

CHAPTER 6

MUAMALAT (RELATIONSHIP)

Kinds of relationship

The following three factors keep people together and united in an Islamic society:

- **Blood relationship:** Kingship and blood ties involve the father /mother- child relations, brother-sister among others these are the strongest natural ties. It determines how members relate with one another thus controlling their behavior. It binds together the family and assists people to live peacefully.
- **Marital relationship:** It includes husband-wife relations, the in-laws of either side. This helps to keep the family together in that each member has defined roles to play.
- **Religious relationship:** Faith is the main binding factor which enhances the achievement of family goals and interests. It goes beyond the close relatives to include all the Muslims who are brothers and sisters.

FAMILY

Why a family is considered as an important unit in Islam?

The family has several Importances in the society; the following are some of them:

- a) ***It safeguards against adultery and fornication:*** A family provides a room for legitimate procreation to ensure continuity of the lineage and general growth of the society.
- b) ***It provides a home for children:*** Creates the best environment for the upbringing of children in terms of giving the guidance and nurture their habits so as to fit in the entire society.
- c) ***It creates mutual companionship:*** A family offers security needs and provides a sense of belonging and identity of the members of the family and society.

- d) ***It brings about love and cooperation within the society:*** A family is founded through marriage which promotes interfamily alliance through matrimonial relation. It brings people of different social status and race together hence removing social prejudice in the society.
- e) ***It acts as a character builder:*** A family regulates the moral conduct of certain individuals in the society. This contributes to peace and harmonious as it provides a set of rules to be observed.
- f) A family promotes a sense of responsibility in that each member has specific roles to play in order to achieve the goals of the family to comfort every member.
- g) A family is a source of stability to the society, in that stable families produce members who fit well in the wider society.
- h) A family serves as a learning institution where every member learns the right Islamic code of life.

NIKAH (MARRIAGE)

a). Definition of Marriage (Nikah)

Literaly, ***Nikah*** is an Arabic term used for marriage which means a ***contract***. Technically, marriage is an Islamic-legal mutual contract (union) between a man and a woman, sane and mature who have expressed their willingness to stay as a husband and wife in order to become a pious family and a society.

Needs/ Reasons/ Justifications/ Purpose of marriage

The basic objectives of marriage in Islam are:

1. To fulfill Allah's (S.W.T) command. Marriage is a commandment from Allah (S.W.T) which must therefore be fulfilled by every Muslim who is able. It is considered as completing half of one's religion and we therefore earn Allah's rewards.
2. Marriage secures a comfortable atmosphere and provides a peace of mind for both the husband and the wife if it based on a cordial friendship accompanied by mutual understanding.

3. It ensures legitimacy of procreation. Through marriage, a new generation of healthy, faithful and virtuous children is born in *halaal* way.
4. It ensures financial competence in the community. A Muslim man must provide means of living to his wife and children, even if the wife is wealthy or earns a salary.
5. To bring about a mutual companionship. Marriage provides close interaction between the man and the woman in mutual sharing of responsibilities and ideas thus live together harmoniously.
6. Marriage helps to safeguard one's *Iman* (faith). It prevents one from committing immoral acts such as having sexual relations outside marriage.
7. It promotes inter-family alliance. Through marriage, family ties are strengthened between the families of the couple who become relatives. This promotes peace, harmony and friendship in the society.
8. The other purpose of marriage is to safeguard the legitimacy of children who if begotten through marriage are entitled to inheritance.
9. Marriage improves the couples' social status through earning respect and dignity in the society.
10. I
It is a sunnah of the prophets and stressed much by the prophet Muhammed
11. I
It provides a room for satisfaction of natural sexual desires for both man and woman through allowing the fulfillment of the conjugal rights.

Conditions and regulations of marriage

A marriage is valid only if the following conditions are observed:

The formula (Al-Sigha')

This is the formula of marriage which includes the offer (Ijab) and the acceptance (Qabul). The offer may be presented directly or through an agent

which then gives room for the acceptance. It can be verbally or written and must be communicated in the same venue. In this case, the process begins with the man's proposal which presents his full identification and intention. On the other hand, the woman has to state clearly her wishes and has the liberty to accept or decline the offer. There must be an immediate effect. This first stage enhances familiarization to instill confidence.

The contracting parties (al-Aqidaan)

This refers to the bride and the groom who must satisfy the following conditions of marriage:

- Be of sound mind
- *Al-bulugh*: Have attained maturity
- Must give their consent and accept to marry each other willingly.
- They should not belong to the prohibited degrees of marriage.
- Both must be religious and pious.

Witnesses (as-shuhud)

The marriages should be contracted before two male or four female who must be Muslim, Just (adil), Mukhalaf (mature and sane) and able to understand the language in which the marriage ceremony is being conducted.

Guardianship (Al-Wilayat)

The guardian is in charge of giving consent or permission for the marriage to proceed. The Shariah gives the father the first position as the guardian. In the case that the father is absent, then the guardianship transfer to the grandfather, then full brother, then uncle. In case the guardian declines to give consent for a reason which is not valid according to the Sharia, then the Kadhi acts as the guardian.

Dowry (Al-Mahr)

Dowry is the obligatory gift either in form of service, material or property that is given to the bride (woman) by the groom (man) in marriage, determined by the bride without being influenced by anybody. Negotiation between the couple is allowed. It can be paid either in full or partially on the day of Nikah depending of the both parties.

Importance of dowry (mahr)

The following are some of the merits of observing the institution of dowry in Islam:

- 1) It is a condition of marriage in Islam; therefore, it is an obligatory factor in marriage.
- 2) It symbolizes commitment to the responsibilities attached to the marriage.
- 3) It is a sign that the bridegroom has proposed and the bride has accepted.
- 4) It shows the ability of a man to look after his family, and therefore helps to prepare the man to take care of the wife and children.
- 5) It discourages divorces through khul'u since the bride will have to repay to the groom before its execution.
- 6) It prepares the bride psychologically for marriage.
- 7) It legalizes the sexual intercourse between the marrying couple.
- 8) It signifies love between the couple.
- 9) It empowers woman economically.
- 10) I
t brings about respecting of women in the society.
- 11) T
he acceptance of the dowry by the bride, shows her readiness to live submissively with the man.
- 12) I
t is an Islamic culture that practiced by all the prophets.

The Muslim marriage ceremony (nikaah)

The following is a short description of a Muslim marriage ceremony:

- It is a simple ceremony that is free-from any sort of extravagance (israaf).
- It can be conducted in the bride absentia so long as she sends two witnesses to the drawn-up agreement.
- It may involve reading of the Holy Qur'an.
- Khutbatu-nikaah should be given precisely and briefly.
- There must be an exchange of vows in front of witnesses for both partners.
- Offering of walima should be of moderate level that gives no room for wastage.

The conditions of khutbatu-nikaah

The following are some of the conditions of Khutbah-tun-Nikah:

- It should begin with the praise of Allah and seeking help and guidance from Him.
- It should contain the Islamic shahada.
- It should contain Quranic verse that talks about taqwa and marriage.
- It should contain prophetic traditions (hadith) that talks about taqwa and marriage.
- A dua should be made for the marrying couple and all Muslims.

Classification of marriage according to the Islamic legal acts

Fardh/wajib: It can be obligatory to anyone who is capable of paying dowry, being just, provide marital expenses and mostly fearing to commit adultery.

Haram: It is may be unlawful to a person who has no enough means to fulfill all the marital expenses, being unjust, incapable of giving the required dowry and never safeguard him or her from committing zinaa.

Sunnah: It may be optional to whoever wants to marry so as to safeguard his or her chastity; he can provide all the marital expenses justly.

People to whom man cannot marry

The following are the categories that a man cannot get marry:

a). Blood relationship

The following are people to whom man cannot marry basing on their blood relationship:

- Mother
- Grand mother
- Sisters
- Daughter
- Daughters of the sisters
- Daughters of brothers
- Sisters of the mother
- Sisters of the father

b). Matrimonial relationship

The following are people to whom man cannot marry basing on their blood relationship:

- Step-mother
- Step-daughter
- Mother in-law
- Daughter in-law
- Two sisters cannot be married at a time.

- Daughter and her aunt cannot be married at the same time

c). Suckling mother-relationship:

A suckling mother is a woman who had breastfed a person for not less than five different times. Therefore, she becomes his mother. It is forbidden for a man to marry a woman from whom he has sucked. It is also forbidden to marry any of her relatives just as those of his own biological mother.

POLYGAMY

Meaning of polygamy

Polygamy comes from two Greek words, namely “*poly*” meaning many or more than, and “*Gamy*” which stands for marriage or a sexual union. Therefore, polygamy means marrying more than one wife. On the other hand, **polyandrous** (having more than one husband) is unlawful.

Islam permits polygamy and it should be clearly understood that it is a Sunnah practiced by the prophet and his predecessors. This means that marriage to more than one wife is a continuation of the practice established by the previous religions. For example; prophet Yaqub had four wives, Prophet Ibrahim had two wives and Prophet Suleiman had several wives.

Conditions for polygamy

The shariah has restricted polygamy to the following conditions:

- 1) The maximum number of wives is limited to four wives at a time.
- 2) The husband should be equally fair to all his wives in relation to life's daily needs such as providing them with clothing, feeding and housing without favor or discrimination to any one of them.
- 3) The husband should be in a position to fulfill his wives' conjugal rights before he commits himself to another one, because one of the main objectives of marriage is fulfillment of sexual desires.
- 4) The husband should be financially able to sustain and support the wives and the children because it is the man's responsibility to provide for the family.

Impediments to polygamy in Islam

The following are conditions under which polygamy is not allowed:

- a) If the husband is not capable of treating all the wives equally, he can not marry more than one wife.
- b) If the husband is financially instable to support the extra wife.
- c) If the husband will not be able to satisfy the wives' conjugal rights that which may lead to zinaa of part of the wives.
- d) If the husband is terminally ill with a chronic transmittable disease such as HIV and AIDS and other STD's.
- e) If the law of a certain country has banned polygamy such as Canada
- f) If the number of women is less than that of men is such a country.

Reasons for polygamy

The following are some of the reasons (needs/rationale) for the institution of polygamy:

1. If the wife is unable to bear children after years of marriage and it has been medically proven that the wife is barren and there is nothing wrong with the husband then the husband is permitted to marry another wife.
2. The population of women is higher than that of men therefore polygamy provides an opportunity to the otherwise would be unmarried women to get married.
3. If the wife cannot satisfy his conjugal rights, for example if she suffers from contagious or other terminal illness which prevents her from honoring her conjugal obligation, plurality of wives serves the purpose for the man.
4. If want to support women to get through hardships. When men die either naturally or in a battle and widows are left behind, it becomes necessary that they should be taken care of. The sharia therefore provides room for polygamy so that they can be married and offered support and protection.
5. If one works very far from his home or frequently travels far distance and thus he fears to commit adultery then polygamy can serve the purpose.
6. If he wishes to fulfill the sunnah of the prophet (P.B.U.H) and his predecessors.
7. To increase the Muslim population through legitimate pro-creation.

MARRIAGE OF THE PROPHET MUHAMMED (P.B.U.H)

a). Reasons behind the Prophet Mohammad' marriage:

By the time of his death, he had nine wives, however, this should not be perceived as a violation of Allah's (S.W.T) instructions as he was the only one who had been permitted to do so by Allah (S.W.T) due to the following reasons:

- 1). **For companionship:** The prophet Mohammed (p.b.u.h) married Khadija bint Khuwaylid to get a companion in life. They had to share whatever they had and more so, they got six children.
- 2). **To fulfill the sunnah of the other earlier prophets:** He wanted to continue with the practice that Allah had prescribed to his predecessors' like prophets Ibrahim who had 2 wives and Suleiman who had almost 70 wives.
- 3). **For educational purposes:** The prophet wanted to teach Islamic knowledge about womanhood and in particular enforce domestic laws. He married Aisha Bint Abu Bakar (R.A.) and Ummu Salamah (R.A.) who memorized a number of hadith and used to train the other women on religious and family matters such as issues of heidh, childbirth, janaba and among others.
- 4). **For enforcement of Islamic sharia:** To establish and implement the Islamic law. Allah (S.W.T) ordered the prophet (P.B.U.H) to marry Zainab bint Jaash who had been married by his adopted son Zayyid bin al-Harith so that He could put to an end the Arab practice of referring to adopted sons their own.
- 5). **For political and peace-making purpose:** To foster good relations between Muslims and non-Muslims. For example, his marriage to Jurawrriya bint al Harith who was the daughter of a tribal chief of Banu Mustaliq clan of Arabia, Swafiyyah bint Huyay and UmmuHabibah.
- 6). **For humanitarian rehabilitation:** For protection and security of the widows whose husbands had died in jihad wars. For example, his marriage to Saudah bint Zamah (widowed by Sakran bin Amro) and Zainab bint Khuzaimah (widow to Abdullah bin Jaash).

- 7). **For social purpose:** The prophet married from different ethnic groups, clans and among the Quraish tribe. Before this, the Quraish used to see themselves as superior beings to other tribes. So married, to bring them closer to him so as to make them have affiliation towards him and establish a balance and solid Islamic brotherhood among Muslims.
- 8). **For cementing relationship with his companions:** The prophet married Hafswa the Daughter to Umar bin Khatab so as to solidify their friendship.

The prophet's Wives

The prophet (P.B.U.H) married twelve wives whom the Muslims refer to as mothers of the believers (Ummahaatul Mu'uminiin). The prophet's wives have been given this honor because of the love, dedication, and support they showed to the prophet (P.B.U.H). They include the following:

- 1). Khadija bint Khuwaylid
- 2). Saudah bint Zam'aa
- 3). Aisha bint Abu- Bakar as- Swiddiq (R.A)
- 4). Hafswah bint Umar bin al- Khattab (R.A)
- 5). Zainab Bint Khuzaimah
- 6). Ummu-Salamah (Hind bint Abi Umayyah bin Mugheerah)
- 7). Juwairiyyah bint al-Harith (Barrah)
- 8). Zainab bint Ja'sh
- 9). Ummu Habibah bint Abu Sufyan
- 10). Swafiyyah bint Huyay
- 11). Maimunah bint al- Harith al-Khawaziniy
- 12). Mariyya al- Qibtwiyyah

RIGHTS AND DUTIES OF FAMILY MEMBERS

a). Rights of the parents:

These are the duties which should be performed by the children towards their parents i.e mother and father. Children should fulfill the following duties as rights to their parents:

1. They should be treated with kindness.
2. Children should take care of them when they get old or need their help.
3. Their children should remember them in the prayers.
4. They should always be there for them and not turn away from them in case they need them.
5. Obey them in whatever they ask as long as it is in accordance with the sharia.
6. Pay their debts when they pass on.
7. Show them a good send off when they die.
8. Children should perform hajj and umra for them.
9. Children should continue praying for their parents even after they have died.

b). Rights of the children: Duties of the parents:

These are the duties which should be performed by the parents towards their children. Parents should fulfill the following duties as rights to their children:

1. An unborn child should never be aborted and if the child is born has a right to life.
2. Adhan and iqama should be proclaimed in the ears of children when they are born to make a child listen to Allah's word first.
3. Tahniq and Aqiqah should be performed on the child.
4. In case of a boy child, then he should be circumcised.
5. They should be provided with both religious and secular education.
6. They should be given good names.

7. The parents should provide them with the basic needs like food, shelter and clothing.
8. They should be given security and protection from external danger and influence which may lead to misguidance or injury.
9. They have a right to be loved and shown affection and should never be discriminated.
10. They should teach their children good behaviors, morals and proper etiquettes.
11. They have a right to inherit from their parents after they have passed on.
12. They have a right to legitimacy and know his rightful father and mother.

c). Duties of the husband: Rights of the wife.

These are the duties which should be performed by the husband towards his wife. The husband should fulfill the following duties as rights to the wife:

1. He should protect his wife from any social, physical or psychological harm.
2. He should consult with his wife in kindness in matters relating to the family.
3. He has the full responsibility of financially and materially supporting and maintaining his wife.
4. He must be faithful to his wife and not keep any marital secrets from her.
5. He should respect the feelings of his wife and treat her with love, sympathy and understanding.
6. He should fulfill the wife's matrimonial needs.
7. He should establish a rich Islamic atmosphere in the home.
8. He should keep the marriage life a secret.
9. He should satisfy his wife's conjugal rights.
10. He should teach her the necessities of life and religion.
11. He should ensure that Islamic obligations are observed in the house.

d). Duties of a wife: The rights of the husband

These are the duties which should be performed by the wife towards her husband. The wife is therefore expected to perform the following duties as rights to the husbands;

- She should not observe any Sunnah fast when the husband is present except with his permission.
- She should not allow anybody in the house without his permission.
- She is answerable to her husband in ensuring that duties of worship are observed by all family members in the house.
- She should fulfill the conjugal rights of the husband.
- She should not leave the house for visiting friends and relatives without her husband's permission.
- She should keep herself neat and clean to guard her husband from external temptations.
- She should not take advantage of her sexual obligation to manipulate her husband.
- She should look after her husband's properties.
- She should obey, respect and serve him at all times.
- She should not receive gifts or favors from other men without the consent of the husband.

Privileges accorded to a Muslim woman

The following are the privileges given to a Muslim woman according to Islamic law:

- She is exempted to go for wars.
- While in her post natal blood and menses periods she cannot pray, neither is held accountable for.
- She is not killed during wars unless she is a threat to the Muslims.
- Dowry is given to them during marriage as is her own property.
- Allah made the jannah under the feet of the mothers thus indicates her utmost recognizable position in the society.
- She has been privileged to acquire education.
- She is allowed to work and earn a salary and still is to be taken care and provided the husband.
- She has been permitted to start her own business for economic advancement.
- She is allowed not to work for the family as long as the husband is working and earn a living.
- She is exempted from fasting in the state of monthly period and post-natal period.

Rights of extended family members

The following are some of the rights of extended family members:

1. They should be assisted when they are in need.
2. Muslims should be kind and treat them with gentleness.
3. We should protect them from external attacks.
4. We should show them love and affection and talk to them nicely.
5. We should freely interact with them so that they can get a sense of belonging.