



14a. NIKAH AND TALAQ

AS PROMULGATED IN THE QURA'N

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The Qura'n in most parts deals with laws relating to self-development of man, or to the welfare and development of the community as a whole, or as they are generally called, the laws governing the relations of man with Allah. This is commonly referred to as *'ibadah* or service to Allah; and embraces the development of man and the community or rather humanity, as a whole. But the scope of Islam is very wide, and covers the relationship of man to man, as well of that of man to Allah. This aspect of human life teaches man his duties and obligations to others, and to show how to lead a happy life in this world in his relations with others. These are labelled *transactions* or *mu'amalat* and include laws relating to home life, civic life and political life of man. These are either contracts and agreements, to which the mutual consent of the parties, is required, or matters depending on the will of single person, or general laws and regulations.

In all these matters the Qura'n imposes restrictions for the benefit of society, upon the free acts of men, as members of that very society. This is *hudud*. The most important of the restrictive regulations of Islam are those relating to marriage, *nikah* (meaning *'aqd* or uniting), which institution is, in fact, the basic principle of human civilization.

Nikah and *Talaq* (marriage and divorce) are such important aspects in the life of Muslims that it is imperative to address all issues from the Qura'n concerning the controversies pertaining to these subjects owing to ignorance and weaknesses of the Mullahs. The Quranic laws were perfected by Allah and Muslims are duty bound to follow these laws. *Nikah* is a solemn and very serious undertaking and parties envisaging this step need to be sure in their minds of the rules and regulations, besides their own needs and wants.

A. CONSCIOUS, MATURE, INTELLIGENT AND ADULT DECISION

The Qura'n stipulates that the age of marriage must be a thought out mature decision. In Surah 30 the Qura'n states in Verse:

21 And of His signs is this, that He created mates for you from yourselves that you might find quiet of mind in them, and He put between you love and compassion.^a Surely there are signs in this for a people who reflect.

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ
أَزْوَاجًا لِيَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ
مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ
لِقَوْمٍ يَتَفَكَّرُونَ ﴿٢١﴾

Allah has put love and compassion between man and women for their mutual affection and mercy. This understanding and protection of each other is further illustrated in Surah 2 as follows:

187 It is made lawful for you to go in to your wives on the night of the fast. They are an apparel for you and you are an apparel for them.^a Allāh knows that you acted unjustly to yourselves, so He turned to you in mercy and removed (the burden) from you.^b So now be in contact with

أَجْنَ لَكُمْ لَيْلَةَ الصِّيَامِ الرَّفَثُ إِلَىٰ نِسَائِكُمْ
 هُنَّ لِيَابِسٌ لَكُمْ وَأَنْتُمْ لِيَابِسٌ لَهُنَّ طَعِمَ
 اللَّهُ أَنْفُسَكُمْ فَتَحَاتُّونَ أَنْفُسَكُمْ فَتَنَابَ
 عَلَيْكُمْ وَعَفَا عَنْكُمْ فَانظُرْ بآيَاتِهِ وَهُنَّ
 وَابْتَغُوا مَا كَتَبَ اللَّهُ لَكُمْ وَكُلُوا وَاشْرَبُوا

Wedded couples in Islam are an apparel unto each other, and in Surah 2 Verse 223 It is stated that honourable and respectable sexual relations is the requirement of a marriage:

223 Your wives are a tilth for you, so go in to your tilth when you like,^a and send (good) beforehand for yourselves. And keep your duty to Allāh, and know that you will meet Him. And give good news to the believers.

نِسَائِكُمْ حَرْثٌ لَكُمْ فَأْتُوا حَرْثَكُمْ أَنَّى
 شِئْتُمْ وَقَدْ مَوَّأَ لَكُمْ وَالنَّوَى اللَّهُ
 وَاعْلَمُوا أَنَّكُمْ مُلْقَوَةٌ وَبَشِّرِ الْمُؤْمِنِينَ

The comparison of the woman to the tilth is simply to show that it is she who brings up the children and through whom is made the character of the man, and to show that the real object of conjugal relations is not simply the satisfaction of carnal desires. The sending of good before sexual relations could mean that some good and comforting deed needs to be performed for fruitful sexual relations and also that there needs to be some mutual preparation, foreplay etc.

B. AGE OF MARRIAGE

In Surah 4 the Quran clearly illustrates that there must be maturity and intellectual know-how to understand the rights and responsibilities that would apply:

6 And test the orphans until they reach the age of marriage.^a Then if you find in them maturity of intellect,

وَإِنَّمَا يَسْتَأْذِنُ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ
 أَنْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ

This verse also applies that the property of orphans must only be returned to them when and if they are fully able to take of it, and thus this would be the age of marriage. And again the wards of orphans are also told that:

152 And approach not the property of the orphan except in the best manner,^a until he attains his maturity. And

وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ
 أَحْسَنُ حَتَّىٰ يَبْلُغَ أَشُدَّهُ وَأَوْفُوا بِالْكَيْلِ

The word *balagh* is used again and in the Qura'n to illustrate maturity and adulthood and this does not only refer to physical maturity but very much to mental and intellectual maturity.

In Surah 40 Verse 67 the Quran explains the different stages of growth and it is very clear that there is a definite difference between childhood and adulthood for marriage:

67 He it is Who created you from dust, then from a small life-germ, then from a clot, then He brings you forth as a child, then that you may attain your maturity, then that you may be old; and of you are some who die before and that you may reach an appointed term, and that you may understand.

هُوَ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ رَّابٍ ثُمَّ
 مِنْ نطفَةٍ ثُمَّ مِنْ عَلَقَةٍ ثُمَّ
 يُخْرِجُكُمْ طِفْلًا ثُمَّ لِتَبْلُغُوا أَشُدَّكُمْ
 ثُمَّ لِتَكُونُوا شُيُوخًا وَمِنْكُمْ مَنْ
 يُتَوَفَّىٰ مِنْ قَبْلٍ وَلِتَبْلُغُوا أَجَلًا
 مُّسَمًّى ۚ وَلَكُمْ تَعْقِيلُونَ ۝

C. NO COMPULSION IN MARRIAGE

With the focussed concentration on adulthood for Nikah it is imperative that both parties clearly are free to make decisions concerning their marriage and life together with each other on the principles laid down in the Quran. In Surah 4 Allah states:

3 And if you fear that you cannot do justice to orphans, marry such women as seem good to you, two, or three, or four;^a but if you fear that you will not do justice, then (marry)

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا
مَا كَاتَبَ لَكُمْ مِنَ النِّسَاءِ مَتَىٰ وَتِلْكَ
وَرُبَّةٌ ۖ قَدْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِشَةً

The Quran requires one to marry the woman that seems “good” to you (Refer article on Polygamy Addendum B) and obviously the same would apply to women. In addition the Quran further states, in Surah 2:

19 O you who believe, it is not lawful for you to take women as heritage against (their) will.^a Nor should you straiten them by taking part of what you have given them,^b unless they are guilty of manifest indecency.^c And treat them kindly. Then if you hate them, it may be that you dislike a thing while Allāh has placed abundant good in it.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ
تَرِثُوا النِّسَاءَ كَرِهًا ۖ وَلَا تَعْضَلُوهُنَّ
لِتَذْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُنَّ إِلَّا أَنْ
يَأْتِيَنَّ بِفَاحِشَةٍ مُّبِينَةٍ ۚ وَعَايِرُوهُنَّ
بِالْمَعْرُوفِ ۚ فَإِنْ كَرِهْتُمُوهُنَّ فَمَسَىٰ أَنْ
تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا ۝

And women should not be prevented from marrying, even their former husbands, if this is in line with the laws of *Talaq* (See details on *Talaq* later).

D. RESPONSIBILITY OF COMMUNITY AND AFFORDABILITY

The Islamic authority, established community and government have also the responsibility to ensure that the institution of marriage is followed by all, even by assisting financially or otherwise to attain these goals; and thus parents would have a greater duty. This is illustrated in Surah 24:

32 And marry those among you who are single, and those who are fit among your male slaves and your female slaves. If they are needy, Allāh will make them free from want out of His grace. And Allāh is Ample-giving, Knowing.^a

وَأَنْكِحُوا الْأَيَامَىٰ مِنكُمْ وَالضَّالِّجِينَ
مِنْ عِبَادِكُمْ وَإِمَائِكُمْ ۚ إِنْ يَكُونُوا
فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ ۗ وَاللَّهُ
وَاسِعٌ عَلِيمٌ ۝

33 And let those who cannot find a match keep chaste, until Allāh makes them free from want out of His grace.^a And those of your slaves who ask for a writing (of freedom), give them the writing, if you know any good in them, and give them of the wealth of Allāh which He has given you.^b And compel not your slave-

وَالَّذِينَ لَا يَجِدُونَ نِكَاحًا
حَتَّىٰ يُغْنِيَهُمُ اللَّهُ مِنْ فَضْلِهِ ۗ وَالَّذِينَ
يَبْتَغُونَ الْكِتَابَ مِنكُمْ وَمَا مَلَكَتْ أَيْدِيكُمْ
فَاعْتَبِرُوا أَنَّهُمْ عَلَيْكُمْ بِحَبْرَةِ الْوَقْعِ
وَأَن تُوْهُم مِّن قَوْلِ اللَّهِ الَّذِي أَنزَلْنَا
وَلَا تَكْرِهُوا فَتَيِّبِكُمْ عَلَىٰ الْبِكَاحِ ۚ إِنْ

The above Verse 33 also describes that those who cannot get married because of constraints or straitened circumstances need to practice chastity and discipline to live through this period.

E. AFFORDABILITY WITH SAME STANDARD SURAH 4:

But marry according to Quranic law and permission of their masters/bosses. All rules of marriage are to be observed e.g. dowry etc.

If affordability does not allow a person to marry according to his own income standard then he should abstain or marry from those of his servants or similar with the proper process of permission from respective guardian etc; see below.

25 And whoever among you cannot afford to marry free believing women, (let him marry) such of your believing maidens as your right hands possess. And Allāh knows best your faith — you are (sprung) the one from the other. So marry them with the permission of their masters, and give them their dowries justly, they being chaste, not fornicating, nor receiving paramours; then if they are guilty of adultery when they are taken in marriage, they shall suffer half the punishment for free married women. This is for him among you who fears falling into evil. And that you abstain is better for you. And Allāh is Forgiving, Merciful.^a

وَمَنْ لَمْ يَسْتَطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكَحَ
 الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمِنْ مَّا مَلَكَتْ أَيْمَانُكُمْ
 فَمِنْ قَتَاتِكُمُ الْمُؤْمِنَاتِ وَاللَّهُ أَعْلَمُ بِإِيمَانِكُمْ
 بَعَثَكُمْ مِنْ بَعْضِ قَاتِكُمْ يُؤْمِنُ بِإِذْنِ أَهْلِيهِنَّ
 وَالْحُرِّمْنَ أُجُورَهُنَّ بِالْمَعْرُوفِ الْمُحْصَنَاتِ
 عَذِيرٌ مُسْتَفْتٍ وَلَا تَتَّخِذْنَ أَخْدَانِي ۗ
 فَإِذَا أَحْبَبْتِ قَرَانَ أَسْتَيْنَ بِفُلِحَتِهِ فَتَلْبَسِينَ
 نَيْسًا مَّا عَلَى الْمُحْصَنَاتِ مِنَ الْعَذَابِ ذَٰلِكَ
 لِمَنْ خَشِيَ الْعَنَتَ مِنْكُمْ وَأَنْ تَصُدُّوهُ
 خَيْرٌ لَّكُمْ وَاللَّهُ غَفُورٌ رَحِيمٌ

F. ACCEPTED MARRIAGE PARTNERS BESIDES THE NORM

i) Widows & Orphans Surah 4:

3 And if you fear that you cannot do justice to orphans, marry such women as seem good to you, two, or three, or four;^a but if you fear that you will not do justice, then (marry) only one or that which your right hands possess. This is more proper that you may not do injustice.^b

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا
 مَا كَتَبَ اللَّهُ لَكُمْ مِنَ الْيَتَامَىٰ وَنِكَاحِ
 وَأَسْرَابِهِ ۗ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً
 أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَٰلِكَ أَدْرَأَ
 أَلَّا تَعْدِلُوا ۗ

This Verse of Surah 4 states that believers should marry widows who have children and orphans themselves. Those who fall under “right hand possesses” would be “slaves” or domestic workers and any who may be under one’s care and protection.

ii) Spouses of Adopted Children Surah 33:

37 And when thou saidst to him to whom Allāh had shown favour and to whom thou hadst shown a favour: Keep thy wife to thyself and keep thy duty to Allāh; and thou concealedst in thy heart what Allāh would bring to light, and thou fearedst men, and Allāh has a greater right that thou shouldst fear Him. So when Zaid dissolved her marriage-tie, We gave her to thee as a wife, so that there should be no difficulty for the believers about the wives of their adopted sons, when they have dissolved their marriage-tie. And Allāh’s command is ever performed.^a

وَإِذْ تَقُولُ لِلَّذِي أَنْعَمَ اللَّهُ عَلَيْهِ
 وَأَنْعَمْتَ عَلَيْهِ أَمْسِكْ عَلَيْكَ زَوْجَكَ
 وَاتَّقِ اللَّهَ وَتُخْفِي فِي نَفْسِكَ مَا اللَّهُ
 مُبْدِيهِ وَتَخْشَى النَّاسَ وَاللَّهُ أَعْلَىٰ
 أَنْ تَخْشَاهُ ۗ فَلَئِمَّا قَضَىٰ زَيْدًا مِنْهَا
 وَطَرًا زَوَّجْنَاكَ بِهَا لِيَكُنْ لَا يَكُونَ عَلَى
 الْمُؤْمِنِينَ حَرَجٌ فِي أَزْوَاجِ أَدْعِيَائِهِمْ
 إِذَا قَضَوْا مِنْهُنَّ وَطَرًا ۗ وَكَانَ
 أَمْرُ اللَّهِ مَفْعُولًا ۗ

iii) Married women who have left their non-believing Husbands and those under protection, prisoners of war Surah 33:

50 O Prophet, We have made lawful to thee thy wives^a whom thou hast given their dowries, and those whom

thy right hand possesses, out of those whom Allāh has given thee as prisoners of war, and the daughters of thy paternal uncle and the daughters of thy paternal aunts, and the daughters of thy maternal uncle and the daughters of thy maternal aunts who fled with thee; and a believing woman, if she gives herself to the Prophet, if the Prophet desires to

marry her. (It is) especially for thee, not for the believers^b — We know what We have ordained for them concerning their wives and those whom their right hands possess in order that no blame may attach to thee. And Allāh is ever Forgiving, Merciful.

يَا أَيُّهَا النَّبِيُّ إِنَّا أَحْلَلْنَا لَكَ أَزْوَاجَكَ
الَّتِي آتَيْتَ أُجُورَهُنَّ وَمَا مَلَكَتْ
يَمِينُكَ وَمِمَّا أَقَاءَ اللَّهُ عَلَيْكَ وَبَنَاتِ
عَمَّتِكَ وَبَنَاتِ عَمَّتِكَ وَبَنَاتِ خَالَاتِكَ
وَبَنَاتِ خَالَاتِكَ الَّتِي هَاجَرْنَ مَعَكَ
وَامْرَأَةً مُؤْمِنَةً إِنْ وَهَبَتْ نَفْسَهَا
لِلنَّبِيِّ إِنْ أَرَادَ النَّبِيُّ أَنْ يَسْتَنْكِحَهَا
خَالِصَةً لَكَ مِنْ دُونِ الْمُؤْمِنِينَ قَدْ
عَلِمْنَا مَا قَرَضْنَا عَلَيْكُمْ فِي أَزْوَاجِهِمْ
وَمَا مَلَكَتْ أَيْمَانُهُمْ يَكْفِي لَكُمْ
عَلَيْكَ حَرَجٌ ۗ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا ۝

iv) And also in Surah 60:

In this Verse Allah makes it clear that although marriage can take place with believing spouse, if the other spouse have not believed and the wife or husband have left, then what had been spent on them has to be returned to the non-believing spouse. Where wives become non-believers then they should be released.

10 O you who believe, when believing women come to you fleeing, examine them. Allāh knows best their faith. Then if you know them to be believers send them not back to the disbelievers.^a Neither are these (women) lawful for them, nor are those (men) lawful for them. And give them what they have spent; and there is no blame on you in marrying them, when you give them their dowries. And hold not to the ties of marriage of disbelieving women, and ask for what you have spent, and let them ask for what they have spent. That is Allāh's judgment; He judges between you. And Allāh is Knowing, Wise.^b

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا جَاءَكُمُ الْمُؤْمِنَاتُ
مُهَاجِرَاتٍ قَامَتِمْوهُنَّ ۗ اللَّهُ أَعْلَمُ
بِإِيمَانِهِنَّ ۗ فَإِنْ عَلِمْتُمُوهُنَّ مُؤْمِنَاتٍ
فَلَا تَرْجِعُوهُنَّ إِلَى الْكُفَّارِ ۗ لَا حُرْمَ
جِلْبَابٍ لَهُمْ وَلَا هُمْ يَحِلُّونَ لَكُمْ ۗ وَ
أَنفُسُهُمْ مِمَّا أَنْفَقْتُمْ ۗ وَلَا جُنَاحَ عَلَيْكُمْ
أَنْ تَنْكِحُوهُنَّ إِذَا آتَيْتُمُوهُنَّ أُجُورَهُنَّ
وَلَا تُسْئَلُوا بِعِصْمِ الْكُفَّارِ ۗ وَسَأَلُوا مَا
أَنْفَقْتُمْ ۗ وَلْيَسْئَلُوا مَا أَنْفَقُوا ۗ ذَٰلِكُمْ
حُكْمُ اللَّهِ يَحْكُمُ بَيْنَكُمْ ۗ وَاللَّهُ عَلِيمٌ حَكِيمٌ ۝

v) People of the Book (Christians & Jews etc) Surah 5:

5 This day (all) good things are made lawful for you. And the food of those who have been given the Book is lawful for you and your food is law-

ful for them.^a And so are the chaste from among the believing women and the chaste from among those who have been given the Book before you,^b when you give them their dowries, taking (them) in marriage, not fornicating nor taking them for paramours in secret. And whoever denies faith,^c his work indeed is vain; and in the Hereafter he is of the losers.

الْيَوْمَ أُحِلَّ لَكُمْ الْكَلْبُوتُ ۗ وَطَعَامُ
الَّذِينَ أُوتُوا الْكِتَابَ ۗ حَلَالٌ لَكُمْ ۗ وَطَعَامُ
الَّذِينَ أُوتُوا الْكِتَابَ مِنَ الْمُؤْمِنَاتِ
وَالْمُحْصَنَاتِ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ
مِن قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أُجُورَهُنَّ
مُحْصَنَاتٍ عَيْرِ مُسْفِحِينَ ۗ وَلَا مُسْخَفَاتٍ
أَخْدَانٍ ۗ وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ
حَبِطَ عَمَلُهُ ۗ وَهُوَ فِي الْآخِرَةِ مِنَ
الْخَاسِرِينَ ۝

The foregoing Verse permits believing men to marry People of the Book, meaning those that have received Revelation, according to the rules of *Nikah* in the Qura'n. This permission, however, needs to be examined with the Verse dealing with *Mushriks*, below.

G. FORBIDDEN MARRIAGES

i) Same Gender Surah 11: (They were punished by Allah)

77 And when Our messengers came to Lot, he was grieved for them, and he was unable to protect them,^a and said: This is a distressful day!

78 And his people came to him, (as if) driven on towards him, and they were used to the doing of evil deeds before. He said: O my people, these are my daughters — they are purer for you; so guard against (the punishment of) Allāh and disgrace me not about my guests. Is there not among you any right-minded man?^a

79 They said: Certainly thou knowest that we have no claim on thy daughters, and thou knowest what we desire.

وَكَلَّمَآءَآءُ رُسُلِنَا لُوطًا رِجَالِي ۚ يَٰٓيُوحَىٰ
وَصَآئِقُ يَوْمِ ذَرْعًا وَقَالَ هَٰذَا يَوْمٌ عَصِيبٌ ۝

وَجَآءَهُ قَوْمُهُ يَجْرَعُونَ ۚ لَلَّذِينَ
قَبْلُ كَانُوا يَعْمَلُونَ السَّيِّئَاتِ ۚ قَالَ
يَقَوْمِ هَٰؤُلَاءِ بَنَاتِي هُنَّ أَطْهَرُ لَكُمْ
فَآتُوا اللَّهَ وَلَا تُخْزُونِ فِي حَسْبِنِي ۚ
أَلَيْسَ مِنْكُمْ سَآءِلٌ تَرْتَدُّونَ ۝

قَالُوا لَقَدْ عَلِمْتَ مَا لَنَا فِي بَنَاتِكَ
مِنْ حَقٍّ وَإِنَّكَ لَتَعْلَمُ مَا تُرِيدُ ۝

ii) Lesbianism and other evil Acts Surah 4:

15 And as for those of your women who are guilty of an indecency, call to witness against them four (witnesses) from among you; so if they bear witness, confine them to the houses until death takes them away or Allāh opens a way for them.^a

16 And as for the two of you who are guilty of it, give them both a slight punishment; then if they repent and amend, turn aside from them.^a Surely Allāh is ever Oft-returning (to mercy), the Merciful.

وَالَّذِينَ يَأْتِيَنَّكَ الْفَاحِشَةُ مِنَ نِسَائِكُمْ
فَأَشْفِهْنَهُنَّ وَأَعْلَمِيَنَّ أَرْبَعًا مِنْكُمْ قَوْلًا
فَشَهَدُوا قَامِسِكُمْ فِي الْبُيُوتِ حَتَّى
يَخْرُجَهُنَّ الْمَوْتُ أَوْ يَجْعَلَ اللَّهُ
لَهُنَّ سَبِيلًا ۝

وَالَّذِينَ يَأْتِيَنَّكَ مِنْكُمْ فَادْرُسْهُمَا
فَإِنْ تَابَا وَأَصْلَحَا فَأَنْجِحُوهُمَا ۚ إِنَّ اللَّهَ كَانَ
كَوَّابًا تَرَجِيمًا ۝

iii) Adulterers Surah 24:

3 The adulterer cannot have sexual relations with any but an adulteress or an idolatress, and the adulteress, none can have sexual relations with her but an adulterer or an idolater; and it is forbidden to believers.^a

الزَّانِي لَا يَنْكِحُ إِلَّا الزَّانِيَةً أَوْ مُشْرِكَةً
وَ الزَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ
وَ حُرِّمَ ذَٰلِكَ عَلَى الْمُؤْمِنِينَ ۝

This Verse illustrates that adulterers that adulterers may be deserving of each other as far as chaste relationships are concerned. However, this Verse relates to the fact that adulterers are governed by their passions rather than the Law of Allah and thus end up committing shirk.

iv) Mushriks, Believers Cannot Marry, Surah 2:

221 And marry not the idolatresses until they believe; and certainly a believing maid is better than an idolatress even though she please you. Nor give (believing women) in marriage to idolaters until they believe, and certainly a believing slave is better than an idolater, even though he

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ تُؤْمِنَ ۚ وَ لَآ مَنَعَهُ
مُؤْمِنَةٌ فَكُفْرًا ۚ فَمَنْ كُفِرَ بَعْدَ ذَلِكَ
فَأُولَٰئِكَ الْمُشْرِكُونَ ۚ حَتَّىٰ يُؤْمِنُوا وَ لَعَنَهُ
اللَّهُ مِنْ خَلْقِهِ ۚ فَمَنْ كُفِرَ بَعْدَ ذَلِكَ
فَأُولَٰئِكَ الْمُشْرِكُونَ ۚ وَ لَآ مَنَعَهُ
بَيْعُ عُرْفٍ إِلَى الْكَلْبِ ۚ وَ اللَّهُ يَدْخُلُ إِلَى
الْجَنَّةِ

please you.^a These invite to the Fire and Allāh invites to the Garden and to forgiveness by His will^b and He makes clear His messages to men that they may be mindful.

وَالْمَعْرُوفَ يُرَادُّوهُ^c وَمُبِينٌ لِّذِيهِ الْكَافِرِينَ
 كَعَلَّمَ يُكَلِّمُ كَقَرُونَ ﴿٢٤﴾

v) Muta'a : temporary marriage, practiced by "some" shias.

Fixed term marriage.

Essentially, its a marriage in which the couple agree to separate (like a divorce, but no formal divorce required) after a certain amount of time.

Nikāḥu'l-Mut'ah,(Arabic: نكاح المتعة, also Nikah Mut'ah literally, marriage for pleasure), or sigheh, is a time-delimited marriage contract according to the Usuli Shia schools of Shari'a (Islamic law). The duration of this type of marriage is fixed at its inception and is then automatically dissolved upon completion of its term.

Basically, some Shi'as believe this type of marriage is ok, though pretty much all Sunnis believe it is completely forbidden. It's basically prostitution: the man will pay the woman to get "married" and then the marriage automatically expires after a day or however long he chooses.

It was a custom which prevailed in pre-islamic times, but is totally banned in Islam.

Mutah means marriage done with a fixed term. once the time mentioned in the mutah is finished, the marriage is also finished.

IT IS HARAM !

vi) Normal Forbidden Degrees of Marriages Surah 4:

23 Forbidden to you are your mothers, and your daughters, and your sisters, and your paternal aunts, and your maternal aunts, and brother's daughters and sister's daughters, and your mothers that have suckled you, and your foster-sisters, and mothers of your wives, and your stepdaughters who are in your guardianship (born) of your wives to whom you have gone in — but if you have not gone in to them, there is no blame on you — and the wives of your sons who are of your own loins; and that you should have two sisters together, except what has already passed. Surely Allāh is ever Forgiving, Merciful,^a

حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَأَخَوَاتُكُمْ
 وَعَوْنُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأُخْتِ
 وَالْأَخْتِ وَالْأُمَّهَاتُ الَّتِي أَرْضَعْنَكُمْ وَأَخَوَاتُكُمْ
 مِنَ الرَّضَاعَةِ وَأُمَّهَاتُ نِسَائِكُمْ وَأَخَوَاتُكُمْ
 الَّتِي فِي مَحْجُورِكُمْ مِنَ نِسَائِكُمُ الَّتِي
 دَخَلْتُمْ بِهِنَّ دِفْئًا لَمْ تَكُونُوا أَكْفَانًا
 لَهُنَّ فَمَا جُنَاحَ عَلَيْكُمْ وَعَلَىٰ
 أَبْنَائِكُمُ الَّذِينَ مِنْ أَضْرَائِكُمْ وَأَنَّ
 تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ
 إِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا ﴿٢٣﴾

In this Verse what is important, besides the obvious forbidden descriptions, is that foster-sisters (adopted-although there is no legal adoption in Islam) are also forbidden in marriage and step-daughters also.

H. MARRIAGE CONTRACT

Must be in Writing, by inference, as this is part of Mu'amalat, Surah 2 Verse 282

The above Verse lays down the rules for the requirements of a business transaction; marriage being a contract with two parties it is accepted that *Nikah* must also be in writing as too many issues are to be agreed upon. Since Muslim Personal Law is still not part of the Legal System marriages must have their own legal document with the necessary two witnesses. (Refer Addendum "A" for specimen contracts)

Mahar or Dowry Surah 4"

24 And all married women except those whom your right hands possess (are forbidden);^a (this is) Allāh's ordinance to you. And lawful for you are (all women) besides those, provided that you seek (them) with your property, taking (them) in marriage, not committing fornication. Then as to those whom you profit by (by marrying), give them their dowries as appointed. And there is no blame on you about what you mutually agree after what is appointed (of dowry).^b Surely Allāh is ever Knowing, Wise.

وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ
أَيْمَانُكُمْ يَنْبَغُ اللَّهُ عَلَيْكُمْ وَأُجْرٌ لَكُمْ
قَتَادِرًا فَرِيضَةً أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ
مُحْصَنَاتٍ غَيْرِ مُسْفُوحِينَ قَمَا اسْتَمْتَعْتُمْ
بِهِ وَتَهُنَّ قَاتِرُهُنَّ أَجْرُهُنَّ قَرِيضَةً وَلَا
جُنَاحَ عَلَيْكُمْ فِيمَا تَرَضَيْتُمْ بِهِ مِنْ بَعْدِ
الْفَرِيضَةِ إِنْ أَرَادَ اللَّهُ كَانَ عَلَيْكُمْ حَكِيمًا

And then in Surah 4:

4 And give women their dowries as a free gift. But if they of themselves be pleased to give you a portion thereof, consume it with enjoyment and pleasure.^a

وَأُولَا النِّسَاءِ صَدَقَاتُهُنَّ بِحِلَّةٍ مُكْرَمَةٍ
يَلْبَسْنَ لَكُمْ عَنْ شَيْءٍ وَبِهِ نَفْسًا قَلِيلًا
هَبْرًا كَرِيمًا ۝

There a few points as pointed out in the above Verses concerning *Mahar* which must be borne in mind:

- i) It is the **right** of the bride.
- ii) The amounts must be mutually agreed upon by both parties.
- iii) It can be part of a **gift** but the gift portion is never returnable.
- iv) It is not a flat rate.

Maintenance and Upkeep of Family Surah 4:

34 Men are the maintainers^a of women, with what Allāh has made some of them to excel others and with what they spend out of their wealth. So the good women are obedient,^b guarding the unseen^c as Allāh

has guarded.^d And (as to) those on whose part you fear desertion, admonish them, and leave them alone in the beds and chastise them. So if they obey you, seek not a way against them. Surely Allāh is ever Exalted, Great.^e

الرِّجَالُ كٰوٰمِرُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ
اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ
أَمْوَالِهِمْ قَالِ الشَّيْخُ الْفَاضِلُ خُوْفَتُ الْعَتِيبِ
بِمَا حَفِظَ اللَّهُ وَالَّذِي تَخَافُونَ تُشَوْرَهُنَّ
فَعَلُوهُنَّ وَاعْبُرُوهُنَّ فِي الْمَضَاجِعِ
وَاصْرَبُوهُنَّ فَإِنْ أَطَعْتُمْ فَلَا تَبِعُوا
عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ
عَلِيمًا كَرِيمًا ۝

Although there is gender equality in the Quran the responsibilities of the husband and father are greater. All the requirements of running a household as far as food, residence, transport and education is concerned. The wife may contribute to the household out of love and understanding but this will be the duty of the husband. One should also note that in cases of

extreme dissention on the part of the wife, the husband could get legal assistance and counselling (*daraba*).

Families must be maintained according to the means of the husband Surah 2:

236 There is no blame on you if you divorce women while yet you have not touched them, nor appointed for them a portion. And provide for them, the wealthy according to his means and the straitened according to his means, a provision according to usage. (This is) a duty on the doers of good.^a

لَا جُنَاحَ عَلَيْكُمْ إِن كُنتُمْ لَمْ تَمَسُّوا النِّسَاءَ مَا كُرِّهْتُمُوهنَّ وَأَنْتُمْ مُتَّفِقُونَ ۗ وَعَلَى الْمُؤْتِرِينَ مِنَ النِّسَاءِ مَا كُرِّهْتُمُوهنَّ عَلَى الْإِسْقَاتِ ۗ وَالْمُتَّفِقُونَ مَتَّاعًا بِأَعْيُنِنَا ۗ وَعَلَى الْمُحْسِنِينَ ﴿٢٣٦﴾

Refusal to fulfil this requirement could also lead to issues in the marriage, (See Below)

MAINTENANCE AND UPKEEP OF FAMILY IS A TOTAL COMMITMENT OF THE HUSBAND: SURAH 2 VERSE 233

233 And mothers^a shall suckle their children for two whole years, for him who desires to complete the time of suckling. And their maintenance and their clothing must be borne by the father according to usage. No soul shall be burdened beyond its capacity. Neither shall a mother be made to suffer harm on account of her child, nor a father on account of his child; and a similar duty (devolves) on the (father's) heir.^b But if both desire weaning by mutual consent and counsel, there is no blame on them. And if you wish to engage a wet-nurse for your children, there is no blame on you so long as you pay what you promised according to usage. And keep your duty to Allāh and know that Allāh is Seer of what you do.

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُكْمِلَ الرِّضَاعَةَ ۗ وَعَلَى الْمَوْلُودِ لَهُ رِشْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ ۗ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا ۗ لَا تُضَارَّ وَالِدَةٌ وَالدُّةُ يُؤَلَّفُهَا ۗ وَلَا مَوْلُودٌ لَهُ يُولَدُ لَهُ ۗ وَعَلَى الْوَالِدَاتِ مِثْلُ ذَلِكَ ۗ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا ۗ وَإِنْ أَرَدْتُمْ أَنْ تُسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا اتَّيْتُم بِالْمَعْرُوفِ ۗ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ ﴿٢٣٣﴾

This verse makes it very clear that the weaning of the baby, prior to Quranic injunction must be by mutual consent of both parents. In addition it must be borne in mind that wet-nurse can be employed at the cost to the father as this will part of the responsibility of the husband as outlined in Surah 4 Verse 34 above.

(It is important to note that there should be proper records kept of wet-nurse and foster children as this affects forbidden degrees of marriage; Refer item v) above.