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## The Rules in Matrimony and Marriage

**Issue 794:** Matrimony is one of the recommended acts. When one fears that he will fall into committing the unlawful due to his abstinence from marriage, marriage is obligatory for him.

**Issue 795:** The man and woman become lawful for one another by means of the matrimonial contract. (The matrimonial contract) is of two types: Permanent marriage and temporary marriage. The woman married with the permanent matrimonial contract is called Daa'imah.

Temporary marriage is that a woman is married for a specific period, be it short or long. It is called Mut'ah marriage by virtue of the terminology of the Qur'an. Temporary Marriage has the same rules as permanent marriage with respect to the 'Iddah after divorce and other rules.

**Issue 796:** A verbal Seeghah is conditional in the matrimonial contract, whether it be permanent or temporary and mere agreement of the two sides (of the contract) is not sufficient. It is permissible for the two sides or their representatives to perform the Seeghah of matrimony.

**Issue 797:** The representation of a man by a woman and the representation of a woman by a man is proper for the purpose of executing the Seeghah of matrimony.

**Issue 798:** When a woman or a man authorizes a person to perform the Seeghah of matrimony as a representative of them, they will not become lawful for one another as long as they are not certain that the representative (Wakeel) has performed the Seeghah of matrimony. However, when the representative is a case of reliability and he says: I performed the Seeghah, it is sufficient.

## [The Method of Performing the Seeghah of Permanent and Temporary Marriage](#)

**Issue 799:** It suffices for the Seeghah of permanent marriage if the woman says:

زَوَّجْتُ نَفْسِي عَلَى الصَّدَاقِ الْمَعْلُومِ

*I marry myself to you for the agreed upon dowry*

And the man says afterward:

قَبِلْتُ التَّزْوِيجَ

*I accept the marriage*

If they authorize a representative for the matrimony, then, it would be sufficient that the representative of the woman says:

زَوَّجْتُ مُوَكَّلَكَ أَحْمَدَ، مُوَكَّلَتِي عَلَى الصَّدَاقِ الْمَعْلُومِ

*I marry the woman I represent to the man you represent for the agreed upon dowry*

And the representative of the man says:

قَبِلْتُ لِمُوكَّلِي التَّزْوِيجَ

*I accept the marriage on behalf of the man I represent for the agreed upon dowry.*

It suffices in temporary marriage if the woman says, after specifying the duration (of the marriage agreement) and the dowry:

زَوَّجْتُكَ نَفْسِي فِي الْمُدَّةِ الْمَعْلُومَةِ عَلَى الْمَهْرِ الْمَعْلُومِ

*I marry myself to you for the agreed upon time period for the agreed upon dowry.*

And the man says:

قَبِلْتُ التَّزْوِيجَ

*I accept the marriage*

Or the representative of a woman says:

زَوَّجْتُ مُوَكَّلَتِي مُوَكَّلَكَ فِي الْمُدَّةِ الْمَعْلُومَةِ عَلَى الْمَهْرِ الْمَعْلُومِ

*I marry the woman I represent to the man you represent for the agreed upon time for the agreed upon dowry*

And the representative of the man says:

قَبِلْتُ لِمُوَكَّلِي التَّزْوِيجَ

*I accept the marriage for the man I represent*

## Conditions of The Matrimonial Contract

**Issue 800:** Some matters are conditional in the matrimonial contract ('Aqd An-Nikaah):

- 1) The precaution is to perform the Seeghah of marriage in proper 'Arabic. When the two sides are not able to perform the Seeghah in 'Arabic, they can perform it in their language. It is not obligatory to appoint anyone to perform the Seeghah in the 'Arabic language (although, it is better). However, it is obligatory to perform the Seeghah with words which convey the same meaning understood from the 'Arabic Seeghah.
- 2) It is obligatory upon whomever performs the Seeghah of marriage that they intend Inshaa', meaning that they intend to establish a marital bond between the man and woman by reciting these words (of the Seeghah), then, the woman makes herself a wife for the man with these words and the man accepts this meaning. Likewise, it is obligatory for the representative to have in the intention of Inshaa' as well.
- 3) Sanity and maturity (Buloogh) is conditional for whoever performs the Seeghah, according to precaution.
- 4) It is obligatory upon the guardian (Waliy) or representative (Wakeel) that they specify the man and woman at the time of performing the Seeghah of the contract. According to this, when a man has a number of daughters it is not proper that he says: *I am marrying one of my daughters to you.*
- 5) It is a condition that the man and the woman are agreed to the marriage voluntarily. However, when one of the two was apparently not agreed but we know of their agreement in their heart, their marriage is proper, in the reverse situation, their marriage is not proper.
- 6) It is obligatory that the performance of the Seeghah of the marriage contract be done in a proper manner. When it is performed in an incorrect manner such that it changes its meaning, the contract is invalid. There is no objection when its meaning has not been altered. It is permissible to appoint one representative for both spouses.

**Issue 801:** He who does not know the rules of the 'Arabic language but he knows how to articulate the words of the contract in a proper manner and is aware of its meaning also, the contract is proper.

**Issue 802:** When a woman is married to a man without her permission, then, she agrees to that afterward and gives permission for the marriage, the contract and the marriage is proper.

**Issue 803:** The precaution is permission for the marriage of a mature, sensible young woman marrying herself with the permission of her father and paternal grandfather, if she is a virgin. However, when she finds an appropriate mate for herself and her father disapproves, his permission is not conditional. It is likewise when a young girl cannot access her father or paternal grandfather and she needs to get married. If she is not a virgin, the permission of her father or grandfather is not conditional in the new marriage.

## **Defects For Which it is Permissible to Invalidate The Contract**

**Issue 804:** When a man comes to know, after the contract (is executed), that the woman is afflicted with one of the following defects, it is permissible for him to invalidate the marriage contract:

- Insanity (Junoon–With the condition that it occurred before the contract).
- Leprosy (Juzaam)
- Psoriasis (Baras)
- Blindness ('Ama)
- Lameness ('Araj–If it is apparent)
- Rupture (meaning the passageway of menstruation and urine or the passageway of menstruation and stool are one in a general breach which makes it unsuitable for sexual satisfaction).
- The existence of flesh or a bone or gland in the vagina such that it prevents sexual intercourse.

**Issue 805:** It is permissible for the woman to invalidate the marriage contract due to the following matters:

- Insanity of the husband (Junoon)
- Absence of the instrument of virility (i.e. the sexual organ)
- Impotency
- That the man is castrated (Mukhasiy–the details of this issue and the previous issue are reserved for detailed jurisprudence books)

**Issue 806:** When a man or woman invalidates a contract due to one of the above mentioned defects, there is no need of divorce, rather, the invalidation (Faskh) is sufficient.

**Issue 807:** When a woman invalidates the contract due to inability of the man to engage in sexual intercourse with her, it is obligatory for the man to pay half of the dowry (Mahr) to her. If the woman or man invalidates the contract due to one of the other aforementioned defects, when no intercourse has occurred between them, nothing is obligatory upon the man. As for when sexual intercourse had occurred, then, the obligatory precaution is that he gives the dowry, all of it.

## Women With Whom it is Forbidden to Marry

**Issue 808:** The marriage of a man with his close relative (Mahram) is forbidden. The close relatives (Mahram) are: the mother, the daughter, the sister, the paternal aunt, the maternal aunt, the niece (daughter of the brother and daughter of the sister), the wife of the father (meaning stepmother), the daughter of the wife and the mother of the wife. (The explanation of these matters is forthcoming in the next issues)

**Issue 809:** When a man marries a woman, although he has not had sexual intercourse with her, her mother and the mother of her mother and the mother of her father (and so forth) becomes a close relative (Mahram) of that man, although they are ascending (in the family tree). However, the daughters of the wife are not forbidden nor the grand daughters of this woman, from her sons or her daughters except when he had intercourse with the wife.

**Issue 810:** The paternal aunt of the father and his maternal aunt, the maternal aunt of the grandfather and his maternal aunt; the paternal aunt of the mother and the maternal aunt and the paternal aunt of the grandmother and her maternal aunt, although they ascend (the family tree) are close relatives (Mahram).

**Issue 811:** The father of the husband and his father, although they ascend (the family tree); the son (of the husband) and the son of the daughter of the husband, although they descend (the family tree) are close relatives in relation to the woman whether born before the marriage contract or after the contract.

**Issue 812:** When a man marries a woman, it is not permitted that he marry her sister as long as the wife (her sister) is in his net of marriage whether it be permanent or temporary marriage. It is not allowed to marry the sister of his wife even after the divorce of the wife as long as she is in seclusion ('Iddah), in the revocable divorce (At-Tallaaq Ar-Raj'i, its explanation is forthcoming in the book of divorce).

The recommended precaution is not to marry the sister of the wife even during the seclusion ('Iddah) of the irrevocable divorce whose explanation is coming afterward. Likewise (is the situation) in the seclusion ('Iddah) of a temporary marriage (Mut'ah), be it after the completion of the time period (of the contract) or after forgiving of the remainder of the time period.

**Issue 813:** It is not permissible for a man to marry the daughters of the sister of the wife (i.e. his wife's nieces) or the daughters of her brother without the permission of the wife. However, if he marries (one of these women) without the permission of the wife, then, the wife approves, the contract and the marriage is proper.

**Issue 814:** It is not allowed for a Muslim woman to marry a non-Muslim man. Also, it is not permitted for a Muslim man to marry a non-Muslim woman according to precaution. However, marriage in temporary marriage is permitted with the women from the People of the Scriptures (Ahlul-Kitaab), like the Christians and Jews.

**Issue 815:** When a man fornicates with a married woman (God forbid), she becomes forbidden for him permanently, meaning if her husband divorces her, it is not permitted that the fornicator marry her after her seclusion ('Iddah) of divorce.

**Issue 816:** When a man fornicates with a woman and she is in the seclusion ('Iddah) of another (man's divorce), she will become forbidden for him whether the divorce is revocable (Raji') or irrevocable (Baa'in) according to obligatory precaution and, likewise, is the seclusion ('Iddah) of temporary marriage.

**Issue 817:** When a man fornicates with an unmarried woman nor (a woman) in her seclusion ('Iddah), it is permissible for him to marry her afterward. However, the recommended precaution is that he waits until she menstruates and then he marries her.

**Issue 818:** If a man marries a woman and she is in the seclusion ('Iddah) of another (man's divorce), if both sides or one side knows that the woman is in seclusion and also knows that the marriage in the seclusion is prohibited, this woman becomes forbidden permanently for the man whether he had intercourse with her or not.

However, when neither one of the two know that the woman is in her seclusion or they do not know that to marry a woman in her seclusion is forbidden, the woman will become forbidden for him only if he had intercourse with her and she will not become forbidden if he did not have intercourse with her.

**Issue 819:** The mother of a sodomized male and his sister and his daughters are forbidden for the one committing the sodomy (i.e. the homosexual act) whether the sodomized person is mature (Baaligh) or immature. However, when the person committing the sodomy is immature, they do not become forbidden for him. Likewise is the situation when there was doubt as to whether there was penetration (during the homosexual act) or not.

**Issue 820:** When someone is married to the mother of someone or his sister or his daughter, then, after the marriage he commits sodomy with that person, she (meaning the wife) does not become forbidden for him although he has committed a major sin.

**Issue 821:** When a woman is divorced three times she becomes forbidden for her husband. However,

when she marries another man fulfilling the conditions in the Book of Divorce, then, her second husband divorces her, it is permissible to marry the first husband a second time.

## Rules of Permanent Marriage

**Issue 822:** It is not permissible for a woman married in permanent marriage to leave the house or select an occupation or employment outside of the house without her husband's permission whether his agreement is verbal or his agreement is known in context. Just as it is not permitted that she prevent him for sexual intercourse without a legal excuse.

It is obligatory upon the husband also that he provide food, clothing, residence and the necessities of life for his wife according to the common (standard). Even the expenses of the doctor, medicine and things similar to that. When he does not provide that, then, the precaution is that he becomes indebted to her for that whether he be able or unable (to provide it).

**Issue 823:** It is not obligatory upon the woman that she perform household services, prepare food and clean and things similar to that in the house except by her desire. If the husband forces her to do that, it is permissible that she can take compensation from him in exchange for that (work).

**Issue 824:** It is not obligatory to specify the dowry (Mahr) in permanent marriage and the contract is proper without it. However, after the husband has intercourse with her, it is obligatory that he give her a dowry in accordance with women of her stature (Mahr Mithl).

**Issue 825:** When a time period was not specified for paying the dowry, it is the right of the woman to seek her dowry immediately. Rather, it is permitted that she prevent her husband from intercourse with her before taking possession of her dowry, whether her husband is able to pay the dowry or not, except that his lack of ability (to give the dowry was evident) from the beginning an indication that the dowry was initially in his liability and not a cash situation.

## Temporary Marriage (Mut'ah)

**Issue 826:** In temporary marriage it is obligatory to specify the period (of the marriage) and the amount of the dowry, without that the marriage is invalid.

**Issue 827:** Temporary marriage is permissible although it not be for enjoyment and pleasure. Rather, with the intention that it will make a person lawful for one of the relatives of the daughter with the condition that the daughter who is married with the temporary marriage is in the age acceptable for enjoyment and pleasure. For example, when she is a minor, it is obligatory to make the period long so that it includes the interval of her preparation for that (although the period be granted after the marriage)

**Issue 828:** It is permissible for a woman to stipulate in the temporary marriage that her husband will not have intercourse with her, rather, that he be content with other (types of) pleasure besides intercourse.

However, there is no objection if she agrees (to intercourse) after that.

**Issue 829:** There is no right of maintenance for the temporary wife even though she becomes pregnant from (her temporary husband). There is no inheritance from the husband and the husband does not inherit from her. Likewise, there is no obligatory conjugal rights for her.

**Issue 830:** It is permissible for the temporary wife to leave the house without the permission of her husband or to select for herself employment outside of the house, except that when her leaving the house forsakes the right of her husband.

**Issue 831:** It is permissible for the father and grandfather, in order to become a close relative (Mahram) to a woman that they marry her to their immature son (with the condition that the period of the marriage is so long that it includes the interval in which the child will become capable of sexual enjoyment.

Likewise, it is permissible that (a man) marry his immature daughter to a person in order that he become a close relative (Mahram) to his family (with the same condition which has passed in the instance of the son). It is obligatory in both situations, according to obligatory precaution, that the contract has benefit and advantage for both sides and that it be devoid of corruption.

**Issue 832:** It is permissible for a man that he grants the period of the temporary marriage (to his wife) and terminate it. In this situation, if he had intercourse with her, it is obligatory that he pay the entire dowry and if he had not had intercourse with her, he give her one half of the dowry.

**Issue 833:** It is permissible for a man to marry himself permanently to the wife whom he married temporarily, however, it is obligatory to first grant to her the remainder of the period (of the temporary marriage), then, he can marry her in a permanent marriage anew.

**Issue 834:** There is a period of seclusion ('Iddah) for the temporary wife after the termination of the period (of the marriage) with the explanation which will come in the Book of Divorce. The children born from this marriage have all the rights established for children who are born from permanent marriage. They inherit from their mothers and their fathers and their relatives although the two spouses (in the temporary marriage) do not inherit from one another.

## **The Rules of Viewing (Nazar)**

**Issue 835:** For a man viewing the body of the unrelated (Ajnabi) woman is forbidden whether it be with the intention of lust or without this intention. Likewise, it is forbidden for a woman to look at the body of an unrelated man. However, there is no objection in looking at the face of an unrelated woman and her hands up to the wrist when there is no intention of lust nor going to corruption and sin.

Likewise, there is not objection in a woman looking to the extent which is customary without covering of the body of the unrelated man, like the head, face, knees and something of his hands or feet.

**Issue 836:** It is permitted (for a man) to look at the immature girl when there is no intention of lust and he does not fear falling into anything unlawful by looking at her. However, it is obligatory, according to obligatory precaution, not to look at her thighs and stomach which she customarily covers.

**Issue 837:** It is obligatory that a woman cover her body and her hair from (the view of) unrelated men. The recommended precaution is that she cover before the immature boy who can distinguish between good and bad and right and wrong, who is at the stage that his viewing can be lustful. However, it is not obligatory to cover the face and the hands up to the wrist.

**Issue 838:** It is forbidden to look at the private parts of another, although it be in the mirror or in clear water and things similar to that, whether it be a close relative (Mahram) or a unrelated person, whether the one viewed is male or female. The obligatory precaution is not to look at the private parts of an immature discerning child. However, it is permitted for two mates (i.e. husband and wife) to look at the entire body of the other.

**Issue 839:** It is allowed for the close relatives (Mahram) of a man and woman, like brothers and sisters to look at each other to the customary extent in their seeing the body of the other. The precaution is not to look at what is besides that.

**Issue 840:** It is not permitted for a man to look at the body of another man with lust and it is also forbidden for a woman to look at the body of another woman with the intention of lust.

**Issue 841:** It is not forbidden for the unrelated man to photograph the unrelated woman, except when it is necessary to look at her body besides the face and hands.

**Issue 842:** When a woman wears a legal covering (Hijaab), it is objectionable to look at her face without the covering, except that he does not recognize her and there is no other fear of corruption in looking.

**Issue 843:** When the male nurse or male doctor is compelled to touch the body of the female patient or the female nurse or female doctor is compelled to touch the body of the male patient, it is obligatory upon them to wear gloves and whatever is similar to gloves. However, there is no objection in the state of compulsion.

**Issue 844:** It is permissible for the doctor to look at the unrelated woman for treatment in the situation of necessity.

**Issue 845:** It suffices in covering (Hijaab) that the woman covers her body besides the face and hands up to the wrist by any means possible. A specific and particular clothing is not conditional. However, it is objectionable to cover with tight clothing and clothing clinging to the body. Likewise, are the clothing used for decoration.

**Issue 846:** It is permissible for an unrelated man to look at the woman that he intends to marry in order to inspect her beauty or defects. Rather, even when he did not obtain the intended aim with one look, it

is permissible for him to repeat the viewing in a number of sittings.

**Issue 847:** It is permissible to listen to the voice of an unrelated woman when there is no intention of lust and it does not lead to falling into sin. However, it is obligatory that the woman not make her voice so that it brings about infatuation and incites desire.

**Issue 848:** It is permissible to look at an unrelated woman in order to identify her at the time of indicating (someone) when a witness in (legal) decisions and important matters which are similar to that.

## Miscellaneous issues of Marriage

**Issue 849:** When it was conditional in the contract that the woman whom is to be married is a virgin, then, it becomes clear that she is not a virgin, it is permissible for (the man) to invalidate the marriage.

**Issue 850:** The obligatory precaution is that the unrelated man and woman not find themselves in a place where there is no one other than them or it is not possible for others to enter upon them. If they pray there, there is an objection to their prayer.

**Issue 851:** When the intention of a man from the onset was not to pay the dowry to his wife, the contract is proper and it is obligatory upon him to pay the dowry to her.

**Issue 852:** When a Muslim whose parents or one of his parents were Muslim, apostates, meaning that he rejects the existence of Allah or the Prophethood of the Messenger of Allah, peace be upon him and his family, or he rejects one of the imperative beliefs (Dharooriyaat), like the obligation of prayer or fasting whereas its meaning is to reject the existence of Allah or the Prophethood of the Messenger of Allah, peace be upon him and his family, his marriage is invalidated. It is obligatory upon his wife that she withdraw from him and observe the seclusion ('Iddah) of a deceased husband (i.e. four months and ten days). It is permissible for her after the seclusion ('Iddah) to marry another man. When she was menopausal or he had never had intercourse with her, there is no need for the seclusion.

**Issue 853:** When, as part of the contract, the woman makes it conditional that her husband not take her out of so and so city, it is not permitted for her husband to remove her from that city without her consent.

**Issue 854:** He who marries his son to a girl, it is permissible for him to marry her mother. Likewise it is when he married her mother first, then, married his son to that daughter.

**Issue 855:** When a woman becomes pregnant in an illegal manner, it is not permitted that she abort her pregnancy intentionally. The child is deemed hers and is a close relative (Mahram) for her, only she does not inherit from him.

**Issue 856:** When a woman is certain that her husband has died while traveling and she observed the seclusion ('Iddah) of death (whose mention will come in the rules of divorce), then, she re-married, then,

her first husband returned from the journey. It is obligatory for her to separate from the second husband immediately and she is lawful for her first husband and there is no need for seclusion ('Iddah) when the second husband had not had intercourse with her. However, when the second husband had intercourse with her, it is obligatory that she observe seclusion ('Iddah). According to obligatory precaution, the second husband must pay her the dowry agreed upon between them. When the standard dowry (Mahr Mithl) is more than the named dowry, he must pay the standard dowry.

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