



## Fiqh of Marriage: Class Eleven

الحمد لله و الصلاة و السلام على رسول الله و بعد:

And as a reminder we spoke last time about the hadith of the Sahabiah who offered herself in marriage, and the Prophet wed her to one of the Companions, and her Mahr was that her husband would teach her the Quran that he had memorized.

A point to note is that in the time of the Prophet, there were far fewer men than women, due to wars, etc. Thus we find that Ghaylan, prior to Islam, had ten wives. Put in this perspective, we can understand that this Sahabiah offered herself in marriage and did not request or demand any mahr, and accepted one of the poorer Sahabah as her husband.

We learned that Mahr can be anything of value, even a simple iron ring.

Based upon this hadith, some people argue that what people have become accustomed to nowadays, with Mahr in the thousands of dollars, is bida'ah, and harmful, etc.

But, one who reflects on the Wahy of Allah, and social life, finds that the value of Mahr should be based upon mutual agreement, and whatever the two parties agree upon is acceptable.

Allah says, “Wa aataytum ihdahunna qintaaran,” “and you have given one (of your wives) a treasure (as mahr)”

Here, the giving of a treasure load of gold is being mentioned, but this should not be understood as obliging the husband to give this amount. It should be understood that he gave this amount willingly.

Once, I heard of a family that demanded \$4000 upfront, and \$30,000 delayed (to be paid at the time of divorce or death), in Mahr. They thought that this high amount of delayed Mahr would prevent the husband from even thinking about divorcing their daughter, since if he harmed her through divorce, he would have to pay the \$30,000. And he may not be able to afford that.

So what did they hope? Every time the wife said something, the husband would say, ‘yes dear’. The sun rose in the middle of the night, ‘yes dear.’ \$30,000 is a lot of money.

But the husband refused. They spoke to a Shaikh, who told the woman’s father: “You have gray hair but you are not wise.” The father said, “Did not Allah say, ‘If you have given one of them a treasure...’?” The Shaikh replied, “Yes, if he has *given* it out of his

own free will, but it should not be forced upon him. It is as if you are using the Mahr as a weapon against him. But know that it is a weapon that has two edges. If you humiliate him through the mahr, he will humiliate your daughter in order to get it back. They will be alone under one roof, and no one will watch them except Allah. Then, if he wants to divorce her, he will oppress her until she herself requests divorce to get out of the situation.”

So, Mahr should be based upon mutual agreement between the two parties.

We see that Abu Hanifa supported the view that Mahr can be in the form of some work or service that one performs, based up the fact that Shuyaib married Musa to one of his daughters in exchange for working for him for eight years, or even ten if Musa agreed. Imagine, the wages for eight years. How much does a worker make in a day? Multiply this over an eight year period. How much was Musa’s wife’s mahr? You would need a calculator. Musa agreed to this. He said, whichever of the two periods I desire, and they both agreed to it.

So, speaking about the high cost of Mahr does not bring benefit, and there is not real action that can be done about it. Some countries

tried to place upper limits on mahr, but this only had the effect of people hiding the mahr from the law.

Limiting Mahr by the authorities did not bring benefit, but by convincing, from a religious point of view.

The Prophet said, "The woman with the easiest Mahr is the most blessed."

Some other people tried to limit Mahr to the amount given to the wives of the Prophet, or what is common in the Urf (customs) of the people, etc, but this did not rectify the problem of high Mahrs.

But rather there must be awareness, and the guardian should bear in mind that he is not selling a product, rather Mahr should be thought of as a gift. It serves of evidence that a man is sincere in marrying one's daughter, and not that he is just trying her out. Or that she has no value with him.

Regarding the iron ring mentioned in the hadith, some scholars fixed the least amount of Mahr as 40 silver coins, or 30, or 20. Imam Malik stated that the least amount of Mahr is the nisaab for the punishment for stealing.

This is four dirhams. Some scholars stated, what is the relationship between consummating marriage and the nisaab for stealing. Imam

Malik said, they are similar since they both involve losing a part of the body, the hand, and the virginity.

But the others responded by saying: what if she is not a virgin? So this analogy is somewhat extreme.

So, there is not lower limit to Mahr. Even an iron ring.

But realistically speaking, when the wife comes to the husbands house, does not she need a bed, and some clothes, and what will suffice her in her new home.

So in reality, the minimum mahr varies from place to place, and time to time.

The danger is when the husband is burdened beyond his ability. He may be forced to take loans, or buy things on deferred payment, or go into debt.

So forcing the husband beyond his means is what is dangerous.

What one should strive for is the middle path.

But the guardians of women should know, that their greatest enemy of a woman is a guardian who prevents her from getting married.

Since he is preventing her from a right that she has in life. Her right to get married.

And this may lead to enmity, and dislike, and because of this, many women do not get married.

And this may also lead to men getting married to women from abroad, and then these women have different customs and traditions than what is known here.

This is a result of making it difficult for young men and women to fulfill their right in terms of physical relationships and in life, which is through marriage.

The Hadith:

عَنْ عَامِرِ بْنِ عَبْدِ اللَّهِ بْنِ الزُّبَيْرِ , عَنْ أَبِيهِ ; أَنَّ رَسُولَ اللَّهِ ( قَالَ :  
{ **أَعْلِنُوا النِّكَاحَ** } رَوَاهُ أَحْمَدُ , وَصَحَّحَهُ الْحَاكِمُ

Narrated 'Aamir bin 'Abdullah bin az-Zubair on the authority of his father:

**Allah's Messenger said: "Make marriage publicly known."**

Reported by Ahmed and al-Hakim authenticated it.

### **The Explanation:**

This is a new subject, regarding the publicizing of marriage. And making the marriage known publicly is done through various means.

The Prophet said, “(When you marry) beat the Duff.”

And Aisha said, “I departed with a wedding party to bring so-and-so to her husband. When I came back, I told the Prophet, I was with so and so and we went with her to her husband’s house.” The Prophet said, “Did you send some young girls along with her to sing for her?”

So announcing can be done using a Duff, which is a circle of wood with skin stretched over it, that sometimes has brass chimes attached to its edges, that produce rhythmic sound along with the beating of the duff.

The goal of this public announcement is so that this young man and young woman, who previously were ashamed to be seen alone together, after making the marriage known, the whole of the community blesses their coming together and makes effort to support them in their union.

In some narrations, secret marriage is like Zina, since the two hide themselves from others, and we ask Allah for protection. So the difference from legal marriage and Zina is that in marriage the wedding of the two is made known publicly.

For this reason, in another hadith it says, “Hold a waleema, if only with a single sheep.”

And the Prophet even held a waleema for one of his wives, in which he did not even have meat or bread. There was only dates and yogurt, which the people ate in celebration of the marriage of the Prophet.

If there is a feast being held, the guests will ask about the reason for it, and they will say, so-and-so married so-and-so.

And what is the wisdom of mentioning a single sheep? Since a sheep requires cooking, and cooking requires fire that produces smoke. Then all those around would see the sight of smoke, and ask, what is the occasion? And they would reply, so and so has married so and so.

So, Islam came to explain to people the most beautiful of customs, and erase the evil ones. And marriage is the coming together and beginning of a new family in society.



This way of announcing a wedding is more reliable than a simple certificate that can be changed or lost.

But involving all those in the community, so that they can hear the duff with their ears, and see the cooking of the food with their eyes, and attended the waleema and smelled and tasted the food, all of these are witnesses that so and so has married so and so.

In this way, the whole of society witnesses the formation of a new family in the Islamic Ummah.

And for this reason, it is not permissible to hide one's marriage. Since this could lead to the denial of inheritance rights, and proper attribution of children to their parents.

Even though, if a man marries a woman through her guardian, in the presence of witnesses, and they fulfill the conditions of marriage, this marriage is legally valid. But it can give rise to problems.

And this Prophetic advice, "Announce..." and announcing is the opposite of hiding. And the Prophet said to Aisha, when she was preparing a newly wed wife to go to her husband's home, "Do you have singers with you?" She said no.

The Prophet said, when you take her, sing:

“Ataaynakum ataaynakum fa hayunaa nuhayyikum

Wa lawla al habaatu as samraa, ma saminat  
‘adhaareekum”

This song helps the husband and wife love one another.

So singing during the wedding party is allowed, women amongst women, and men amongst men, as long as these songs are permissible and do not contain anything forbidden. The songs should be chaste, pure, and show the happiness and joy of the occasion.

But, we must ask one another: have people stopped at the limits taught by the Messenger of Allah, or have they introduced music and other forbidden things? And many songs and music have become common that are that are not pure, and people have violated the Prophetic limits in celebrating weddings.

And it would be much better to have a small simple wedding party, than to indulge in these excesses that the Prophet forbade.

People are between two extremes, between violating the limits, and some do not make public their weddings at all, and this might be for an excuse, since they cannot afford to hold a wedding party, except

for just the close family and neighbors. Just a simple meal, and they make dua for the new couple, and then give their salams.

Some people stay up late into the night to celebrate the wedding party. Common sense tells us that staying up until Fajr, or 2 AM, is not acceptable. But unfortunately, this has become common in some traditions and cultures.

What is important is that we stick to the limits set by the Prophet in celebrating weddings, by refraining from violating his Sunnah. There should not be intermingling between men and women, and women should not amplify their voices so loud that men in other rooms listen to them, and all other forbidden things should be avoided.

And I am sure, if I spent an entire lecture discussing the forbidden things done during wedding parties, I would not be able to enumerate them all, but mentioning some points to the rest.

Finally, Ulema of the four madhahab are all in agreement, that if a person comes to a wedding party, and they see what is reprehensible Islamically, it is not permissible for him to sit down.

Since if he did this, he would be sharing in the sin.

As the poet said,

“Wa saami’ ad dhammii, shareekun li qaa’ilihi,  
wa mut’im al ma’kooli, shareekun li aakilihi”

“The one who listens to evil, is partner with the one who speaks it.  
And the eater of food, is partner to the one serving it.”

And the Quran warns us, if we hear those who mock the signs of Allah, then we should not sit with them until speak of something else.

And all the Madhahab also agree that if you sit somewhere, and you know that there are forbidden things inside of the home (hidden from view) then there is no harm in sitting.

Since we have not been commanded to spy on people, or investigate our hosts about what they are doing.

Rather, some scholars said that if a person knows that in a gathering there are some reprehensible things, but he is a from a position of influence in the society or someone of social standing, and he knows that by attending he will be able to change that evil openly, in front of others, he should go and change the evil.

But if he knows that he cannot change the evil, and the others there will not listen to him, and his going there will not have any change on the evil being done, he should not go.

Rather, because of this evil, he is no longer responsible for attending, that is mentioned in the hadith of the Prophet:

“The worst of food is the food of the waleema, those who are invited do not attend, and those who wish to attend are not invited, and whoever does not answer the invitation has disobeyed Abul-Qasim.”

It is the worst of food, but we are still required to attend?

It is the worst of food from the perspective that the poor are not invited to attend.

As it is said, Imam Shafii was invited to a wedding, and he wore some ordinary clothes, so when he entered they seated him in a corner somewhere and they did not feed him until the end.

Another time, he was invited, and he wore his best robe and turban, and as soon as he arrived, they made way for him and gave him his meal right away. So he placed his sleeve in the food. When they asked him why, he said, “It is my robe that earned me this food, not me!”

Of course, I think it is unlikely that Imam Shafii would do something like this. But sometimes there are weak and poor people in society who cannot have a voice except through jokes like this.

So to conclude, wedding should be announced, and those with knowledge, if they can attend a wedding and change what is wrong, they should.

Otherwise, if they cannot, they should not attend.

And Allah knows best.

End of Class Eleven.