

Islamic Codes on Marriage: An Overview

Dr. Sharmin Hamid

Professor, Department of Philosophy, University of Rajshahi, Rajshahi-6205, Bangladesh

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ABSTRACT

Marriage in Islam is fundamentally regarded as a contract rather than a sacrament. Though the contract has religious overtones and is strictly guided by the Islamic laws. Islamic conjugal ethics highlight that marriage is not an act of mere pleasure, not primarily a source of gratification to his sentimental longings or romantic loves, but an act of duty, a matter of conjugal responsibility as well as a matter of moral obligation. That is why the Holy Qur'an of Almighty Allah and the tradition of the Prophet Mohammad (sm.) underscore the significance of marriage, presenting it as the legitimate avenue to protect individuals from immorality, depravity, evil deeds, wickedness and societal vices. Moreover, the institution of marriage in Islam transcends personal gratification, focusing instead on duty, moral obligation and conjugal responsibility. A valid Islamic marriage must be between opposite sexes, as same-sex relationships are unequivocally prohibited. The presence of witnesses is also crucial, serving to legitimize the marriage publicly, protect progeny's rights, and provide legal evidence when necessary. The article explores these ethical foundations, analyzing the primary objectives of Muslim marriage, the essential conditions that validate a marital contract, the recognized forms and the lawful processes for dissolution. The study also addresses evolving contemporary issues impacting conjugal relations through an Islamic lens, such as the interpretation of marital rights, gender roles, and ethical dilemmas arising in modern societies. By exploring classical teachings along with contemporary challenges, the study aims to provide a comprehensive understanding of conjugal ethics in Islam, offering insights into how the ethical and legal underpinnings of marriage continue to shape and guide Muslim family life today.

1. Introduction

Marriage is undoubtedly an important institution of human society. It is the only organization of men-women relationships i.e., organization of the sexual association between male and female in a valid way. It is a contract between a man and a woman to live as husband and wife and is the most cordial relationship in this world. It is the legal system of procreation and through this system reproduction of the human species can be ensured. Moreover, marriage is the only source from which all relationships like motherhood, fatherhood, brotherhood, sonship, unclehood (maternal and paternal) and so on branch out. In addition to this, through marriage the family comes into existence and on its basis the organization of the private life proceeds. Besides, it also helps an individual to transform him from a self-centred entity into a social being. For these reasons, Islam recognizes the value of marriage.

2. Marriage in Islam

Marriage in Islam is a sacred contract which every Muslim should enter into, unless there are special reasons to the contrary. A formal binding contract is considered integral to a religiously valid Islamic marriage and outlines the rights as well as responsibilities of the groom and bride. The Arabic word for marriage is *nikah* which is generally used to refer to Islamic marriages. *Nikah* is also translated literally as sexual intercourse, giving hints as to the Arabic etymological origins of the phrase in Arabic '*Aqd Nikah*' which means conjunction and understood in the sense of contract.¹ In Islam, marriage was a custom of earlier Prophets which the Islamic Prophet Hazrat Mohammad (sm.) reinstituted and passed on to his *Ummah* or community. In the opinion given by Reuben Levy, the greatest of Mohammad's (sm.) reforms affecting the status of women came in the matter of their relationships with the opposite sexes. From the Holy Qur'an it is clear that this enactments on the

question of marriage were designed to bring Islamic practice into line with what is held in Judaism as well as in Christianity as we knew them, though there were features notably the fact that in Islam, marriage is a secular contract and not a religious rite— which made for differences.²

According to the Islamic ethics, the only permissible sexual relationship under Islamic law is through marriage. A great emphasis has been given in the Holy Qur'an and the Traditions to both marriage and having children. Both the Holy Qur'an and the Hadith of the Prophet Mohammad (sm.) prefer marriage to celibacy, even for ascetic reasons. In Islam, celibacy is discouraged not only for men, but for women as well.³ There are many verses in the Qur'an which ordain us to get married. Almighty Allah states in the Holy Qur'an: "It is He Who has created man from water: then has He established relationships of lineage and marriage: for thy Lord has power (over all things)."⁴ From the above verse it is clear that marriage relationship is given the same importance as blood relationship. Furthermore, certain Hadiths on the subject of marriage are also deserving of notice in this connection:

Abdullah (b. Mas'ud) (Allah be pleased with him) reported that Allah's Messenger (may peace be upon him) said to us: O young men, those among you who can support a wife should marry, for it restrains eyes (from casting evil glances) and preserves one from immorality; but he who cannot afford it should observe fast, for it is a means of controlling the sexual desire.⁵

The Prophet of Almighty Allah further said: "Whoever chooses to follow my tradition must get married and produce offspring through marriage (and increase the population of Muslims), so that on the Day of Resurrection, I shall confront other *Ummah* (nations) with the (great) numbers of my *Ummah*."⁶ The Prophet also expressed his opinion in this context in the following way: "Whoever gets married has safeguarded half of his religion."⁷ The Prophet also declared that marriage is one of the sacred practices and whoever dislikes my way of life is not of me.⁸ Thus, the Holy Qur'an and the *Sunnah* of the Prophet Mohammad (sm.) encourage and order people to get married.

According to Islam, every single Muslim, poor or rich, should marry in order to protect themselves from immorality.⁹ This is because the teachings of the Qur'an assert that marriage is the only legitimate way to satisfy one's sexual desire.¹⁰ The Prophet of Islam also said in this connection: "There is no better structure founded in Islam other than marriage."¹¹ That is why Islam recommends marriage as a most sacred institution and makes it incumbent on every Muslim man as well as woman, unless poverty is not necessarily a barrier to marriage.¹² In addition to this, Islam does not believe in celibacy i.e., abstention from marriage. It strongly discourages celibacy or virginity and unquestionably advises mankind that the normal and natural course of behavior for a Muslim is to establish a conjugal family of procreation.¹³ It means that Islam recognizes celibacy or virginity only for those who are incapable of and suffer from serious illness. According to the Prophet Mohammad (sm.), if a Muslim follows celibacy and retreats to worship, there is no possibility for him to get any kind of help from Almighty Allah. He was further of the view that three persons have a right from Allah to be helped i.e., the *Mujahid* in the way of Allah, the seeker for marriage who wishes to guard his chastity and the slave who seeks funds to free oneself.¹⁴ Hence, in the eye of Islam, marriage is an obligatory action of the Prophet (sm.) as well as the Holy Qur'an and whoever does not follow this, he is not a true follower of Islam.¹⁵

In Islam, Almighty Allah advises the ordinary Muslims, religious and spiritual leaders as well as the Prophets to lead a married life. Therefore, it can be said that He is the advisor of marriage. There is a beautiful verse in the Holy Qur'an in this regard which runs as follows: "It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love)...."¹⁶ Nevertheless, marriage, according to the Islamic teachings, is not a religious sacrament, but a legal and binding contract between a male and a female which establishes legitimate, permanent as well as responsible relationship between them.¹⁷ Regarding the nature of marriage, the Holy Qur'an describes it *mithaq* which means a 'solemn covenant'.¹⁸ Shah Abdul Hannan expresses his opinion regarding Muslim marriage in the following way:

In Islam, marriage is essentially a contract. However, the distinction between sacred and secular was never explicit in Islam. Any action or transaction in Islam has religious implications. It is not quite accurate, therefore, to designate marriage in Islam simply as a secular contract. The appropriate designation of marriage could be a 'Divine Institution'.¹⁹

Thus, in the eye of Islam marriage is a valid contract between man and woman, not a sacrament. In Islam, there are four kinds of marriages prevalent among the early Muslim Arabs. Firstly, Islam permits marriage with a close relation. This is because it is considered that children of such a marriage would be of pure blood. Secondly, marriage with a stranger is also recognized by Islam, because those born of such connection would prove strong and healthy. Thirdly, Islam also allows marriage with a captive in war. For example, Safiyya, who was captured in the battle of *Khaibar*, was taken as wife by the Prophet Mohammad (sm.).²⁰ Fourthly, marriage with slave girl is recognized by Islam. Slave girls, noted for their beauty, were sold in the open market by slave dealers and purchased at high prices and after emancipating them they were married by their masters. Hence, a captive or a slave girl can change her fate by getting marriage prescribed by Islam.

In estimation of the above discussion, it can be said that the Holy Qur'an of Almighty Allah and the Traditions of the Prophet Mohammad (sm.) lay down a great emphasis on marriage. This is because it is the only way through which the Muslims can protect themselves from immorality, wickedness, depravity and badness.

3. Marriage and Morality

Marriage is a fundamental social and ethical institution that units individuals in a committed partnership. Marriage is built on love, compassion, trust, respect and mutual responsibilities. The Holy Qur'an states in this regards: "And among His signs is that He created for you from yourselves spouses that you may find tranquillity in them and He placed between you affection and mercy...."²¹ Moreover, morality in marriage refers to the ethical principles that govern relationships between spouses, ensuring love, fidelity, honesty, fairness and ethical responsibility. A moral marriage upholds principles such as mutual respect, trust, equality, emotional support and stability in the relationship. Ethical concerns in marriage also include issues like communication, consent, understanding, shared responsibilities and the fair treatment of children as well as other family members. Moral dilemmas may arise in cases of infidelity, divorce or conflicts between personal desires and marital obligations. Therefore, the morality of marriage ensures a harmonious and fulfilling partnership contributing to the well-being of individuals and society as a whole.

4. Purposes of Muslim Marriage

According to the Islamic ethics, marriage is a natural necessity for every human being. It bears many good outcomes of which the most important ones are as follows:

- i) The main purpose of Muslim marriage is to find security and peace of mind. It serves as a shelter for anyone who feels lost in the wilderness of life; one can find a partner in life who would share one's joy as well as sorrow. In this context Manzoor Ahmad Hanifi expresses his view in the following way:
The institution of marriage is responsible for the development of those feelings of love and service which are the pride of society today. The mutual love of husband and wife— a love based not on momentary passion but life-long connection and the subsequent paternal love for off-spring leads to a very high development of the feeling of love of man for man. The natural inclination of the male to the female and of the female to the male finds expression through marriage and is developed first into a love for the children, then a love for one's kith and kin and ultimately into a disinterested love for the whole of humanity.²²
- ii) Another purpose of marriage in Islam is to protect one's morality through sexual enjoyment and satisfaction. Everyone should enjoy sexual pleasure in a correct and proper manner. In this context marriage plays a vital role. The Holy Qur'an states that a sexual relationship between man and woman is necessary for procreation. Hence, sex within the marital framework is legitimate and necessary.²³ In addition to this, marriage functions as a shield against committing adultery and fornication, both of which are forbidden in Islam.²⁴ Those who abstain from marriage often suffer from both physical and psychological disorders. Such disorders and certain social problems are a direct consequence of the abstinence of youth from marriage. Therefore, to avoid the above problems, according to Islam, marriage between a male and a female is the only solution.
- iii) One of the principle purposes of Muslim marriage is reproduction or procreation.²⁵ The teachings of the Holy Qur'an do not approve of sex for pleasure or for fornication; marriage has

a purpose.²⁶ Thus, the procreation of mankind is continued only through marriage. Besides, children, the result of marriage are the important factors in stabilizing the family foundations and a source of real joy to their parents. From the Islamic ethical point of view, the merit of having children entails the following: the realization of Allah's desire,²⁷ the fulfillment of the Prophet's call to marry as well as to increase his followers' number and gaining the fruit of a child's prayer. According to Islamic teachings, when parents die and leave a child, his prayer would benefit the dead parents. In this connection the following famous Hadith is very appropriate i.e., when the son of Abraham dies, nothing would be of more benefit to him except three things: a continuous charity i.e., a trust, some useful knowledge he has left behind and a child who may pray for him.²⁸ However, if the child dies before his parents, he would make intercession on his parent's behalf. In the words of Hazrat Mohammad (sm.), a child will carry his parents towards Paradise. Moreover, a child, on the Day of Judgement, would be told: 'Enter Paradise'. He will go to the door of Paradise and say: 'I will not enter Paradise without my Parents'. It will then be said to him: 'Admit his parents along with him in Paradise'.²⁹ Therefore, it is said that the most significant benefit of Islamic marriage is procreation.

- iv) Islamic teachings also regard marriage as an instrument which creates a comfortable home for spouses. This marital link helps them to work together as well as cooperate amicably in the management of the domestic affairs of their house. Furthermore, marriage, from the Islamic point of view, is an opportunity to develop one's good and sound character as a result of the added family responsibility which both partners have to endure during their married life. In the words of the Prophet of Islam, a man will be rewarded for what he spends on his wife, even for putting a morsel of food into her mouth.³⁰ He further said that whoever performs his prayers correctly and spends on his children in spite of his modest means and does not speak ill against others, will be in Paradise as close to me as these two fingers of mine.³¹ Therefore, success in carrying out family commitments would ensure Divine rewards.
- v) Another purpose of Islamic marriage is that it ensures social stability as well as a dignified form of living for both the husband and the wife. Especially, women get benefitted to a large extent by marriage because it guarantees their rights both as wives and mothers.³²

From the above discussion, it can be remarked that the purpose of marriage in Islam is immense. It can be summarized according to Hammudah Abd al Ati that Islam favours marriage between a man and a woman as a means to emotional and sexual gratification, as a mechanism of tension reduction, legitimate and lawful procreation, social placement and as an approach to inter family alliance as well as group solidarity.³³

5. Conditions of Valid Muslim Marriage

The Qur'an outlines some conditions for a Muslim marriage to take place and a marriage becomes valid and legitimate if the following conditions prescribed by the Holy Qur'an are satisfied.

a) Marriage Between Opposite Sexes

Islamic teachings do not support matrimonial relationship between the same sexes i.e., homosexuality is absolutely forbidden in Islam and in the eye of Islam it is very shameful, heinous and disgraceful act.³⁴ Thus, it is an essential requirement that one party be male and the other female while Muslim marriage is committed.

b) The Age of Marriage

The second condition of a valid Muslim marriage is to have marriageable age for both the bride and the bridegroom. The classical view is that there is no minimum age limit for marriage. This is because the Qur'an does not set a prescribed minimum age for marriage.³⁵ Moreover, some scholars think that the groom has to be always senior in age, because it ensures a healthy marriage relationship. However, this has no religious grounds and in fact, it contradicts the practice of the Prophet, two of whose wives (Khadija and Sauda) happened to be older than him. Nevertheless, the record shows that they lived in peace and harmony. Modern Muslim scholars, in addition, legislate to provide a minimum age of marriage. For example, the minimum age of marriage is 21 for males and 18 for females in Bangladesh as well as India.

c) Restriction on Marriage with Persons of a Different Religion

The teachings of the Holy Qur'an give restrictions to marriage with persons of a different religion. According to Islam, a Muslim man can marry a Muslim woman or a woman from the people of the Book i.e., a *Kitabiyyah*. In other words, a Muslim man has the right to marry a woman from the Jewish or the Christian communities.³⁶

In addition to this, the teachings of Almighty Allah also prohibit marrying a woman who is a *Mushrik*, that is, who worships idols or associates other deities with Allah.³⁷ Furthermore, if a non-Muslim man wants to marry a Muslim woman, he must be converted to Islam. Apart from this, a Muslim woman, according to Islam, is prohibited from marrying anybody except a Muslim.³⁸ In this connection, a reference was made by Shah Abdul Hannan that Allah has been more kind to the woman and has not put on her extra stress as well as probable difficulties in living with a husband of another faith.³⁹ Abdur Rahim expresses his opinion in the following way:

Islam which is a monotheistic religion and polytheism is a complete bar to intermarriage, but when both the man and the woman are followers of some revealed religion, the disability is only partial. Hence a Muslim cannot marry a polytheistic woman but a Muhammadan man can marry a Christian woman or a Jewess, though a Christian or a Jew cannot marry a Muslim woman.⁴⁰

d) The Prohibited Degrees of Affinity

Another important condition of marriage in Islam is the prohibited degrees of affinity.⁴¹ According to Islam, it is permanently forbidden for a Muslim to marry his or her ascendants, descendants, siblings, nieces and nephews, aunts⁴² and uncles, in-laws, step-parents and step-children and their descendants. Moreover, in Islam, marriage is also prohibited with a foster mother, foster sisters, foster aunt, foster nieces and two sisters at the same time. Shah Abdul Haanan says regarding women to whom marriage is prohibited: "These restrictions have been imposed by Allah is his wisdom to increase trust among close relations by prohibiting incestuous relations, increase love and affection among close relations, expand family ties beyond close circle etc."⁴³ Therefore, the Holy Qur'an enjoins us for a valid Muslim marriage in which the parties must not be within the prohibited degrees of affinity.

e) Consent

The free and mutual consent from both the bride and groom is another essential condition for a valid Islamic marriage.⁴⁴ There are several Traditions in which the Prophet of Almighty Allah is reported to have stated that the consent of a girl to her marriage must be sought, although the girl is shy, her silence may be taken to be her consent.⁴⁵ Furthermore, regarding the consent of the bride given through her wali, Muslim scholars disagree as to whether she can or should give her consent. According to the Shafii School, the wali's consent is essential in all circumstances.⁴⁶ However, the Hanafi School holds that the wali's consent is essential only for the marriage of a minor virgin and when a woman reaches the age of puberty, whether she is a virgin or not, she can marry without her wali's consent.⁴⁷ Thus, although arranged marriages are common in Muslim societies, the free consent of the prospective bride and groom is required for a legitimate Muslim marriage.

f) *Mahr*

Another condition for the validity of the Muslim marriage is *Mahr*. It belongs to the wife alone, neither her father nor her husband can claim it. The bride has the full right to spend it as she likes.⁴⁸ In Islam, *Mahr* is the bride's right to demand as much as she desires, but at a minimum, it is an amount that would be sufficient for the woman to be able to survive independently if her husband dies or they divorce. Furthermore, Islamic teachings also say that the groom has no right to consume it. The husband, however, can enjoy it only if the wife permits it, not otherwise. The appropriate verse of the Qur'an in this regard runs as follows: "And give the women (on marriage) their dower as free gift; but if they, of their own good pleasure, remit any part of it to you, take it and enjoy it with right good cheer."⁴⁹ Besides, unpaid *Mahr* can be recovered as a debt from the husband on divorce or on his death and in those circumstances, the wife has a right to retain the husband's property until the *Mahr* is paid. For this reason, *Mahr* is an essential part of Islamic marriage.

g) Offer and Acceptance

The essential elements of the contract of Islamic marriage are the *ijab* and *qubul*.⁵⁰ The word *ijab* means affirmation or declaration of the proposal and *qubul* means acceptance of the proposal. After receiving the consent of the bride or her agent and after acceptance of the terms of marriage by the bridegroom, the *Qazi* recites *khutba* and ends with blessing for both, in which the others present also join. Besides these, sweets and dry dates are also distributed among the assembled guests.

h) Marriage Witnesses

Islam requires the presence of at least two Muslim male witnesses, or one male and two female witnesses, to validate the marriage contract. This is based on the Hadith. It is reported from Aisha (R.) that the Prophet of Islam said that any woman who gets married without the permission of her guardian (wali), her marriage will be void, her marriage will be void, her marriage will be void.⁵¹ According to Islam, there must be at least two competent witnesses so that the progeny's right of legitimacy will be safeguarded. Regarding the competency of witnesses Muslim jurists think that they must be adult, sane, free as well as Muslims.⁵² Therefore, for the validity of the marriage, the marriage witnesses play a vital role.

i) Avoiding *Irahm* and *Iddah* Period

Another condition recommended for the validity of an Islamic marriage is that the parties must not be in *Irahm* for *Hajj* or *Umrah*. It means marriage must not be celebrated during the pilgrimage to Makka. According to Islam, if a wife is divorced or if her husband dies, she has to wait for the prescribed period of *iddah*, which is normally not more than four months and ten days.⁵³ After passing the prescribed period of *iddah*, she has the right to marry again. Thus, avoiding the period of *iddah* is one of the important conditions of Muslim marriage.

From the above discussion it is noted that a valid Muslim marriage requires mutual consent, proposal and acceptance, witnesses, *Mahr* and public declaration. These conditions derived from the Qur'an and the Hadith, ensure that marriage is based on justice, mutual respect and legal protection for both spouses.

6. Form of Muslim Marriage

The form of Muslim marriage can be monogamous or polygamous. The following verse of the Qur'an deals with polygamous marriage:

If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four, but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess. That will be more suitable, to prevent you from doing injustice.⁵⁴

Therefore, according to the Holy Qur'an, a Muslim man may have up to four wives at a time. This verse was revealed to the Prophet Mohammad (sm.) in the 8th year of the *Hijra*. At that time of revelation of the verse 4: 3, there was no limit to the number of wives for a man. Hence, it was revealed to limit the number of wives to four.⁵⁵ Furthermore, another historical factor is also involved to support polygamy. This verse 4: 3 was revealed after the battle of *Uhud* in which many male Muslims (70 men out of 700 Muslims), who were the bread-earners, the natural guardians and supporters of the females, had been slain. As a result, the number of female was greater than the male numbers. Moreover, these female orphans as well as widows needed protection and support which could best be done by permitting Muslim males to marry them up to four in number.⁵⁶ Thus, polygamy is justified in the eye of Islam, because it does not serve only the male's interest, but also gives privileges to females. In addition to this, there are two conditions to polygamous marriage in Islam. First, additional wives may only be taken when orphans and widows cannot be maintained by society as a whole; secondly, the husband is required to treat all wives equally and justly. The Quranic verse 4: 3 also states that if a man fears that he will not be able to meet these conditions, then he is not allowed more than one wife.

On the basis of the above interpretation, it is said that Islam prefers conditional polygamous marriage, though the ideal form of marriage is monogamy i.e., one wife and one husband.

Furthermore, to discuss the form of Muslim marriage, another question arises i.e., whether polyandrous marriage is permitted to the Muslims. To answer this question, it is noted that polyandrous marriage is

absolutely neglected by the teachings of the Holy Qur'an as well as the Tradition of the Prophet Mohammad (sm.) According to Islam, in case of female, multiple spouses have never been allowed, women are to be strictly monogamous.⁵⁷ Thus, polyandrous marriage is not allowed in Islam.

7. Dissolution of Muslim Marriage

Islam allows dissolution of marriage⁵⁸ through divorce if circumstances warrant or necessitate it. The general ground of divorce in the Qur'an is the hopeless failure of one or both parties to discharge their marital duties to each other in kindness, peace as well as compassion. Although Islam permits divorce reluctantly, it never likes, recommends or encourages dissolution of marriage through divorce. It is also discouraged by the teachings of the Tradition. In the opinion of the Prophet of Islam, among lawful things, divorce is most disliked by Allah.⁵⁹ According to Islam, if there is marital discord between husband and wife, they should not try to dissolve their marriage contract immediately; they have to resort to the arbitration of relatives to settle their differences. The Holy Qur'an says in this connection: "If ye fear a breach between them twain, appoint (two) arbiters, one from his family, and the other from hers; if they wish for peace, God will cause their reconciliation: for God hath full knowledge, and is acquainted with all things."⁶⁰ Hence, Islam puts emphasis on reconciliation when conflict arises between spouses. However, if the arbitration is unsuccessful and the parties cannot reconcile, then divorce is committed.⁶¹ The Muslim jurists have developed some indications which may be accepted as grounds for divorce in case the divorce matter goes to the court. The long absence of husband without any information, long imprisonment, refusal to provide for wife, impotence, discord, physical or mental defect on the part of the husband and so on are some of the grounds on which wife can ask for divorce.⁶² Moreover, either party may take steps to divorce in case of chronic disease, insanity, deceptive misrepresentation during marriage contract, desertion and so forth.⁶³

In Islam, there are various forms of divorce by which an Islamic marriage is dissolved. Islam permits a marriage to be dissolved by repudiation by the husband i.e., *Talaq* which is the right of the husband.⁶⁴ Another foremost mode of divorce is known as *Khula*. According to the Holy Qur'an, if the husband is not fulfilling his responsibilities, there is no stigma on them in seeking *Khula*.⁶⁵ The essential condition for this mode of divorce is giving the husband something for the wife's freedom. The wife's right of *Khula* divorce is based on 2: 229 of the Holy Qur'an. In addition to this, the wife, according to Islam, would be entitled to a divorce under certain circumstances i.e., upon the husband's breach of a condition agreed upon by the parties in the marriage contract. This type of divorce is called 'Delegated Divorce' or '*Talaq Taffiz*'.⁶⁶ Marriage can also be dissolved by judicial process through the court. This type of divorce is known as *Fasakh*.⁶⁷ Apart from the above forms of divorce interpreted by the classical jurists i.e., *Zihar* or injurious assimilation in which the husband compares his wife to a relative within a prohibited degree (his mother); *Ila*⁶⁸ or vow of continence when the husband makes an oath of abstention from the wife for four months or more; and *Lian*⁶⁹ or imprecation where the husband affirms under oath that his wife has committed adultery as well as she affirms under oath to the contrary.

In estimation of the above discussion, it is remarked that when a marriage has irretrievably broken down and there is no hope of reconciliation, it is better for the couple to part with kindness than to continue to live together in intolerable disharmony. In the words of Nik Noriani Nik Badli Shah, although divorce is permitted in Islamic Law, is not something which should be resorted to lightly or easily, but must only be resorted to as a matter of necessity when there appears to be no reasonable possibility of a reconciliation between the couple.⁷⁰

8. Islamic Views on Some Contemporary Issues Related to Conjugal Ethics

Islamic conjugal ethics discusses various ethico-medical problems such as abortion⁷¹, birth control, cloning, surrogacy and so on. According to Islam, children are the gifts of Almighty Allah, so they are regarded as the fragrance of Paradise.⁷² However, it does not mean that Islamic conjugal ethics prohibits birth control absolutely. In Islam, pre-conceptive measure on a temporary basis is permitted. There is a Hadith in this connection which runs as follows: "Narrated Jabir: we used to practise coitus interrupts while the Quran was being revealed. Jabir added: we used to practise coitus interrupts during the

lifetime of Allah's Apostle while the Quran was being revealed."⁷³ From the above interpretation, it is noted that Islam supports birth control by practising any kind of pre-conceptive measures on temporary basis. Again, abortion is explicitly forbidden in Islam. Islam is against abortion for a number of reasons. First, abortion is not included among the reasons allowed for killing in Islam. The Holy Qur'an quotes in this connection: "Not take life— which God has made sacred except— for just cause."⁷⁴ Secondly, Islam opposes abortion, because Almighty Allah decides how long each person will live. The Glorious Qur'an cites in this regard: "... when their term expires, they would not be able to delay (the punishment) for a single hour, just as they would not be able to anticipate it (for a single hour)."⁷⁵ Furthermore, the teachings of the Prophet of Islam are against abortion. Hazrat Mohammad (sm.) said: "Amongst the nations before you there was a man who got a wound, and growing impatient and he took a knife and cut his hand with it and the blood did not stop till he died. Allah said, 'My slave hurried to bring death upon himself so I have forbidden him Paradise'."⁷⁶ Considering the related verses and the Traditions of Prophet Mohammad (sm.), it can be concluded that killing the fetus and aborting it is totally unlawful or *haram* in the eye of Islamic conjugal ethics.

There are many childless couples who cannot enjoy parental feelings. In recent days, the development of medical technology gives them a chance to have a child. Some of the well-known technologies of medical science are artificial insemination (AI), in vitro fertilization (IVF), gamete intra-fallopian transfer (GIFT), zygote intra-fallopian transfer (Zift), intra-cytoplasmic sperm injection (ICSI) and so on. Apart from these, technology supports the fertilization of the sperm and the eggs to occur outside the womb. However, Islamic conjugal ethics does not permit fertilization outside the husband and wife relation i.e., surrogacy⁷⁷ is not permitted in Islam. This is because the Quranic verse 16: 72 describes the creation of a wife and the dignity of marriage which is as follows: "And God has made for you mates (and companions) of your own nature, and made for you, out of them, sons and daughters and grandchildren,...". Further, the Glorious Qur'an gives a definition of a mother which runs as follows: "...None can be their mothers except those who gave them birth."⁷⁸ From the above verses of the Holy Qur'an it is pointed out that Islam permits procreation only in marital relation and in this way the next generations may advance. It means that Islamic conjugal ethics does not support surrogacy.

Moreover, one question may arise, i.e., what a childless couple desiring a child should do? Islam gives an instruction of this question that the childless parents should wait depending on Almighty Allah and continue all kinds of medical treatments. In this connection the following example is very appropriate. Prophet Abraham (asm.) became a father when he was 100 years old and his wife Sara was the age of 99.⁷⁹ Another suggestion for childless couples is that they can adopt a child. In pre-Islamic Arab society, adopted child is considered as a real child. However, Islam does not support it. Islamic moral teachings support adopted children only for one condition i.e., the position of the adopted child is not considered as a real child. From the above discussion, it is said that Islamic conjugal ethics does not support abortion, surrogacy and so on, but all kinds of medical technology between husband and wife are permitted in Islam.

8. Concluding Remarks

To cap it all, it is remarked that Islam assigns great importance to marriage. It is regarded as a contract rather than a religious sacrament. Islamic conjugal ethics thinks that in order to develop the individuality of a person, marriage is essential. This is because it helps an individual to transform him from a self-centred being into a social one. Again, according to Islamic considerations, marriage is not for more romantic love, but for an act of duty- a duty which teaches us how to maintain a family life and conjugal responsibilities. Islam also believes that marriage between opposite sexes is an essential condition for its validity and matrimonial relationship between the same sexes i.e., homosexuality is absolutely and unquestionably prohibited in Islam. Moreover, the consent of the would-be bride and the would-be bridegroom must be sought.⁸⁰ Regarding the marriage witnesses Islamic conjugal ethics thinks that for the publicity and the validity of the marriage, for giving evidence before a court, for safeguarding the progeny's right of legitimacy and so forth the marriage witnesses play a vital role. In regard to the form of marriage, Islam prefers monogamous marriage. Although it permits polygamy, but monogamy is considered as an ideal form of marriage. In addition, marriage in Islam is recommendable or even

obligatory for every individual who can afford to support a family. It is noted that Islamic teachings support inter religious marriage. A Muslim man has the right to marry a Christian or Jewish woman i.e., Kitabiyyah women. At the same time, it also advises the Muslims not to marry polytheists. According to Islam, *Mahr* or dowry plays a vital role in the validity of the wedding. *Mahr* is considered as the exclusive preserve of the bride, neither her husband nor anybody can claim it. Therefore, it can be said that Islam recognizes *Mahr* for the benefit of women. Besides, Islamic conjugal ethics seems that both male and female children are equal, though it gives special importance to young girls. In regard to the practice of abortion, Islamic moral teachings think that it is absolutely unlawful for its adherents. Islam opposes abortion for a number of reasons. Among all the reasons, the most important one is that human life is sacred, so we should not kill human life while it is a fetus or a baby or a complete human being. Apart from this, Islamic conjugal ethics doesn't support surrogacy and it is definitely *haram*. In Islam, sexual gratification, legitimate and lawful procreation, protection of chastity and so forth are the major purposes of marriage. When two believers form a family through marriage, then sexual relationship would benefit them in strengthening their mutual love as well as Kindness. For such a couple, there would not exist any dangerous threats of sexual perversion, dangerous addictions or unlawful deeds. Therefore in Islam, the purpose of marriage must be searched for in the spiritual contest i.e., acquiring nearness to Almighty Allah. In other words, according to Islamic conjugal ethics, marriage is a reclining duty with moral, religious and spiritual responsibilities.

Notes and References

- ¹ http://en.wikipedia.org/wiki/Marriage_in_Islam, Retrieved on-18, June 2024.
- ² Vide, Reuben Levy, *The Social Structure of Islam* (London: The Cambridge University Press, 1962), p. 100.
- ³ See, Haifaa A. Jawad, *The Rights of Women in Islam: An Authentic Approach* (London & New York: Macmillan Press Ltd. & St. Martin's Press, Inc., 1998), p. 30.
- ⁴ Al-Qur'an, 25: 54 (All Quotations from the Holy Qur'an are taken in this chapter from the English translation of the Holy Qur'an by Abdullah Yusuf Ali, *The Meaning of the Glorious Qur'an*, Vols. 1 & 2, Egypt & Lebanon: Dar Al-Kitab Al-Masri & Dar Al-Kitab Allubnani, 1934).
- ⁵ *Sahih Muslim*, rendered into English by Abdul Hamid Siddiqi (New Delhi: Kitab Bhavan, 1978), Vol. 2, p. 703, Hadith no. 3233; also see, *Sahih Bukhari*, Vol. 7, Book. 62, Hadith nos. 3-4 (<http://www.biharanjuman.org/hadith/SahihAl-Bukhari.pdf>, Retrieved on- 20, February 2024; also vide, Manzoor Ahmad Hanifi, *A Survey of Muslim Institutions and Culture* (Lahore, Pakistan: Kashmiri Bazar, 1962), p. 184; also vide, Taqiuddin an-Nabhani, *The Social System in Islam* (New Delhi: Milli Publications, 2001), p. 116.
- ⁶ <http://islamicinsights.com/religion/clergy-corner/the-purpose-of-marriage-in-islam.html>, Retrieved on-2, June 2023.
- ⁷ *Ibid.*
- ⁸ Quoted in, Mohammad Mazheruddin Siddiqi, *Women in Islam* (New Delhi: Saeed International (Regd), 1993), p. 32.
- ⁹ Vide, Al-Qur'an 24: 33; also see, 4: 3.
- ¹⁰ See, *Ibid.*, 24: 32.
- ¹¹ <http://islamicinsights.com/religion/clergy-corner/the-purpose-of-marriage-in-islam.html>, Retrieved on-2, June 2013.
- ¹² Vide, Mohammad Mazharuddin Siddiqi, *Women in Islam*, *op. cit.*, p. 32.
- ¹³ For details please see, Hammudah Abd al Ati, *The Family Structure in Islam* (Plainfield, USA: American Trust Publications, 1995), p. 52.
- ¹⁴ Quoted in, Taqiuddin an-Nabhani, *The Social System in Islam*, *op. cit.*, p. 116.
- ¹⁵ Vide, Shah Abdul Hannan, *Social Laws of Islam* (Dhaka, Bangladesh: Bangladesh Institute of Islamic Thought (BIIT), 1997), p. 15.
- ¹⁶ Al-Qur'an, 7: 189 also see, 30: 21, 25: 54.
- ¹⁷ See, Suzanne Haneef, *What Everyone Should know About Islam and Muslims* (Delhi: Taj Company: 1986), p. 142; also see, Jamila Hussain, *Islamic Law and Society: An Introduction* (Sydney: The Federation Press, 1999), p. 60; also vide, Nik Noriani Nik Badli Shah, *Marriage and Divorce under Islamic Law* (Kuala Lumpur, Malaysia: International Law Book Services, 2001), p. 3.
- ¹⁸ For details please see, 4: 21; also see, Mohammad Ali Syed, *The Position of Women in Islam: A Progressive View* (Albany: State University of New York Press, 2004), p. 28.
- ¹⁹ Shah Abdul Hannan, *Social Laws of Islam*, *op. cit.*, p. 15.
- ²⁰ See, *Sahih Bukhari*, Vol. 7, Book. 62, Hadith no. 23 (<http://www.biharanjuman.org/hadith/SahihAl-Bukhari.pdf>, Retrieved on- 20, February 2023.).

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- ²¹ Al-Qur'an, 30 : 21.
- ²² Manzoor Ahmad Hanifi, *A Survey of Muslim Institutions and Culture*, op. cit., pp. 184-185.
- ²³ Vide, Al-Qur'an, 86: 6-7; also see, Asghar Ali Engineer, *The Rights of Women in Islam* (London: C. Hurst & Company, 1992), p. 99.
- ²⁴ See, Al-Qur'an, 17: 32.
- ²⁵ Vide, *Ibid.*, 4: 1.
- ²⁶ For details please see, Asghar Ali Engineer, *The Rights of Women in Islam*, op. cit., p. 104.
- ²⁷ According to Al-Ghazali, the merit of having children is that a person must have striven for that which is loved by Allah i.e., human existence and procreation. Whoever understands the wisdom of the created order will have no doubt that Allah loves this. Quoted in, S. Murata, *The Tao of Islam* (New York: State University of New York Press, 1992), p. 173.
- ²⁸ Quoted in, M. Abdul-Rauf, *Marriage in Islam* (New York: Exposition Press, 1981), p. 15.
- ²⁹ Quoted in, Al-Ghazali, *Ihya Ulum al Din*, translated by Fazlu Ul- Karim (Lahore, Pakistan: Sind Sahar Academy, undated), Book. 2, p. 25.
- ³⁰ Quoted in, Haifaa A. Jawed, *The Rights of Women in Islam: An Authentic Approach* (London & New York: Macmillan Press Ltd. & St. Martin's Press, Inc., 1998), p. 32.
- ³¹ Quoted in, M. Abdul-Rauf, *Marriage in Islam*, op. cit., p. 20.
- ³² See, Haifaa A. Jawad, *The Rights of Women in Islam*, op. cit., p. 32.
- ³³ Vide, Hammudah Abd al Ati, *The Family Structure in Islam*, op. cit., p. 54.
- ³⁴ For details please see, Moulana Muhammad Abdur Rahim, *Paribar O Paribarik Jibon* (Family and Family Life) written in Bengali (Dhaka: Khairun Prakashani, 2007), pp. 53-56.
- ³⁵ Vide, *Sahih Muslim*, tr., op. cit., Vol. 2, pp. 715-716; Hadith nos. 3309-3311.
- ³⁶ Vide, Al-Qur'an, 5: 6.
- ³⁷ See, *Ibid.*, 2: 221.
- ³⁸ For details please see, *Ibid.*, 2: 221; also see, 60: 10.
- ³⁹ See, Shah Abdul Hannan, *Social Laws of Islam*, op. cit., p. 18.
- ⁴⁰ Abdur Rahim, *The Principles of Muhammadan Jurisprudence* (Lahore: All Pakistan Legal Decisions, 1963), p. 329.
- ⁴¹ For details please see, Al-Qur'an, 4: 22-23.
- ⁴² Abu Hurayra has reported that the Messenger of Allah said: 'One should not bring together a woman and her father's sister, nor a woman and her mother's sister in marriage. Quoted in, Taqiuddin an- Nabhani, *The Social System in Islam*, op. cit., p. 135.
- ⁴³ Shah Abdul Hannan, *Social Laws of Islam*, op. cit., p. 17.
- ⁴⁴ See, John P. Macgregor, *Muslim Institutions* (London: George Allen & Unwin Ltd., 1950), pp. 128-129; also see, Jamila Hussain, *Islamic Law and Society: An Introduction*, op. cit., pp. 64-65.
- ⁴⁵ Vide, *Sahih Muslim*, tr. op. cit., Vol. 2, p. 714, Hadith nos. 3303, 3305-3306; also cf., *Sahih Bukhari*, Vol. 7, Book. 62, Hadith No. 67-68 (<http://www.biharanjuman.org/hadith/SahihAl-Bukhari.pdf>, Retrieved on- 20, February 2023.).
- ⁴⁶ See, Jamila Hussain, *Islamic Law and Society: An Introduction*, op. cit., p. 65.
- ⁴⁷ Vide, loc. cit.
- ⁴⁸ Vide, Al-Qur'an, 4: 20.
- ⁴⁹ Al-Qur'an, 4: 4.
- ⁵⁰ See, Taqiuddin an-Nabhani, *The Social System in Islam*, op. cit., p. 128-130; also see, Manzoor Ahmad Hanifi, *A Survey of Muslim Institutions and Culture*, op. cit., p. 187; also vide, Nik Noriani Nik Badli Shah, *Marriage and Divorce under Islamic Law*, op. cit., p. 2.
- ⁵¹ Quoted in, Taqiuddin an-Nabhani, *The Social System in Islam*, op. cit., p. 132.
- ⁵² Vide, *Ibid.*, p. 26.
- ⁵³ Vide, Al-Qur'an, 2: 234. In this regard a Hadith is also found. The Prophet said: it is not lawful for a woman who believes in God as well as the Hereafter to grieve for more than three days except in the case of the death of her husband for whom she should grieve for four months and ten days and she has to stay in her husband's house during this time. Quoted in, Imam Gazzali, *Ihya Ulum-Id Din*, translated into English by Al-Haj Maulana Fazul-ul-Karim (New Delhi: Kitab Bhavan, 1982), Book. 1, p. 52.
- ⁵⁴ Al-Qur'an, 4: 3.
- ⁵⁵ See, Taqiuddin an-Nabhani, *The Social System in Islam*, op. cit., p. 140.
- ⁵⁶ Vide, Mohammad Mazheruddin Siddiqi, *Women in Islam*, op. cit., pp.116-117; also see, Asghar Ali Engineer, *The Rights of Women in Islam*, op. cit., p. 102; also vide, Nik Noriani Nik Badli Shah, *Marriage and Divorce under Islamic Law*, op. cit., p. 32.

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- ⁵⁷ See, Tamara Sonn, "Islam" in Jacob Neusner (ed.), *The Ethics of Family Life: What Do We Owe One Another?* (Canada: Wadsworth, Thomson Learning, Inc., 2001), p. 73.
- ⁵⁸ For details please see, Jamal J. Ahmad Nasir, *The Status of Women under Islamic Law and Modern Islamic Legislation* (Leiden, Boston: Brill, 2009), pp. 117-158.
- ⁵⁹ Quoted in, Shah Abdul Hannan, *Social Laws of Islam*, op. cit., p. 19; Jamila Hussain, *Islamic Law and Society: An Introduction*, op. cit., p. 86; also vide, Nik Noriani Nik Badli Shah, *Marriage and Divorce under Islamic Law*, op. cit., p. 63.
- ⁶⁰ Al-Qur'an, 4: 35.
- ⁶¹ Vide, *Ibid.*, 4: 130.
- ⁶² See, Jamal J. Ahmad Nasir, *The Status of Women under Islamic Law and Modern Islamic Legislation*, op. cit., p. 117.
- ⁶³ Vide, Shah Abdul Hannan, *Social Laws of Islam*, op. cit., p. 20.
- ⁶⁴ See, Nik Noriani Nik Badli Shah, *Marriage and Divorce under Islamic Law*, op. cit., p. 53-63.
- ⁶⁵ Vide, Al-Qur'an, 4: 128.
- ⁶⁶ For an account of this see, Nik Noriani Nik badli Shah, *Marriage and Divorce under Islamic Law*, op. cit., pp. 73-82.
- ⁶⁷ Vide, *Ibid.*, pp. 83-92.
- ⁶⁸ See, Al-Qur'an, 2: 226.
- ⁶⁹ Vide, *Ibid.*, 24: 6-9.
- ⁷⁰ See, Nik Noriani Nik Badli Shah, *Marriage and Divorce under Islamic Law*, op. cit., p. 63.
- ⁷¹ For details please see: Peter Singer, *Practical Ethics* (Cambridge: Cambridge University Press, 1993), pp. 169-174.
- ⁷² Vide, *Jame Al- Tirmizi*, translated and edited by Muhammad Musa (1st edition, Dhaka: Bangladesh Islamic Center: 1996), Vol. 3, p. 369, Hadith no, 1860.
- ⁷³ *Sahih Al- Bukhari*, tr, op. cit., Vol. 7, pp. 102-103, Hadith no. 136; also Quoted in, Md. Akhter Ali, *Moral Codes in Islam and Christianity: A Comparative Study* (Germany: Lambert Academic Publishing, 2007), p.158.
- ⁷⁴ Al-Qur'an, 17: 33.
- ⁷⁵ *Ibid.*, 16: 61; also see, 3:145.
- ⁷⁶ *Sahih al Bukhari*, Vol. 4, Book. 56, Hadith no. 669.
- ⁷⁷ Surrogacy is a situation where a female carries a child for another female with the intention that the child should be handed over after birth in return for which the surrogate mother is paid a settled amount of money for bearing and delivering the child. See, <http://www.eubios.info/ABC4/abc4389.htm#top>, Retrieved on, 22, September 2023.
- ⁷⁸ Al-Qur'an, 58: 2.
- ⁷⁹ See, *Ibid.*, 51: 25-29.
- ⁸⁰ See, *Sahih Muslim*, tr., Vol.2, op.cit.,p714, Hadith nos.3309,3306; also see, *Sahih Bukhhari*, Vol. 7, Book 62, Hadith nos.67-68.