

Chapter Three

Marriage

Forms of Marriage and Cohabitation in Pre-Islamic Arabia

Pre-Islamic Arabia experienced the following forms of marriage and cohabitation:

1. Marriage by contract

In this type of marriage, men would propose to women through their fathers or guardians. When the proposal was accepted, a dowry was set and the marriage consummated. It was a full-fledged marriage with all the contractual responsibilities and normal consequences.

2. *Istibda`* cohabitation (Wife lending)

Husbands sometimes permitted their wives to cohabit with men of distinction in quest for select offspring. The offspring would be identified not with the natural father, but with the foster father, the husband, who would not have intercourse with his wife after her cohabitation with that man, the natural father.

3. *Mut`ah* marriage

This type was contracted for a limited period of time and in return for a price payable by the man to the woman. Apparently, it was practiced by strangers and travelers.

4. Lovers' secret cohabitation (*Akhdan* or mistresses)

It was accepted for men and women to cohabit in secret without any contract as long as they wished. But once such a

relationship was disclosed, it was regarded as disgraceful and thus terminated.

5. Marriage by exchange

A man could exchange his wife or daughter for another man's wife or daughter. No further reciprocity of dowry was required.

6. Marriage by purchase

It was customary to acquire a wife for a price payable to her father or guardian. This exogamous practice of the Arabs made them reluctant to marry their daughters out of their own tribes, and nothing could induce them to reconsider their stance except a high price offered by the suitor. They were also sensitive to their daughters' future and would usually prefer to marry them off to men who could afford a high price, perhaps under the assumption that the women would be more secure and cherished by their husbands.

7. Marriage by capture

This form is believed by some Orientalists to have preceded marriage at certain occasions. It is one of the mostly debated points in the history of marriage.

8. Marriage by inheritance

Widows were inherited like property by the heirs of their deceased husbands. If an heir wished to marry the widow, he could do so for the very same dowry paid by the deceased husband. He could also contract her marriage to another man and receive the dowry himself. He was also empowered to

forbid her from remarrying altogether and force her to remain in the state of permanent widowhood.

9. *Maqt* marriage

It was acceptable for a man to marry his father's widow or divorcee.

10. Service marriage

Some tribes adopted the practice that when a man was unable to pay a bride price, he would agree to serve the girl's father or kin for a period of time sufficient to earn the bride price.

11. Experimental cohabitation (*Sifah*)

Some tribes used to allow men to cohabit with young women before marriage. If the partners liked one another during this premarital experiment, they would conclude a marriage contract; otherwise, there was no commitment on either side.

12. Concubinage

A man could have as many concubines as he was able to afford. Concubinage co-existed with polygamy among the Semites, especially the Hebrews, for two basic reasons. Childless wives preferred their husbands' cohabitation with slave girls to co-wives. They were confident that the slaves, unlike free women, could not compete with them for the husband's love and favor. When a slave gave birth, the child was not identified with her as the natural mother, but with the wife of her master who practiced the social as well as the natural roles of a mother. Besides this social reason, there was

an economic one. Polygamy was costly; only the rich could afford it. So it was much more economical to keep concubines and at the same time reap the fruits of their services.

Islam Abolished Slavery

Almighty Allah says, [*or (the captives and the slaves) that your right hands possess.*]¹ Some people use this permission as a basis for unnecessary argument. This is no longer applicable, since there are no wars between Muslims and others that may result in holding captives and retaining “right hand possessions”.

However, we do need to defend the concept, because it was applied in our history. We also need to consider the sound significance of allowing masters to seek enjoyment with the women they possess, especially in view of the fact that Islam set eradicating slavery as one of its targets, rather than promoting it.

Before Islam, there was only one way out of bondage, and that was the master’s will. However, Islam introduced several other ways to eradicate enslavement, such as emancipation as atonement for sins, oath-breaking, unlawful repudiation (*Zihar*), etc. Islam thus allows for more ways to set slaves free.

On the other hand, should there happen to be a Muslim who has women as slaves and has committed none of the violations requiring emancipation, and then Islam sets special rules for treating female slaves:

¹ An-Nisa’: 3.

- Slaves must be provided with food and clothes of the same quality as those used by the master and his family.
- Slaves should not be overburdened, and should be assisted in carrying out their chores.

If such rules were observed, a female slave would be virtually equal to her master and his wives. Thus, the only other thing she might feel a need of is to satisfy her instinctual desires. This is accentuated when a female slave sees her master's wives making themselves up for him, which is naturally liable to arouse physical desire. Hence, Allah permitted masters and their female slaves to seek enjoyment in one another, which is indeed an obvious measure of divine mercy. Female slaves in this case feel they are no less than their husband's wives, and that they are permitted an equal share of satisfaction as concubines.

Additionally, this is a further approach to emancipation, because if those female slaves marry male slaves, they remain in bondage indefinitely; whereas bearing a child for their masters, leads to freedom for mother and child.

Islam's Position on Marriage

Unlike the doctrine of the Hebrew and the early Christian ascetics, but in common with the main body of Jewish and other human traditions, Islam recognizes human conjugal rights and advocates marriage. It strongly discourages celibacy, even for ascetic reasons, equally for males and females. The normal behavior for a Muslim is to establish a family. This is the common practice of ordinary men, spiritual leaders and even prophets. To that effect, there are many Qur'anic verses and Prophetic traditions that go as far as to say that when a Muslim marries, he thereby completes half of his religion; so let him be God-conscious with respect to the other half.

Among the Qur'anic verses encouraging marriage are:

[And We have sent Messengers before you and We gave them wives and children.]

(Ar-Ra`d: 38)

[Marry those among you who are single, or the virtuous ones among your slaves, male or female: if they are in poverty, God will give them means out of His grace: For God encompasses all, and He knows all things.]

(An-Nur: 32)

[And among His signs is this, that He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy

between your (hearts): verily in that are signs for those who reflect.]

(Ar-Rum: 21)

[And Allah has made for you mates (and companions) of your own nature, and made for you, out of them, sons and daughters and grandchildren, and provided for you sustenance of the best: will they then believe in vain things, and be ungrateful for Allah's favors?]

(An-Nahl: 72)

[If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two or three or four; but if you fear that you shall not be able to deal justly with them, then only one.]

(An-Nisa': 3)

Prophet Muhammad (pbuh) encouraged marriage as an act of Sunnah. Once he (pbuh) told some of his companions who were considering ascetic forms of life,

"I pray and I sleep; I fast and I break my fast; and I marry women. Whoever turns away from my way of life is not from me (i.e. is not considered among my followers)."

Purpose of marriage in Islam

In Islam, marriage is designated to serve many purposes. Islam favors marriage as a means to fulfill emotional satisfaction, sexual gratification, legitimate progeny and group solidarity. Besides these functions, the most characteristic of the Islamic position is that marriage is regarded as a religious duty, a divine blessing, and is consequently a moral safeguard as well as a social necessity. As a religious duty, it should be fulfilled; but like all other

duties in Islam, it is enjoined only upon those who are capable of meeting the responsibilities involved.

The predominant view among the Muslim jurists is that, although marriage is a social necessity, it is not absolutely necessary for every individual. Hence, they have classified individuals with regard to their marriage ability from the point of view of religion. For individuals who are apprehensive that celibacy may lead them astray, marriage is a religious duty, since it guards them against illegitimate sexuality, as well as a means of moral protection. For other individuals who are desirous of sexual needs but are not so apprehensive of excess, and anticipate no irresistible temptation or lack of self-control, marriage is also preferable to celibacy. There are other individuals who lack potency, for some reason or another. In this case, marriage is still considered preferable to celibacy by some jurists, while others argue that celibacy is preferable because marriage under such conditions will go against its purpose and deprive the other partner of the moral protection needed and the fulfillment merited.

Islam views marriage as a strong and sacred commitment. A person must be very certain of his ability to meet the responsibility of marriage before taking a spouse. It is true that in Islam poverty is no obstacle to a successful marriage; Allah, as the Glorious Qur'an puts it, has undertaken to provide for every living creature and has promised to enrich the poor mates of His bounty. However, at the same time, Islam recognizes that it may not always be possible for everyone to have the means to marriage. There can arise obstacles of various kinds and problems of varying magnitude. Nevertheless, Islam's response is not in the direction of celibacy. Rather it prescribes several specific measures, the last of which is to resort to self-discipline and

temporary celibacy in the hope that the assured help of Allah will be forthcoming.

[And let those who find not the financial means for marriage keep themselves chaste, until Allah enriches them of His Bounty. And such of your slaves as seek a writing (of emancipation), give them such writing, if you know that they are good and trustworthy. And give them something yourselves out of the wealth of Allah which He has bestowed upon you]

(An-Nur: 33)

The Prophet (pbuh) stated that whoever can marry should do so, but who cannot, should practice voluntary fasting, which helps him safeguard his moral integrity and to assume command over his desires. This implies that marriage in Islam is not dismissed easily or taken lightly.

ʿAbdullah ibn Masʿud (may Allah be pleased with him) narrated that we were with the Prophet (pbuh) while we were young and had no wealth whatsoever. Therefore, Allah's Messenger (pbuh) said, "*O Young people! Whoever among you can marry, should marry, because it helps him lower his gaze and guard his chastity (i.e. preserves his sexual parts from committing adultery). And whoever is not able to marry, should fast, as fasting diminishes his sexual desire.*"¹

In addition, Islam encourages marriage for youth to preserve their chastity as early as possible. It also recommends seeking marriage outside one's immediate kinship group since it is more conducive to numerous and healthier progeny.

¹ Reported by al-Bukhari.

Advantages and Benefits of Marriage in Islam

Anas ibn Malik (may Allah be pleased with him) narrated that Allah's Messenger (pbuh) said,

“Whoever wants to meet Allah as clean and pure should marry the free women.”¹

`Abdullah ibn `Amr reported that Allah's Messenger (pbuh) said,

“The whole world is a provision, and the best object of benefit in it is the pious woman.”²

Some merits of marriage

1. By marriage, one fulfills the practices of the Messengers of Allah. Almighty Allah says,

[And We have sent Messengers before you and We gave them wives and children.]

(Ar-Ra`d: 38)

He also says concerning Adam (pbuh), *[And made from itself a pair of its own to seek relief with her.]* (Al-A`raf: 189).

Prophet Musa (pbuh) spent ten whole years in breeding sheep as a dowry for his wife. The value of these ten years is well known in the supererogatory practices of worship (*Nawafil*).

¹ Reported by Ibn Majah.

² Reported by Muslim.

Allah planned the life of His Messenger Muhammad (pbuh) to encompass the best possible practices of life. Hence, it was not desirable for the Prophet to live unmarried and he was destined to marry nine times. The faculty of marriage is enriched to its highest degree as a noble message and advantage by the fact that all Prophets got married. If it was of no benefit, Allah would not choose it to be practiced by His Prophets.

2. Marriage is a means to preserve the prosperity of mankind and increase the number of believers.

3. One's good deeds will not come to an end by his death if he has left a good believing son as mentioned in the *hadith* in which Abu Hurayrah reported that the Prophet (pbuh) said,

“When a person dies [the benefit] of his deeds ends, except for three: a continuous Sadaqah [charity], knowledge from which benefit is derived, or a pious son invoking Allah for him.”

He also reported that the Prophet (pbuh) said that the servant would be raised a level (in Paradise) and so he will say,

“O Lord, where from did I get this?” Allah will answer, “By the supplications of your son for you to grant you forgiveness after your decease.”

4. Marriage provides a lawful channel for intercourse, which acts in preserving one's good health. Renowned physicians strongly recommend marriage. Galino said, “The most domineering elements of the sperm are the fire and the air. Its nature is hot and humid as it is formed from the pure blood which feeds the main body organs.” While Ibn al-Qayyim said, “Sexual intercourse provides an outlet for the water which if suppressed inside would harm the whole body.”

In addition, modern science proved that refraining from sexual intercourse would lead to the repression of the sexual desire in the long term, and if this remains permanent, it would induce serious diseases especially on the emotional level. Therefore, one can protect himself from many diseases through marriage.

Moreover, refraining from marriage weakens the nerves' strength and blocks their communication routes. Ibn al-Qayyim reported that Muhammad ibn Zakariyya said, "And I saw a group of people who refrained from it as a means of asceticism, hence their bodies lost their normal state and suffered from difficulties and their body motion became very difficult."

5. It helps the individual to lower his or her gaze away from the people of the opposite sex, and strengthens one's chastity. In addition, marriage leads to virtue, that is one of the two characteristics mentioned by the Messenger of Allah (pbuh) through which Paradise is guaranteed. This is based on the report of Sahl ibn Sa`d that the Messenger of Allah (pbuh) said that he guarantees Paradise for whoever guarantees to guard what is between his jaws and what is between his legs.

In seeking marriage, one will find the support of Allah. This is based on the suspended (*Marfu`*)¹ *hadith*:

"It is an oath from Allah to give support to three: the one who seeks marriage to maintain his chastity, the borrower who intends to pay back his debts and the Mujahid (the one who exerts effort and fights in the Cause of Allah)."

¹ Traceable in ascending order of *hadith* to the Prophet (peace be upon him).

6. Marriage helps the individual to shift his thoughts and concentration away from his sensual lust and physical desires to other beneficial directions for both his life and religion. When the heart is strongly attached to lust or is fighting it, marriage will act as a barrier allowing him to get attached to the more important issues in both life and religion.

Set Your Purpose for Marriage

Many people perceive marriage in an erroneous and flawed manner, overlooking the magnificent purposes for which it was meant:

- Some limit their perception of marriage to physical pleasure and desire, and some perceive it as a means to chastity and lawful intercourse.
- Some perceive marriage as a means for progeny and the pride of having many children, and some perceive it as a means to increase the number of believers.
- Some perceive marriage as an opportunity for control, leadership, and application of power.
- Some perceive it as a habit passed from father to son...

However, very few perceive marriage as a mission, an immense responsibility, a continuous cooperation, and an ongoing sacrifice for the sake of human happiness and guidance to the correct path.

Almighty Allah says,

[O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not that you may despise (each other)). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things)]

(Al-Hujurat: 13)

And He (Exalted and Glorified be He) says,

[And among His Signs is this, that He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect]

(Ar-Rum: 21)

Correct Islamic Marriage Contract and its Permissible Conditions

Conditions of a correct marriage contract

Islam stipulates certain conditions for the marriage contract to be correct and valid. These conditions are:

1. The free consent of both the bride and the bridegroom to marriage The Glorious Qur'an says,

[If they mutually agree on reasonable basis ...]

(Al-Baqarah: 232)

This indicates that mutual agreement of the two spouses to one another should be taken into consideration, and this mutual agreement should depend on a reasonable basis.

Some scholars necessitate the permission of the bride's guardian (one of her male relatives such as her father, brother or uncle who is usually supervising over her affairs) for the validity of her marriage, whether she is a virgin or previously married. However, Imam Abu Hanifah allowed the woman, whether a virgin or previously married, to get married all by herself without the permission of a guardian on conditions that the husband is suitable for and that the guardian knows about the marriage (his attendance is not obligatory), and provided a reasonable dowry is offered. Otherwise, the responsible people have the right to object and make the contract invalid. In all cases, it is forbidden in Islam that anyone forces a woman into a marriage that she refuses.

The Prophet (pbuh) said,

“When a man gives his daughter in marriage and she dislikes it, the marriage shall be void ... And, a matron should not be given in marriage except after consulting her; and a virgin should not be given in marriage except after her permission.” The people asked, “Oh Allah’s Messenger! How can we know of her permission?!” He said, *“Her silence (indicates her permission).”*

2. The marriage should be in the form of proposal and acceptance (*Ijab* and *Qabul*) uttered in clear words.
3. The marriage contract should be witnessed by at least two men, or one man and two women so that the progeny’s right of legitimacy will be safeguarded.
4. The marriage must be announced and publicized widely. Moreover, according to some Islamic jurists, an agreement to keep the marriage secret invalidates the contract.
5. The marriage contract requires the contribution of a dowry, or a marriage gift, by the groom to the bride. The dowry is best agreed upon, however, if the amount of the dowry is not specified in the contract, the marriage is still valid, and the dowry is to be calculated according to the customary standards. In all cases, the dowry must be paid to the bride as an essential condition for marriage, and it is forbidden to deprive her of this right
6. The marriage contract should take the form of a legal written commitment, but a verbal contract (as accustomed in some countries) is valid, as well.

7. The marriage contract must be free of any indication of temporality or limited duration, because this contradicts the purpose of marriage; making it a lifelong union.
8. The bride should fulfill the following conditions:
 - She should be free from any marital bond. That is, she must not be already married at the time of considering another marriage, or be in her waiting period after being divorced or widowed.
 - She must not fall within the forbidden degrees of blood, fostering, or marital relationships.
 - She must either be a Muslim or a follower of a Divine Book in order to marry a Muslim man.
 - She must not be in a state of '*Ithram*' (ritual purity during Hajj and `Umrah).
9. The groom must be a Muslim if the woman he wishes to marry is a Muslim herself.
10. If the groom is already married, his present wife/wives must not be related to the new bride in any degree of prohibition.
11. If the groom happens to have more than one wife, he is forbidden to marry more than four wives at the same time.
12. Conditions of the marriage contract should be fulfilled.

Recommended wedding etiquette

In addition to the previous conditions for the validity of the Islamic marriage contract, the Prophet (pbuh) recommended the following wedding etiquette:

- **Offering a wedding banquet**

It is strongly recommended by the Prophet (pbuh) that the bridegroom should host a marriage feast for relatives and friends. This is regarded as a practice of ‘Sunnah’ and not obligatory.

‘Abd ar-Rahman ibn ‘Awf (may Allah be pleased with him) said on behalf of the Prophet (pbuh), “*Give a wedding banquet, even if with one sheep.*”¹

- **Offering some amusement on the wedding morn as weddings should be announced and celebrated**

Khalid ibn Dhakwan reported that ar-Rubayyi‘ bint Mu‘awwidh said to him, “The Prophet (pbuh) came on the day of my wedding and sat on my bed as you sit now. Then, some of our maids rapped their drums and chanted lamentations for my fathers who were killed on the day of Badr. When one of them said, ‘And among us is a Prophet, who knows what tomorrow will bring,’ he (pbuh) said, ‘*Drop that and say what you were saying before.*’”²

- **Offering presents to the newlywed couple**

Anas ibn Malik was reported to have said, “When the Prophet (pbuh) was wed to Lady Zaynab, Umm Sulaym asked me, ‘Shouldn’t we give the Messenger of Allah (pbuh) a present.’ I replied, ‘Do that.’ So, she brought some dates, cooking butter and dried milk, then mixed and cooked them in a pot, and sent it with me to him. When I took it to him, he

¹ Reported by al-Bukhari.

² Reported by al-Bukhari.

asked me to put it down and to go and invite some men he named as well as anyone I met.”¹

Permissible conditions in a marriage contract

Islam gives women the right of having a conditional marriage contract.

‘Uqbah ibn ‘Amir (may Allah be pleased with him) narrated that the Prophet (pbuh) said,

*“From among all the conditions which you have to fulfill, the conditions which make it legal for you to have sexual relations (i.e. marriage contract) are the most entitled to be fulfilled.”*²

Among the conditions that a Muslim woman has the right to stipulate in her marriage contract is that her husband doesn’t make her move from her house or city, nor force her to live with his family or anyone whose company she dislikes or to travel with him, nor take another wife without her right to a divorce. However, many women feel reluctant to include such conditions though it is a right given in Islam.

Another condition that could be mentioned in the marriage contract is her right to pursue her education after marriage.

When the Prophet (pbuh) got married to Lady Hafsa, daughter of ‘Umar ibn al-Khattab (may Allah be pleased with him), he was keen to let her private tutor Shifa’ pursue teaching her until she learned to read and write properly.

The husband must adhere to all agreed upon conditions included in the marriage contract and if he does not, then, his

¹ Reported by al-Bukhari and Muslim.

² Reported by al-Bukhari.

wife has the right to annul the marriage. Moreover, the wife may have the right to initiate divorce if this has been agreed upon before marriage and mentioned in the marriage contract.

On the other hand, the woman is forbidden to stipulate that the proposed groom divorce another wife he already has.

Abu Hurayrah reported that the Prophet (pbuh) said,

“A woman should not stipulate (at the time of the wedding) the divorce of her (Muslim) sister (the other wife of her husband to-be).”¹

¹ Reported by al-Bukhari.

Secret and `Urfi (Unregistered) Marriages

Secret marriage is forbidden in Islam since it contradicts the conditions of a correct marriage. Not only is the free consent of both the bride and the bridegroom for the marriage essential, but also there must be a bride's guardian, witnesses, payment of a dowry, an announcement of the marriage and a legal written commitment. Accordingly, if the marriage fails to fulfill any of these conditions, as in the case of secret marriages where the announcement to the public is missing, it is considered invalid.

As for those who claim that legal attestation and commitment did not take place in previous times and so a secret marriage cannot be forbidden for such a reason. To those we say that Islam suits all ages and places with regard to prevailing traditions. In previous times, a verbal commitment was legally recognized, hence proper marriage was honestly spread among people and its announcement took place too. Nowadays, legal written commitments are stipulated to prove and guarantee the rights of the parties involved in marriage.

An `Urfi (unregistered) marriage is never for the benefit of the woman. She is not considered as a legal wife, and if any problem erupts between her and her partner, she becomes entrapped; i.e. she can neither get a divorce nor marry another man.

As contracting an *`Urfi* marriage is forbidden in Islam, dissolving it is considered a separation and not a divorce. Any offspring resulting from such a marriage are not legally approved regarding their rights of inheritance or bearing their father's name.

Prohibited Marriage Partners

In Islam, marriages between Muslim men and women of certain relationships to one another are prohibited. These prohibited degrees are either of a permanent or temporary nature.

Permanently prohibited marriage relationships

The Glorious Qur'an has permanently prohibited marriage between people of the following relationships:

[And marry not those women whom your fathers married, except what has already happened in the past. Lo! It was ever lewdness and abomination, and an evil way. Forbidden to you (for marriage) are: your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, your sister's daughters, your foster mothers who gave you suck, your foster milk suckling sisters, your wives' mothers, your step daughters under your guardianship, born of your wives to whom you have gone in - but there is no sin on you if you have not gone in them (to marry their daughters), - the wives of your sons who (spring) from your own loins, and two sisters in wedlock at the same time, except for what has already passed; verily, Allah is Oft-Forgiving, Most Merciful.]

(An-Nisa': 22-24)

From the above verses, it is clear that a Muslim man must never marry any of the following:

1. His mother
2. His step-mother (This traditional practice still takes place in some parts of Nigeria, where in some cases the eldest son inherits the youngest wife of his father.)

Allah wants to steer men away from any desire for their fathers' wives. Perhaps one man would be attracted to his stepmother, and the least moderate possibility in such a case would be an aspiration to marry her after his father dies. Should that hope be realizable, he might rejoice when his father actually dies, or even try to expedite that grave event. Hence, Allah prevents such a desire that may occur to such men.

3. His grandmother (including father's and mother's mothers and all preceding mothers, e.g. Great grandmothers).
4. His daughter (including his granddaughters and beyond).
5. His sister (whether full or half-sister from either parental side).
6. His father's sisters (including paternal grandfathers' sisters).
7. His mother's sisters (including maternal grandfathers' sisters).
8. His brother's daughters.
9. His foster mother.

The reason for this is that by nursing him, she contributed to his cell composition, and as such part of him belongs to her. This part has the same prohibitive aspect of maternity.

10. His foster mother's sister.
11. His foster mother's daughters.

12. His foster sister.
13. His wife's mother.
14. His stepdaughter (i.e. daughter by a former husband of a woman whom he has married, if the marriage has been consummated. However, if such a marriage was not consummated, there is no prohibition).
15. His biological son's wife.
16. According to Abu Hanifa, a man who has committed adultery or fornication is forbidden to marry anyone within the forbidden degrees previously mentioned of his other party in such a sinful act. On the other hand imam Shafi'i believes that such marriages are lawful.

It is to be noted that a great wisdom lies behind the prohibitions of previous relations since no social cohesion might exist if people do not keep these prohibitions in their minds while contracting marriages. Marrying close relatives has two major drawbacks: higher probabilities of defective children, and stronger potential for severance of kinship ties.

Temporary prohibited marriage degrees

Temporary prohibitions are those that arise from certain circumstances which on being changed, the prohibition is overruled. They are as follows:

1. A man must not have two sisters as wives at the same time, nor can he marry a woman and her aunt at the same time.

The reason of prohibiting a man from being married to two sisters at the same time, or a woman and her paternal or maternal aunt is that they have ties of kinship between them

that need to be preserved, and their being married to the same man makes the chances of such preservation quite weak due to the natural jealousy arising.

Abu Hurayrah (may Allah be pleased with him) narrated that the Prophet (pbuh) said,

“A woman and her paternal aunt should not be married to the same man; and similarly, a woman and her maternal aunt should not be married to the same man.”¹

2. A man must not marry an already married woman. However, if her marriage is voluntarily dissolved either by the death of her husband or by divorce followed by her waiting period, only then can he marry her.
3. A man must not marry a woman during her waiting period. The Qur'an says,

[But do not make a secret contract with them except in honorable terms, nor resolve on the tie of marriage till the term prescribed is fulfilled.]

(Al-Baqarah: 235)

This means that a man is only allowed an indirect decent proposal to a woman during her waiting period after her husband's death or her irrevocable divorce. However, if the woman is in her waiting period of a revocable divorce, a man must not make any proposal to her or even send her an implied invitation to marry him, because she is still considered the lawful wife of the first husband.

4. A man must not have more than four wives at one time.

¹ Reported by al-Bukhari.

Marriage Between Couples of Different Religions

In Judaism

According to the Talmudic Law and Rabbinical Code, marriage to all gentiles (non-Jews), including Christians, was forbidden for the Jews. It was only in 1807 that the great Jewish Synod, convened by Napoleon, declared marriages between Israelites and Christians valid if contracted in accordance with the Civil Code. Yet 'such marriages cannot be invested with the religious forms,' that is they cannot be celebrated by the religious rites of Judaism. The Rabbinical Conference held at Brunswick, Germany, in 1844 resolved that marriage between Jews and Christians or other monotheists is not forbidden, provided the Jewish parent is permitted by the state to bring up his/her children on the Jewish faith. However, this resolution has been strongly criticized even by some of the most pronounced advocates of reformed Judaism. No section of Jewish opinion favors marriage between parties who are not of the same religion.

In Christianity

As for the Christians, Constantine, later emperors and various councils also, prohibited marriages with Jews. During the Middle Ages, such marriages were universally avoided. Although St. Paul indicated that a Christian must not marry a heathen, and Tertullian called such marriage fornication, the Church, in early times, often even encouraged marriages of

this sort as a means of propagating Christianity, and its success was beyond doubt.

In Islam

The case of Islam is different in some fundamental respects. When both partners are Muslims, the probability of mutual harmony is highly assuring. However, it is not an absolute obligation in Islam that mates are of the same religion. Islam allows Muslims to marry non-Muslims and considers such marriages as valid and binding as intermarriages are.¹

The Islamic injunction limits the field of non-Muslim to those who believe in God, follow a Prophet, and have a divine scripture. Another limitation is that no Muslim woman is permitted to marry a non-Muslim man. That leaves only the possibility of religiously sanctioned marriages between Muslim men and non-Muslim women who are either Christian or Jewish.

¹ C.f. 'Marriage to Non-Muslims'.

Marriage to Non-Muslims and Their Rights

In Islam, it is absolutely forbidden for a Muslim man to marry a polytheist woman whether she is a worshipper of an idol, an animal, a tree, or a stone. No Muslim is permitted to marry anyone who has no divine book or God-sent Prophet to follow; namely atheists, pagans, Magians and the like. The Qur'an says,

[Do not marry women idolaters until they believe: a slave woman who believes is better than an unbelieving woman, even though she allures you. And give not (your daughters) in marriage to idolaters till they believe (in Allah Alone) and verily, a believing slave is better than a (free) idolater, even though he pleases you. Unbelievers do but beckon you to the fire. But Allah beckons you by His Grace to the Garden of bliss and forgiveness, and makes His signs clear to mankind that they may celebrate His praise.]

(Al-Baqarah: 221)

Why are Muslims banned from marrying polytheists?

Islam prohibited Muslim men from marrying polytheist women since the relationship between a husband and a wife are not merely sexual, but also spiritual and cultural.

- No doubt, it is possible that the Muslim man may influence the polytheist woman and their children to become Muslims, but it is equally possible that the

polytheist woman may mislead the Muslim man and their offspring into the ways of polytheism (associating partners with Allah).

- Also, this prohibition is founded on preserving the principle of mutual respect between husband and wife, which is the basis of marriage. A Muslim man believes in all the divine religions and respects them but he disdains all religions that do not believe in Allah. If he married a wife who followed one of these faiths that worship idols, he could not possibly respect his wife's faith and that would definitely lead to a strained atmosphere where the emotions of affection and compassion could not exist, thus destroying the foundation of the marriage.

Marriage to 'People of the Book'

As for Christians and Jews, Islam considers them as 'People of the Book' (*Ahl al-Kitab*) because they believe in the Torah and the New Testaments; the Books of Allah revealed to the Prophets Musa (Moses) and `Isa (Jesus) respectively. Consequently, Islam permits a Muslim to marry a Christian or a Jewish woman:

[This day are all things good and pure made lawful unto you. The food of the People of the Book is lawful unto you and yours is lawful unto them. Lawful unto you in marriage are not only chaste women who are believers, but chaste women among the People of the Book revealed before your time, when you give them due dowers, and desire chastity and not lewdness nor secret intrigues]

(Al-Ma'idah: 5)

A limitation is that no Muslim woman is permitted to marry a non-Muslim man whether among the sects of 'People of the Book' or not.

It is not essential that both of the parents of such a woman are of the People of the Book. It is sufficient if her father alone is one of them even though her mother is an idol worshipper. However, both Shafi`i and Hanbali schools believe that both her parents must be of the People of the Book in order to make the marriage of such woman (i.e. who belongs to the People of the Book) valid.

However, according to the Hanafi School, it is not lawful to marry a woman from the People of the Book in the territory at war with Muslim states (*Dar al-Harb*), because it may become a source of mischief as the children of such marriage are more likely to be inclined towards the religion of their mother.

Questioning the validity of the marriage of a Muslim man to a Hindu, Buddhist, Shinto, or Magian woman worshipping fire, it is argued that the woman of such faiths should be regarded as equivalent to polytheist. Hence, such a marriage is forbidden in Islam.

Rights of a non-Muslim wife

Islam allows marriage to a non-Muslim woman, provided she is not a polytheist, but makes regulations that must be applied in such marriages. Moreover, Islam gives the non-Muslim wife most rights tantamount to any Muslim wife except for those of custody and inheritance from her husband. Before marriage, the husband provides her with a dowry which becomes hers. She is maintained, secured and well treated during his whole life, but she does not automatically inherit her share as his widow. However, the Muslim husband can bequeath to her a gift in his will from his third.

This can never be referred to as being unfair since from the very beginning she knew and agreed upon her rights and obligations in Islamic marriage. Depriving her of these rights is for the following reasons:

- As we know, Muslim money is purified through paying the *Zakah* which is spent on the poor, needy people, orphans, building mosques and general charitable activities. Since this will not be fulfilled, the whole Muslim society will be affected if the owner of the money is a non-Muslim.
- Concerning custody, even a converted Muslim is deprived of this right out of the Islamic care for the Muslim children who must be raised in a good Muslim family to assimilate Islamic morals.

Why Are Muslim Men Allowed to Marry Non-Muslim Women and Not Vice Versa?

Many misleading explanations are entertained on this issue, at least theoretically. One might say that such permission for Muslim men to marry non-Muslim women was actually designed as an indirect form of encouragement to enlarge the following of Islam. A non-Muslim wife may find herself isolated or helpless in a household headed by a Muslim, and thus feel pressured to give up her faith for his. Other notions may be entertained, such as sexual exploitation, male subordination, humiliation of the non-Muslims, etc. Others regard forbidding Muslim women from a similar right as a proof of her subordination to Muslim man. However, all such suggestions hardly seem to fit in the context of the following Qur'anic verse:

[This day are (all) things good and pure made lawful unto you. The food of the people of the Book is lawful unto you and yours is lawful unto them. (Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the people of the Book.]

(Al-Ma'idah: 5)

Besides, this type of marriage is voluntary for both parties. Then, what is the real wisdom behind such a regulation? There are a number of reasons:

First, allowing Muslim men to marry non-Muslim women is established with the understanding that the man involved is

the leader of the family, where he is the protector, the head of the household, the party responsible for the upbringing of the offspring in his own religious faith. This is derived from the Qur'anic verse that reads,

[Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard (the husband's) absence what God would have them guard.]

(An-Nisa': 34)

In this verse, men are described as the '*Qawwamun*', i.e. the protectors and maintainers of the women and the managers of their affairs. However, in his role as the leader, man has no jurisdiction over the religious beliefs of his non-Muslim wife. Nor may he interfere with her freedom of worship.

Secondly, the Muslim male is permitted to marry a non-Muslim female because it may serve as a gesture of goodwill toward non-Muslims, or as a practical implementation of the principles of Islam. This probably reflects the Muslim's hope that once exposed to the true principles of Islam in a favorable encounter; a person is very likely to become appreciative of these principles, and to rectify any former misconceptions. When a non-Muslim woman marries a Muslim man, who is enjoined to honor and cherish her, respect her rights as well as her religious freedom, scriptures and prophets, it may be expected that she will somehow reciprocate. By her increasing knowledge of Islam and experience of daily living with such a Muslim partner, she may adopt his faith if she wishes or at least discover that it is not a renunciation but rather an

enrichment of her own. Whether or not she does so, she is legally well protected against any pressure of any kind and loses none of her due rights.

Thirdly, the prohibition of marriages between Muslim women and non-Muslim men has always been maintained by the religio-legal authorities. Such marriages, if permitted, would be considered by Muslims impractical and disadvantageous to the women involved as well as their coreligionists. A Muslim wife of a - hypothetical - non-Muslim husband is not believed to have the same assurance of religious freedom and reasonable rights as does her counterpart with a Muslim spouse. The principle of reciprocity is not fully implemented since, while the Muslim woman acknowledges and honors the religion of her assumed non-Muslim husband as an integral part of her own faith, it is not assured that he reciprocates. She accepts Musa, `Isa, and all the authentic Messengers of Allah (peace and all blessings of Allah be upon them all) as much as she accepts Prophet Muhammad (pbuh) with no discrimination or prejudice against any of them. But is there any reciprocity on her mate's part? Does he accept and honor her religion as she does to his? If he does not do so, at least four logical alternatives present themselves:

- (1) The Muslim woman may lose her faith,
- (2) She may experience unnecessary tensions and mental conflicts from her non-Muslim mate,
- (3) The marriage may break up,
- (4) Both partners may grow suspicious, or simply indifferent to religion altogether.