Marriage

The relation between man and woman becomes lawful by contracting marriage. There are two kinds of marriages:

(i) Permanent marriage

(ii) Fixed-time marriage

In a permanent marriage, the period of matrimony is not fixed, and it is forever. The woman with whom such a marriage is concluded is called da'ima (i.e. a permanent wife).

In a fixed time marriage (Mut'ah), the period of matrimony is fixed, for example matrimonial relation is contracted with a woman for an hour, or a day, or a month, or a year, or more. However, the period fixed for the marriage should not exceed the span of normal lives of the spouses, because in that case, the marriage will be treated as a permanent one. This sort of fixed time marriage is called Mut'ah or Sigha.

Marriage Formula

Whether marriage is permanent or temporary, the formal formula must be pronounced; mere tacit approval and consent, or written agreement, is not sufficient. And the formula (Sigha) of the marriage contract is pronounced either by the man and the woman themselves, or by a person who is appointed by them as their representatives to recite it on their behalf.

The representative should not necessarily be a male. A woman can also become a representative to pronounce the marriage formula.

As long as the woman and the man are not certain that their representative has pronounced the formula, they cannot look at each other as Mahram (like husband and wife), and a mere probable suspicion that the representative might have pronounced the formula is not sufficient. And if the representative says that he has pronounced the formula, but his assertion does not satisfy the parties concerned, it will not be deemed sufficient.

If a woman appoints a person as her representative so that he may, for example, contract her marriage with a man for ten days, but does not specify the day from which the period of ten days would commence, the representative can contract her marriage with that man for ten days from any day he likes. However, if the representative knows that the woman intends a particular hour or day, he should pronounce the formula according to her intention. One person can act as the representative of both sides for reciting the formula of permanent or temporary marriage. It is also permissible that a man may himself become the representative of a woman

and contract permanent or temporary marriage with her. However, the recommended precaution is that two separate persons should represent each side, for the formula of marriage contract.

The Method of Pronouncing the Marriage Formula

If a woman and a man themselves want to recite the formula of permanent marriage, the woman should first say: Zawwajtuka nafsi 'alas sidaqil ma'lum (i.e. I have made myself your wife on the agreed mahr), and then the man should immediately respond thus: Qabiltut tazwij (i.e. I accept the marriage). In this way, the marriage contract will be in order. And if a woman and a man appoint other person to act as their representatives for pronouncing the formula of marriage, and if, for example, the name of the man is Ahmad and that of the woman is Fatimah, the representative of the woman should first say: Zawwajtuka muwakkilaka Ahmad muwakkilati Fatimah 'alas sidaqil ma'lum (i.e. I have given to your client Ahmad in marriage my client Fatimah on the agreed mahr) and thereafter the representative of the man should immediately respond thus: Qabiltut tazwijali Muwakkili Ahmad 'alas sidaqil ma'lum (that is, I accepted this matrimonial alliance for my client Ahmad on the agreed Mahr). Now the marriage contract is in order. And, on the basis of recommended precaution, it is necessary that the words uttered by the man should conform with those uttered by the woman; for example, if the woman says: Zawwajituka ..... (i.e. I have made myself your wife) the man should also say: Qabituttazwija .....(i.e. I accept the matrimonial alliance) and not Qabitun Nikaha.

It is permissible for a man and a woman to recite the formula of the Temporary marriage (Mut'ah), after having agreed on the period of marriage and the amount of Mahr. Hence, if the woman says: Zawwajtuka nafsi fil muddatil ma'lumati 'alal mahril ma'lum (i.e. I have made myself your wife for an agreed period and agreed Mahr), and then the man immediately responds thus: Qabiltu (i.e. I have accepted), the marriage will be in order. And the marriage will also be in order if they appoint other persons to act as their representatives. First, the representative of the woman should say to the representative of the man thus: Matta'tu muwakkilati muwakkilaka fil muddatil ma'lumati 'alal mahril ma'lum (i.e. I have given my client to your client in marriage for the agreed period and the agreed Mahr), and then the representative of the man should immediately respond thus: Qabiltut tazwija li muwakkili hakaza (i.e. I accepted this matrimonial alliance for my client this way).

Mut'ah (Temporary Marriage)

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

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

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

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 inspite of this lack of knowledge, she has no right to claim anything from her husband. 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 prermission. 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.

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 non-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. 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.

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.

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.

According to the Fatawa of Ayatullah Sayyed Ali Husseini Seestani

Source : Islamic Laws