

Understanding Islam **Series Three: Building a Just Society**

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Part One: The family as the basis of society

One of the most important changes that Muhammad made in Arab life was to make marriage the foundation stone of society. A man and woman must freely enter into a public contract with each other. Marriage became the only acceptable place for sexual relations. Adultery was declared immoral and illegal. The husband takes on the responsibility to house, feed, clothe, and educate his family. The wife is to guard the family honour and establish a Muslim pattern of life within the family home.

Marriage is seen by Muslims as being an essential aspect of living a godly life. It is through marriage that people enhance their God-consciousness (*taqwa*) and have the opportunity to achieve a life in harmony with God and the created world. Muhammad married his wife Khadija when he was twenty-five years old and they remained in this monogamous marriage until her death some twenty-four years later. Thereafter, he married again and in the last thirteen years of his life contracted multiple marriages. It was therefore part of his *sunna*, the way that he laid out in obedience to God for human life to be lived. A Hadith reported from him makes this clear:

By God, I am more submissive to God and more afraid of him than you; yet I fast and break my fast, I sleep and I also marry women. So he who does not follow my tradition in religion is not from me.

Remaining single is not an acceptable alternative lifestyle, although in exceptional circumstances it is tolerated. There is no tradition of monasticism or celibacy in Islam. Sexual drives are a natural part of being human and marriage is the only acceptable context for those drives to be expressed. It did happen that some people were so caught up in a life of study or mystical devotion to God that they did not marry but this was exceptional. If someone lacks the necessary financial means to keep a family then they must control their sexual urges through fasting and prayer and ask God to bless them with the means to marry and support a family [Q. 24:33]. The single celibate state is in no way seen as somehow closer to God or more spiritually exalted, as another Hadith makes clear:

A married person sleeping is better in the sight of God than an unmarried person spending his night in fasting and prayer.

The status of marriage

Marriage is a contract between the two parties in Islamic understanding. Like any other contract, both parties must enter into it freely and with knowledge of what they are doing. A forced contract is not binding; so a forced marriage is no marriage at all. We have the example of a young woman who came to Muhammad to complain that her father had forced her to marry a man without her consent. The Prophet examined

the situation and the father admitted that he had done so on the basis that this was the traditional practice in pre-Islamic Arab society. Muhammad declared that this was unacceptable in Islam and said that the marriage was invalid. Then the woman asked the Prophet to marry her to the man! Now it was her choice. Muhammad duly married them.

Muslim marriage is more than a romantic encounter between two people. In traditional societies, marriage is a bond between two families. The husband takes on responsibilities to his wife's extended family and she does the same for his. This makes it important that the two families can get on together. In a society where unmarried men and women do not mix freely, how are they to find their marriage partners? These two factors normally mean that the families get involved in the search for a suitable partner. This happens in many traditional cultures around the world and in many religious communities. The idea is that if two people and their families are well matched, then a loving bond will grow between them. This is what is meant by an arranged marriage. In the end, of course, the two people themselves must make the final decision.

In recent decades, due to migration, society has become more fragmented, with people often having to move to work far away from their families. Advances in education and employment opportunities often mean that the lifestyle of young professionals is quite different from the experience of their parents and so the family is less well equipped to play a part in partner selection. Such young Muslims and their families often employ the services of agencies to seek suitable marriage partners, which might mean through advertisements in the press, internet-based and local marriage bureaux or the assistance of friends. It is not unusual in such societies for young people to find a potential partner and then subsequently involve the families to assist them in making the right choice. This is sometimes referred to as assisted marriage.

Suitable marriage partners

Muhammad taught that the most important quality in a marriage partner should be their piety. Their commitment to living a godly Muslim life was more important than beauty, wealth or social status. Factors such as race or colour, social position or wealth should be completely irrelevant. It might be that a suitable partner would be someone from within the person's extended family, which would help to bind the family together, especially when it is divided geographically through migration. Marriage to cousins, including first cousins, is permitted in Islamic law.

The question of whether a Muslim may marry a non-Muslim is complex. In the Sunni tradition, a Muslim man is permitted to marry a Muslim woman or one from amongst the People of the Book, a Jew or a Christian, but not an atheist or a follower of another religion [Q. 5:5]. Such a Jewish or Christian wife is free to continue in the practice of her faith. A Sunni Muslim woman must marry a Muslim man. The Shi'a interpret things differently; both a man and a woman should marry another Muslim, although some scholars permit a Shi'a man to marry a Jew or Christian but (strongly) caution

against it. Sunni-Shi'a marriages happen quite often in places where both communities live together.

We may ask why God decreed that Muslim women must marry a Muslim man if the same rule does not apply to Muslim men. The scholars pointed to the reason that in a traditional society a woman normally moved into her husband's family home on marriage. What chance would a Muslim woman have of retaining her faith living in an extended Christian or Jewish family? Similarly men were seen as the head of the household, so there was a fear that a Muslim woman might be drawn away from the practice of Islam. If a Muslim woman were to marry a non-Muslim man, it would be sin as it breaks a direct command of God in the Qur'an. Not only that, she would be risking alienation from her family and the Muslim community. Of course, these types of dilemma are not only found in Islam. Many other religions impose controls over marriage and many families are split apart by people marrying outside the bounds of their faith or their particular tradition within a faith community.

Even in the case of permitted mixed marriages, such as a Sunni man marrying a Christian, it is often seen as better for all parties if the wife converts. Many do so, out of a desire to present a united front to their children or out of admiration for the warmth of Muslim family life. Many women who convert to Islam in the West do so before the question of marriage is on the agenda, so this should not be seen as the principal reason for female conversion.

The marriage ceremony

Marriages in any culture are full of local customs and practices. The Islamic ceremony (*nikah*) itself is quite simple. The couple agree a marriage gift (*mahr*) in the form of money or some other material benefit, which the man will transfer to the woman [Q. 4:4]. This is her property and even if they divorce, under most circumstances, she's entitled to keep it. They draw up a marriage contract, which these days is generally a written document. Provided that they both agree, they may include in their marriage contract anything that they please, as long as it is acceptable within Islam. For example, they might agree that both will complete their education before they start a family or that they will have their own quarters and not live within either extended family. The marriage ceremony comprises the two parties freely signing this contract in the presence of witnesses. This is normally accompanied by a reading from the Qur'an, an address on the nature of marriage from a religious leader and prayers for God's blessing on the couple and their future life together.

Providing for his wife is a major responsibility for the husband. For her part, a wife must respect her husband and guard the family honour. She has the responsibility to be open to the gift of children and to look after them when they come. They must both be modest and refrain from seeking to be sexually attractive to other people. Both must wear modest clothing and not look with lust at other people. Sex is only permitted within marriage [Q. 17:32].

Permission for limited polygamy

The overwhelming majority of Muslim men today, marry only one wife. However, the Qur'an gives permission for a Muslim man to marry up to four wives provided that he can treat them all equally [Q. 4:3,129]. The Qur'an goes on to say that this is extremely difficult and so "one is better." The scholars point to this as a preference for monogamy but permission is given for limited polygamy, if this is desirable. The verse giving this permission was revealed in the context of there being widows and orphans after men were killed in battle. They needed protection and stability in a traditional society; better then to marry them into an existing family if this was the right solution. Warfare around the world before the invention of modern weapons resulted in the disproportionate death of men. This made societies imbalanced with widows and single women having a shortage of available partners. Rather than being forced to remain single, the Islamic solution would be limited polygamy, provided that the man could afford it and could treat his wives equally. Similarly, if the first wife was unable to have children; better to leave her with the dignity of being the first wife within the family and bring in a second wife, who would have children for the family. The same might be true in the case of a woman who was divorced and needed a new family in which to live.

After the death of his first wife, Muhammad himself set the example of marrying widows and divorced women polygamously in his later life. One indicator of his treating them all equally is that each was given the same marriage gift irrespective of their social status and each had her own home in which she entertained the Prophet, who visited them for a night and a day in rotation. When he was travelling, he drew lots to see which wife should accompany him and was careful to ensure that they were not accorded undue favours on account of their marital status. There are many reports of his tenderness towards them and special concern for those who were ill or in any special need.

In reality, the vast majority of Muslim marriages are monogamous. Polygamy is common in certain cultures around the world where it is practised by people from various religions, including Islam.

Fixed-term marriage

Marriage for a fixed period of time (*muta*) is based on a verse of the Qur'an [Q. 4:24]. There is a disagreement between the Sunnis, who hold that this was forbidden by Muhammad, and the Shi'a, who say that the ban came after the time of the Prophet and thus is invalid. They hold that it was practised in the time of the Prophet with his approval and thus is still permissible. A man and woman freely agree to enter into a marriage contract for a term fixed in advance; it can be any term that is agreeable to both. Any children that come from the marriage are legitimate and inherit from both parents. At the end of the term fixed for the marriage, the woman must observe a waiting period (*'idda*) to ensure paternity of the child should she be pregnant. As in a permanent marriage, an agreed marriage gift (*mahr*) is given by the man to the

woman. Classic examples of the practice of *muta* are in the case of students who are not in a position to contract a permanent marriage and men working on contracts away from their wives and families. It is a way of making sure that sexual urges have a legitimate outlet so that no-one resorts to fornication. In contemporary western society, where young people often have to seek and come to a decision about marriage partners without the traditional extended family structures for assistance, *muta* can be used with mutual consent for “getting to know each other better;” the two people concerned, by mutual agreement, can place limitations on their intimacy during this fixed-term marriage.

Divorce

Everyone knows that marriage is not always an easy or smooth relationship. If problems arise, the couple are to try to work them out themselves. If this fails, then the extended families are called on to help to find a solution [Q. 4:35]. Often this extended family support can provide the advice or practical solution to help the marriage survive. Ultimately, if the marriage cannot be made to work, then divorce is the solution. If a husband wishes to divorce his wife, he has formally to state ‘I divorce you.’ In the Sunni schools, this can be done in private, but the Shi'a require two witnesses. When the woman wants a divorce, she applies to the Shari'a Court, through which she can get a divorce even if her husband is against it. There then follows a waiting period (*'idda*) of three menstrual cycles [Q. 2:228]. This time should be devoted to trying to bring about a reconciliation. Should this not be possible, at the end of the waiting period the divorce is final and both parties may marry again and are encouraged so to do. The couple can be reconciled with each other at any time during the waiting period and this cancels the intention to divorce. If they want to, a couple can re-marry formally after the divorce is final but only twice. Should they divorce a third time, then there is no possibility of re-marriage unless she has been married to someone else and divorced in the meanwhile [Q. 2:230].

There is a third situation acknowledged in the Qur'an [Q. 24:6-9] where a man accuses his wife of adultery without independent witnesses. In this case, he is to swear four times that she is guilty of the offence and then a fifth time invoking the curse of God upon himself if he is lying. The woman so accused can counter by swearing a similar four oaths and then the fifth invoking God's curse if she is lying. If this process is followed, then the marriage is dissolved, no action is taken with regard to the offence of adultery and the two are left to the final judgement of God whose curse they have invoked if they are lying.

Where the civil law of a country has been written according to Islamic law, divorce proceedings take place in the civil courts. In other countries, if a couple are married according to civil law, then they must apply to the civil courts for a civil divorce in addition to their Islamic divorce. An Islamic marriage that is not registered according to civil law is not recognised as such by the civil courts and thus an Islamic divorce is sufficient.

The question of custody of any children is addressed by Islamic law, which states that they should remain with their mothers whilst they are young, provided she is a fit person to look after them [Q. 65:6-7]. The length of time they should remain with the mother varies in different schools of Islam. When they are old enough, a final decision over custody is made in which the views of the children are taken into account.