



# BEFORE YOU SAY "I DO..."

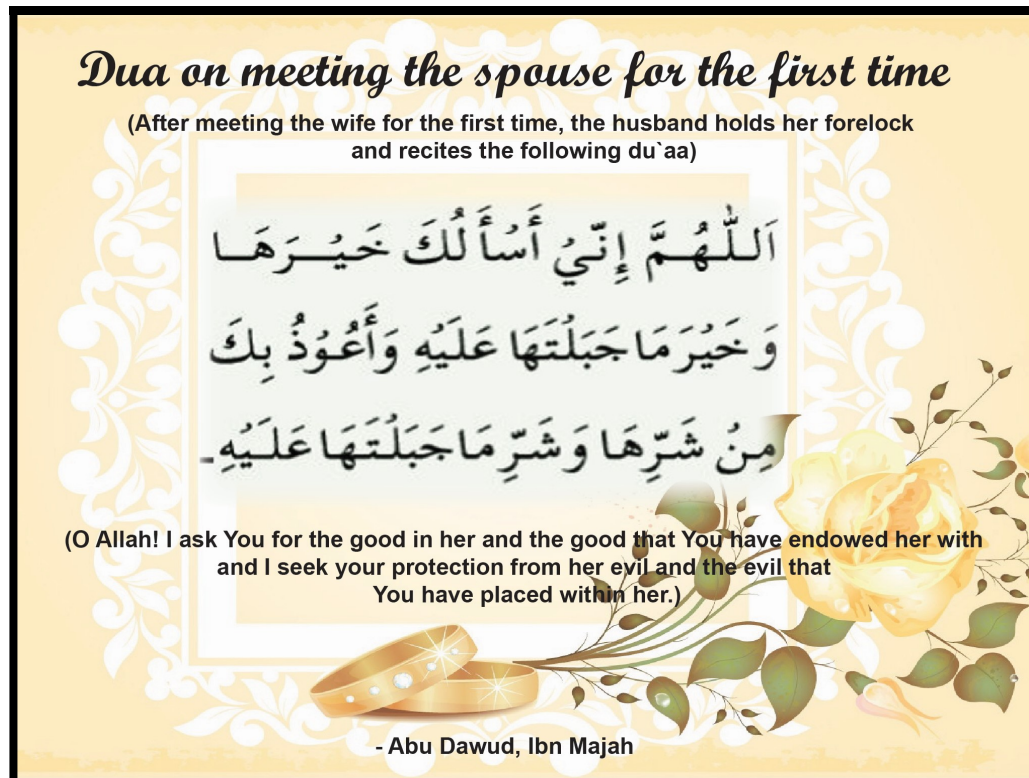


*A Unique Workshop towards the essential  
transformation of the Bride to be...*

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# Chapter 1: Introduction to Fiqh of Marriage



## Definition of Marriage (Nikah)

1. Linguistic Meaning: The marriage contract and it also refers to intercourse.
2. Technical Meaning: Contract between a man and a woman whereby they can enjoy one another, with the aim of having a righteous family and healthy community.

## The Blessings and Benefits of Marriage

1. A gift and favor from Allah <sup>سبحانه</sup> و <sup>و تعالی</sup> that requires gratitude and being thankful to Allah <sup>سبحانه</sup> و <sup>و تعالی</sup>.

Allah <sup>سبحانه</sup> و <sup>و تعالی</sup> says:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً  
إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

And of His signs, another one is that He created for you mates from among yourselves that you may find comfort with them, and He planted love and kindness in your hearts; surely there are signs in this for those who think about it. (Al-Qur'an 30:21).

2. Marriage is half of the religion: *"When a person gets married he has completed half of his religion, so let him fear Allah with regard to the other half"*. (Saheehul-Jaami No. 443)
3. Protecting one's chastity: The Prophet ﷺ said: *"O young men, whoever among you can afford it, let him get married, for it is more effective in lowering the gaze and guarding one's chastity. And whoever cannot afford it, let him fast, for it will be a shield for him"* (Agreed upon)
4. Following the Sunnah of the Prophet of Allah <sup>سبحانه</sup> و <sup>و تعالی</sup>: *"And Indeed We sent Messengers before you (O Muhammad (pbuh)) and made for them wives and offspring."* (Al-Qur'an 13:38)

5. Following the Sunnah of the Prophet ﷺ: *One of the three companions who asked about the way the Prophet ﷺ worship Allah <sup>سبحانه</sup> و تعالى and he ﷺ and his companions belittled when told about it said, "I keep away from women and I will never get married." The Prophet ﷺ said to this man and to his companions that he ﷺ fasted and broke his fast, he stayed up praying and slept, and he married women. Then he ﷺ said: "Whoever turns away from my Sunnah is not of me. [Al-Bukhari and Muslim]*
6. The best thing in this world is a righteous wife: The Prophet ﷺ: said: *"This world is transient comforts, and the best of the comforts of this world is a righteous woman."* Narrated by Muslim.
7. A reason for Allah's help, the Prophet ﷺ says: *"There are three who are all entitled to Allah <sup>سبحانه</sup> و تعالى help: the one who fights for the sake of Allah <sup>سبحانه</sup> و تعالى; the mukaatab who wants to pay (the price of his freedom) and the one who gets married seeking chastity"* (Sunan al-Tirmidhi 1655 with a sound line of transmission)
8. A means of income: Allah <sup>سبحانه</sup> و تعالى says: And marry those among you who are single (i.e. a man who has no wife and the woman who has no husband) and (also marry) the Salihun (pious, fit and capable ones) of your (male) slaves and maid-servants (female slaves). If they be poor, Allah SWT will enrich them out of his Bounty. And Allah SWT is All-Sufficient for His creatures' needs, All-Knowing (about the state of the people)." (Al-Qur'an 24:32)
9. Mental and physical health: In a study of 35,000 cases in over 15 countries, dr. Kate Scott of Otago Wellington University, New Zealand, concluded that marriage helps in reducing depression and psychological pressure.
10. Means of getting rewards from Allah that are not possible except through marriage.
  - a. The hadeeth: Having intercourse (with one's wife) is charity (Saheeh Muslim).
  - b. *"No matter what you spend for your family, you will be rewarded, even for one morsel of food you put in your wife's mouth."* (Reported by Al-Bukhari, 3/164 ND Muslim, 1628)
  - c. *The best of you are those best to your wives (families)* (Saheeh Muslim)
  - d. Why not a virgin that you would play with and she would play with you?

- e. All that doesn't have thikr in it is amusement except four and one of them is playing with your wife.

#### 11. Reproduction:

- a. This is the prayer of Ibrahim <sup>عليه السلام</sup> and also of Zakaria <sup>عليه السلام</sup>.
- b. The hadeeth of Prophet Sulaiman <sup>عليه السلام</sup> and his wish to have 100 warriors of his offspring.
- c. If a man dies, his deeds are stopped except for three and one of them is a righteous child who would pray for him.
- d. Abu Dawood (2050) narrated that Ma'qilbn Yasaar <sup>رضي الله عنه</sup> said: A man came to the Prophet ﷺ and said, *"I have found a woman who is of good lineage and is beautiful, but she does not have children. Should I marry her?"* He ﷺ said, *"No."* Then he came again with the same question and he ﷺ told him not to marry her. The he came a third time with the same question and he ﷺ said: *"Marry those who are loving and fertile, for I will be proud of your great numbers before the other nations."*

12. To have in-laws: this increases those who you know.

13. The protection of the society: when people don't marry, this increases sin in the community – prostitution after WW2.

### Gravity of Zina (fornication & adultery)

1. One of the major sins: And come not near to the unlawful sexual intercourse. Verily, it is aFahishah (i.e. anything that transgresses its limits: a great sin), and an evil way (that leads one to Hell unless Allah forgives him) (*Al-Qur'an 17:32*)
2. A cause of illnesses and plague. It was narrated that Abd-Allaah ibn Umar <sup>رضي الله عنه</sup> said: The Messenger of Allah ﷺ turned to us and said: *"O Muhaajjireen, there are five things with which you will be tested, and I seek refuge with Allah lest you live to see them: Immorality never appears among a people to such an extent that they commit it openly, but plagues and diseases that were never known among the predecessors will spread among them."* (IbnMajah and classed as Hasan by al-Albaani)
3. Mixing of lineages – spread of homosexuality – the disappearance of bashfulness.
4. Cause of depression, stress, psychological and mental insecurity.

**Reasons behind marrying late (males)**

1. Education
2. Career
3. Conditions required in the future spouse
4. Marriage expenses
5. Traditions and customs: marrying the cousin or from the same tribe or country.

**Reasons behind marrying late (females)**

1. The father constituting an obstacle because
  - a. Hoping for a big dowry
  - b. Her salary
  - c. To serve the house
2. Career
3. Education
4. Lineage
5. Customs and traditions: the eldest must marry first
6. Illogical conditions: a driver, a maid, a summer trip every year, to allow her to work
7. Age, due to previous reasons
8. Age of the proposing person or due to his other wife(s)
9. Having a crush on someone
10. The fear of the past.

**Who or what is meant by a “Wali”?**

The Wali is a Muslim man charged with marrying the one under his charge to a man who will be good for her. There is no disagreement that the first Wali is her natural father if he is a Muslim and that the last in line is the ruler. Between those two, there is some disagreement about the order but agreement that they come from the girl's paternal male relatives – no one from the mother's side enters into the picture.

The order according to many is:

1. Father
2. Paternal Grandfather
3. Full Brother
4. Paternal Half-brother and
5. Paternal Uncle

## **Why is a Wali required?**

Islam stipulates that in order to conclude her marriage, a Muslim woman should have a Guardian or Wali, who is usually her father. Since the woman, despite her Islamically granted independence can be subject to desires of the ill-hearted and evil opportunists, Islam decreed certain legislations, which would maintain her rights and deter those who carry ill-aims and desires.

Therefore, Islam gave great importance to the approval of the woman's guardian in a manner, which reflects the significance of the marriage contract.

Islam's insistence on the guardian's involvements in the selection process is to ensure that the woman exercises her choice correctly. The responsibility of the guardian in marriage is to help a female in selecting her husband. Usually, a female can hardly dig into essential information about a man, so a guardian, like a father, does his best for the interest and welfare of that woman.

## **Marriage without a Wali?**

The Wali is an absolute requirement for a marriage, and any marriage done without him is null and void according to the majority of scholars based on the following hadiths:

"No marriage except with a guardian and the ruler is the guardian of her who has no guardian." (Reported by Abu Dawood and others and classed as Saheeh)

"If any woman marries without the permission of her guardian, then her marriage is void, then her marriage is void, then her marriage is void." (Reported by Abu Dawood and others and classed as Saheeh)

So, the marriage contract is not valid, and the marriage must be annulled.

## **Proxy Wali?**

In today's materialistic world, money makes many things possible. Some people or so called moulvis have resorted to making a quick buck by giving Fatawas that are not based on authentic sources (i.e. the Noble Qur'an or The Prophet's Sunnah). Rather they pass their own judgments and allow a prospective bride to marry on the Wakalath of their friends or associates.

Another commonly prevalent malpractice is the marriage performed at the courts "Registered Marriage." Such are strictly condemned by the Shariah and we must seek forgiveness from Allah to save us from these evil practices.

## **The Mahr (The Dowry)**

The Mahr (dowry) is something paid by the man to this wife. It is paid to the wife and to her only as an honor and a respect given to her and to show that he has a serious desire to marry her and is not simply entering into the marriage contract without any sense of responsibility and obligation or effort on his part.

The Mahr is a mandatory payment, in the form of money or possessions paid by the groom, or by the groom's father, to the bride at the time of marriage that legally becomes her property. While the Mahr is often money, it can also be anything that is agreed upon by the bride such as jewelry, home goods, furniture, a dwelling, some land. Mahr is typically specified in the marriage contract signed during an Islamic marriage.

The amount of Mahr is something that is determined by the prospective husband and the bride, or the bride's guardian with her consent. Mahr is typically specified in the marriage contract signed during an Islamic marriage.



Allah says in the Noble Qur'an, "*And give the women (on marriage) their dower as a free gift; but if they of their own good pleasure remit any part of it to you, take it and enjoy it with good cheer.*" (ch 4.v 4)

The Mahr is a right of the wife, and she may spend it as she wills. It is impermissible for the husband to demand the Mahr back, or take it away from his wife after their marriage, or if he divorces her or he marries again; but if of her own free will and good pleasure, the wife wishes to share the Mahr amount with her husband, there is no harm.

### **What is its purpose in Islam?**

Every Law and command of the Creator is full to the brim with wisdom, and so is the command and condition of paying the Mahr to the bride. There are many reasons, wisdoms and benefits of this condition of Mahr for the woman, and in the protection of her rights.

The man who proposes is sincere and is willing to show his sincerity by paying an agreed amount as a gift to his bride. If there was no condition of Mahr, the man has a chance to play with or abuse and marry the woman one day and divorce her next after he has satisfied himself with her. By instituting Mahr, the man who intends to play abuse faces a substantial financial loss upon himself.

The woman leaves her surroundings and her family to go and live with her husband, and thus sacrifices a lot. This gift of Mahr is a little something that may lessen her feeling of loss.

The Mahr is basically for the protection of the woman and her rights, so that she has a substantial amount (according to her status) to herself, in case of any emergencies.

Islam is the code of life, whereby all the financial responsibilities are laid on the man in marriage. The Mahr is a commitment the man shows regarding his responsibility.

The institution of Islamic Mahr elevates and honors the position of women which may be compared to the "dahej" or dowry system of the pagans where the woman and her family have to pay the man to her married.

### **What is the criterion for determining it for a lady, according to Islam?**

The amount of Mahr is not fixed in Shariah, A rich man may offer according to his status and a poor man according to his status; and a woman may accept or demand more according to her wish. It is something that is offered by the man according to his status and accepted or rejected by the proposed bride if she wishes to do so.

### **Should we follow some family custom or person in determining Mahr irrespective of the status of the lady?**

The man may offer whatever he is capable of, for ultimately it is the bride who will accept or refuse the offer. It will not be considered righteousness for the man to offer a meager amount, but rather he should offer something that is profound with this standing and status; and nor should the woman accept a meager amount from a person whom Allah has blessed with abundance. But if the man is of limited means, the woman may if she so wills, accept even a small amount or even only the testification of faith as a Mahr if she so wills!

## Hadith Al-Tirmidhi 3209 Narrated by Anas ibn Malik...

AbuTalhah married Umm Sulaym, the Mahr between them being the acceptance of Islam. Umm Sulaym had become a Muslim before AbuTalhah, and when he asked her in marriage, she said; "I have become a Muslim, so if you become one I shall marry you." He then accepted Islam and that was the Mahr arranged between them.

### Why is Mahr compulsory?

- Mahr is compulsory (wajib) to give. One cannot deny giving its giving to the bride (if she seeks it/demands it)
- If not given to her and she dies, it would go to her estate
- If he dies prior to her, the Mahr would be deducted from his estate and given to her.
- If he dies without leaving assets and intentionally did not pay it when Allah (SWT) blessed him with wealth and she does not forgive him, the man would be viewed as a sinner. The senior imams of the area can (and should) refuse to perform the Janazah Salah upon his body.
- To prevent his punishment, someone should pay it to her on his behalf.
- If the man dies without giving the Mahr, then a painful torment awaits him in the Hereafter.

### Definition of "Walima"

The Arabic word "Walima" (marriage banquet) is derived from the root word Walam, which literally means to gather and assemble. The Arabs used it for a meal or feast where people were invited and gathered. Later, the term became exclusive for the wedding banquet.

### What is a Walima?

The marriage feast (Walima) is a Sunnah of our beloved Prophet ﷺ. It is an outward expression of gratitude and pleasure and a great means of publicizing the marriage, which has been greatly encouraged. The Walima is to be done by the groom or groom's party and not the bride's party.

Sayyiduna Anas ibn Malik (Allah be pleased with him) narrates that the Prophet ﷺ saw a yellow mark on Abdur Rahman ibn Awf (Allah be pleased with him) and said: "What's this?" He replied: "I have married a woman with the dowry being gold to the weight of a date-stone." The Messenger of Allah ﷺ said: "May Allah bless you (in your marriage). Perform a Walima, even if it only with a goat." (Sahih al-Bukhari)

The Messenger of Allah ﷺ himself provided a Walima after many of his marriages. He provided meat and bread on the occasion of his marriage with Zaynab bint Jahsh (Allah be pleased with her), Hays (a type of sweet dish cooked with dates, cheese and butter) on the occasion of his marriage with Safiyya (Allah be pleased with her) and barley on another occasion. (Sahih al-Bukhari & Sahih Muslim)

Thus, it is a Sunnah and strongly recommended to have a Walima.

## Who should be invited?

Sayyiduna Abu Huraira رضي الله عنه states: “The worst food is that of a wedding banquet (Walima) to which only the rich are invited whilst the poor are not invited.” And he who refuses an invitation (to a banquet) disobeys Allah and his Messenger ﷺ. (Sahih al-Bukhari, no. 4882)

## Simplicity

Finally it should be remembered that, the simpler a Walima (and the marriage ceremony as a whole) is kept, the better it will be. At times, people spend thousands upon thousands in feeding people, a sum which can be used for other indispensable needs of the Muslims. And if the intention behind such an amount is to show-off, then this will be regarded as a grave sin.

The idea here is to feed people with sincerity and simplicity. If one feeds people with the simplest of meals but it is from the heart, that is far better (and the food is also more enjoyable) than feeding them quality food, where the intention is not so sincere.

Sayyida A'isha (Allah be pleased with her) narrates that Messenger of Allah ﷺ said: “The most blessed marriage (Nikah) is the one with the least expenses.” (Al-Bayhaqi in his *Shu'ab al-Iman & Mishkat al-Masabih*)

## The time of Walima

The scholars have disagreed as to the correct time of the Walima. There are many opinions. For example:

1. At the time of marriage contract
2. After the marriage contract and before consummation of marriage
3. At the time of the wedding procession (bride leaving for her husband's house) (Ibn Hajar, *Fath al-Bari*, 9/287)

However, the majority of the scholars (Jumhur) are of the opinion that Walima is a meal that is prepared after the marriage has been consummated. This was the practice of the Messenger of Allah ﷺ as explicitly mentioned in one narration.

Sayyiduna Anas ibn Malik (Allah be pleased with him) narrates that he was a boy of ten when the Messenger of Allah ﷺ migrated to Medina. <sup>19</sup>He added): “My mother and aunts used to urge me to serve the Messenger of Allah ﷺ regularly, thus I served him for ten years. When the Messenger of Allah ﷺ passed away, I was twenty years old, and I knew the order of the Hijab more than anyone else, when it was revealed. It was revealed for the first time when the Messenger of Allah ﷺ had consummated his marriage with Zainab bint Jahsh (Allah be pleased with her). The Messenger of Allah ﷺ in the morning was a bridegroom, and he invited people to a banquet. So they came, ate and then all left except a few who remained with the Messenger of Allah ﷺ for a long time. (Sahih al-Bukhari, no. 4871)

Sayyiduna Anas (Allah be pleased with him) said: *"The Messenger of Allah ﷺ consummated his marriage with a woman (Zainab), so he sent me to invite people for a meal."* (Sahih al-Bukhari, no. 4875)

The great Hadith master (Hafidh), Ibn Hajar al-Asqalani (Allah have mercy on him) states:

*"The Hadith of Anas (quoted above) is clear in determining that Walima is considered to be after the consummation of marriage."* (Fath al-Bari, 9/199. Also see I'la al-Sunnan, vol. 10, p.11)

It is stated in al-Fatawa al-Hindiyya: *"The marriage banquet (Walima) is a Sunnah and there is great reward in it. And it is carried out when the marriage is consummated."* (al-Fatawa al-Hindiyya, 5/943)



## Chapter 2: Qualities to look for in a Spouse



### Characteristics required in a wife

1. Religion, piety, righteousness, being a practicing woman. Abu Hurayrah رضي الله عنه narrated that the Prophet ﷺ said: *“A woman may be married for four things: her wealth, her lineage, her beauty and her religious commitment. Seek the one who is religiously committed, may your hands be rubbed with dust (i.e. may you prosper).”* (Sahih Bukhari)
2. Satisfaction with that Allah سبحانه وتعالى has given: Ibrahim’s عليه السلام instructions to his son Ismaeel عليه السلام to change his doorstep.
3. Loving: Narrated that Ma’qil ibn Yasaar رضي الله عنه said: A man came to the Messenger of Allah ﷺ and said: *“O Messenger of Allah, I have found a woman who from a good family and is beautiful, but she does not bear children; should I marry her?”* He Prophet ﷺ told him not to. Then he came to him a second time and said something similar and he ﷺ told him not to marry her. Then he came a third time and said something similar and he ﷺ said: *“Marry the one who is loving and fertile, for I will be proud of your great numbers.”* [Narrated by Ahmad (12202). Classed as saheeh by Ibn Hibban (3/338) and by al-Haythami in Majma’ al-Zawaa’id (4/474)]
4. Fertile.
5. Obedient: Abu Hurayrah رضي الله عنه said: *“The Messenger of Allah ﷺ was asked, “Which woman is the best?” He said, “The one who makes her husband happy when he looks at her, who obeys him when he tells her to do something, and who does not oppose him in a manner he dislikes with regard to herself and her wealth.”* (At-Tirmidhi).
6. Virgin: The Hadith of Jabir عليه السلام when he got married to a woman who was previously married.
7. Feminine and pleasant sight to see.
8. Honoring her in-laws.
9. Taking care of her house: In Sahih Al-Bukhari, Jibreel عليه السلام said to the Prophet ﷺ: *“Give Khadeeja the glad tiding of a house in Paradise made of a Pearl that has no tiresome or loud noises.”* Scholars say that this was because she never made the Prophet ﷺ work in the house nor she had let the children raise their voices in the house. She gave him the safe haven any man desires.

## Chapter 3: Engagement & Marriage contract



### Rules of “Engagement”

1. It is a promise and not the actual contract.
2. There isn't any recommended way over the other. If a person likes a woman, he proposes to her guardian. It is not permissible to approach her directly as this is forbidden. It is not permissible for her to throw herself at a man as he is a stranger and this is immodest and degrading to her.
3. It is not permissible to declare the intention of getting engaged to a woman who is in her Iddah or a woman who is engaged.

4. The Sunnah is to look at each other and stare as well. From Jaabir ibn Abd-Allaah رضي الله عنه: "The Messenger of Allah ﷺ said: "if one of you proposes marriage of a woman, if he can look at her to see that which will encourage him to go ahead and marry her, then let him do so. From al-Mugheerah ibn Shu'bah رضي الله عنه: "I proposed marriage to a woman, and the Messenger of Allah ﷺ said: "Have you seen her?" I said, "No." He ﷺ said, "Look at her, because it is more fitting that love and compatibility be established between you." [Saheeh, Abu Dawood] According to another report: "So he did that, and he married her and mentioned that they got along."
5. The majority ruled that he must look at the face and the hands. Others said that he can look at her as she is whilst in her home with her mahram. They all agree that he is not allowed to touch her. It is not permissible for her to put any make up or anything that beautifies her or calls him to be charmed with her.
6. He is not allowed to sit with her alone.

## The Marriage Contract

### 1. Pillars of Marriage

- a. The existence of both man and woman
- b. The offer proposal (Eejab) from the guardian
- c. The acceptance (Qabool) from the groom to be

### 2. Conditions of Marriage

- a. They must be free from obstacles that prevent them from marrying such as being mahram to each other through lineage or suckling or due to religion or the marriage while the woman is in her Iddah period or being married at the time.
- b. Specifying the man woman to be married with a description that makes it clear to the witnesses.
- c. The acceptance of the two.
- d. The 2 witnesses (or more)
- e. The acceptance of her guardian. There are conditions for such a guardian:
  - i. Sanity
  - ii. Puberty
  - iii. Freedom
  - iv. Wise and mature so that he can choose for his daughter or sister
  - v. Male
  - vi. Same religion
  - vii. To be trustworthy



## Chapter 4: Rights of Husband and Wife



### The rights of the husband

The rights of a husband over his wife are far greater than the rights of wife over her husband. Allah <sup>سبحانه و تعالٰى</sup> says: "And they (women) have rights (over their husbands as regards to living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable, but man has a degree (of responsibility) over them." (Al-Qur'an 2:228)

1. The obligation of obedience: *"Men are the protectors and maintainers of women, because Allah has made one of them to excel the other, and because they spend (to support them) from their means."* (Al-Qur'an 4:34) Ali ibn Abi Talha said, narrating from Ibn Abbaas <sup>عليه السلام</sup>: "Men are the protectors and maintainers of women" means, they are in charge of them, i.e., she should obey him in matters of obedience that Allah <sup>سبحانه و تعالٰى</sup> has enjoined upon her, and obey him by treating his family well and taking care of his wealth.
2. Making herself available to her husband: Abu Hurayrah <sup>رضي الله عنه</sup> said: The Messenger of Allah <sup>صلى الله عليه و آله و سلم</sup> said: *"When a man calls his wife to his bed and she refuses, and he went to sleep angry with her, the angels will curse her until morning."* (Narrated by al-Bukhari, 3065; Muslim 1436)
3. To protect his honor and her chastity: Men are the protectors and maintainers of women, because Allah <sup>سبحانه و تعالٰى</sup> has made to excel the other, and because they spend (to support them) from their means. Therefore, the righteous women are devoutly obedient (to Allah <sup>سبحانه و تعالٰى</sup> and to their husbands), and guard in the husband's absence what Allah <sup>سبحانه و تعالٰى</sup> orders them to guard (e.g. their chastity, their husband's property etc.)
4. Not admitting anyone whom the husband dislikes in his home. Abu Hurayrah <sup>رضي الله عنه</sup> said that the Prophet <sup>صلى الله عليه و آله و سلم</sup> said: *"It is not permitted for a woman to fast when her husband is present without his permission, or to admit anyone into his house without his permission. And whatever she spends (in charity) of his wealth without his consent...."* (Narrated by al-Bukhari, 4899; Muslim 1026)



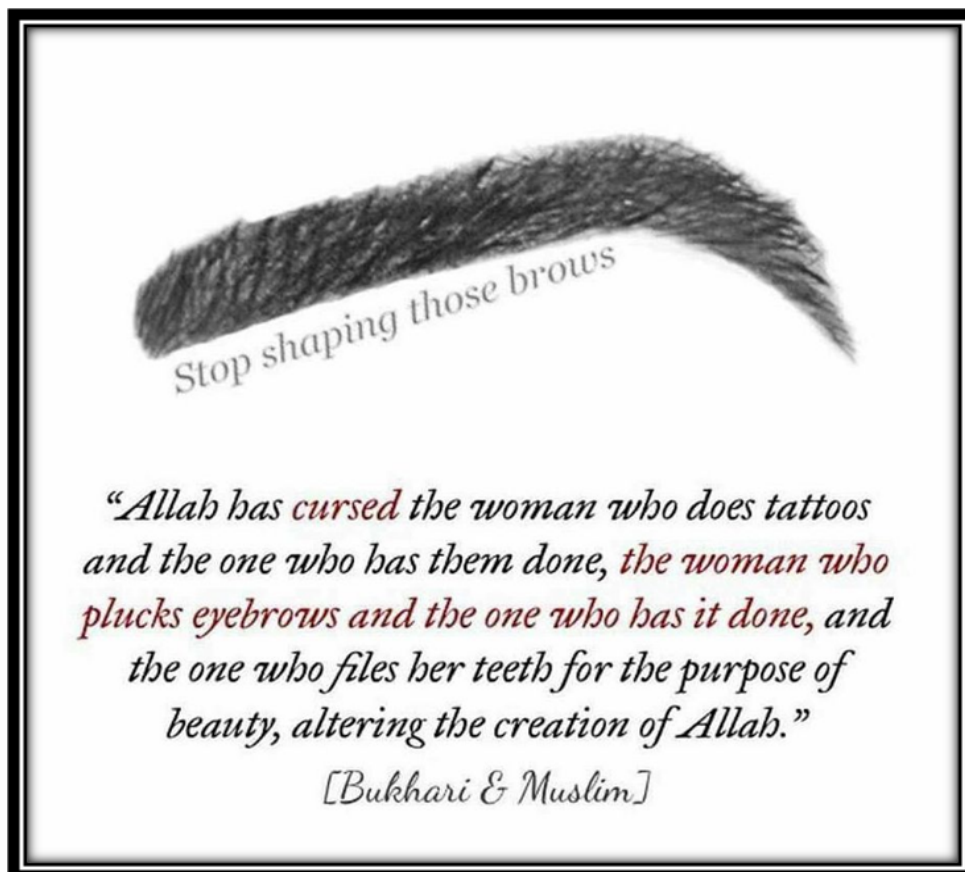
5. To save his money and not to spend it without his permission. The Prophet ﷺ said: *"A woman is the shepherd of her husband's house and children and is responsible for them."*
6. To up bring his children in a good way.
7. Not to leave home without his permission.
8. Seeking the permission to fast voluntary fasting: the Prophet ﷺ said: *"It is not permissible for a woman to fast when her husband is present except with his permission."* [Agreed upon]
9. Showing him gratitude and not denying his kindness: the Prophet ﷺ said: *"Give in charity for you are the majority of the fuel in Hell."* A woman with dark cheeks stood up in the middle of the women and said, *"Why is that, O Messenger of Allah?"* He ﷺ said, *"Because you complain too much and are ungrateful to your husbands."* Then they started to give their jewellery in charity, throwing their earrings and rings in Bilaal's cloak. (Sahih al-Bukhari)
10. To advise him; as did Umm Salamah رضي الله عنها on the occasion of Hudaibiyah when the Muslims didn't comply with the order of the Prophet ﷺ to shave their heads and take off their Ihram.

### The rights of the wife

1. Protect her from Hellfire: O you, who believe, Ward off yourselves and your families against a Fire (Hell) whose fuel is men and stones. (Al-Qur'an 66:6)
2. Providing for her. Allah سبحانه وتعالى says: Men are the protectors and maintainers of women, because Allah سبحانه وتعالى has made to excel the other, and because they spend (to support them) from their means..." (Al-Qur'an 4:34). Mu'aawiyah ibnHaydah رضي الله عنه said: *"O Messenger of Allah, what are the rights of the wife of any of us over us?"* He ﷺ said, *"That you feed her when you feed yourself and clothe her when you clothe yourself, that you do not say to her, "may Allah make your face ugly!" and that you do not hit her."* (Reported by Abu Dawood, 2/244; IbnMAjah, 1850; Ahmad 4/446) – It goes without saying that it is charity to put food on the table: "No matter what you spend on your family, you will be rewarded, even for the morsel of food you put in your wife's mouth." (Reported by al-Bukhari 3/164, Muslim 1628) – One of the most important rights of the wife is to give her dowry.

3. Not abusing her (beating her): this only happens with the worst of people. It is forbidden to beat the wife unless it is the last resort before divorce and demolishing the Muslim house. Allah سبحانه وتعالى says in the Qur'an: "As to those women on whose part you see ill-conduct, admonish them (first), (next) refuse to share their beds, (and last) beat them (lightly, if it is useful); but if they return to obedience, seek not against them means (of annoyance). Surely, Allah is Ever-Most High, Most Great!" (Al-Qur'an 4:34) – The Prophet ﷺ said: *"Fear Allah with regard to women, for you have taken them as trust from Allah and intimacy with them has become permissible to you by the words of Allah. Your right over them is that they should not allow anyone to sit on your furniture whom you dislike; if they do that then hit them but not in a harsh manner. And their right over you is that you should provide for them and clothe them on a reasonable basis."* Narrated by Muslim. 'Ata' said: I said to Ibn 'Abbas', what is the kind of hitting that is not harsh?" He said, Hitting with a siwaak and the like.
4. Not to ignore her except in bed.
5. Not to abuse her verbally, especially by insulting her beauty or her face – the Prophet ﷺ says: *"The Believer is not a slanderer, one who curses a great deal, one who indulges in obscenity or who engages in foul talk."*
6. To be fair and just between the wives.
7. Not to disclose her secrets especially ones related to intimacy. The Prophet ﷺ says: *"Among the most evil people before Allah on the Day of Resurrection will be a man who comes to his wife and has intercourse with her, then he spreads her secrets."*
8. Helping her around the household. Aisha رضي الله عنها when asked about the Prophet ﷺ in his house, she said that he ﷺ was serving his family until it was time for prayer. He ﷺ used to stitch his thobe, fix his sandals and milk his goat.
9. Help her in the house with the children and not leave them for her completely.
10. Allow her to go out whenever needed such as visiting her family, friends, the masjid and shopping. He must not allow her to go out wearing perfume or dress inappropriately. Her prayer in house is better.
11. To feel jealous and protective towards her. There are two types of jealousy positive and negative.

12. Fulfill her sexual desires.
13. Praise her efforts and thank her: The Prophet ﷺ said: *"he who doesn't thank people doesn't thank Allah."*
14. Tolerate her shortcomings: Allah سبحانه و تعالی says: *"..And live with them honorably"* (Al-Qur'an 4:19)



## Chapter 5: Essentials of Sound Marriage



### Ways to increase love between the spouses

1. Exchanging gifts
2. Assigning a time to listen to one another. Hadeeth of Umm Zar'a <sup>رضي الله عنها</sup>
3. Warm reception when arriving, departing and on the phone – the husband is met by smiling knockouts in office, in shops and on billboards of women, and women are the weak points of men. The minute he enters the house, his wife's face is the first frowning face of a woman he sees that day, interrogating him about why he was late.
4. Complementing your partner individually and also while with the relatives and considering the partner as a blessing of Allah <sup>سبحانه وتعالى</sup>.
5. Do not compare!
6. Make your wife feel that you are moderately jealous and let her feel you are a man. Let him also feel of you feminine side and of your weakness and dependence over him.
7. Devoting time with the family in any light activity such as installing a cabinet or bookshelf or organizing the kids' future or even participating in cooking a meal.
8. Spending quality time with the spouse, away from children to talk peacefully and with love and Quality time.
9. The balance in being close and keeping your distance.
10. Sharing the joy and pain – it is greatly insensible to enjoy yourself while your spouse is in pain, especially at crisis.

11. Talking passionately and using love words that express the feelings.
12. Using preferred nicknames that are favored by your spouse.
13. Playing and joking: the Prophet ﷺ used to put the piece of food in her mouth and ear from where she ate.
14. Saying words of encouragement and complementing your partner's efforts while turning a blind eye to the partner's shortcomings.
15. Complementing the food, the clothes and the appearance in general and how beautiful or handsome one is.
16. Choosing the best cologne and dress, the partner loves.
17. Respecting your partner's choices and method of thinking.
18. Respecting people's feelings.
19. Respecting the family of your spouse and never say bad things about them as this leaves a scar in your partner's heart that is very difficult to remove.
20. Stay away from destructive jealousy.
21. Turn a blind eye to mistakes and shortcomings.

### **Ways to reduce fights and tensions**

1. To acknowledge the fact that a calamity is the result of a sin. Mohammed IbnSireen used to say: *"I can recognize my sin in the behavior of my wife and my ride."*
2. Living in the present time of reality instead of dwelling in the past and try not to change the world and learn to love with its shortcomings.
3. Learn how to apologize even if you are not wrong.
4. Repress your anger and frustration.
5. Limit your dispute and to open other old problems and old files.

6. Do not involve others unless reaching a dead-end.
7. Be gentle, lenient and easy going and don't hold onto your opinion. My opinion is correct with a possibility of being wrong and my spouse's opinion is wrong with a possibility of being right.
8. Don't look at your rights. What is worse is when you magnify these rights or claim that certain things to be legitimate rights when they are not.
9. Solve the problem and don't run away from it.
10. Be frank and honest and don't beat around the bush.
11. Don't be aggressive.
12. Choose the right time for everything. Problems are not solved at times of rage. Say "*A'udhu Billahi min ash-shaytaan-i'r rajeem.*"
13. Acknowledge the fact that people may differ and moods differ as well.
14. Be content with what Allah <sup>سبحانه</sup> و تعالیٰ has given you. When a woman sees good things, she praises Allah <sup>سبحانه</sup> و تعالیٰ. But if she sees something that is not pleasant, she justifies this that all men are like this.
15. Be wise and look at the conclusions and not the actions.

## Ways to increase intimacy between the spouses

1. Intercourse has a number of benefits as Ibn Al Qayim says:
  - a. Reproduction and preservation of the human race.
  - b. Discharging the fluid that would harm the individual if not allowed out.
  - c. Attaining the physical pleasure and enjoyment.
2. One must be sincere when having intercourse as the Prophet ﷺ told us that a man is rewarded when he has intercourse in halal means.
3. It is part of the Sunnah to have some sort of foreplay. The Prophet ﷺ used to generally play with his wives. From this, scholars said that it is highly recommended to have foreplay before intercourse, as this would make it acceptable for the wife.
4. Anything that pleases the spouses is permissible. The only thing that is not permitted in Islam is:
  - a. Having intercourse while the woman is in her menstruation.
  - b. Anal sex
5. Oral sex is an issue of dispute. Those who looked at the prohibition of anal sex and intercourse during menses said that these are the only forbidden things. Those who looked at the general rules of Islam that promotes ethics and moral conduct looked at it as immoral. Touching an impurity with the mouth or with the tongue is not permissible. If one can be sure not to touch such an impurity, it is either permissible or disliked.
6. When a man has intercourse with his wife, he should say; *“Bismillah, Allahumma jannibni-Sh-Shaitan wa Jannib-ish-Shaitan ma Razaqtana (In the Name of Allah, O Allah, keep the shaytaan away from us and keep the shaytaan away from what You bestow on us.)*



7. The Sunnah is that if a man wants to go back again to his wife after having Intercourse and before bathing, it is Sunnah to perform Wudhu as this increases his energy.
8. Ghusl is mandatory if the two circumcised parts meet or when ejaculation happens.
9. It is not permissible to disclose the secrets of such intimacy. The Prophet ﷺ said: *“Among the most evil people before Allah on the Day of Resurrection will be a man who comes to his wife and has intercourse with her, then he spreads her secrets.”*





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## Chapter 6: Concept of Talaaq

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### Definition of Talaaq

1. Linguistic Meaning: setting free
2. Technical Meaning: the immediate and future annulment of the marriage contract, as confirmed in a plain declaration like: "I hereby divorce you!" or indirectly, like saying, "I hereby consider you unlawful to me!"

### Introductory Points

1. Divorce can also be confirmed by a judge or in the absence of judge, a Muslim leader, on basis of the wife's request. This is known as "Khulu".
2. Divorce sometimes relieves the husband or wife of difficulty.
  - a. When one of the two has a corrupt nature and a deficient faith.
  - b. When the two do not agree in temper and purpose; or
  - c. When their hearts repel and never go well together
3. Therefore, without love or agreement, the family structure collapses.
4. The aim of the Shariah' (Islamic law) is to establish a healthy family unit through marriage, but if for some reasons this purpose fails, there is no need to linger on under false hopes, as is the practice among the adherents of some other religions were divorce is not permitted.
5. Islam does not keep a couple tied in a loathsome chain to a painful and agonizing position, instead it permits divorce.
6. It should only be resorted to when it becomes humanly impossible and due to unavoidable circumstances.

## Procedure for Divorce

1. There are two ways in which divorce takes place:
  - a. One is known as "TalaaqBid'i - an innovated divorce and
  - b. The other is known "Talaaq Sunni" – that is divorce carried out in accordance with the teachings of Muhammad ﷺ .
2. As for Talaaq Sunni, this entails the man uttering divorce at a time when he has not engaged in any sexual relations with her after her last menstruation, whilst his wife is in a state of purity, that is, she is not menstruating or in a state of nifaas – post natal bleeding, and that he declares the divorce once only.
3. And so if one of the previously mentioned conditions is violated, the divorce process is considered as having been carried out in an innovated manner.
4. TalaaqBid'I, is where a man divorces his wife while she is menstruating or is in a state of post natal bleeding, or that he divorces her after having had sexual relations with her after her last menstruation, or that he divorces her by verbalizing the divorce three times in one utterance or one same sitting.
5. This is the overwhelming opinion of the majority of the scholars, except that Imaam Ash-Shafi' did not consider the utterance of divorce at one time as an act of innovation.
6. Imaam ash-Shafi's opinion is refuted based on the Hadith collected by Bukhari and Muslim whereby Ibn Umar رضي الله عنه , the son of 'Umaribn Al-Khattab رضي الله عنه, divorced his wife when she was menstruating. So Umar رضي الله عنه asked the Prophet ﷺ about his son's actions in which he ﷺ replied: *"Command him to take her back, and keep her till she is purified, then has another period, then is purified. If he wishes he may keep her and if she wishes he may dicorce her before having sexual intercourse, for that is the 'Iddah' (period of waiting) which Allah commanded for the divorce of a woman."*
7. The Hadith of ibn Umar رضي الله عنه tells many points and makes them clear.
  - a. Firstly, that it is prohibited to divorce during the menstruation period.
  - b. Secondly, without the consent of a woman, a man can withdraw his decision within the specified waiting period (Iddah).

- c. Thirdly, it is an act of heresy (bid'ah) to divorce a woman in the state of purification after menses, in which sexual intercourse is carried out.
8. The scholars of Islam have differed on the issue of whether divorce uttered while a woman is in menses is actually counted.
9. The majority of the scholars say that the divorce has taken place and it is to be counted. This is the opinion of Aby Hanifa, ash-Shafi', Maalik, Ahmad ibn Hanbal, An-Nawawi, and Al-Zaidiyyah.
10. Those who said that divorce has not taken place include the Dhaahiriyyah (the literalist school of thought), ibn Taymiyyah, his student ibn al-Qayim and As-Sanaa'ni.
11. The correct opinion and Allah <sup>سبحانه</sup> و تعالیٰ knows best is that of the majority of the scholars, that is, the one who divorces his wife whilst she is in a state of menses is counted as one divorce. This is in light of what ibn 'Umar himself has proclaimed in Sahih Muslim and Bukhari that it was counted as one divorce against him.

### Verbalizing Divorce Thrice at One Time

1. What is the legal status of three divorces given together at the same time?
2. There are four famous different opinions on this issue among the scholars:
  - a. The first opinion is that three divorces given together at a time befall and the woman is divorced. This is the opinion of the four dominant schools of thought.
  - b. The second opinion is that if the woman has carried out sexual intercourse, then three befall, and if she hasn't, then only one will happen.
  - c. The third opinion is that of the Mu'tazilah, who say that three divorces at a time are nothing and have no legal status at all.
  - d. The fourth opinion is that this is only to be counted as one divorce.
  - e. Among these different views, the fourth opinion and Allah knows best is the strongest and most logical.

- f. The opinion that three divorces uttered at once is to be only counted as one is the opinion of: Abu Bakr As-Siddiq رضي الله عنه, Umar ibn Al-Khattab رضي الله عنه during the first two years of his Khilafah, Abdur-Rahmaan ibn Awf رضي الله عنه, one of the ten companions given the glad tidings of Jannah, 'Abdullah ibn Mas'ud رضي الله عنه, Ali ibn Abi Taalib رضي الله عنه, ibn Abbaas رضي الله عنه, ibn Taymiyyah and his student ibn al-Qayim, ibn Rajab al-Hanbali, Ash-Shawkaani, ibn Baaz, ibn Uthaymeen, the great scholar of Hadith Shaikh Al-Albaani, and many others. May Allah shower each and every one of them with his mercy.
3. The conclusive opinion of these great companions and scholars is in light of authentic texts, which shed light on this controversial issue.
4. The following Hadith reported by Muslim is one of the main sources of evidence, whereby Ibn Abbaas رضي الله عنه narrated: *"In the time of Allah's Messenger ﷺ, Abu Bakr and the first two years of the caliphate of Umar, the three pronouncements of divorce were regarded as one divorce."* So 'Umar said: *"People have made haste in an affair they used to practise with patience, so supposing we execute it on them, so he executed it on them."*

### Uttering Divorce during Anger

1. The first type is when anger is so intense that a person becomes no longer aware of what he is doing or saying. In this case the divorce does not count according to the majority of the scholars, because he is like one who is insane and mad, one who has lost all power of reason.
2. The second type of another is when a man's anger is intense but he understands what he is saying and doing. However, the anger is so intense and he cannot control himself because the argument trading of insults or fighting has gone on too long, so his anger intensifies because of that. In this case there is a difference of opinion amongst the scholars. The most correct view and Allah knows best, is that the divorce does not count because the Prophet ﷺ said: *"There is no divorce and no freeing of slaves when it is done by force in a state of intense anger."* [Narrated by Ibn Majah (2047); classed as saheeh by al-Albaani in al-Irwa (2047)]
3. The third type of anger is mild anger. This is what happens when the husband is upset with his wife, or he is disappointed about something that his wife has done. This mild anger is not so intense that it makes him lose his power of reasoning or self-control, hence, the divorce is valid according to the majority of the scholars. This is the correct answer regarding divorce uttered in anger, as was stated by ibn Taymiyyah and ibn al-Qayyim, may Allah have mercy on them.

### 'Iddah: Period of waiting

1. 'Iddah' is the period in which a woman waits after the death of her husband or divorce, and she is not allowed to marry during this period.
2. The Muslim jurists have unanimously agreed on it as being waajib (obligatory) due to the explicitness of the Qur'anic injunction whereby Allah <sup>سبحانه</sup> و تعالى says: *"The divorced women shall wait concerning themselves for three monthly periods."* [Al-Qur'an 2:28]
3. **There are three types of 'Iddah:**
  - a. The first type of 'Iddah is that of birth. That is, a woman must wait until she delivers her child before she can remarry. A common erroneous idea among people is that a pregnant woman cannot be divorced. This is not the case at all. Rather there is a consensus on this point among the scholars, and that this is a Sunnah divorce and heresy (bid'ah). There is no dispute regarding its validity.
  - b. The second type of 'Iddah is the 'Iddah of menses. This means a woman is not allowed to marry until she has three menstruations. As soon as the third period ends, 'Iddah ends. This is the view of many of the elite companions such as 'Umar <sup>رضي الله عنه</sup>, Ali <sup>رضي الله عنه</sup> and ibnMasu'd <sup>رضي الله عنه</sup>, and it was narrated by ibn al-Qayyim. This is also the view by the majority of contemporary scholars such as ibnBaaz and 'Uthaymeen.
  - c. The third type of waiting period is the 'Iddah of months. This applies to women who have passed the age of menstruation. The 'Iddah in this case is three months. As for a woman who is divorced by her husband before the has consummated his marriage with her then there is no waiting period that applies to her based on verse number 49 from Surat Al-Ahzab.
4. The woman whose husband has divorced her once or twice is instructed to spend her 'Iddah duration within her husband's house.
5. Any woman who leaves her home without the permission of her husband after he has uttered either the first or second divorce is in violation of the injunctions of Allah <sup>سبحانه</sup> و تعالى and his Messenger <sup>ﷺ</sup>.

6. A woman whose divorce is revivable (i.e. first or second divorce) may still uncover in front of her husband and adorn herself by applying make-up and perfume.
7. She may speak to him and he may speak to her; she may sit with him and do anything with him apart from intercourse.
8. The only instance in which he may have sexual relations with her is if he takes her back.
9. If the husband kisses and embraces his wife with the intention of taking her back, then that taking back is valid.
10. To be on the safe side however, he should not fondle with his wife until after he has clearly stated that he is taking her back.
11. In the case where a husband is not sure as to whether he uttered the word of divorce at all, or as to the number of divorces he has uttered, then he should act on the basis of what is certain.
12. So if he is not sure whether he has divorced her or not, the basic principle is that divorce has not taken place, because in this instance marriage is something which is certain, and divorce is something concerning which there is uncertainty.
13. Based on the juristic principle that certainty cannot be overridden by doubt, if the husband is uncertain as to whether he has divorced his wife once or twice, he should assume that he has divorced her once, because this is what is certain.

### **Khula': Divorce initiated on the part of the wife**

1. The linguistic definition of Khulu' means to take off the clothes or to take out.
2. According to Shari'a terminology, Khulu' refers to a woman's right of cancellation of her marriage.
3. Just as a man can divorce if he has a genuine objection, similarly, a woman may also have a Khula' if she has a genuine excuse, and after returning the dowry (Mahr or Sadaaq)
4. Some of the valid reasons for a woman to ask for a 'Khulu include disliking her husband's treatment, such as being hot tempered, over-strict, one who criticizes her and rebukes her even for the slightest mistake or shortcoming.

5. Another valid reason is that she may dislike her husband's physical appearance due to some deformity or ugliness, or that one of his faculties is missing.
6. Other reasons a woman may instigate divorce is if her husband is lacking in religious commitment.
7. For example, he doesn't pray, or doesn't fast in Ramadan without a proper excuse, or he goes to parties, whereby the barriers of Allah are transgressed, such as fornication, drinking alcohol, listening to singing and musical instruments.
8. Another basis a woman may ask for divorce is if the husband deprives her of her rights of spending on her maintenance, clothing, and other essential needs, when he is able to provide these things.
9. A woman may also ask for a divorce if the husband does not give a woman her conjugal rights and thus keep her chaste due to being impotent, or because he is unfair in his distribution of his time among co-wives.
10. The 'Iddah of a woman divorced by 'Khulu is not the same as that of a woman who did not instigate divorce.
11. If the woman divorced by 'Khulu is pregnant, then her 'Iddah lasts until she gives birth, according to scholarly consensus.
12. But if she is not pregnant, the scholars differed concerning her 'Iddah.
13. Most of the scholars said that she should wait for three menstrual cycles, because of the general meaning of the verse: *"And divorced women shall wait (as regards their marriage) for three menstrual periods."*
14. The correct view and Allah <sup>سبحانه</sup> و تعالی knows best is that it is sufficient for a woman divorced by 'Khulu to wait for one menstrual cycle only.
15. This is deduced from the Hadith whereby the Prophet ﷺ told the wife of Thaabit ibn Qays <sup>رضي الله عنه</sup>, when she divorced him by Khula', to wait out the 'Iddah for one menstrual cycle. [At-Tirmidhi]
16. This hadith refers specifically to Khula' divorce, whereas the verse quoted above speaks of divorce in general.

17. As for the permissibility of taking back a divorced wife by Khula' during the 'Iddah, ibnKathir said: "there is unanimous agreement that the man who has divorced his wife by Khula' may take her back during the "Iddah" [Tafsir ibnKathir, 1/277]

### Ar-Raj'a – Taking back a wife after a divorce

1. If a man divorces his wife and this is the first or second talaaq, referred to as talaaj'ra, he and she has not ended her 'Iddah, then he can take his wife back by saying: "I am taking you back" or "I am keeping you."
2. Apart from verbalizing that he is taking her back, the husband may do some action intending thereby to take her back, such as having intercourse with the intention of taking her back.
3. The Sunnah is that the taking back of the wife should be done in the presence of two just Muslims based on the second verse of Surat at-Talaaq.
4. If the 'Iddah has ended following a first or second divorce, there has to be a new marriage contract.
5. In this case he has to propose marriage like any other man, to her guardian and to her.
6. When she and her guardian agree and they agree upon a Mahr (dowry), then the marriage contract is complete.
7. That must be done in the presence of two just witnesses. If however he divorces his wife for a third time, she becomes unlawful to her first husband until she marries a second husband in a genuine marriage, which is consummated. Allah <sup>سبحانه</sup> و تعالی says (interpretation of the meaning): "The divorce is twice, after that, you retain her on reasonable terms or release her with kindness..." (Al-Qur'an 2:229) and
8. He <sup>سبحانه</sup> و تعالی has also said: "And if he has divorced her (the third time), then she is not lawful unto him thereafter until she married another husband." (Al-Qur'an 2:230)
9. The last divorce known amongst Muslim jurists as TalaajBaa-in, refers to the third divorce according to the overwhelming majority of the scholars.



10. This is in light of the hadith collected by Bukhari and Muslim whereby a woman came to the Messenger of Allah ﷺ and said: "O Messenger of Allah, Riffaa'ah divorced me thrice, then I was married to 'Abd al-Rahmaanibn al-Zubayr al-Qurazi, but he has nothing with him except something like this fringe." The Prohphet ﷺ said: "Perhaps you want to go back to Riffaa'ah? No, (it is not possible), unless ad until you enjoy sexual relations with hm (i.e. Abd al-Rahmaan), and he enjoys the sexual relation with you.
11. An-Nawawi said: "This hadith indicates that the woman who has been divorced by a third talaq is not permissible to the man who has divorced her until she has been married to another husband, who has intercourse with her then separates from her, and she completes her 'Iddah."





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