

4. If it has milk, one does not milk it. One sprinkles cold water on udders so that the milk ceases.

9.3 Preparation and Slaughter

1. It is not permissible to slaughter supererogatory, tamattu` or qirān sacrificial animals [at any time] except on the Day of Immolation. It is permissible to slaughter the remaining [types of] sacrificial animals at any time one wishes.
2. It is not permissible to slaughter sacrificial animals [anywhere] except in the Haram.
3. It is permissible to give it in charity to the destitute of the Haram and others.
4. It is not obligatory to take the sacrificial animals to `Arafah.
5. Supererogatory, tamattu` and qirān sacrificial animals are garlanded, but the sacrificial blood of ihṣār and the sacrificial blood of transgressions are not garlanded.
6. The best for camels is to pierce the base of their necks (nahr), and for cows and sheep [the best] is to slaughter them.
7. The most appropriate is that a person take care of the [animals] and slaughter himself, if he knows how to.

9.4 Replacement

1. One who sends a sacrificial animal, which then dies :
 - ✦ If it was supererogatory, then another is not [due] upon him.
 - ✦ If it was in compensation for a wajib, then he must set another in its place.
2. If it is afflicted with a severe defect, one sets another in its place and does as one wishes with the defective one.
3. If a she-camel dies on the way :
 - ✦ If it was supererogatory, he pierces the base of its neck, drenches its collar-leather with its blood, and strikes with it one of its legs. He does not eat from it himself, nor [do] other well-off people.
 - ✦ If it was obligatory, one sets another in its place, and does as he wishes with [the first].

10.0 IMMOLATION (UDHIYAH/QURBANI)

10.1 Obligation

1. The immolation is wajib on every free, resident, well-off Muslim on the Day of Immolation, for himself and [on behalf of] his minor children.
2. He slaughters on behalf of each of them a ewe, or he slaughters:

she-camel or a cow on behalf of seven.

3. There is no immolation [due] upon the poor one, nor the traveller.
4. The time for immolation enters with the rise of dawn on the Day of Immolation, except that it is not permissible for the inhabitants of cities to slaughter until the imam has performed the `Id salah. For the inhabitants of rural areas, they may slaughter after fajr. It is permissible on three days : the Day of Immolation, and two days [immediately] thereafter.

10.2 Slaughter

1. One does not sacrifice :
 - ✦ a blind animal
 - ✦ a one-eyed animal
 - ✦ a lame animal such as cannot walk to the place of sacrifice
 - ✦ an emaciated animal.
2. The [preferable] slaughter is in the neck and upper chest.
3. The best is that one slaughter one's sacrifice with one's [own] hand, if one knows how to slaughter.
4. It is disliked for a Person of the Book to slaughter it.
5. If two men made a mistake, such that each of them slaughtered a sacrifice of the other, it suffices them both, and there is no liability on either of them.

10.3 Benefitting from the Sacrifice

1. One may eat from the meat of the sacrifice, and feed the rich and poor, and store.
2. It is recommended that the [portion given in] charity not be less than one third.
3. One gives its skin in charity, or makes from it some item used in the house.

Charging tuition for teaching Qur'an

Charging tuition for teaching Qur'an

In Sunan Ibn Majah and elsewhere is the account of a Sahabi (Mu`adh ibn Jabal if I remember correctly) who was teaching writing and Qur'an to a man of the people of the Suffah. Later on, the man gave Mu`adh a bow. Mu`adh thought that there is nothing wrong in taking it, and besides, he will use it for fighting in the path of Allah, but he was still uncertain so he thought to ask the Prophet (may Allah bless him and grant him peace). The Prophet told him that "if you want it (the bow) to be girdled around your neck with fire on the Day of Resurrection, then take it." [this is the approximate meaning from memory]

Based on this hadith, the authentic view of the Hanafi school is that it is prohibited to take money for teaching of Qur'an. This is the more precautionary view, and is in keeping with the apparent sense of the hadith. The Shafi`i, however, reasoned that the reason for the prohibition issued to Mu`adh here was that they had not fixed any price for the teaching, and that Mu`adh had therefore been teaching only for the sake of reward in the Hereafter, such that if he were to take a material payment, this would reduce or annul his reward. So, they said there is no harm in taking payment if the price was arranged beforehand. They also drew support from the hadith where a group of Companions took a payment of food for ruqyah (curing someone by reciting verses of the Qur'an). The Hanafis respond that this hadith is an evidence for the permissibility of taking payment for ruqyah, but not for teaching the Qur'an.

The hadith does not apply to selling of Islamic books and other materials; it is specifically about teaching. Even selling the Qur'an (muSHaf) is not Haram, (except according to a view of Imam Ahmad ibn Hanbal), but it is makrooh. Although, the salaf used to shy away from accepting money for books and the like also, and this is undoubtedly more precautionary, so as to reserve all reward for the Hereafter. Yet, if someone is making a living by selling books, then there is no harm in charging a profit, w'Allahu a`lam.

The issue of teachers and schools raises another point. As I have mentioned, the authentic view of the madhhab is that taking a fee for teaching Qur'an is Haram. However, later on when Islam

became weaker, and the state no longer took the same care of the religion and its people, such that the `ulama and teachers of the Qur'an were no longer provided for by the state, these people came into dire circumstances. They had no source of income, and no education or training (other than religious sciences) which they could use to earn a living. It was quite literally a matter of life and death for them. Under these situations, fatwa was given in the madhhab on the permissibility of taking payment for teaching Qur'an, since necessity dictates exceptions and makes the prohibited temporarily permissible. Ibn `Abidin has mentioned this in <sharH `uqood rasm al-muftee>.

It should be note, however, that this was a specific fatwa for a specific situation, and that the authentic view of the madhhab remains one of prohibition of accepting payment. So, if a person is in such dire circumstances, with no other way out, he could take by this fatwa then and accept some payment. If no such mitigating circumstances exist, it remains prohibited. w'Allahu a`lam.

Marriage

MARRIAGE

(According to the Qur'an and Sunnah,
as extracted and inferred by scholars of the Hanafi school.)
From "*Mukhtasar al-Quduri*", a matn of Hanafi fiqh

- ✚ The Spoken Form
- ✚ Witnesses
- ✚ Prohibited Persons
 - ✚ By Kinship
 - ✚ By Marriage Ties
 - ✚ By Suckling
 - ✚ By Combination
 - ✚ By Religion
- ✚ The Wali
 - ✚ Precedence for Wilayah
 - ✚ Compatibility
 - ✚ Authority of the Wali
- ✚ The Mahr
 - ✚ Specification
 - ✚ Entitlement
- ✚ Termination Of A Marriage
 - ✚ Invalidation of a Marriage
 - ✚ Physical Defects
 - ✚ Embracement of Islam
 - ✚ Apostasy
- ✚ Treatment Of Wives
- ✚ Suckling
 - ✚ Period of Suckling
 - ✚ Mixing of the Milk with Other Substances
 - ✚ Source of the Milk
 - ✚ Prohibitions through Suckling

1.0 THE SPOKEN FORM

1. Marriage is contracted by proposal and acceptance, in two statements,
 - ✦ - both of them expressing the past tense, or
 - ✦ - one of them expressing the past and the other the future such as one saying, 'Marry [your daughter] to me,' and the other saying, 'I have married [her] to you.'
 - If a man marries a woman off without her permission [marries off] a man without his permission, [the marriage is contingent on their acceptance].
2. Marriage is contracted by the words of marriage, wedding, transfer of possession, gift, or charity.

2.0 WITNESSES

1. The marriage of Muslims is not contracted without the presence of two free, adult, sane, Muslim [male] witnesses, or one man and two women, [whether they be] morally upright or non-upright, or [even] inflicted with the prescribed punishment for slander.
 - ✦ If a Muslim married a *dhimmi* woman with the witnessing of two *dhimmi* men, it is valid according to Abu Hanifah and Yusuf. Muhammad said : It is not valid.

3.0 PROHIBITED PERSONS

3.1 Prohibition by Kinship

It is not lawful for a man to marry:

1. His mother, nor his maternal or paternal grandmothers,
2. His daughter, nor his granddaughters, and lower
3. His sister
4. His [niece] : his sister's daughter or his brother's daughter
5. His paternal aunt
6. His maternal aunt
7. His wife's mother, whether he has consummated with her daughter or not

3.2 Prohibition by Marriage Ties

1. The daughter of his wife with whom he has consummated, whether she is under his guardianship or the guardianship of someone else

2. His father's or grandfathers' wife
3. His son's or grandson's wife
4. Whoever commits fornication with a woman, her mother and daughter become unlawful to him.
5. [A thrice-divorced ex-wife unless she has since consummated another marriage.]

3.3 Prohibition by Suckling

1. His foster-mother
2. His foster sister

3.4 Prohibition of Combination

1. He may not combine two sisters in marriage, nor as slave-girls intercourse
 - ✦ If a man divorced his wife with an irrevocable divorce, it is permissible for him to marry her sister until [his wife's] waiting period is over.
2. He may not combine a woman with her paternal or maternal aunt nor with her [niece:] sister's daughter or brother's daughter.
3. He may not combine two women [who are such that], if one of them were a man, it would not be permissible for her to marry the other.
4. There is no objection to combining a woman with a daughter whose husband she had previously.
5. A free man may marry four - free women or slave-girls, and he may not marry more than that. If a free man divorces one of the four with an irrevocable divorce, it is not permissible for him to marry [new] fourth [wife] until the waiting-period of [the other] is completed.

3.5 Prohibition by Religion

1. It is permissible [but disliked for a Muslim man] to marry women from the People of the Book, but it is not permissible to marry Zoroastrian women, nor idolatrous women.
2. It is permissible to marry Sabeen women if they believe in a prophet and affirm a scripture, but if they worship the planets, and have no scripture, then it is not permissible to marry them.

4.0 THE WALI

4.1 Precedence for Wilayah

1. The wali is a paternal male relative.
 - ✦ If there exist for an insane woman both her father and son, then the wali in her marriage is her son according to Abu Hanifah and Abu Yusuf. Muhammad said : [it is] her father.
2. A slave, minor, insane person, or unbeliever, have no wilayah over a Muslim woman.
3. Abu Hanifah said : it is valid for non-male relatives to marry of the women [if males are not available].
4. If the immediate wali is disjointedly absent, then it is valid for someone beneath him [in precedence] to marry [the women off]. A disjointed absence is that he be in a city where the caravans reach only once a year.

4.2 Compatibility

1. Compatibility in marriage is taken into consideration. So, if a woman marries an incompatible [man], the wali has the right to separate them.
2. Compatibility is considered in:
 - ✦ lineage
 - ✦ religion
 - ✦ wealth, which is that he be in possession of the mahr and maintenance.
 - ✦ profession.

4.3 Authority of the Wali

1. According to Abu Hanifah, the marriage of a free, adult, sane woman is contracted with her consent, even if there no wali performs the contract for her, whether she is virgin or not. Abu Yusuf and Muhammad said : it is not contracted without a wali.
2. It is not permissible for the wali to coerce an adult virgin to marry [someone].
3. If he asks for her permission, and she remains silent, or giggles, that is [indicative of] her permission. But, if she refuses, he may not marry her off.
 - ✦ If the husband says, 'The marriage [proposal] reached you and you remained silent,' but she says, 'No, I refused it.' t

the word is hers, and there is no oath due on her. There is extraction of oath in marriage according to Abu Hanifah. [I Abu Yusuf and Muhammad said : oaths are extracted in it.

4. If he asks the permission of a non-virgin, her consent in words is essential.
 - ✦ If her virginity was removed by jumping, or menstruation, an injury, then her is that of the virgin.
 - ✦ If it was removed by fornication, then the same according Abu Hanifah.
5. The marriage of a minor male or female is valid if the wali marries them off, whether the minor girl is a virgin or not.
6. If [two minors] were married off by the father or grandfaather, then they do not have a choice after reaching maturity. But, if other than the father or grandfather married them off, then each of them has the choice when they reach adulthood : if he wishes, he may continue in the marriage, and if he wishes he may annul it.
7. If a woman marries and keeps her mahr lower [than her peers] then the wali has the right to object to that, according to Abu Hanifah, until [the husband] makes up the mahr of her peers or separates from her.
8. If a father marries off his minor daughter and keeps her mahr lower [than her peers], or [marries off] his minor son and exceeds in the mahr of his wife, that is valid for them. But that is not permissible for other than the father and grandfather.
9. It is valid for a paternal uncle's son to marry the daughter of his paternal uncle to himself.

If the woman gives permission to a man to marry her to himself in the presence of two witnesses, [the contract] is valid.

5.0 MAHR (MARRIAGE PAYMENT TO THE BRIDE)

5.1 Specification

1. The marriage is valid if a mahr was named in it, and it is valid [even] if no mahr was named in it.
 - ✦ If a man marries off his daughter [to a man] on condition the man marry off hsi sister, or daughter, such that one of contracts is in exchange for the other , then both contracts valid, but each of [the women] is entitled to the mahr of h peers.
2. The minimum mahr is 10 dirhams, and so if he named less than 10, she is entitled to 10.
 - ✦ If a Muslim marries [a woman] on [a mahr of] wine, or poi then the marriage is valid, but she is entitled to the mahr of her peers.

- ✦ If he marries her on [a mahr of] an undescribed animal, the naming is valid, and she is entitled to a medium one. The husband has a choice : if he wishes, he may give her that, he wishes, he may give her its value [in money].
- ✦ If he marries her on [a mahr of] an undescribed garment then she is entitled to the mahr of her peers.
- ✦ If a free man marries a woman on [a mahr of] service to him for a year, or for teaching her Qur'an, then she is entitled to the mahr of her peers.

3. The dower of her peers is reckoned by [consideration of] her sisters, paternal aunts and paternal uncle's daughters. It is not reckoned with reference to her mother and maternal aunt if they are not of her tribe. That which is taken into account in [ascertaining] the mahr of her peers is :

that the two women are equivalent in age, beauty, modesty, wealth, intelligence, religiousness, country and time.

4. If he added to [the amount of] her mahr after the contract, he is obliged to [pay] the additional amount, but it is waived by divorce before consummation.

If she waived [some] of her mahr from him, the waiver is valid.

5.2 Entitlement

1. 1. If a man is secluded with his wife, and there is no hindrance to intercourse, and then he divorces her, then she is entitled to the complete mahr. But, if one of them is ill, or fasting in Ramadan, in ihram for obligatory or superogatory hajj or `umrah, or she is menstruating, then it is not a valid seclusion.
 - ✦ If a castrated man is in seclusion with his wife, and then divorces her, then she is entitled to the complete mahr according to Abu Hanifah.
2. Whoever names a mahr of 10 [dirhams] or more is obliged [to pay] the named [amount] if he consummates with her or dies leaving her.
 - ✦ If he divorces her before consummation and seclusion, then she is entitled to half of the named amount.
3. If he marries her and does not name a mahr, or he marries her on the condition that she will have no mahr, then she is entitled to the mahr of her peers if he consummates with her or dies leaving her.
 - ✦ If he divorces her before consummation, then she is entitled to compensation, which is three garments of her peer's usage.
4. If he marries her and does not name a mahr, and then they mutually agree to name a mahr, then she is entitled to it if they consummate or he dies leaving her. If he divorces her before