

Fast 15: Women in Islam — 8: Marriage and treatment of wife

- Here I largely quote from Maulana Muhammad Ali's book *The Religion of Islam*, first published in 1936, to show that the ideas presented below are not a modern product but that the Lahore Ahmadiyya *Jama'at* took a lead in emphasising the real teachings of Islam in matters where the cultural practices of Muslim societies were in violation of those teachings.
- Marriage is looked upon as a contract in Islam. This shows that before marriage both parties must satisfy themselves that each will have a desirable partner for life in the other. The Holy Quran lays down expressly, addressing men:

“...marry such women as seem good to you (*mā ṭāba la-kum*)...” (4:3)

فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ

- Since the contract is put into effect by the consent of two parties, i.e., the man and the woman, it would seem that the woman has the same right to satisfy herself before giving her assent. The consent of both the man and the woman is an essential of marriage, and the Quran lays down expressly that the two must agree:

“...do not prevent them from marrying their husbands if they agree among themselves in a lawful manner.” (2:232)

فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضُوا بَيْنَهُم بِالْمَعْرُوفِ

Although this verse relates specifically to re-marriage of a man and woman who have divorced but wish to marry one another again, Maulana Muhammad Ali has applied this principle more generally to all cases: that if a man and woman agree to marry one another, doing so within the moral and legal boundaries of Islam, then no one has the right or power to prevent them from getting married.

- Regarding the minimum age of marriage, Maulana Muhammad Ali refers to 4:6 in the Quran and writes:

“As marriage is a contract the assent to which depends on personal liking, as already shown on the basis of the Holy Quran and Hadith, and since this function cannot be performed by anyone but the party who makes the contract, it is clear that the age of marriage is the age of majority, when a person is capable of exercising his choice in matters of sexual liking or disliking. A man or a woman who has not attained to puberty is unable to exercise his or her choice in sexual matters and unable to decide whether he or she will like or dislike a certain woman or man as wife or husband.”

- The following verse instructs how a man should treat his wife in many different situations:

“O you who believe, it is not lawful for you to take women as heritage against (their) will. Nor should you cause them hardship by taking part of what you have given them, unless they are guilty of manifest indecency. And treat them kindly. Then if you hate them, it may be that you dislike a thing while Allah has placed abundant good in it.” (4:19)

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا
النِّسَاءَ كَرِهًا ۗ وَلَا تَعْضَلُوهُنَّ لِتَذَهَبُوا
بِبَعْضِ مَا آتَيْتُمُوهُنَّ إِلَّا أَنْ يَأْتِيَنَّ
بِفَاحِشَةٍ مُّبِينَةٍ ۚ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ ۚ
فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَىٰ أَنْ تَكْرَهُوا شَيْئًا وَ
يَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا ﴿١٩﴾

Among pre-Islamic Arabs a widow, after her husband’s death, could form part of the inheritance, and the heir could marry her at his will, marry her off to someone else, or prohibit her from marrying anyone. This abolishes such a custom of inheriting the widow. This would also preclude the custom of a daughter being promised by her parents for marriage to someone without her consent, or when she is not even capable of consenting because of being too young. The second evil remedied here was the practice that a husband would divorce his wife without giving her the full *mahr*, when she was not at fault (such as having committed “manifest indecency”). He must pay the full *mahr* when the wife is blameless, and must not subject her to hardship.

The third instruction is a general principle: “And treat them kindly.” The Quran applies it to all cases: whether in daily marital life, or if tension has developed in the relationship, or if separation or divorce is taking place. Lastly, the Quran reminds husbands that if they reach the stage of disliking their wives they should ponder that they might be wrong to do so and that in fact there might be “abundant good” in their wives which they are overlooking.

- The following instructions, addressing husbands, occur in connection with separation or divorce:

“...then keep (them) in good fellowship or let (them) go with kindness.” (2:229)

فَإِمْسَاكُهُنَّ بِالْمَعْرُوفِ أَوْ تَسْرِيحُهُنَّ بِإِحْسَانٍ ۗ

“...then retain them with kindness or let them go with kindness and do not retain them for injury so that you exceed the limits.” (2:231)

فَإِمْسَاكُهُنَّ بِالْمَعْرُوفِ أَوْ تَسْرِيحُهُنَّ
بِمَعْرُوفٍ ۚ وَلَا تُنْسِكُوهُنَّ ضِرَارًا
لِيَتَّعْتَدُوا ۗ

“...retain them with kindness or part from them with kindness, and call to witness two just ones from among you, and give upright testimony for Allah.”
(65:2)

فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ فَارِقُوهُنَّ
بِمَعْرُوفٍ وَأَشْهَدُوا ذَوَى عَدْلٍ مِّنكُمْ
وَأَقِيمُوا الشَّهَادَةَ لِلَّهِ^ط

It will be seen that the Quran, whenever dealing with divorce, tells husbands to treat their wives with kindness and good fellowship whether they are going to continue the marriage or to terminate the marriage, i.e. in every circumstance. They must not retain their wives and then cause them injury or harm; instead they should retain them only with kindness or separate from them with kindness.

The mention of calling of two witnesses for divorce and giving of testimony shows that it is a proper legal procedure, and the practice of divorce by the husband saying to the wife “I divorce you” is wrong and against the Quran.