one is an *Ahlul Kitab* and the other is *non–Ahlul Kitab*. When both spouses embrace Islam together, they will remain married based on the past marriage, i.e. there would be no need to recite the marriage formula anew according to the tradition of our religion and school of thought.

400. If the father withdraws his guardianship from his virgin daughter and considers her independent, after reaching the age of eighteen, as is common in the West, it is permissible to marry her without getting the consent and approval of her father.

401. “It is permissible for the husband and wife to look at the body of one another, outside and inside, including the private parts; and also to touch any part of one another with any part of their own body with lust and without it.”[8](#)

402. It is obligatory on the husband to provide for the wife if she is a permanent wife and obedient to him in matters in which she is required to obey him. In this case, it is obligatory on the husband to provide whatever the wife needs in her life like food, dress, and accommodation with the required amenities like fan, air–conditioner, carpets, furniture, etc. that are commensurate with her status as his wife. Such status would differ according to place, time, circumstances, common perceptions, customs, standard of living, etc. (See the question–answer section below.)

403. It is obligatory on the husband to pay for his wife when he asks her to accompany him in his travels. It is similarly obligatory on him to meet her travelling expenses when she goes on a journey that is necessarily connected to the affairs of her life. For example, if she is sick and her treatment depends on traveling to a specialist, it is obligatory on the husband to pay for the expenses, her ticket as well as medical charges.

404. “It is not permissible to neglect sexual relations with a young wife for more than four months, unless there is an excuse like unbearable difficulty or harm [in fulfillment of that duty] or unless she agrees to it [that is, forgoes her conjugal rights] or if it was part of their agreement at the time of marriage.

“Based on obligatory precaution, this rule is not limited to the permanent wife, i.e. it includes the temporary wife also. Similarly, based on obligatory precaution, it is not restricted to the husband who is present. It also includes the husband who is travelling. Therefore, it would not be permissible for him to prolong his journey, (without valid reason), if it entails depriving the wife of her right, more so when the journey is not regarded as essential in the people’s eyes, i.e. a vacation or pleasure.”[9](#)

405. “It is not permissible for a Muslim woman to marry a non–Muslim man in permanent or temporary marriage.”[10](#)

406. “If the husband harasses his wife and is spiteful towards her without any valid reason, it is permissible for her to present her case to the religious judge who will force him to live with her in an amicable manner if that is possible, or censure him as he seems fit. If that also does not work, she can demand divorce from her husband. If he refuses to divorce her and it is not possible to force him to divorce her, the religious judge will pronounce her divorced.”

407. It is permissible to artificially inseminate the wife with her husband’s sperm, provided that the process of insemination does not involve a haram act, like looking at the body parts that are forbidden and other haram acts. (See the question–answer section below.)

408. It is permissible for a woman to use contraceptives (the pill) to prevent pregnancy, provided that it does not damage her health in a serious manner, irrespective of whether or not the husband has agreed to it.

409. It is permissible for a woman to use Intrauterine Devices (IUD) and other birth control devices provided that they do not pose serious harm to the woman’s health and that the insertion of the device does not involve a haram act, such as the male touching or looking at the private parts of the woman’s body that are forbidden for him to look at. Similarly, it should not involve the female looking at, and touching without gloves the private parts that are haram to touch or look at. Moreover, the IUD should not cause the abortion of the fertilized ovum after its implantation [in the womb]. [11](#)

410. It is not permissible for a woman to abort the fetus after the soul has entered into it, irrespective of the reason for abortion. It is permissible to abort the fetus before the soul enters it, if there is an unbearable harm to the mother in continuing the pregnancy or it becomes extremely difficult for her. (See the question–answer section below.)

411. If the mother aborts the fetus by herself, she is liable for the indemnity. Similarly, if the father or a third person, like a doctor, caused the abortion, the indemnity is payable by that person. (See the question–answer section below.) There are other details and rules regarding the issue of abortion in the Manuals of Islamic Laws and other books of Islamic jurisprudence. [12](#)

Questions and Answers

412. **Question:** Is it permissible for us to give the Imam’s portion of *khums* for the marriage of a believer (*mo’min*) in the West, knowing that the amount of money that is given here [for this one marriage] can be used for marriages of more than one believer [in the Muslim countries], and there are many needy believers, in Muslim countries? Is it not necessary that most possible numbers of deserving people should be helped from *sahm-e* Imam?

Answer: Although providing for the marriage of needy believers is among the avenues covered by the portion of the Imam (a.s.), one is not permitted to utilize it for this or its other purposes without the

permission of the *marja'* or his representative.

It is not necessary to use the *sahm-e* Imam to serve the interests of the most possible number of deserving people; what is important is to prioritize the important causes. This prioritization varies according to circumstances.

413. **Question:** Is it sufficient for a non-Arab to pronounce the marriage formula in Arabic without understanding the meaning of the words, even though we know that the purpose for uttering those words is to solemnize the marriage in the right way?

Supposing that just the utterance is sufficient, is it necessary to say it in Arabic without having the need to say the marriage formula in another language?

Answer: It would be sufficient, provided that the person has some understanding, even roughly, of the meaning of the Arabic words based on obligatory precaution, it would not be sufficient to pronounce it in another language.

414. **Question:** Is it valid to pronounce the marriage formula through a telephone?

Answer: It is valid.

415. **Question:** Is it possible [for a witness] to give evidence using the telephone or fax or letter?

Answer: The rules and consequences that apply to the bearing of witness in presence of a judge cannot materialize without the physical presence of the witness. As for the testimony that just deals with describing the incident the way it occurred, the methods mentioned above, and other methods similar to them, are sufficient, provided that they are secured from fraud and error.

416. **Question:** Is it permissible to look carefully at the body, with exception of the private parts, of the woman one intends to marry with sexual motivation or without it?

Answer: It is permissible to look at the woman's features like the face, the hair, and the hands but without lustful intention. And [it is permissible], even if one knows that lustful thoughts will naturally occur [by looking at her]. When a person has come to know about her features by the first look, it is not permissible to look again.

417. **Question:** Some Western governments allow the daughter to be independent of her parents, after she has passed the age of sixteen. If she seeks her parents advice, it is only for seeking their opinion or out of respect for them. Is such a virgin girl allowed to marry, be it permanent or a temporary marriage, without the consent of her father?

Answer: If this means that the father has allowed her to marry whomsoever she wants or that he has withdrawn from interfering in the matter of her marriage, it is permissible for her to do so; otherwise,

based on obligatory precaution, it is not permissible.

418. **Question:** If a woman is over thirty years of age, and still virgin, is it necessary for her to seek the permission of her guardian for marriage?

Answer: If she is not independent, it is obligatory on her to seek his consent. Rather, even if she is independent, she must seek his consent, as a matter of compulsory precaution.

419. **Question:** Is it permissible for a virgin girl to use the light beauty powder in order to draw attention [to herself] in ladies only gatherings? What if she does so with the purpose of seeking marriage — wouldn't it be counted as concealing physical defects, [if there were any]?

Answer: It is permissible for her to do that and it would not be regarded as “concealing the physical defects”. Even if it were, it would not be *haram* unless she was intent on deceiving the person who wants to marry her.

420. **Question:** When is it permissible for a wife to ask for divorce through the religious judge? Is it permissible for a wife — whose husband constantly treats her badly or a wife whose is sexually not satisfied by her husband to an extent that she fears committing that which is *haram* — to ask for divorce and be divorced?

Answer: It is permissible for her to ask for divorce through the religious judge, if her husband refuses to fulfill her marital rights and also refuses to divorce her after the religious judge has ordered him to do one of the two. In such a case, the judge would pronounce the divorced the wife.

The circumstances in which this could happen are the following:

- a. When the husband refuses to provide for the wife and also refuses to divorce her. This would include the case of a husband who is unable to provide for his wife and also refuses to divorce her.
- b. When the husband harasses the wife, treats her unjustly, and does not behave with her kindly as Almighty Allah has ordained.
- c. When the husband abandons her completely and she becomes like a suspended woman, i.e. neither married nor free to marry.

As for the case where he does not fully satisfy her sexual needs to an extent that she fears committing the *haram*, then, based on compulsory precaution, the husband must fulfill her needs or consent to her demand for divorce. However, if he does not do that, then the wife has to bear the situation patiently and wait [for a better future].

421. **Question:** There is a Muslim woman whose husband has left her for a long time now so much so that there is no hope of their getting reunited in the near future; she claims that she cannot stay without a

husband because of the difficulty in living as a single woman in the West where she fears robbery and stealing by break-ins into the house. Can she ask for divorce through the religious judge so that he may pronounce the divorce, whereby she can, remarry whosoever she wants?

Answer: If the husband has abandoned her, she can take her case to the religious judge who will then force the husband to choose one of two courses: either end the abandonment or release her [by divorce] so that she can marry someone else. If he refuses to do any of the two, and it is not possible to force him to adopt one of the two alternatives, the religious judge has the right to pronounce the divorce at her request.

But if the wife is the one who has left her husband without any [valid] justification, there is no way for the religious judge to pronounce her divorced.

422. **Question:** A Muslim couple got separated for a long time. Is it permissible for him to marry, temporarily or permanently, a woman from *Ahlul Kitab* without the knowledge of his Muslim wife? Is it permissible for him to marry, with the permission of his Muslim wife?

Answer: For a Muslim man to marry a woman from *Ahlul Kitab* permanently is against the compulsory precaution in any circumstance.

And his temporary marriage to a Jewish or a Christian woman is allowed, only if he is not already married to a Muslim wife. If he has a Muslim wife, temporary marriage with an *Ahlul Kitab* woman is not permissible without her consent; nay, even with her consent, it is not permissible, based on compulsory precaution.

423. **Question:** A Muslim man who is married to a Muslim woman migrated from his country. After a lengthy stay in the West country, he wants to embark on temporary marriage with a woman from *Ahlul Kitab* just a few days after divorcing his Muslim wife. Is this permissible for him, especially when his Muslim wife is still in her waiting period (*al-idda*)?

Answer: The temporary marriage mentioned in the question is considered invalid because the wife who is in the waiting period of a revocable divorce is still considered as a wife. It has just been mentioned that to temporarily marry an *Ahlul Kitab* woman while one has a Muslim wife is not permissible [as a matter of compulsory precaution].

424. **Question:** Is it obligatory to inform the man who wants to marry a woman from the *Ahlul Kitab* or a Muslim woman that she has not yet observed the waiting period (*idda*) of a divorce of a previous marriage, or that she is still in the *idda* [during which marriage is forbidden for her]?

Answer: It is not obligatory.

425. **Question:** Is it permissible for a Muslim man to marry a non-Muslim woman who is still married to a non-Muslim man? Is there an *idda* period for her when she separates from her non-Muslim husband?

What is the period of that *'idda*? Is it permissible to have sexual relations with her during the time when she is in the *'idda* from her non-Muslim husband? If she embraces Islam, how long will her *'idda* be, if she intends to marry a Muslim man?

Answer: It is not permissible to marry her while she is married to a non-Muslim in a marriage which is recognized by them because she is a married woman. It is permissible to marry her temporarily after her divorce and after the completion of the *'idda* from her non-Muslim husband. (The period of her *'idda* is not different from the *'idda* of a Muslim woman.) Therefore, it is not permissible before the completion of the *'idda*.

If she becomes a Muslim after having had sexual relations with her non-Muslim husband and the husband has not embraced Islam, it is precautionarily obligatory for a Muslim not to marry her until after the completion of her *'idda*. But if she became a Muslim without having ever established sexual relations with her non-Muslim husband, then their marriage will be annulled immediately and there is no *'idda* in such a case.

426. **Question:** What is the meaning of “justice” required by religious law in dealing with one’s wives?

Answer: The justice that is required [in dealing with polygamy] is related to the division [of time between them] in the sense that when he spends a night with one of them then, he must spend one night each with the rest of them in every four nights.

The justice that is required as a recommendation is equality in spending money, giving attention, cheerfulness, and fulfillment of their sexual needs, etc.

427. **Question:** If a Muslim woman commits adultery, is it permissible for her husband to kill her?

Answer: Based on obligatory precaution, it is not permissible for him to kill her, even if he sees her in the act of committing adultery.

428. **Question:** What is meant by the expression “an adulterous woman known for adultery” that is used in the Manuals of Islamic Laws?

Answer: It means that such a woman is known among the people for committing adultery.

429. **Question:** Is it permissible to be party to temporary marriage with a woman who is “known for adultery”, if no other woman is available and the person is in desperate need of marriage?

Answer: Based on obligatory precaution, one should refrain from marrying such a woman except after her repentance.

430. **Question:** What is the meaning of the expression used by the jurists that “there is no waiting period (*'idda*) for an adulterous woman because of her adultery”?

Answer: It means that she is allowed to marry after having committed adultery without observing the *'idda*; and, if she is married, then it is permissible for her husband to have sexual relations with her without observing the *'idda* except in the case of *al-wat'i bis-shubha* (sexual relation established based on mistaken identity or ignorance of the law).

431. **Question:** A man lived with a woman whom he intended to marry and also had sex with her without entering into a marriage contract (*'aqd*); thereafter he married her in the proper religious way. Is their cohabitation before the *'aqd* considered marriage in the eyes of religious law? Does the subsequent *'aqd* have retroactive effect? What will be the status of the children born before the *'aqd*?

Answer: In [an Islamic] marriage, the spousal relationship is established by the verbal expression of the proposition and the acceptance. More over no action or deed that reflects the intention of marriage can be a substitute for the spoken words. Consequently, the marriage mentioned in the question is not valid except after the pronouncement of the religious marriage formula that does not have any retroactive effect.

As for the children, they will be considered legitimate if the parents did not know the law [requiring the *'aqd*] because their relationship will be classified as "*wat'i bis-shubha*". But if both were aware of the law, their relationship is considered adulterous. Consequently the children will be deemed illegitimate. However, if only one knew about the law without the other, the children will be deemed legitimate in relation to the ignorant parent only.

432. **Question:** Certain circumstances demand that the use of insemination between husband and wife in order to increase the chances of pregnancy; this process of insemination requires exposing the private parts before the doctor. Is this allowed?

Answer: Exposing the private parts for the purpose mentioned above is not allowed. However, if there is a need that compels one to have children, and having children requires exposing the private parts, it is allowed. An example of "need" is when enduring childlessness becomes an unbearable difficulty for the couple

433. **Question:** A woman who does not want children asks the doctor to tie her falopian tubes. Is this permissible for her—regardless of whether or not it is reversible; and whether or not the husband agrees to it?

Answer: It is permissible for her, provided that it does not involve any *haram* touching or looking, irrespective of whether or not it is reversible. The permission of the husband is not required; of course, his permission might be required for other considerations.

434. **Question:** In the West [more precisely, in Italy] an ovum of a woman was fertilized in the laboratory, then the fertilized egg was implanted in the womb of the mother; the fetus developed in and was born from the grandmother's womb. Is it permissible to implant a fetus [or the fertilized ovum] in its

grandmother's womb? And who will be the child's mother according to the *shari'a*?

Answer: It is difficult to consider it permissible in principle, even if we overlook the haram looking and touching that is involved in this kind of procedure. And if this process takes place and the child is born, then in determining who is to be considered the child's mother from the genealogical perspective —the genetic mother or the biological mother— there are two views. It is prudent to observe caution in regard to both women. [That is, fulfill the rights of mother in regard to both.]

435. **Question:** Sometimes the sperm of a man is preserved in a sperm bank. Is it permissible for a divorced Muslim woman to use the sperm of a strange man [to artificially inseminate herself] with or without his permission and without recitation of marriage formula? What is the ruling if the sperm is that of her ex-husband, and she intends to use it during the waiting period or after it?

Answer: It is not permissible for a woman to inseminate herself with the sperm of a strange man; and it is permissible to do so with the sperm of her husband, even during the waiting period but not after it.

436. **Question:** A man is put in a situation that he either pleases his family or pleases his wife: should he divorce his wife in order to please his family or should he do the opposite?

Answer: He should adopt the situation that is best for his religion as well as his world, that he should be inclined towards justice and equitability, and refrain from injustice and violation of the rights [of others].

437. **Question:** What is the meaning of "obligatory maintenance" that a husband must provide for his wife? Should the level of the support be according to the social standing of the husband, the standard of life that the wife was used to in her father's home, or other than that?

Answer: The criterion is the level that would be appropriate for her status in relation to that of her husband. [That is, the level that would be appropriate for her "as the wife of her husband".]

438. **Question:** The wife has certain rights upon the husband; now if the husband neglects some of those rights, is it permissible for the wife to ignore his sexual advances?

Answer: She does not have such a right; if counseling and then warning do not help [in changing the husband's attitude], she can take her problem to the religious judge who should take appropriate action.

439. **Question:** On embarking on a journey or coming back, a Muslim traveller embraces and kisses his wife in public. Is this permissible for him?

Answer: It is not haram to do that, if the rules of appropriate covering [of the clothes] and hijab are observed and as long as it does not entice lust [in other people]; it is preferable to refrain from this kind of behaviour.

440. **Question:** Legal divorce according to Western laws had already taken place between a man and

his wife. The husband is not willing to uphold her religious rights, neither does he pay any maintenance money for her. He refuses to listen to the religious authorities who work as a go-between. What should the wife do, knowing well that her patience under such circumstances will surely cause her [unbearable] difficulty?

Answer: She should present her problem to the religious judge or his authorized representative who will then advise the husband to either provide for her or grant her religious divorce—even by appointing someone else to do that. If he refuses to do either, and it is not possible [for the religious judge] to provide for her from the husband's wealth, the judge or his representative will pronounce the divorce for her.

441. **Question:** Is it permissible to have sex with a non-Muslim woman —from Ahlul Kitab or others— without doing the religious marriage on the basis that her country is in a state of war, directly or indirectly, with the Muslims?

Answer: This is not allowed.

442. **Question:** A wife neither obeys her husband nor fulfills her marital duties; she also goes out without his permission to stay with her own family for seven months. Then instead of having recourse to Islamic laws, she goes to a non-Islamic court in order to get spousal maintenance, custody of the children, and divorce from her husband. Does such a wife have the right in getting anything from her husband? In such a situation, when she goes to non-Islamic court it will apply non-Islamic laws to grant her divorce and her rights (spousal support and custody of children), does she deserve her full spousal rights?

Answer: The wife mentioned above does not deserve the spousal maintenance from a shari'a point of view. But her mahr (dowry) and her right of custody of children (under the age of two) should not be suspended because of her disobedience.

443. **Question:** A young lady had gone through an operation in which her womb was removed, and consequently she had stopped having her menses for more than fifteen years. Then she married a man in temporary marriage for a length of time that has now ended. Is it necessary for her to observe the waiting period ('idda)? And if yes, what would be the time length of her 'idda?

Answer: If she still is in the age of women who usually see their menses, then her 'idda in the temporary marriage would be forty-five days.

444. **Question:** Sometimes a non-Muslim woman would verbally bear witness [of belief in Islam] for the sake of marriage which does attract plausible credence for others that she has really believed in Islam. Can the others [who have doubt about her belief] still treat her as they would treat Muslims?

Answer: Yes, the Islamic treatment would be applied to her as long as she does not say or do something that would contradict [her declaration of the faith].

445. **Question:** Sometimes the fertilized ovum of a woman is transplanted in the womb of another woman. Is this allowed? If pregnancy occurs, whose child will this foetus be considered?

Answer: There is no problem as long as the haram touching and looking is not involved. And whether the genealogical mother of the child will be the genetic mother (who provided the ovum) or the biological mother (who carried the foetus in her womb), there are two views. Based on obligatory precaution, caution should be exercised in regard to both of them.

446. **Question:** The foetus swims in the liquid that is in the mother's womb. This liquid comes out at the time of birth or just before it, sometimes with blood, at others without blood. Is this water considered ritually pure, if it comes out without blood?

Answer: Yes, it is ritually pure (tahir) in this case.

447. **Question:** When is it permissible to abort a foetus? Does the age of the foetus have anything to do with it?

Answer: Abortion is not allowed after the implantation of the [fertilized] ovum [on the lining of the womb], except if the mother's life is in danger or the continuation of pregnancy will cause difficulty for her that is not normally bearable and there is no other solution but abortion. In this case, it would be permissible to abort the foetus as long as the soul has not entered into it; after the entering of the soul, it is not permissible at all.

448. **Question:** Sometimes the doctors reach the following conclusion: This foetus is afflicted with a very serious disease; it is therefore preferable that it should be aborted because if that child is born, it will be deformed or will die soon after birth. Is it, therefore, permissible for the doctor to abort the foetus? Is it permissible for the mother to agree to the abortion? And who of the two will become liable for indemnity?

Answer: Just the fact that the child will be deformed or that it will not live for a long time after his birth does not ever justify the termination of the pregnancy. Therefore, it is not permissible for the mother to consent to the abortion just as it is not permissible for the doctor to go ahead with the procedure. And whoever performs the abortion will become liable for the payment of indemnity.

449. **Question:** Is a mother allowed to abort the foetus, if she does not want it while the soul has not yet entered it and there is no serious danger to the mother's life?

Answer: She is not allowed to do that, except if the continuation of the pregnancy would harm her health or put her in an unbearable difficulty.

[1.](#) Wasa'ilu 'sh-Shi'a, vol. 20, p. 17.

[2.](#) Ibid, p. 18

[3.](#) As-Sistani, Minhaju 's-Saliheen, vol. 2, p. 7.

[4.](#) Wasa'ilu 'sh-Shi'a, vol. 20, p. 35.

[5.](#) At-Tusi, Tahdhibu 'l-Ahkam, vol. 7, p. 395. Also see the chapter on compatibility in marriage in the same book, p. 394ff.

[6.](#) For more information on marriage and its laws, see Sayyid 'Izzu 'd-Din Bahru 'l-'Ulûm, az-Ziwaj fi 'l-Qur'an wa 's-Sunnah. [Also see Sayyid Muhammad Rizvi, Marriage and Morals in Islam.]

[7.](#) For more information on temporary marriage and its laws, see Sayyid Muhammad Taqi al-Hakim, az-Ziwaju 'l-Muwaqqat wa Dawruhu fi Halli Mushkilati 'l-Jins.

[8.](#) Ibid, p. 11.

[9.](#) As-Sayyid as-Sistani, Minhaju 's-Saliheen, vol. 2, p. 10-11; also see the last reference.

[10.](#) Ibid, p. 67.

[11.](#) Translator's Note: "The medical experts do not exactly know how IUD works. Presently there are two opinions: one says that the IUD prevents fertilization; and the other says that it prevents the fertilized ovum from implantation onto the uterus. Since the shar'i pregnancy begins at implantation, there is no problem in using the IUD as a birth control device irrespective of the above differences among professionals." Marriage & Morals in Islam (Toronto: IEIC, Revised Edition, 1994) p. 121.

[12.](#) See as-Sistani, Minhaju 's-Saliheen, vol. 2, p. 136-137 as well as his al-Masa'ilu 'l-Muntakhaba, p. 385-419.

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