

responsibility to now pay it. If the woman had taken possession of the dower, she is to return it to the husband. If the *khula* is made wherein it is agreed that she is to pay some wealth other than the dower to the husband, she must pay that wealth that they agreed upon. After *khula*, the husband is free of any obligation that was the result of the marriage contract, including maintenance and the dower. This is because in the case of *khula*, although it is a type of divorce based on compensation, there is the implied meaning of freeing him from any responsibility.

(3) When the Wife Frees the Husband of the Obligation of the Dower, Either before or after Consummation

If the wife is from those people who can donate wealth and the dower is one that the husband has to pay in the future, such as money or specific weight or amount of some item and not something specific that was a purpose in itself, she is allowed to free him from that obligation. This is because she is in a position where she has the right to drop that obligation from the husband.

(4) When the Wife Gives the Entire Dower as a Gift to the Husband

When the woman is qualified to give gifts or donations [such as when she is adult] and the husband agrees to accept the dower as a gift, [she may return the entire dower to the husband], regardless of whether that was before she took possession of the dower or afterwards.

Giving a gift of a dower differs from freeing the husband of the responsibility of paying the dower in that giving the dower as a gift applies when the dower is a debt upon the husband or it is something specific that he is to give, or something like cash or a specific article of clothing or an animal. However, freeing the husband of responsibility of paying the dower is only when the dower is a debt upon the husband.

The Ruling Concerning Paying the Dower on the Spot or over Time

It is proper for the dower to be paid either promptly or over time. It is also proper if part of it is paid promptly and the remainder is to be paid at a later time. This is because it is a type of transaction and, therefore, it is allowed to be delayed, in the same way that one may pay for the price of something over time. The portion that is to be paid at the time of the marriage is to be given to the wife before consummation and she may refuse the consummation until it is given to her.

As for the delayed portion, it is what is agreed upon between the two spouses to be delayed until after consummation.

The jurists state that it is acceptable to pay the dower at a later time [if such is agreed upon]. The Hanafis say,¹

It is sound for the dower to be promptly paid or all of it delayed or part of it delayed until a near or far off time, or even until whatever occurs first of divorce or death, depending on the customs and manners prevalent in any Islamic country. However, this is conditioned by the time set not being completely unknowable, such as “when the gale wind blows,” or “when it rains.” It is not allowed to agree to such a timing that is completely unknown. If the two explicitly agree that the dower shall be paid off in payments, such is supposed to be done [even if it goes against the prevailing customs]. This is because the agreement is an explicit type of sign while the custom is only an indication. The explicit sign is stronger than the indication. If they do not agree to pay the dower promptly or to delay its payment, then one goes by the prevalent custom of that country because “what is known to be custom is equivalent to a condition that is stated.” If there is no prevalent custom concerning prompt or delayed

¹ *Badaai al-Sanaai*, vol. 2, p. 288.

payment, the dower can be demanded in full at the present time [of the marriage]. This is because the ruling in the case where delay is not specifically mentioned is that of prompt payment because prompt payment is actually the original or basic ruling.

The Shafi'ees¹ and the Hanbalis² allow the delaying of payment for all or part of the dower on the condition that the timing is known. This is because the dower is a compensation in a transaction and if its payment is left open, it is then to be due immediately. If it is delayed until an unspecific time, such as "when Zaid arrives" or "when it rains," it is not sound because its actual time is unknown. However, according to the Hanbalis, if the dower is left to be paid at a later date and such a date is not specified, it is to be paid when the two separate or upon the death of one of them. According to the Shafi'ees, such a dower is void and the woman is to receive the dower of those who are similar to her.

The Malikis³ distinguish between different cases when it comes to delaying the payment of the dower. They say that if the dower is something specific and present in the town, such as a house, clothing or animals, the groom must give it to the bride or her guardian on the day of the contract. It is not allowed to state in the contract that the dower will be paid later, even if she is pleased with such a delay. Such a condition in the contract voids the contract. The exception is if the time stated is something very soon, such as two or five days. Furthermore, it is allowed for the woman to allow a delay in the payment without that being made a condition in the contract though. In other words, it her right to receive the dower as soon as possible.

If the dower is something specific that is not in the city, the marriage contract is valid if the payment of the dower is specifically stated to be delayed a little. The time limit is such that the article being given as a dower will not change due to the elapsed time. Otherwise, the contract is void.

¹ *Al-Majmoo*, vol. 15, p. 484.

² *Al-Sharh al-Sagheer*, vol. 2, pp. 432-433.

³ *Al-Mughni*, p. 122; *al-Insaaf*, vol. 8, p. 244.

If the dower is not a specific item, such as simply cash, an amount or weight of something, it is then allowed to delay its payment, either in part or in toto. It is allowed for it to be delayed until a time that is known [and not ambiguous], such as the time of harvest, summer or the gathering of the fruits. One may also delay the payment until it is easy for the groom to pay it, if he is a person of means, such as if he has some merchandise for which he is waiting to receive its price or if he has a regular salary. However, if the groom is poor, such is not valid. It is also allowed for it to be delayed until the bride demands it, which would have the same ruling as delaying it until it is easy for the groom to pay it.

Therefore, there are two conditions that must be met in order for it to be permissible to delay the payment of the dower. First, the term for the payment must be known. If it is unknown, such as agreeing to delay it until death or separation, the contract becomes void. It is a must to annul the contract unless the man has already consummated the marriage, in which case it is obligatory for the woman to be paid the dower which is paid to women similar to her.

Second, the time period for the payment must not be a lengthy one, such as fifty years or more. In this case, it would be similar to not having a dower in the first place. Consummating the marriage upon not having a dower voids the marriage.

In sum, I have mentioned to you what I have come across of the statements of the jurists, their different views and resulting opinions concerning this issue. The truth that one must not deviate from is the following:

If the delayed payment is for a specified time and meets the conditions just stated above and it is done for the benefit of the two spouses or for the benefit of one of them, then the delay in payment is permissible, although it goes against what is preferable. Delaying the payment of the dower was something unknown at the time of the Prophet (peace be upon him). Furthermore, one must not make an analogy between marriage and any other type of transaction. If the delayed payment is to be made upon death or divorce, this leads to many negative results due to its uncertainty. No one except Allah knows when one's time will come and also no one knows if or when divorce will

come about. One of the greatest negative results from such a practice is that it puts the man into a situation where he keeps his wife, although he has no desire for her, only because if he divorces her he knows that she will then seek her dower. This will also cause other problems either from the side of the husband, who will try to force the woman to ransom herself from the marriage and give up her rights, or from the side of the wife who may try to force the husband to do what he does not want to do.

Therefore, the truth is that agreeing to delay the payment of the dower until divorce or death is a phenomenon that should not exist in Muslim marriages. Allah knows best.

The Ruling Concerning a Portion of the Dower Paid in Advance or a Gift Given to the Bride in the Case Where the Man Decides Not to Marry the Woman

It is a common custom to give the dower before the marriage contract takes place. It is also a common custom for the man to present his fiancée with plenty of consumable gifts and other items in order to strengthen the bond of love and closeness between the two. If such pre-marriage dower or gifts are given and then it turns out that the marriage is not performed, due to some reason from his side or her side, a question arises concerning what has previously been given by the man. The scholars agree that if what was given was supposed to be part of the dower and it still exists in its original form, then the man may request all of it back.

However, if that money was used to purchase the furniture, for example, of the new couple's house, then there are two opinions among the jurists as to whether the value of the dower must be returned or what was purchased with the money must be returned. The first opinion is that it is obligatory to return what was given as a dower. This is because the dower is given in exchange of enjoying the wife and the contract was not completed, so exactly what was given, if it still exists, must be

returned. If what was given has been used up or consumed, then its value must be returned. This is the view of the majority of the jurists.¹ The second opinion is that whatever was bought for the house is not to be returned if such was bought with the man's permission, knowledge or according to the prevailing custom. Otherwise what was given as a dower is to be returned to the man. This is the view of the Malikis.²

Looking at those two opinions, it seems best to choose the opinion of the Malikis. This is because if the fiancée is forced to return what was given of the dower, although he joined with her in buying the items or permitted her to do so, even if indirectly by not stopping her, that would cause her some harm because it will not be easy for her to sell those items at the same price that she bought them for. Furthermore, she may not need them and therefore she will face a financial penalty although she did not commit any wrong.

This is if the marriage was called off from the side of the husband. If it is called off from the fiancée's side, the man has the definite right to demand what he had given as dower, in order to prevent him from being harmed.³

Ruling Concerning What Was Given as a Gift

There are four opinions among the jurists concerning requesting the fiancée to return what was given to her as a present.

The first opinion: It is allowed to return the gift if the gift is still in the possession of the one to whom it is given and she had not done any kind of transaction with it that took it out of her possession. If it had been consumed or if it had been changed, such as material that was sewn, or if the woman had dispensed with it, then the man has no right to request its return or to seek something similar to it or its value.

¹ *Bidaayah al-Mujtabid wa Nibaayah al-Muqtasid* by ibn Rushd, vol. 2, p. 21.

² *Al-Mudawwanah al-Kubra*, vol. 2, p. 177.

³ *Atbaar Aqd al-Zawaaj fi al-Shareeah al-Islaamiyyah* by Ahmad Uthmaan, pp. 48-51.

Similarly, he cannot seek its return if it were perishable food items, even if it is still existing. This is the view of the Hanafis.¹

The second opinion: Nothing of these gifts is to be returned to the man, even if the marriage was called off by the woman, unless such has been made a condition or it is the prevailing custom among the people. This is the view of some of the Malikis.²

The third opinion: The man may request the return of all gifts no matter what type they were. If the gifts still exist as they were, they are to be returned. If one cannot return the actual gift, one must then return their value. This is the opinion of the majority of the Shafi'ees.³

The fourth opinion: If the proposal was ended by the party who had received the gifts, they must return the gifts. This is because the reason the presents were given was never fulfilled. If the proposal was ended by the party giving the gifts, he has no right to request the return of the gifts. This is the opinion of al-Rafi'ee among the Shafi'ees, ibn Rushd and al-Liqaani of the Malikis and Shaikh al-Islaam ibn Taimiya.⁴

From the above presentation of the different views, it is clear that the most just opinion, without any doubt, is that the woman must return the gift itself, if it is still existing with her, or its value, if it has been destroyed or consumed, when the end to the engagement came from her side. This is because it is unjust for the man, the gift giver, to have to face the pain of his engagement coming to an end as well as endure a financial penalty. Similarly, if the engagement is broken off by the gift-giver, then the gifts are not returned to him so that the woman is not faced with the pain of the engagement being broken off and having to return the gifts she received.⁵ Allah knows best.

¹ *Radd al-Mubtaar ala al-Durr al-Mukhtaar* by ibn Abideen, vol. 2, p. 374.

² *Al-Furooq* by al-Qaraafi, vol. 3, p. 148; *Abkaam al-Ahwaal al-Shakhsiyyah* by Abdul Rahman Taaj, pp. 172-173.

³ *Hashiyataa Qalyoobi wa Umairah ala Sharh al-Minbaaj*, vol. 3, p. 216; *Qawaaid al-Abkaam*, p. 56.

⁴ *Ikhtiyaaraat ibn Taimiyah*, p. 138; *Bidaayah al-Mujtabid*, vol. 2, pp. 21-23; *al-Majmoo*.

⁵ *Athaar Aqd al-Zawaaj fi al-Shareeah al-Islaamiyyah*, p. 50.

Engagement Rings: Their Ruling for Either Men or Women

An engagement ring is often one of those gifts that the fiance gives the fiancée before the marriage contract. This is a newly adopted custom and an objectionable innovation.

The engagement is actually just an initial request and preparatory step towards the marriage and it is only by the marriage itself that the rights and obligations are established. That is the nature of the engagement or proposal. However, some people—may Allah guide them— have introduced many customs and forms into the engagement. For the proposal or engagement, they have a big party in which they invite members of the man's family and members of the woman's family. They prepare special foods, desserts, coffee and tea for that occasion. They have other customs and practices for that occasion as well; in some lands there are more while in others there are fewer. They do that to announce the engagement. On that occasion, some of the Muslims recite *soorah al-Faatiha*. Also, the fiance gives the fiancée an engagement ring. The engagement becomes known to everybody by the woman wearing the engagement ring. There is nothing in Islam that indicates that such a practice should take place. In fact, it is following the customs of others, as such a practice was a Pharaonic practice while others say that it is the custom of the Christians.¹ In any case, the exchange of engagement rings is a foreign practice that has been adopted by Muslims and it does not form part of the religion at all.

"The jurists are agreed that it is permissible for the women to wear a gold ring and that such is forbidden for men."² The evidence that gold rings are forbidden for men and permissible for women are too many to recount. Such evidence includes what Abu Hurairah reported that the Prophet (peace be upon him) prohibited gold rings [for men].³

¹ *Masari al-Shirk wa al-Khuraafah*, pp. 387-388.

² *Al-Mausooat al-Fiqhiyah al-Kuwaitiyah*, vol. 11, p. 23.

³ Recorded by al-Bukhari (#5864), the Book of Dress, Chapter on gold rings; Muslim (#2089), in the Book of Dress, Chapter on the prohibition of gold rings for men and the abrogation of what was permitted in the beginning of Islam.

Ibn Umar stated that the Prophet (peace be upon him) used to have a ring of gold and he would wear it on his right hand. The people then followed suit and wore gold rings. Then the Prophet (peace be upon him) discarded it and said,

لَا أَلْبَسُهُ أَبَدًا

“I will never wear it.” So the people also discarded their rings.¹

It has been stated that Abu Bakr ibn Hazm said that such rings are permissible for men and it has also been narrated from another that such rings are simply disliked and not forbidden. In his commentary to *Sahih Muslim*,² al-Nawawi wrote, “Those two reports are incorrect and those who stated them are defeated by these hadith.”

Furthermore, it is a case of blind imitation and resembling the disbelievers. The Prophet (peace be upon him) warned us about resembling, imitating and following the disbelievers. Ibn Umar narrated that the Messenger of Allah (peace be upon him) said,

مَنْ تَشَبَهَ بِقَوْمٍ فَهُوَ مِنْهُمْ

“Whoever resembles a people is one of them.”³

The prohibition due to that cause, due to the act of imitation or resembling the disbelievers, includes all forms of engagement rings, whether they are of gold or of other material. Furthermore, this prohibition covers equally both men and women.

The Muslim who resembles the disbelievers, in any form of outward resemblance, such as in his clothing, manners or movements, is indicating that he has an inward feeling of love for them that is demonstrated by his resembling them. This is true because imitation comes from being pleased with them or from a feeling that the others are

¹ Recorded by Muslim in his *Sahih* (#2091), the Book of Dress, Chapter on the prohibition of gold rings for men.

² Vol. 14, p. 65.

³ Recorded by Abu Dawood (#4031); Ahmad in *al-Musnad*, vol. 2, p. 50; Shaikh al-Islam ibn Taimiyah considered its chain good, as he stated in *Iqtidbaa al-Siraat al-Mustaqeem*, vol. 1, p. 236 and *Majmoo al-Fatawa*, vol. 25, p. 331.

better than the person himself. This implies ignorance of the laws of the religion. A Muslim must have [due to his being a believer in Allah] enough self-respect that it keeps him from falling into these types of acts of imitation.