

Marriage (Part II of II)

Mut'ah (Temporary Marriage)

Issue 2430: Contracting a temporary marriage with a woman is in order, even if it may not be for the sake of any sexual pleasure.

Issue 2431: The obligatory precaution is that a husband should not avoid having sexual intercourse for more than four months with a wife of temporary marriage.

Issue 2432: * If a woman with whom temporary marriage is contracted, makes a condition that her husband will not have sexual intercourse with her, the marriage as well as the condition imposed by her will be valid, and the husband can then derive only other pleasures from her. However, if she agrees to sexual intercourse later, her husband can have sexual intercourse with her, and this rule applies to permanent marriage as well.

Issue 2433: A woman with whom temporary marriage is contracted, is not entitled to subsistence even if she becomes pregnant.

Issue 2434: * A woman with whom temporary marriage is contracted, is not entitled to share the conjugal bed of her husband, and does not inherit from him, and the husband, too, does not inherit from her. However, if one or both lay down a condition regarding inheriting each other, such a stipulation is a matter of Ishkal as far as its validity is concerned, but even then, precaution should be exercised by putting it into effect.

Issue 2435: If a woman with whom temporary marriage is contracted, did not know that she was not entitled to any subsistence and sharing her husband's conjugal bed, still her marriage will be valid, and in spite of this lack of knowledge, she has no right to claim anything from her husband.

Issue 2436: * If a wife of temporary marriage goes out of the house without the permission of her husband, and the right of the husband is in anyway violated, it is haraam for her to leave. And if the right of her husband remains protected, it is a recommended precaution that she should not leave the house

without his permission.

Issue 2437: * If a woman empowers a man that he may contract a temporary marriage with her for a fixed period, and against a specified amount of Mahr, and instead, that man contracts a permanent marriage with her, or contracts a temporary marriage with her without specifying the time or amount of Mahr, the marriage will be void. But if the woman consents to it on understanding the position, then the marriage will be valid.

Issue 2438: In order to become Mahram (with whom marriage contract becomes haraam and is treated to be one of the close relatives), a father or a paternal grandfather can contract the marriage of his na-baligh son or daughter with another person for a short period, provided that it does not involve any scandal or moral lapse. However, if they marry a minor boy or a girl who is not in anyway able to derive any sexual pleasure during the period from the spouse, then the validity of such a marriage is a matter of Ishkal.

Issue 2439: If the father or the paternal grandfather of an absent child, marry it to someone for the sake of becoming Mahram, not knowing whether the child is alive or dead, the purpose will be achieved only if during the period fixed for marriage, the child can become capable of consummating marriage. If it later transpires that it was not alive at the time the marriage was contracted, it will be considered void, and the people who had apparently become Mahram will all become Na-Mahram.

Issue 2440: If a husband gifts the wife of Muta'h with the period of her temporary marriage, thus releasing her, and if he has had sexual intercourse with her, he should give her all the things he agreed to give her. And if he has not had sexual intercourse with her, it is obligatory on him to give her half the amount of Mahr, though the recommended precaution is that he should give her full amount of Mahr.

Issue 2441: If a man contracted a temporary marriage with a woman, and the period of her Iddah has not ended yet, he is allowed to contract a permanent marriage with her or renew a contract for temporary marriage with her.

Looking At Non-Mahram

Issue 2442: * It is haraam for man to look at the body or hair of the Non-Mahram women, regardless of whether it is with the intention of pleasure or not, and whether there is a fear of falling into sinful act or not. It is also haraam to look at the faces and the arms, upto the wrists, of such women with the intention of pleasure, or if there is fear of falling into sinful act, and the recommended precaution is that one should not look at their faces or arms even without such an intention. Similarly, it is haraam for a woman to look at the body of Non-Mahram man, except places which are customarily not covered, like, his face, hands, head, neck and feet. She can look at these parts of a man without the intention of deriving any pleasure, or if there is no fear of being entrapped in any sinful act.

Issue 2443: * To look at the body of a woman who would not care for Hijab, even if she were advised, is not haraam, provided that it does not lead to sinful act or sexual pleasure, and excitement, nor is it with that intention; and in this rule, there is no distinction between a Muslim and a non-Muslim woman; and also between those parts, like their faces, their hands which they normally do not cover, and other parts of their bodies.

Issue 2444: * Woman should conceal her body and hair from a man who is non-Mahram, and as an obligatory precaution, she should conceal herself even from a Na-baligh boy who is able to discern between good and evil, and could probably be sexually excited. But she can leave her face and hands upto wrists uncovered in the presence of Na-Mahram, as long as it does not lead him to casting a sinful, evil glance or her to doing something forbidden; for in both these cases, she must cover them.

Issue 2445: It is haraam to look at the private parts of a baligh Muslim, even if it is seen behind the glass or reflected in the mirror, or clean water etc. As an obligatory precaution, it is also haraam to look at the genitals of a non-Muslim, and of a discerning Na-baligh child. However, wife and her husband can look at the entire body of each other.

Issue 2446: If a man and woman who are Mahram of each other, do not have the intention of sexual pleasure, they can see the entire body of each other excepting the private parts.

Issue 2447: * A man should not look at the body of another man with the intention of sexual excitement, and also, it is haraam for a woman to look at the body of another woman with the intention of sexual excitement.

Issue 2448: A man who is acquainted with a Na-Mahram woman, should not, as a precaution, look at her photograph etc., provided that the woman is not a heedless, commonplace person.

Issue 2449: *If a woman wants to give an enema to another woman, or to a man other than her husband, or to clean her/his private parts with water, she should cover her hand with such a thing that her hand would not touch the private parts of the other woman or man. And the same applies to a man who wants to give an enema to another man or a woman other than his wife, or to clean his/her private parts with water.

Issue 2450: * If a woman is rendered helpless by her disease, and if the only helpful treatment to her can be given by a male doctor, she can refer to him. And if that male doctor must look at her to be able to treat her, or to touch her for that matter, there is no objection. However, if he can treat her by looking at her, he should not touch her body, and if he can treat her by touching her body, he should not look at her.

Issue 2451: * If a person is obliged to look at the private parts of a patient for his/her medical treatment, he should, on the basis of obligatory precaution, place a mirror opposite him/her and look into it. However, if there is no alternative but to look directly at his/her private parts, there is no objection.

Similarly, if the duration of regarding the genitals in the mirror would be longer than looking at them directly, the latter method be adopted.

Miscellaneous Rules Concerning Marriage

Issue 2452: If a person gets entangled in haraam acts owing to his not having a wife, it is obligatory for him to marry.

Issue 2453: * If the husband makes it a condition before Nikah, that the woman should be a virgin, and it transpires after Nikah that she is not virgin, he can repudiate the marriage. However, he can deduct and take the difference between the Mahr usually paid for a virgin woman and the one who is not a virgin.

Issue 2454: * It is haraam for a man and a woman who are not Mahrams, to be together at a private place where there is no one else, if it is feared to lead to immorality and scandal, even if it is a place where another person can easily arrive. But if there is no fear of any evil, there is no objection.

Issue 2455: If the man fixes the Mahr of the woman at the time of Nikah, but intends not to give it, the marriage contract is in order, but he will be indebted to her.

Issue 2456: * A Muslim who renounces Islam and adopts a non-Muslim faith, is an apostate, and they are of two types: Fitri and Milli. Fitri apostate is one whose parents or one of them were Muslims when he was born, and he himself was also a Muslim, till after having reached the discerning age, and thereafter he converted to become a non-Muslim. A Milli is exactly the opposite.

Issue 2457: * If a woman becomes an apostate after marriage, her marriage becomes void, and if her husband has not had sexual intercourse with her, she is not required to observe any Iddah. And the position will be the same if she apostatises after sexual relation, but she had reached menopause (Ya'isa), or if she was a minor. And if she had not reached menopause, she should observe Iddah as will be explained in the rules of 'divorce'. And it is commonly held that if she becomes a Muslim during her Iddah, her marriage remains intact. However, it is improbable that this should be valid, and therefore, precaution should not be abandoned. A Ya'isa is a woman who has reached 50 years of age, and because of that advanced age, stops seeing Haidh and does not expect to see it again in her life.

Issue 2458: * If a man becomes a Fitri apostate after Nikah, his wife becomes haraam for him and she should observe Iddah of death in the manner which will be explained in the rules relating to 'divorce'.

Issue 2459: * If a man becomes a Milli apostate after Nikah, his marriage becomes void. And if he has not had sexual intercourse with his wife, or if she has reached menopause, or if she is a minor, she need not observe Iddah. But if he apostatises after having sexual intercourse with his wife, who happens to be of the age of women who normally have menstrual discharge, she should observe Iddah of 'divorce' which will be mentioned under the rules relating to 'divorce'. And it is commonly held that if her husband becomes a Muslim before the completion of her Iddah, their marriage remains intact. However, it is

improbable that this be correct, but, precaution should not be abandoned.

Issue 2460: If the woman imposes a condition at the time of Nikah that her husband will not take her out of the town, and the man also accepts this condition, he should not take her out of that town against her will.

Issue 2461: If a woman has a daughter from her former husband, her second husband can marry that girl to his son, who is not from this wife. Also, if a person marries his son to a girl, he himself can marry the mother of that girl.

Issue 2462: * If a woman becomes pregnant as a result of fornication or adultery, it is not permissible for her to have an abortion.

Issue 2463: * If a man commits fornication with a woman who has no husband, nor is she in any Iddah, and later marries her, and a child is born to them, and they do not know whether the child is the outcome of legitimate relation or otherwise, the child will be considered legitimate.

Issue 2464: * If a man does not know that a woman is in her Iddah and marries her, and if the woman, too, does not know (that she is in her Iddah) and a child is born to them, the child is legitimate and according to Shariah belongs to both of them. However, if the woman was aware that she was in her Iddah, and that during Iddah marriage is not permissible, the child according to Shariah belongs to the father, and in either case their marriage is void, and they are haraam for each other.

Issue 2465: * If a woman says that she has reached menopause, her word may not be accepted, but if she says that she does not have a husband, her word is acceptable, except when she is known to be unreliable, in which case, investigation will be necessary.

Issue 2466: * If a man marries a woman after her assertion that she does not have a husband, and if some one claims later that she was his wife, his claim will not be heeded unless it is proved to be true according to Shariah laws.

Issue 2467: * Until a son or a daughter completes two years of his/her age, his/her father cannot separate him/her from his/her mother. And as a precaution, a child should not be separated from its mother till it is seven years of age.

Issue 2468: * If a person proposing marriage is known for his virtues and faith, then it is recommended that his proposal should not be rejected. The Prophet (s.a.w.a.) is reported to have said: "Whenever you receive a proposal for marriage on your daughter from a man whose virtue and piety pleases you, then give her hand in his in marriage. For if you do not do this way, great scandals and lapses will fill the earth."

Issue 2469: * If a woman compromises her Mahr with her husband, on a condition that he will not marry another woman, it is obligatory upon him that he does not marry another woman, and that the wife

should not claim her Mahr.

Issue 2470: If an illegitimate person marries, and a child is born to him, that child is legitimate.

Issue 2471: If a man has sexual intercourse with his wife during fast in the month of Ramadhan or when she is in her menses, he commits a sin, but if a child is conceived, it is legitimate.

Issue 2472: If a woman who is sure that her husband died while on a journey, marries another man after completing the Iddah of death, (which will be explained in the rules relating to 'divorce') and later her first husband returns from journey, she should immediately separate herself from her second husband, and she will be halal for her first husband. But, if the second husband has had sexual intercourse with her, she should observe Iddah and the second husband should give her proper Mahr equal to that of the women similar to her category, but she is not entitled to subsistence during Iddah.

Rules Regarding Suckling a Child

Issue 2473: * If a woman suckles a child with the conditions which will be mentioned in rule 2483, that child becomes Mahram of the following persons:

- (i) The woman herself (i.e. the woman who suckles it) and she is called Riza'i mother (milk mother).
- (ii) The husband of the woman (for the milk belongs to him); he is called Riza'i father (milk father).
- (iii) Father and mother of that woman and all in their upward line, even if they are milk father and milk mother.
- (iv) The children born of that woman, or those who are born to her later.
- (v) The children of the children of that woman, however low, regardless of whether they are born of her children or her children had suckled them.
- (vi) The sister and brother of that woman, even if they are her milk sister and milk brother.
- (vii) Paternal uncle and paternal aunt of that woman, even if they are by milk, i.e. suckling.
- (viii) Maternal uncle and maternal aunt of that woman, even if they are by milk i.e. suckling.
- (ix) The descendants of the husband of that woman, (to whom milk belongs) even if they may be his milk children.
- (x) Father and mother of that husband (to whom milk belongs), however high.
- (xi) Sister and brother of the husband, (to whom milk belongs) even if they may be his milk sister and brother.

(xii) Paternal uncle and paternal aunt and maternal uncle and maternal aunt of the husband, (to whom milk belongs) however high, even if they are his milk uncles and aunts.

There are other persons also (details regarding whom will be given in the following rules) who become Mahram on account of sucking milk.

Issue 2474: If a woman suckles a child with the condition which will be mentioned in rule 2483, the father of the child cannot marry the daughters of that woman, but it is permissible for him to marry her milk daughters, although the recommended precaution is that he should not marry them. Moreover, he cannot marry the daughters of the husband also (to whom milk belongs), even if they may be his milk daughters. And if any one of them happens to be his wife already, his marriage becomes void.

Issue 2475: If a woman suckles a child with the conditions mentioned in rule 2483, the husband of that woman (to whom milk belongs) does not become Mahram of the sisters of that child, but the recommended precaution is that he should not marry them. Also, the relatives of the husband do not become Mahram of the sister and brother of that child.

Issue 2476: If a woman suckles a child, she does not become Mahram of the brothers of that child. Moreover, the relatives of that woman do not become Mahram of the brother and sister of the child suckled by her.

Issue 2477: If a person marries a woman who has suckled a girl fully, and if he has had sexual intercourse with her, he cannot marry that milk girl.

Issue 2478: If a person marries a girl, he cannot marry the woman who has suckled her fully.

Issue 2479: A man cannot marry a girl who has been suckled fully by his mother or paternal grandmother. Also, if his step-mother suckles a girl from the milk belonging to his father, he cannot marry that girl. And if a person contracts Nikah with a suckling girl, and thereafter, his mother or his paternal grandmother or his step-mother suckles that girl, the Nikah becomes void.

Issue 2480: A man cannot marry a girl who has been suckled fully by his sister, or by his brother's wife. And the position is the same if that girl is suckled by that man's niece (sister's daughter or brother's daughter) or the granddaughter of his sister or the granddaughter of his brother.

Issue 2481: If a woman suckles the child of her daughter i.e. her granddaughter, or grandson, the daughter will become haraam for her own husband, and the same applies if she suckles the child of the husband of her daughter from another wife. But if a woman suckles the child of her son, the wife of her son who is the mother of the suckling child, does not become haraam for her husband.

Issue 2482: If the step mother of a girl suckles the child of her husband, with the milk that belongs to the girl's father, the girl becomes haraam for her husband regardless of whether the child is the offspring of that very girl or of some other woman.

Conditions of Suckling Which Causes to be Mahram

Issue 2483: The following are the eight conditions under which suckling child becomes the cause of being Mahram.

(i) That the child sucks the milk of a woman who is alive. It is of no consequence if milk is drawn from the breast of a woman who is dead.

(ii) That the milk of the woman should not be the product of fornication or adultery. Hence, if the milk for an illegitimate child is breastfed to another child, the latter will not become Mahram of anyone.

(iii) That the child sucks milk directly from the breasts of the woman. Hence, if milk is poured into its mouth, it has no consequence.

(iv) That the milk be pure and unadulterated.

(v) That the milk be of one husband only. Hence, if a breast-feeding woman is divorced and then she marries another man by whom she becomes pregnant, if the milk of the first pregnancy still continues from the breast till she gives birth to the other child, and she feeds any child eight times with the milk from her first pregnancy before giving birth, and feeds the same child seven times with the milk from the second pregnancy, after giving birth, that child will not become Mahram of anyone.

(vi) That the child does not throw up the milk due to illness. If it vomits the milk, the suckling has no effect.

(vii) The suckling should be of such quantity that it could be said that the bones of the child were strengthened and the flesh allowed to grow. And if that cannot be ascertained, then if a child suckles for one full day and night, or if it suckles fifteen times to its fill, as will be explained later, it will be sufficient. But if it is known that in spite of the child having suckled for one full day and night, or for fifteen times, the milk has not had any effect on the bones and the growth of flesh of the child, then one should not ignore exercising the precaution.

(viii) That the child should not have completed two years of his age, and, if it is suckled after it has completed two years of its age, it does not become Mahram of anyone. In fact, if, for example, it sucks milk eight times before completing its two years, and seven times after completing its two years, it does not become Mahram of anyone. But, if milk continues from the breast for more than two years since a woman gave birth to her child, and she suckles the child continuously, that child will become Mahram of those who have been mentioned above.

Issue 2484: It is necessary that the suckling child should not have taken any other food, or sucked milk from any other person, during one full day and night. However, if it takes very little food, so little that one may not say that it has taken any food in between, there is no harm in it. Also, it should have suckled the

milk of only one woman fifteen times, and during these fifteen times, it should not have sucked the milk of any other woman. And it should have sucked milk every time without a gap, though, if while suckling milk it pauses to breathe, or waits a little, in a manner that from the time it started till the end, it is taken as one suckling, there is no objection.

Issue 2485: If a woman suckles a child from the milk of her husband, and when she later marries another man, suckles another child from the milk of her second husband, those two children do not become Mahram of each other, although it is better that they do not marry each other.

Issue 2486: If a woman suckles several children from the milk of one husband, all of them become Mahram of one another, as well as of the husband, and of the woman who suckled them.

Issue 2487: If a man has more than one wife, and every one of them suckles a child in accordance with the conditions mentioned above, all those children become Mahram of one another, as well as of that man, and of all those wives.

Issue 2488: If a man has two nursing wives, and if, for example, one of them suckles the child eight times and the other suckles it seven times, the child does not become Mahram of any one of them.

Issue 2489: If a woman gives full milk to a boy and a girl from the milk of one husband, the sisters and brothers of that girl will not become Mahram of the sisters and brothers of that boy.

Issue 2490: * A man cannot marry without the permission of his wife, those women who became her nieces (sister's daughter or brother's daughter) owing to the suckling of milk. Also, if a person commits sodomy with a boy, he cannot marry his milk daughter, sister, mother and paternal grandmother by means of sucking milk. This rule applies also in the situation where an active partner in sodomy is not baligh, or when the passive partner is baligh.

Issue 2491: A woman who suckles the brother of a person, does not become Mahram of that person, although the recommended precaution is that he should not marry her.

Issue 2492: * A man cannot marry two sisters even if they may be milk sisters, that is, they have become sisters by means of suckling milk. If he marries two women and understands later that they are sisters, if he married them at one and the same time, both the Nikah will be void. But if he did not marry them at one time, the first marriage will be valid, and the second will be void.

Issue 2493: * If a woman suckles the following persons from her husband's milk, her husband does not become haraam for her, although it is better to observe precaution.

(i) Her own brother and sister.

(ii) Her own paternal uncle and paternal aunt, and maternal uncle and maternal aunt.

(iii) The descendants of her paternal uncle and her maternal uncle.

(iv) Her nephew (brother's son).

(v) Brother or sister of her husband.

(vi) Children of her sister, or children of her husband's sister.

(vii) Paternal uncle and paternal aunt and maternal uncle and maternal aunt of her husband.

(viii) Grand children of another wife of her husband.

Issue 2494: If a woman suckles the paternal aunt's daughter, or maternal aunt's daughter of a man, she (the woman who suckles) does not become Mahram of that man. However, the recommended precaution is that he should refrain from marrying that woman.

Issue 2495: If a man has two wives, and one of them suckles the paternal uncle's son of the other wife, the wife who suckled does not become haraam for her husband.

How To Breast Feed A Child

Issue 2496: The child's mother is the best person to suckle a child. It is better that she does not claim any award from her husband for suckling the child, although it is good that he should reward her for that. However, if the mother demands more payment for suckling than a wet-nurse, her husband can entrust the child to the wet-nurse.

Issue 2497: It is recommended that the wet-nurse, whose services are obtained for a child, should be Shia Ithna-Asheri, sane, chaste, and good looking; and it is Makrooh for a wet-nurse to be a non-Shia Ithna-Asheri or ugly, ill-humoured or illegitimate. It is also Makrooh to entrust the child to a wet-nurse who has given birth to an illegitimate child.

Miscellaneous Rules Regarding Nursing a Child

Issue 2498: * It is recommended that a woman avoids suckling any and every child, because it is possible that she may forget as to which of them she has suckled, and later the two persons, who are Mahram to each other, may contract marriage.

Issue 2499: It is recommended, if possible, that a child is suckled for full 21 months. And it is not preferred that it be suckled for more than two years.

Issue 2500: * If the right of the husband is not in any way violated by suckling, a wife may suckle the child of another person without the permission of her husband.

Issue 2501: * If a man contracts Nikah with a suckling girl, and the wife of that man suckles her, then it is considered that the wife becomes the mother-in-law of her husband, and therefore, becomes haraam for him. Although this consideration is not free from Ishkal, yet precaution should not be ignored.

Issue 2502: * If a person wants that his sister-in-law (his brother's wife) may become his Mahram, he may contract a temporary Nikah with a suckling girl, for example, for two days, and during those two days, the wife of his brother may suckle that girl as mentioned in rule no. 2483. By so doing, she will become his mother-in-law, and thus be Mahram. But if the woman suckles the girl from his brother's milk, it is a matter of Ishkal.

Issue 2503: If a man says before marrying a woman, that the woman he is marrying is his milk sister, she is haraam for him, if his statement is verified as true. And if he says this after the marriage, and the woman also confirms his word, the marriage is void. Hence, if the man has not had sexual intercourse with her, or has had sexual intercourse but at the time of sexual intercourse the woman knew that she was haraam for him, she is not entitled to any Mahr. And if she learns after sexual intercourse that she was haraam for the man, the husband should pay her Mahr according to the usual Mahr of other women like her.

Issue 2504: If a woman says, before marriage, that she is haraam for a man because she is his milk sister, and if it is possible to verify her statement as true, she cannot marry that man. And if she says this after marriage, it is like the man saying after marriage that the woman is haraam for him, and the rule in this situation has been given in the foregoing clause.

Issue 2505: * Suckling a child, which becomes the cause of being Mahram, can be established by the following two ways:

(i) Information in this behalf by a number of persons whose word is reliable.

(ii) Two just men testify to this fact. It is, however, necessary that they should also mention the conditions of suckling the child. For example, they should be able to say, "We have seen the child for twenty four hours, sucking milk from the breasts of a woman, and during this time he has not eaten anything else." And similarly, they should also narrate in detail, the conditions which have been mentioned in rule no. 2483. Witness by one man or two or four women, even if they are Adil, is a matter of Ishkal for establishing that the child has suckled from a particular woman.

Issue 2506: If it is doubted whether or not a child has sucked the quantity of milk which becomes the cause of becoming Mahram, or if it is considered probable that it might have sucked that quantity of milk, the child does not become Mahram of anyone, though it is better to observe precaution.

Source URL:

<https://www.al-islam.org/islamic-laws-ayatullah-ali-al-husayni-al-sistani/marriage-part-ii-ii>